

## Commission on Victims in the Courts

**Friday, March 13, 2020**

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), Michael Breeze, Colleen Clase, Judge Maria Elena Cruz, Kirstin Flores, Leslie James, Jane Nicoletti-Jones, Christina Spurlock, Judge Richard Weiss

**Telephonic:** Kimberly Chichester, Jon Eliason, Vanessa Helms, Judge Kellie Johnson, Captain John Leavitt, Dan Levey, Chief Rod McKone, Elizabeth Ortiz, William Owsley, Jennifer Runge, Judge Patricia Starr

**Absent:** Timothy Agan, Sydney Davis, Sergeant James Markey (ret.), Karen Rasile, Judge Antonio Riojas

**Presenters/Guests:** Elise Kulik, Chris Groninger, Kay Radwanski, Judge Winthrop

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

### I. REGULAR BUSINESS

- A. **Welcome and Opening Remarks** - With a quorum present, the March 13, 2020, meeting of the Commission on Victims in the Courts (COVIC) was called to order at 10:05 a.m. by Judge Ronald Reinstein, Chair.
- B. **Approval of Minutes** - The draft minutes from the October 18, 2019 meeting of the COVIC were presented for approval.  
**Motion:** To approve the October 18, 2019 minutes as amended. **Moved:** Mr. Michael Breeze. **Second:** Mr. Jon Eliason. **Vote:** Passed unanimously.

### II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

#### A. **AZPOINT: Arizona Protective Order Initiation and Notification Tool**

Kay Radwanski, AOC Senior Policy Analyst, provided the background and history of the AZPoint project which went into effect January 1, 2020, and highlighted that Protective Orders are to be serviced with 72 hours. Once the court grants the petition the courts transmit the Order of Protection to law enforcement for service. AOC registers protective orders with the National Crime Information Center and is the central repository for protective orders. The AOC partnered with ACJC to implement the goals of the legislature to automate and increase the number of Orders of Protection and Injunctions Against Harassment that are served and reported to NCIC. ACJC obtained grant funds to assist AOC ITD with the technological aspect of creating a web portal. Ms. Radwanski discussed the three portals of AZPOINT.

- **Petition Portal** – is a guided interview to help the petitioner complete the document, which is stored in the portal for up to 90 days to give the petitioner time to edit the document and create a safety plan. The site is accessible on multiple devices, generates a petition confirmation number and has a floating safety button that allows the petitioner to quickly close the document if needed without losing information already entered. The petitioner files at the court of their choice unless a family court case is pending in which case they must file with that court. The court downloads the forms from the portal.
- **Clerk Portal** – allows court staff to accept and print Petition documents completed via AZPOINT using the petition confirmation number supplied by the petitioner.
- **Service Portal** – permits law enforcement to search for the protective order by a court's Case Number, print the servicing packet order and the service of process information form if the protective order was completed via AZPoint. Law enforcement will be able to search and enter a declaration of services after the order has been served and can transfer the service assignment from one agency to another.

Ms. Radwanski noted that the AZPOINT portal will be translated into Spanish soon.

## B. Legislative Update

Elise Kulik, AOC Legislative Analyst, stated that the legislature was halfway through this session. In response to COVID-19 the legislature is closing its galleries and limiting public access. Some legislators are self-quarantining which may impact upcoming votes on legislation. She reported the legislature hoped to complete the budget before the COVID-19 emergency escalates. She presented the following update on bills in process:

- **HB2411 Convictions; penalties; surcharge distribution** - is a technical bill attempting to correct errors in distribution to the fund.
- **HB2414 Appropriations; alternative prosecution; diversion programs** - is an appropriations bill to expand diversion program.
- **HB2538 Health care workers; assault; prevention** - now includes health care workers to the list of protected individuals and has passed out of the House.
- **HB2581 Dangerous; incompetent person; evaluation; commitment** - closes the loophole for those who cannot be restored to competency.
- **HB2649 Prisoners; mental health transition program** – creates a mental health transition pilot program to provide eligible inmates with transition services in the community.
- **HB2808 Functionally literate inmates; release eligibility** – modifies release conditions and credits for inmates.
- **SB1172 Sex offender registration; requirements; vehicles** – decreases the time to register to within three days of adjudication.
- **SB1278 Victims' privacy; criminal case information** – clarifies 2014 statute that gives the victim the right not to testify regarding any identifying or locating

information in a court proceeding unless the victim consents or it is court ordered.

### **C. Domestic Violence Legal Document Preparers (DVLDP) Pilot Program**

Chris Groninger presented on the Domestic Violence Legal Document Preparers (DVLDP) Pilot Program. The pilot's goal is to provide more access to free legal help to that that could not afford it and provide a means to assist Legal Aid with its high-volume needs. Ms. Groninger discussed the Administrative Order and the structure of the program. Participants will be lay legal advocates that have experience and training working in family law, housing, and debt collection issues. Currently lay legal advocates do similar work, but do not have the capacity to help scribe the documents and give information at the level they can as a DVLDP. Participants will take a substantive law test on the limited scope of the work they are allowed by AO to engage in and will then work under the supervision of a legal aid attorney for those serviced by legal aid agencies before becoming certified to work without attorney supervision.

Ms. Groninger answered questions from members about the details of the program from qualifications to limits on the services that can be offered.

### **D. Restitution Topics**

#### **Yuma Restitution Court.**

Judge Cruz provided an update on her returning to the bench in Yuma County to hold restitution court. This was the second restitution date of the year. The court is keeping statistics to compare with the prior restitution court in Yuma and to inform the newly formed workgroup from COVIC. The workgroup will work on a bench book for Superior Court Restitution Court. In closing, Judge Cruz discussed the potential for retired judges volunteering as pro tems for other restitution courts around the state.

#### **Discussion on cite and release statute and victim's rights.**

Kirstin Flores reported on a concern that was recently raised in her office. The office created a victim's rights waiver form that is provided to law enforcement to allow a victim to opt in for their pre-conviction rights. The form requires the officer provide notice of an initial appearance upon arrest or cite and release. The form states on a cite and release the suspect can appear in court before the initial appearance date. After research, ARS 13-3903(f) as well as the Arizona traffic complaint say the same thing. So the question arose as to who would then notify a victim that the suspect was at court and having an initial appearance.

Ms. Flores wanted to ask the group if anyone has or is aware of a practice where the court notifies victims and whether this should be addressed with legislation. Chair Reinstein noted that in doing restitution complaint reviews there are issues that arise when a defendant comes in on a misdemeanor and has an initial appearance and pleads and is sentenced all at once. He noted the *Klein* case that states victims' rights apply to misdemeanors. Captain Leavitt stated in his county there have been past efforts to have iPads, one where the suspect is being held before being cited and released and one that can be taken to the victim in field. But he is not sure such a practice was in place still.

The question was whether the statute should be amended to prevent the ability of suspect to go to court before set hearing date, so victim does not miss an opportunity to appear as allowed by victims' rights statutes. It was noted that the language allowing persons to appear before a set date is often used by persons passing through the state or are in the state short term, such as for vacation, so any change to statute needs to consider this. Others shared that they have similar issues with persons coming through and wanting to resolve, so the courts have to scramble to determine if they can reach a victim.

Suggested that there be increased education to the bench and that if a victim case the court has to ensure that there is notice to any victim.

#### **E. Case Updates**

Judge Reinstein passed on case updates to allow time to address other agenda items.

#### **F. AVCV's Rule Change Petition seeking to integrate Rule 39 throughout the rules of procedure**

Judge Reinstein indicated the Justices wanted the Commission to review and provide input, even if after the comment period ends (noting the petition was not in meeting materials so may need to address at June meeting). Colleen Clase did a brief summary of the petition to assist members in preparation for a vote at June meeting. The petition seeks to integrate victims' right into the rules versus having them only in Rule 39. This is the third year this petition has been filed. This year the petition states clearly that a victim is not a party and that Rule 39 would remain in place versus eliminating it once its provisions are integrated into other rules based on feedback to the petition in prior years.

Members briefly discussed positions and asked questions about the petition. Members also discussed other ways to ensure judges are more informed and experienced in applying and addressing appropriately victims' rights as provided in Rule 39.

### **III. Good of the Order:** There was no other business or topic raised by the members.

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

**Adjournment:** Meeting adjourned at 12:00 p.m.

#### **Next Meeting:**

Friday, June 12, 2020

10:00 a.m. to 3:00 p.m.

State Courts Building, Room 119

1501 West Washington Street

Phoenix, AZ 85007