



November 22, 2019

The Honorable Douglas A. Ducey
Governor of Arizona
1700 W. Washington
Phoenix, Arizona 85007

Dear Governor Ducey:

The Justice for Victims of Child Sexual Abuse, convened in response to Executive Order 2019-05, would like to extend its appreciation for the leadership and guidance you and your staff have provided in ensuring the protection and safety of Arizona's victims of child sexual abuse and sex trafficking.

We acknowledge the significance of the responsibility placed on the Task Force to examine a broad range of concerns and opportunities, aimed at enhancing the protection of victims of child sexual abuse and sex trafficking. The Task Force met six times from September through November 2019, and carried out its duties through a facilitated and consensus-building process that included numerous presentations from experts around the state, in-depth discussions, and a review of best practices.

We want to thank each of the Task Force members for lending invaluable insight, subject matter expertise, and time in the creation of the recommendations contained in this report. We also want to express our gratitude to you for allowing us to co-chair this Task Force and lead on this highly important issue in our state.

Per Executive Order 2019-05, we respectfully submit this report for your review and consideration.

Sincerely,

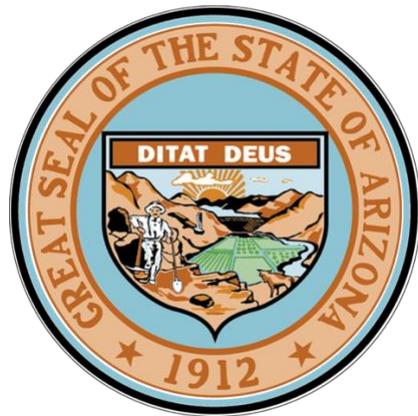
A handwritten signature in black ink, appearing to read "Paul Boyer", with a stylized flourish at the end.

Paul Boyer (Co-Chair)
Arizona State Senator

A handwritten signature in black ink, appearing to read "Rachel H. Mitchell", with a stylized flourish at the end.

Rachel Mitchell (Co-Chair)
Chief Deputy, Maricopa County Attorney's Office

**REPORT OF THE JUSTICE FOR
VICTIMS OF CHILD SEXUAL ABUSE
TASK FORCE**



November 22, 2019



JUSTICE FOR VICTIMS OF CHILD SEXUAL ABUSE

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I. Introduction

On May 28, 2019, Governor Douglas A. Ducey established the Justice for Victims of Child Sexual Abuse Task Force by Executive Order 2019-05. The Task Force was charged with multiple responsibilities, including: developing and conducting a collaborative statewide review of Arizona's laws for protecting children victimized by sexual abuse, and providing legislative recommendations to reform Arizona's laws for protecting children victimized by sexual abuse. The Task Force was comprised of self-advocates, advocacy organizations, members of the Arizona state legislature, and state agency leaders and staff.

The members of the Justice for Victims of Child Sexual Abuse are:

- Rachel Mitchell (Co-Chairperson), Maricopa County Attorney's Office
- Senator Paul Boyer (Co-Chairperson), Arizona State Senate
- Representative Shawna Bolick, Arizona House of Representatives
- Senator Heather Carter, Arizona State Senate
- Timothy Chavez, Gila River Police Department
- Colleen Clase, Arizona Voice for Crime Victims
- Representative Regina Cobb, Arizona House of Representatives
- Christina Corieri, Office of Governor Doug Ducey
- Shawn Cox, Victim Services Division, Maricopa County Attorney's Office
- Meghaen Dell'Artino, Public Policy Partners
- Anni Foster, Office of Governor Doug Ducey
- Maria Fuentes, Governor's Office on Youth, Faith and Family
- Greg Kelly, Survivor Advocate.
- Senator Sine Kerr, Arizona State Senate
- Representative Jennifer Longdon, Arizona House of Representatives
- Tasha Menaker, Arizona Coalition to End Sexual and Domestic Violence
- Keith Moffitt, Arizona Department of Child Safety
- Major Jennifer Pinnow, Arizona Department of Public Safety
- Annette Schuster, Kids Need to Know, Inc.
- Representative TJ Shope, Arizona House of Representatives
- Senator Victoria Steele, Arizona State Senate
- Kevin Treadway, Flagstaff Police Department
- Dianne Umphress, Amberly's Place

The Task Force developed 19 recommendations that are detailed in the body of the report and sectioned out into three areas: criminal, civil, and education.

II. Executive Order

State of Arizona Executive Order 2019-05

The Justice for Victims of Child Sexual Abuse Task Force

WHEREAS, Arizona's laws for protecting children and young adults who have been sexually abused require evaluation for reform;

WHEREAS, every child victimized by sexual abuse is entitled to safety, healing justice, and restitution;

WHEREAS, government serves an important role in protecting public safety and ensuring justice for all citizens, including victims of child sexual abuse;

WHEREAS, a statewide collaborative effort dedicated to developing recommendations for reforms to laws that will advance justice for the citizens of the State of Arizona;

NOW, THEREFORE, I, Douglas A. Ducey, by virtue of the authority vested in me by the Arizona Constitution and laws of the State of Arizona, hereby establish the Justice for Victims of Child Sexual Abuse Task Force and order as follows:

1. The Governor shall appoint all members. Membership shall include, but it not limited to, one representative from each of the following:
 - a. The Arizona Department of Public Safety,
 - b. The Arizona Governor's Office,
 - c. The Governor's Office of Youth, Faith and Family,
 - d. The Arizona Coalition to End Sexual and Domestic Violence,
 - e. The Arizona Voice for Crime Victims,
 - f. A representative from a family advocacy center that deals with trauma,
 - g. An individual with demonstrated experience in the field of social work,
 - h. A member of the Arizona Senate,
 - i. A member of the Arizona House of Representatives,
 - j. A Tribal Chief Police,
 - k. One police chief, county attorney, or county sheriff with a population greater than 800,000, and
 - l. One police chief, county attorney, or county sheriff with a population less than 800,000.
2. Members of the Task Force serve without compensation and at the pleasure of the Governor.
3. The Governor shall appoint a chairperson.
4. The duties of the Task Force include, but are not limited to, the following:
 - a. Develop and conduct a collaborative statewide review of Arizona's laws for protecting children victimized by sexual abuse,
 - b. Provide legislative recommendations to reform Arizona's laws for protecting children victimized by sexual abuse.
5. The Task Force shall provide the Governor with a report of their recommendations no later than December 1, 2019.
6. This Executive Order expires on December 31, 2019.

III. Criminal Recommendations

A. Child Sex Trafficking Criminal Statute of Limitations

- There is no criminal statute of limitations for sexual assault molestation, sexual exploitation of a minor, or sexual contact with a minor under 15. Child sex trafficking is not included in this group, and has a statute of limitations for criminal charges of 7 years from discovery by the state.
- **Recommendation:** Revise A.R.S. 13-107(A) to include child sex trafficking in order for there to be no time limit to bring forth these prosecutions.

B. Additions to existing Positions of Trust

- There are two impacts for persons in a “position of trust”:
 1. In sexual abuse cases (A.R.S. 13-1404), the prosecution does not have to show lack of consent if the victim was 15-17 years of age and the defendant was in a position of trust.
 2. In cases of sexual conduct with a minor (A.R.S. 13-1405), if the defendant was in a position of trust and had sex with a 15-17 year old, then it is elevated from a class 6 felony to a class 2 felony.
 - The current positions of trust defined in A.R.S. 13-1401 include:
 - The minor's parent, stepparent, adoptive parent, legal guardian or foster parent.
 - *The minor's teacher.
 - The minor's coach or instructor, whether the coach or instructor is an employee or volunteer.
 - *The minor's clergyman or priest.
 - Engaged in a sexual or romantic relationship with the minor's parent, adoptive parent, legal guardian, foster parent or stepparent.
 - **Recommendation:** Revise A.R.S. 13-1401 to include the following new positions of trust:
 - Relatives by blood or marriage within the third degree (except for siblings).
 - Employers / bosses.
 - Adults that live in the same house as the minor.
 - A person 10+ years older than the minor who has a relationship with the minor or the minor’s family.
- Revise two current positions of trust:
- *The minor's teacher or educator, including any adult school employee.
 - *The minor's clergyman, priest, or youth pastor.

C. Introduce judicial consideration of *Pro Se* Defendants in criminal cases

- Persons representing themselves in court without the assistance of an attorney are known as *pro se* defendants. Under law, a *pro se* defendant has the right to cross-examine the victim on the stand.
- Currently, an exception exists in A.R.S. 13-4251 through 13-4353 in which out-of-court testimony, via a recording or live-stream, be conducted for a minor if the state sustains its burden of proving by an individualized showing to the trial court that face-to-face testimony would so traumatize a child witness as to prevent the child from reasonably communicating.
- **Recommendation:** Enact a statute to allow any judge overseeing a child sexual abuse case or child sex trafficking case to make a case specific finding that allowing a *pro se* defendant to question a victim would prevent the child from being able to reasonably communicate.

D. Special Probation Terms for Sex Traffickers

- There are currently special probation terms for white collar, sex, gang, and computer crimes, but none for sex trafficking crimes.
- **Recommendation:** Establish and incorporate mandatory sex trafficking probation terms in the probation code, which may include:
 - All sex offender and computer usage terms.
 - Report any contact with law enforcement to the Adult Probation Department (APD) within 24 hours.
 - Submit to search and seizure of person or property by any peace, law enforcement, or probation officer with or without a search warrant.
 - Not threaten, intimidate, harass or stalk anyone, including APD staff.
 - Abide by any curfew imposed by the APD.
 - Not enter any school grounds unless registered as a student at that school.
 - Obtain prior written approval of the APD before going within 500 feet of any shelter, safe house, group home or similar facility.
 - Not go to a hotel or motel without the prior written approval of APD.
 - No loitering in designated “no loitering areas.”
 - Participate in and successfully complete domestic violence counseling as approved by the APD.
 - Obtain prior written approval of the APD before making any changes in treatment or treatment providers.
 - Not contact or attempt to contact the victim(s) or the family of the victim(s) in person, via mail or electronic or telephonic means, or through third parties without the prior written approval of the Court or the APD.

E. Funding Mechanisms for Forensic Interviews

- According to statute A.R.S. 13-1414, counties are required to pay for “any medical or forensic interview expenses arising out of the need to secure evidence that a person has been the victim of a dangerous crime against children as or a sexual assault.”
- **Recommendation:** Provide a sufficient amount of funding for forensic interviews and examinations to ensure that counties are able to fund all expenses.

F. Funding Mechanism for Cold Case Units

- There is currently a Sexual Assault Kit Initiative (SAKI) federal grant program that addresses certain types of cold cases. One proposal suggested mirroring the SAKI grant program on the state level.
- **Recommendation:** Provide grant funding to help counties establish or grow cold case units to investigate cold cases of child sexual abuse, whether or not there is DNA evidence.

G. Funding and Creation of a statewide database for law enforcement

- Currently, there is no mechanism for state law enforcement agencies to share or access information about sexual predators in different jurisdictions.
- **Recommendation:** Assign the Department of Public Safety to conduct a study on the possibility of creating statewide database that can be used by all law enforcement agencies to track and update the status on confirmed sexual predators and sex traffickers.

H. State v. Crosby-Garbotz

- **Recommendation:** The task force wants to draw the state legislature’s attention to the finding in State v. Crosby-Garbotz. In this decision, the Arizona Supreme Court, in a 4-3 decision, held a single judge’s decision that the Department of Child Safety (DCS) did not meet its burden in a dependency or severance case can act as a bar to prosecution in the criminal case. This ruling creates a potential bar for victims of child abuse - including child sex abuse - from the justice they deserve. While this ruling may be addressed through judicial decisions in cases currently working their way through the court system, the state legislature may want to take action given the vastly different procedures and time restraints that apply in dependency/severance cases rather than relying on the courts to further address the issue.

IV. Civil Recommendations

A. Spread awareness about the AZ Child Protection Act

- **Recommendation:** Assign the Governor’s Office of Youth, Faith and Family to spread awareness throughout the state about the new law that lifted the Statute of Limitations until December 31, 2020.
- Video: https://www.youtube.com/watch?time_continue=18&v=uRxQrkiqJ4k

B. Grant funding for Advocacy Centers and Community-Based Programs

- There are advocacy centers and community-based nonprofit sexual assault service programs throughout the state that offer support to victims and families by providing advocacy and mental health services and coordinating investigation efforts, such as forensic interviews and forensic medical examinations.
- **Recommendation:** Provide funding for competitive grants to be awarded to organizations, including advocacy centers and community-based victim service programs, to build and maintain sexual assault services for victims of child sexual abuse and child sex trafficking into adulthood, including therapy and behavioral health services.

C. Funding for a statewide 24-hour Hotline to report incidents of abuse

- **Recommendation:** Provide grant funding to an existing 24-hour hotline that provides on-the-spot counseling over the phone for victims of any age, referrals to victim services, and referrals to law enforcement agencies to report allegations of sexual and physical abuse.

D. Gather court-reported data on new civil cases

- The new Arizona Child Protection Act allows victims to file civil suits until age 30, and it also extends the civil statute of limitations for these cases until December 31, 2020.
- **Recommendation:** Require the Arizona courts to report on the number of cases filed and the age of each plaintiff since the inception of the new law. This information is important in determining the appropriate age for the statute of limitations. Based on information presented, the task force indicates that the age of 30 is not sufficient and recommends identifying a third party to work with universities to conduct a peer-review of existing studies in the space as well as data from the Arizona courts under the new Arizona Child Protection Act to analyze the evidence on delayed disclosure, the impact of extending civil statutes of limitations, and make recommendations regarding an appropriate age for a statute of limitations.

V. Education Recommendations

A. Training and resources for School Districts and Charters on Arizona's mandatory reporting laws

- Currently schools are faced with creating their own training curriculum for their staff to be in compliance with A.R.S 13-3620.
- **Recommendation:** Assign the Department of Education to create a statewide training for school staff on Arizona's mandatory reporting laws and provide additional resources for schools to utilize while speaking to students and parents on these matters. These trainings and resources should be made available to private schools that wish to participate.

B. Social Media & Cell phone best practices in schools

- The Arizona Department of Education reported that sexual offenses have increased over the past few years, partially due to grooming that is occurring through cell phones and social media interactions.
- **Recommendation:** Assign the Arizona State Board of Education to create best practices for social media and cell phone use between students and educators. Districts, charters, and local school boards will be encouraged to adopt such policies in order to ensure appropriate communication between educators (teachers, coaches, counselors, etc.) and students outside academic settings. These best practices should be made available to private schools that wish to participate.

C. Support legislation to expand the jurisdiction of the Arizona State Board of Education to cover sexual misconduct by uncertified staff

- Currently, the Arizona State Board of Education has jurisdiction over certified educators in the state and has the ability to adjudicate cases of teacher misconduct. There are currently 6,000 uncertified educators in Arizona that the Arizona State Board of Education does not have jurisdiction over if allegations are raised against them.
- **Recommendation:** Support proposed legislation that would expand the Arizona State Board of Education's jurisdiction to certified and uncertified educators — giving them the ability to adjudicate sexual misconduct cases involving uncertified educators that work in public and charter schools.

D. Funding for additional investigators at the Arizona Department of Education

- Currently, the investigative unit at the Arizona Department of Education consists of one (1) chief, four (4) investigators, and one (1) administrative assistant. According to the Department, the appropriate and manageable amount of cases is 50, but each ADE investigator has a caseload of 120-150 cases. Since 2016, there has been a 17% in category 1 cases (sexual offenses).
- **Recommendation:** Support legislation that would allocate funds towards more investigators at the Arizona Department of Education.

E. Support legislation on implementing education and training on sexual abuse prevention in schools

- SB1251, “Erin’s Law”, was proposed last legislative session and would require the Department of Child Safety and the Department of Education to come up with a program that schools across the state could use to teach prevention and awareness of child sex abuse and sex trafficking to school employees and students. Teachers would receive training on prevention and identification of abuse along with resources to bring awareness to the issue. Students would receive age-appropriate material about awareness and prevention. Parents would be able to opt their children out of the program entirely or from certain parts.
- **Recommendation:** Support legislation similar to “Erin’s Law” that would implement education and trainings on child sexual abuse and sex trafficking prevention in schools for both teachers and students.

F. Spread awareness in schools about the 24-hour hotline for child sexual abuse

- The Childhelp National Abuse Hotline is a 24-hour hotline with resources to aid in every child abuse situation. All calls are confidential. People can call or text 1-800-4-A-CHILD (1-800-422-4453) for help and to speak with a professional crisis counselor. There is also a live chat feature available on their website: <https://www.childhelp.org/childhelp-hotline/>.
- **Recommendation:** Promote the Childhelp National Abuse 24-hour hotline in schools across the state of Arizona. Call or text 1-800-4-A-CHILD (1-800-422-4453). Visit: <https://www.childhelp.org/childhelp-hotline/> for more information.

G. Resources for Foster Care children

- **Recommendation:** Require the Department of Child Safety (DCS) to provide age-appropriate children with materials and resources on preventing and reporting child sexual abuse, including child sex trafficking, before they are placed in the foster care system or a group home setting. These materials may include a 24-hour hotline number, contact information for trusted authorities, and examples of safe vs. unsafe behaviors.

VI. Acknowledgements

In drafting this report, the Task Force relied on not only the expertise of its members, but also other jurisdictions and organizations with knowledge on this subject. The Task Force would like to acknowledge the following presenters and their resources that were used to contribute to this report:

- Steve Primack, Associate Director, Legislative Council, Arizona State Legislature
- Joseph Hinrichsen, Deputy County Attorney, Maricopa County Attorney's Office
- Gil Orrantia, Co-Chair of the Arizona Human Trafficking Council and Director of the Arizona Department of Homeland Security
- Susie Checkett, Assistant Division Chief, Victim Services Division, Maricopa County Attorney's Office
- Laura Lopez, Division Trainer, Victim Services Division, Maricopa County Attorney's Office
- Cindy Walker, Advocate & K-9 Handler, Victim Services Division, Maricopa County Attorney's Office
- Elle the Dog, Victim Services Division, Maricopa County Attorney's Office
- Robert Fernow, Detective, Maricopa County Attorney
- Dr. Shefali Gandhi, Clinical Director, Childhelp Children's Center of Arizona
- Daphne Young, Chief Communications Officer, Childhelp Children's Center of Arizona
- Joelle Casteix, Board Member, Zero Abuse Project
- Dr. Walt Sipe, Associate Physician, Department of Pediatrics, University of California, San Francisco (UCSF)
- Denise Lowell-Britt, Education Law Attorney, Udall Shumway PLC
- Alicia Williams, Executive Director, Arizona State Board of Education
- David Spelich, Chief Investigator, Arizona Department of Education