

Arizona Supreme Court
Commission on Victims in the Courts

Friday October 19, 2018

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

State Courts Building

1501 W. Washington, Phoenix, AZ 85007

Conference Room 345 A/B

DRAFT

Present: Hon. Ronald Reinstein, Chair; Mr. Michael Breeze; Judge Maria Elena Cruz; Ms. Sydney Davis; Mr. Jon Eliason; Ms. Kindra Fleming (*proxy for Mr. Timothy Agan*); Ms. Kirstin Flores; Ms. Vanessa Helms; Ms. Leslie James; Judge Kellie Johnson; Ms. Christine Kelly; Captain John Leavitt; Mr. Dan Levey; Ms. Barbara Marshall (*proxy for Ms. Elizabeth Ortiz*); Judge Sam Myers; Ms. Debra Olsen; Mr. William Owsley; Mr. Karyn Rasile; Judge Richard Weiss

Telephonic: Ms. Colleen Clase; Ms. Kim Hedrick; Judge Evelyn Marez; Chief Rod McKone; Ms. Laura Penny; Judge Antonio Riojas, Jr.

Absent/Excused: Sgt. James Markey; Ms. Jane Nicoletti-Jones

Presenters/Guests: Ms. Jessica Gattuso; Ms. Jazmyne Landes; Ms. Lois Rees; Ms. Kendall Schaub; Mr. Daniel Torrez; Mr. Randall Udelman; Judge Maria del Mar Verdin (Ret.)

Administrative Office of the Courts: Ms. Theresa Barrett; Ms. Lynn Golden; Ms. Denise Lundin; Ms. Sabrina Nash

I. REGULAR BUSINESS

A. Welcome, Opening Remarks -

The October 2018 meeting of the Commission on Victims in the Courts was called to order by the Honorable Ronald Reinstein, Chair, at 10:05 a.m. The Chair asked the new members to introduce themselves, then asked for a member roll call and introductions of staff, presenters, and guests.

B. Announcements –

Hon. Ronald Reinstein, Chair shared the following announcements –

- 1) Ms. Denise Lundin will be retiring at the end of the year, and this is her last meeting. In addition, Ms. Lynn Golden will pass on support staff duties to a new unit within the Court Services Division. The Chair and Committee wish both the very best. New committee staff were introduced.
- 2) Ms. Sydney Davis spoke on a current production of "The Trial of the Catonsville Nine" that she is performing in at the Herberger Theater Center.

C. Approval of the June 6, 2018 Minutes -

The draft minutes from the June 2018, meeting of the Commission on Victims in the Courts were presented for approval. The chair called for any omissions or corrections to the minutes.

- Motion was made by Ms. Davis to approve the June 6, 2018 meeting minutes. Seconded by Judge Sam Myers. Motion passed, and minutes approved.

II. GUEST SPEAKERS

A. Marsy's Law – Advocating for state and US Constitutional Amendments for Crime Victims' Rights

Judge Maria del Mar Verdin (Ret.) presented information on Marsy's Law, passed in 2008 in California, which deals with protecting crime victims' rights and informing families of victims of crime of the release of defendants. The Marsy's Law organization now works to amend state constitutions that don't offer protection to crime victims.

B. Victim Offender Dialogue (VOD) Program

Mr. Daniel Torrez, ADC Office of Victim Services, presented information on a new program, Victim Offender Dialogue Program (VOD), which is a program that provides an opportunity for eligible victim/survivors to meet with an offender face-to-face in a safe and secure environment with the assistance of a trained facilitator. The VOD Program is voluntary for both the victim and offender/inmate. Participation by an offender in the VOD Program does not impact his/her sentence, parole, or release considerations. This discussion is meant to empower victims, and to allow 1) the victim to tell the offender the full impact of their crime and share information on a loved one, 2) the victim to find out if the offender has changed since incarceration and if he/she is remorseful and accept responsibility for the crime, and to allow the victim to offer the offender forgiveness, helping the victim to move forward and heal.

III. ARIZONA RULES OF CRIMINAL PROCEDURE – RULE 15.3 (out of order) –

Judge Richard Weiss raised an issue presented in Mohave County by the Mohave County Attorney's Office as to whether they could seek a local rule change. They believed the Criminal Rules Restyling Taskforce inadvertently made a substantive change to Rule 15.3 of the Rules of Criminal Procedure that would prevent prosecutors from deposing uncooperative victims, particularly in domestic violence cases. The discussion concluded that they could not seek a Local Rule for something otherwise covered in Rule 15.3, however, they could go through the Supreme Court Rules Petition process. The discussion dealt with whether a domestic violence victim who chose not to cooperate out of fear or unwillingness to participate in legal proceedings should be forced to cooperate through deposition, as opposed to a victim who was not available due to health or distance concerns. Members concluded that they were still victims, whether they chose to participate or not.

IV. RESTITUTION WORKGROUP UPDATE

Ms. Kirstin Flores, Workgroup Chair, presented that the focus of the Restitution Workgroup has been a revision of the judges' Reference Manual for Restitution in Limited Court jurisdiction. Regular meetings by this dedicated sub-committee has resulted in an updated, organized, and efficient guide. We plan to present the Revised Manual to the AOC next month.

V. ARIZONA CASELAW AND COURT OPINIONS UPDATE

Judge Reinstein and Ms. Colleen Clase presented an update on three recent Arizona Court of Appeals opinions impacting victims' rights. E.H. vs Slayton/Conley filed 8/30/18 – held that anyone who fits within the familial categories of victim in murder and cases in which the victim becomes incapacitated is entitled to VBR. State vs Martinez filed 05/24/19 holding that the presentation of victim impact in the form of a video to the judge was not unduly prejudicial in this case. Z.W. vs Foster/Achenbach filed 05/24/18 holding that the use of the term, "alleged victim" in trial did not violate this victim's rights in this case, however, the superior court retains discretion to assess on a case-by-case basis. This case is being taken up for review.

GUEST SPEAKERS (CONTINUED) -

C. Arizona Crime Victim Rights Law Group –

Mr. Randall Udelman, Attorney, and Mr. Dan Levey presented information on the Arizona Crime Victim Rights Law Group, founded by Mr. Udelman.

This organization provides free legal assistance to victims in dealing with the criminal justice system from the time the charging decision is made through the defendant's completion of sentence and after. Some recent issues they've been working on are the delay of a victim's speedy right to trial when a defendant is ordered into a Rule 11 competency evaluative process and perfecting a victim's right to a pre-conviction restitution lien at the time of indictment, which would preserve the status quo. Also, his group is working towards a procedure in which when courts hold review hearings after a probation officer notices the court that restitution is not being timely paid, the victim may attend and present evidence as to why the defendant should uphold his/her payment obligations as outlined in the recent amendments to ARS § 13-804. Finally, there are other tools in the criminal code that allow the court to have continuing jurisdiction in cases of non-payment of restitution and collection may be obtained by victims through writs of garnishment and execution and other methods. The tools are not being taken advantage of enough and he called for the victims-centric community and defense bar to work collectively to increase the restitution collection rate

VI. 2019 POTENTIAL MEETING DATES

Ms. Lynn Golden, COVIC Staff, shared the potential meeting dates for COVIC in 2019 that are available on the Arizona State Courts Building calendar. Information will go out once dates are finalized to firm then up. Expect to be contacted by COVIC Staff regarding final dates soon.

Postscript: 2019 dates have been confirmed and sent out to members.

VII. CALL TO PUBLIC

Judge Reinstein made a Call to the Public. Ms. Chis Kelly announced Aaron Nash will be leaving the Maricopa County Clerk's Office to be the new Public Information Officer for the AOC.

VIII. ADJOURNMENT -

- Motion was made by Judge Myers to adjourn. Seconded by Captain John Leavitt. Motion passed. Meeting adjourned at 12:06 p.m.

NEXT COMMITTEE MEETING DATE

**March 15, 2019
10:00 a.m. to 12:00 p.m.
State Courts Building, Room 345 A/B
1501 W. Washington St., Phoenix, AZ 85007**

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