

## Commission on Victims in the Courts

Friday, June 14, 2019

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

Conference Room 345 A/B

1501 West Washington Street

Phoenix, Arizona 85007

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**Present:** Judge Ron Reinstein (chair), Timothy Agan, Michael Breeze, Collen Clase, Judge Maria Elena Cruz, Sydney Davis, Jon Eliason, Amy Bock (proxy for Kristin Flores), Vanessa Helms, Leslie James, Judge Kellie Johnson, Dan Levey, Sergeant James Markey (Ret.), Chief Rod McKone, Jane Nicoletti-Jones, William Owsley, Laura Penny, Karyn Rasile, Judge Patti Starr (proxy for Judge Sam Myers)

**Telephonic:** Kimberly Chichester, Captain John Leavitt, Elizabeth Ortiz, Judge Antonio Riojas, Judge Richard Weiss

**Absent:** Christine Kelly, Judge Evelyn Marez

**Staff:** Sabrina Nash, Susan Pickard, Administrative Office of the Courts (AOC)

### I. REGULAR BUSINESS

- A. **Welcome and Opening Remarks** - With a quorum present, the March 22, 2019, meeting of the Commission on Victims in the Courts (COVIC) was called to order at 10:03 a.m. by Judge Ronald Reinstein, Chair.

Judge Reinstein made the following announcements:

- Acknowledged Laura Penny's last COVIC meeting and thanked her for her commitment.
- It is also Susan Pickard's last COVIC meeting, she was promoted and will be on another assignment.
- Introduced Jennifer Albright as Susan Pickard's replacement as staff to the commission.
- Announced that Patti Starr is the new Presiding Criminal Judge for Maricopa County.
- Announced that Jennifer Runge, Victim Services in Coconino County, has been appointed to the commission, and stated that a replacement for Chris Kelley was in the works.

- B. **Approval of Minutes** - The draft minutes from the March 22, 2019, meeting of the COVIC were presented for approval.

**Motion:** To approve the March 22, 2019 minutes as presented. **Moved:** Ms. Sydney Davis. **Second:** Dan Levey. **Vote:** Passed unanimously.

## II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

### A. R-18-0035 – Petition to Amend Rule 15.3(a) of the Rules of Criminal Procedure

Judge Reinstein stated that the restyling of the Arizona Rules of Criminal Procedure in 2017 created the unintended consequence of removing the ability of the prosecutor to seek the deposition of crime victims who are otherwise unavailable to testify at trial, thus forcing prosecutors to dismiss some cases.

**Motion:** To support the petition to amend Rule 15.3(a) to the original language.

**Moved:** Ms. Sydney Davis. **Second:** Michael Breeze. **Vote:** 18 yeas, 3 opposed, 1 abstention.

### B. R-19-0016 – Petition to Modify the Rules of Criminal Procedure by Integrating Victims' Rights, Repeal Rule 39

Judge Reinstein noted that this petition was filed last year and declined. It has been refiled this year with changes to address discovery concerns. Colleen shared that changes were made to the new petition, incorporating some of the comments that were suggested. She stated that this is not an action item it is an update to the Commission.

### C. Legislative Update

Amy Love, AOC Government Affairs

- **H2055: JUVENILE COURT; JURISDICTION; UNDESIGNATED FELONY** - the juvenile court is required to retain jurisdiction after a juvenile's 18th birthday, designate an undesignated felony offense as a misdemeanor or felony even after an adjudication is set aside. Factors the court may consider when determining whether to set aside an adjudication for a person who has been adjudicated delinquent or incorrigible are listed. If the court grants an application to set aside an adjudication, any remaining unpaid monetary obligation is owed until paid. Signed by Governor.
- **H2080: CRIMINAL RIGHTS RESTORATION; APPLICATION PROCEDURES** - at the time of sentencing, the court is required to inform a person in writing of the person's right to the restoration of civil rights. Upon "final discharge" and without filing an application, any person who has not previously been convicted of a felony offense must automatically be restored any civil rights that were lost or suspended because of the conviction, other than a person's right to possess a firearm, if the person pays any victim restitution imposed. Two years from the date of final discharge, a person who has previously been convicted of a felony or who has not paid any victim restitution that was imposed is permitted to apply to the superior court to have the person's civil rights restored at the discretion of the judge. A person who is convicted of a dangerous offense, serious offense or a violent or aggravated offense is prohibited from filing for the restoration of the right to possess or carry a firearm. Signed by Governor.
- **H2466: CRIMINAL PROCEEDINGS; CHILD WELFARE; PRECLUSION** - extends the

statute of limitations from two years to twelve years or 30 years of age for victims of childhood sexual assault. Victims of childhood sexual abuse, who are currently barred from seeking civil restitution due to the current statute of limitation now have until December 31, 2020 to file for restitution. Emergency clause in effect. Signed by Governor.

- **S1250: Injunction Against Harassment – Prohibiting possession of firearm** – allows a person who is a victim of certain acts of sexual violence to obtain an Injunction Against Harassment based on only one incident. This assumes the victim does not have a qualifying relationship with the defendant that would allow for an Order of Protection. Signed by Governor.
- **H1315: Victim’s Right; Refusal of Interviews** – the right of a victim and a victim’s representative to refuse an interview, deposition or any other discovery request by the defendant, the defendant’s attorney or any other person acting on behalf of the defendant remains enforceable beyond a final disposition of the charges. Allows a victim to bring special action seeking to enforce any right or challenge order denying any right guaranteed to the victim. Victims cannot be charged a filing fee to file a special action or to seek an order to invoke victim’s rights. Except in cases involving a dismissal with prejudice or acquittal, Signed by Governor.

#### **D. Victim Right to Privacy & Safety – Body Cam Video Redacted/Unredacted to Defense**

Dan Levey, Executive Director, Arizona Crime Victim Rights Law Group, discussed concerns regarding SB1313. Concerns expressed related to victim privacy and safety issues because the bill would allow prosecutors to turn over body cam video, without viewing, unredacted video to the defense. Other issues are: that there are not enough resources to redact victim identifying information from body cam videos, delays caused by redaction, discovery issues between prosecutors and defense, finding specific purposeful consideration of body cam video requests. It was suggested that an Attorney General Opinion be requested.

#### **E. Restitution Workgroup Update**

Kirstin Flores, Office of the Attorney General, stated that the workgroup hasn’t met however, they are working on a restitution presentation for the judicial conference. Topics include enforcement tools and what is available, location of website(s) to educate victims and judges.

#### **F. Mexico’s Treatment of Victims as Parties**

Judge Maria Elena Cruz provided a quick overview of how victim rights have been reformed in Mexico. Recent changes include criminal trials with a three-judge panel, public trials, a Victim’s Rights Law, and victim advocates provided by the state who participate as a party to the case with the victim. Victims are permitted to be a party to the proceedings and may cross examine, call witnesses and offer opening statements/closing argument. Judge Cruz stated that Arizona State University and Tec

de Monterrey formed a partnership to help train victim advocates. She noted that there are still challenges to be overcome such as financial resources to help victims and victim advocates, and the equitable training of judges, prosecutors, law enforcement, defense attorneys and investigator. She also mentioned that women attorneys who speak Spanish are needed to help with training and asked for referrals of interested attorneys.

**G. Form IV(C) Release Questionnaire; Intimate Partner Risk Assessment**

Judge Reinstein indicated that the City of Phoenix Intimate Risk Assessment form shows the victim's date of birth and phone number. It is felt that having that information listed on the risk assessment creates a risk to the victim. There is also the question of whether the form is a public record. Pima County had a paper triplicate form where the victim's date of birth and phone number are visible only on the prosecutor's copy with the information redacted on the law enforcement and court copies. Pima county Sheriff and local police departments now have an ap that permits them to complete the form electronically.

**H. Case Law Update**

Judge Reinstein postponed until the next meeting

**III. Good of the Order/Call to Public**

**Call to the Public:** None present.

**Adjournment:** Meeting adjourned at 12:07 p.m.

**Next Meeting: Friday, October 18, 2019**

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

State Courts Building, Room 345 A/B

1501 West Washington Street

Phoenix, Arizona 85007