

Commission on Victims in the Courts

Friday, October 18, 2019

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

Conference Room 345 A/B

1501 West Washington Street

Phoenix, Arizona 85007

Present: Judge Ron Reinstein (chair), Colleen Clase, Judge Maria Elena Cruz, Sydney Davis, Jon Eliason, Kristin Flores, Raymond Hanna (proxy for Michael Breeze), Leslie James, Judge Kellie Johnson, Captain John Levitt, Dan Levey, Chief Rod McKone, Karyn Rasile, Jennifer Runge, Christina Spurlock, Judge Patricia Starr, Judge Richard Weiss.

Telephonic: Kimberly Chichester, Elizabeth Ortiz, William Owsley, Judge Antonio Riojas

Absent: Timothy Agan, Vanessa Helms, Jane Nicoletti-Jones, Evelyn Marez, Sargent James Markey

Guests: Chief Justice Robert Brutinel, Arizona Supreme Court, Commander Melissa Zabor, Commander Tracy Nadzieja, Maricopa County Superior Court

Staff: Sabrina Nash, Jennifer Albright, Theresa Barrett, Administrative Office of the Courts (AOC)

I. REGULAR BUSINESS

- A. **Welcome and Opening Remarks** - The October 18, 2019, meeting of the Commission on Victims in the Courts (COVIC) was called to order at 10: a.m. by Judge Ronald Reinstein, Chair.

Judge Reinstein introduced three new members; Judge Patricia Starr, presiding criminal judge, Maricopa County Superior Court; Christina Spurlock, chief deputy clerk, Mohave County, Jennifer Runge, executive director, Victim Witness Services, Coconino County.

- B. **Approval of Minutes** - The draft minutes from the June 14, 2019, meeting of the COVIC were presented for approval. Judge Kellie Johnson stated that she was present at this meeting.

Motion: To approve the June 14, 2019 minutes as amended. **Moved:** Judge Richard Weiss. **Second:** Sydney Davis. **Vote:** Passed unanimously.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. **Remarks on 2020-2024 Strategic Agenda & Victims and the Court**

Chief Justice Brutinel explained that goal of the new five-year strategic plan is to provide a baseline for the courts and all who interact with the court system on the direction the courts will take under the new Chief Justice. In the new strategic agenda, there is still an emphasis on access to justice for domestic violence victims and self-represented

litigants. Justice Brutinel stated that the Task Force on the Delivery of Legal Services (LSTF), chaired by Justice Timmer, released their report and recommendations and noted a few of the recommendations.

- Proposed amendment to Supreme Court Rule 38(d) would clarify that recent law graduates may be certified to engage in the limited practice of law under the supervision of an attorney.
- Proposed amendment to Supreme Court Rule 42, ethical rules 7.1 to 7.5 relative to alternative business structures that would allow capital investment in law firms by non-lawyers.
- Tiered changes to the Arizona Certified Legal Document Preparer program.

He also noted a few of the recommendations from the Committee on Mental Health and the Justice Systems.

- Use of the sequential intercept model to increase awareness of mental health issues.
- How to deescalate inappropriate behaviors and train law enforcement, judges and court staff to recognize mental health issues.
- Creating a partnership with the Arizona Health Care Cost Containment System (AHCCCS) to create crisis drop off centers where law enforcement can take mentally ill individuals to provide them with the mental health services they need.

Justice Brutinel stated that his emphasis is making the courts, judges and court employees more efficient and effective. He discussed the need to provide needed resources and services to the courts, and to collect data to demonstrate that the courts are effective in resolving society's disputes. Some ideas to assist with these goals are:

- Time standards to expedite the processing of court cases.
- Train new judges.
- Creation of a trial judge college.
- Pre-trial release assessment to include victim input.
- Online dispute resolution.

Discussion: Members discussed the lack of consistency with the ordering, collecting and enforcing of restitution orders, the lack of statistics to use when trying to come up with viable solutions, and the considerate and compassionate treatment of mental health defendants and all court visitors.

B. Pre-trial Release Decisions & Victim's Rights

Commissioner Melissa Zabor, presiding IA commissioner and Commissioner Tracy Nadzieja, associate presiding IA discussed how Maricopa county makes its pre-trial release decisions. The IA court in Maricopa county is open 24-hours a day, seven days a week, and holds court every three hours for individuals who've been arrested to determine release conditions or set bond. In the preparation time prior to court, the

commissioner reviews the police report, the defendant's criminal history and the research-based recommendation provided to the commissioner before court. The research is based on the following indicators:

- defendant's criminal history
- age
- violence of the offense
- probability of re-offending
- number of failures to appear
- victim statement

The court then makes a recommendation on release or bond. Commissioners are not bound by research-based recommendations however, it does provide them with a research-based informed decision.

Discussion: Members discussed victim statements, victim's appearance, telephonic appearances, remote appearance options for victims of violent crimes.

C. National Organization for Victim Assistance (NOVA) Conference Update

Kirstin Flores, director, Office of the Arizona Attorney General, updated COVIC on the national conference and discussed the creation of an interactive board game that shows the victim's journey through to legal system.

D. Arizona Cold Case Conference

Jon Eliason, deputy attorney, Maricopa County Attorney's Office, reported on the Cold Case conference he chaired in August and discussed some of the tools now being used to crack cold cases and bring justice to victims such as: familial DNA, locating fugitives in Mexico and extradite them back to US, and using cellphone technology to track and apprehend fugitives.

E. Judicial Conference Update (taken out of order)

Judge Reinstein stated that he attended the Judicial Conference in June and shared that the conference sponsored two sessions:

- Victim's issues featuring Leslie James, Kim Chichester and officer Jaime Cole, Goodyear Police Department, about their experiences in the justice system. The session was well received and highly impactful.
- The restitution session titled "*Real Money, Real People*" featured Kirstin Flores, Judge Bluff and Randy Udelman and generated a lot of discussion on restitution.

F. Supreme Court Rules Agenda; Rules 15.3 & 39

Judge Reinstein discussed the following two victim related rule change petitions:

- The Maricopa County Attorney's Office supports the petition for Rule 15.3(A) Arizona Rules of Criminal Procedure which seeks to correct a restyling of the rule that created an unintended consequence that currently affects the prosecutor's ability to dispose a crime victim in an appropriate case.

- Arizona Voice for Crime Victims (AVCV) submitted a petition to integrate the rights guaranteed to victims by the Arizona Constitution and Arizona Revised Statutes throughout each applicable rule provision and repeal Rule 39. The justices decided to keep Rule 39 but are receptive to hearing about specific rules that would merit a rule change.

G. Restitution Issues and Workgroup

Kirstin Flores, director, Office of the Arizona Attorney General, explained that the workgroup reviewed lower jurisdiction courts reference manual for restitution and updated case law.

Rod McKone stated that workgroup has discussed that it is unknown if we are doing well in the collection of restitution. He stated that he is meeting with probation chiefs, clerk's office representatives, AOC and others to discuss refining AJACS so the capacity to track restitution data is possible.

Discussion: to establish best practices for Restitution Courts. Judges Starr and Cruz, Kristin Flores, Rod McKone and Dan Levey to develop.

H. Capital Case Oversight Committee Capital Case Jury Issues Workgroup

Judge Reinstein mentioned that a workgroup is being formed in the Capital Case Oversight Committee to address the issue brought by the Arizona State Bar regarding the jury instructions given to jurors in capital cases. There is some discussion that the instructions may be difficult for jurors to understand.

III. Good of the Order/Call to Public

- Colleen Clase briefly discussed two decisions one on restitution where the trial court didn't order restitution, and another on restitution caps that would assist victim with counseling.
- Judge Reinstein reported on a Capitol Times article regarding the lethality assessment tool used in domestic violence situations and how many law enforcement agencies are not using the lethality assessment or were unaware that it existed, how many JPs didn't know about the lethality assessment.
- Jennifer Albright shared information on the AZPoint web portal that allows victims to file petition for orders of protection and injunctions against harassment.
- Leslie James stated that the 9th circuit denied a rehearing petition on her sister's case and thanked everyone who's been involved with her sister's case.
- Jon Eliason shared that the neighborhood victim's rights statute needs work and stated that he'd be willing to assist.
- Kirstin Flores announced that AG's Office is starting basic victim rights training.
- Dan Levey announced that the Arizona Crime Victim Rights Law Group has a website www.azvictimrights.org to assist anyone needing help.

Call to the Public: None present.

Adjournment: Meeting adjourned at 11:54 p.m.

Next Meeting: Friday, March 13, 2020the