

**Arizona Supreme Court
Commission on Victims in the Courts**

February 26, 2016 Meeting Agenda

1501 W. Washington St., Phoenix, Arizona, 85007
State Courts Building, Conference Room 119 A/B

(602) 452-3288 or (520) 388-4330 / Access Code: 8924 / [WebEx Link](#)

- | | | |
|------------|---|---|
| 10:00 a.m. | Call to Order / Welcome and Opening Remarks | |
| | Evacuation Plan Announcement | |
| | <i>Approval of Minutes – October 23, 2015**</i> | |
| 10:10 a.m. | <i>Domestic Violence Risk and Lethality Assessments Legislation**</i> | Amelia Cramer, PCAO
Jon Eliason, MCAO |
| 10:40 a.m. | AJC Legislative Package and Updates | Jerry Landau, AOC |
| 11:00 a.m. | When Victims Experience Trauma | Shelly Corzo Shaffer, Member |
| 11:30 a.m. | Start by Believing Campaign | Chief Jerald Monahan,
Prescott Police Department |
| 11:40 a.m. | SAFER and DANY-SAK Grant Updates | Sgt. Jim Markey (Ret.), Member
Karyn Rasile, RN, Member
Jon Eliason, MCAO |
| 11:50 a.m. | Shared Hope Conference Update | Judge Reinstein, Chair
Judge Weiss, Mohave County
Superior Court |
| 12:00 p.m. | Announcements/Call to the Public | |
| | Adjournment | |

Next Meeting:

Friday, June 10, 2016 – 10:00 a.m.

Arizona State Courts Building, Conference Room 345 A/B

****Important Voting Items**

All times are approximate. The Chair reserves the right to set the order of the agenda. For any item on the agenda, the Committee may vote to go into executive session as permitted by Arizona Code of Judicial Administration §1-202. Please contact Denise Lundin at (602) 452-3614 with any questions concerning this agenda. Persons with a disability may request a reasonable accommodation by contacting Kelly Gray at (602) 452-3647. Requests should be made as early as possible to allow time to arrange for the accommodation.

Commission on Victims in the Courts

Meeting Date:	Type of Action Required:	Subject:
February 26, 2016	<input checked="" type="checkbox"/> Formal Action Request <input type="checkbox"/> Information Only <input type="checkbox"/> Other	Implementation of Amendment to ARS Sec. 13-3967 Re: Domestic Violence Risk and Lethality Assessments

FROM: COVIC

PRESENTERS:

Amelia Cramer, Pima County Attorney's Office
Jon Eliason, Maricopa County Attorney's Office
Judge Ron Reinstein, Chair

DISCUSSION & TIME ESTIMATES: The statute now requires that in determining the method of release or the amount of bail, the judicial officer shall take into account the results of a risk or lethality assessment in misdemeanor or felony domestic violence charges. Law Enforcement and Judicial Officers throughout the state have not been provided uniform notice, or training, on this new mandate which went into effect July 3, 2015.

Cramer and Eliason will discuss what is occurring in Pima and Maricopa counties and the issues surrounding implementation. The recommendation is to form a workgroup with members of the Committee on the Impact of Domestic Violence and the Courts (CIDVC) to look at standardization/uniformity, confidentiality and training issues that are arising. 30 minutes.

RECOMMENDED MOTION: To be determined post-discussion.

Lethality Assessment Protocol

Frequently Asked Questions for Victims Services

Q: If a victim declines to complete the LAP do I still need to turn one in with my paperwork?

A: Yes. If the victim declines to complete the screen there is a box at the top to check off indicating the victim declined the LAP. You are still required to fill out the top portion of the LAP completely and fax it to Emerge!. You must submit this with your CCI.

Q: If a victim declines to complete the LAP can I still screen the victim in as high lethality?

A: Yes. There is a box on the LAP at the bottom that allows the advocate to screen a victim in based on the belief of the advocate. Remember the LAP is a tool and should be introduced at the appropriate time. Its purpose is to educate the victim of their potential risks and get them in touch with resources.

Q: If a victim declines to speak with Emerge! after a high screen do I still need to call Emerge!?

A: Yes. Even if the victim declines to speak with Emerge! you must still call Emerge! per protocol to discuss your concern based on the victims situation. The phone call needs to be made in the presence of the victim. After you speak with the hotline worker you can give the victim another opportunity to speak with Emerge! or set an appointment to speak with someone later.

Q: Do I need to put the full LEA number of the LAP?

A: Yes. It is necessary to put the full LEA number according to each agency. It is important that Emerge! receives all information on the LAP form. Emerge! relies on the complete information from a screen to assess the severity of the abusive situation and the best way to provide follow up to each victim.

Q: What if the victim screens in low on the LAP? Do I still need to call Emerge! or fax in the LAP?

A: If a victim screens in low on the LAP you are not required to call Emerge!. You are however required to fax the completed LAP to Emerge! at the end of your shift.

Q: If I am part of a team and I complete the LAP should I put just my name or the entire team's names?

A: Only the name of the person who completed the LAP needs to be listed. Remember to use your full first and last name

Q: If the call starts before midnight but I don't complete the LAP until after midnight with the victim what should I put for the date?

A: You should put the date that you complete the LAP with the victim regardless of the date of the call.

Q: If I am not sure how to spell a victim/defendant's name or I don't hear the name a victim gives should I just guess at what he/she said?

A: No. If you are not sure of a victim's response it is okay to ask him/her to repeat it. Remember to use your listening skills when completing the LAP with a victim (parroting, summarizing, clarifying, active listening, etc.).

Q: What if a victim doesn't want to provide a safe number for the LAP?

A: If a victim declines to provide a safe number for follow up indicate that on the LAP. If you get a number from LE for the CCI you still need to confirm with a victim if he/she wants to provide a safe number for the LAP. Do not assume it is okay to include this on the LAP.

Q: What if there is additional information provided to the advocates by LE that might be important for Emerge! to know?

A: If you have additional information you would like Emerge! to know you can add it to the margin or at the bottom of the LAP. Be sure to indicate that it is information per the LE officer. Do not add any opinions or information not directly stated by the victim to the box after question 11.

Q: What if I forget to write down the name of the Emerge! hotline worker?

A: If you forget to write down the name of the hotline worker, it is okay to call back and ask. It is important for training and follow up purposes that we have the name of the Emerge! hotline worker with whom you spoke.

Q: Do I complete the LAP with a DV victim at IA's?

A: Yes. IA's is the only courtroom setting in which the LAP can be completed with all *Intimate Partner* DV victims (check that they have not already completed the screen with a crisis team or officer on scene). The only caveat for IA's is that the original incident date must be within the last 24 hours. If the original incident happened outside the 24 hour window you cannot complete the LAP with the victim.

Q: What if the Intimate Partner DV incident happens through social media or the telephone? Am I still obligated to complete the LAP?

A: Yes. If the crisis call is Intimate Partner Domestic Violence the protocol requires that the advocates complete the LAP regardless of the facts of the incident (If at IA's the incident must occur within the last 24 hours).

Q: What if the victim states she's already completed the Lap in the past?

A: Situations change and can become more volatile. If a victim has completed the LAP in the past, it is still important that you complete the LAP with the victim for this incident.

Q: Do I need to ask law enforcement if they have completed an LAP when I arrive on scene to work with a victim of intimate partner DV?

A: Yes. All law enforcement agencies in Pima County, excluding Tucson Police Department, do their own LAPs with victims. If the LAP has already been completed it is not necessary to duplicate the LAP with the victim. It is important to educate victims about their risks and safety plan. Thus, you can ask the officer what questions the victim answered "yes" to so that you can tailor your intervention. Please remember, asking law enforcement for the victims answers to the LAP is optional and not a requirement of the protocol.

Form 4: Release Questionnaire/Law Enforcement

Felony Misdemeanor Probable Cause Statement: See Citation or Police Report

Agency: TPD PCSD Marana Sahuarita South Tucson Oro Valley UAPD Pima College Tohono O'odham Other
State of Arizona vs. DOB Case Number:
Offense Location:

VICTIM INFORMATION **VICTIM ADDRESS AND PHONE ARE CONFIDENTIAL PURSUANT TO ARS 13-4434**

1. Victim Name: Relationship to defendant: Minor?
Victim Address: Victim Phone Number:

Victim and defendant reside together Intimate partners (or ex) Child in common Related to each other Roommates
Does victim want contact? Yes No

2. Victim Name: Relationship to defendant: Minor?
Victim Address: Victim Phone Number:

Victim and defendant reside together Intimate partners (or ex) Child in common Related to each other Roommates
Does victim want contact? Yes No

CIRCUMSTANCES OF THE OFFENSE

Defendant used firearm or other weapon. Type of weapon:
Defendant threatened or injured someone: Description of any injuries:
Property was taken or damaged:
Defendant was under the influence of alcohol and/or drugs

CIRCUMSTANCES OF THE ARREST

Defendant attempted to avoid or resist arrest:
Defendant was armed when arrested. Type of weapon:
Defendant made threats against potential witnesses or parties:
Evidence of offense was found in defendant's possession. Type:
Defendant admitted involvement in the offense.

DOMESTIC VIOLENCE LETHALITY

Was a formal Lethality Assessment completed? Yes No If so, did the victim screen in as high lethality risk: Yes No
Risk Factors (mark all that apply even if a formal Lethality Assessment was not done or was not completed):

Use of or threats with weapons Threats to kill victim or children Victim thinks def might try to kill him/her
Def has a gun or access to one Def has tried to choke/strangle victim Def is violently or constantly jealous or controlling
Victim has left or separated from the def Def is unemployed Def has tried to commit suicide
Victim has a child that isn't defendant's Def follows or spies on victim or leaves threatening messages
Other

OTHER DOMESTIC VIOLENCE ISSUES

Frequency/intensity of domestic violence increasing? Kidnapping or unlawful imprisonment? Prior domestic violence arrests?
Current/prior Orders of Protection between parties? Children present during incident?

OTHER DEFENDANT INFORMATION

Is there any indication of:

Alcohol or substance abuse: Unknown Yes
Mental health issues. Unknown Yes Provider/caseworker:
Defendant is serving or has served in the United States Military Unknown Yes No
Evidence that the accused poses a danger to others in the community:
Any information that indicates defendant may flee if released:

I certify that the information presented is true to the best of my knowledge and belief.

Officer/PR Number: Agency:
Duty Phone Number: Date:



DOMESTIC VIOLENCE LETHALITY SCREEN FOR PCAO VICTIM SERVICES



Advocate:	Date:	Case # and Agency:	
Victim:	Offender:		
Safe Phone Number for Follow-Up:			
<input type="checkbox"/> Check here if victim did not answer any of the questions.			
▶ A "Yes" response to any of Questions #1-3 automatically triggers the protocol referral.			
1. Has he/she ever used a weapon against you or threatened you with a weapon?	Yes	No	Not Ans.
2. Has he/she threatened to kill you or your children?	Yes	No	Not Ans.
3. Do you think he/she might try to kill you?	Yes	No	Not Ans.
▶ Negative responses to Questions #1-3, but positive responses to at least four of Questions #4-11, trigger the protocol referral.			
4. Does he/she have a gun or can he/she get one easily?	Yes	No	Not Ans.
5. Has he/she ever tried to choke you?	Yes	No	Not Ans.
6. Is he/she violently or constantly jealous or does he/she control most of your daily activities?	Yes	No	Not Ans.
7. Have you left him/her or separated after living together or being married?	Yes	No	Not Ans.
8. Is he/she unemployed?	Yes	No	Not Ans.
9. Has he/she ever tried to kill himself/herself?	Yes	No	Not Ans.
10. Do you have a child that he/she knows is not his/hers?	Yes	No	Not Ans.
11. Does he/she follow or spy on you or leave threatening messages?	Yes	No	Not Ans.
▶ An advocate may trigger the protocol referral, if not already triggered above, as a result of the victim's response to the below question, or whenever the officer believes the victim is in a potentially lethal situation.			
Is there anything else that worries you about your safety? (If "yes") What worries you?			
Check one: <input type="checkbox"/> Victim screened in according to the protocol <input type="checkbox"/> Victim screened in based on the belief of the advocate or officer <input type="checkbox"/> Victim did not screen in			
If victim screened in: After advising her/him of a high danger assessment, was Emerge! called?		Yes	No
Did the victim speak with the hotline counselor?		Yes	No

MNADV 08/2005

Note: The questions above and the criteria for determining the level of risk a person faces is based on the best available research on factors associated with lethal violence by a current or former intimate partner. However, each situation may present unique factors that influence risk for lethal violence that are not captured by this screen. Although most victims who screen "positive" or "high danger" would not be expected to be killed, these victims face much higher risk than that of other victims of intimate partner violence.

**Fax form to Emerge! At 520-881-2595 Attention: Direct Services Manager or email: lethalityassessment@emergecenter.org
24/7Crisis Line (888)-428-0101**

Faxed By: _____ Date: _____ Time: _____

Name of Emerge hotline worker with whom you spoke: _____

updated 01/19/2016 -TS



COURTS "SHALL" TAKE LETHALITY ASSESSMENTS INTO ACCOUNT

13-3967. Release on bailable offenses before trial; definition

A. At his appearance before a judicial officer, any person who is charged with a public offense that is bailable as a matter of right shall be ordered released pending trial on his own recognizance or on the execution of bail in an amount specified by the judicial officer.

B. In determining the method of release or the amount of bail, the judicial officer, on the basis of available information, shall take into account all of the following:

1. The views of the victim.
2. The nature and circumstances of the offense charged.
3. Whether the accused has a prior arrest or conviction for a serious offense or violent or aggravated felony as defined in section 13-706 or an offense in another state that would be a serious offense or violent or aggravated felony as defined in section 13-706 if committed in this state.
4. Evidence that the accused poses a danger to others in the community.
5. **The results of a risk or lethality assessment in a domestic violence charge that is presented to the court.**

PHOENIX PD LETHALITY ASSESSMENTS

FAMILY INVESTIGATIONS BUREAU			
Subject: Domestic Violence Detail		Policy Number C.08	
PHOENIX POLICE DEPARTMENT		10/10	ADDENDUM B Page 1

DATE	TIME	SERIAL #	OFFICER NAME	INC. #			
LOCATION OF OCCURRENCE				PHONE-PRIMARY			
LAST NAME		FIRST NAME	M.I.	PHONE-ALTERNATE			
HOME ADDRESS			WORK INFORMATION				
RACE	SEX	WEIGHT	HEIGHT	EYES			
				HAIR			
				DATE OF BIRTH			
				SOCIAL SECURITY NUMBER			
WHO CALLED/WHY/CHILD PRESENT?							
INJURY CHARACTERISTICS	1 ABRASIONS 2 BROKEN BONES 3 BROKEN TEETH 4 BRUISES 5 DISCOLORATION 6 ENDANGER FETUS 7 HOSPITALIZATION 8 LACERATION 9 SCRATCHES 10 SWELLING 11 UNCONSCIOUS	ACTS-PHYSICAL	1 BITE 2 FORCED/COERCED SEX 3 GRAB/TWIST/PINCH 4 HIT W/OBJECT 5 HOLD DOWN 6 KICK/STOMP/TRIP 7 KIDNAP 8 PUNCH/PUSH/SLAP 9 RESTRICT MOVEMENT 10 SEPARATION VIOLENCE 11 STRANGULATION 12 SUFFOCATION	ACTS-NONPHYSICAL	1 BURGLARY 2 DEMANDS W/ASSOC. THREATS 3 HARASS/TAUNT 4 INTIMIDATION TACTICS 5 O.P. VIOLATION 6 RESTRICT USE OF PHONE 7 ESCALATION: E.G. RECENT INCREASE IN CONTROL BEHAVIOR 8 SURVEIL/FOLLOW/MONITOR 9 TERRORIZE: E.G. CHILD/PET AS MECHANISM OF CONTROL 10 THROW OBJECTS 11 VANDALISM	FRAMES OF ACTION	1 INC. DURATION 2 BEYOND HEAT OF THE MOMENT? Y N U 3 OCCUR IN MORE THAN ONE PLACE? Y N U 4 MULTIPLE ACTS-PHYSICAL OR NONPHYSICAL? Y N U 5 MULTIPLE PLANES OF INJURY? Y N U 6 CHILD USED FOR EMPHASIS? Y N U

PHOENIX PD LETHALITY ASSESSMENTS

COURSE-OF-CONDUCT INTERVIEW: Responses identify ongoing patterns of intimidation, isolation, or control - an intentional pattern of action.*
The following questions will help us evaluate your situation:

1. HOW FREQUENTLY AND SERIOUSLY DOES YOUR PARTNER INTIMIDATE YOU OR THREATEN YOU? DESCRIBE.

2. HOW FREQUENTLY DOES YOUR PARTNER DEMAND YOU DO THINGS AND VERIFY YOU DID THEM? DESCRIBE.

3. DESCRIBE THE MOST FRIGHTENING OR WORST EVENT INVOLVING YOUR PARTNER.

4. HAVE YOU EVER MADE IT KNOWN TO YOUR PARTNER THAT YOU WANTED TO LEAVE? HOW DID YOUR PARTNER REACT?



CITY OF PHOENIX POLICE DEPARTMENT Intimate Partner Field Investigation 80-579D New 12/09

TEMPE PD LETHALITY ASSESSMENTS

Tempe Police Department Domestic Violence Lethality Assessment Card

GO#	LOCATION	RELATIONSHIP
DATE	TIME	NAME

HIGH PRIORITY = A "YES" ANSWER TO 1, 2, or 3 OR "YES" TO FOUR QUESTIONS OR MORE

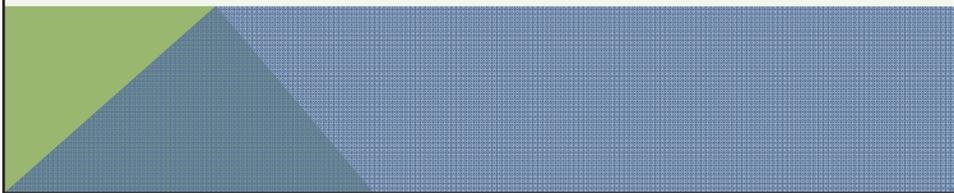
1. HAS YOUR PARTNER EVER THREATENED/USED A WEAPON AGAINST YOU? DESCRIBE.

2. HAS YOUR PARTNER EVER THREATENED TO KILL YOU OR BELIEVE THEM CAPABLE OF KILLING YOU? DESCRIBE.

3. HAS YOUR PARTNER EVER "CHOKED" OR TRIED TO "CHOKE" YOU? DESCRIBE.

4. DOES YOUR PARTNER HAVE A GUN OR CAN THEY GET ONE? YES or NO	5. HAS YOUR PARTNER EVER FORCED YOU TO HAVE SEX WHEN YOU DIDN'T WANT TO? DESCRIBE.
--	--

6. DO YOU FEEL LIKE THE VIOLENCE AGAINST YOU IS ESCALATING IN SEVERITY? DESCRIBE.



TEMPE PD LETHALITY ASSESSMENTS

7. HAS ANY OF THE VIOLENCE OCCURRED OUTSIDE OF THE HOME? DESCRIBE

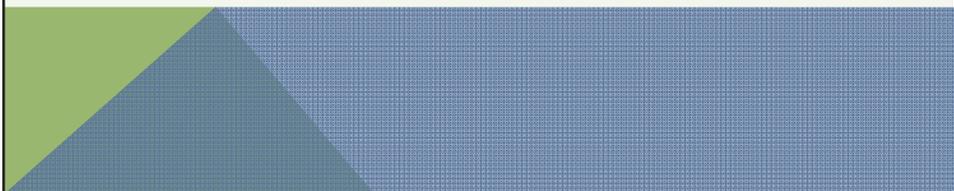
8. DOES YOUR PARTNER MONITOR YOUR PHONE CALLS, TEXT MESSAGES, EMAILS, LETTERS, OR SOCIAL MEDIA?

9. HAVE YOU TRIED TO LEAVE/END YOUR RELATIONSHIP? HOW DID YOUR PARTNER REACT? DESCRIBE.

10. IS YOUR PARTNER DRUNK/HIGH ON A DAILY, OR ALMOST DAILY, BASIS? DESCRIBE

11. CHILDREN IN THE HOME? AGES? SCHOOLS?

12. DESCRIBE THE MOST FRIGHTENING EVENT INVOLVING YOUR PARTNER?



MESA PD LETHALITY ASSESSMENTS

Mesa Police Department Domestic Violence Investigation Card

DR#		CALL TYPE		RELATIONSHIP
DATE	TIME	OFCR/ID#	CONTACT ADDRESS	
<i>Type 1 = "Yes" to questions 1, 2, or 3, OR "Yes" to four or more questions total.</i>				
1. HAS YOUR PARTNER EVER THREATENED/USED A WEAPON AGAINST YOU? DESCRIBE.				
2. HAS YOUR PARTNER EVER THREATENED TO KILL YOU, YOUR CHILDREN, OR PETS? DESCRIBE.				
3. HAS YOUR PARTNER EVER TRIED TO "CHOKE" YOU? DESCRIBE.				
4. DOES YOUR PARTNER HAVE A GUN OR CAN THEY GET ONE? YES or NO		5. IS YOUR PARTNER JEALOUS OR DO THEY TRY TO CONTROL YOU? DESCRIBE.		
6. HAS YOUR PARTNER EVER TRIED TO COMMIT SUICIDE? HOW?		7. HAS YOUR PARTNER EVER FORCED YOU TO HAVE SEX WHEN YOU DIDN'T WANT TO? DESCRIBE.		

MESA PD LETHALITY ASSESSMENTS

8. DO YOU FEEL LIKE THE VIOLENCE AGAINST YOU IS ESCALATING IN SEVERITY? DESCRIBE		9. DO YOU THINK YOUR PARTNER MIGHT TRY TO KILL YOU? WHY?	
10. IS YOUR PARTNER DRUNK/HIGH ON A DAILY, OR ALMOST DAILY, BASIS? DESCRIBE		11. DO YOU HAVE A CHILD THAT IS NOT YOUR PARTNER'S? YES or NO	
12. HAVE YOU TRIED TO LEAVE? HOW DID YOUR PARTNER REACT? DESCRIBE.		13. IS YOUR PARTNER UNEMPLOYED?	
14. DOES YOUR PARTNER MONITOR YOUR PHONE CALLS, TEXT MESSAGES, EMAILS, LETTERS, OR SOCIAL MEDIA?			
15. WHICH OF YOUR FAMILY/FRIENDS KNOWS YOUR PARTNER ABUSES YOU?			
16. DESCRIBE THE MOST FRIGHTENING EVENT INVOLVING YOUR PARTNER?			
		CHILDREN IN THE HOME: AGE(S):	
		SCHOOL(S):	

MPO 507(A)

REVISED 04/13

GLENDALE PD LETHALITY ASSESSMENTS

Lethality Assessment Questions

REPORT #

1. Has the suspect ever used physical violence against you? Yes No Refused
 - a. If yes, have you ever been hospitalized because of the violence? Yes No Refused
(Document past injuries hospitalized for and which hospital victim was at)
2. Has the suspect ever strangled you? Yes No Refused (If yes, document in narrative)
3. Has the suspect ever threatened you with a weapon? Yes No Refused
(If yes, document incident and what weapons suspect has access to in narrative)
4. Has the suspect ever assaulted you with a weapon? Yes No Refused
(If yes, document past incident and what weapons suspect used in narrative)
5. Has the suspect ever threatened to kill you? Yes No Refused (If yes, document in narrative)

GLENDALE PD LETHALITY ASSESSMENTS

6. Has the suspect ever attempted to kill you? Yes No Refused (If yes, document in narrative)
7. Have there been physical assaults or assaults with weapons in the past by the suspect that you did not report to police because you were afraid of violent repercussions or death? Yes No Refused (If yes, document in narrative)
8. Has the suspect ever threatened you, your family or themselves with physical violence or death if you ever left them? Yes No Refused (If yes, document in narrative)
9. Do you feel like the violence against you has been escalating in severity and/or frequency?
 Yes No Refused (If yes, document in narrative)
10. What is the worst incident that has happened between you and the suspect? (Document in narrative)

IMPLEMENTATION

Patrol

- All of Patrol will be issued both the Field Card and Template forms of the Lethality Assessment
- Use of the form and obtaining the listed information is required on **ALL** Intimate Partner Domestic Violence Investigations.
- When writing your reports, the Lethality Assessment Supplement will be completed along with the narrative.

WHAT HAPPENS TO THE ASSESSMENT AFTER PATROL?

Due to doing the Assessment during the booking process, the IA Courts will get copies of the paperwork along with booking paperwork for review in determining increased bonds/holds

CIB will get a copy with the report for use in determining implementation of further safety protocols, use of resources to locate the suspect, and submittal to County Attorney for increased sentencing

CARE7 will get a copy and use it to determine services to provide, assistance in possible relocation, etc. for the victim and children

WHAT NOW?

- **Are the Assessments getting to the courts?**
 - Mandatory for the courts to consider them
 - Need a specific way to get them to the IA court
- Assessments are getting to prosecutors and are used for subsequent release conditions.
- MCAO is seeking to implement a county-wide lethality assessment
- High lethality response – victim advocates, county coordinated response

Commission on Victims in the Courts

Meeting Date:	Type of Action Required:	Subject:
February 26, 2016	<input type="checkbox"/> Formal Action Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	Legislative Review

FROM: AOC Government Affairs Office

PRESENTER: Jerry Landau

DISCUSSION & TIME ESTIMATES: Review of Victim Rights-related legislation.
10 minutes.

RECOMMENDED MOTION (IF ANY): None.

Commission on Victims in the Courts

Meeting Date:

February 26, 2016

**Type of Action
Required:**

- Formal Action
Request**
- Information
Only**
- Other**

Subject:

When Victims
Experience Trauma

FROM: COVIC Member

PRESENTER: Shelly Corzo-Shaffer

DISCUSSION & TIME ESTIMATES: Mrs. Shaffer will discuss the impact that trauma can have on crime victims and share insights from her personal journey. 30 minutes.

RECOMMENDED MOTION (IF ANY): None.

Commission on Victims in the Courts

Meeting Date:

February 26, 2016

**Type of Action
Required: Update**

- Formal Action
Request**
 **Information
Only**
 Other

Subject:

National Start by
Believing Day

FROM: End Violence Against Women International

PRESENTER: Prescott Police Chief Jerald Monahan, EVAWI Board Vice
President

DISCUSSION & TIME ESTIMATES: Update to the Commission on the
National Start by Believing Day movement set for the first Wednesday of April
beginning this year. 10 Minutes.

RECOMMENDED MOTION (IF ANY):

Creating a National Movement

Start by Believing Day

Wednesday, April 6th, 2016

When we launched the *Start by Believing* campaign in 2011, our goal was nothing short of changing the world. We wanted to reach into that moment when a sexual assault victim turns to someone they love and says, "I was raped." All too often, we know what happens in that moment. It turns into a terrible betrayal:

Are you sure that's what happened? Maybe it was just a misunderstanding.

Are you crazy? He wouldn't do that! He's such a nice guy.

Well, what did you think would happen? I told you not to go there!

This type of response has a devastating impact on victims. It also decreases the likelihood they turn to anyone else for help. Why would they? If this is how their loved ones react, why would they expect anything better from professionals?

We can do better. *Start by Believing* was designed to change this reality, by preparing loved ones and professionals to respond supportively to a moment of disclosure:

I'm so sorry. Do you want to tell me what happened?

That's terrible! What can I do to help?

Can I give you a ride to the hospital to make sure you're okay?

Becoming a *Start by Believing* Nation

In 2011, we could not have imagined how broadly the campaign would be adopted, and how creative you would be in your efforts to spread the word. In less than five years, the campaign has been adopted by more than 130 communities here in the U.S. and others around the world. Four states have formally proclaimed their pledge to *Start by Believing*, and we are building momentum toward a national proclamation.



We will become a *Start by Believing* Nation.



EVAW International
P.O. Box 33
Addy, WA 99101-0033
509-684-9800 Phone
509-684-9801 Fax
info@evawintl.org

Join Our Mailing List

Platinum Partner

illumina®

Bronze Partner



For more information on the *Start by Believing* campaign, [visit our website](#) or check us out on [Facebook](#).

#StartByBelieving

Our next step is to join forces, and show the world our power to create change. On April 6th, 2016, we are declaring the first-ever, global [Start by Believing Day](#). Please join us in creating an international message of support for sexual assault survivors.

Why April 6th?

We chose this day to build on the momentum that began last April, when Utah State Representative Angela Romero sponsored a resolution to declare the first Wednesday in April as the first-ever [Start by Believing Day](#) in Utah. While many other communities and states have declared such a day, Utah's resolution took the innovative step of establishing it as an annual event. We can all join them in making this a global event.

Each year, we can join Utah in re-affirming our commitment to *Start by Believing*.



Representative Romero with colleagues after the Utah Resolution passed committee

To get started, please visit the [Start by Believing website](#), particularly the [Start by Believing Day](#) page. In particular, you will want to visit pages offering information to [Build Your Campaign](#), [Campaign Resources](#), [FAQ's](#), and much more. You can also stay tuned, as we will be sending out more bulletins with information, ideas, and inspiration.

Let's make this a reality! Together, we can inspire the world to *Start by Believing*!

Best Practices:
Resources

Best Practices:
FAQ's



Support EVAWI by Shopping
[AmazonSmile](#)



EVAWI CFC Designation
11400



Donate Now



SART Interactive Scenario
[Pre-Conference](#)
Washington DC
March 21, 2015

Learn how to use evidence to work through a sexual assault investigation from the crime scene to the courtroom.



Washington Hilton
Washington DC
March 22-24, 2016
#EVAWI2016

Save the Date for our
[International Conference on
Sexual Assault, Domestic
Violence and Engaging Men
and Boys](#)

End Violence Against Women International

Vision Statement: We envision a world where gender-based violence is unacceptable; where perpetrators are held accountable, and victims receive the compassion, support, and justice they deserve.

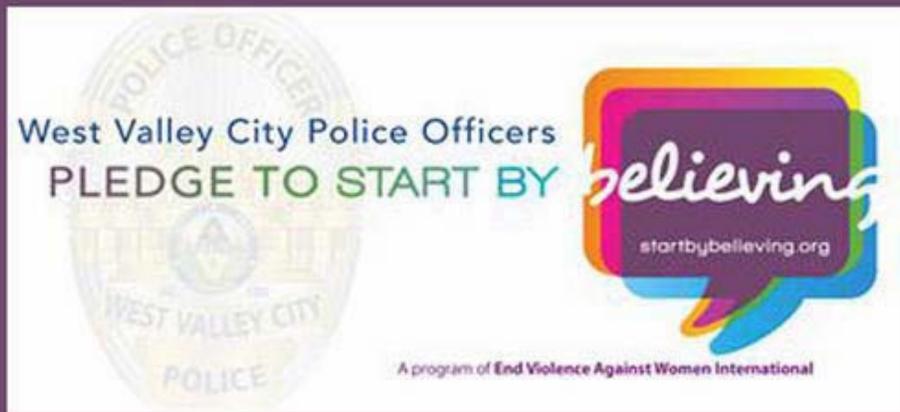
Mission Statement: We inspire and educate those who respond to gender-based violence, equipping them with the knowledge and tools they need to support victims and hold perpetrators accountable. We promote victim-centered, multidisciplinary collaboration, which strengthens the response of the criminal justice system, other professionals, allies, and the general public -- making communities safer.

PLEASE DO NOT REPLY TO THIS EMAIL. Contact EVAWI at: info@evawintl.org

Wednesday First Annual "Start by Believing Day" in Utah

By [WHITTNEY EVANS \(/PEOPLE/WHITTNEY-EVANS\)](#) • APR 1, 2015

Twitter (<http://twitter.com/intent/tweet?url=http%3A%2F%2Fwww.tinyurl.com%2F18kalu8&text=Wednesday%20First%20Annual%20%22Start%20>)



(http://mediad.publicbroadcasting.net/p/kuer/files/styles/x_large/public/201504/untitled_1.jpg)

WEST VALLEY CITY

Wednesday marks the launch of an annual campaign in Utah to change the way people respond to reports of rape and sexual assault. It calls on law enforcement, family and friends to “Start by Believing”.

Here’s the message behind the international “Start by Believing” campaign: If someone confesses they’ve been the victim of sexual assault, don’t question their story. Help them. Democratic State Representative Angelo Romero says Utah has a sexual assault rate higher than the national average, and a report rate lower than the national average.

“Many times people don’t feel like they’re believed,” Romero says. “That’s why you see sexual assault is so underreported not only here in Utah, but nationally as well.”

West Valley City Police Chief Lee Russo says he introduced the concept to his department when it launched the special victims unit earlier this year.

“It’s not necessarily that we’re saying we’re just going to believe outright everything that’s being said,” Russo says. “We’re going to take that story. We’re going to listen and assume that’s the truth. Then we’re going to start following the facts and the evidence in the case.”

Representative Romero sponsored two measures in this year’s legislative session that help support victims of sexual assault. House Bill 74, legally affirmed that sexual intercourse with an unconscious person is rape and concurrent resolution 1 designates the first Wednesday in April as “Start by Believing Day”.

TAGS: [SEXUAL ASSAULT \(/TERM/SEXUAL-ASSAULT\)](#) [RAPE \(/TERM/RAPE\)](#)

[WEST VALLEY CITY \(/TERM/WEST-VALLEY-CITY\)](#)

Commission on Victims in the Courts

Meeting Date:	Type of Action Required:	Subject:
February 26, 2016	<input type="checkbox"/> Formal Action Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	SAFER and DANY-SAK Grant Updates

FROM: SAFER and DANY-SAK Grant Team Members

PRESENTERS: Sgt. Jim Markey (Ret.), Karyn Rasile, and Jon Eliason

DISCUSSION & TIME ESTIMATES: Members of the Sexual Assault Forensic Evidence Registry Act Grant and District Attorney/New York Sexual Assault Kit Grant teams will update the commission on recent work. 10 minutes.

RECOMMENDED MOTION (IF ANY): None.

MARICOPA COUNTY SEX ASSAULT KIT PROTOCOL (DANY)



A Multi Disciplinary Approach

Where do these Sex Kits (SAKs) Come From?

- By law, every person sexually assault can get a sex assault exam done (at no cost to the victim).
- In Maricopa County alone forensic nurse examiners have done around 1,000 sexual assault exams each year (last 2-3 years approximate)
- After the exams are done the SAKs are picked up by the police who do the sex assault investigation.

What is a backlog?

- Untested Kits
- Labs versus police departments



- *“Untested or backlogged sexual assault kits:*
 - *“Backlog” and “untested” refer to any SAK connected to a reported sexual assault that has not been tested within 365 days of being booked into law enforcement evidence—regardless of the reason why the SAK was not tested. For example, a SAK that was not tested because the statute of limitations has expired, in cases where identity of the perpetrator is not an issue, or where the offender was convicted without DNA evidence would still be considered backlogged or untested. A tested kit is defined as one that has undergone complete DNA testing by an accredited forensic lab. Only SAKs where the victim did not consent to testing or where evidence exists that no crime was committed (e.g., the victim recants or there is video footage substantiating that no crime was committed) may be excluded from testing.”*

Maricopa County Attorney’s Office Efforts

- Labs versus police departments
- Getting an inventory (SAKI)
- Applying the DANY Grant
- Forming a multi-disciplinary



ADVANCED DNA TECHNOLOGY

- Revolutionized the ability for law enforcement to solve crimes.
- Collective recognition that, when tested, sexual assault kit evidence can identify unknown perpetrators, confirm the presence of known suspects, affirm a victim's account of an attack, connect evidence from an individual crime scene to serial rapists, and exonerate innocent suspects.

Maricopa County SAK's Backlog Elimination Multidisciplinary Team Achievements

- Conducting Inventory
- Awarded nearly \$2,000,000,000 in DANY Grant Funding
 - Approved by Maricopa County BOS on 1/13/16
- Stakeholder meetings to employ a multi-disciplinary strategy
- Defined the scope of the DANY Grant
- Outsourcing Options and Advantages
 - Backlog Reduction
- Drafting of Contracts, MOUs, and cooperative agreements

Maricopa County SAK's Backlog Elimination Multidisciplinary Team Achievements

- **Most Important:**

- Recognition that Maricopa County is missing a Sex Assault Protocol – a guide for nurses, 911 operators, police officers, detectives, Chiefs, crime lab directors, city councils, prosecutors, and victim advocates

NEW YORK CITY

- Between 2000 and 2003, using the “fork lift method” 17,000 SAKs were sent for testing. This testing resulted in over 2,000 DNA matches and 200 cold case prosecutions citywide, 49 from Manhattan alone.
- According to the New York State Division of Criminal Justice Services, 3,121 DNA hits have been generated in New York from the national DNA databank. In cases where a suspect has not yet been identified, biological evidence from the crime scene can be analyzed and compared to offender profiles in DNA databases to help identify the perpetrator.

Wayne County (Detroit Michigan)

- In 2009, 11,000 untested SAKs were discovered in an abandoned law enforcement agency's warehouse.
- Of the initial 2000 SAKs tested, there were 670 DNA matches in the national DNA database, including hits linking crimes committed in 26 other states. To date, Wayne County Prosecutor's Office has identified 188 potential serial rapists, and obtained 15 convictions.

HOUSTON, TEXAS

- 6,663 SAK's were tested.
- Resulting in 850 matches in the federal DNA database and the prosecution of 29 offenders.

ESTABLISHING SEX ASSAULT KIT PROTOCOL

- Goals:
 - 1 – ensure that every agency in Maricopa County is using the best available practice and evidence in every single sex assault case.
 - 2 – this includes victim notification on the older SAKs
 - 3 – this includes capturing and supporting the downstream costs to all of this important work
 - 4– this means making sure that this never happens again.

TAKING THE NEXT STEP

- Submit SAK's for testing
- Tracking/Reporting tested kits and CODIS profile uploads
- How will victims be notified of a CODIS hit
- Services available to victims

Commission on Victims in the Courts

Meeting Date:	Type of Action Required:	Subject:
February 26, 2016	<input type="checkbox"/> Formal Action Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	Shared Hope Conference Update

FROM: AOC

PRESENTERS: Judges Ron Reinstein and Richard Weiss

DISCUSSION & TIME ESTIMATES: Judges Reinstein and Weiss attended the Shared Hope Conference on preventing Human Sex Trafficking and will share their insights with the commission. 10 minutes.

RECOMMENDED MOTION (IF ANY): None.

Arizona Supreme Court
Commission on Victims in the Courts

October 23, 2015

10:00 a.m. to 12:00 p.m.

State Courts Building

1501 W. Washington, Phoenix, AZ 85007

Conference Room 345 A/B

Present: Judge Ronald Reinstein, Chair; Mr. Timothy Agan; Mr. Michael Breeze; Judge Maria Elena Cruz; Ms. Sydney Davis; Judge Elizabeth Finn; Ms. Kirstin Flores; Ms. Kim Hedrick; Ms. Leslie James; Mr. Michael Lessler; Mr. Dan Levey; Judge Evelyn Marez; Sgt. Ret. James Markey; Chief Jerald Monahan; Judge Sam Myers; Ms. Debra Olsen; Ms. Elizabeth Ortiz – *proxy Barbara Marshall*; Mr. William Owsley; Judge Richard Weiss; Chief Cindy Winn.

Telephonic: Ms. Karen Duffy

Absent/Excused: Ms. Shelly Corzo-Shaffer; Judge Timothy Dickerson; Ms. Karyn Rasile; Ms. Keli Luther; and Judge Sally Simmons.

Presenters/Guests: Ms. Colleen Clase; Ms. Shawn Cox; and Mr. Steven J. Twist.

Administrative Office of the Courts: Mr. Eric Ciminski; Ms. Heather Murphy; Ms. Jane Price; Mr. Patrick Scott; Ms. Kathy Waters; and Ms. Amy Wood.

Staff to the Committee: Ms. Denise Lundin; Ms. Kelly Gray.

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

The October 2015 meeting of the Commission on Victims in the Courts was called to order by the Honorable Ronald Reinstein, Chair, at 10:00 a.m. The Chair asked for commission member roll call and introductions of staff and guests.

B. Announcements

i. Evacuation Plan Announcement

Ms. Kelly Gray described evacuation procedures for conference room 345 A/B and the method of communicating special evacuation needs to the commission and attendees.

ii. Maricopa County Bar Association Hall of Fame

The Chair stated Judge Elizabeth Finn was selected for the Maricopa County Bar Association Hall of Fame. Judge Finn responded by stating that the Chair was also named. The Hall of Fame recognizes individuals who have built the legal profession in Maricopa County and beyond, who have made extraordinary contributions to the law and justice, and who have distinguished themselves at the highest levels of public service. They will be honored in a ceremony on October 27, 2015.

C. Approval of the June 2015 Minutes

The draft minutes from the June 12, 2015 meeting of the Commission on Victims in the Courts were presented for approval. The Chair called for any omissions or corrections to the minutes. There were none.

- Motion was made by Judge Richard Weiss to approve the June 2015 meeting as drafted. Seconded by Judge Sam Myers. Passed unanimously.

II. PRESENTATIONS

A. 25th Anniversary of the Victims' Rights Constitutional Amendment

Retired Judge Fredrick Newton introduced Mr. Steven J. Twist. Judge Newton served as a judge in the Coconino County Superior Court from 1993 to 2010 and served as Presiding Judge from 2002 to 2008. Prior to that, he worked in the Coconino County Attorney's Office and served as Chief Deputy County Attorney. Judge Newton emphasized the importance of Az. Const. Art. 2 § 2.1 (Victims' Bill of Rights) and he thanked Mr. Twist for his role in drafting and support of the Arizona's Victims Bill of Rights constitutional amendment.

Mr. Steven J. Twist, currently an Adjunct Professor at Sandra Day O'Connor College of Law, Arizona State University, drafted the Arizona Victims' Rights constitutional amendment in 1990. Mr. Twist discussed the history of the amendment including the 1990 ballot proposition, important cases that led to the call for victims' rights legislation, and the individuals/groups that were essential in the development of the amendment. He emphasized fundamental concepts when forming the amendment that are still as relevant today as when the legislation was adopted. He discussed several case law challenges related to the amendment that have impacted the applicability and authority of

legislation. He also discussed current challenges and the need for further case law development related to the amendment, as follows:

“To preserve and protect victims’ rights to justice and due process, a victim of crime has a right:”

id. (1) “To be treated with fairness, respect, and dignity...” and “...to be free from intimidation, harassment or abuse...”

- There are some citations in case law, but there are still many areas which the application of these principles have yet to be fully developed.

id. (3) “To be present at and, upon request, to be informed of all criminal proceedings where the defendant has the right to be present.”

- This area is particularly challenging in I.A. court as there are limited resources available to agencies and timely notice may not be given. A more robust notification process is needed.

id. (5) “To refuse...other discovery request by the defendant...”

- There are many instances where a challenge to the discovery process could be brought, however a victim may not be notified promptly of the defense’s discovery request.

id. (10) “To a speedy trial or disposition and prompt and final conclusion of the case after the conviction and sentence.”

- There are cases in this state that have taken up to seven years from arrest to trial. Extended timeframes can be especially difficult for victims who would like to move forward after their trauma.

id. (11) “To have all rules governing criminal procedure and the admissibility of evidence in all criminal proceedings protect victims’ rights and to have these rules be subject to amendment or repeal by the legislature to ensure the protection of these rights.”

- This area of application of the law could be explored further as victims are often excluded from Motion to Suppress hearings.

Though there are still challenges with compliance in some areas of the amendment, for 25 years the amendment has assisted victims of crime through the litigation process and upheld important values that are critical to the welfare of Arizona.

B. Changes to ACJA § 6-103: Victims’ Rights Requirements for Probation Personal

Ms. Kathy Waters, Director of Adult Probation Services, discussed proposed changes to the ACJA §6-103 and introduced Ms. Jane Price, the new Administrative Services Manager of Adult Probation Services.

She explained that the proposed changes would:

- Conform the definition of “delinquent act” to A.R.S. §8- 201(11).
- Clarify that the notification rights set forth in the ACJA §6-103 applies to opted-in victims pursuant to A.R.S §13-4417 and A.R.S §8-398.
- Provide clarifying language as to when probation departments need to notify opted-in victims versus the obligations of the court to notify.
- Add the requirements for departments to have a provision for communicating with limited-English speaking victims.

Several concerns were discussed including formatting issues (which Ms. Waters will correct in the final draft) and questions related to timely notice of hearings. A committee member mentioned that she received notice of a probation hearing in the mail three days after the hearing was held in the case where she was identified as a crime victim. Several comments were made regarding the language in the current and proposed changes including the possibility of defining “timely notice” and “method of notice.” Ms. Waters agreed to examine ACJA §6-103 further and let the committee know how the code addresses timely notice and the method of notice.

- Motion was made by Judge Elizabeth Finn to support the proposed changes with the proviso that Ms. Waters follow up with the committee regarding timely notice and method of notice information. Seconded by Judge Richard Weiss. Passed unanimously.

Ms. Waters reported that ACJA §6-103(F)(1) (Duties of Juvenile Probation) currently reads, “Utilize all available means to contact victims and, where appropriate, the victim’s family telephonically, electronically, personally, or in writing to ascertain the emotional, economic and physical impact the delinquent offense has had on the victim” and ACJA §6-103(E)(4)(a) (Duties of Adult Probation) currently reads, “Utilize all available means to contact victims telephonically, electronically, personally, or in writing to ascertain, pursuant to A.R.S. §13-4424(B), “The probation officer shall consider the economic, physical and psychological impact that the criminal offense has had on the victim and the victim’s immediate family pursuant to A.R.S §12-253.”

C. Establishing Pretrial Justice in Arizona

Ms. Kathy Waters, Director of Adult Probation Services, presented information regarding pretrial justice that was of interest to the group. She explained that the 2014 – 2019 Strategic Agenda includes the goal to improve and expand the use of evidence-based practices to determine pretrial release conditions for low-risk offenders.

She described the foundational concepts for evidence based pretrial justice including its purpose and the use of objective risk assessments. She explained that the goal of the program is to assist the court in making informed pretrial decisions, effectively supervise defendants, ensure the defendants meet court obligations, and uphold the legal and constitutional rights of defendants.

Ms. Waters explained validated objective risk assessments, including the one used in a pilot in Arizona, the Public Safety Assessment (PSA). The PSA was developed by the Laura and John Arnold Foundation and uses non-interview dependent factors, separately predicts failure to appear and new criminal activity, and predicts risk of new violent criminal activity.

She went on to tell the group that in March 2015 the Arizona Judicial Council approved the adoption of the PSA and described the next steps in the implementation. She told the group that the AOC is working with the Arnold Foundation on statewide training and implementation of the PSA in the coming year.

D. When Victims Experience Trauma

The Chair regretfully informed the group that Ms. Shelly Corzo-Shaffer's presentation "When Victims Experience Trauma," scheduled on the agenda for 11:00 a.m., would have to be postponed. Ms. Corzo-Shaffer had an emergency and could not attend the meeting, but she will present it in a future meeting of this body.

III. NEW BUSINESS

A. Domestic Violence Risk and Lethality Assessments Legislation

The Chair discussed HB 2164 which amended A.R.S §13.3906 and A.R.S §13.3967 which relate to bail. The amendment changed the language in A.R.S §13.3967 to allow the judicial officer, when determining the method of release or the amount of bail during the initial appearance, to take into account (among other items), "The results of a risk or lethality assessment in a domestic violence charge that is presented to the court." The Chair mentioned that there were issues related to how this information would be relayed to the judge, including the possibility of placing the assessment language on Az. R. Crim. P. 41 Form 4(a). Ms. Kay Radwanski, staff to the Committee on the Impact of Domestic Violence and the Courts (CIDVC), will present more information related to this change in a future meeting of this body.

IV. OLD BUSINESS

A. Status of Public Access Change Request

Mr. Eric Ciminski presented changes to the victim notification system previously discussed by this committee. The case notification feature allows registered users of the Public Access to Court Information system to subscribe to cases that they are interested in tracking. When a change occurs on the subscribed case, the user is notified by email. Victims received an email and the message indicated that there were additional changes to the *charges* in some cases. The email message showed the word “Charge(s)” in the “Change(s) Made” column of the email, when really the change made in the case was not charge information, but additional filings such as minute entries, motions, etc.

He indicated that the notification email has been changed so that it includes only the case number, case name, and information about when it was last updated. He went on to add that there was a sentence included in the notification encouraging the recipient to contact the court associated with the case.

B. Status Changes to Criminal Rule 41, Form 4(a)

Mr. Patrick Scott presented information about the status of changes made to Az. R. Crim. P. 41 Form 4(a) previously discussed by this committee. The changes included a question related to the involvement of the Department of Child Safety (DCS) (as this commission suggested), as well as questions about military service and if the defendant is homeless.

The State Bar Association filed a response to the proposed changes that objected to the language on the form, arguing that the way the question was phrased created issues with disclosure. DCS information is confidential under A.R.S. §8-807 and the Bar felt that the officer may be prompted to actively inquire into DCS records to determine if the defendant was involved in some way, and then disclose the information inappropriately. The changes to the form were adopted in Arizona Supreme Court Order R-15-0026 in August 2015. In the final adopted form, there is a two-part question that reads “Did the offense involve a child victim? [] Yes [] No. If yes, was DCS notified? [] Yes [] No.”

Ms. Kirstin Flores indicated that she had presented this change to the [Governor’s Commission to Prevent Violence Against Women](#) and she received feedback from the group which suggested that training should be a component with the implementation of the form. Ms. Flores indicated Ms. Elizabeth Ortiz may be able to provide training through [Arizona Prosecuting Attorneys Advisory Council](#) as she sits on that committee, as well as discussing it with [Arizona Peace Officer Standards and Training Board](#).

C. Case Law Update

Chair Reinstein presented several recent cases that are of importance to the Victims' Rights community:

State v. Ray, Court of Appeals, Div. Two – Special Action 8/24/15

The Arizona Court of Appeals, Division Two (COA2) vacated the respondent judge's order permitting the defendant to interview the victims and their representative.

The defendant was charged with three counts of continuous sexual abuse of a child, two counts of sexual abuse of a minor under the age of fifteen, and two counts of child molestation. The indictment named four victims. The victims knew each other, and the defendant argued that they spoke to each other about him and sought to compel interviews with each victim and their representative. The trial court granted the defendant's Motion to Compel, but prohibited him from asking any questions that sought to obtain, by indirect means, information about the victims' own incidents. The victims had invoked their right not to be interviewed by the defense.

COA2 found that the case cited by the trial court did not apply and the interviews should be precluded on all counts of the indictment so that victims could not be cross interviewed regarding the other victims.

State v. Carlson, Arizona Supreme Court – 6/18/15

The Arizona Supreme Court affirmed the conviction of the defendant, however the Court found the trial court erred regarding the victim impact evidence.

The defendant was convicted of murder. His attorney objected to the victim impact statements. A letter written by the victim's daughter appeared to advocate for the death penalty or at least a sentence of natural life. There is a long line of cases in Arizona and the federal courts, which hold that victims can't ask for, or address in any way, the potential sentence in capital cases.

The Court found the trial court erred in allowing the statement, but the error was harmless as it was brief and the court's instruction to the jury said the jurors could not consider the victim's sentencing recommendation. They went on to explain that although in this case the error was harmless, in other cases it may not be. They cautioned prosecutors and judges to carefully review potential victim impact evidence for compliance with the rules.

**State ex. rel Montgomery v. Padilla, Simcox (Real Party in Interest),
Court of Appeals, Div. One – Special Action 9/10/15 (Memorandum
Decision)**

The Arizona Court of Appeals, Division One (COA1) granted relief and remanded the case to the trial court saying that the superior court did not properly apply A.R.S. §13-1421 and Az. Const. Art. 2 § 2.1 (Victims' Bill of Rights).

The defendant was charged with three counts of sexual conduct with a minor, two counts of child molestation, and one count of furnishing harmful items to minors.

The defendant, who was representing himself, wanted to introduce evidence that Victim 1 had made prior allegations against another individual (not the defendant), arguing that such evidence would constitute a third-party defense. The lower court ruled that such evidence was admissible, concluding that the defendant met the burden of proof by showing that there were allegations made against another individual.

The COA1 found that prior allegations of abuse would only be allowed if false allegations had been made and that was not the case here.

Additionally the COA1 ruled that the superior court erred in its interpretation of *Lindsay R. v. Cohen*, 236 Ariz. 565 (App. 2015), by not allowing victim's attorney to participate in the pretrial proceedings as *Lindsay* was limited to the privatization of a restitution matter.

He also provided a list of several older cases that have impacted Victims' Rights in Arizona ([see meeting materials](#))

**D. Sexual Assault Forensic Evidence Reporting Act (SAFER)
Update [Taken Out of Order]**

In the last meeting of this body, it was reported that there were grants available to agencies, provided through the Manhattan District Attorney's Office and the U.S. Justice Department, called the Sexual Assault Kit Initiative, to address the backlog of untested sexual assault kits. The Maricopa County Attorney's Office, in a joint initiative with other stakeholders, was successful in obtaining a grant through the program. The Chair will be serving on a workgroup that is overseeing the process and will update the committee with additional information in the coming year.

Additionally, the Chair reported that he, Ms. Karyn Rasile, and Sgt. Ret. James Markey are scheduled to attend a three day meeting in December 2015 in Washington D.C. to finalize the recommendations of the SAFER working group.

E. Human Sex Trafficking Upcoming Conference [Taken Out of Order]

The Chair announced that there is an upcoming human sex trafficking conference in November 2015 called the Shared Hope Conference. He and Judge Richard Weiss will be attending.

V. CALL TO PUBLIC

A. Good of the Order/Call to the Public

The Chair made a call to the public. There were no responses.

VI. ADJOURNMENT

A. Adjourn

The meeting was adjourned at 12:01 p.m.

VII. NEXT COMMITTEE DATE

Ms. Denise Lundin will finalize the 2016 COVIC meeting calendar in November 2015 and send the schedule to the group.

(Editor's Note: The 2016 dates are February 26th, June 10th, and October 21st.)

**Arizona Supreme Court
Commission on Victims in the Courts**

June 10, 2016 Meeting Agenda

1501 W. Washington St., Phoenix, Arizona, 85007
State Courts Building, Conference Room 345A/B

(602) 452-3288 or (520) 388-4330 / Access Code: 0484 / [WebEx Link](#)

10:00 a.m. – 12:00 p.m.

Note: New member orientation will begin at 9:40 a.m.

Call to Order / Welcome / Introductions / Opening Remarks

Approval of Minutes – February 26, 2016**

Managing Digital Evidence in Courts

Judge Sam Thumma, Court of Appeals, Div. One

Supreme Court Rule Petition No. R-16-0035: Arizona Rules of Criminal Procedure, 15.1(J)

Jennifer Greene, AOC

COVIC 10 Year Anniversary

Judge Ronald Reinstein, Chair

Legislative Update

Jerry Landau, AOC

DV Risk and Lethality Assessments Legislation Workgroup

Judge Ronald Reinstein, Chair

Introduction to Minor Victims of Sex Trafficking:
What You Need to Know

Valerie Marin, AOC

Arizona Coalition to End Sexual and Domestic Violence (ACESDV),
Sexual Assault Response Department Overview

Tasha Menaker, ACESV

National Crime Victims' Rights Week

Kirstin Flores, Member

Restitution Issues Workgroup

Kirstin Flores, Member

SAFER and DANY/SAK Grant Updates

Judge Ronald Reinstein, Chair
Mr. Jim Markey, Member
Ms. Karyn Rasile, Member

Shared Hope Conference

Judge Ronald Reinstein, Chair

Start by Believing Campaign Revisited

Judge Ronald Reinstein, Chair

Announcements / Call to the Public / Adjournment

Next Meeting:

Friday, October 21, 2016

10:00 a.m. - 12:00 p.m.

Arizona State Courts Building, Conference Room 345 A/B

*****Important Voting Items***

All times are approximate. The Chair reserves the right to set the order of the agenda. For any item on the agenda, the Committee may vote to go into executive session as permitted by Arizona Code of Judicial Administration §1-202. Please contact Denise Lundin at (602) 452-3614 with any questions concerning this agenda. Persons with a disability may request a reasonable accommodation by contacting Kelly Gray at (602) 452-3647. Requests should be made as early as possible to allow time to arrange for the accommodation.

Arizona Supreme Court
Commission on Victims in the Courts

February 26, 2016

10:00 a.m. to 12:00 p.m.

State Courts Building

1501 W. Washington, Phoenix, AZ, 85007

Conference Room 119 A/B

Present: Judge Ronald Reinstein; Mr. Timothy J. Agan; Mr. Michael Breeze; Ms. Shelly Corzo-Shaffer; Judge Maria Elena Cruz; Ms. Sydney Davis; Judge Elizabeth Finn; Ms. Kirstin Flores; Ms. Kim Hedrick; Ms. Leslie James; Mr. Michael Lessler; Mr. Dan Levey; Ms. Keli Luther; Chief Jerald Monahan; Judge Sam Myers; Ms. Debra Olsen; Ms. Elizabeth Ortiz; Ms. Karyn Rasile; and Judge Richard Weiss.

Telephonic (Members): Judge Timothy Dickerson, Judge Evelyn Marez; Sgt. Jim Markey (Ret.); and Judge Sarah (Sally) Simmons.

Telephonic (Guests): Ms. Anna Harper-Guerrero; Deputy Chief Andrew R. Reinhardt; Judge Patricia A. Trebesch; and Mr. Neil Websdale.

Absent/Excused: Chief Cindy Winn, Ms. Karen Duffy and Mr. William Owsley.

Presenters/Guests: Ms. Colleen Clase; Ms. Amelia Cramer; Mr. Jon Eliason; Ms. Erin Goeman; Mr. Jerry Landau; Ms. Tasha Menaker; Mr. Chris Michalsky; Michele Molyneaux; Mr. John Raeder; Ms. Kay Radwanski; Ms. Shannon Rich; and Ms. Tracy Wilkinson.

Administrative Office of the Courts (AOC): Ms. Kelly Gray and Ms. Amy Wood.

I. BUSINESS OF THE COMMISSION

A. Welcome and Opening Remarks

The February 2016 meeting of the Commission on Victims in the Courts (COVIC) was called to order by the Honorable Ronald Reinstein, Chair, at 10:00 a.m. The Chair asked for commission member roll call and introductions of staff and guests.

B. Announcements

Ms. Karen Duffy has retired from the Pima County Clerk of the Superior Court and will no longer serve on the Commission as a Clerk Member.

Judge Maria Elena Cruz was recently appointed Presiding Judge of Superior Court, Division 5 (Arizona Superior Court in Yuma County) beginning on March 25, 2016.

C. Approval of the October 2015 Minutes

The draft minutes from the October 23, 2015 meeting of the Commission on Victims in the Courts were presented for approval. The Chair called for any omissions or corrections to the minutes. There were none.

- A motion was made by Ms. Sydney Davis to approve the October 2015 minutes of the Commission on Victims in the Courts. Seconded by Mr. Michael Breeze. Motion passed unanimously.

D. Domestic Violence Risk and Lethality Assessments

Ms. Amelia Cramer, Chief Deputy of the Pima County Attorney's Office, and Mr. Jon Eliason from Maricopa County Attorney's Office, presented information about the implementation of an amendment to A.R.S § 13-3967, passed last year, which requires judicial officers to review the results of Lethality Assessments and consider them in any release determination.

As background, the Chair explained that there is a need for education and training about the new legislation in the judicial and police communities. He recently attended a meeting of the Commission on Impact of Domestic Violence in the Courts (CIDVC) to discuss this topic and a workgroup was formed. The Chair would like COVIC members to consider joining this group to help develop some type of a plan of recommendations and guidelines, whether it be statewide or county-wide.

Ms. Cramer described directing a team which developed the lethality assessment tool for Pima County agencies. She provided an overview of the lethality assessment model, the development, and key components in Pima County's process. She presented several goals including identifying victims of domestic violence who are at the greatest risk of being killed, identifying high lethality risk factors, raising awareness of victim issues, and encouraging domestic violence victims to seek follow-up support services and community resources.

She explained some of the benefits of using the lethality assessment including prevention, enhanced services, and greater education/awareness of victim needs. The process developed in Pima County is a collaborative model where law enforcement is given a simple tool (form) to quickly identify a victim's level of risk and identify the lethality factor. Victims are immediately connected with

services to meet their immediate and ongoing needs, including shelter and safety.

She elaborated on some procedural aspects with regard to utilization of the form. She explained that a standardized form was developed in Pima County and the form is used in cases where the victim is an intimate partner with the accused, as opposed to other types of assault cases.

Law enforcement officers in Pima County are instructed to use the form when the officer thinks there may be a risk of death to the victim. Additionally, officers are instructed to call a pre-established domestic violence service provider hotline to assist victims with safety planning, etc. while onsite with the victim. Ms. Cramer emphasized the first three questions as they are good indicators of lethality:

1. Has he/she ever used a weapon against you or threatened you with a weapon?
2. Has he/she threatened to kill you or your children?
3. Do you think he/she might try to kill you?

The last seven questions are also important:

4. Does he/she have a gun or can he/she get one easily?
5. Has he/she ever tried to choke you?
6. Is he/she violently or constantly jealous or does he/she control most of your daily activities?
7. Have you left him/her or separated after living together or being married?
8. Is he/she unemployed?
9. Has he/she ever tried to kill himself/herself?
10. Do you have a child that he/she knows is not his/hers?
11. Does he/she follow or spy on you or leave threatening messages?

She explained that if a victim answers “Yes” to questions 1, 2, or 3, this will automatically indicate a High Lethality Screen. If the victim answers “No” to questions 1, 2, or 3 but “Yes” to any four in questions 4 through 11, this will also automatically indicate a High Lethality Screen. In addition, an officer may trigger a protocol referral whenever he or she feel it is appropriate. When a High Lethality Screen is triggered, the officer advises the victim that he/she is in danger and that people in his/her situation have been killed. The officer calls the hotline to get information to help the victim and the officer indicates that he/she would like for the victim to consider speaking to the hotline about safety planning. If the victim is willing to speak to the hotline, the officer stands by and waits to speak to the hotline again.

Several challenges with the implementation of the process were discussed including the transition from paper to electronic, duplicative data entry for courts

if the advocacy agency does the lethality assessment as the advocacy agency and police use different forms, and the lack of funding and resources for police agencies and advocacy groups to implement the program.

Dr. Websdale raised concerns about the validation of the Lethality Assessment. He stated the research has only been internally validated and lethal outcomes cannot be predicted. Research relied on proxy-informant information, which is problematic. Dr. Websdale's opinion is that more discussion was warranted prior to the enactment of legislation and before this tool was proposed. He indicated that there are a number of constitutional and research issues that need to be debated specific to Arizona. He pointed out that there have been serious questions raised nationally by various communities. The Chair commented that these are the issues that a working group of interested people can address.

In response to the concerns raised, Ms. Cramer indicated that the judicial officer deciding release conditions still evaluates the weight of lethality assessment when making his or her decision; and that the information provided in the lethality assessment is still valuable.

Different perspectives were expressed, including the impact of the lethality assessment on the victim, and how it can help keep the victim safe. It was pointed out that where a version of the lethality assessment was being used, the judicial officers appreciated the additional information and the judicial officer was able to make more informed decisions about release.

Additionally, it was pointed out that the lethality assessment and Form 4 sometimes have different goals; the lethality assessment is used to help the victim obtain services whereas the Form 4 is often used as a tool for police to communicate information obtained during their investigation. It was pointed out that even if a lethality assessment is used, the court orders issued do not make it to patrol officers typically. Therefore, an officer responding to a domestic violence cases may not know about do-not-contact orders, etc.

Mr. Eliason discussed how Maricopa County's law enforcement officers handle the lethality assessment or other assessments used. He pointed out that there are several different approaches used in Maricopa that range from the use of a full lethality assessment to a method of asking only the top three or four vital questions (based on the responses from the victim, the case would be given a higher or lower risk determination). In Maricopa County, where the lethality assessment is used, it is usually the police officer that completes the form, not a victim advocacy group. After the initial assessment is determined, then a victim advocacy group is contacted, depending on the needs of the victim.

The Justice of the Peace members indicated that some of the smaller Arizona counties do not use lethality assessments, but may use a number of methods

to assign risk. There was interest expressed in the use of the lethality assessments and a desire for more education was expressed.

Individuals were identified from COVIC and CIDVC and others who may be interested in serving on a work group to discuss these issues further.

E. AJC Legislative Package and Updates

Mr. Jerry Landau, AOC Government Affairs Office, presented a review of bills related to the victims' community. Members were provided a handout.

Bills that are moving forward: Permitting victims to have a "facility dog" accompany them in court (HB2375), allowing victim's attorney to argue at a restitution hearing, along with the prosecutor and defense (HB2376), limiting the availability of victim information under the public records law, and bills that affect defendants that victims need to know about – the ability to end Sex Offender Registration, and prisoner transition programs and community reentry programs (DOC sponsored).

Dan Levey mentioned a resolution (HCR2008) which would designate September 25, 2016 as Arizona Day of Remembrance for Murder Victims.

Kirstin Flores stated that an amendment to HB2376 addresses related language in Title 8 and inquired if HB2375 will also be amended with regard to Title 8. Mr. Landau responded that the sponsor of the amendment is the Maricopa County Attorney's Office and the question should be forwarded to that office.

More information about the bills presented can be found on the Arizona State Legislature's website, <http://www.azleg.gov/Bills.asp>.

F. When Victims Experience Trauma Presentation

Ms. Shelly Corzo-Shaffer, COVIC Public Member, discussed the impact of trauma on crime victims and shared insights from her personal journey. She explained how she was affected by the murder of her husband by a random act of violence. Ms. Corzo-Shaffer elaborated on the effects of trauma on the brain and body, as well as common issues experienced by victims while trying to find justice and healing from trauma. She stressed some of her experiences with the criminal justice system which exacerbated an already traumatic situation. She provided valuable insights into the victim experience and pointed to opportunities where people working in the criminal justice system could serve victims well by considering the trauma victims are under when interacting with

people in the system. Members thanked Ms. Corzo-Shaffer for sharing her story and the information regarding trauma.

G. National Start by Believing Day

Chief Jerald Monahan, COVIC Member, updated the group on the Start by Believing campaign and discussed the upcoming National Start by Believing Day activities. He informed the group that April 4, 2016 was declared National Start by Believing Day by the Start by Believing campaign, which is affiliated with End Violence Against Women International (EVAWI). He provided links to materials and information about National Start by Believing Day.

More information about the Start by Believing campaign is available at <http://startbybelieving.org/>.

More information about EVAWI is available at <http://www.evawintl.org/>.

H. SAFER and DANY-SAK Grant Updates

Sgt. Jim Markey, Ms. Karyn Rasile and the Chair updated the group on the national Sexual Assault Forensic Evidence Reporting Act (SAFER) workgroup's efforts that have been discussed in previous meetings of this body. Its report has been completed and awaiting finalization. There will be a national symposium in September 2016. The Governor also has a Task Force and the Chair and Mr. Eliason will be presenting to this group next week.

Jon Eliason provided information about the DANY-SAK Grant. As background, Maricopa County Attorney's Office started surveying police departments to get information on the actual number of backlogged kits as they were seeking funding to get them tested. There has been an attitude shift in the treatment of these untested kits.

The definition of a backlog sex kit is an untested sex kit which is over 365 days old. There is not a uniform way to track untested kits. Most are in police evidence locations. A multi-disciplinary team was formed to apply for a New York District Attorney (DANY) grant. Maricopa County was awarded nearly \$2,000,000 which will test about 2,000 backlogged kits. The Governor's Task Force will focus on what is happening at the state level. Maricopa County will be writing a sex assault protocol that could be replicated around the state. DNA testing is a resource for law enforcement and helps with CODIS hits.

Karyn Rasile commented that she is working on getting the standard for kits in Arizona changed because the aspirate method, currently used, is not recommended. This would also reduce costs. Mr. Eliason commented that

some crime lab professionals believe that it's a valuable evidence source so more discussion is needed.

More information about New York's grant program is available at <http://manhattanda.org/sites/default/files/Manhattan%20DA%20Backlog%20Elimination%20Grant%20Program%20RFP.pdf>.

More information about Maricopa County Attorney's Office's program is available at <http://www.maricopacountyattorney.org/newsroom/news-releases/2015/2015-09-10-Maricopa-County-Attorneys-Office-Wins-Grant-to-Eliminate-Backlog-of-Untested-Rape-Kits.html>.

II. ANNOUNCEMENTS

The Chair made a Call to Public. No members of the public spoke, however, Commission members had announcements to share.

Mr. Dan Levey mentioned that the National Organization of Parents of Murdered Children is having a fundraising event on April 14, 2016, Night at the Improv Comedy Club. More details will be forthcoming to the commission.

Ms. Kirstin Flores mentioned that National Crime Victims' Rights Week is April 10, 2016 – April 16, 2016. Several Arizona agencies have collaborated again this year to recognize National Crime Victims' Rights Week and the Arizona Attorney General's office is hosting an event on April 11, 2016. More information will be released when the details are made available.

III. ADJOURNMENT

A motion was made by Mr. Michael Breeze at 12:02 p.m. to adjourn. Seconded by Chief Jerald Monahan. Motion passed unanimously.

IV. NEXT COMMITTEE DATE

Friday, June 10, 2016
10:00 a.m. to 12:00 p.m.
State Courts Building, Room 345 A/B
1501 W. Washington St., Phoenix, AZ 85007

Commission on Victims in the Courts

Meeting Date:	Type of Action Required:	Subject:
June 10, 2016	<input type="checkbox"/> Formal Action Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	Managing Digital Evidence in Courts

FROM: Judge Sam Thumma, Court of Appeals, Div. One

PRESENTER(S): Judge Sam Thumma

DISCUSSION & TIME ESTIMATES: 10 minutes
Future efforts on Managing Digital Evidence in Courts.

RECOMMENDED MOTION (IF ANY):

If you have trouble viewing this email, please click [here](#) to view the online version.

BJA's Justice Today



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DENISE E. O'DONNELL, DIRECTOR

New Look; Same High-Quality Information

BJA is pleased to announce the newly redesigned [Body-Worn Camera Toolkit](#) (BWC Toolkit) to the public. In direct response to the [President's Task Force on 21st Century Policing](#), BJA launched the BWC Toolkit in May 2015. The BWC Toolkit was developed to assist law enforcement agencies to implement body-worn camera programs using the best research currently available, with input from both criminal justice and community stakeholders. The BWC Toolkit consolidates and translates the growing body of knowledge about body-worn camera programs and technology.

The BWC Toolkit is now simpler to navigate, making it faster and easier to find specific body-worn camera related information. New features also include:



- [RSS Feed](#) – Subscribe to receive automatic updates each time a new resource is added to the BWC Toolkit.
- [BWC Podcast Page](#) – Listen to the weekly BWC podcast series featuring industry leaders, law enforcement agencies, and research professionals.
- [BWC Toolkit Video Page](#) – Watch BWC informational videos on program and policy implementation, research, and law enforcement training.

To stay informed on future BWC Toolkit updates or body-worn camera related information, [subscribe](#) to the Justice Today newsletter and follow BJA on [Facebook](#) and [Twitter](#).

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JTC Resource Bulletin

Managing Digital Evidence in Courts

Version 1.0

Adopted February 17, 2016

Abstract

Technologies including smart phones and body-worn cameras are capturing an ever-increasing volume of evidence. The exponential increase in the quantity of digital evidence is challenging the court's ability to receive, evaluate, protect, and present digital evidence. This report identifies potential challenges and recommends steps courts should consider.

Document History and Version Control

Version	Date Approved	Approved by	Brief Description
1.0	2/17/2016	JTC	Release document

Acknowledgments

This document is a product of the Joint Technology Committee (JTC) established by the Conference of State Court Administrators (COSCA), the National Association for Court Management (NACM) and the National Center for State Courts (NCSC).



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To improve the administration of justice through technology

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Contents

Abstract ii

Document History and Version Control ii

Acknowledgments iii

Contents v

Executive Summary 1

Introduction 3

General Challenges to Court Digital Evidence 3

 Common Law 4

 Electronic Filing, Case and Document Management System Capabilities..... 4

 Funding Limitations..... 4

Key Considerations and Recommendations 4

 Storage 5

 Preservation and Disposition 7

 Centralization vs Decentralization 8

 Formats and Conversion 9

 Infrastructure 11

 Chain of Custody 12

 Readiness..... 13

 Access 13

 Privacy..... 14

 Vendor Management 15

 Expectations Management 16

Conclusions and Recommended Actions..... 17

Executive Summary

Court management systems are not currently designed to manage large quantities of digital evidence, which means that courts and industry must find creative ways to deal immediately with the dramatically increasing volume of digital evidence, while planning for and developing new capabilities. Key considerations:

Storage

This is one of the most significant issues. Courts must estimate the storage that will be required, evaluate whether to invest in storage hardware or cloud storage, and consider business continuity and disaster recovery requirements.

Preservation and Disposition

Because appellate proceedings may continue for a lengthy period of time and digital evidence may take large amounts of storage, courts will need to consider how long and how to retain digital evidence. Courts should consider “active archive” solutions that allow the court to maintain the evidence in a less available state that is still retained. Discuss preservation and disposition policies with law enforcement and prosecutors.

Centralization vs Decentralization

Regardless of the state’s unique court structure, states should consider whether to build a statewide repository of digital evidence or to have localized repositories.

Formats and Conversion

Courts may approach the complicated issue of file format by choosing to accept only a limited range of formats. However, there are significant issues with converting digital evidence or requiring that digital evidence be submitted with the native format player. Courts may face technical difficulties displaying evidence correctly; computer speeds and display resolutions can distort digital evidence.

Infrastructure

Cost and performance issues will dictate the best solution in the tradeoff between local storage and the use of networks to transfer digital evidence. However, some technical strategies may not be options because of policies that specify who can store the original files and whether streaming live in a courtroom from a remote location is permissible.

Chain of Custody

The chain of custody protocol may be different in an electronic digital evidence environment. Courts must secure electronically stored digital evidence to ensure there is no possibility of tampering.

Readiness

The state of the technical infrastructure, the process for receiving digital video evidence, and how such evidence is played, stored, retained, and accessed are aspects of readiness that each court must evaluate.

Access

Courts must decide whether digital evidence introduced into the court record will be treated as a court filing or an exhibit, determine whether the evidence becomes subject to open records statutes and/or rules, and provide a mechanism for the public to access information guaranteed under public access policies or open records provisions.

Privacy

Digital video regularly records individuals and their property that are not a party to the case at hand. Prior to a video being entered into evidence, the faces and license plates of bystanders can be redacted or blurred out. Local practices will determine if a court needs to establish a court rule or policy, bearing in mind that redaction is very time-intensive.

Vendor Management

Ensure vendor contracts take into account security, auditing provisions, ownership of evidence, access, and other court-specific issues.

Expectations Management

Courts must manage the expectations of both the public and the judges and other courtroom stakeholders. A “CSI” effect may create very unrealistic expectations about what courts can reasonably do.

Introduction

Digital evidence includes “information on computers, audio files, video recordings, and digital images.”¹ This type of evidence is not new to courts, but the explosion of digital video evidence due to law enforcement body-worn cameras, as well as the public’s prolific capturing of digital video evidence, are now causing courts to evaluate their approach to handling digital evidence. Digital video is ubiquitous: it is inevitable that evidence in cases will increasingly include it. Court officials and the public have come to expect that digital evidence be readily accessible and integrated into the normal flow of court proceedings.

The submission and use of digital evidence of all kinds in state and local courts has surged over the last few years. What started as compilations of word processing documents on CDs in large court cases a decade ago has now become a rapidly growing stream of many media types. As electronic filing and electronic courtrooms become more common, courts are both better positioned to handle digital evidence and more exposed to its use.

The Joint Technology Committee (JTC) of the Conference of State Court Administrators (COSCA), National Association for Court Management (NACM) and National Center for State Courts (NCSC) recognized a need to advise courts on how best to deal with digital evidence, especially digital video. With facilitation by the NCSC, JTC held a focus group on court digital evidence in Denver on October 5-6, 2015. This report summarizes the information gathered in that focus group, provides information on the potential challenges courts may face with digital evidence, and makes recommendations for state court consideration.

General Challenges to Court Digital Evidence

Adapting to the surge in digital evidence includes both technical and practical challenges. Courts must rapidly adapt to changes in digital evidence technologies as well as legal precedent, managing the dramatic increase in requirements with no proportional increase in funding.

¹ "Digital Evidence." *Law Enforcement Standards Office*. National Institute of Standards and Technology, US Department of Commerce, 16 July 2012. Web. 09 Feb. 2016.

Common Law

The common law on the use of digital video evidence is very limited, and existing common law references evidence in general.² It is likely that the changes in digital evidence will result in issues that generate court cases and produce new common law. Thus, courts may need to plan to respond to changes in the law as those cases produce new common law precedents in the area of digital evidence.

Electronic Filing, Case and Document Management System Capabilities

Most court electronic filing, case management and document management systems are designed primarily for electronic documents and not multimedia formats, although some systems can partially accommodate digital video evidence. Transitioning to electronic delivery and storage of digital evidence may require courts and the industry to develop new capabilities in these systems.

Funding Limitations

There is little likelihood that most courts will be able to obtain any significant new funding needed to acquire new systems, hardware, vendor services or other capabilities to handle digital video evidence. Courts must consider how to manage digital evidence with current capabilities and begin planning to transition to more sophisticated methods of handling and storing digital evidence in the future.

Given these challenges, the need for best practices around the use of digital video evidence is even more salient and timely.

Key Considerations and Recommendations

Courts can take a variety of paths in handling digital evidence. Regardless of the path each court selects, there are issues to consider. The JTC Digital Evidence Focus Group identified the following key issues and formulated recommendations to help guide courts as they navigate the process of incorporating digital evidence. This paper identifies decision points for each of the areas.

Because decisions will impact every aspect of the justice process, courts should involve a broad spectrum of stakeholders including law enforcement, evidence technicians, prosecutors, defense attorneys, clerks, judges, and court reporters in addition to court information technology leaders. All will likely have key insights to assist the court in its planning.

² For examples of existing law used in Body-Worn Camera cases, see Hurley, Greg. *Body-Worn Cameras and the Courts*. Publication. Williamsburg, VA: National Center for State Courts, 2016. Web. 9 Feb. 2016.

Courts should consider their structure, opportunities, and limitations, then determine the best roadmap for their jurisdiction.

Storage

One of the largest issues facing courts is how to store digital evidence. In most courts, storage of digital evidence is still handled in a physical form, primarily in the form of CDs and DVDs. While this method may continue to be feasible in the near future, courts need to consider how to handle an increase in volume, as well as the technology changes that will make CDs and DVDs obsolete. A better long-term solution will be to store digital evidence electronically on networked devices, but that transition is not without challenges.

The magnitude of the storage issue will depend on three factors:

1. The volume of digital evidence the court elects to keep, with space increasing linearly with volume.
2. The timeliness of retrieval needed by the court, with the cost of storage being significantly more expensive for instant availability versus less instant availability.
3. The willingness of the court to accept cloud storage as an option, with cloud storage providing greater control over cost by paying for only the space needed rather than having to anticipate capacity and buy space that will be unused for a time.

To date there is very little experience in the court technology arena upon which to base a realistic estimate of expected volume.³ This lack of knowledge about storage requirements is troubling since significant increases in volume will certainly cause problems for many courts.

Presumably, this is an even bigger issue for law enforcement, prosecution, and defense. As with other criminal justice volume issues, the amount looks like a metaphorical funnel as it passes through the justice system from law enforcement to prosecution to the courts. Each successive step considers and passes on only a subset of what was originally created. By the time digital video evidence gets to a court, there are reasonable expectations it will be only a small subset of the original video. In addition, courts will most likely only have digital video entered into evidence in cases

³ The North Carolina Administrative Office of the Courts has estimated that prosecutors are likely to have an average of 10 GB of digital evidence provided to them for each felony case, with some cases reaching over 100 GB.

that proceed to trial, a small subset of the overall criminal filing volume.⁴ Appellate courts should expect to see an even smaller amount of digital evidence.

Much of the digital evidence flooding the courts today comes from a proliferation of body-worn cameras. The following table outlines the recording specifications for most cameras, including smart phone and body-worn, sold today:⁵

Recording Format	Recording Speed (Frames per second)	Max Video Resolution	Bit rate (Kilobits per second)
MPEG-4	30 fps	640x480 to 1920x1080	1,500-7,000 Kbps
MOV	30 fps, 60 fps	1920x1080	1,500-7,000 Kbps
H.264	30 fps, 60 fps	1920x1080	1,500-7,000 Kbps

Table 1 - Typical recording specifications of body-worn cameras

Image resolution (quality), compression type, and frame rate⁶ determine the amount of storage that will be required. The estimated storage space requirement for body-worn camera video can be calculated using the following formula⁷:

$$(\text{Approximate bit rate} / 8) * \text{seconds per hour} = \text{KB per hour}$$

$$\text{KB per hour} / 1000 = \text{MB per hour}$$

A rough estimated of the storage required for one hour of body-worn camera video using an average bit rate would be calculated as follows:

$$(4,250 / 8) * 3600 = 1,912,500 \text{ KB} / 1000 = 1,912 \text{ MB}$$

To estimate annual storage requirements:

$$\text{MB per hour} * \# \text{ of hours} * \text{annual caseload}$$

Using the estimated storage requirement example above, a court with 2,000 hours of body-worn camera video evidence per year would need to be prepared to store, protect, and manage 3.824 additional terabytes⁸ of data annually.

⁴ Digital evidence may also be exchanged among the parties as part of pre-trial discovery that will create a dispute that the court must consider.

⁵ United States Department of Justice, Office of Justice Programs, National Institute of Justice. *A Primer on Body-Worn Cameras for Law Enforcement*. September 2012. Web. January 28, 2016.

⁶ The amount of motion and light in the video also influence the amount of storage required.

⁷ Red Leaf Security. *Bandwidth and Storage Space Calculations*. (Undated). Web. January 28, 2016.

⁸ To calculate terabytes (TB), divide the number of megabytes (MB) by 1,000,000.

Use known factors (predicted case loads) and best guesses at unknown factors (quantity of video evidence and how much will be retained) to project storage requirements. Scenario estimates may yield projections that range from moderately manageable to very unmanageable.

It may or may not be in the best interest of the court to invest in servers and infrastructure to meet projected storage requirements.⁹ If courts find that they are unable to deal with the volume of digital video evidence using local storage hardware an alternative is to use a cloud storage vendor. A number of law enforcement agencies are already employing this option. Large law firms routinely do so as well.

Courts have been more conservative adopters of cloud services, using them primarily for back office email and word processing. Many courts immediately reject cloud storage as an option because of the risks associated with losing control of the data, including its legal validity, reliability, integrity, and confidentiality. For more information about the challenges and benefits of cloud storage, see the JTC resource bulletin *Cloud Computing*,¹⁰ which discusses the challenges and implementation considerations. Courts may wish to review that bulletin as part of their decision process.

Recommendations:

- Estimate the increase in storage that will be required to retain digital evidence, including the likely increase in volume due to body-worn camera and other video evidence. Those estimates should drive immediate and future budgets.
- Evaluate whether to invest in storage hardware or cloud storage.
- Consider business continuity and disaster recovery requirements. As courts make the transition to more online digital evidence, they will also need a means to recover in the event of equipment failure, natural disaster and other business interruptions. Taking these factors into account, storage needs can double or even triple in order to provide continued access to digital evidence.

Preservation and Disposition

COSCA and JTC recently published white papers on records management, including archiving.^{11 12} Those two papers provide general guidance in overall records preservation and disposition, as well as specific guidance on how to develop a plan for

⁹ Estimates for storage servers with a capacity of one TB range from \$5,000-\$8,000 per unit.

¹⁰ Joint Technology Committee. *JTC Resource Bulletin: Cloud Computing*. (December 2014). Web. January 28, 2016.

¹¹ Linhares, Gregory J. and Nial Raaen, "To Protect and Preserve: Standards for Maintaining and Managing 21st Century Court Records." *NCSC.org*. Conference of State Court Administrators (2013). Web. 11 February 2016.

¹² *Resource Bulletin: Developing an Electronic Records Preservation and Disposition Plan*. *NCSC.org*. Joint Technology Committee, 2014. Web. 11 February 2016.

electronic records. These papers can help courts considering digital evidence preservation and disposition. However, there are additional considerations for digital evidence preservation and disposition policies. First, courts will need to consider how long to retain digital evidence in light of the fact that appellate proceedings may continue for a lengthy period of time. Due to the large amount of storage likely needed for digital evidence, courts may want to consider “active archive” solutions, which allow the court to maintain the evidence in a less available state that is still retained. This minimizes active storage space requirements, lessening overall storage capacity requirements.

Courts should also consider discussing preservation and disposition policies with law enforcement and prosecutors. If a court proceeding only includes a portion of the full amount of digital evidence (i.e. 30 seconds of a three-hour video), law enforcement and prosecutors may need to retain the full version for future proceedings, including forensic analysis. While the court is unlikely to be the one to retain the lengthier version of the digital evidence, it is vital that the court discuss these issues with other stakeholders who may not consider the ramifications of their policies to the court process.

Recommendations

- Create and implement a plan for digital evidence preservation and disposition.
- Discuss digital evidence preservation and disposition plans with law enforcement and prosecutor agencies to ensure appropriate preservation of evidence.

Centralization vs Decentralization

Court structures within states vary along several pertinent dimensions. These include large versus small, well-funded versus underfunded, centralized versus decentralized, and independently elected clerks versus court-appointed clerks. Each structural dimension raises unique issues.

Large and/or well-funded courts may be much better positioned to deal with digital evidence. They may have better funding, more IT personnel capacity and skill sets, courtrooms that are already equipped to handle new technology, and faster bandwidth. In less well-funded courts, clerks may have to convert some evidence to paper or static pictures. In other situations, lawyers may have to bring all necessary equipment to the courtroom.

Courts should consider whether to build a statewide repository of digital evidence or to have localized repositories. There are advantages and disadvantages to each approach:

Repository Method	Advantages	Disadvantages
Centralized	Uniformity in solution Uniform method of upload, download Enhanced disaster tolerance Better management and control of data	Requires very robust networks to provide acceptable response time throughout the pre-trial and trial processes Inconsistent or slower download and playback, especially to geographically isolated courts or those without high-speed connections Less customization to meet local needs Larger storage needs
Decentralized	Consistent or faster download, playback Customization to meet local needs Less storage required	Fragmented capabilities and procedures Need for a more robust disaster recovery plan More difficult to manage in multi-location districts Greater one-time hardware costs Greater personnel costs

Table 2 – Comparison of Repository Methods

Resources are scarce and there are many valuable programs contending for those resources, so courts must be measured in their approach to managing digital evidence. When evaluating options, courts must balance equal treatment and justice across a state or jurisdiction against the ability of smaller courts or courts with very limited budgets to support certain capabilities. Using multiple or hybrid approaches may better meet a court’s unique requirements. Carefully consider a valid business case and common sense before expending resources on new capabilities.

Recommendations

- Carefully consider minimum necessary capabilities for handling digital evidence.
- Evaluate centralized, decentralized, and hybrid approaches for a digital evidence repository and select the design appropriate for your jurisdiction.

Formats and Conversion

A growing number of courts have established policies for what digital video formats may be used when presenting evidence to their courts. In general, those courts have opted to limit accepted formats to a small number chosen by the court without regard for which formats are used most often by vendors, law enforcement, prosecutors, or the general

public. Those limitations are typically driven by a desire to minimize the cost and complexity of dealing with video evidence.

Forensic labs and others have established national best practices for the conversion of digital video evidence. Those practices have been driven in part by scientific research about the impact of conversions on the quality of the video evidence,¹³ including distortions that might be legally meaningful. The general conclusion is that it is dangerous to convert formats at all. Rather, it is better to submit the video in its original format with the native player for that format.

While law enforcement may consider this a best practice, submitting video in its original format raises a number of significant issues for courts. Courts cannot afford to acquire the large number of proprietary players required to access the many different video formats. Thus, law enforcement and prosecution will need to provide the players to the court with the evidence. Native players would need to be retained with the digital video evidence even as updated players are released, since the version used when the video was captured might be required to properly play the video evidence. Even with the appropriate player, the court may face technical difficulties displaying the evidence correctly, as computer speeds and display resolutions can distort digital evidence.¹⁴

The national court e-filing technical standard¹⁵ does not support the inclusion of video players in filings. If the e-filing standard allowed the transmission of a video player, most courts would be reluctant to allow executable program files submitted from an outside source to be downloaded to a court network due to security concerns.

It is likely that case law will eventually resolve the conversion issue in a definitive way, but that guidance is not yet available.

Recommendations

- Avoid creating arbitrary limitations on acceptable formats for digital evidence.
- Work with law enforcement, prosecutors, and local labs to consider the tradeoffs between converting and not converting digital video evidence.

¹³ For an explanation of the impact of file format, conversion, and compression, see Hoffman, Chris. [“What Lossless File Formats are and Why You Shouldn’t Convert Lossy to Lossless.”](#) *How-to Geek*. November 6, 2015. Web. 11 February 2016.

¹⁴ Carner, Doug. [Detect and Prevent File Tampering in Multimedia Files](#). (Unknown Date.). Web. January 28, 2016.

¹⁵ [Electronic Court Filing Version 4.01](#). OASIS - Advancing Open Standards for the Information Society, 23 May 2013. Web. 11 Feb. 2016.

Infrastructure

Technology infrastructure includes hardware, systems software, network, and facilities.¹⁶ Technology infrastructure requirements will vary according to the anticipated volume of digital evidence and the decisions the court makes about how to handle that evidence. Courts will be better positioned to manage digital evidence to the extent that they have high-speed networks, sufficient bandwidth, sophisticated electronic filing and case management systems, extensive storage capacity, and a willingness to work with external vendors if cloud solutions are required. In-house IT expertise handling multimedia formats will also be helpful to the court in planning and managing digital evidence.

Cost and performance issues will dictate the best solution in the tradeoff between local storage and the use of networks to transfer digital evidence. Small courts with low volumes may be able to deal with digital evidence using traditional strategies. A single DVD can store up to nine hours of video, depending on the format, compression, and quality of the video.

Bandwidth constraints may cause states or large court systems to store more digital video evidence locally rather than offsite. Fiber networks with “quality of service” (guaranteed bandwidth for certain media types, applications, or organizations) may be able to handle file transfer requirements for large video files. Newer real-time streaming formats use network bandwidth much more efficiently but may be costly. Finally, some courts may be able to transmit large files during off hours and make local copies on CDs or DVDs for actual display in a courtroom during a hearing.

Some technical strategies may not be options because of policies that specify who can store the original files and whether streaming live in a courtroom from a remote location is permissible.

Courts should also consider how digital evidence will be transmitted from trial courts to appellate courts. Courts might consider allowing access to streaming media, where available, or instead choose to upload the files to appellate court servers.

No matter the method chosen, courts will need to have an effective business continuity plan in the event of a disaster that impacts the stored digital evidence.¹⁷

¹⁶ *Court Technology Framework*. Joint Technology Committee. Web. January 28, 2016.

¹⁷ Seven criminal cases, including a homicide case, were impacted by a failure of a video recording system in Milwaukee in 2015 that caused the department to lose critical video footage relevant to the cases. See Sanchick, “Milwaukee Police Department: Seven criminal cases impacted by failure of video recording system.” *Fox6Now.com*. May 13, 2015. Web. January 28, 2016.

Recommendations

- Evaluate current infrastructure to determine if it is sufficient to handle the demands of an electronic digital evidence environment, including cloud storage.
- Determine how digital evidence will be transmitted to appellate courts.
- Assess the possibility of accommodating streaming presentation technologies in courtrooms.
- Develop a short-term and medium-term approach to the use of streaming technologies.
- Review external resources for best practices; train relevant court personnel to competently manage multimedia formats, external cloud storage, and streaming vendors.
- Ensure that disaster recovery plans include digital evidence retained by the court.
- Consider using vendors and solutions that can scale in real time to meet demand.

Chain of Custody

While some may raise chain of custody issues in the law enforcement and prosecution areas, the issue is likely less of a problem for digital evidence introduced to the court. Once digital evidence is admitted to the court, the common chain of custody protocols apply. (For example, a court reporter or clerk would typically store evidence.) This chain of custody protocol may be different in an electronic digital evidence environment. Courts must ensure that there is no possibility of tampering. This will likely involve limiting physical access to digital evidence and implementing a system that provides an audit trail of when digital evidence is accessed and by whom. If storage is out-sourced, courts should ensure proper controls are in place to prevent tampering during storage or transmission.

Any system for transferring and storing digital evidence must effectively address all the potential phases of delivering digital evidence to the court:

1. Attorneys for each side may have digital evidence to present.
2. Attorneys may introduce digital evidence to the court that is not yet admitted.
3. Digital evidence may be introduced and admitted into evidence.
4. Digital evidence must be retained in case of an appeal.

Any system should ensure that access to digital evidence is restricted at each stage of the process even if evidence is preloaded into the system for expediency during the trial.

Recommendations

- Establish protocols that ensure that digital evidence is not tampered with, including providing security and an audit trail.
- Ensure that any out-sourced storage or transmission of digital evidence is controlled to limit tampering with the evidence.
- Design systems to accommodate digital evidence at each phase of the process and to ensure expediency in the delivery of evidence to the court.

Readiness

Readiness is a multi-dimensional concept that includes the state of the technical infrastructure, the process for receiving digital video evidence, and how such evidence is played, stored, retained, and accessed. It is likely that each court has a different level of readiness to handle digital evidence.

Some differences in approach to the handling of digital video evidence reflects choices about business models rather than the general readiness of the court. For example, courts might decide between on-site and cloud storage models. The ability to handle streaming video may be both a business and maturity dimension.

Courts at a very basic level of readiness might receive digital evidence on physical media and handle it in the same way as physical evidence. Courts with a more advanced state of readiness might have some digital evidence infrastructure and capability. A very advanced court might be capable of supporting streaming video, storing digital evidence in the cloud, and managing comprehensive enterprise policies for handling digital evidence.

Recommendations

- Assess readiness to migrate to an electronic digital evidence environment and proceed in the areas where improvements can be successfully implemented.
- Consider seeking an objective assessment by another group familiar with needs and requirements for managing digital evidence.

Access

While the issue of access to paper court records is long-ago settled, courts are now struggling with the issue of providing access to electronic information.¹⁸ This issue is only heightened by the introduction of digital evidence that may invoke significant public

¹⁸ Conference of State Court Administrators. *Concept Paper on Access to Court Records*. (August 2000); CCJ/COSCA [Resolution 33: Endorsing and Supporting Public Access to Court Records](#) – Guidelines for Policy Development by State Courts. Web. January 28, 2016.

interest to the digital record. By definition, courts will only have digital evidence for actual court cases. Further, virtually all current court policies on access to court records do not explicitly consider multimedia formats.

If digital evidence is treated like traditional exhibits, it may be permissible to handle it according to existing policies for management of exhibits in general. Some current court records access policies do not explicitly mention exhibits at all.

Courts may also need to consider whether digital evidence introduced into the court record becomes subject to open records statutes and/or rules. Law enforcement and prosecutors often have protections from open records provisions if the case is still in the investigative or pre-filing phase. However, most court records are deemed open to the public as part of the open courts doctrine. If the digital evidence introduced into the court record is determined to be subject to open records or open courts provisions, courts should evaluate the impact on releasing that information to the public, and how that is to happen. No matter where video is stored, if there is significant public interest, the servers storing the video may be overwhelmed by requests, potentially slowing and disrupting business processes and cases.

Recommendations

- Evaluate how to categorize digital evidence introduced to the court record as either a court filing or an exhibit.
- Determine if current public access policies or open records provisions for records and exhibits require modification in light of digital evidence.
- Consider how the public will access digital evidence. (See Infrastructure.)

Privacy

While courts have long struggled with the issue of expectations of privacy in other areas, digital video evidence raises new concerns. Digital video regularly captures video of individuals and their property that are not a party to the case at hand. Consider a drug transaction captured on video outside of a convenience store that also contains footage of a family with children in a van outside of the store. Modern facial recognition technology makes it relatively easy to identify such people who in the past might remain anonymous.

While individuals in a public place will not necessarily have an expectation of privacy, many may feel being included as a bystander in video evidence violates cultural expectations of reasonable anonymity. This issue is heightened based on the availability of digital video evidence to the public.

Law enforcement groups have worked with relevant interest and pressure groups to formulate model policies around this issue.¹⁹ In most cases, the solution to privacy concerns takes the form of redacting or blurring out the faces of bystanders and license plates prior to the video being entered into evidence (while maintaining the original video for analysis purposes). If this is a law enforcement routine before digital video evidence gets to the court, then it may not be an issue for the court at all. However, digital video evidence may be introduced by bystanders that may not include this type of redaction. Local practices will determine if a court needs to establish a court rule or policy to deal with it. A state statute would accomplish the same goal of policy clarity for a larger group of courts.

It should be noted that a strict redaction policy can lead to an exponentially increasing workload. While there are numerous tools available to perform redaction, the time and effort it takes to properly review and redact video may be time and cost prohibitive.

Recommendations

- Determine if law enforcement and/or prosecutors have policies concerning redaction in digital video evidence, and if not, explore whether rule, policy or statutory changes are necessary to protect privacy interests.
- Consider how to handle digital video evidence introduced by non-law enforcement bystanders that may not be redacted upon submission to the court.

Vendor Management

The vendor community supporting digital evidence is already robust. Many vendors already work with law enforcement to manage digital video evidence. Courts may be particularly interested in companies that offer cloud storage and streaming services. These types of services are rapidly evolving and courts have an opportunity to influence that evolution.

Ensure vendor contracts take into account security, auditing provisions, ownership of evidence, access, and other issues.²⁰ Because courts have little experience contracting with video editing and production companies, there is a need to establish model policies and contracts to guide courts during procurements. Law enforcement associations are

¹⁹ Miller, L., Toliver, J., and Police Executive Research Forum. 2014. *Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned*. Washington, DC: Office of Community Oriented Policing Services.

²⁰ For a discussion of some of the issue, see Sallee, Vern. "Outsourcing the Evidence Room: Moving Digital Evidence to the Cloud." *The Police Chief - The Professional Voice of Law Enforcement*. International Association of Chiefs of Police, Feb. 2016. Web. 11 Feb. 2016.

somewhat ahead of the courts in this area due to the proliferation of video from body-worn cameras. Courts may usefully start with resources developed for law enforcement.

Recommendations

- Carefully consider and craft contracts with outside industry to ensure that digital evidence is protected.
- Retain legal services familiar with technology licensing and contracts. Because courts don't often handle such contracts, vendors have a great advantage.

Expectations Management

Most courts have fairly significant financial limitations and may not be in a position to immediately invest in new technology or technical capabilities. Courts must assess the return on investment (ROI) before making major investments in new capabilities for handling digital evidence. The results of these assessments must be communicated to stakeholders and the public in a compelling way that explain the rationale for the direction the court is pursuing. Including stakeholders in the decision-making process will help ensure buy-in for those decisions and help set appropriate expectations for the use of digital evidence.

ROI estimates should be based primarily on objective considerations but need not be restricted to hard cost savings. Courts must also consider more subjective issues including public perceptions of court competence for implementing and managing technology. A "CSI" effect may particularly influence what the public expects. Effectively communicating technology options and budget limitations can help manage public expectations about what courts can reasonably do.

Courts may also struggle to manage the expectations of judges and other courtroom stakeholders. Given sufficient funding, courts can likely build a system that will meet high expectations from judges and other stakeholders. However, a high-cost/high-feature solution may conflict with the ROI analysis, which may point to a lower but acceptable standard. For instance, courts may choose to limit bandwidth for cost reasons, resulting in slower uploads or downloads of digital evidence. Ensure that judges and other stakeholders understand and support ROI-based decisions.

Consider whether new technology capabilities improve or change the legal process for cases in any substantive way. In well-equipped courtrooms with projectors, juror/witness presentation screens, and other media presentation devices, the use of digital video evidence may work well and meet expectations for the presentation of fair and objective evidence. In less well-equipped courtrooms, attempts to do so may result in disruption and badly presented evidence.

Another practical consideration is the variety of digital evidence that may be introduced. Allowing the introduction of video from personal dash-cams, cell phones, and other sources for a routine traffic stop may slow court efficiencies and proceedings if not properly managed.

Recommendations

- Assess ROI using accepted cost/benefit methodologies before making major investments in new capabilities for handling digital evidence.
- Work with judges and other courtroom stakeholders to communicate decisions that may impact performance in an effort to manage expectations.
- Consider and implement reasonable digital evidence guidance and/or rules.

Conclusions and Recommended Actions

Digital evidence is a rapidly growing phenomenon and courts have little experience or capacity for dealing with it. Further, it is unclear to what extent digital evidence, especially digital video evidence, will pose operational problems since estimates of volume are only speculative.

Given this state of uncertainty, courts should focus their digital evidence planning efforts on three key initiatives:

1. Beginning relevant multi-stakeholder policy discussions.
2. Developing pilot projects at courts of various sizes and with a variety of infrastructures to gather critical information about the issue.
3. Creating a roadmap of policies and procedures for handling digital evidence in the court's unique electronic environment.

Commission on Victims in the Courts

Meeting Date:	Type of Action Required:	Subject:
June 10, 2016	<input checked="" type="checkbox"/> Formal Action Request <input type="checkbox"/> Information Only <input type="checkbox"/> Other	Supreme Court Rule Petition No. R-16- 0035

FROM: AOC Legal Services

PRESENTER(S): Jennifer Greene, Asst. Counsel

DISCUSSION & TIME ESTIMATES: 5-10 minutes

On April 19, 2016, the AOC filed a rule change petition to make Criminal Rule 15.1 consistent with recent amendments to A.R.S. § 13-1425. The statute was amended on an emergency basis in March (HB 2001). The statute prohibits the intentional unauthorized disclosure of an image of another person if the person is identifiable and is in a state of nudity or engaged in specific sexual acts; the person has a reasonable expectation of privacy; and the image is disclosed with the intent to harm, harass, intimidate, threaten or coerce the person.

Criminal Rule 15.1 governs disclosure of images of child sexual exploitation by the prosecution to the defense during pre-trial discovery. The AOC's proposed amendment to Rule 15.1 will require that the images of the victim in a prosecution under §13-1425 be handled in the same manner as images of victims of child sexual exploitation.

The Court is expected to act on the petition prior to the June 10th COVIC meeting. However, depending on how the Court resolves the petition, COVIC may wish to submit a formal comment regarding the rule petition.

RECOMMENDED MOTION (IF ANY):

Recommend adoption of the proposed rule amendment.

David K. Byers, Administrative Director
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(602) 452-3301
Projects2@courts.az.gov

IN THE SUPREME COURT
STATE OF ARIZONA

In the Matter of:

PETITION TO AMEND)	
RULE 15.1(j) OF THE)	Supreme Court No. R-16-_____
ARIZONA RULES OF)	(expedited adoption requested)
CRIMINAL PROCEDURE)	
_____)	

Pursuant to Rule 28 of the Rules of the Arizona Supreme Court, David K. Byers, Administrative Director, Administrative Office of the Courts, respectfully petitions this Court to adopt the attached proposed amendment to Rule 15.1(j) of the Rules of Criminal Procedure on an emergency basis. The amendment is set forth in the accompanying Appendix A.

I. Background and Purpose of the Proposed Rule Amendment.

Laws 2016, Chapter 6, § 1 (“HB2001”) amended A.R.S. § 13-1425, unlawful distribution of images depicting states of nudity or specific sexual activities; classification; definitions. The bill was adopted with an emergency clause and

became effective on March 11, 2016. As its name suggests, the law prohibits the intentional unauthorized disclosure of an image of another person if the person is identifiable and is in a state of nudity or engaged in specific sexual acts; the person has a reasonable expectation of privacy, and the image is disclosed with the intent to harm, harass, intimidate, threaten or coerce the person. A.R.S. § 13-1425(A).

The proposed amendment set forth in Appendix A incorporates changes inspired by HB2001 into that portion of the disclosure rule that protects victims of child sexual exploitation from unnecessary exposure during the criminal prosecution. In the same vein, because the criminal act prohibited by HB2001 involves unauthorized display of an image of an identifiable victim, the prosecutor and defendant should follow the same process for handling that image during discovery.

II. Pre-Petition Comments. Petitioner has not circulated this proposal for pre-petition comments.

III. Effective Date of the Proposed Rule Amendment. Petitioner respectfully requests that the Supreme Court amend Rule 15.1(j) on an expedited basis with a public comment period to follow, as allowed by Supreme Court Rule 28(G), to make Rule 15.1 consistent with A.R.S. § 13-1425.

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RESPECTFULLY SUBMITTED this 19th day of April, 2016.

By /S/ _____
David K. Byers, Administrative Director
Administrative Office of the Courts
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Appendix A
(New language is underlined)

Arizona Rules of Criminal Procedure
Rule 15.1. Disclosure by state.

(a) through (i) [no changes]

j. Reproduction or Release for Inspection of Items Prohibited by Title 13, Chapter 35.1 or Images that Gave Rise to a Prosecution Under A.R.S. § 13-1425. Except as provided below, nothing in this rule shall be construed to require the prosecutor to reproduce or release for testing or examination any items listed in Rule 15.1(b)(5) if the production or possession of the items is otherwise prohibited by Title 13, Chapter 35.1 or is an image that is the subject of a prosecution under A.R.S. § 13-1425. The prosecutor shall make such items reasonably available for inspection with such conditions as are necessary to protect the rights of victims. Upon a substantial showing by a defendant that reproduction or release for examination or testing of any particular item is required for the effective investigation or presentation of a defense, such as for expert analysis, the court may require reproduction or release for examination or testing of that item, subject to such terms and conditions as are necessary to protect the rights of victims, to document the chain of custody, and to protect physical evidence. Reproduction of or release for examination and testing of such items shall be subject, in addition to such other terms and conditions as are ordered by the court in any particular case, to the following restrictions: (1) the item shall not be further reproduced or distributed except as allowed in the court's order; (2) the item shall only be viewed or possessed by the persons listed in the court's order; (3) the item shall not be possessed by or viewed by the defendant outside the direct supervision of defense counsel, advisory counsel, or defense expert; (4) the item must first be delivered to defense counsel or advisory counsel, or if expressly permitted by order of the court, to a specified defense expert; (5) defense counsel or advisory counsel shall be accountable to the court for any violation of the court order or this Rule; and (6) the item shall be returned to the prosecutor by a deadline ordered by the court.

Commission on Victims in the Courts

Meeting Date:	Type of Action Required:	Subject:
June 10, 2016	<input type="checkbox"/> Formal Action Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	COVIC Ten Year Anniversary Accomplishments

FROM: AOC

PRESENTER(S): Judge Ronald Reinstein (ret.), Chair

DISCUSSION & TIME ESTIMATES: 10 Minutes

COVIC was formed 10 years ago this March. The Chair will highlight some of the commission's accomplishments during this time.

RECOMMENDED MOTION (IF ANY):

Commission on Victims in the Courts

Meeting Date:	Type of Action Required:	Subject:
June 10, 2016	<input type="checkbox"/> Formal Action Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	Legislative Update

FROM: Administrative Office of the Courts

PRESENTER(S): Jerry Landau, Legislative Department

DISCUSSION & TIME ESTIMATES: 5-10 minutes

Mr. Landau will review new legislation relating to crime victims.

RECOMMENDED MOTION (IF ANY):

Committee on Victims in the Court

Legislative Review

June 2016

Chapter 6/HB2001: unlawful distribution of private images (Rep. Mesnard)

<http://www.azleg.gov/legtext/52leg/2r/laws/0006.pdf>

It is unlawful for a person to intentionally disclose an image of another person who is identifiable from the image itself or from information displayed in connection with the image if the person in the image is in a state of nudity or engaged in specific sexual activities, the depicted person has a reasonable expectation of privacy, and the image is disclosed with the intent to harm, harass, intimidate, threaten or coerce the depicted person.

Evidence that a person has sent an image to another person via an electronic device does not, on its own, remove the person's reasonable expectation of privacy for that image. The statute does not apply to the reporting of unlawful conduct, lawful and common practices of law enforcement, criminal reporting, legal proceedings or medical treatment, images involving voluntary exposure in a public or commercial setting, an interactive computer service or an information service with regard to content wholly provided by another party and any disclosure that is made with the consent of the person depicted.

A violation is a Class 5 Felony, except it is a Class 4 Felony if the image is disclosed by electronic means and a Class 1 Misdemeanor if a person threatens to disclose but does not disclose an image that if disclosed would be in violation of the statute.

A prosecution that is commenced before March 11, 2016 and that charges a violation of §13-1425 as previously written in Laws 2014, chapter 268, section 1, may only proceed if the alleged conduct is prohibited under the law as amended by the act.

Defines *disclose, disclosed by electronic means, harm, image, reasonable expectation of privacy, specific sexual activities, and state of nudity.*

Contains an emergency clause. (3/11/16)

Section amended: §13-1425

Chapter 7/HB2374: child prostitution; offense (Rep. Farnsworth)

<http://www.azleg.gov/legtext/52leg/2r/laws/0007.pdf>

The list of acts constituting child prostitution is expanded to include knowingly providing a means by which a minor engages in prostitution.

Section amended: §13-3212

Chapter 135/HB2375: crime victims' rights; facility dog (Rep. Farnsworth)

<http://www.azleg.gov/legtext/52leg/2r/bills/hb2375s.pdf>

The court must allow a victim under 18 a facility dog, if available, to accompany the victim while testifying in court. The party seeking to use a facility dog is required to file a notice with the court that includes the certification of the facility dog, the name of the person or entity who certified the dog and evidence that the dog is insured.

The use of facility dogs by victims 18 and older or by witnesses is within the discretion of the court.

A jury instruction must be given by the court describing the role of the facility dog and that the facility dog is a trained animal.

Defines *facility dog*.

Contains an intent clause.

Sections added: §8-422, §13-4442

Chapter 8/HB2376: victim restitution; stipulated amount; hearings (Rep. Farnsworth)

<http://www.azleg.gov/legtext/52leg/2r/laws/0008.pdf>

A victim has the right to present evidence or information and to make an argument to the court, personally or through counsel, at any proceeding to determine the amount of restitution.

Contains an intent clause.

Sections amended: §8-416, §13-4437

Chapter 194/HB2383: public records; law enforcement (Rep. Farnsworth)

<http://www.azleg.gov/legtext/52leg/2r/bills/hb2383s.pdf>

A petitioner of a special action filed under the public records law must establish that the public's interest in disclosure of a record outweighs the witness's or victim's right to privacy if the petitioner wants a record released from a law enforcement or prosecution agency that relates to a criminal investigation or prosecution and that record visually depicts the image of a witness under 18 or a victim. The victim whose image is depicted in the record has the right to be present and be heard in any action brought for the release of the record.

The personal identifying information of a witness to a crime contained in a record related to a criminal investigation that is created or received by a law enforcement or prosecution agency may not be disclosed by a public body unless the witness consents to the disclosure in writing, a court orders the disclosure, or the witness's address is the location where the crime occurred. Records transmitted between law enforcement and prosecution agencies, a court or a clerk of the court or any provision of law that governs the discovery process or the conduct of trials remain unaffected.

Defines *personal identifying information*.

Sections added: §39-121.04, §39-123.01

Chapter 105/HB2539: sex offender registration; petition; termination (Rep. Bowers)

<http://www.azleg.gov/legtext/52leg/2r/laws/0105.pdf>

A defendant convicted of a sexual conduct with a minor who is required to register as a sex offender can petition the court for an order to terminate any duty to register if the defendant has completed a term of probation and the following conditions are met: the defendant was under 22 years of age at the time the offense was committed, the victim was 15, 16 or 17 years of age at the time of the offense, the sexual conduct was consensual and did not involve more than one victim, the defendant did not violate any of the sex offender terms of the defendant's probation, the defendant has not subsequently committed another felony offense or any other sexual offense or sexual exploitation of children, a court has not determined that probable cause exists to believe the defendant is a sexually violent person or that a sexually violent person proceeding is not currently pending and the defendant was not sentenced to a term of imprisonment in the department of corrections for the offense for which the defendant was required to register.

The court is required to set a hearing and provide victim notification. The state has the burden of establishing by a preponderance of the evidence that a factor listed above has not been met. Any party is allowed to introduce at the hearing any reliable and relevant evidence, including hearsay evidence, and the court must provide all parties, including the victim, the opportunity to be heard before the court's ruling on the petition.

The court is required to deny the petition if the court finds that any of the enumerated factors are not met and the court may deny a petition upon finding that a denial is in the best interests of justice or tends to ensure the safety of the public.

Section added: §13-3826

6/8/16

Commission on Victims in the Courts

Meeting Date:	Type of Action Required:	Subject:
June 10, 2016	<input type="checkbox"/> Formal Action Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	DV Risk and Lethality Assessments Legislation Workgroup

FROM: AOC

PRESENTER(S): Judge Ronald Reinstein (ret.), Chair

DISCUSSION & TIME ESTIMATES: 5 Minutes

Members will be updated on the status of the workgroup formed to discuss the issues raised at the February 26th meeting regarding last year's amendment to ARS § 13-3967.

RECOMMENDED MOTION (IF ANY):

Commission on Victims in the Courts

Meeting Date:	Type of Action Required:	Subject:
June 10, 2016	<input type="checkbox"/> Formal Action Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	Introduction to Minor Victims of Sex Trafficking: What You Need to Know

FROM: Juvenile Justice Services Division

PRESENTER(S): Valerie Marin, AOC

DISCUSSION & TIME ESTIMATES: 30 minutes

Give a brief introduction to Minor Victims of Sex Trafficking and JJSD. Discuss the awareness building, training and research that JJSD has done with the Grant from the Governor's Office of Youth, Faith and Family. Will also discuss future plans for the division and development of new resources for our minor victims.

Materials: Power Point Presentation, MVST Brochures, MVST Online Training Video Flyer

RECOMMENDED MOTION (IF ANY):

Commission on Victims in the Courts

Meeting Date:	Type of Action Required:	Subject:
June 10, 2016	<input type="checkbox"/> Formal Action Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	Arizona Coalition to End Sexual and Domestic Violence, Sexual Assault Response Department Overview

FROM: Arizona Coalition to End Sexual and Domestic Violence (ACESDV)

PRESENTER(S): Tasha Menaker, Ph.D., Sexual Assault Response Manager

DISCUSSION & TIME ESTIMATES: 10-15 minutes

Overview of work and grant objectives, including development of sexual assault response teams, protocols, and forensic nursing programs, as well as increasing accessibility of exams statewide.

RECOMMENDED MOTION (IF ANY):

Commission on Victims in the Courts

Meeting Date:	Type of Action Required:	Subject:
June 10, 2016	<input type="checkbox"/> Formal Action Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	National Crime Victims' Rights Week Commemoration Report

FROM: Attorney General's Office of Victim Services

PRESENTER(S): Kirstin Flores, Director

DISCUSSION & TIME ESTIMATES: 5 minutes

Ms. Flores will report on the events held in April and the recipients of this year's awards.

RECOMMENDED MOTION (IF ANY):

Commission on Victims in the Courts

Meeting Date:	Type of Action Required:	Subject:
June 10, 2016	<input checked="" type="checkbox"/> Formal Action Request <input type="checkbox"/> Information Only <input type="checkbox"/> Other	Restitution Issues Workgroup

FROM: Arizona Attorney General's Office of Victim Services

PRESENTER(S): Kirstin Flores, Director

DISCUSSION & TIME ESTIMATES:

The AG's Office of Victim Services has been seeing a number of restitution issues recently that could benefit from an in-depth examination by COVIC's Restitution workgroup. This workgroup has been inactive for the last few years so a motion to reconstitute it is sought, along with new volunteers to study the issues and make any recommendations to the commission.

RECOMMENDED MOTION (IF ANY):

I move to reactivate the Commission's Restitution workgroup and appoint members as approved by the Chair.

Note: No motion is required to be made.

Commission on Victims in the Courts

Meeting Date:	Type of Action Required:	Subject:
June 10, 2016	<input type="checkbox"/> Formal Action Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	SAFER and DANY/SAK Grant Updates

FROM: SAFER and DANY/SAK Grant team members

PRESENTER(S): Judge Ronald Reinstein (ret.), Karyn Rasile, and Jim Markey

DISCUSSION & TIME ESTIMATES: 5 minutes

The commission will be apprised of the progress made by the work of these two teams.

RECOMMENDED MOTION (IF ANY):

The Saga of My Rape Kit

By EMILY WINSLOW MAY 19, 2016



Rebecca Clarke

Cambridge, England — MY rape kit was created on the evening of Sunday, Jan. 12, 1992, at Magee-Womens Hospital in Pittsburgh. Tiny pieces of evidence were swabbed, plucked and combed from me: bits of me and, they hoped, bits of him, to be used in court one day to prove who had done this to me. Like many evidence kits collected at that time, it was not analyzed for DNA, and became part of what is called the backlog: untested rape kits across the country, which number at minimum in the tens of thousands.

I had been raped by a stranger. This was not unusual; according to a Pittsburgh Post-Gazette article from 1990, in only “about half” of Pittsburgh’s rapes was the assailant known to the victim. My evidence was not analyzed for DNA even though the technology was available, not because my case was deemed unworthy of

the time, money and effort, but because there was no one to whom to compare the results.

It was only in the late '90s that the F.B.I. database of criminal DNA samples now known as the Combined DNA Index System (Codis) became fully operational. Until then, DNA evidence from rapes without suspects was not useful. Nevertheless, it was collected and stored, with hope for the future.

I badgered the Pittsburgh police sex assault unit about my case every few years for more than two decades. They finally tested my kit in 2013. It took months and cost the county \$4,000, but it proved more than worthwhile — a match was made with an ex-convict who had recently been arrested in Brooklyn, and prosecution was mobilized.

While I was frustrated that I had to fight to get my kit out of storage, I understand that my old rape was competing with murders and with more recent rapes. There weren't the resources to do more without compromising the current caseload. I'm just deeply grateful that my kit was created in the first place, and that it was kept so well: not just physically well, so as to be still testable after all that time, but also with an intact chain of custody that protected its status as legitimate evidence.

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There's a justified impression that the backlog of untested rape kits is, at least in part, a result of indifference on the part of the police and others in authority dismissing rape as unworthy of prosecution. But this part of the backlog, made of pre-Codis kits like mine, was a result of forward-thinking and diligent police and medical personnel who cared so much about rape that they collected

and kept evidence that they, at the time without a database to match up to, would not themselves get to take to court.

In 2015, grants from the federal government and the Manhattan district attorney's office totaling \$79 million were aimed at testing the national backlog. But it's still common for kits, especially older kits, to fall through the cracks. In layman's understanding, "backlog" refers to "all untested kits," but in some jurisdictions it can refer only to kits that have made it into the crime lab testing queue and not yet been gotten to. Evidence kits that went directly to storage can be left out of these numbers entirely.

Even when crime labs intend to include stored kits in their numbers, that is not necessarily easy to do. A lab can test only those kits that the police submit to it. In Allegheny County, Pennsylvania, for example, where my kit was tested and which was granted \$254,000 last year to clear its backlog, evidence storage is split among many different authorities: the county police, the Pittsburgh police and small police jurisdictions for more than a hundred municipalities outside Pittsburgh. The Allegheny County lab requires the initiative of dozens of different forces just to count the kits. The grant money is providing the means to get known kits tested. It's my hope that it will also, in every jurisdiction that accepts the money, provide the impetus to uncover the older kits that could so easily be overlooked.

Some of these pre-Codis kits will be from cases past their statutes of limitations. Depending on details, they may or may not be prosecutable now. I can't speak for any victims other than myself, but, for me, the identification of my attacker was by itself a significant event in my life, separate from the prosecution that followed. To learn who he is was important. To see my case at last taken as far as it could go by the police and prosecutors was important. It turned out to be too late for some things, but it was not too late to acknowledge me, to respect me and to help me.

When the backlog grants were announced last year, Attorney General Loretta E. Lynch said: “For anyone who has felt isolated and afraid, left out and left behind as a result of a sexual crime, our message is clear: We will not forget you. We will not abandon you. You are not alone.” This is important to say to every victim, not just those whose cases can be prosecuted; not just those whose evidence is easier to find; not just those with evidence already in line at the lab.

[Emily Winslow](#) is the author of “Jane Doe January: My 20-Year Search for Truth and Justice.”

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A version of this op-ed appears in print on May 19, 2016, on page A27 of the New York edition with the headline: The Saga of My Rape Kit. [Today's Paper](#) | [Subscribe](#)

For one woman, the fallout of testing a rape kit: "You become the victim all over again."



By **Rachel Dissell, The Plain Dealer**

[Email the author](#) | [Follow on Twitter](#)

on May 03, 2016 at 11:33 AM, updated May 03, 2016 at 2:55 PM

CLEVELAND, Ohio – She found out on a Friday.

Her rape, the one she reported when she was just 13 years old, was going to trial.

Of course, she thought, I get the guy who's going to dispute this.

Kyra Alexander, now 36, went home and for two days she sat in her bedroom. "I was praying for strength to face my past and get through the trial," she said.

More than three years had passed since her attacker was indicted, first as an unidentified "John Doe" and later as George "Randy" Young.

[Read more about the case and trial here.](#)

No longer could she recall what he looked like. She didn't recognize him in a lineup of photos an investigator showed her.

But Alexander never forgot what he did to her.

One of the first rape kit cases

Alexander was among the first to have a rape case reopened after Cleveland in 2011 started submitting what would eventually add up to 4,000 untested rape kits that dated back to 1993.

It was April of that year that she'd stayed home from school one day because she wasn't feeling well. She was in her mother's bedroom at after getting dressed when a man who'd been dating her mother for about a month charged, slammed her down onto a bed and punched in the head.

He put pillow over her head as she screamed, told her to "shut up" and raped her.

When she was able to shove him away, she ran to a neighbor who called for help.

And more than 20 years later, she was reliving it again.

"Nobody every really asked me what I wanted, it was just like 'this is what's happening.'"

A business card was left in her mailbox and like that, the case was reopened.

"It opened up a can of worms for me I would have left alone," Alexander said. "But that's the way it goes, you become the victim all

over again."

Case was barely investigated

The case could have been handled differently back then, when she was a kid.

"It was never really investigated," she said.

Her mother gave police the name of the boyfriend "Randy Spivey" but the last name was wrong. Police records from the time show the investigation didn't go far. Officers noted the victim and her mother didn't come to the police department to look at suspect photos.

Since then, her relationship with her mother, who'd given the man they barely knew a key to their place in the Central neighborhood, has been strained.

"Nobody every really asked me what I wanted," said a victim who was raped at age 13.

"I felt like she was just as responsible as he was," Alexander said.

After the case was dropped, she tried to put it out of her mind but the rape "completely affected who I am and it shaped my decisions in life."

"I didn't think about it everyday but it shaped my behavior and my choices, which weren't always good," she said. That included using marijuana when she was younger.

Now, though, Alexander a mother of three with two college degrees. Her career has been in working as a case manager to help people with substance abuse and mental health problems.

Young's conviction, at this point, doesn't matter much to her.

"Just finding out and knowing he was locked up already takes away from the anxiety," Alexander said.

Young, when caught, had just been convicted and sentenced to more than 30 years in prison for shooting three people, a crime he maintains he didn't commit.

Court process is frustrating

For Alexander, the court process wasn't about justice. It just amplified the lack of control she had over the situation the longer it dragged on.

"It was like we're going to court, we're not going to court," she said. "It's like nobody understands that every time you do that it effects my house, it effects my life. Every time I get that call, I have to remember again, I get angry again, and that happened for two years."

One saving grace, she said, was Marya Simmons, a victim advocate and supervisor for the Cuyahoga County Prosecutor's office

"She made the process less stressful. I'm grateful for Mrs. Simmons."

Next month, Young will be sentenced.

During his trial he testified that he didn't recognize either of the victims whose rape kits contained his DNA.

"I never raped nobody," he testified.

More can be done to help victims

Despite her personal experience, the Alexander said she still supports the larger initiative to test rape kits.

For some women it will bring much sought or deserved answers. They might find healing, even if she did not. And it might keeps others from being attacked.

"I understand the bigger picture," Alexander said. "However, you have people coming from different places, from different backgrounds, you need to tread lightly...The focus should be how can we get someone through this as delicately as possible."

Because of the years of delay, the women whose rape kits are being tested are owed more support, she said. Especially those who struggled with drugs or alcohol and maybe got sober and whose sobriety is being compromised with this news.

"It unleashes this anger that women hold onto because maybe they weren't believed then," Alexander said. "It also makes you wonder why are you really doing this all now, because you have some grant money. Am I the guinea pig for this experiment?"

She said she's always dealt with the personal fallout the best way she knows how.

"If you are going to disrupt my life you need to offer me more than five free sessions of counseling. You came and disrupted my life. If you can find money to do this you can find money to help people whose lives you shattered."

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 **Ad Choices**

Commission on Victims in the Courts

Meeting Date:	Type of Action Required:	Subject:
June 10, 2016	<input type="checkbox"/> Formal Action Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	Shared Hope Conference

FROM: AOC

PRESENTER(S): Judge Ronald Reinstein (ret.), Chair

DISCUSSION & TIME ESTIMATES: 5 minutes

Judge Reinstein will report on the outcomes from attending this national conference relating to Human Sex Trafficking.

RECOMMENDED MOTION (IF ANY):

Commission on Victims in the Courts

Meeting Date:	Type of Action Required:	Subject:
June 10, 2016	<input type="checkbox"/> Formal Action Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	Start by Believing Campaign Revisited

FROM: Administrative Office of the Courts

PRESENTER(S): Judge Ronald Reinstein (ret.), Chair

DISCUSSION & TIME ESTIMATES: 5 minutes

Judge Reinstein will share other perspectives regarding this campaign from professionals in the fields of law enforcement, prosecution and defense.

RECOMMENDED MOTION (IF ANY):

**Arizona Supreme Court
Commission on Victims in the Courts**

October 21, 2016 Meeting Agenda

1501 W. Washington St., Phoenix, Arizona, 85007
State Courts Building, Conference Room 345A/B

(602) 452-3288 or (520) 388-4330 / Access Code: 0484 / [WebEx](#)

10:00 a.m. – 12:00 p.m.

Call to Order / Welcome / Introductions /
Opening Remarks (10 minutes)

Judge Ronald Reinstein, Chair

Approval of Minutes – June 10, 2016 **

COVIC Restitution Workgroup Report (30 minutes)**

Kirstin Flores, Chair

Fair Justice for All Taskforce Recommendations (30 minutes)**

Tom O’Connell, AOC (Chair)
Kathy Waters, AOC

APAAC Lethality Assessment Working Group Report
(15 minutes)

Amelia Craig Cramer,
Chief Deputy
Pima County Attorney’s Office
Jon Eliason, Division Chief,
Maricopa County Attorney’s
Office

SAFER and DANY / SAK (15 minutes)

Judge Ronald Reinstein, Chair
Mr. Jon Eliason, Maricopa
County Attorney’s Office
Ms. Karyn Rasile, Member

Potential 2017 COVIC Meeting Dates (5 minutes)

Denise Lundin, AOC

Announcements / Call to the Public / Adjournment

Next Meeting

TBD

10:00 a.m. – 12:00 p.m.

Arizona State Courts Building, Conference Room 345 A/B

*****Important Voting Items***

All times are approximate. The Chair reserves the right to set the order of the agenda. For any item on the agenda, the Committee may vote to go into executive session as permitted by Arizona Code of Judicial Administration §1-202. Please contact Denise Lundin at (602) 452-3614 with any questions concerning this agenda. Persons with a disability may request a reasonable accommodation by contacting Kelly Gray at (602) 452-3647. Requests should be made as early as possible to allow time to arrange for the accommodation.

Arizona Supreme Court
Commission on Victims in the Courts
June 10, 2016
10:00 a.m. to 12:00 p.m.
State Courts Building
1501 W. Washington, Phoenix, AZ 85007
Conference Room 119 A/B

Present: Judge Ronald Reinstein; Mr. Timothy J. Agan; Ms. Leesa Berens Weisz; Mr. Michael Breeze; Judge Maria Elena Cruz; Ms. Sydney Davis; Ms. Kirstin Flores; Ms. Kim Hedrick; Ms. Leslie James; Ms. Christine Kelley; Asst. Chief John Leavitt; Mr. Dan Levey; Judge Evelyn Marez; Sgt. Jim Markey (Ret.); Chief Rod McKone; Ms. Jane Nicoletti-Jones; Ms. Debra Olsen; Ms. Elizabeth Ortiz; Mr. William Owsley; Ms. Laura Penny; Judge Sarah (Sally) Simmons; and Judge Richard Weiss

Telephonic: Ms. Shelly Corzo Shaffer; Judge Sam Myers; Ms. Karyn Rasile;

Absent/Excused: Ms. Colleen Clase; Judge Elizabeth Finn; Ms. Keli Luther

Presenters/Guests: Ms. Terri Capozzi; Ms. Janet Johnson; Judge Sam Thumma;

Administrative Office of the Courts: Ms. Jennifer Albright; Ms. Theresa Barrett; Mr. Mike Baumstark; Ms. Kelly Gray; Ms. Jennifer Greene; Ms. Lynn Golden; Ms. Janet Johnson; Ms. Denise Lundin; Ms. Valerie Marin; Ms. Carol Mitchell; Ms. Kay Radwanski; Ms. Angela Rhudy; Mr. Patrick Scott; Ms. Thea Walsh; Ms. Amy Wood

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

The June 2016 meeting of the Commission on Victims in the Courts was called to order by the Honorable Ronald Reinstein, Chair, at 10:02 a.m. The Chair asked for Commission member roll call and introductions of staff and guests.

B. Announcements

The Chair made brief remarks thanking Ms. Carol Mitchell and Ms. Denise Lundin for their work on the Commission.

C. Approval of the February 26, 2016 Minutes

The draft minutes from the February 26, 2016 meet were presented for approval. The chair called for any omissions or corrections to the minutes.

E0
E1 Motion was made by Judge Sally Simmons to approve the February 26, 2016 meeting minutes. Seconded by Judge Evelyn Marez. Motion passed unanimously.

II. PRESENTATIONS

A. Managing Digital Evidence in Courts

The Chair introduced Judge Sam Thumma, Vice Chief Judge of the Arizona Court of Appeals, Division One, who will chair a new Supreme Court committee that is being formed regarding Digital Evidence. The Chair wanted the committee to be aware of this subject due to the growing movement in the country regarding the use of body worn cameras by law enforcement and how such use will impact victim privacy and identification issues.

Judge Thumma relayed that he anticipates working with a group expected to be formed by the Chief Justice which will be tasked to look at the processing and handling of digital evidence in court. He called the commission's attention to the white paper (the National Center for State Courts Joint Technology Committee Resource Bulletin on Managing Digital Evidence in Courts) that was included in the commission meeting packet. This paper provides a strong foundation to start the conversation on comparatively new technology. Collaboration between the new committee and COVIC is anticipated on several issues.

A commission member observed that a primary focus will be the time intensive redaction of victim information. Judge Thumma agreed and commented issues such as the responsibility for redacting and how information is stored and shared.

The Chair stated that he sits on the National Advisory Council for the National Crime Victim Law Institute in Portland OR. This issue came up in a recent meeting regarding victim privacy and body cameras.

Another commission member pointed out that maintaining the privacy of witnesses as well due to recently passed legislation should also be considerations.

Judge Thumma thanked the Commission for their attention on his report and asked the Commission to look over the information provided as there will be more discussion in the future.

B. Supreme Court Rule Petition No. R-16-0035: Arizona Rules Criminal Procedure, 15.1(J) (taken out of order)

Ms. Jennifer Greene, AOC Legal Counsel, stated that in March the Arizona Legislature presented and the Governor signed a bill informally referred to as the "Revenge Porn Bill", which made statutory changes on an emergency basis to protect images of adults in addition to child victims. Subsequently, the Supreme Court adopted an emergency rule change to amend Arizona Rules of Criminal Procedure, 15.1(J). This rule change adds adult images to the child pornography images disclosure governance which were already in place. While this rule is now in effect, there is currently a comment period that runs until September 23, 2016. Any comments by the Commission should be submitted by this date.

C. COVIC 10 Year Anniversary (taken out of order)

The Chair commemorated COVIC's 10 Year Anniversary by giving a brief history of the formation of the commission by then Chief Justice Ruth McGregor in 2006. A PowerPoint with highlights of the Commission's purpose and accomplishments was presented. There are charter members still participating in the Commission, including Mr. Dan Levey, Ms. Sydney Davis, and Judge Richard Weiss. Several prominent previous members were acknowledged as well.

The chair continued his comments regarding COVIC's accomplishments, thanking former Chief Justice Berch and Chief Justice Bales for their support of the Commission, as well as Mr. Dave Byers, Executive Director of the AOC, Mr. Mike Baumstark, Deputy Director of the AOC, and Ms. Amy Wood, Court Services Manager, for their support and assistance. He mentioned that last year COVIC was awarded the Attorney General's Office Distinguished Service Award for Public Policy and concluded by thanking members and welcoming the new members to the Commission.

D. Legislative Update (taken out of order)

Mr. Jerry Landau, and Ms. Amy Love, AOC Government Affairs, presented new legislation that affects victims in the courts. Mr. Landau stated that HB2374, the *Child Prostitution Statute* is expanded to include "knowingly providing a means to which the minor can engage in prostitution."

HB2375, The Facility Dog bill codifies what's going on throughout the State; the court must allow a victim under the age of 18 to use a facility dog to accompany the victim during testifying. If the victim is 18 or above, or a witness, it's discretionary with the court. Jury instructions must be given describing the role of the facility dog as a trained animal. Jury instructions will be written to comply with the parameters set in statute. The bill raises the use

of facility dogs to a higher level, which might increase the amount of litigation that comes with it. The Chair stated the statute isn't specific to the issue of the location of the facility dog in the courtroom. He also stated that the State Bar Jury Criminal Instructions Committee will need to take a look at jury instructions that are uniform.

HB2376 codifies the situation where a victim has the right to present evidence to the court to make an argument regarding restitution. The victim or victim's attorney may address the court.

HB2383 now protects the personal identification of a witness as well as a victim. Mr. Landau stressed that this legislation deals with the public records statute, not the discovery or criminal statutes, or the criminal rules. The statute does provide exceptions for disclosure under Rule 15, and also for information that's exchanged between the court and other entities. The second paragraph in the law is intended to deal with records transmitted between law enforcement and prosecution. This will be based on a public records request.

HB2539 is now a law that allows a defendant convicted of sexual conduct with a minor who has to register (as a sex offender) under certain enumerated parameters, to request the court to remove that registration (the defendant is under age 22 and the victim is either 15, 16 or 17 years old), however there are a number of exclusions.

There weren't that many bills dealing with victims' issues this year but they were important bills. In the AOC Government Affairs office, there is a compilation of the legislative summary involving all the bills that affect the Judicial Branch and the court system.

Mr. Dan Levey mentioned HCR2008 was passed, which created a Day of Remembrance for Murder Victims and Their Families (September 25, 2016) which coincides with the national Day of Remembrance. There was some dissent by legislators on the vote for this issue.

More information about the bills presented can be found on the Arizona State Legislature's website, <http://www.azleg.gov/Bills.asp>.

E. DV Risk and Lethality Assessments Legislation Workgroup (taken out of order)

The Chair introduced an update on the status of the workgroup formed to discuss the issues raised at the February 26, 2016 Commission meeting regarding last year's amendment to ARS § 13-3967. Judge Reinstein stated that Ms. Elizabeth Ortiz would be presenting on the Domestic Violence Risk and Lethality Assessments Legislation Workgroup. The Chair also

recognized Ms. Kay Radwanski, AOC Court Services Staff to the Commission on the Impact of Domestic Violence and the Courts (CIDVC), and reminded the Commission about the February 26, 2016 presentation by Ms. Amelia Cramer, Chief Deputy of the Pima County Attorney's Office and Mr. Jon Eliason from Maricopa County Attorney's Office on the Lethality Assessment, in which a good, spirited discussion was held. After the last Commission meeting it was decided that the Arizona Prosecuting Attorneys' Advisory Council (APAAC) would be the best entity to move this issue forward, because law enforcement will be tasked with doing the assessments. There was a very good group of volunteer participants from CIDVC and COVIC. Ms. Ortiz has agreed to move this project forward, with the Council's approval, and worked with the president of APAAC, Ms. Sheila Polk, Yavapai County Attorney, with Ms. Cramer and Mr. Eliason being the co-chairs.

Ms. Elizabeth Ortiz requested the Commission look at the minutes from the APAAC Lethality Assessment Working Group, which had been distributed to the Commission. She stated that Ms. Cramer and Mr. Eliason chaired a meeting that took place on May 11, 2016 at APAAC. A number of COVIC, CIDVC members, law enforcement, representatives from NAU, ASU, and the City of Phoenix, among others, were there, and there is room for more who are interested in the issue. The goal that was established at that meeting was that in the next 6 to 9 months to determine what a Lethality Assessment should look like. One of the topics while going through the research on the assessment tool was to not lose the victim-centric approach. The next meeting for this workgroup will be September 9, 2016 at 1:00 p.m. at APAAC. Everyone on the Commission is invited to attend in person, via telephone, or through video-conferencing. APAAC is located at 19th Avenue and Camelback Road in Phoenix.

The action items for the next meeting are:

1. Identify a list of different standardized questions that are being used.
2. Identify which assessment is being used in each of Arizona's 15 counties.
3. Dr. Websdale from NAU and Dr. Messing from ASU have agreed to compare the different protocols that are currently being used statewide.

Anyone who is not on the distribution list who is interested in participating, please let Ms. Ortiz know.

The Chair stated that this project was prompted by legislation that the Courts, at arraignment or initial appearance, had to consider any lethality assessment in domestic violence cases. It does not mandate that law enforcement have a DV Assessment and it was discovered that law enforcement in some of the rural counties did not know of the legislation nor were aware of the

assessment. In addition, many different types of assessments are being used in the state. The question of how to present this to the court – whether within, or as a supplement, to the Form 4, to provide consistency for judges and know how to interpret it, is one issue for the APAAC committee to discuss. Judge Simmons stated that training will be important and consistency will help tremendously.

Judge Weiss stated that the assessment was presented through the Mohave County Criminal Justice Coordinating Committee through Judge Sipe and the Mohave County victim advocate, and while there seemed to be some idea that it would be helpful, there was pushback from law enforcement. He observed that there needs to be a real emphasis on training law enforcement on the importance of what this can do in protecting our communities.

F. Introduction to Minor Victims of Sex Trafficking: What You Need to Know (taken out of order)

Ms. Valerie Marin, AOC, presented the work that the Juvenile Justice Services Division (JJSD) is doing in the area of Minor Victims of Sex Trafficking. The JJSD is responsible for the effective administration of programs for delinquent and incorrigible youth in coordination with the juvenile courts. JJSD was awarded a grant from the Governor's Office of Youth, Faith and Family, which provided them with an opportunity to work on a statewide human trafficking initiative. The work on this issue can be categorized into four major areas:

- Awareness
- Training
- Research
- The Future

Each juvenile court services director of the state's 15 counties appointed a county sex trafficking specialist who received specialist training and who will act as the liaison between the AOC and the Superior Court and their counties. Work was done with the Arizona State University (ASU) Design Team to produce sex trafficking reference guides (distributed) that include the national hotline number, the federal definition of sex trafficking, physical indicators, risk factors and warning signs.

Ms. Marin provided detail in the training involved for the specialists. A training video was produced based on the advanced training programs, which is available for public viewing as well as being COJET accredited. The JJSD Treatment Unit also received a grant from the Governor's Office to offer trauma-informed care and Adverse Childhood Experience trainings

throughout the state, and has trained over 500 staff, with two more trainings to occur in the next few months.

As part of the Governor's grant, JJSD partnered with ASU to survey all case-carrying probation officers to determine the number of sex-trafficked victims currently on caseloads. Changes are being considered in data gathering methods and ad hoc reports for the counties are being developed.

At a recent meeting of the Arizona Human Trafficking Council at the Governor's Office, a draft version of the Arizona Guidelines for Developing a Regional Response for Youth Sex Trafficking Victims was presented. This is anticipated to become a statewide protocol that will be used by multiple agencies to identify and treat victims. Three core principles provide a foundation: 1) services should be victim-centered, 2) all responders should demonstrate cultural competency, and 3) all of these youths are victims.

Evidence of success was reported through instances cited including breaking up sex-trafficking rings and saving a kidnapped youth that involved the FBI. Yavapai County has produced a music video to spread awareness called "If You See Something, Say Something", which Ms. Marin showed the commission members.

G. Arizona Coalition to End Sexual and Domestic Violence (ACESDV), Sexual Assault Response Department Overview (taken out of order)

Ms. Tasha Menaker, ACESDV, was unable to attend the Commission meeting due to illness. The Chair stated he hoped to have Ms. Menaker rescheduled to present at the October meeting.

H. National Crime Victims' Rights Week (taken out of order)

Ms. Kirstin Flores, Member, and Director of the Attorney General's Office of Victim Services, presented an overview on National Crime Victims' Rights Week, which was recognized nationally in April. The Attorney General's Office collaborates with other agencies to recognize Crime Victims' Rights Week. Recognition for people who work to ensure victims' rights are upheld is done at a luncheon, where awards: Triumph Over Tragedy (from the Governor's Office), Distinguished Service (from the Attorney General's Office), Justice for All (Maricopa County Attorney's Office) to ensure that people who are out in the trenches and doing the work getting victims' rights upheld are recognized and that victims have a voice in the system. This year's awards from the Attorney General's Office included The Verde Valley Sanctuary for Advocacy and Direct Services (accompanying victims in court and in helping victims obtain protective orders, helping with the local domestic violence shelters, operating a thrift shop to assist DV victims work

experience), The Cochise County Domestic Violence Fatality Review Team for Service Coordination (implementing recommendations in an active way), Ms. Rebecca Begay from the City of Mesa Prosecutor's Office for Innovative Practices (recognizing a need to provide a safe and secure environment for victims that didn't exist in their court previously), and Pastor Brian Steele with the Phoenix Dream Center for Leadership for his work with adult human trafficking victims. She wanted to bring this to the attention of the Commission as it does its work, to consider nominating people (groups and individuals) for these awards.

It was stated that Navajo County recognizes Victims' Rights Week with an annual Victims' Symposium for organizations and participants – there were over 200 participants at this year's 6th annual event. Judge Evelyn Marez was awarded the Distinguished Judicial Award.

I. Restitutions Issues Workgroup (taken out of order)

Ms. Kirstin Flores shared that the Attorney General's Office has Victim Advocates who work on cases being prosecuted by the AG's office, as well as a Restitution Advocate who helps monitor restitution on AG cases, and who works with probation officers when restitution is non-compliant. The AG's Office also has a training program on victims' rights, including restitution issues. As a result of these programs, the AG's Office has come up with a list of questions that keep arising about restitution, so Ms. Flores thinks some of these questions could be answered with the reimplementation of a Restitution Workgroup from COVIC. Questions include wording of statutes, enforceability, the issuance of Criminal Restitution Orders, at what point do parents cease to be responsible for juvenile offenders, and restitution lien paperwork issues. She suggested the Workgroup come up with guidelines for referrals to Restitution Court, or guidelines on how and when restitution is ordered. Judge Weiss and the Chair discussed parental limits issues. The Chair stated in Federal Court US Attorney's Office Civil Division assists victims in executing on criminal restitution orders and judgments, while in the state system victims are left to their own devices. Chief McKone stated each US Attorney's Office has a financial litigation unit that assists victims in collections. Judge Weiss asked about the issue of underrepresentation of attorneys in collecting restitution. Judge Cruz stated that currently defendants are not appointed counsel in post-conviction restitution hearings because it is considered a civil proceeding within the context of a criminal case. The task force (The Task Force on Fair Justice for All) has recommended that there be further study on the appointment of counsel issue, based on county resources.

The Chair asked for volunteers to be on the Restitution Workgroup, and to let Ms. Flores or Ms. Lundin know.

J. SAFER and DANY/SAK Grant Updates (taken out of order)

The Chair introduced Mr. Jim Markey and Ms. Karyn Rasile (by telephone), COVIC Members. Judge Reinstein, Mr. Markey and Ms. Rasile are all members of the Sexual Assault Forensic Evidence Reporting (SAFER) national workgroup with the next meeting set for June 22 – 24, 2016 in Washington, DC. Mr. Markey is working on a final report that will go out in the fall of 2016. Mr. Markey shared some background of the SAFER Act of 2013, when policies, protocols and procedures relating to the issue of untested sexual assault kits around the country were addressed. There are still several levels of federal bureaucracy the report has to go through. Ms. Alison Sedowski from the Phoenix Crime Lab also is a member of the Arizona team. Recommendations have been submitted regarding the investigation of sexual assault, the managing and handling of sexual assault evidence to include sexual assault kits, the collection process involving those kits, timelines and guidelines for the submission and testing of those items, as well as lab recommendations. Nationally, jurisdictions in the states are already developing their own policies and protocols. Twenty-five states have done statewide audits of the number of sexual assault kits that they have, 18 have enacted legislation for submission timelines, 11 have enacted legislation for analysis timelines, 10 have enacted victim notification policies and procedures, eight states now require law enforcement to submit annual reports on the number of sexual assault kits they have in storage, three are developing an electronic management kit tracking system. The SAK project (a BJA project) put in \$35,000,000 this year, will probably do so again next year, and the District Attorney of New York put in another \$35,000,000 for applicants to address their untested sexual assault kits. Tucson PD, Tempe PD and Maricopa County Attorney's Office are all recipients of grants from the New York D. A.'s Office. There is a big granting meeting in Washington DC next week. Mr. Markey estimates there are about 50 jurisdictions involved with receiving grant funding across the country, from state level to regional level to local level with about 80,000 counted sexual assault kits. Next year 15-20 additional sites will be added.

The Chair shared insight on the funding for this program. He stated the data that comes from this program will be very interesting, and there has been noted success. Mr. Markey shared that studies have found that while the number of men committing sexual assaults is small, but for those that do, a very large number of them are serial offenders. The Chair noted that Vice-President Biden has taken a strong interest in this subject as well. Ms. Rasile stated there will be some collections guidelines from the nursing standpoint, decreasing the number of swabs which will increase the amount of sample on the swabs, which will help cut down on time in the lab and make

a better sample. This will correct and improve the process to avoid getting in this position again in the future.

K. Shared Hope Conference

The Chair stated that the Shared Hope Conference would take place June 28 – 29, 2016 in the Phoenix area. Judge Weiss and Judge Reinstein went to a previous conference that was very impactful. In Maricopa County the organization is called “TRUST”, with Nancy Baldwin as the Executive Director, and they were funded by a grant from the former CEO of General Dynamics. Judge Weiss commented it was a great conference and does a lot to help with the awareness that most of us don’t have yet. Judge Reinstein has seen a positive shift on seeing the children as child victims instead of child defendants. Elizabeth Ortiz stated there has been training for prosecutors with police officers training on things to look for in police reports to identify people who may be victims. Judge Weiss stated that under the risk factors, they probably exist for every teenage dependent child we have, so the crossover youth program we have in Arizona is also helping identify and providing some trauma care to those youngsters.

If anyone is interested in attending the Shared Hope Conference, we can get them information.

L. Start by Believing Campaign Revisited

Judge Ronald Reinstein shared some insights on the Start by Believing Campaign regarding the handling of sexual assault cases.

This issue will be discussed in more depth at the October meeting.

More information about the Start by Believing campaign is available at <http://startbybelieving.org/>.

III. CALL TO PUBLIC

A. Good of the Order/Call to the Public

Judge Cruz stated that the Yuma County Restitution Court started in the fall of 2014, collecting approximately \$153,000 in restitution recently. Restitution Court takes place once a month, with about 15 cases, with people paying and thus avoiding court. It has been very successful. There were additional, general comments made about Restitution Courts by other members.

IV. ADJOURNMENT

A. Adjourn

Motion was made by Mr. Michael Breeze at 11:55 a.m. to adjourn.
Seconded by Mr. Timothy Agan. Motion passed unanimously

V. NEXT COMMITTEE DATE

Friday, October 21, 2016
10:00 a.m. to 12:00 p.m.
State Courts Building, Room 345 A/B
1501 W. Washington St., Phoenix, AZ 85007

DRAFT

Commission on Victims in the Courts

Meeting Date:	Type of Action Required:	Subject:
October 21, 2016	<input checked="" type="checkbox"/> Formal Action Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	COVIC Restitution Workgroup

FROM: COVIC Restitution Workgroup

PRESENTER(S): Kirstin Flores, Chair, and other Members

DISCUSSION & TIME ESTIMATES: Presentation (PowerPoint) regarding findings and work done by the COVIC Restitution Workgroup Committee. 30 minutes

RECOMMENDED MOTION (IF ANY):

1. Adoption of the recommendations of the Restitution Workgroup regarding the following items:
 - a. Statute Concerns and Revisions
 - b. AOC Website Content Issues and Revisions
 - c. AOC Website Updates, Revisions, and Added Content
 - d. Restitution Court – Judicial Staff training, utilization of Restitution Webpage
 - e. Task Force on Fair Justice for All Recommendations and the effect it will have on Victims and Victim Restitution
 - f. Continuing Workgroup to focus on Restitution training needs, Victim Locate Project, other potential legislative changes, and other issues as needed.

Commission on Victims in the Courts

Meeting Date:	Type of Action Required:	Subject:
October 21, 2016	<input checked="" type="checkbox"/> Formal Action Request <input type="checkbox"/> Information Only <input type="checkbox"/> Other	Fair Justice For All Task Force Recommendations

FROM: Tom O'Connell and Kathy Waters, Adult Probation Services Division

PRESENTER(S): Tom O'Connell and Kathy Waters, Adult Probation Services Division

DISCUSSION & TIME ESTIMATES: PowerPoint presentation overview of the Recommendations of the Fair Justice For All Task Force. 30 minutes.

RECOMMENDED MOTION (IF ANY): Vote to endorse the recommendations of the Task Force.

Commission on Victims in the Courts

Meeting Date:	Type of Action Required:	Subject: APAAC Lethality Assessment Working Group Report
October 21, 2016	<input type="checkbox"/> Formal Action Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	

FROM: Amelia Craig Cramer, Chief Deputy Pima County Attorney, Co-Chair APAAC Lethality Assessment Working Group

PRESENTER: Amelia Craig Cramer and Jon Eliason, Deputy Chief, Maricopa County Attorney's Office - Co-Chairs, APAAC Lethality Assessment Working Group

DISCUSSION & TIME ESTIMATES:

Report on progress of the APAAC Lethality Assessment Working Group – 15 minutes

Progress to date: (1) consensus on the need for a uniform Lethality Assessment instrument (to be called an "intimate partner risk assessment"); (2) consensus on the questions that should be included in the assessment instrument; (3) consensus on the need for a uniform protocol to be employed by law enforcement officers in administering the assessment instrument questionnaire; (4) the protocol will include victim advocates where they are available; and (5) either victim advocates or law enforcement officers will immediately connect victims who screen as being at risk with services or information about services (via telephone call directly to a service provider agency where one is available, or call to the state or national hotline). A new form including the instrument with the agreed-upon questions, and a new protocol are in the process of being drafted.

Timeline for completion:

November 2016: Working Group final review and approval of instrument and protocol;

December 2016: instrument and protocol to APAAC Council for approval;

December 2016/January 2017 final report and recommendations from APAAC to CIDVIC, COVIC and the Governor's Office;

January to April, 2017: distribution to law enforcement agencies;
January to April, 2017: train the trainers (law enforcement to train law enforcement; prosecutors to train prosecutors; advocates and service providers to train advocates and service providers; judges to train judges; pretrial services to train pretrial services);
February to May 2017: trainings throughout the state for law enforcement, prosecutors, advocates and service providers, judges, and pretrial services officers;
June to August 2017: training at the Judicial Conference, APAAC Prosecutor Conference; and Law Enforcement Pow-Wow
Long-term: track outcomes of implementation, evaluate need for additional funding; fine-tune the instrument if necessary

RECOMMENDED MOTION (IF ANY): None at this time.

Commission on Victims in the Courts

Meeting Date:	Type of Action Required:	Subject:
October 21, 2016	<input type="checkbox"/> Formal Action Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	SAFER and DANY / SAK Grant Updates

FROM: SAFER and DANY/SAK Grant team members

PRESENTER(S): Judge Ronald Reinstein (ret.), Mr. Jon Eliason; Ms. Karyn Rasile

DISCUSSION & TIME ESTIMATES:

The commission will be apprised of the progress made by the work of these two teams. 15 minutes

RECOMMENDED MOTION (IF ANY): None at this time.