

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)
)
ARIZONA CODE OF JUDICIAL) Administrative Order
ADMINISTRATION § 6-105.01:) No. 2020 - 141
POWERS AND DUTIES OF OFFICERS) (Affecting Administrative
EVIDENCE-BASED PRACTICES) Order No. 2018 - 02)

Pursuant to a growing body of research regarding juveniles who offend sexually, in 2017 the Association for the Treatment of Sexual Abusers (ATSA) released “best practice” guidelines for assessment, treatment, and intervention with these juveniles. Based on the release of the ATSA Guidelines 2017, the Administrative Office of the Courts (AOC) contracted with the National Center of State Courts (NCSC) to conduct a review of the Arizona practices within the Juvenile Court for Juveniles with Sexually Abusive Behaviors (JSAB). As part of the study, the Juvenile Justice Services Division (JJSD) established the JSAB Advisory Committee. The committee members included Juvenile Court Presiding Judges, Juvenile Probation Directors, County Attorneys and Public Defenders.

The NCSC final report, “Enhancing Court and Probation Practices for Cases Involving Juveniles Who Commit Sexually Abusive Behaviors (JSAB),” was published in 2019. Several of the recommendations were specific to the use of polygraphs with JSAB, including the following: *“In keeping with evidence-based practices, the use of the polygraph is not recommended as a tool for JSAB.” “The findings from a polygraph examination should not be used as the basis for – or to drive decisions about – the assessment of risk, determinations of treatment or supervision progress, probation violations, or successful completion or unsuccessful termination from treatment or probation.”*

On June 17, 2019, the NCSC and JJSD presented the findings and recommendations of the final report to the Arizona Judicial Council (AJC). The AJC approved the content of the report and all recommendations.

Following the release of the NCSC report, the AOC contracted with Dr. Michael Caldwell to review and validate the NCSC report as it relates to the current research and the ATSA Guidelines 2017. The review by Dr. Caldwell was completed in February of 2020 and supported the 2019 NCSC report and recommendations. Dr. Caldwell’s report also provided recent research which further supports the findings and recommendations of not only the NCSC report but also the ATSA Guidelines 2017. Dr. Caldwell’s findings and supporting research were presented to the AJC on March 19, 2020.

Based on the original reports, findings and research, the AOC staff drafted amendments to Arizona Code of Judicial Administration (ACJA) § 6-105.01 regarding authorization for the use of the polygraph. Drafts were vetted through the Juvenile Administrators Meeting, Committee on Probation, and the Committee on Juvenile Courts.

This amendment to ACJA § 6-105.01 was presented to, approved, and recommended for adoption by the Arizona Judicial Council (AJC) on December 12, 2019. Dr. Caldwell's findings and supporting research were presented to the AJC on March 19, 2020, and the recommendation of the AJC did not change.

Therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that Arizona Code of Judicial Administration § 6-105.01 is amended as indicated on the attached document. All other provisions of § 6-105.01 remain unchanged and in effect.

IT IS FURTHER ORDERED that the effective date of this amendment shall be January 1, 2021.

Dated this 19th day of August, 2020.

ROBERT BRUTINEL
Chief Justice

ARIZONA CODE OF JUDICIAL ADMINISTRATION

Part 6: Probation

Chapter 1: General Administration

Section 6-105.01: Powers and Duties of Officers Evidence-Based Practices

A. through D. [No change.]

E. Duties of Probation Officers.

1. and 2. [No change.]

3. Juvenile probation officers shall also:

a. through m. [No change.]

n. Within the scope of their duties as a probation officer, ensure that any administration of a polygraph examination on a juvenile shall occur only after obtaining written approval by a judicial officer of the juvenile court.

F. [No change.]