

**FILED**  
JUN 27 1989  
NOEL K. DESSAINT  
CLERK SUPREME COURT  
BY *R. Kemaley*

IN THE MATTER OF: ADMINISTRATIVE )  
REQUIREMENTS FOR ADULT INTENSIVE )  
PROBATION PROGRAMS )

ADMINISTRATIVE  
ORDER NO. 89-15

A. Pursuant to Article 6 of the Arizona Constitution and pursuant to A.R.S. § 13-913 et seq., as amended by Laws 1988, Chapter 324, and laws 1989, Chapter 18, it is Ordered that the following administrative requirements are issued to govern the procedures for administration of Adult Intensive Probation Programs. This order supersedes Administrative Order 86-10.

**B. General Administration**

Administration of intensive probation programs on behalf of this Court shall be under the direction of the Supreme Court's Administrative Office of the Courts. The Administrative Director of the Courts, or designee, is authorized to prescribe and adopt procedures, forms, and reports necessary for the financial and program administration and management of intensive probation, intensive probation appropriations, distribution of funds, and other requirements imposed by law or this order. The Administrative Office of the Courts is authorized and directed to monitor intensive probation programs including authority to inspect, audit, or have audited the records of any superior court operating an intensive probation program;

to conduct seminars and educational sessions for judges and probation personnel regarding the purposes and operation of intensive probation; and, to annually prepare the Supreme Court's report stating the number of persons supervised on intensive probation during the prior year and the nature of the offense and the criminal history of each of these persons for submittal to the Governor, the Speaker of the House of Representatives, the President of the Senate, and the Arizona Criminal Justice Commission at the time the Supreme Court submits its annual budget request to the Legislature.

The Administrative Office of the Courts is also directed to prepare additional written materials consistent with the above-referenced act and this order setting forth various techniques, practices, and other recommendations regarding the operation and management of intensive probation supervision programs, including criteria to be considered by probation officers in determining whether to recommend a person for intensive probation supervision. Such written material shall be distributed to appropriate superior court judges and adult probation officers.

The Administrative Director of the Courts may adopt other administrative practices and procedures, not inconsistent with this order as may be necessary and expedient for the Supreme Court's administration of the intensive probation supervision program.

**C. Budget Request Preparation**

1. The presiding judge of the superior court in any county wishing to implement and operate an intensive probation program shall submit each year a proposed plan and budget request for the following fiscal year to the Administrative Office of the Courts. The date for submittal shall be established by the Administrative Director and such budget requests shall be filed on forms and according to instructions prescribed by the Director.
2. Budget requests from a participating superior court may include normal and reasonable categories necessary to support and operate an intensive probation program, including funds for personal services, employee-related benefits, professional and outside contractual services, operating expenses including travel expenses and equipment.
3. If, in any year, the total appropriation provided by the Legislature to the Supreme Court for intensive probation programs is less than the sum total of the requests of the participating superior courts, the Administrative Director of the Courts, with the approval of the Chief Justice, shall determine the portion to be allocated from available funds to each participating superior court.

4. All budget requests shall be supported by adequate justification and explanation as required by the Administrative Director.

**D. Program Plan and Financial Management**

1. Each participating superior court shall submit its plan in the format and on forms as required by the Administrative Office of the Courts. Such plans must be submitted and approved prior to distribution of funds. The plan and any plan modifications shall be consistent with A.R.S. § 13-913 et seq., this order and the court's budget request. The Administrative Director is authorized to approve those plans and modifications which the Director believes are in conformity with the applicable laws and this order. Modification of approved plans shall be submitted in writing by the presiding judge in a form approved by the Administrative Director. In the event that the Administrative Director determines not to approve a plan or plan modification submitted by a superior court, the Director shall submit the plan to the Chief Justice of the Supreme Court for consideration and final determination.
2. Upon approval of the plan and availability of funds, the Administrative Director shall enter into a written funding agreement with the submitting

court for distribution of the allocated funds on a basis determined by the Administrative Director. The Administrative Director shall have authority to alter the funding arrangement if such action is necessary due to a lack of funds, a lack of financial need by the court, or due to failure to comply with the applicable statutes, the approved plan or these administrative requirements.

3. Funds received by the superior court pursuant to these administrative requirements shall be deposited into a special revenue fund with the county treasurer established pursuant to the procedures provided in Section III.B of the Auditor General's Uniform Accounting Manual for Arizona Counties.
4. State funds appropriated to the Supreme Court for distribution to superior courts shall be used only for the support and operation of approved intensive probation programs. Upon agreement with any one or more participating courts, the Administrative Director may withhold funds allocated to such courts and may authorize direct expenditures for the benefit of such courts. The Administrative Director may also reallocate funds during a fiscal year, when circumstances justify such action.
5. The presiding judge of each participating superior court shall submit to the Administrative Office of

the Courts, by January 31 of each year, a report as required by the Administrative Office of the Courts, setting forth actual financial and program activity related to each court's plan as of December 31.

6. The presiding judge of each participating superior court shall return to the Supreme Court on or before August 31, for reversion into the State general fund, all intensive probation funds distributed to that superior court which are unencumbered as of June 30 of each fiscal year and unexpended as of July 31. The reverted funds shall be accompanied by a closing financial statement and a program activity report related to each court's plan as of June 30, signed by the presiding judge.
7. In the event that a superior court experiences a decreased need for funds or declines to participate after the Legislature has appropriated funds for intensive probation programs, the Administrative Director of the Courts with the approval of the Chief Justice shall determine how such funds allocated to that court shall be used consistent with the provisions of the above-referenced act and this order.
8. Each participating superior court and its probation department shall maintain and provide to the Administrative Office of the Courts such data and

statistics as may be required by the Administrative Director. Such data shall include, at a minimum, the information necessary for the Supreme Court's Intensive Probation Supervision report each year as required by law.

9. Each participating superior court and its probation department shall retain all financial records, applicable program records, and data related to each approved plan for a period of at least three years from the close of each fiscal year or as otherwise required by the records retention and disposition schedule for Arizona Adult Probation Departments.

**E. Eligibility Requirements for Intensive Probation Recommendation**

1. Only persons who are sentenced for criminal offenses or technical probation violations after June 30, 1985 are eligible for intensive probation supervision. Only those probation eligible offenders convicted of a felony or an undesignated felony may be placed in an intensive probation program. Technical probation violators who are on probation for a felony or an undesignated felony may also be placed in an intensive probation program.

2. A probation officer may recommend an eligible offender to the court for intensive probation supervision only after having considered the risk assessment score pursuant to a uniform statewide risk assessment method adopted by the Administrative Office of the Courts for use in all intensive probation supervision programs. An offender who scores outside the limits of the uniform risk assessment method for intensive probation supervision may not be recommended for intensive probation supervision unless approved in writing by the chief probation officer or designee.
3. The probation officer in making the recommendation to include an offender in the intensive probation supervision program should consider the nature of the offense, the prior criminal history of the offender, the substantial probability that the offender will remain at liberty without violating the law, the length of the potential prison sentence, the potential harm to the victim, the attitude of the victim toward placing the offender on intensive probation supervision, incarceration for purposes of deterrence, patterns of prior behavior, the offender's potential for employability, payment of restitution, performance of community service, and any other factors deemed appropriate to the ends of justice.



4. If the probation officer recommends that the offender be placed in the intensive probation supervision program, the reasons supporting the recommendation shall be included in the pre-sentence report.
5. The officer may only recommend intensive probation for probation eligible offenders convicted of a class 4, 5, or 6 felony or an undesignated felony that would otherwise have been recommended for incarceration with the Department of Corrections. The officer may recommend intensive probation for any probation eligible offender convicted of a class 2 or 3 felony.
6. In order to be included in the intensive probation supervision program the court shall determine that, based on the nature of the offense and the criminal history of the person, there is a substantial probability that the person will remain at liberty without violating the law.
7. Pursuant to these administrative requirements and A.R.S. § 13-914.A(2), the superior court may place an offender in the intensive probation supervision program who is already on probation for a felony or an undesignated felony but has violated that probation by commission of a technical violation that was not chargeable or indictable as a criminal offense.

8. Prior to placing an offender into an intensive probation supervision program, the court shall consider the probation officer's recommendations, the factual basis and circumstances leading to the offender's conviction, and any other factors deemed appropriate to the ends of justice. When granting intensive probation supervision, the court, pursuant to A.R.S. § 13-914.D, shall set forth on the record the factual and legal reasons in support of the sentence.
9. Intensive probation shall be conditioned on the offender:
  - a) Maintaining employment, maintaining full-time student status and making progress deemed satisfactory to the probation officer, or being involved in supervised job searches and community service at least six days a week throughout the offender's term of intensive probation.
  - b) Paying restitution and paying a monthly probation fee of not less than \$30 unless, in determining the inability of the offender to pay the fee, the court assesses a lesser fee. Probation fees shall be deposited in the probation services fund.

- c) Establishing a residence at a place approved by the intensive probation team and not changing the offender's residence without the team's prior approval.
- d) Remaining at the offender's place of residence at all times except to go to work, to attend school, to perform community service and as specifically allowed in each instance by the adult probation officer.
- e) Allowing administration of drug and alcohol tests if requested by a member of the intensive probation team.
- f) Performing not less than forty hours of community service each month except that full-time students may be exempted or required to perform fewer hours of community service.
- g) Meeting any other conditions imposed by the court. Other conditions may include a requirement that the offender be placed in a residential treatment program, incarcerated in the county jail for a period not to exceed one year, or any other conditions which meet the needs of the offender and further limit the risks to the community.

h) If the court requires as a condition of intensive probation that the offender be incarcerated in the county jail for a period not to exceed one year, the offender may receive credit for time served prior to sentencing. In addition, where otherwise appropriate and permissible, such offender is eligible for work furlough programs while incarcerated.

10. Pursuant to A.R.S., § 13-915, the court may also require as a condition of intensive probation that the offender be incarcerated for a period not to exceed 45 days in the State Department of Corrections for the purposes of eligibility screening for the shock incarceration program. If determined eligible, the offender shall complete as a condition of intensive probation a program of incarceration in a special shock incarceration unit of the State Department of Corrections for a period of one hundred twenty days from the time of incarceration in the unit.

11. An offender is on intensive probation from the date that the sentencing judge grants the offender a period of intensive probation until revoked or otherwise discharged from intensive probation supervision by the court. An offender shall not be counted as part of an intensive probation team's active caseload while incarcerated as a condition of intensive probation supervision or during any unauthorized absence from supervision or the court's jurisdiction.
12. Offenders serving jail time as a condition of intensive probation pursuant to a work furlough program shall be considered as part of an intensive probation team's active caseload and shall be supervised in accordance with the requirements set forth herein, except community service requirements may be exempted or reduced during the period of work furlough incarceration.
13. Immediately upon successful completion of a period of shock incarceration as a condition of intensive probation, the offender shall be counted as part of an intensive probation team's active caseload and shall be supervised in accordance with the requirements set forth herein.

**F. Intensive Probation Teams; Caseload Limit**

1. Pursuant to A.R.S. § 13-916.A and B, intensive probation teams shall consist of one adult probation officer and one surveillance officer, or one adult probation officer and two surveillance officers.
2. A two person intensive probation team shall supervise no more than 25 active cases at any one time, and a three person intensive probation team shall supervise no more than 40 active cases at any one time.
3. Intensive probation teams shall only supervise persons on intensive probation supervision.

**G. Waiver Procedure**

1. A presiding judge of a superior court in a county with a population of fewer than 300,000 persons may request in the proposed plan a waiver of any or all the requirements of A.R.S. § 13-916, subsection A, subsection B, and subsection F, paragraph 2, if the caseload of every adult probation officer supervising persons on intensive probation is not more than 15 active cases and the program plan requires visual contact with each intensive supervision probationer at least one time a week. Such probation officers shall only supervise persons on intensive probation supervision.

2. Waiver requests shall be filed with the Administrative Office of the Courts in a format and on a form prescribed by the Administrative Director. The Administrative Director, or his designee, may approve the waiver request.

**H. Program Operating Procedures**

1. For purposes of uniform administration and coordination, documentation and record keeping, information retrieval and reporting, monitoring and evaluation, and training, the Administrative Director of the Courts is authorized, where desirable and feasible, to adopt, publish and distribute to all presiding judges and chief adult probation officers additional uniform requirements regarding A.R.S. § 13-914.E, § 13-916, and § 13-918. Each superior court and probation department operating an intensive probation supervision program shall comply with such requirements.
2. Each intensive probation supervision plan of a superior court must include, at a minimum, the requirements and responsibilities set forth in A.R.S. § 13-916.F.

3. In compliance with A.R.S. § 13-916.F(5), an intensive probation team or officer shall bring a defaulting probationer into court if, in the judgment of the adult probation officer, the person's conduct justifies revocation.
4. Pursuant to A.R.S. § 13-918, the intensive probation team shall assist each person under its supervision in obtaining employment. The person's wage shall be paid directly to an account established by the chief adult probation officer from which the adult probation officer shall make payments for restitution, probation fees, fines, and other payments. The term "other payments" shall be restricted to court-ordered payments imposed as part of the sentence or as a condition of probation arising out of the proceeding by which the person was placed on intensive probation. In the absence of specific court-ordered monthly payment schedules, the chief adult probation officer shall establish such monthly, bi-monthly, or weekly payment schedules for each person in an intensive supervision program which emphasizes payment of restitution and probation fees. The balance of any monies shall be placed in an account to be used for or paid to the person or the person's immediate family in a manner and in such amounts as determined by the chief adult probation



officer or the court. Any monies remaining in the account at the time the person successfully completes probation shall be paid to the person. In establishing the payment schedule contemplated by this section, the chief adult probation officer shall review the amount of living expenses and available income of the probationer and determine the amount of money to be paid for court-ordered payments each month. Payment schedules and amounts may be modified by order of the court. Any monies remaining in the account at the time the person is revoked from intensive probation supervision shall be disbursed to satisfy court ordered payments in a manner and in such amounts as may be determined by the chief adult probation officer or the court. The balance of any monies in the account shall be paid to the person or disbursed as otherwise authorized by law.

5. Each adult probation officer providing intensive supervision shall, as set forth in the plan, periodically examine the needs of each person in an intensive supervision program and the risks of modifying the level of supervision of the person. The court may at any time modify, pursuant to Rule 27.2, Arizona Rules of Criminal Procedure, the level of supervision of a person granted intensive

probation, may transfer the person to regular probation supervision, or may terminate the period of probation.

6. When, in the judgment of the intensive probation officer, intensive probation supervision is no longer required, the officer may recommend to the court that the person be removed from the intensive probation supervision caseload. If the court transfers the person to regular probation then the person will be assigned to some other probation officer.
7. Whenever the court receives notification from an intensive probation officer proposing termination of the intensive probation placement or proposing modification of the level of supervision of a person granted intensive probation, the court shall notify the prosecuting attorney and the victim on request of any proposed termination or modification.
8. Any recommendation by a probation officer to the court to terminate an intensive probation placement or to modify the level of supervision shall be supported by a new risk assessment analysis, satisfactory compliance and performance by the probationer with all conditions and terms of intensive probation.

9. If a petition to revoke a period of intensive probation is filed and the court finds that the person has committed an additional felony offense or has violated a condition of intensive probation which poses a serious threat or danger to the community, the court shall revoke the period of intensive probation and impose a term of imprisonment as authorized by law.
10. If the court finds that the person has violated any other condition of intensive probation, it shall modify the conditions of intensive probation as appropriate or shall revoke the period of intensive probation and impose a term of imprisonment as authorized by law.
11. An offender on intensive probation supervision may be transferred to another Arizona county for intensive supervision provided the receiving county operates an intensive probation supervision program, has an available opening to accommodate the offender on an active caseload, and the presiding judge of the superior court of the receiving county, or the judge's designee, approves the transfer.

12. If an offender on intensive probation supervision engages in conduct constituting a criminal offense, including testing positive for the use of any illegal or controlled drug, narcotic, or other substance specified in A.R.S. § 13-3401 et seq., the intensive probation officer shall notify the sentencing court by submitting a report which may include a recommendation for further appropriate action.
13. Levels of supervision may be progressively decreased over the term of supervision dependent upon compliance by the person with all of the conditions of probation, including continued law-abiding behavior. Requests by the intensive probation officer for a change in the level of supervision of a probationer shall be in accordance with the following minimum requirements for such changes, but the level of supervision cannot be decreased beyond the minimum level described in the following requirements for intensive supervision.

Minimum Requirements  
Levels of Supervision For  
Two-Person AND THREE-PERSON Intensive Probation Teams

**Supervision Level I**

1) Visual Contacts

The team is to have a minimum of four visual contacts with each probationer per week.

a. Each participating probation department is to include in their I.P.S. operations varied and unscheduled, day and night visual contacts to include holidays and weekends. (See requirement #5.)

b. Additional contacts of varied nature are also to be included as part of each plan to ensure the close supervision and monitoring of each probationer. (See requirement #5.)

2) Employment Verification

The team shall make weekly contact with the employer of the probationer.

3) Employment-Seeking Verification

The unemployed probationer is required to present verification of job search activities each weekday unless otherwise instructed by the intensive team or officer.

4) Arrest Records

The intensive teams, during Supervision Level I, shall make a weekly arrest record check as part of the information collected on the conduct of the persons sentenced to intensive probation.

5) Curfew

The team or officer shall monitor and enforce curfews established pursuant to A.R.S. § 13-914, Subsection E.4

6) Community Service

The team or officer shall monitor and enforce the minimum requirements for community service as per A.R.S. § 13-914, Subsection E.6.

7) Alcohol/Drug Tests

The team or officer will administer frequent and unscheduled alcohol and drug tests as required in the judgment of the officer or according to the policy and procedures of the participating superior court.

**Supervision Level II**

The recommendation must be supported by a new risk assessment analysis, stable employment, compliance with community service requirement and other conditions, positive adjustment, including remaining arrest free and free of drug and alcohol abuse.

1) Visual Contacts

a. The team is to make a minimum of two visual contacts per week. Contacts each month should be varied and unscheduled and include evenings, holidays, and weekends.

b. Additional contacts of varied nature are to be included as part of the plan by each department to provide for close supervision and monitoring of the probationer.

2) Employment Verification

The team shall contact the employer at least once every two weeks.

3) Employment-Seeking Verification

Same as Supervision Level I.

4) Arrest Records

Same as Supervision Level I.

5) Curfew

Same as Supervision Level I.

6) Community Service

Same as Supervision Level I.

7) Alcohol/Drug Tests

Same as Supervision Level I.

**Supervision Level III**

After completion of Supervision Levels I and II, the officer shall again assess the risks and needs of the probationer, and the adjustment of the probationer. The officer may recommend that the probationer be placed in Supervision Level III or may make other appropriate recommendations, including termination of intensive probation and transfer to regular probation supervision. A probationer who has been ordered by the

court to undergo special treatment in a residential facility may also be placed in Supervision Level III for the period of the residential treatment.

1) Visual Contacts

- a. The team is to have at least one visual contact per week with the probationer.
- b. Some additional contacts of a varied nature are to be made to provide for the close supervision and monitoring of the probationer pursuant to the approved plan of each department.

2) Employment Verification

Same as Supervision Level II.

3) Employment-Seeking Verification

Same as Supervision Level I.

4) Arrest Records

Same as Supervision Level I.

5) Curfew

Same as Supervision Level I.

6) Community Service

Same as Supervision Level I.

7) Alcohol/Drug Tests

Same as Supervision Level I.



**I. Allocation and Management of the Number of Intensive Probation Supervision Placements**

1. The Administrative Director of the Courts is authorized to determine the allocated placements authorized for intensive probation supervision between and amongst superior courts.
2. The Administrative Director may prepare and implement procedures for adjusting allocated placements between and amongst superior courts.

These administrative requirements are subject to modification or any portion herein may be waived as deemed necessary by the Chief Justice.

DATED this 27th day of June, 1989.

ARIZONA SUPREME COURT

FRANK X. GORDON, JR., Chief Justice

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