

# COMMITTEE ON THE IMPACT OF DOMESTIC VIOLENCE AND THE COURTS

## Minutes

November 5, 2019 10:00 a.m.

Arizona State Courts Building

Conference Room 119A/B

1501 W. Washington Street, Phoenix, AZ 85007

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**Present:** Judge Wendy Million (chair), Elaine Armfield, Judge Marianne T. Bayardi, Judge Bruce R. Cohen, Diane L. Culin, Judge Catherine Gaudreau, Judge Statia Hendrix, Patricia Madsen, Sgt. Jorge Lomeli (proxy for Officer Christopher Malast), Leah Meyers, Doreen Nicholas, Amy Offenber, Judge Wyatt Palmer, Pearl Puente, Rebecca Strickland, Patricia A. Tracey, Kristi Ward, Sgt. Jose Ferreira (proxy for Tracey Wilkinson)

**Telephonic:** Anna Harper-Guerrero, Dr. Joi Hollis, Sergeant Lauren Pettey, Judge Bruce Staggs

**Absent/Excused:** Lynn Fazz, Deborah Fresquez, Susan Johnson-Molina; Judge Debra R. Phelan, Judge Adam Watters, Chief Terry Young

**Presenters/Guests:** Lt. Theresa Arviso, Surprise Police Department; Judge Carol Scott Berry (Ret.), Jean Egelston; Michele Gillich, AOC ITD; Jennifer Greene, AOC Assistant Legal Counsel; Judge Sharon Sauls, Kyrene Justice Court; David Withey, AOC Chief Legal Counsel

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

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## I. REGULAR BUSINESS

### A. Welcome and Opening Remarks

The November 5, 2019, meeting of the Committee on the Impact of Domestic Violence and the Courts (CIDVC) was called to order at 10:10 a.m. by Judge Wendy Million, chair.

### B. Approval of Minutes

The draft minutes from the September 10, 2019, CIDVC meeting were presented for approval.

**Motion:** To approve the September 10, 2019, minutes. **Moved by** Amy Offenber. **Seconded** by Judge Catherine Gaudreau. Motion passed unanimously.

## II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

### A. Update: AZ Statewide Protective Order Project 2020

Michele Gillich, AOC ITD project manager, provided an update on the AZPOINT system and pilot courts. She and Kay Radwanski then provided a step-by-step demonstration with a test

order. CIDVC members asked for clarification on the process during the presentation and provided additional suggestions on how to make the process more efficient, user-friendly, and safer for domestic violence victims.

**B. “Near” and Enforceability of Protective Orders (Topic taken out of order.)**

Judge Bruce Cohen discussed an opinion issued by the Superior Court in Maricopa County based on an appeal of Order of Protection issued by the Manistee Justice Court. In this case, the order was deemed defective, and therefore unenforceable, because it prohibited the defendant from “go[ing] to *or near*” several different places related to the whereabouts of the defendant. The order did not define “near,” and the lower appeal court determined that “near” was unconstitutionally vague. In that case only, the order was invalidated and remanded to the justice court for further action.

David Withey, AOC chief legal counsel, noted the possibility that the protective order forms would need to be changed. Changes to the Order of Protection and Injunction Against Harassment statutes require the plaintiff’s address and contact information to be protected. Mr. Withey said research showed that about 25 states have similar “shall not go near” language in their statutes, and none have been declared unconstitutional.

The committee asked for clarification on the case background and discussed possible solutions to the issue of defining “near” in a protective order. Mr. Withey offered to send the case law from other states that were referenced in his research of this case.

**C. Phoenix Firearms Transfer Pilot Project**

Judge Marianne Bayardi discussed a pilot project at the Phoenix Municipal Court for a defendant in a domestic violence case to comply with a firearms transfer order. Processes documenting the firearms transfer, declaring no ownership of firearms (and thus no need to transfer), and filing a motion for release are included in this pilot. Judge Bayardi said other courts may adapt the forms for their own use.

**D. Mandatory Parent Education Programs and Domestic Violence**

A.R.S. § 25-351 requires any party involved “in an action for dissolution of marriage, legal separation or annulment that involves a natural or an adopted minor, unemancipated child ... in which a party has requested that the court determine custody, specific parenting time or child support” to attend and complete a parental education program. Judge Cohen proposed that the committee, or a workgroup of the committee, develop a five to ten-minute segment on domestic violence that could be included in the parent education program.

**E. Draft Legislation: Long-Term Order of Protection**

A draft proposal for a long-term Order of Protection has been discussed at several previous CIDVC meetings. After discussion with the committee and with AOC legislative staff, the plan is to have CIDVC will work on this proposal jointly with the newly formed Family Court Improvement Committee (FCIC).

## F. Workgroup Reports

Judge Million would like to have the workgroups come together for another “working day” to possibly reorganize the workgroups and decide on upcoming projects.

**Judicial Education.** Judge Million has contacted Dr. Christopher Wilson, who has previously presented at the 2018 Judicial Conference on domestic violence victims and trauma. He is willing to present at the 2020 Judicial Conference. She will ask the conference planning committee to consider asking Dr. Wilson to present a second session. CIDVC may also want to propose a session involving either Dr. Neil Websdale or Dr. Kathleen Ferraro.

The **High Risk and Lethality Assessment Workgroup** is collecting fatality review reports and will ask law students to review them. A questionnaire will be given to the students so they know what information to evaluate.

The **Protective Orders, Enforcement, and Access Workgroup** will update the Ex Parte Hearing bench cards with the new service information. The contested hearing bench cards are also being developed, and the remote video hearing bench cards are being promoted.

The **PO2020/Forms/ARPOP Workgroup**, using a PowerPoint from Marc Peoples along with slides from Ms. Radwanski, has created a training on the ex parte protective order process that includes an update on the legislative changes effective January 1, 2020, and AZPOINT. This group would also like to create an infographic for dissemination to the public and advocates on the legislative changes, the web portal, and new process for service of protective orders.

The **Family Law Workgroup** is planning to develop danger assessment bench cards. They would also like to make recommendations for training modules that could be made available at the Judicial Conference or judicial trainings.

## III. OTHER BUSINESS

### A. Announcements/Call to the Public

- Judge Bayardi asked Ms. Radwanski to email the materials on firearms transfer to the committee.
- The committee was asked to forward topics of interest or proposed agenda items to Ms. Radwanski.
- No one responded to the Call to the Public.

### B. Next Meeting. Tuesday, February 11, 2020; 10 a.m. Arizona State Courts Building, Conference Room 119 A/B 1501 W. Washington, Phoenix, AZ 85007

The meeting adjourned at 1:38 pm.