

**ARIZONA SUPREME COURT
CAPITAL CASE OVERSIGHT COMMITTEE
MINUTES**

March 13, 2008

Supreme Court Building, Phoenix, AZ

MEMBERS PRESENT:

Hon. Anna Baca
Kent Cattani
Donna Hallam
Phil MacDonnell
Dan Levey
Martin Lieberman
James Logan
Paul Prato
Ronald Reinstein
Hon. Michael Ryan, Chair

GUESTS:

James Beene
Bob Shutts
Theresa Barrett
Phil MacDonell

STAFF:

Jennifer Greene
Lorraine Nevarez
Theresa Barrett

Call to Order

Justice Ryan called the meeting to order at 12:05 PM. The Chair welcomed the members.

Approval of Minutes

The minutes of the January 16th meeting were moved and approved without modification.

Updates on the Status of Capital Case Processing in Maricopa County

a. Pending case inventory in the trial court: Judge Baca and Jim Logan reported that case filings and case loads are decreasing. There are a total of 121 pending cases, including eight remands.

b. Results to date of case management innovations: Judge Baca reported the Court's updated breakdown for 2007 Capital Case Data. It was noted that the 2007 numbers reflected ten pleas without a Resolution Management Conference (RMC). So far in 2008 there have been two pleas at a RMC and two that fall into the "other" category (i.e., either after an RMC or without a RMC). Judge Baca explained that typically cases go to a RMC when they reach a point in time when it is helpful to bring all parties together with the judge. However, while RMCs work for some capital cases it was argued they are not appropriate for all cases. It was agreed a RMC is useful mostly to give reluctant defendants "a push."

c. Capital case manager position: Judge Baca reported that the court has not been able to fill the capital case manager position due to the County's hiring freeze. As a result, she and Timothy Ryan, Associate Presiding Criminal Judge, are sharing the responsibilities of the capital case manager position and are tracking and actively managing the progress of each case.

d. Case management system improvements: Judge Baca indicated that their experience so far suggests mitigation judges are helping the defense teams in acquiring discovery in a timelier manner. In addition to this case management improvement, Judge Baca is now holding weekly meetings to review case status and issues impacting case progression. Following these meetings, relevant case information is sent out to the appropriate court staff and interested parties. Judge Baca clarified confidentiality is preserved and the mitigation judge does not disclose information to the trial judge at these meetings. Jim Logan commented that he is getting email updates on cases and appreciates having one place to get information from the court.

e. State Capital PCR Defense Office budget: Mr. Lieberman explained he has submitted a budget request in the event another state agency or system stakeholder manages to amend the statute to permit him to hire more staff. He now has two lawyers working with him but will lose one on June 30, 2008. The position he is going to lose is funded with monies which are not available in FY09. Accordingly, Mr. Lieberman noted that unless FY09 is funded at levels greater than FY08 (which is not anticipated) the office will have only one staff attorney after June 30th.

Kent Cattani indicated his office is willing to attach the proposal (provided in meeting handouts) as a striker but it is simply not good timing for his office to move forward with Mr. Lieberman's other proposed changes.

f. Pending direct appeals and capital PCRs awaiting appointment of counsel: Ms. Hallam reported that there is no sign of accelerating appeals yet. She then provided the following status of appeals for 2008:

- Direct Appeals -20
- Capital Cases without PCR Counsel-15

Ms. Hallman reported difficulty with securing counsel for Post Conviction Release (PCR) cases. Reasons for lack of interest in these cases were then discussed. It was questioned whether pending legislation (SB1062) could impact plea bargaining in capital cases. Staff agreed to check on the status of this legislation and report back to the Committee.

g. Other News: Judge Baca gave an update on the average number of trial days needed in recent capital trials:

- With guilt phase included-84 days
- With only aggravation and mitigation-on average 50 days
- Jury selection-on average 5-12 days

h. Call to the Public and Adjournment: No response was heard from the call to the public. The Chair asked staff to circulate proposed dates for a June meeting. The meeting was adjourned at 1:05 PM.