

# COMMITTEE ON THE IMPACT OF DOMESTIC VIOLENCE AND THE COURTS

## Draft Minutes

May 19, 2020 10:00 a.m.

Virtual Meeting

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### Present:

**Telephonic:** Judge Wendy Million (chair), Elaine Armfield, Sergeant Anthony M. Castro, Judge Bruce R. Cohen, Deborah Fresquez, Maria Christina Fuentes, Judge Catherine Gaudreau, Anna Harper-Guerrero, Judge Statia Hendrix, Joi Hollis Ph.D., Patricia Madsen, Officer Chris Malast, Doreen Nicholas, Amy Offenber, Judge Wyatt Palmer, Sergeant Lauren Pettey, Judge Debra R. Phelan, Pearl Puente, Judge Bruce Staggs, Kristi Ward, Tracey Wilkinson, Chief Terry Young

**Absent/Excused:** Judge Marianne T. Bayardi, Diane L. Culin, Lynn Fazz, Susan Johnson-Molina; Leah Meyers, Rebecca Strickland, Judge Adam Watters

**Presenters/Guests:** Jacquelyn Grace Berry; Judge Carol Scott Berry (Ret.); Gaelyn Davis, Governor's Office of Youth, Faith, and Family; Chris Groninger, Arizona Foundation for Legal Services & Education; Professor Negar Katirai, Dakota Francis, Sam Preminger, and Margaret (Peggy) Rowe, University of Arizona Domestic Violence Law Clinic; Erin Lowry, University of Arizona; Judge Sharron Sauls, Kyrene Justice Court; Dr. Neil S. Websdale, Northern Arizona University

**Administrative Office of the Courts (AOC) Staff:** Jennifer Albright, Theresa Barrett, Chris Manes, Angela Pennington, Kay Radwanski

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## I. REGULAR BUSINESS

### A. Welcome and Opening Remarks

The May 19, 2020, meeting of the Committee on the Impact of Domestic Violence and the Courts (CIDVC) was called to order at 10:02 a.m. by Judge Wendy Million, chair. All participants attended the virtual meeting via Zoom. Judge Million thanked Susan Johnson-Molina, Judge Wyatt Palmer, Judge Bruce Staggs, Judge Adam Watters, and Chief Terry Young for their service to the committee. Their terms expire June 30, 2020.

### B. Approval of Minutes

The draft minutes from the February 11, 2020, meeting were presented for approval.

**Motion:** To approve the February 11, 2020, minutes. **Vote requested by** Judge Million. Motion passed unanimously.

## II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

### A. Arizona Bar Foundation DVLDP Project

Chris Groninger, Arizona Foundation for Legal Service & Education, spoke to the committee about the Domestic Violence Document Preparers Pilot project. The program, authorized by [Administrative Order 2020-25](#), involves domestic violence lay legal advocates who will work under the supervision of legal aid attorneys to gain the ability and experience to become legal document preparers.

The program will start with 10 legal advocates throughout the state. Dependent upon experience and education, the advocates will be paired with attorneys and supervised for 6-12 months. After the supervision period, the advocate will be eligible to take a practical exam administered by the Supreme Court to become a certified domestic violence legal document preparer. A person providing services under this program must be employed by a non-profit domestic violence service provider, cannot charge fees for services, and must work within a focused scope of practice. The goal for this program is to enhance access to justice, increase access to free legal help, and make services available more broadly.

Currently, the foundation is working with the AOC on the pre-test for the advocates and preparing to open the application process. They believe the number of applications will exceed spots available. This will enable them to move new advocates into open spots as soon as the supervisory period has been completed.

### B. Unsung DV Community Heroes of COVID-19

Judge Bruce Cohen addressed the committee, speaking about the changes in the courts because of the COVID-19 pandemic and offering his appreciation to those who have helped keep the courts running. He suggested that CIDVC think about ways, such as certificates, to recognize them for their service.

### C. DV Fatality Report Review – Domestic Violence Law Clinic, University of Arizona

Professor Negar Katirai, Domestic Violence Law Clinic, University of Arizona, and students Dakota Francis and Margaret “Peggy” Rowe presented on a project they recently conducted on Domestic Violence Fatality Report Review.

Judge Million and Dr. Neil Websdale, director of the National Domestic Violence Fatality Review Initiative, had provided the Domestic Violence Law Clinic with reports filed by various domestic violence fatality review (DVFR) teams around the state and questions to examine in each report. Ms. Francis explained that the students reviewed the questions and then decided which ones would be the most manageable for their semester. They developed a review tool for consistency, and six reviewers applied it to the Arizona DVFR reports. Project goals were to identify general trends across the fatality reviews, identify and provide procedural recommendations to the fatality review board to help create a consistent format for future reviews across the counties, and provide substantive recommendations to decrease the risk of lethality among intimate partner victims and survivors.

Inconsistencies in reporting affected the comparison analysis, but general trends found after reviewing the reports included:

- Varied or lack of details about:
  - the relationship between the perpetrator and the victim,
  - contact with law enforcement, and
  - recommendations by law enforcement.
- Few reports addressed how law enforcement recommendations, if given, were implemented.
- Only some of the reports provided domestic violence statistics.

The team provided both procedural and substantive recommendations to the committee.

- Procedural recommendations included:
  - Consistent formatting to assist in future data collection.
  - A review of past recommendations and their implementation. This could help encourage DVFR teams to give more detailed recommendations and promote implementation.
  - Use of the Fatality Review Project Tool, the APRAIS lethality assessment, and in certain cases the predominant aggressor analysis, to obtain a greater level of detail about the parties' relationships and contact with law enforcement.
  - Avoid victim-blaming language.
- Substantive recommendations included:
  - Outreach and education for both professionals and the community.
  - Development of a metric to assess the level of community education.

The team took questions and said they welcome the opportunity to continue the project. Judge Cohen asked about future work on this project and the possibility of collaboration with Arizona State University (ASU). CIDVC learned that it is already a semi-collaboration, as three of the reviewers were social work majors from ASU.

Dr. Websdale said he will submit written comments on the work the team had done, and he commended them on their work. He then discussed his general comments.

- A.R.S. § 41-198(A)(2) specifies that the report cannot contain any information that identifies specific incidents of domestic violence fatalities or near fatalities. He asked the team to consider the following:
  - How do DVFR teams navigate preparing reviews without identifying the parties?
  - To what extent do the reports, either implicitly or explicitly, breach the terms of their own enabling statutes?

He believes that review templates can be used for discussion on standardization and which direction to move but suggested a metric to know whether recommendations were implemented, in full or in part, because of fatality reviews. He stated that acquiring this information could lead to partnerships and collaboration with other agencies. He touched briefly on the topic of victim blaming and advocated for multi-system education, asserting coordination and collaboration are key.

Regarding question 7a on the APRAIS assessment, Dr. Websdale suggested that the committee submit an amendment to modify the form, as this question is not scored. This will ensure that the form comports with explanatory language on page 2 of the APRAIS form. He feels strongly about standardizing and believes it to be a pivotal step. On the Fatality Review Template Tool created by the team, he recommended that the statutes be referenced in the introduction, along with a mission, vision, and value statement. Also on the tool, he discouraged listing actual names of persons who had been interviewed. This could contravene confidentiality and endanger people, encourage feuding, and dissuade people from providing information. He discussed the use of the word “tactics” on the tool, noting that the term is problematic. He asked how the DVFR teams and other agencies would know that a method used by an abuser is a “tactic” versus instinct, subconscious, etc.

Judge Million asked if the members would approve of the committee moving the report forward, and they agreed. Judge Million thanked the University of Arizona Domestic Violence Law Clinic and Dr. Websdale for their work and comments.

#### **D. ARPOP Rules Petitions**

Kay Radwanski, AOC Court Programs Unit, gave an update on comments to petitions affecting the Arizona Rules of Protective Order Procedure (ARPOP). The comment period for petitions ended May 1. There were comments both filed and received by CIDVC.

R-19-0045 would amend the rules concerning first-time plaintiffs filing for Orders of Protection, lowering the standard of proof at contested hearings, limiting the court’s discretion in dismissing or modifying such orders, and dismissing attorney fee claims. This petition affects ARPOP Rules 38 and 39. Both the Arizona State Bar and CIDVC filed comments indicating that they do not support this petition.

R-20-0002, filed by CIDVC, offers solutions for next steps when one or both parties fail to attend a contested hearing. This petition affects Rule 38. The State Bar of Arizona filed a comment in support of this petition.

R-20-0032 would require dismissal of a defective petition without a hearing and bar judicial advice on how to cure it. This petition affects Rules 23 – 26. CIDVC filed a brief comment stating that the committee does not support this petition.

R-19-0048, filed by Justice of the Peace Gerald Williams, affects Rule 38 and seeks direction on whether judicial officers should dismiss a protective order if both parties fail to appear at a contested hearing. CIDVC did not file a comment on this petition.

R-19-0047, filed by Justice of the Peace Gerald Williams and Judge Bruce Cohen, would prohibit a court from issuing an Injunction Against Harassment (IAH) that includes a minor if the IAH would or could impact a family court order or an action involving the same child. CIDVC filed a comment to which Judge Cohen filed a reply.

## **E. Update: AZPOINT**

Ms. Radwanski provided an update on AZPOINT, the Arizona Protective Order Initiation and Notification Tool. Almost 15,000 petitions have been started in the application since its deployment in January. Future enhancements, such as a color-coded dashboard for law enforcement agencies and a Spanish language equivalent to the site, are pending further funds. Judge Million noted Ms. Radwanski will present on AZPOINT during a May 20 webinar sponsored by the National Center for State Courts and the Battered Women's Justice Project.

During discussion, it was noted that the ACESDV Sexual Violence Response Team had requested a change in language on the AZPOINT petition portal. Ms. Radwanski said she will evaluate the requested language, explaining that any language on the judicial website must be neutral. There was a larger discussion about what the process is for orders with minimal or no addresses. Ms. Radwanski stated she would follow up with Mark Peoples, Arizona Criminal Justice Commission. The committee was asked to follow up with law enforcement about their capabilities for address searches. Further discussion revealed the process varies from agency to agency. Judge Million asked when the database would be open to courts to search for additional orders. Ms. Radwanski stated it is a possible future enhancement but who would be allowed access is a policy decision

## **III. OTHER BUSINESS**

### **A. Announcements/Call to the Public**

- The House of Representatives is expected to resume the legislative session soon, and SB1441 will be on their agenda.
- No one responded to the Call to the Public.

### **B. Next Meeting.** Tuesday, September 15, 2020; 10 a.m. Venue TBD

The meeting adjourned at 11:35 a.m.