

**Commission on Victims in the Courts**  
Meeting Minutes-FINAL  
Friday March 2, 2007 10:00 AM-2:00 PM  
Childhelp Child Advocacy Center  
Conference Call Number: 602-452-3193; Access Code 7002  
C.O.V.I.C Website <http://www.supreme.state.az.us/covic>

**COVIC Members Present**

Chair: Hon. Ronald Reinstein  
Hon. Lex Anderson  
Det. Jack Ballentine  
Dr. Kathryn Coffman  
Ms. Kimberlie Musselman  
Ms. Sydney Davis  
Ms. Kathy Waters  
Ms. Charlene Laplante  
Mr. Anthony Vidale  
Mr. Dan Levey  
Hon. Richard Weiss  
Hon. Anna Montoya-Paez  
Hon. Antonio Riojas, Jr.  
Hon. William O'Neil  
Mr. Doug Pilcher  
Mr. Steve Twist

**Proxy**

Mr. Bruce Bowers for Mr. Edwin Cook  
Ms. Kirstin Flores for Mr. Bill Hart

**Members Absent**

Mr. Richard Romley  
Mr. Gary Husk  
Mr. Marc Budoff  
Ms. Emily Johnston  
Mr. Stephen Dichter  
Ms. Karen Sullivan  
Hon. Patricia Noland

**Staff Present**

Ms. Carol Mitchell  
Ms. Nicole Garcea

**Guests**

Sarah Schmoll, AOC  
Gary Sharpe, Phoenix City Prosecutor's  
Office  
Catherine Plumb, AAG for AZ State  
Hospital  
Kim Knox, Maricopa County Finance  
Jamie Mabery, MCAO, Victim Services

## **Welcome and Call to Order**

The Chair officially called the meeting to order at 10:16 AM, at the Childhelp Center in Phoenix, Arizona. Introductions were made of commission members and guests.

## **Childhelp Presentation**

A tour of Childhelp was planned, but due to time constraints a presentation was given instead by Mr. Bill Copeland, a Retired Sergeant of the Glendale Police Department and director of Childhelp.

Childhelp is a national organization for abused children with its administrative headquarters in Scottsdale, Arizona. The Phoenix location began operating in 1998. It has many different agencies working under one roof to provide the best services for abused children in one central location including Dr. Coffman and her staff from St. Joseph's Hospital, Child Protective Services, the Phoenix Police Department, and one staff psychologist and 4 counselors.

Childhelp has served over 45,000 clients since they opened. They are looked to by other organizations, both national and international, as examples for best practice guidelines when assisting abused children. The Phoenix location is looking to the future and planning a move to expand its capabilities, possibly even working in conjunction with the Family Advocacy Center to create the first ever center to have adults' and children's needs met under the same roof.

## **Announcements**

The Chair thanked Dr. Coffman for offering the Childhelp facilities in which to hold the meeting.

The Chair announced that it was COVIC's one-year anniversary and the Chief Justice made some new appointments. Mr. Richard Romley and Ms. Charlene Laplante each served a one-year term in COVIC's inaugural year. The Chair thanked them both and provided Ms. Laplante a certificate of appreciation. As Mr. Romley was not present his certificate will be presented to him at a later date.

Mr. Dan Levey was recognized for being named as interim president for NOVA. Mr. Levey and Judge Reinstein were appointed to the Supreme Court's Capital Case Task Force. The Chair hopes that COVIC will be able to collaborate with this Task Force to incorporate victim issues into potential improvement of caseflow process, especially as it relates to capital punishment cases.

Mr. Richard Romley and Mr. Stephen Dichter were both required to attend a hearing in Maricopa Superior court regarding the capital case backlog and will not be available for today's meeting.

## **Approval of September 8, 2006 Minutes**

Members did not indicate any corrections to the previous meeting minutes.

**Motion:** To approve minutes from September 8, 2006. Motion unanimously passed.

\*\*At this time a letter from a victim was handed out for the Commission's review to be discussed later.

## **Victim Legislation Update**

Mr. Jerry Landau of the AOC presented the legislative update (refer to Legislative Update handout distributed at the meeting).

He indicated there aren't too many bills in legislature dealing with victims that are currently moving:

### **Bills affecting victim's rights:**

HB2179: "Economic Loss" bill. Expands the definition of economic loss.

HB2527: Neighborhood associations, after registering with the city, town or county in which they are located, can receive notice and invoke victim's rights in any city, town or county for offenses previously outlined in statute.

HB2725: Allows a person who is a victim of a criminal act to bring a civil action claiming damages in excess of the restitution actually paid.

HCR2015: The 2008 general election ballot is to carry the question of whether to amend the state constitution to prohibit any damage award in a court action for injuries if the accident was caused in whole or part by the person's consumption of alcohol.

SB1183: Requires employers to allow an employee who is a victim of a crime to leave work to obtain or attempt to obtain an order of protection, an injunction against harassment or any other injunctive relief to help ensure the health, safety or welfare of the victim or the victim's child. Expands the list of documentation an employee must provide prior to leaving work to include a court order to which the employee is subject.

SB1286: Victims' Rights Omnibus. Extremely important piece of legislation affecting many aspects of victims' rights. Mr. Landau specifically requested COVIC's input on this bill.

SB1619: Allows the prison director to withdraw a minimum of 20 percent, or the balance owed on a restitution payment, up to a maximum of 50 percent of the money available each month in a prisoner's spendable account, trust fund or retention account (if applicable), for a court-ordered restitution payment. Removes the mandatory 30 percent deduction from a prisoner's compensation for court-ordered restitution. PASSED in Senate appropriations.

Discussion occurred over two bills:

SB1183 – The current version of the bill only allows those that are victims of a crime to leave their work. Dan Levey from the Governor’s office which sponsored this bill stated that they were aware of the issue and were looking at ways to reword the bill.

SB 1286 – There was a great deal of discussion on this bill as there are many aspects to it. This bill is currently in its third read at the Senate level. There are many concerns that it may unintentionally hamper victims’ rights as opposed to assisting. There are also many aspects that refer to death penalty cases and case transfers in Maricopa County, as well as post-conviction relief.

Discussion took place regarding the amendment to have appellate courts notify victims of the decision concurrently with other parties. Points made were as follows:

- Concern was expressed that perhaps victims will not receive the notice in a timely fashion and could still be taken by surprise by members of the media or other entities. Judge Reinstein gave NJ as an example to follow: New Jersey Supreme Court will notify victims in advance that a decision will be released to the public providing the date and time of the release, but with no specific information regarding the legal details of the opinions.
- Although the focus has been on notice from the Supreme Court it is believed it will have an impact all appellate courts.
- The volume of cases to notify from the Appellate and Superior courts is much larger versus the volume of cases to notify from the Supreme Court.
- Problems when court sends notice directly to victims instead of prosecutors or victims’ advocate retaining responsibility to notify victims.
- Steve Twist stated it should also be included that a reasonable window of time be provided as an opportunity to discuss the decision and the ramifications of the decision with the victim.
- Judge Reinstein plans to speak more with Justice Ryan for input and guidance in rectifying this portion of the bill.
- Jerry Landau believes that the bill will pass with some changes.

Steve Twist addressed an issue specific to Maricopa County regarding victims’ rights to a speedy trial and judges moving between civil, criminal, and other benches. The delay that takes place when a case is transferred to a new judge, when that judge needs to get up to speed, especially on death penalty cases, is a hindrance to the case processing and a disservice to victims. Discussion ensued with comparisons to Pima County’s system of retaining the same judge on death penalty cases throughout the course of the case.

### **State v. Klein Victim definition**

Kirstin Flores from the AG’s office came to speak about the State v. Klein decision and its impact on courts. The State v. Klein decision states, basically, that a victim receives victims’ rights regardless if the crime was a felony or a misdemeanor. This has already affected the Attorney General’s office in that an estimated \$100,000 additional money will be required to print forms for the expanded classification of victims.

It is also expected to have a financial impact on the all the prosecutor's offices (AG, County and City) that will now have to provide notification for all misdemeanors. It also affects caseload processing especially in lower courts and jail costs because now many cases that were disposed on the same day they were arraigned could now take much longer in order to await victim input.

A request was made to have the Administration of Justice Workgroup further discuss this matter and see if there is a way to combat some of the issues this decision has created.

Another issue that Kirstin brought to the attention of the Commission is the recorded Victim's Rights Statement that has been played at the beginning of court in some courtrooms in Pima County. The Commission agreed that it should be stated orally, and the Chair will be speaking to the Chief Justice to address this.

### **Civil commitment order/Victim notice**

Catherine Plumb is the AAG for Arizona State Hospital and came to address the commission regarding victim notice after criminal charges are dropped and a person is ordered to be civilly committed. Ms. Plumb discussed a civil statute that requires the hospital provide victim notification and the problem in which they are not given victim information. Ms. Plumb and her colleagues wish to be respectful of victims and notify them whenever someone is released from the state hospital. This is becoming increasingly difficult, however, as they are often offered no contact information for the victims and are not provided that information from the court.

One option discussed was to add a notice on the bottom of the commitment order to indicate which prosecutor's office to contact. Judge O'Neil stated that he would have the Administration of Justice Workgroup follow up on this issue to develop any remedies.

### **Court Access and New Construction**

Judge Reinstein asked the Maricopa County Court Administration to meet with Dan Levey, Jamie Mabery, and Bill Hart to incorporate ideas related to victims' rights issues and the protection of victims and their families, during the planning phase for a new Maricopa County Criminal Court tower.

Discussion took place regarding the following points:

#### **Court Access:**

- Allowing Victim Advocates to enter into the courts without going through the juror and defendant line. Estimation of \$50k per year being wasted for 15 minutes that each Victim Advocate has to stand in line.
- A Provision exists in the AZ code of Judicial Administration that states that new construction or remodeling of any building must consider victims rights.

**New Construction:**

- Victims' attorneys are present more often in courtrooms now, but the logistics, right now, do not support this trend.
- There are also secure waiting area issues related to victims, and along similar lines, issues related to child-friendly and disabled-friendly courtrooms.
- It would be ideal if a list of recommendations could be adopted for remodeling and new construction of courts for victims.
- A suggestion was made to utilize ASU, NAU, and U of A Design School students to create some ideas.
- Victims' rights should be posted outside of the courtrooms in both English and Spanish.
- Victims' advocates should be allowed an access card similar to ones used by county attorneys.

Ongoing discussion will be had by members of COVIC and the Maricopa County Court Administration regarding this matter.

COVIC will consider developing a list of victim-related standards for the courts to use during new construction or renovation.

**Motion:** The Chair will make a presentation at the PJ meeting and the AJC meeting to recommend that any county which doesn't allow Victims' Advocates from Attorney General's and County Attorney's offices the same access to courts that they give Public attorneys changes their policy to do so. Motion unanimously passed.

**Petition to Amend Rules 31.27 and 32.10 of Criminal Procedure**

Discussion took place regarding the proposed amendments of Rules 31.27 and 32.10 of the Arizona Criminal Procedure. Carol Mitchell reviewed the proposed rule change (provided in material packet) and asked for input. Steve Twist will work with Carol on any suggested changes.

**Motion:** Request that the proposed changes to Rules 31.27 and 32.10 of the Criminal Procedure are modified to read that victims who have attorneys get notification sent to their attorneys as opposed to going to the prosecutor's office. Motion passed unanimously.

**Workgroup Summary 2006**

The Workgroup's chairs provided a summary of the plans initiated in the first three meetings (CY 2006).

Judge O'Neill stated the Administration of Justice Workgroup identified several issues to address in the form of two short term projects and two long term projects as follows: Short Term Project 1) Evaluate court policies around the state for interpreter/translator services provided to victims. Short Term Project 2) Re-evaluate all bench books to update and ensure victim rights' issues are integrated. Long Term Project 1) Evaluate setting bond practices to see if variance between judges can be reduced. Long Term Project 2) Promote training to change the culture among judges about victimization.

Kim Musselman stated the Education Workgroup is forming a panel to discuss victim rights at the Judicial Conference in June of 2007. They would like to have the panel do a "trial run" at the COVIC June meeting.

Dan Levey stated the Restitution Workgroup identified several issues to begin researching: 1) Encouraging other counties to develop collections units similar to Kim Knox's in Maricopa County. 2) Exploring the possibility of creating a webpage dedicated to restitution on the Supreme Court's website. 3) Enhancing education about restitution processing (particularly in conferences with court staff, probation staff, clerks, etc.). The Restitution Workgroup will also be discussing State v. Hansen at its meeting today.

Kim Knox shared that Ch. 15 did an investigation regarding restitution in Maricopa County and now Ch. 12 is also considering this.

Judge Granville inquired about the authority which authorizes the expenditure of funds that are necessary to collect restitution. The statutory authority was not available to anyone at the meeting.

### **Public Comment**

A Call to Public was made and the victim letter was discussed.

An open discussion took place regarding children and the courts. Courts should consider special circumstances when dealing with child victims and their treatment throughout family, civil, and criminal courts. Dr. Coffman suggested creating a special workgroup to address this issue and received unanimous support from the commission.

The workgroup meetings will convene during lunch today through 2:00 PM.

### **Motion to Adjourn**

**Motion:** Meeting ended at 12:48 PM

Respectfully Submitted,  
Carol Mitchell, Court Specialist  
Staff to the Commission on Victims in the Courts

**Commission on Victims in the Courts**  
Meeting Minutes-DRAFT  
Friday June 8, 2007 10:00 AM-2:00 PM  
Conference Rooms 345 A & B, State Courts Building  
Conference Call Number: 602-452-3192; Access Code 1112  
C.O.V.I.C Website <http://www.supreme.state.az.us/covic>

**COVIC Members Present**

Chair: Hon. Ronald Reinstein  
Hon. Lex Anderson  
Det. Jack Ballentine  
Mr. Steve Twist  
Ms. Kimberlie Musselman  
Ms. Kathy Waters  
Ms. Emily Johnston  
Mr. Bill Hart  
Hon. Carter Olson  
Mr. Dan Levey  
Hon. Richard Weiss  
Hon. Anna Montoya-Paez  
Hon. Antonio Riojas, Jr.

**Proxy**

Ms. Karen Duffy for Hon. Patricia  
Noland

**Members Absent**

Mr. Stephen Dichter  
Ms. Sydney Davis  
Ms. JoAnn Del Colle  
Ms. Karen Sullivan  
Mr. Gary Husk  
Mr. Edwin Cook  
Dr. Kathryn Coffman  
Mr. Marc Budoff  
Mr. Anthony Vidale  
Hon. William O'Neil  
Mr. Doug Pilcher

**Staff Present**

Ms. Nicole Garcea  
Ms. Carol Mitchell

**Guests**

Hon. Yoshinori Niwa, Visiting Judge  
Kim Knox, Maricopa County Finance  
Jamie Mabery, MCAO, Victim Services  
Jerry Landau, AOC  
Amy Wood, AOC  
Annalisa Alvrus, Public  
Doryce Norwood, Public  
Ronni Gaun, Public

## **Welcome and Call to Order**

The Chair officially called the meeting to order at 10:12 AM, at the State Courts Building in Phoenix, Arizona. Introductions were made of commission members and guests.

## **Announcements**

The Chair took a moment to make several announcements regarding awards, retirements, acknowledgements, and miscellaneous business:

- Mr. Dan Levey was awarded with the Ronald Reagan Public Policy Award.
- Mr. Steve Twist and Mr. Dan Levey recently worked on the language for the resolution for the National Day of Remembrance Honoring Murder Victims and their families. House Resolution 223 was co-authored by U. S. Congressman John Shadegg (R-AZ) and Representative Steve Chabot. The Day of Remembrance will take place in September.
- Mr. Steve Twist was the keynote speaker at the National Conference for Sexual Assault Response Teams for sexual assault nurses and forensic examiners. Honorable Ronald Reinstein also spoke at the Conference.
- The Arizona Coalition for Victim Services is having a conference August 16<sup>th</sup> and 17<sup>th</sup>. The Restitution subcommittee will be presenting. Carol also gave a heads up that potentially the Coalition will be requesting a best practices from judges in the area. She will be in touch with further details as necessary.
- Ms. Carol Mitchell will be taking maternity leave prior to our next committee meeting. In the interim, Ms. Amy Wood, Carol's manager, and Ms. Nicole Garcea, Carol's assistant, will be available should any issues arise. A sincere congratulation was offered to Ms. Mitchell on her coming delivery.
- Honorable William O'Neil has been awarded the Arizona Supreme Court Distinguished Services Award for "Improving Public Trust and Confidence in the Courts". He will receive the award June 20<sup>th</sup> at the State Judicial Conference in Carefree.
- Detective Jack Ballentine will be retiring from the Phoenix Police Department. His retirement goes into effect July 2<sup>nd</sup>. Further, Detective Ballentine has been selected to head the Phoenix Fire Department's Arson Investigation Division.
- Also retiring are both Honorable David Cole and Honorable Ronald Reinstein effective June 30<sup>th</sup>. Judge Cole will be joining the new Phoenix Law School as a professor. Judge Reinstein will be continuing his work at the Supreme Court assisting with special projects regarding judicial education and evidence-based sentencing and practices, as well as consulting for various criminal justice and forensic science groups.

## **Approval of March 2, 2007 Minutes**

Members indicated the following corrections to the previous meeting minutes:

SB 1619 PASSED Senate Appropriations (currently reads FAILED).

**Motion:** To approve minutes from March 2, 2007 with the above addendum. Motion seconded and unanimously passed.

### **Victim Legislation Update**

Mr. Jerry Landau of the AOC presented the legislative update (refer to Legislative Update handout distributed at the meeting).

In general, the Legislature are working on the budget and looking at June 22<sup>nd</sup> to finish up.

#### **Bills affecting victim's rights:**

CHAPTER 204: Victims' Rights; Free Police Reports. This has been signed by the Governor and will take effect 90 days after it was signed by the Governor (around the end of September).

SB1286: Victims' Rights Omnibus. Several modifications have been made to this bill. It passed the Committee of the Whole in the House yesterday. It is in a different form than when it started. Especially of note is the fact that effective January 1, 2008, a victim or victim's counsel who requests notice must receive a copy of the memorandum decision or opinion from the issuing appellate court concurrently with the parties.

SB1619: Signed by the Governor. Dan Levey shared that ADOC is unsure which percentage of account money will be withheld from ADOC inmates for restitution.

### **Advanced Notification of Opinion**

The Chair took a moment to explain the previous discussion that had taken place regarding this topic and the end result. Based on recommendations from COVIC, the Supreme Court decided to put into effect the practice of providing twenty-four hours advance notice of when an opinion is expected to be released. The practice of releasing the opinion early to certain parties was not adopted for several reasons which Jerry Landau explained.

Mr. Steve Twist took a moment to thank the Supreme Court for this important step that it has taken.

Judge Reinstein requested feedback, both positive and negative, to assess how this new practices is working.

Mr. Bill Hart reported he has already seen a positive impact and boost in morale at the AG's Victim Services' Office. The advance notice eliminates the anxiety that victim advocates may have about when an opinion will be released. It also allows for better planning with staffing/coverage within their office.

### **ACJA Code Revision**

There are parts of the ACJA Code (§5-204 and §6-103) which were passed in 2004 that have been affected by the Klein decision (the change of the definition of “criminal offense”). There may be other portions which also need to be revised for various reasons (e.g., Subsection I #2 “minimizing victim contact” and Subsection K). Ms. Carol Mitchell explained that these will need to be revised and updated prior to the September meeting for COVIC. It will then be routed to several other committees for approval prior to taking it to the AJC in December for approval. A sign-up sheet was sent around for volunteers to participate on this ad-hoc workgroup.

### **Victims’ Rights Script**

Judge Reinstein updated everyone on the status of the Victims’ Rights Advisement that is to be read in court. Some judges, particularly in Pima County have been playing the script on tape, which may follow the letter of the law, but does not follow the spirit of the law. Ms. Mitchell informed the committee that Chief Justice McGregor has it on the agenda to discuss this at the Presiding Judges Meeting at the Judicial Conference later this month.

Judge Reinstein also stated that he discussed with Chief Justice McGregor the tact that one judge was using by placing a Spanish version of the Victims’ Rights advisement on the outside of his courtroom, as this may assist limited English-speaking victims, particularly when interpreters are not available.

### **Advanced Notification Sign-up**

Ms. Rachelle Resnick, Clerk of the Supreme Court gave a brief presentation to show members the on-line process that provides the advanced notification of court opinions.

Judge Reinstein requested that a link be placed on the COVIC webpage to allow individuals to access it from both COVIC’s page and from the Arizona Judicial Branch website.

### **Proposition 100 Subcommittee**

Chief Justice McGregor has put together a Subcommittee to delve into issues related to Proposition 100, a law that deals with illegal immigrants arrested in this country and their right to bail. Judge Riojas is on the subcommittee and spoke regarding the issues that relate to both Proposition 100 and Victims’ Rights.

Proposition 100 has led to many Simpson hearings for defendants charged with class 1-4 Felonies. These hearings determine whether or not the defendant should be held without bail based on evidence presented that s/he entered the country illegally.

Judge Riojas spoke further on this topic explaining that the problem mainly resides in Maricopa County due to the sheer volume of cases. There are several problematic issues associated with this topic.

If a Simpson hearing is held, under the current A.O. the defendant is entitled to a hearing within 24 hours; however, the county attorney could ask for a 24-hour extension and the public defender can request a continuance of up to five days.

A current rule change petition has just been filed by the AOC. Comments are accepted until June 14<sup>th</sup>. One proposed change would be to extend the timeline of the hearing to seven days which would afford more time for victim notification. There are also some potential legislative changes which may place

Further points of discussion:

- Different counties handle initial appearances differently.
- Prosecutors don't want to release evidence early so the hearings are a mere formality.
- Will need to see if rule change is adopted or if legislation will pass that changes things.
- There is an extra session to discuss this topic at the Judicial Conference.
- This proposition has created manpower issues across the board due to increase in hearings.

Mr. Twist expressed his concern over victims being notified of these hearings so that they have an opportunity to appear at the hearing if they choose. Judge Reinstein concurred and stated that these hearings can take place at all times during the day. He also stated that this hearing can be very important to victims because it is the first hearing to discuss release terms.

Ms. Jamie Mabery with the Maricopa County Attorney's Office – Victim Services Division stated that victims' rights were being violated daily with the increased hearings due to the fact that they would often hold Status Conference hearings immediately following the Initial Appearance.

Mr. Twist expressed the importance in having a formal discussion between interested parties such as prosecutors, law enforcement, and victim advocates to create a proposal to handle this situation.

Judge Reinstein requested that the Administration of Justice Workgroup take a look at this issue to try and come up with some solutions. He also stated that perhaps a recommendation could be made to the Arizona Judicial Council to review the Initial Appearance Procedures on notification of victims.

Another issue regarding notification to victims is that they are usually being treated within the first 24 hours and it could be difficult to reach them.

Ms. Musselman and Judge Montoya-Paez also expressed different issues in Coconino County and Santa Cruz County respectively. The biggest issue was prosecutors choosing not to present evidence.

### **Workgroup Summary**

In Judge O'Neil's absence, Ms. Carol Mitchell gave a brief summary as to what had been accomplished by the Administration of Justice workgroup. They are looking at best practices for victim notification in civil commitment cases involving the state hospital. They are also looking at the issues in Pima County regarding judges being rotated from death penalty cases. Finally, they are looking into the issues that arise when the parent(s) of a minor become the victim of that minor and court fines/fees are assessed to the parents (victims) to pay.

Kim Musselman stated the Education Workgroup continued to work on forming a panel to present victim rights at the June Judicial Conference. The panel will conduct a "trial run" at today's meeting to gain feedback prior to the conference. They are also working on the possibility of putting together a small survey for the Judicial Conference or a later date to seek out topics for future judicial education.

Dan Levey stated the Restitution Workgroup was primarily working on putting together a restitution page on the Internet. This page will be modeled after the Colorado Judicial Branch's Restitution page. They are looking at putting together a model site for the next COVIC meeting. Other issues discussed were federal tax intercept legislation and a training workshop for the summer Arizona Coalition of Victims Services Conference.

Kim Knox discussed the intercept of a lottery payoff in the amount of \$13,000 to go towards outstanding restitution. She also discussed foreclosures and excess proceeds to go to restitution.

### **Victim Panel Presentation**

Mr. Dan Levey and Ms. Doryce Norwood shared their stories about their victimization and experiences in the criminal justice system. They received very positive feedback from the commission that involved suggestions to include practical tips for judges to consider when dealing with victim cases.

### **Public Comment**

A Call to Public was made and Ms. Annalisa Alvrus addressed the commission. Ms. Alvrus submitted a letter that was discussed at COVIC's previous meeting. She expressed her gratitude for COVIC discussing her letter and shared her experience and frustration about her domestic violence case that involved both the Family and Criminal courts. She hoped the commission would help educate criminal justice professionals about domestic violence and to avoid placing blame on the victims.

Ms. Alvrus spoke of the compounded difficulty of cases with children involved. She also encouraged COVIC to follow through with its proposed workgroup to discuss children's involvement in court.

The Chair directed Ms. Alvrus to attend a CIDVIC meeting to discuss these issues with them as well.

Mr. Twist referred to the previous minutes regarding Dr. Coffman's request for a subcommittee on children in the courts. Discussion took place relating this group to CIDVIC and to other workgroups and where it would be placed. No formal action was requested, but Judge Reinstein stated that he would speak with Judge O'Neil, chair of CIDVIC regarding this matter.

The workgroup meetings will convene during lunch today through 2:00 PM.

**Motion to Adjourn**

**Motion:** Meeting ended at 12:42PM

Respectfully Submitted,  
Carol Mitchell, Court Specialist  
Staff to the Commission on Victims in the Courts

**Commission on Victims in the Courts**  
Meeting Minutes-DRAFT  
Friday September 14, 2007 10:00 AM-2:00 PM  
Attorney General's Office, State Capital Center  
Conference Rooms 401 & 402  
15 South 15<sup>th</sup> Ave., Phoenix, AZ 85007  
Conference Call Number: 602-452-3192; Access Code 1112  
C.O.V.I.C Website <http://www.supreme.state.az.us/covic>

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Mr. Anthony Vidale

**Members Absent**

Mr. Stephen Dichter  
Ms. JoAnn Del Colle  
Ms. Karen Sullivan  
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Mr. Edwin Cook  
Mr. Marc Budoff  
Hon. William O'Neil  
Hon. Lex Anderson  
Ms. Emily Johnston  
Hon. Patricia Noland  
Hon. Carter Olson

**Proxy**

Ms. Kristen Flores for Mr. Bill Hart

**Staff Present**

Ms. Nicole Garcea  
Ms. Amy Wood for Ms. Carol Mitchell

**Guests**

Paul Julien, AOC  
Kay Radwanski, AOC  
Julie Williams, MCAO Victim Services  
for Jamie Mabery, MCAO, Victim  
Services  
Hon. Mike Cruikshank, Pima County  
Sarah Lynne Vasquez, ADJC, Juvenile  
Corrections  
Mark Stodola, Tempe Municipal  
Kim Knox, Maricopa County Finance

## **Welcome and Call to Order**

The Chair officially called the meeting to order at 10:14 AM, at the Arizona Attorney General's Office in the Capitol Center in Phoenix, Arizona. Introductions were made of commission members and guests.

JoAnn Del Colle was announced as a new member, but was unable to attend the meeting.

## **Approval of June 8, 2007 Minutes**

**Motion:** To approve the draft minutes from June 8, 2007 without changes was made by Steve Twist. The motion was seconded and unanimously passed.

## **Clarification of Proxy Rights**

The Chair took a moment to clarify the use of a Proxy in Commission meetings. He indicated that the Chief Justice had sent a letter to all Chairs clarifying the use of proxies and their rights according to ACJA §1-104.

- A member can name a Proxy to attend a specific meeting, this person will have the same responsibilities the member would have had at the meeting.
- A member cannot name another member of the Commission as a Proxy.
- The Proxy must be prepared for the meeting.
- The Chair will develop a policy regarding percentage of attendance by members.
- The Chair and the members will develop a policy regarding frequency of usage of a Proxy.
- The Proxy must attend the meeting in person.
- The Proxy votes based on his or her own analysis of the information at the meeting rather than being instructed how to vote by the member.

## **Reverse Transfer Rule**

The Reverse Transfer Rule will be proposed to amend Rules 8.4, 27.12, and 40 in order to conform with legislation while establishing procedures for reverse transfer of juvenile sex offenders. This deals specifically with the registration and evaluation requirements for sex offenders and whether or not they should be deleted. This rule change will be voted on by the Supreme Court and made available for comment until their Rules Conference in December. The legislation goes into effect on the general effective date, September 19, 2007.

One issue that was presented in regards to this topic is the issue of Juveniles going through adult assessments. These evaluations will be somewhat skewed due to the nature of the questions that are inappropriate for juveniles (e.g., How long have you been married?).

The rules affected relate to probationers that are under 22 years of age who committed an offense when they were under 18 years of age and were required to register as sex offenders.

### **ACJA 5-204: Administration of Victims' Rights Code Section Proposal**

There are parts of the ACJA Code §5-204 that have been affected by the passage of SB1286, and by caselaw involved in State v. Klein, State v. Hansen. Proposed changes made by the ad hoc workgroup were discussed. Handouts were provided illustrating a comparison of the proposed changes to the code section currently in effect.

Changes of notable interest made and discussions that took place:

- Some definitions were taken out and others were shortened to incorporate the recent changes
- A lingering issue with regards to “victim” relates to those in custody. At this time, the definition is not entirely clear on whether a victim loses the status of victim when in custody for ANY offense or for an offense that relates to the underlying offense in which victim status was originally afforded. Currently, when anyone is incarcerated they lose their victim status for the length of their incarceration. In the late 1980’s some work had been done towards providing limited rights to those who were incarcerated, but that issue is not currently active.
- Additionally, it is unclear exactly how a sole proprietor or LLC will be treated (as a business or as a person).
- Purpose and applicability were combined in section B.
- References to Title 8 the Rules of Juvenile Court were made throughout.
- In section C the distinction was made to provide 5 business days for notice of a scheduled proceeding.
- More clarification was given in section D with regards to the Victims’ Bill of Rights being read out loud in court.
- Discussion regarding transcripts for crime victims (section F). Clerk should not be determining what is “reasonably necessary”, how will this be handled?
- There is the possibility of resource issues arising in relation to the request of transcripts. Currently, no time frames are provided relating to delivery of the transcript. Time frames could potentially be affected by the source of the recording from which the transcript is made. Further input from the Clerks of Court might be necessary in regards to this topic.
- It was noted that Adult and Juvenile Rules have different timeframes in relation to the Presentence Report. The language could also be problematic and a burden as it states that a written plan and procedure will be developed which lends itself to an ongoing process.
- Criminal History Record Information is kept private because FBI and Federal rules prevent DPS from making certain information public without losing their ability to connect ACIC which in turn reports to NCIC.
- Restitution Payment Processing was changed to incorporate the referral to ACJA §§3-401 and 4-301, Priority of Offender Payment.

- Order to Show Cause for Nonpayment of Restitution is now placed on the clerk of court.

**Motion:** To conform language of provision **J.** to match that of **G.** to read “develop and adopt written procedures”. Motion unanimously passed.

A point was made to Note & Applaud the Presiding Judge of Maricopa County and her staff along with the Committee that was developed of Victim Advocates to give feedback relating to the design of a new courthouse being constructed so that it will better meet the needs of victims. Dan Levey, a member of COVIC, and Jamie Mabery, a member of one of our workgroups served on this committee which was initially developed based on a recommendation made by our Committee.

Discussion took place regarding the Reading of the Victim Rights specifically the language “At the commencement of the criminal docket”. Concerns relating to this are:

1. The Limited Jurisdiction Courts run differently than the General Jurisdiction Courts do as relating to their dockets. Criminal cases are usually intermingled with civil.
2. Only vocalizing it at the top of the docket will mean that it only reaches those victims that are in the courtroom at the top of the docket.
3. Makes no reference to Juvenile cases.

**Motion:** To adjust the language to read “At the commencement of the criminal and delinquents’ criminal docket”. Motion unanimously passed.

**Motion:** The proposed changes to Code Section 5-204 as amended be recommended to the various bodies that will be considering it, including the Arizona Judicial Council with a note to ensure that LJC is consulted on the implementation in limited jurisdiction courts. Motion unanimously passed.

### **Limited Jurisdiction Priority of Payments**

Ken Kung, Financial Specialist at the AOC came to present on behalf of Julie Dybas. Potential changes to ACJA §3-401 were discussed. Handouts were provided showing a comparison of the proposed changes to the existing code section. This code section went to AJC in June and returned so that a workgroup could further develop issues surrounding payment of oldest or active cases.

Important changes noted and points of discussion raised:

- Any payment that is made to the court by a non-offender that directs the court to utilize the funds in a way that is different than the Statutes/Codes/Orders are written will be returned to the payor.
- In the absence of a Judicial Order, Active Cases are paid in accordance with payment plans to keep payments current through the next payment due date Additional payments will be applied to the oldest inactive cases according to sentencing date until restitution is paid off.

- In counties where payments are taken in multiple offices, issues could arise because each office is not necessarily aware of payments taken in other offices and may not be able to apply payments in accordance with the code section.
- From the victim's perspective, restitution should be paid first regardless of case type (active/inactive) in order of oldest to newest. A point made in relation to this is the ability for a victim to file a lien against the offender. If older cases are not paid off first this lien along with the fines the offender is responsible for can continue to accrue interest indefinitely while the offender is also prevented from certain things such as selling his house or registering his car.
- When this code section went to AJC, the competing ideas were from the Clerk's to pay off oldest cases first and from probation to pay active case first, because it enables probation officers to monitor compliance and handle revocation processes.
- Some fees listed in the proposed version do not apply to Juvenile Court.

The Chair deferred this topic to the Restitution Workgroup to research further and perhaps come up with additional recommendations. However, this particular version is going to AJC in October so recommendations will be made for future versions.

**Motion:** To request that AJC approve the changes that have been proposed. This will enable a code section to be adopted. The Commission also wishes to have recognized that further recommendations regarding restitution will likely emerge from the restitution workgroup in the future. The applicability of the Code to Juvenile cases will be investigated. Motion passed unanimously.

### **Victim Rights Statement**

Judge Cruikshank from Pima County came to speak regarding Pima County's interpretation of the Statute relating to the reading of the Victim Rights Statement. The majority of the judges in Pima County utilize a Victims Rights Statement which has been burned onto CD and is played on a CD-ROM in the courtroom. In an earlier meeting, COVIC had expressed concern over this practice. This issue was initially brought to COVIC's attention through audits conducted by the AG's office. During this meeting, pros and cons of having a judge read the statement from the bench and having the statement played in the courtroom were discussed.

Benefits of playing the statement in the courtroom through the CD:

- Both Spanish and English versions can be taped to reach a wider base of the Victims present. Playing both versions of the statement means that victims speaking both languages are treated equally. Interpreters would not be available to interpret this each day.
- The tape prevents the Script from being relayed in a manner that conveys boredom or inattention as might happen if it is spoken over and over by the same judge.
- Perspective that this is in keeping with the letter of the statute.

- The tape insures a consistent portrayal of the information.
- Serves the purpose of notifying the victim.

Benefits of having the Judge read the statement from the bench:

- Treats the Victim's constitutional rights in the same manner as the defendant's constitutional rights.
- Embodies the importance of having the "gate keeper" of the proceeding speak about the victim's rights.
- Ensures the attention of those in the courtroom will be focused on the reading of the rights as the court has already been called to order when the judge is on the bench (CD is sometimes played before court session while the gallery is still talking among themselves).

Discussion regarding the posting of the statement outside of courtrooms in both English and Spanish revealed that a number of courts are already doing this and that it may be an advisable approach for more courts.

Judge Cruikshank stated that some points were raised that were perhaps not thought of previously by the Judges in Pima County and stated that he would convey those sentiments to them.

COVIC membership felt that the intent of the legislation was to have the statement read out loud by the judge from the bench and not to be played on tape.

### **Yavapai County Victim Offender Mediation Program**

Heather Seets spoke about the Yavapai County Victim Offender Mediation Program. The program began approximately 4 years ago to effectively deal with juveniles that were involved in crime and to help the victims of those crimes. The mediators involved with the program are all volunteers and they have about a 95% rate of bringing the offenders and the victims to some form of an agreement.

The program works directly with and has a contract with Juvenile Probation in Yavapai County. Offenders are referred to the program by Probation Officers or by Judges from the bench. It is completely voluntary for victims, but is required for those offenders that qualify. In order to qualify for this program the offender must be willing to admit a portion of involvement in the situation.

A great deal of screening is done prior to the actual mediation to see if both victim and offender are viable candidates and to see what is appropriate to discuss in the mediation. The juvenile must bring an adult with them to the mediation. Two mediators are usually involved in each session. Mediators are volunteers.

The Victim Offender Mediation Program allows victims to meet with offenders in a safe atmosphere where they can vent their feelings and potentially get answers to questions they may have. It also allows offenders to take responsibility for their actions and to see

the impact their actions have had on the victim. Meetings are held prior to the mediation with each individual party in order to determine their desired outcomes and which items are appropriate for mutual discussion. The mediation is then held with both parties to address their concerns.

Ms. Seets hopes to move this program to an Adult system within the next several years. She also hopes that other counties will begin similar programs. This program received an Honorable Mention from the AOC this year for programs put on by the courts that help to take us from “Good to Great”. The program is funded through Juvenile Probation at a level of \$3,000/year.

### **Workgroup Summary**

The Chief Justice approved the idea of establishing a Child Victim workgroup. Dr. Coffman will chair the workgroup that will hope to look at the way children are represented and protected in the court. One particular topic to be visited would be the use of Guardian Ad Litem (GALs) and the standards they follow across different casetypes. Additionally, the role of CASA’s may be addressed. The group may also look at issues in preparation for the Judicial Conference which will focus on children. Several Commission members volunteered to be part of the workgroup.

### **Administration of Justice**

Proposition 100 continues to be on the radar as well as the issue of Interpreter usage. They were also looking into the issues that arise when the parent(s) of a minor become the victim of that minor and court fines/fees are assessed to the parents (victims) to pay.

### **Education**

Comments that the judges made that attended the Victim Panel Presentation were read, illustrating the positive impact the session had on the 65-70 that attended that attended. Kim Musselman stated the Victim Panel that presented at the June Judicial Conference was a huge success. Due to the success of this panel there will now be a Victim Panel Presentation made for new judges’ orientation which begins September 24th. This will then be an ongoing presentation that will be made at each new judges’ orientation offered to new judges throughout the state by the AOC. Discussion was held about making similar offerings for other members of the court community as well (e.g., Court Staff, Bailiffs, Judicial Assistants, etc.), perhaps at a Judicial Staff Conference, or potentially making Victim Rights a COJET requirement.

### **Restitution**

Dan Levey stated the Restitution Workgroup is primarily working on putting together a restitution page on the Internet. A basic page has been created, but more info will need to be added to make it more useful. The page will be discussed further today at the workgroup meeting. Kim Knox has also been going around the state discussing restitution issues in an effort to educate, Judge Granville has accompanied her and been well received.

NOTE: September 25<sup>th</sup> is the National Day of Remembrance for Murder Victims.

**Public Comment**

A Call to Public was made. There were no public attendees that wished to comment.

The workgroup meetings will convene during lunch today through 2:00 PM.

**Motion to Adjourn**

**Motion:** Meeting ended at 12:25PM

Respectfully Submitted,  
Amy Wood, Caseflow Unit Manager  
On behalf of:  
Carol Mitchell, Court Specialist  
Staff to the Commission on Victims in the Courts

**Post-Meeting Activity**

The proposed revision to ACJA 6-103 was sent electronically to COVIC members on Monday, November 5, 2007 for review and comments. Because this code section is scheduled before the Arizona Judicial Council on December 5, 2007 (prior to COVIC's next quarterly meeting), members were asked to submit their vote to approve or reject this code section on Tuesday, November 13, 2007 via email communication. Based on a quorum of voting members via E-mail, COVIC supported recommending this code section by way of the following motion on 11/15/07:

“Motion to approve the revised ACJA 6-103, Victims Rights Requirements for Probation Personnel as written and forward to Arizona Judicial Council for approval.”

**Commission on Victims in the Courts**  
Meeting Minutes-DRAFT  
Friday, December 14, 2007 10:00 AM-2:00 PM  
Judicial Education Center  
Silver & Turquoise Conference Rooms  
541 E. Van Buren St., Phoenix, AZ 85007  
Conference Call Number: 602-452-3192; Access Code 1114  
C.O.V.I.C Website <http://www.supreme.state.az.us/covic>

**COVIC Members Present**

Chair: Hon. Ronald Reinstein

Dr. Kathryn Coffman

Mr. Jack Ballentine

Mr. Steve Twist

Hon. Carter Olson

Ms. Kathy Waters

Mr. Dan Levey

Hon. Richard Weiss

Hon. Anna Montoya-Paez

Hon. Antonio Riojas, Jr.

Mr. Doug Pilcher

Mr. Anthony Vidale

Hon. William O'Neil

Hon. Lex Anderson

Mr. Gary Husk

Ms. JoAnn Del Colle

**Proxy**

Ms. Anne Marreel for AG's Office

Ms. Karen Duffy for Hon. Patricia

Noland

**Staff Present**

Ms. Nicole Garcea

Ms. Carol Mitchell

**Members Absent**

Mr. Stephen Dichter

Ms. Karen Sullivan

Mr. Edwin Cook

Mr. Marc Budoff

Ms. Emily Johnston

Ms. Kimberlie Musselman

Ms. Sydney Davis

**Guests**

Hon. Mary Helen Maley, Santa Cruz  
County Judge

Kristi Murphy, Childhelp

Maureen Domogala, Childhelp

Julie Williams, MCAO Victim Services

Sarah Lynne Vasquez, ADJC, Juvenile  
Corrections

Mark Stodola, Tempe Municipal Court

Kim Knox, Maricopa County Finance

### **Welcome and Call to Order**

The Chair officially called the meeting to order at 10:08 AM, at the Judicial Education Center in Phoenix, Arizona. Introductions were made of commission members and guests.

The Chair took a moment to recognize Honorable Lex E. Anderson for his latest DVD project, entitled "Bait and Switch". The Arizona Republic ran an article in the paper about this project that highlights the terror and tragedy of child prostitution. Judge Anderson explained the project has been 2 years in the making and will plan to provide COVIC with a presentation and clips from the DVD.

### **Approval of September 14, 2007 Minutes**

**Motion:** To approve the draft minutes from September 14, 2007 as amended. The motion was seconded and unanimously passed.

### **Approval of 2008 Meeting Dates**

**Motion:** To approve the following meeting dates for 2008: March 28<sup>th</sup>, June 6<sup>th</sup>, September 12<sup>th</sup>, and December 12<sup>th</sup> (if necessary). The motion was seconded and unanimously passed.

### **Membership Attendance/Reappointment**

The reappointment process was briefly discussed as was potential future implementation of the rules for committee member attendance. Currently, 15 COVIC members' terms are expiring in March. Judge Reinstein and Carol will be contacting those members to determine if they are seeking reappointment.

### **Victim Rights Statement Update**

At our last meeting Judge Cruikshank, Presiding Criminal Judge from Pima County, discussed differing interpretations of the statute relating to the reading of the victim rights statement. A follow-up email was sent from Judge Cruikshank, and discussions will continue in effort to address concerns raised by COVIC regarding some judges' methods of carrying out A.R.S. § 13-4438.

### **Appellate Court Victim Notification**

The Supreme Court and Court of Appeals Clerks have developed forms, posted on their respective websites, to provide victims a mechanism to request a copy of the memorandum decision or opinion pursuant to §13-4411. The copy of the form available from the Clerk of the Supreme Court was provided for review.

## **System Alert: Arizona’s Criminal Justice Response to Domestic Violence**

Senior Policy Analysts Bill Hart and Richard Toon from the ASU Morrison Institute for Public Policy presented highlights from their recent report concerning Arizona’s criminal justice response to domestic violence cases. High points of the presentation include:

- DV Victims are often overwhelmed by the system and feel that it is not sympathetic to their needs or wants.
- Police, prosecutors, and judges often feel that the victims are reluctant and back out too frequently when their abuser could be prosecuted.
- The system is under-resourced and swamped by cases.
- There is no assurance that any treatment program for offenders will actually work since they have not been evaluated.
- The challenge is for everyone to rethink their point-of-view, enhance criminal justice system, and come up with alternatives to the traditional punitive approach to DV cases.

The Chair explained the Committee on Impact of Domestic Violence in the Courts (CIDVC) will take the lead in evaluating the recommendations from this report and Judge O’Neil extended an invitation for any COVIC member to join one of the two new workgroups created on CIDVC to address victim barriers and offender treatment assessment.

### **Circles of Peace Program**

Judge Mary Helen Maley was present to speak about the history and operations of Circles of Peace, a unique restorative justice treatment program for domestic violence. It operates out of Santa Cruz County. Currently, it is one of only two restorative justice programs in the state of Arizona.

The restorative justice approach involves the restoration of individuals, families, and communities harmed by violence through the “Circles of Peace”. It is a group effort that entails the offender, a counselor to act as Circle Keeper, any willing victims, and a host of individuals who make up the “care community”.

Through meetings, the group focuses on past and current issues, reasons/cultures/family practices that created the issues, a plan for addressing the issues and consequences for non-compliance by the offender. The circle acts as a support system for the offender. The circle may also address the court with any concerns and with the offender’s progress.

Some statistics of the Circles:

- 100 cases have been referred to this program since it began in September 2005.
- 23 of them are currently in progress.
- 10 of them are on a waiting list.
- 41 of them have been completed.
- 8 cases were dismissed.
- 9 offenders had warrants issued for failure to obey.

 2 offenders were deported.

 7 are in residential rehab or substance abuse counseling.

## **Workgroup Summary**

### **ACJA 5-204: Administration of Victims' Rights Code Section**

The final changes to the Code Section were available for review. All of the changes were approved by AJC as written. Section D, the Victims' Rights statement, will still need to be re-written for the next submission to AJC. Limited Jurisdiction Judges will be included in the workgroup to attempt to rework the language so that it can provide verbalization of the statement to reach the most attendees in the most efficient matter within the court process.

### **Children in the Court**

The Children in the Court workgroup met one time prior to our meeting today. While many issues were discussed, the main topic to focus on initially was the use of Guardian Ad Litem (GALs) in court. The issues of standardization and supervision will be discussed as well as the apparent disconnect that can occur when a different GAL is assigned to the same child in different cases/courts (e.g., Family, Substance, Criminal, etc.).

### **Administration of Justice**

There were no updates at this time.

### **Education**

Due to time constraints and the fact that Ms. Musselman was unable to attend the meeting, Carol will forward the summary to the members.

### **Restitution**

The Restitution Workgroup is primarily working on putting together a restitution site on the Internet. A basic site has been created with links to restitution resources by county, by state, and nationally. A few screen shots from the webpage were displayed for the commission. More information will continue to be added to make it more useful.

## **Public Comment**

A Call to the Public was made. There were no public attendees that wished to comment.

Workgroup meetings convened following the formal commission meeting.

## **Motion to Adjourn**

**Motion:** Meeting ended at 12:22PM

Respectfully Submitted,  
Carol Mitchell, Court Specialist  
Staff to the Commission on Victims in the Courts