

**COMMITTEE ON PROBATION
(COP)
ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
1501 WEST WASHINGTON STREET
CONFERENCE ROOMS 345 A & B
PHOENIX, ARIZONA**

**OCTOBER 29, 2010
9:00 A.M. – 12:00 P.M.**

Chair:

Tim Hardy

Attending Members:

Stan Alexander
John Armstrong
Rene Baca
Margie Brakefield
Barbara Broderick
Hon. Peter Cahill
Chad Campbell
John Dyess
Hon. Warren Granville
Billie Grobe
Arno Hall
Steve Hardy
Vincent Iaria
Bryon Matsuda
Mario Moreno
Chuck Moter

Tivo Romero
Kendall Rhyne
David F. Sanders
Delcy Scull
Sharon Sikora
Betty Smith
Susan Stodola
Don Stokes
Livingston Sutro
Sue Von Borstel
Friend Walker
Cindy Winn
Todd Zweig

With Regrets:

John Armstrong
Mike Branham
Carl Fox
Scott Mabery
Diane McGinnis
Doug Pilcher
Rik Schmidt
Kathy Waters

Proxies:

Guests:

Katy Proctor – by phone
Hon. Douglas Reyes

**AOC Committee
Staff:**

Fred Santesteban
Diane Herst

I. WELCOME

Tim Hardy called the meeting to order at 9:08 a.m. Tim asked that Don Stokes lead the committee in reciting the Pledge of Allegiance. Introductions were made around the room and Tim announced that there would be a short break in the meeting later on.

It was established that there was a quorum present as defined in the business rules for the committee. 2/3rds of the members present at any vote are required for a motion to pass.

II. APPROVAL OF MINUTES

Tim gave the committee a few minutes to look over the minutes of August 27, 2010.

MOTION: Chuck Moter made a motion to approve the minutes of August 27, 2010. Livingston Sutro seconded the motion. No discussion. Motion passed unanimously. COP 10-11.

Tim then asked that anyone making remarks, please identify themselves so that it can be captured on the recording.

III. LEGISLATIVE UPDATE

Tim informed the committee that Katy is asking for formal action to be taken on the legislative items as they will be going to AJC for approval. Katy Proctor reported out on the update by phone.

HANDOUTS:

#1 Summary page: Committee on Probation Legislative Update: 10/28/2010 -
(incorrect date acknowledged)

#2 Statutory Language for Probation Proposals

Handout #1-

- 2011-01: Technical change; Tactic on proposal was changed overnight; will be folded into the waiver bill
- 2011-03: Voted on by AJC and including it in their package, however they want authority to work out issues with the language
- 2011-04/2011-10: Approved by AJC; 2011-04 removes the 300,000 threshold allowing any county to access the waiver for supervision standards to go to 1:15 ratio; 2011-10 was Maricopa's proposal that they could use the one person team configuration; they will be combined into one proposal; COP has not actually seen 2011-10 before
- 2011-05: AJC felt strongly that it should happen; if SB1070 fix bill occurs 2011-05 language will be inserted into it, otherwise we will continue to monitor the situation

2011-06: Submitted by Maricopa County; ensure that their probation officers have the authority to conduct, arrest, and bring in people under pre-trial services; greatly amended since it was first submitted; AJC wanted it to come back before COP for input and recommendation; COP had not seen it prior to today

Handout #2-

- 2011-03 (PREA): To criminalize specific sexual behavior between probation, juvenile detention, surveillance and other specific court employees and people under supervision of the Court; has been significantly narrowed; combines training, discipline and termination on the department level with felony option; takes existing statutory language of sexual behavior in prisons and applies it to juvenile detention facilities; coercion of an offender by specific sexual contact threatening status for good or for bad, would be a felony; felony level tracks with other prison statutes; amended since yesterday –
 - Clarifies that the status of the offender has to be known to the officer at the time of the offense
 - Page 1, Line 43: Coercion/threat may also include a positive outcome
 - Page 2, Lines 10 and 11: Inserts language into definition of “Person” one who provides pre-sentence or pre-disposition reports to the Court regarding the offender; intent is to cover anyone who is an employee of the department or the juvenile court

Katy asked if there were any comments, concerns or questions; Tim stated there were none; discussion had taken place yesterday at Juvenile Administrators’ Meeting (JAM) and at Adult Management Meeting (AMM) on these issues; any public members that have comment, please make them now; there were none.

Katy then added that Page 1, Line 40 dealing with “coercing the offender to engage in the act” is still being looked at by Legal by way of not using “coercion” but leaving “threat”, “offer” and “sexual act”; if it changes Katy will send it out for additional comments.

Tim then called for vote from committee on proposal 2011-03 as discussed.

MOTION: Livingston Sutro made a motion that the proposal be accepted and moved forward. David F. Sanders seconded the motion. No discussion. Motion passed unanimously. COP 10-12.

Katy then resumed discussion on 2011-4/2011-10 and stated that COP has already approved the language in Arizona Revised Statutes (A.R.S.) 8-356 and 13-919; 12-269 still needs to be approved; incorporates 2011-10 intended to allow Maricopa County to have the 1:15 team configuration; Katy noted the reason this issue of configuration is not being discussed under the other section which also contains probation ratios, is due to the political climate and current budget constraints. This would allow Maricopa to be exempt from the current team compositions listed in 13-916, where they can then employ a one person team. Subsection C is purely technical language that was missed in last year’s clean-up bill. Katy then asked for any questions from the committee; there were none.

Tim called for a motion to be made on 2011-4/2011-10. (Support of language as presented)

MOTION: David F. Sanders made a motion to support the language in 12-269; Steve Hardy seconded the motion. No discussion. Motion passed unanimously. COP 10-13.

Katy then resumed discussion on 2011-06: Pre-Trial Services; Arrests. Concerns raised with the first draft were:

- Appeared to *direct* all counties to have probation officers perform this work
- Not every county has this function under probation
- Boards of Supervisors might think it was a good idea even if it was not fundable

This language now is specific to Maricopa County only and is permissive; allows Maricopa PO's to serve warrants, make arrests, and bring violators of pre-trial release conditions before the Court. Looking right now at combining proposal 2011-06 with 2011-04/2011-10 to create a larger probation bill; if 2011-06 is approved, that is likely to happen unless there are any objections or concerns to that (by COP). Tim asked for any discussion from the committee; there was none and he called for a motion.

Steve Hardy then commented that Yuma county would not be opposed and that their pre-trial officers are PO's, so why is it only pertaining to Maricopa County? Katy stated that most of the counties they heard from had concerns that they would be forced to have their PO's perform the tasks if the language pertained statewide; if the counties represented at COP felt differently, the issue can be revisited.

Billie Grobe stated her county has pre-trial services but it is limited due to early disposition court which takes the bulk of cases and moves them through very quickly; concern with the language was that more would be expected from what is already a limited program. David F. Sanders stated that Pima County's pre-trial services is a separate division and are not PO's.

Don Stokes commented that the language "may serve" is in compliance with 12-253 in the performance of duties and that it would support HR 218 and strengthens the ability to get it passed.

Tim asked for comment from other counties similar to Yuma; Todd Zweig stated that his county's pre-trial staff are PO's, and the concern is in it becoming expected rather than permissive and would be a resource problem.

Barbara Broderick stated that the Presiding Judges had discussed this topic extensively and it was decided, due to each county being so different, that it would apply to counties with populations over 2 million right now and looking at it more systemically later. Friend Walker stated that Mohave was asked at one time to perform this function, but without additional funding, so they do not; his concern is with the Board of Supervisors looking at it now as something that must be done and without additional resources. Barbara replied that was the reason the "populations over 2 million" was decided upon.

Don Stokes brought up the issue of verifying residences and supervising sex offenders and that in that instance it would be beneficial.

Tim then called for a motion on the issue

MOTION: John Dyess made a motion to approve the legislation as proposed. Vincent Iaria seconded the motion. No discussion. Motion passed unanimously. COP 10-14.

Katy thanked the committee and stated for any additional questions, to please contact her.

IV. BUDGET UPDATE

Nora Acosta presented the state budget update:

- FY11 - \$825 million shortfall
- FY12 – projecting \$1.4 billion shortfall
- The FY11 figure (825 million) includes \$469 million if the propositions do not pass in November; includes \$206 million in revenue shortfall; revenues were forecasted at 2.4% and have not been coming in as projected,(although they are beginning to show growth); and includes \$150 million in lower federal matching funds
- The FY12 figure (1.4 billion) includes \$8.2 billion in revenues that were forecasted at 4.8% growth and have not seen and \$9.6 billion in spending projected; 15% spending cut to cover the \$1.4 billion difference
- This \$1.4 billion does NOT include another \$1.4 billion in suspended funding formulas primarily in education; with that the spending cut is more like 30%
- Judiciary budget – cuts that have been taken since FY08 total \$21.8 million which is 19%; \$32.5 million in funding sweeps for a total of \$54.3 million; forecasting FY11 will be mostly funding sweeps depending on the freshman legislature; looking at a 5% - 15% cut for FY12; increases in filing fees may offset some of the cuts

Nora asked if there were any questions (for Kevin); there were none. Tim then called for a short break in honor of Fred Santesteban’s last COP meeting. The meeting reconvened for sub-committee updates.

V. Sub-Committee Updates:

Staff Safety Advisory Committee (SSAC) – Livingston Sutro presented the update:

- There has been no meeting of SSAC since the last COP meeting
- Awaiting the results of a minimum physical standards study for probation; AOC is drafting a request for proposal for vendors to complete the study
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Livingston asked if there were any questions; there were none.

Committee on Probation Education (COPE) – Todd Zweig presented the update:

- Last met on Oct. 5th and approved 10 new firearms trainers
- Since the last COP meeting the following trainings have been conducted:
 - In September -
 - Firearms training
 - Firearms Train the Trainer training
 - Defensive Tactics Academy
 - IPS Academy – which had 27 participants
 - In October –
 - Probation Certification Academy – which had 40 participants
 - Coming up in November –
 - Firearms Academy
 - Defensive Tactics Academy
 - Faculty Skills Development training
- In September, at the Statewide Probation Recognition Event, COPE presented four trainer excellence awards in the areas of Probation, Detention, Defensive Tactics and Firearms
- Education Services Trainings –
 - Probation Certification Academy – curriculum was updated after surveying officers that had attended before and management
 - Concerns of previous attendees were that they wanted to attend earlier in their career; juvenile officers felt they were attending too long in classes directed at adult officers and vice versa
 - Management concerns were that some trainings offered at the academy might be better offered at the local level; committee determined that many smaller agencies do not have any trainings on the subject matter, so they would remain at the academy as that might be the only training some receive
 - Common concerns pertained to Motivational Interviewing (MI); some departments now offer their own MI trainings and refreshers, some do not due to resources; those surveyed felt the MI training offered at the academy was not very useful
 - Decided to combine the MI training with the Verbal Skills training and make it shorter; then add in Evidence Based Practices and Interstate Compact training
 - Educational Services division will have oversight over MI; update curriculum and revise as necessary; introduce Train the Trainer for MI, website and repository; more consistent basis throughout the state
- Intensive Probation Supervision Training Institute:
 - Traditionally been held over six days with the first four being attended by Surveillance Officers (SO's) and the last two joined by PO's; reduction now in hiring of SO's; much of the

curriculum overlaps with the Probation Certification Academy curriculum

- Tivo Romero volunteered to head an IPS workgroup with statewide membership to discuss changes in the institute that make better use of resources and is more in line with today's needs
- Handle With Care:
 - Behavior management system used in some Juvenile Detention facilities
 - Question arose if there are any Defensive Tactics techniques from Officer Safety training that can be utilized safely in a secured setting
 - Detention sub-committee workgroup conducted research and held some demonstrations; Diane McGinnis presented the ideas at JAM; response was favorable from the juvenile directors; subcommittees/workgroup will move forward developing new curriculum
 - Will look similar to officer safety training; will have master trainers throughout the state; Education Services will have oversight
- Supervisory Training – Evidence Based Practices:
 - COPE is working with the Court Leadership Institute of Arizona (CLIA) to develop curriculum

Todd asked if there were any questions. Tim Hardy commented about juvenile officers becoming bored with adult officer issues and vice versa; however roles are important to understand in both areas of probation. Was there any discussion to that point? Todd responded that they had discussed it but decided that with a shortage of resources it was best to keep it this way.

Livingston Sutro commented that the academy was excellent and the flow of subjects was logical. Tim then asked if there will be information sent out on the survey process and what came from it. Todd responded yes there will be.

Friend Walker asked where the less than lethal force option using tasers had been left; there was to be a pilot study. Todd responded that would actually be a question for SSAC.

Livingston then said that the juvenile pilot program was never approved by COP. David F. Sanders stated that COP approved the program for Maricopa and Pima; it is still a pilot until the taser is incorporated into the code.

Tim commented that there was not enough interest in it for COP to carry it forward for juvenile; Friend is asking that COP reconsider the issue. Tim asked that he make it an agenda item for next meeting; more discussion ensued. Tim stated it will be put on the agenda for the next meeting if allowable by the rules of committee.

Probation Automation Coordinating Committee (PACC) – Rona Newton
No update as there had been no committee meeting since the last COP meeting.

VI. Non-Agenda Items:

Susan Stodola asked how the public members can be of greater use to the committee as most discussion that takes place on legislative issues and others, happens mostly in other committees without the COP public members. Tim stated that we will do a better job of updating the public members; possibly face-to-face meetings. Sharon Sikora commented how public members can be a voice for legislation.

VII. Call to the Public

None.

VIII. Adjournment

MOTION: Barbara Broderick made a motion to adjourn the meeting. Friend Walker seconded the motion. Motion passed unanimously. COP 10-15.

Meeting adjourned at 10:24 am.

Next meeting – Tuesday, January 11th, 2011