

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

Minutes

May 13, 2014

Arizona State Courts Building

Conference Room 119A/B

1501 W. Washington Street, Phoenix, AZ 85007

Present: Cmdr. Arthur Askew, Judge Carol Scott Berry, Allison Bones (by proxy - Shannon Rich), Chief Steven Campbell, Gloria Full, V. Michele Gamez, Judge Statia Hendrix, Patricia Madsen, Dana Martinez, Leah Meyers, Judge Wendy Million, Capt. Jeffrey Newnum, Asst. Chief Sandra Renteria, Judge Emmet Ronan, Renae Tenney, Judge Patricia Trebesch, Tracey Wilkinson

Telephonic: Judge Keith Barth, Pegg Darrow, Judge Cathleen Brown-Nichols, Lynn Fazz, Marla Randall

Absent or Excused: Ellen Brown, Joi Davenport, Judge Joseph Knoblock, Kristine Reich, Maureen Schat

Guests: Dr. Phillip Stevenson, Arizona Criminal Justice Commission

Administrative Office of the Courts (AOC): Amy Love, Patrick Scott, Theresa Barrett

Committee Staff: Kay Radwanski, Sabrina Nash

I. REGULAR BUSINESS

A. Call to Order/Welcome and Introductions

Judge Emmet J. Ronan called the May 13, 2014, meeting of the Committee on the Impact of Domestic Violence and the Courts to order at 10:05 a.m. Judge Ronan welcomed newly appointed members—Commander Arthur Askew, Prescott Valley Police Department; Judge Statia Hendrix, Scottsdale City Court; Captain Jeffrey Newnum, Yavapai County Sheriff’s Office; Assistant Chief Sandra Renteria, Phoenix Police Department; Maureen Schat, Northland Family Help Center, Flagstaff; and Judge Patricia Trebesch, Superior Court in Yavapai County. He also welcomed back reappointed members—Patricia Madsen, Community Legal Services; Leah Meyers, Governor’s Office for Children, Youth and Families; and Renae Tenney, Maricopa Association of Governments. He thanked departing members—Allison Bones, Arizona Coalition to End Sexual and Domestic Violence; Pegg Darrow, Alternatives Counseling Services, Cochise County; Judge Joseph Knoblock, Benson Justice Court; Judge Cathleen Brown Nichols, Superior Court in Coconino County; and Kristine Reich, Donison Law Firm.

Judge Ronan announced that Judge Wendy Million is a co-winner of the Tucson Women’s Commission “Women in Government Leadership Award” for her work in creating a specialized domestic violence court in the Tucson City Court as well as her overall efforts in domestic violence.

Chief Justice Rebecca White Berch visited briefly to thank the committee for its efforts on behalf of the Arizona Supreme Court and to acknowledge the contributions of volunteers

to the Judicial Branch. She thanked members for the time they spend assisting the courts and their dedication to improving conditions for domestic violence victims.

B. Approval of Minutes

Draft minutes of the September 10, 2013, meeting were presented for approval. Tracey Wilkinson requested correction of her proxy's name for the September meeting. The proxy's name is Teisha Portee, not Patricia Portee.

Motion: Judge Trebesch moved to approve the minutes as amended. **Seconded** by Judge Carol Scott Berry. **Vote:** Unanimous.

II. BUSINESS ITEMS

A. A Review of Domestic Violence Data from the Arizona Computerized Criminal History Record System

Dr. Phillip Stevenson, director of the Statistical Analysis Center, Arizona Criminal Justice Commission, presented his analysis of information on domestic violence arrests and case process data taken from criminal history records from July 1, 2001-December 31, 2012. His analysis shows an increase in the number of arrests and arrest rates for domestic violence in Arizona from 2001-2012.

Domestic violence flagged arrests were up 42 percent, and domestic violence arrest rates have gone up 15 percent.

- From 2001 to 2012, the percentage of all domestic violence flagged arrest counts that were felonies ranged from a low of 10.3 percent in 2001 to a high of 14.8 percent in 2012.
- From 2001 to 2012, there were 531 arrest counts for homicide that were flagged domestic violence. A significant number of homicides are between domestic partners.
- During the time period examined, 83.2 percent of the individuals arrested for domestic violence were white males. Dr. Stevenson noted that the Criminal History Record Data does not have indicators for Latino/Hispanic, Native American, or Asian, so multiple ethnic groups are included in the white category.
- For unknown reasons, information is missing on one-fifth of domestic violence arrests. Law enforcement may not have referred the case to the prosecutor, the prosecutor may not have filed the case, the case may have been dismissed, or a guilty verdict may have been obtained. Missing information is a problem because of its effect on the value of the information in the criminal history system as it pertains to background checks and how it impacts the ability of prosecutors to use the aggravated domestic violence charge. Aggravated domestic violence cases have a higher number of missing disposition information than flagged domestic violence cases.
- Aggravated domestic violence cases increased sharply during 2001 through 2007 and has since leveled out but is still increasing.

- Aggravated domestic violence is a felony but appears as misdemeanor in approximately 70 percent of the cases. There is a higher number of prison sentences versus jail sentences for aggravated domestic violence cases.

Dr. Stevenson stated that ACJC is sharing the report data with the counties to show how many domestic violence, misdemeanor drugs, and felony arrests have been made and disposition of those arrests. The information is also used to assess timeliness to completeness and track sexual assault arrest data and activity in Arizona. In response to questions, Dr. Stevenson said:

- Arizona is in the middle among states with incomplete or missing information. Smaller states or states with smaller court systems are doing better.
- The possibility that a prosecutor pled the defendant to one offense and dismissed the other charges is one of a number of scenarios that could affect the dismissal numbers.
- Data may be present but has not been mined to determine whether the number of aggravated domestic violence cases may have been impacted if a charge was initially turned down by the prosecutor but later refiled as a misdemeanor.
- Uniform crime reporting done by police agencies has not been used to compare and contrast information against data received from the Criminal History Record report.

B. Legislative Update

Amy Love, AOC Government Affairs Group, gave an overview of the number of bills introduced in the legislature (1,200) during the 2014 session, the number of bills passed (300), and the percentage of bills vetoed (8). Chelsey Stacey, Government Affairs intern, then provided a brief overview of the bills of interest that were passed.

- **H2100 – Address Confidentiality Program:** Protects participant’s information containing county recorder, county assessor and county treasurer records and outlines how a participant can make the request.
- **H2307 – County Attorney Deferred Prosecution Fund:** Was amended a number of times but now solely establishes a fund for pretrial diversion programs.
- **H2454 – Human Trafficking; Prostitution:** Protects human trafficking victims and their right to privacy by protecting their identifying and locating information.
- **H2514 – Combat-Related Special Compensation:** There have been cases in which judges have assigned spousal maintenance based on combat-related special compensation. That procedure is contrary to federal law, and this bill brings Arizona into compliance. This bill is retroactive to July 29, 2010.
- **H2563 – Juvenile Crime Victims’ Rights:** Aligns adult and juvenile crime victims’ rights statutes. A victim’s identifying and location information must be redacted in publicly accessible records pertaining to the criminal case involving the victim.
- **H2593 - Death; Post Conviction; Appellate Proceedings; Dismissal:** This bill was passed in response to *Miller v. Alabama*, 132 S.Ct. 2455 (2012), in which the U.S. Supreme Court determined that the Eighth Amendment is violated when a juvenile is sentenced to life in prison without the possibility of parole. This bill provides that a person who is sentenced to life imprisonment with the possibility of release after serving the minimum number of calendar years for an offense that was committed

before the person reached 18 years of age is eligible for parole upon completion of the minimum sentence, regardless of whether the offense was committed on or before January 1, 1994. If granted parole, the person remains on parole for life unless parole is revoked by statute.

- **H2625: Penalty Assessment; Victims' Rights Enforcement** – Creates a \$2 assessment for deposit in the Victims' Rights Enforcement Fund. The assessment is not subject to surcharge for crimes committed on or after January 1, 2015.
- **S1061- Paternity:** Permits a mother to use her attorney's or agency's address for an affidavit and notice to potential fathers as her mailing address.

C. Admission of Exhibits in Protective Order Proceedings

Patricia Madsen, Esq., explained an issue that came about in Maricopa County Superior Court during contested hearings on protective orders. In some cases when parties arrived at court with exhibits, they were informed that the court could not consider exhibits that had not been submitted to the court by noon of the day prior to the hearing. Judicial officers were citing Maricopa County Local Rule 6.8, which states: "Unless ordered otherwise by the assigned Judicial Officer, all exhibits for any hearing or trial shall be presented for marking to the Clerk of the division of the assigned Judicial Officer no later than noon on the day before the hearing or trial." The Maricopa County Local Rules were revised in July 2013, with the revised rule (now 6.4) including an exception for protective order proceedings. Ms. Madsen asked the committee to check with their respective courts to see if this is an issue and to advise them of the change that Maricopa County made to its local rules.

D. Judicial Education Update; Bench Briefings

Judicial Education Update. Kay Radwanski, AOC, provided the following information about upcoming judicial education opportunities:

- Professor Zelda Harris, former University of Arizona professor and CIDVC member and now with the Loyola University School of Law in Chicago, has been involved in a project with the American Judges Association. The association has developed an entire training course on domestic violence titled "Effective Adjudication of Domestic Abuse Cases." It was noted that some of the information in the training—such as inclusion of child support, custody, and parenting time on protective orders—is not applicable under Arizona law. The training series is available to judges through the AOC Wendell intranet website.
- The multi-disciplinary High Altitude Family Violence Summer Conference is set for July 14-15, 2014 in Flagstaff. The conference will cover various issues confronted by community, state, and federal agencies when working with family violence cases. More information about the conference is available at <http://nau.edu/Family-Violence-Institute/>.

Bench Briefings. Several years ago Judge Million suggested that CIDVC send out periodic emails to judges with information about handling domestic violence cases, and her idea was the seed for what has become a series of CIDVC-sponsored video trainings

called Bench Briefings. Judge Million has been writing the scripts, and Kathy Sekardi, AOC, and Ms. Radwanski have edited them. When scripts are complete, Judge Million comes to the AOC studio to record the 15-minute videos. Two videos have been produced so far, and a series of up to ten videos is planned. Each video will be released periodically. A library of the videos will be created on Wendell. The Education Services Division has approved the first two bench briefings for 30 minutes of COJET credit.

The committee previewed Bench Briefing 2: Orders of Protection and Family Law Issues, and it was well received. There was interest among committee members in making the videos available to other domestic violence professionals, such as law enforcement officers, counselors, and victim advocates Ms. Radwanski explained that currently the demographic for the videos is judicial officers.

Judicial Conference. Two domestic violence sessions are scheduled for the Judicial Conference in June. On behalf of CIDVC, Judge Million recommended Dr. David Adams, whom she met at a conference last fall. He is author of “Why Do They Kill,” a book about batterers who had killed or nearly killed their intimate partners. His sessions are titled “Confronting Eight Common Myths: Identifying and Responding to Abusers,” and “Profiles of Killers: Men Who Murder Their Intimate Partners.”

E. Amendments to ACJA § 1-110

Ms. Radwanski reported that the Arizona Judicial Council recommended adoption of amendments to ACJA § 1-110, the code section that governs CIDVC, and the Chief Justice issued Administrative Order 2014-09 in January. CIDVC has existed as a committee for 20 years, first established by administrative order and later having its own section in the Arizona Code of Judicial Administration. At CIDVC’s September 2013 meeting, committee members recommended changes to ACJA § 1-110 that address membership, quorums, and virtual attendance of meetings.

F. Case Law Update

Ms. Radwanski presented a synopsis of *U.S. v. Castleman*, 134 S.Ct. 1405 (2014), a U.S. Supreme Court opinion that reversed a decision by the Sixth Circuit, U.S. Court of Appeals. This opinion deals with 18 U.S.C. § 922(g)(9), commonly known as the Lautenberg Amendment to the federal Gun Control Act. Under Lautenberg, a person convicted of a misdemeanor crime of domestic violence that has, as an element, the use or attempted use of physical force may not possess firearms or ammunition. The Supreme Court found that the common law definition of battery is sufficient for Lautenberg to apply.

III. OTHER BUSINESS

A. Call to the Public

No one from the public was present.

B. Next Meeting
September 9, 2014
Conference Room 119 A/B
Arizona State Courts Building
1501 W. Washington St.
Phoenix, AZ 85007

The meeting adjourned at 11:53 a.m.

**COMMITTEE ON THE IMPACT OF
DOMESTIC VIOLENCE AND THE COURTS**
Minutes
September 9, 2014
Arizona State Courts Building
Conference Room 119A/B
1501 W. Washington Street, Phoenix, AZ 85007

Present: Cmdr. Arthur Askew, Carla Boatner, Ellen Brown, Chief Steve Campbell, V. Michele Gamez, Anna Harper-Guerrero, Dorothy Hastings, Judge Statia Hendrix, Patricia Madsen, Leah Meyers, Judge Wendy Million, Capt. Jeffrey Newnum, Judge Wyatt Palmer, Marla Randall, Asst. Chief Sandra Renteria, Shannon Rich, Judge Emmet Ronan, Maureen Schat, Judge Carol Scott Berry, Rebecca Strickland, Tracey Wilkinson

Telephonic: Judge Keith Barth, Judge Patricia Trebesch

Absent/Excused: Joi Davenport, Lynn Fazz, Gloria Full, Dana Martinez

Presenters/Guests: Judge David Gass, Superior Court in Maricopa County, Judge Pamela Gates, Superior Court in Maricopa County

Administrative Office of the Courts (AOC): Amy Love, Patrick Scott, Theresa Barrett, Melinda Hardman, Kathy Sekardi

Committee Staff: Kay Radwanski, Sabrina Nash

I. REGULAR BUSINESS

A. Call to Order/Welcome and Introductions

Judge Emmet J. Ronan called the September 9, 2014, meeting of the Committee on the Impact of Domestic Violence and the Courts (CIDVC) to order at 10:07 a.m. Judge Ronan welcomed newly appointed members— Judge Wyatt Palmer, justice of the peace, Graham County; Carla Boatner, court administrator, Chandler Municipal Court; Rebecca Strickland, assistant city prosecutor, City of Peoria; Shannon Rich, Arizona Coalition to End Sexual and Domestic Violence; Dorothy Hastings, Arizona Alliance for Community Health Center; Anna Harper-Guerrero, Emerge! Center Against Domestic Abuse, and Maureen Schat, Northland Family Help Center. He also welcomed back reappointed members— Lynn Fazz, Clerk of the Superior Court in Yuma County, and Judge Keith Barth, justice of the peace, Santa Cruz County.

B. Approval of Minutes

Draft minutes from the May 14, 2014, meeting were presented for approval.

Motion: Chief Steve Campbell moved to approve the minutes as presented.
Seconded by Ellen Brown. **Vote:** Unanimous

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. **Legislative Update** (*taken out of order*)

Amy Love, legislative liaison, AOC Government Affairs Group, presented two proposals that will be considered by the Arizona Judicial Council (AJC) at its October meeting.

The first proposal involves the Veterans' Court statute. General Gregg Maxon, AOC, brought to the AOC's attention that the statute authorizes judges to order defendants in DUI or domestic violence cases only to screening and treatment programs approved by the Department of Health Services (DHS) or the probation department. This proposal would add screening and treatment programs approved by the Department of Veterans Affairs (VA).

Discussion: The committee discussed concerns regarding the standards and regulations of the VA screening and treatment programs in relation to domestic violence. It is unknown whether the programs are evidence-based in the handling of domestic violence victim or offender issues. There is some concern that the VA is treating domestic violence as a consequence of post-traumatic stress disorder (PTSD) and that its counseling and treatment programs are focused on PTSD and other underlying causes. It was also noted that rural areas have a difficult time finding DHS-approved programs for their constituents. For out-of-state offenders or those in rural areas, clear indication of whether an online program is DHS-approved would be helpful. Courts cannot give credit for participation in programs that are not DHS-approved.

The Committee on Limited Jurisdiction Courts (LJC) and the Committee on Superior Court (COSC) voted to approve the proposal. Among CIDVC members, the consensus was that more information is needed. Ms. Love will take the proposal to AJC in October but will explain CIDVC's concerns and reasons for not taking a position on it.

The second proposal deals with whether justices of the peace can authorize community service or restitution (but not victim restitution) in lieu of payment of fines or fees. Justices of the peace are seeking clarity on their authority to order defendants who cannot pay their fines to perform community service instead. The Limited Jurisdiction Committee tabled this proposal because of questions on how to calculate the hourly rate for community service and who would supervise the community service performed. CIDVC did not take a position.

B. **AzAFCC 2013 Summit Project—Domestic Violence Preliminary Intervention Plan: Assessment and Early Intervention for Alleged Abusers, Abused Persons, and Children** (*taken out of order*)

Judge David Gass, Maricopa County Superior Court, presented the 2013 Summit Project report of the Arizona Association of Family and Conciliation Courts (AzAFCC) to the committee. The AzAFCC report is provided as a preliminary intervention plan with screening questions that law enforcement and other first responders can ask an alleged domestic violence victim to quickly identify the potential of lethality or serious bodily harm arising out of a domestic violence situation. This report reviews the assessment tool developed by the Summit Project and how it is used and what to do in Family Court for the alleged victim, the alleged abuser, and for children exposed to domestic violence. The report also outlines possible choices for appropriate immediate responses. Judge Gass emphasized that the report is not endorsed by any individual member of the Summit Project committee or any individual organization. It is a consensus document that carries no legal weight. An addendum is included with bibliographic references that support the research relied on in the report.

Judge Gass then discussed some areas that need further review and development such as:

- Developing counseling paradigms for children who have been exposed to domestic violence in the home.
- Identifying any intergenerational transmission of domestic violence, which would require studying the long-term impact of childhood exposure to domestic violence. This possibly would also involve studying whether the treatment paradigms should be the same for an adult who was exposed to domestic violence as a child as for an adult who was not.
- Developing protocols for first responders for documenting when children have been exposed to domestic violence, either by experiencing it directly as a victim, experiencing it vicariously (seeing or hearing it), or experiencing it after the fact (seeing a parent or sibling who has been injured or watching a parent being arrested).

**C. Proposed Revisions to the Arizona Rules of Protective Order Procedure—
First Review**

Kay Radwanski, AOC, introduced the proposed revisions to the Arizona Rules of Protective Procedure (ARPOP) and outlined how the workgroup worked to simplify the rules and make them easier to understand. She noted that there are only ten rules but with 49 subparts, which can make rule citation cumbersome. The timeline is to have CIDVC review the first draft and then take the draft to LJC and COSC, both of which would have a significant interest in the revisions. Before the November 18 CIDVC meeting, the workgroup would make revisions to the draft based on comments and feedback received and present a second draft at that meeting. The workgroup would also present a draft rule petition to amend the protective order rules, which, if approved by the committee, would be filed by January 10, 2015. A comment period typically would be open until May 20, 2015. CIDVC would then review comments received and possibly make changes

to the petition and draft by June 20, 2015. If approved by the Supreme Court, the proposed revisions to the protective order rules would likely take effect in 2016.

The committee consensus was to share the first draft revisions with LJC and COSC for review and comment prior to November 18, 2014.

D. Domestic Violence Information Webpage

Ms. Radwanski informed CIDVC that the Judicial Branch website (www.azcourts.gov) hosts a [Domestic Violence Information](#) webpage. The webpage has been updated and provides links to information about:

- Safety plans
- Booklets regarding child support, family law, and domestic violence
- Information on domestic violence resources for victims
- Approved offender treatment programs
- Protective order forms (English and translations)
- CIDVC
- Legal authorities—statutes and rules—regarding protective orders and injunctions

The webpage also provides telephone numbers to the National Domestic Violence Hotline and the Arizona Coalition to End Sexual and Domestic Violence. The purpose of the webpage is to provide the public with access to useful resources on domestic violence.

E. Draft Revisions to ACJA § 3-402, Superior Court Records Retention and Disposition

Judge Pamela Gates, Superior Court in Maricopa County, and chair of the General Jurisdiction Court Records Retention Revision Committee, presented draft revisions to the Superior Court Records Retention Schedule. She explained that the committee's goal was to simplify and clarify the retention schedule so those persons responsible for managing records have a clear definition as to when the records should be retained or destroyed. Judge Gates directed CIDVC members to changes to the retention of Order of Protection (OP) and Injunctions Against Harassment (IAH) and Injunction Against Workplace Harassment (IAWH) case files. In the current schedule, OP case files and IAWH case files appear in the same category with a five-year retention period and are not transferred to Arizona State Library, Archives, and Public Records (LAPR). In the proposed schedule, the Clerks of the Court have requested that OP case files be placed in a separate category with a 50-year retention period, while IAH and IAWH be treated as civil case files, also with a 50-year retention period. Post-1959 civil case files that can be retained in the Clerk's local office are identified as permanent records and must be transferred to LAPR.

Motion: Judge Wendy Million recommended that AJC approve the Superior Court Records Retention and Disposition Schedule as presented. **Seconded by:** Chief Campbell. **Vote:** Unanimous

F. Bench Briefings; Judicial Conference Update

Judicial Conference Update. Judge Million reported on the success of the two domestic violence sessions presented at the Judicial Conference by Dr. David Adams, author of “Why Do They Kill,” a book about batterers who had killed or nearly killed their intimate partners. The two sessions were well attended.

Bench Briefings. Ms. Radwanski updated the committee on the Bench Briefings project authorized by CIDVC. Brief training videos on specific domestic violence procedures are in development and will be shared with all Arizona judges. CIDVC members viewed Bench Briefing 2 at the May 2014 meeting. Bench Briefing 1: Minors and Protective Orders was then presented for viewing.

III. OTHER BUSINESS

A. Good of the Order/Call to the Public

Good of the Order. Judge Ronan directed the committee to an article written by Judge Elizabeth Finn, Glendale City Court. Judge Finn’s article—“One Judge’s Passion”—was published by the American Bar Association in The Judges’ Journal, Spring 2014. In the article, Judge Finn describes the establishment of CIDVC in 1994.

Call to the Public. The following people from the general public addressed the committee:

- Brian Merrell
- Brent Miller
- Alfredo J. Trujillo
- Cara Nicole Trujillo
- David Alger
- Amy Robinson
- Richard Cassalata
- Michael Espinoza

B. Next Committee Meeting Date

November 18, 2014—10 a.m.
Arizona State Courts Building, Room 119A/B
1501 W. Washington Street
Phoenix, AZ 85007

The meeting adjourned at 2:00 p.m.

**COMMITTEE ON THE IMPACT OF
DOMESTIC VIOLENCE AND THE COURTS**
Minutes
November 18, 2014
Arizona State Courts Building
Conference Room 119A/B
1501 W. Washington Street, Phoenix, AZ 85007

Present: Judge Wendy Million (acting chair), Cmdr. Arthur W. Askew, Judge Keith D. Barth, Judge Carol Scott Berry, Carla F. Boatner, Joi Davenport, Gloria E. Full, V. Michele Gamez, Dorothy Hastings, Judge Statia D. Hendrix, Patricia Madsen, Dana Martinez, Leah Meyers, Judge Wyatt J. Palmer, Shannon Rich, Rebecca Strickland, Judge Patricia A. Trebesch

Telephonic: Lynn Fazz, Marla Randall, Maureen Schat

Absent/Excused: Judge Emmet Ronan (chair), Ellen R. Brown, Chief Steven W. Campbell, Anna Harper-Guerrero, Capt. Jeffrey Newnum, Asst. Chief Sandra Renteria, Tracey J. Wilkinson

Presenters/Guests: Cmdr. Kathleen Checchi (Maricopa County Sheriff's Office), Diane Culin, Aleshia Fessel, Will Gaona, Ana Jabkowski, Kathy Sekardi (AOC), Jennifer Renee Werner (Maricopa County Sheriff's Office)

AOC Committee Staff: Kay Radwanski, Julie Graber

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

The November 18, 2014, meeting of the Committee on the Impact of Domestic Violence and the Courts (CIDVC) was called to order at 10:04 a.m. by Judge Wendy Million, acting chair. Judge Million welcomed members and announced that Judge Emmet Ronan, current chair, is retiring. Members will forward a card to Judge Ronan to acknowledge his service on CIDVC.

B. Approval of Minutes

The draft minutes from the September 9, 2014, meeting of the Committee on the Impact of Domestic Violence and the Courts were presented for approval.

Motion: To approve the September 9, 2014, meeting minutes, as presented. **Action:** Approve, **Moved by** Judge Patricia Trebesch, **Seconded by** V. Michele Gamez. Motion passed unanimously.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Maricopa County Sheriff's Office—Victims' Assistance and Notification Unit

Kathleen Checchi, commander of Maricopa County Sheriff's Office (MCSO) Victims' Assistance and Notification Unit (VANU), and Jennifer Renee Werner, MCSO, discussed the unit's history and recent growth, its mission to empower victims of crime, and its services available 24 hours a day, seven days a week by calling (602) 876-8276. The unit acts as a primary source of contact for victims by notifying them of the defendant's release conditions; providing current information regarding court dates and the

defendant's status; facilitating the process during the initial appearance; assisting with the service of Orders of Protection; and determining the appropriate agency or victim services to contact. In order to reach and assist more people, Ms. Checchi invited law enforcement, shelters and other victim services to share the unit's contact information with victims.

Ms. Werner noted that VANU's webpages on the [MCSO website](#) have contributed to the unit's growth by providing the public with an overview of useful resources and available victim services. She pointed out that victims may complete and submit the impact statement electronically and opt in to be notified of the defendant's release by contacting the unit. In addition, staff has been trained to serve Orders of Protection at the jail, which provides convenience and allows for the immediate availability of the information in their automated system whereas Orders of Protection served by process server or the sheriff can take several days or weeks to be processed. Other projects that are currently in the works include centralized repositories for Orders of Protection and for terms and conditions of releases.

B. ARPOP Workgroup – Draft

Kay Radwanski, AOC, presented the workgroup's second draft of the proposed revisions to the Arizona Rules of Protective Order Procedure (ARPOP), and sought CIDVC's approval and authority to finalize the ARPOP revisions and draft a Rule 28 petition outlining the changes and why they are necessary, which would be filed by January 10, 2015. Ms. Radwanski noted that the reorganization of the ARPOP rules is consistent with Goal 3 from Advancing Justice Together to restyle, simplify, and clarify the rules and make them more readable for self-represented litigants. She circulated the first draft of the proposed revisions to the Committee on Limited Jurisdiction Courts (LJC) on October 29, 2014, and to the Committee on Superior Court (COSC) on November 7, 2014, and reviewed the feedback and comments received for CIDVC's consideration.

Rule 2 – The workgroup did not adopt CIDVC's suggestion to add a reference to the Arizona Justice Court Rules of Civil Procedure because Rule 101(b), JCRCP, specifically excludes protective orders and injunctions against harassment.

Rule 3(b) – The workgroup incorporated CIDVC's recommendation to amend the definition for "*ex parte*" to "[...], without notice to or the presence of the other party." COSC commented that the definition of "*ex parte*" applies to a court *communication* rather than a court *procedure*. After consideration, the consensus of the committee was to leave the language as is to simplify the meaning for self-represented litigants.

Rule 36 – The workgroup incorporated a recommendation from the Advisory Committee on the Rules of Evidence to align the ARPOP with the Arizona Rules of Family Law Procedure (ARFLP) by adopting the same standard for admissible evidence.

Chief Campbell's suggestion to add a rule regarding electronic transfer of protective order to law enforcement for service was not adopted because ACJA § 1-503 already authorizes this. Chief Campbell supported this decision.

LJC suggested adding language regarding the scope of the petition pursuant to Savord v. Morton, 235 Ariz. 256, 330 P.3d 1013 (Ariz. Ct. App. 1 2014). In Savord, the Court of Appeals directed the court to either limit the scope of the hearing to the allegations of the petition or allow the plaintiff to amend the petition and postpone the hearing so the defendant can prepare a defense against the new allegations. Members considered adding a new rule, revising existing forms (e.g., General Petition, Defendant's Guide Sheet), or supplementing the training for new judges. The consensus of the committee was to review existing forms and determine where changes could be made and add a sentence to Rule 23(b) indicating that the plaintiff must list every act of domestic violence that is the basis for the requested petition.

LJC suggested creating a rule regarding situations where the name of the defendant is unknown (e.g., Plaintiff v. J. Doe). According to A.R.S. § 12-1809(C)(2), the petition must state "[t]he name and address, if known, of the defendant." Based on the rule of the last antecedent, only the address can be unknown. The consensus of the committee was not to adopt this recommendation.

COSC inquired whether the standard for issuance of an Injunction Against Harassment (IAH) outweighs the requirement that there must be a series of acts of harassment. Members considered adding a comment to the rule explaining a "series of acts" or addressing the issue in the judges' training. Rule 3 includes a new definition for harassment applicable to an IAH based on A.R.S. § 12-1809(S), and Rule 25(e)(1) specifies the findings required for the issuance of an IAH as "(A) [...] a series of acts of harassment [...]"; **or** "(B) [...] great or irreparable harm would result to the plaintiff [...]" based on A.R.S. § 12-1809(E). The consensus of the committee was to address the matter as a training issue.

Motion: To authorize the committee chair, or designee, to move forward with the agreed changes without further review and file a Rule 28 petition by January 10, 2015, asking the Supreme Court to adopt the recommended changes to the Arizona Rules of Protective Order Procedure, as discussed. **Action:** Approve, **Moved by** Judge Patricia Trebesch, **Seconded by** Judge Keith Barth. Motion passed unanimously.

C. Update: Domestic Violence Court, Tucson City Court

Judge Million, Tucson City Court, provided an update on the specialized domestic violence (DV) court that was established in 2013 after receiving a grant from the U.S. Department of Justice. Grant partners include the Tucson City Prosecutor's Office, the City of Tucson Public Defender's Office, Pima County Adult Protection Department, Emerge! Center Against Domestic Abuse, and the Community Outreach Program for the Deaf.

- A new educational program will start in the spring that targets the Deaf community and takes into account the additional barriers and the power and control wheel that applies specifically to Deaf victims.
- Additional funding is needed for training and for more attorneys. There are seven public defenders and 1½ prosecutors assigned to the DV court.

- Judge Million reviews all the cases in the DV court and keeps track of the number of convictions. Because there is only one line of communication and one person reviewing the cases, cases that should be prosecuted as felonies are not falling between the cracks.
- Although the caseload is overwhelming and there is a high degree of burnout, the project has resulted in improved and streamlined communication.
- Court advocates have played a positive role and victims feel like they are being heard.

D. Case Law Update – Courtney v. Courtney

Case Law Update – Courtney v. Courtney. Ms. Radwanski presented a synopsis of *Courtney v. Courtney*, an opinion from the Arizona Court of Appeals, Division I, issued in September 2014 that dealt with the authority of the superior court to amend an Order of Protection that was issued prior to the filing of the family court case. The appellate court granted relief to the petitioner and found that the superior court had the statutory authority to modify a protective order as if it had originally issued the order. The case will return to Maricopa County Superior Court to decide whether the mother met her burden of proof at the evidentiary hearing.

Bench Briefing Update. Ms. Radwanski reported that some users experienced access issues to Bench Briefing 1: Minors and Protective Orders, which have since been resolved. She also noted that the video has been well received, and the National Council of Juvenile and Family Court Judges (NCJFCJ) requested to view the video, which was made available to them with the notice that the video is copyright protected and cannot be republished without the permission of the Arizona Supreme Court. Bench Briefing 2: Family Law and Protective Orders is expected to be launched in early December.

III. OTHER BUSINESS

A. Good of the Order/Call to the Public

Leah Meyers announced the launching of a new state website (www.EndSexTrafficking.AZ.gov) to educate the public and combat sex trafficking in Arizona, and she distributed informational cards for members to pass out.

No members of the general public asked to speak during the Call to the Public.

B. Next Committee Meeting Date

February 10, 2015; 10:00 a.m. to 2:00 p.m.
 State Courts Building, Room 119A/B
 1501 W. Washington Street
 Phoenix, AZ 85007

The meeting adjourned at 11:20 a.m.