

THE BALTIMORE CITY CRIMINAL JUSTICE COORDINATING COUNCIL

THE DOMESTIC VIOLENCE COORDINATING COMMITTEE (DVCC)

Minutes from the January 8, 2013 Meeting

Attendees: Judge Barbara Waxman, Chair; David Aldouby, OPD; Kim Barranco, CJCC; Major Sam Cogen, Baltimore City Sherriff's Office; Kathleen Copsey, SAO-SVU; Erin Cunningham, Mayor's Office of Criminal Justice; Lisa Fink, Mayor's Office of Criminal Justice; Deena Hausner, House of Ruth; Sarah Hyre, CJCC; Dorothy Lennig, House of Ruth; Commissioner Linda Lewis, Commissioner's Office; Lt. Rhonda McCoy, BPD – FCU; Lisa Nitsch, House of Ruth; Cheryl Peguese, DPSCS-CS; Laure Ruth, Women's Law Center; Judge Gregory Sampson, District Court; Faye Walker, District Court; Robert Weisengoff, Pretrial Release Services.

Meeting Dialogue

1. Welcome

The meeting was called to order at 12:10 pm by the Honorable Barbara Waxman. Judge Waxman welcomed everyone, thanked them for attending, and asked all members to make introductions. She asked if there were any corrections to the December 11, 2012 minutes and Cheryl Peguese made one correction. After the correction was noted and incorporated the minutes were approved.

2. Discussion with Commissioner Linda Lewis regarding Cross Complaints

Kim Barranco introduced Commissioner Lewis and asked her to explain the process in which a summons or warrant is issued for cross-complaint cases. Commissioner Lewis explained that there are two ways a trial date can be set: 1. when an individual completes an application for statement of charges at Calvert Street; or 2. through Central Booking after an arrest has been made. She stated that when an individual comes to Calvert Street, Commissioners assess for probable cause, and if probable cause is determined, they look up the defendant's criminal history to assist them in determining which type of charging document will be issued. She advised that commissioners are aware of retaliation motivations. Commissioner Lewis reported she has asked commissioners to also look up the victim in DV cases but they are not required to do so. She further reported that they may issue a summons because they want the two parties in court at the same time, but they cannot schedule them for the same day if there are no common identifiers. She said that when a related case is located the Commissioner notes the file so that the Clerk's office is aware that the cases are related and the Clerk's office may note in the system that there is a related case since

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the Commissioners cannot update JIS. She further explained that the Clerk's Office does have the ability to change court dates that have been established by the Commissioner in order to get the trial set on the same date as the related case is to go to the Judge. Kate Copsey added that she has seen a notation made on the second related case but not all cases are noted.

Judge Waxman asked what the criteria are for issuing warrants as opposed to summonses. Commissioner Lewis explained that there is a presumption a summons will be issued unless one or more of the following factors are present: 1. the perpetrator has a history of FTAs; 2. the whereabouts of the perpetrator is unknown; 3. the perpetrator is already in custody; or 4. the perpetrator poses a danger to the victim or others. She said that if any of the four factors are present then they may issue a warrant but they do not issue warrants on demand.

Lt. McCoy questioned how a commissioner could determine probable cause in cases where investigation needs to be made. She stated that there are many cases which stem from angry defendants pressing retaliatory charges against victims. Commissioner Lewis responded that they cannot reject someone who does not have a police report, and under the penalties of perjury they must accept a written statement from the complainant and issue a warrant or summons according to the information they have received. She stated that probable cause is more than a reasonable suspicion but less than absolute certainty. She advised that although Commissioners are not required to conduct research, she has encouraged all of the Commissioners to conduct as much research as possible by checking warrants, FTAs, and the past criminal record, especially in domestic violence cases. Dorothy Lennig added that many of the victims she sees do not go to the police to file a report and she would not want to see any legislation which would require a victim to have a police report. Ms. Barranco asked Ms. Lennig about the Task Force regarding Court Commissioners since she is a member, and Ms. Lennig stated that their next meeting is in February. She reported that the Task Force is waiting for the outcome in the *Richmond* case.

Commissioner Lewis stated that the commissioners do look to see if the defendant has a prior history with the victim but reiterated that there is more than one factor in determining the type of charging document. She stated for example that if they see numerous FTAs and prior violent convictions a warrant may be issued. Lisa Fink stated that commissioners should not turn victims away if there is a delay in the reporting of charges to either the police or to the Commissioner. Commissioner Lewis stated that

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questions are asked of the complainant as to why there is a delay and that when an individual comes into the office to file charges "waving paperwork" (showing that charges have been sworn out on them), a red-flag goes up and the probability of a cross complaint and the potential for a retaliatory complaint exists. She further stated that they are well aware that false reports are made for retaliatory reasons, and they have caught individuals using fictitious names and uttering false statements. She added that they cannot require complainants to provide ID per Court policy.

Major Sam Cogen asked if any case had ever been forwarded to the State's Attorney's Office and prosecuted under the Witness Intimidation Act for perjury. Commissioner Lewis advised that they do forward perjury cases to the SAO. Ms. Copey said they do receive them, but not with any regularity. She stated they are willing to prosecute these cases but they have to prove the statement was perjury at the time it was made. Ms. Copey further stated that a problem exists when a victim shows up at the States' Attorney's Office asking to press charges against an individual, and since she has no authority to issue charges herself, she will forward the victim to the Commissioner's Office to file charges. Ms. Lewis advised that if the SAO determines perjury charges should be filed the case comes back to the Commissioner's Office and they will charge.

Judge Waxman advised that in St. Louis, Missouri misdemeanor cases which are onviews or citizen generated complaints are sent to the State's Attorney's Office for a review, and if the victim does not appear no charges will be filed. She stated that this system allows for defendants to be held for a brief period of time pending the filing of charges. She noted that the SAO is currently doing a review of citizen generated complaints but DV cases are excluded. Judge Waxman asked whether the SAO could consider including non-assaultive DV behavior such as malicious destruction of property and telephone harassment within the parameters of the cases the Citizen Review Unit is now handling which would give them the ability to "weed out" false statements and retaliatory charges. Ms. Copey advised this is being discussed and she will let Lisa Phelps and Elizabeth Embry know the suggestion was raised at the meeting. Ms. Peguese asked if the Commissioners can see if a defendant is on probation. Commissioner Lewis replied that they can see they are on probation but they cannot see the special conditions contained in the probation order. She further stated that in the past letters would be sent from the SAO asking that the Commissioners not accept complaints from certain individuals but she has advised the commissioners that they need to make their own determination. Ms. Barranco thanked Commissioner Lewis for attending the meeting. Commissioner Lewis asked Committee

members to forward her any examples of cases which they think were not handled appropriately so that she may review them.