

**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.