

**STAFF SAFETY ADVISORY COMMITTEE (SSAC)
SUBCOMMITTEE OF THE COMMITTEE ON PROBATION (COP)**

MINUTES

December 10, 2009

10:00 A.M. - 2:00 P.M.

**ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS (AOC)
1501 W. WASHINGTON
CONFERENCE ROOMS 345A&B**

MEMBERS PRESENT:

Livingston Sutro, Chair
David F. Sanders, Vice Chair
Dustin Alder
Leslie Anderson
Patrice Buzan
Charles Counts
Mike Faust
Steve Hardy
Henry Meraz
Jim Meyer
Steve Nesky

Lance Nickell
Debbie Olsen for Carol Boone
George Owens
Alan Palomino
John Ryder
Saul Schoon
Tim Schouten
Mark Smalley
Jon Thompson
Dan Tomlinson
Mary Walensa

MEMBERS ABSENT:

Brenda Flynn

Art Waterman

GUESTS:

Barbara Ortolano
Nina Preston
Fred Santesteban

Brett Watson
David Withey

STAFF:

Kevin Jeffries

Lorraine Lerma

CALL TO ORDER

Livingston Sutro called the meeting to order at 10:04 a.m., welcomed the committee members and guests, and asked everyone to introduce themselves. Livingston mentioned that Dustin Alder, Deputy Probation Officer Senior, Mohave County Adult/Juvenile Probation, replaced Stephen Arend.

I. APPROVAL OF THE JUNE 22, 2009, MINUTES

MOTION: David Sanders made a motion to approve the June 22, 2009, meeting minutes. Steve Hardy seconded the motion. Motion passed unanimously. SSAC 09-08

II. OFFICER SAFETY CODES

CODES TAKEN OUT OF ORDER

6-112: Use of Force

Code 6-112, effective April 2, 2003, was provided to the Committee (handout attached). As code 6-112 is in the revised draft stages, copies were not provided to the committee. Nina Preston presented and provided conceptual recommendations.

- Section A. Definitions
 - “Deadly physical force” – the citation should read A.R.S. § 13-105(14) rather than § 13-105(12).
 - “Electronic control device” (ECD) – strike the words “nervous system” and add “targeted individual”.
 - “Impact weapon” – insert the words “...object or device other than a deadly weapon used to control...”.
- Statutory citations remain in the code section.
- Standards from a U.S. Supreme Court case for consideration of reasonableness in use of force situations should not be included in the code section, but delivered via training.
- ECD standards and criteria for approving officers should be established statewide (either by administrative director of the AOC or by code), but implemented at the department level.
- With the removal of “Continuum of control”, the Committee should consider looking at DPS Use of Force Matrix and other department’s policies.

Nina suggested a subcommittee of SSAC consisting of staff from Adult Probation Services Division, Juvenile Justice Services Division, and Education Services Division to look at some of these policies and report back to SSAC.

MOTION: Mary Walensa made a motion that SSAC adopt a subcommittee to review the information, both in current policy and any matrix information, to consider and make recommendations to SSAC as to how that should be implemented in current policy. David Sanders seconded the motion. Motion passed with 21 votes and 1 abstention. SSAC 09-09

Volunteers of the subcommittee are Leslie Anderson, Charles Counts, Jim Meyer, George Owens, Tim Schouten, Dan Tomlinson, Kevin Jeffries as Chair, Barbara Ortolano, and Brett Watson.

6-107: Safety Training

Code 6-107, effective August 18, 2006, was provided to the Committee (handout attached). David Withey presented and did not suggest any specific changes, but addressed section G. Defensive Tactics Training. SSAC should address:

- What are the minimum physical skills required to perform Defensive Tactics (DT).
- These skills should be maintained and should be able to be performed by all probation officers from an officer safety standpoint.
- What is provided in performing the essential functions of the job of a probation officer.
 - Need to describe and articulate.
- How to prevent injuries in DT class.
- What do probation officers need to do realistically physically to perform their job including DT and other safety kinds of things to protect themselves and others.
- Be consistent with hiring practices. (In terms of the Federal law requirements, need to make clear what the physical requirements are for hiring; at a minimum, in job descriptions and job announcements.)

The DT refresher classes for existing probation officers that can do the job are being characterized as not meeting the standards and will not be grandfathered. AOC Legal will meet with the Attorney General's office on what exactly the standards should be in terms of prior experience. The probation departments can do a conditional hiring as long as it is clear.

MOTION: George Owens made a motion for Kevin Jeffries to chair a committee to determine those essential skills and that Kevin is allowed to pick his committee members from the subcommittee and report back defining those essential skills. David Sanders seconded the motion.

After additional discussions took place, George Owens clarified his motion.

MOTION George Owens made a motion that SSAC create a subcommittee to define the essential functions of the probation officer duties in reference to the DT Academy. David Sanders seconded the motion. Motion passed unanimously. SSAC 09-10

ACTION ITEM: Kevin Jeffries to report back prior to the next SSAC meeting.

Additional code comments/suggestions took place.

- Section A. Definitions. Delete the phrase "unless otherwise specified".
- Section G.2., does not specify how long "temporary" is.
- Section G.3. "accommodations", nothing is specified between being able to complete so many drills or it will kick you into the category where accommodations cannot be met. Need to ensure DT Instructors are consistent in their evaluations.
- Section G.3.b.(3), remove "employed" and replace with "approved or selected".

- Section G.12.b. replace the word “has” with “have”.
- Section H.6.g. the word “firearms” as compared to Section H.7. with the word “firearm”, the word should be the same for both H.6.g. and H.7.
- Section H.7.b. distinguishes training hours from “re-qualification” hours, but in code 6-113 it is implied that the “re-qualification” hours count as training hours and code 6-113 should distinguish requalification hours separately from training hours. (It is the intent of AOC based on the U.S. Supreme Court that qualification is separate from training.)

6-104: Probation Officer Certification and Training

Code 6-104, effective November 8, 2006, was provided to the Committee (handout attached). Comments/suggestions took place.

- Section A. Definitions. Delete the phrase “unless otherwise specified”.
- Code was written deliberately focusing specifically on certification for all officers.
- Section C. Purpose. So there is no confusion, one of Kevin’s committee’s will look into DT skills in being a probation officer in Arizona.

Various discussions took place.

MOTION: Mary Walensa made a motion that SSAC recommend to COP to make a change to code 6-104 that includes DT specifically under the training that is indentified in this code and that SSAC would require that both the certification and DT be completed within the first year in order for the officer to be considered to have successfully completed probationary requirements. Henry Meraz seconded the motion.

After additional discussions took place, Mary Walensa amended her motion.

MOTION: Mary Walensa made a motion that SSAC recommend to COP to make a change to the code, 6-104, and any other applicable code sections that we include DT specifically under the training that is identified in this code, and that SSAC would require that both the certification and DT be completed within the first year in order for the officer to be considered to have successfully completed probationary requirements. David Sanders seconded the motion. Motion passed unanimously. SSAC 09-11

6-113: Firearms Standards

Code 6-107, effective August 18, 2006, was provided to the Committee (handout attached). Comments/suggestions took place.

- Section A. Definitions. Delete the phrase “unless otherwise specified”.
- Remove Section Q.1.c. There is room for departments to come up with their own safety regulations and storage regulations without this section.
- Keep Section Q.1.c.; add “temporary storage in an approved locker” under Section J.4.; and remove the word “holstered” in Section Q.2.
- Be consistent with timeframes whether business days or calendar days in codes.
- Section I.6. Include the words “or suspends” and should read “...revokes or suspends

the authorization...”.

- Delete the words signifying “wearing” or “worn”.
- Section N.5. To be consistent with code 6-112: Use of Force code, Section G.6., to include a timeframe.

Based upon the comments/suggestions noted, the following motions were made.

MOTION: Lance Nickell made a motion regarding code 6-113, to change Q.1.c. to read “An officer shall ensure that any firearm that is brought into a probation department facility unholstered is unloaded;”. George Owens seconded the motion.

After additional discussions took place, Lance withdrew his original motion.

MOTION: Lance Nickell made a motion under code 6-113, Q.2. to remove the word “holstered”. David Sanders seconded the motion. Motion passed by 21 votes and 1 abstention. SSAC 09-12

MOTION: David Sanders made a motion under code 6-113, J.4. to add the word “storage”. John Ryder seconded the motion. Motion passed unanimously. SSAC 09-13

MOTION: Debbie Olsen made a motion that under code 6-113, I.6. be amended to state “When the chief probation officer or director of juvenile court services revokes or suspends the authorization to carry; and”. David Sanders seconded. Motion passed unanimously. SSAC 09-14

MOTION: Patrice Buzan made a motion on code 6-113, P.12, the words “or worn” be deleted and on Q.2. the words “or wearing” be deleted and to expand that to include the deletion of “or worn” and “or wearing” if carrying is sufficient to cover that. There was no second. Motion did not pass.

MOTION: Henry Meraz made a motion on code 6-113, N.5. “...of its review within 45 days or unless an extension is approved by the CPO...”. Steve Hardy seconded the motion.

Clarification on the intent of Henry’s motion was amended.

MOTION: Henry Meraz made a motion on code 6-113, N.5. to encompass language which includes a 45 calendar day timeframe for the production of the report unless an exception is approved. Steve Hardy seconded the motion. Motion passed with 17 votes, 3 opposed, and 1 abstention. Motion passed. SSAC 09-15

Clarification requested as to what is meant by the term days in some of the subsections in code 6-113.

MOTION: Debbie Olsen made a motion that 6-113, E.4. be clarified to state “...within 30 calendar days...” and that section G.3. also be clarified to specify at 30 calendar days. Mark Smalley seconded the motion. Motion passed with 20 votes, 1 opposed, and 1 abstention. Motion passed. SSAC 09-16

III. NON AGENDA ITEMS

There were none.

IV. ADJOURNMENT

MOTION: David Sanders made a motion to adjourn. Mary Walensa seconded the motion. Motion passed unanimously. SSAC 09-17.

Livingston thanked everyone for coming and for their time. Most likely SSAC will not meet again until after Kevin has had an opportunity to meet with his subcommittees and inform Livingston. Livingston will then inform SSAC of the next meeting.

The meeting adjourned at 1:45 P.M.