

V. R. E. A. C

Victims' Rights Enforcement Advisory Commission

Minutes

WEDNESDAY, DECEMBER 17, 2014

Legislative Office Building, Room 1B 300

Capitol Ave., Hartford

2:00 – 4:00p.m.

1. Welcome and Introductions --- Call to Order 2:04 pm
 - a. Membership Introductions

Members Present: Hakima Bey-Coon, Esq., Merit Lajoie, Hon. Elliot N. Solomon (in place Hon. Patrick L. Carroll III), Scott Semple, Mario T. Gaboury, Esq., Carleton J. Giles, Ana Gonzalez, Janice Heggie Margolis, Kevin T. Kane, Esq., Jillian Knox, Jessica Pizzano, Bethany Phillips, Esq., James C. Rovella, Dora B. Schriro, Andrew Woods, and Linda J. Cimino.

Members Absent: Laura Cordes, Karen Jarmoc, Dawn Luddy, Anne Mahoney, Esq., Susan O. Storey, Esq.

- b. Approval of the Minutes – December 3, 2014

Linda J. Cimino, asked for a correction on page 5, for the b in “Judicial Branch” to be capitalized. A motion to approve the minutes was made by Linda J. Cimino, Second by Kevin T. Kane, Esq. Minutes were approved.

- c. Commission Correspondence

Hakima Bey-Coon, Esq., explains to commission members that she received correspondence from Jim Clark, Esq. from the Victim Rights Center of Connecticut, Inc. in which he submitted a proposal to V.R.E.A.C. concerning statutory rights for crime victims. Hakima Bey-Coon, Esq. moved on to the public comment section of the agenda.

2. Public Comment

Hakima Bey-Coon, Esq., asked if there are any members of the public who would like to address commission members, to please do so. Jim Clark, Esq., Founder & Executive Director, Victim Rights Center of Connecticut, Inc., submitted a proposal, RE: STATUTORY VICTIM RIGHTS, outlining his suggestions for statutory changes for crime victims' rights (refer to his 4 page proposal). He discussed his proposal in detail with commission members.

Hakima Bey-Coon, Esq., asked commission members if they had any questions for Mr. Clark in regards to his proposal. Hakima Bey-Coon, Esq. expressed what she thinks is missing on page

three of four, in section two, is something to say, “and grant a remedy by due course of law for violation of the right established in this section”. She added that while we can acknowledge that a right has been violated, we still need a remedy. Mr. Clark agrees that would be a great addition to this section.

Kevin T. Kane, Esq. refers to Attorney Clark’s proposal regarding the filing of court appearances by a victim or the lawful representative of a victim (refer to section 2 on page 3 of 4 of Jim Clark’s proposal.) Kevin T. Kane, Esq. asked Attorney Clark if he is filing court appearances in criminal cases, and Attorney Clark explained that he has been filing court appearances on behalf of victims for a year. Attorney Clark states that judges don’t seem to mind with the exception of his attempt to participate in a Judicial pre-trial in the New Haven Court system. Kevin T. Kane, Esq. expressed that having a victim or the lawful representative filing an appearance in a general sense, causes all sorts of issues. Attorney Clark responded that it is a limited appearance to ensure that the victim’s rights enumerated in the act are enforced.

Mario T. Gaboury, Esq. agrees with the concept of having a mechanism in place so layman victims will have their rights protected in criminal proceedings. Kevin T. Kane, Esq. agrees with the general concept, however he states that there are other issues that need to be worked out procedurally. Judge Solomon expressed concerns with Attorney Clark’s proposal and stated that he needs more time to review the proposal. He further states that he is unclear what it means to enforce the rights of a victim and questions whether that means the victim has the right to attend every court hearing or proceeding. He would like to further study this matter before submitting any recommendation to the governor.

Hakima Bey-Coon, Esq. explains to the commission members that we can table further discussions concerning Attorney Clark’s recommendations. Discussion is tabled until the commission reaches section 4.e of the agenda which will address the future continuation of the commission’s work. She thanked Attorney Clark for his proposal.

3. Discussion of Subcommittee Recommendations

(Will rotate rounds of the recommendations of the 3 subcommittees until 3:30pm)

Hakima Bey-Coon, Esq., explains how the subcommittees will present their recommendations. Each subcommittee will present one recommendation to commission members, and they will rotate through each subcommittee’s recommendations in that fashion until 3:30pm.

Chair Schriro, Pre-Arrest & Arraignment Subcommittee (Please refer to subcommittee’s documentation to said recommendations)

Chair Schriro, starts with recommendation number two for Training of law enforcement officers. The subcommittee recommends that police officer report writing should include information concerning the need to take record of all children who are relatives of the victims and otherwise qualify per statute for notification so that when any victim notifications are made in the future, those same children, who may become adults during the interim, can be notified.

Hakima Bey-Coon, Esq. asked if any commission members had any comment. Jessica Pizzano thinks this is a great idea. Linda J. Cimino asked Chair Schriro if she has a structural idea of how this

would work. A discussion arises out of this question, and commission members discuss how this would be handled. Also discussed, when the children become adults, how they would be provided with notification of the criminal case. The Pre-Arrest & Arraignment subcommittee's recommendation was adopted by the commission.

In response to Carlton J. Giles question concerning how these recommendations will be promulgated, Hakima Bey-Coon, Esq. explained that the governor's office had reached out to the commission to inquire as to whether it had any preliminary legislative proposals that it was ready to submit at the present time. If so, we could bring those legislative initiatives to the Governor's attention prior to the submission of the formal report. However, all the commission's recommendations will go into the formal report to the governor at the conclusion of its work.

Chair Kevin T. Kane, Esq., Prosecution & Conviction Subcommittee (Please refer to subcommittee's documentation for said recommendations)

Chair Kane recommends number two on the subcommittee's recommendations, a statutory Amendment of C.G.S. § 54-91c (b) to remove the language "wherein the defendant pleads to a lesser offense than the offense with which such defendant was originally charged." Removal of this language will make the victim aware of all plea agreements, and the victim would be able to appear to express his or her thoughts. The commission adopted the Prosecution & Conviction Subcommittee's recommendation, and will send this legislative recommendation to the governor's office prior to the commission's final report.

Chair Semple, Post-Conviction & Violation Status Subcommittee (Please refer to subcommittee's documentation for said recommendations)

Chair Semple presents a recommendation, (see page 2 of subcommittee recommendations) for CSSD to adopt policies and procedures in compliance with the requirements of C.G.S § 53a-29 and C.G.S § 53a-32. Hakima Bey-Coon, Esq. asked if Commission members had any questions regarding the subcommittee's recommendation. Judge Solomon expressed he would like more time to review the statutes and have a better understanding of these recommendations before submitting any recommendations to the governor. Jessica Pizzno stated that the issue is that CSSD does not have a formal policy written into place on victim notification when a defendant's probation is being terminated and added that the Post-Conviction & Violation Status Subcommittee would like some sort of policy in place for CSSD regarding victim notification on this issue just like CSSD's written policy when a defendant has an early termination of probation. Commission members further discussed this issue in detail. Chair Semple explained that the subcommittee invited CSSD to sit down and discuss their procedures regarding this statute and learned that they did not have a formal written policy in place concerning this issue. Mario T. Gaboury, Esq. suggested that ideally CSSD should maximize victim notification and that CSSD should review their current policy to ensure victims are being notified in compliance with the statutory requirements. After further discussion by commission members, Kevin T. Kane, Esq. expressed his agreement with the Post-Conviction Subcommittee's recommendation that CSSD adopt a process for notifying victims when a

defendant's probation is being terminated for violation of probation. He is not in favor of any statutory amendment of the cited statutes. Judge Solomon agreed with the recommendation as clarified by Kevin T. Kane, Esq. The commission adopted the subcommittee's recommendation.

Next, the commission moves on to Pre-Arrest & Arraignment subcommittee's second recommendation. Chair Schriro refers to number 3 on the subcommittee's recommendations. Related to the victim services card, the subcommittee noted that the Department of Correction Victim Services Unit is not listed as a resource on the victim services card. Fellow Commission member Linda J. Cimino had begun the process of making changes to the card to include the DOC Victim Services Unit and will distribute a draft of the revised victim services card to the subcommittee. Hakima Bey-Coon noted that since the work has already begun, the commission can move onto the Prosecution & Conviction subcommittee's second recommendation.

Next, the commission moves on to the Prosecution & Conviction Subcommittee's second recommendation. The subcommittee's second recommendation does not appear on the documentation submitted to the commission. Chair Kane orally explains the recommendation. The subcommittee recommends that C.G.S. 53a-28c be amended to reflect that the courts should not require victims to first submit a claim to their own insurance company, in order for the courts to issue a written order of restitution. He explains that this recommendation needs to be carefully drafted so victims are not able to make 2 claims (meaning a claim being 1st submitted to the victims' insurance company, and second, a written order of restitution from the courts) and end up with a windfall. The commission discussed this statutory amendment. Commission members expressed that instead of recommending a statutory amendment, a better recommendation would be to educate the Judicial Branch and the Division of Criminal Justice to not require victims to first submit claims to their own insurance companies, prior to a court's issuance of a written order of restitution. Kevin T. Kane, Esq. modified his recommendation for a statutory amendment to training of the Judicial Branch and the Division of Criminal justice on orders of restitution. The training should include that there should not be any requirement for a victim to pursue collateral sources prior to seeking a written order of restitution. The commission members were in consensus to adopt this recommendation.

Next, the commission moves on to the Post-Conviction & Violation Status Subcommittee's second recommendation. The subcommittee's recommendation is for a statutory clarification of C.G.S. § 54-102b. In particular, the statute needs to clarify which agency is to provide HIV test result information to a victim. (See subcommittee's documentation of recommendations). Commission Members discussed the issues surrounding this recommendation. The commission members discussed the HIPPA concerns, the type of medical personnel that would be suitable to reveal the test results to victims and the fact that a timeframe would need to be put in place once results were ready. After more discussion of the issue, Chair Semple agrees that some changes need to be made to the subcommittee's recommendation and he feels it will be done swiftly. The subcommittee's recommendation was tabled for now.

Hakima Bey-Coon, Esq. moves on to the Pre-Arrest & Arraignment Subcommittee's third recommendation. Hakima Bey-Coon, Esq. presented the Subcommittee's recommendation for Chair Schriro who had to leave the meeting early. Number five on the Subcommittee's documentation is a statutory amendment of C.G.S § 54-85g which is the advisement of crime victims' rights. Hakima Bey-Coon, Esq. discussed the subcommittee's recommendation in detail and sought further suggestions from the commission. Commission members discussed variations of possible language to accentuate the advisement to crime victims.

Bethany Phillips, Esq. suggested adding, "for further statutory rights please go to the court services center". Hakima Bey-Coon questioned whether there is a court service center in every court house. Judge Solomon stated that Litchfield judicial branch does not have a court service center, and not every GA court has these services. Judge Solomon feels the nine outlined rights are sufficient for the advisement. Hakima Bey-Coon noted that due to time restrictions and the fact that the commission needed to get to items 4 and 5 on the agenda, perhaps we should table the matter. Kevin T. Kane, Esq. recommends leaving the language to the nine rights, and not to add any new language. Hakima Bey-Coon asked if the commission should vote on this matter. Mario T. Gaboury, Esq. states that there is much more to discuss on this issue and he feels it should be tabled to the next meeting. The Pre-Arrest & Arraignment Subcommittee's Recommendation was tabled.

4. Discussion concerning the future continuation of the Commission's work

Hakima Bey-Coon, Esq. discussed the commission's future continuation, the work that is unfinished and what needs to be addressed, such as:

1. Remaining Subcommittee recommendations
2. Victims' recommendation from the public hearings
3. Victims' responses to the surveys
4. A name change for the OVA
5. Constitutional Amendment and/or other remedies for violations of victims' rights
6. Recommendations from Andrew Woods
7. Recommendations from Attorney Jim Clark

The Commission discussed how much more time would be needed to complete its work and when the commission members could expect to receive a draft of the report that will go to the Governor. Linda J. Cimino asked if the commission was going to revisit earlier discussions; for example the universal definition of "crime victim". Hakima Bey-Coon, Esq. responded that we can add that issue to the list. There was a discussion concerning whether it would be possible to generate additional responses to the victim survey. The commission members discussed the name of the draft report to the Governor and decided on naming it a "progress report". The commission members also discussed tentative dates for the next meeting to review and vote on the progress report before submission to the Governor.

Meeting adjourned 3:55pm

DRAFT