

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

**APRIL 29, 2011  
9:00 A.M. – 12:00 P.M.**

**Chair:**

Tim Hardy

**Attending Members:**

Stan Alexander  
John Armstrong  
Rene Baca  
Margie Brakefield  
Mike Branham  
Barbara Broderick  
Chad Campbell  
C. Daniel Carrion  
John Dyess  
Carl Fox  
Hon. Warren Granville  
Billie Grobe  
Arno Hall  
Steve Hardy  
Tim Hardy  
Vincent Iaria

Scott Mabery  
Bryon Matsuda  
Chuck Moter  
Kendall Rhyne  
Tivo Romero  
David F. Sanders  
Rik Schmidt  
Delcy Scull  
Betty Smith  
Don Stokes  
Livingston Sutro  
Sue Von Borstel  
Friend Walker  
Cindy Winn  
Todd Zweig

**With Regrets:**

Hon. Peter Cahill  
Diane McGinnis  
Mario Moreno  
Sharon Sikora  
Kathy Waters

**Proxies:**

Chris Varner  
David C. Jones

**Guests:**

Cliff Ford  
Kevin Kluge  
Cliff Ford  
Rona Newton  
Mark Stodola

**AOC Committee  
Staff:**

Mark Koch  
Diane Herst

## I. WELCOME

Tim Hardy called the meeting to order at 9:02 a.m. Tim asked that Steve Hardy lead the committee in reciting the Pledge of Allegiance. Tim clarified that when the agenda and other materials are sent to members via email, members are to make copies to bring with them to the meetings. There will be copies made of updates or information that is received after the email is sent and available at the meeting when members sign in. This gives members an opportunity to look over the meeting information ahead of time. There will be a few extra copies of everything available at the meetings. Introductions were made around the room.

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 Hardy asked for a motion to approve

**MOTION: Mike Branham made a motion to approve the meeting minutes from January 11, 2011. Chuck Moter seconded the motion. Discussion ensued.**

David F. Sanders wanted to clarify his position in paragraph 3, page 4 under the heading of "Discussion" in the agenda item IV – Budget Update in the January 11, 2011 minutes and have it stated herein.

With the statement of "that savings with that ratio would allow cuts to Surveillance Officers (SO's)", what he was inquiring was whether or not it was possible to move to the 15:1 ratio by attrition, rather than in one fell swoop. He believes the answer he received was, yes it could be by attrition if the Chiefs or Directors chose to do so. He further clarified that he is committed to the 25:2 ratio.

Tim called for a vote on the motion. **Motion passed unanimously. COP 11-07.**

## III. LEGISLATIVE UPDATE – Handout only

No discussion.

## IV. BUDGET UPDATE - Kevin Kluge

Kevin K. indicated there are three bills currently which impact the budget in some way:

- ✚ SB 1612 – General Appropriations
  - Impacts on Judiciary:
    - Swept \$1.4 million in FY11 from Photo Enforcement Fund
    - Sweeps of \$1.3 million in FY12 from various funds

- Sweeps of \$2.7 million in FY12 from general funds for technical adjustments
- Sweeping \$5.3 million in FY12 for elimination of the Photo Enforcement Program
- Sweeping \$500,000 from Court Appointed Special Advocates (CASA)
- Total of just under \$ 10 million in cuts

✚ SB 1614 – State Budget Procedures

- Retirement Issues:
  - Arizona State Retirement System (ASRS) contribution rates for employees – going from 50/50 split to 53/47 split which will raise employee costs by 0.7% in their paychecks
  - New employees not eligible for state retirement benefits for the first 6 months of employment; break in service included, i.e. employee leaving Correctional Officers Retirement Plan (CORP) to go into ASRS
  - Impacting AOC employees – new employees not eligible for state health/dental benefits for the first 6 months of employment

✚ SB 1621 – Criminal Justice

- Repeals Arizona Revised Statute (A.R.S.) 12-270 (Safe Communities Act)
- Continues suspension of county non-supplanting provisions
- Continues suspension of some reporting requirements

Kevin K. further stated that the CASA fund balances have been swept over the years, with last session's attempt to cut \$500,000. That was negotiated out, as there was no fund balance left in CASA. Right now, revenues are down \$600,000; with no fund balance and revenues being down, future cuts may be necessary. Difficult to project revenues in CASA as it comes from unclaimed lottery winnings. Historically, \$2.6 million is budgeted each year for CASA; a quarter of that going out to the counties. Right now revenues are running at about \$2.1 million.

Kevin K. continued that the Risk Management Premium for the Superior Court is going down \$750,000. Counties are billed for that quarterly; with the reduction, there will be almost a full quarter being reduced.

Todd Zwieg asked how not participating in the pension fund for 6 months helps the financial well-being of the fund itself. Kevin K. replied that it does not help the financial well-being of the fund, but it saves the state from paying the first 6 months of employment. Actually, with the increased employee contribution from 50% to 53%, there is more of a liability to the fund; no cost savings to the fund itself.

Mike Branham made a statement about the budget issues at Arizona Department of Juvenile Corrections (ADJC). The Governor's office had asked the legislature to extend them for another year while a final decision was made as what pieces they want to privatize. However, they have also made it clear that they do not want to privatize the

entire agency, nor do they want to put it back onto the counties. He continued that over the last three years ADJC has had a 48% reduction to its budget.

Scott Mabery asked about SB 1614 – how will the waiting period for benefits of new employees’ impact our probation employees since their benefits are paid by the county? Kevin K. responded that the impact will not be to those employees, only to state funded AOC positions. It will affect recruiting for the AOC positions.

Tim H. gave accolades to Kevin K. and all the hard work he does for everyone.

## **V. ACJA 6-110: Offender Drug Testing – Cliff Ford and Mark Stodola**

- An Administrative Order (AO) in 1995, set forth the drug testing standards for Adult and Juvenile probation services
- Formed a workgroup about a year and a half ago to look at updates in order to be more in line with the federal standards; comprised of adult, juvenile and legal representatives
- Submitted for public comments (handout); asking for committee approval today to move forward to the Arizona Judicial Council (AJC)
- This code, as submitted for approval, meets all national standards and are at the minimum standards for the State of Arizona
- Counties may implement their own standards which exceed those stated herein

### Discussion –

Judge Granville asked what precipitated the changes and the formation of the workgroup; what was it that changed so significantly with the testing procedures already in place and being used?

Cliff F. replied that two changes were required; first the original AO did not include a requirement for lab certification, which the federal standards have. These standards now contain the correct methodologies. Secondly, some redundancy has been removed and responsibility for testing the lab equipment is now placed more on the labs themselves.

David F. Sanders added that these newly submitted standards appear to represent current practices in the field.

Don Stokes made reference to section *E. 11. Use the result of the immunoassay urine screening with no confirmation test if the offender denies substance use and the results are limited to officer imposed sanctions*; he finds an issue with the fact that antihistamine use can screen positive for amphetamines. He also commented on the use of Preliminary Breath Testing (PBT), which his county uses; he asked where that process is covered in the new standards.

Cliff F. replied that the officer is allowed in the situation to use limited sanctions without being forced to use the more expensive confirmation test. The committee thought the initial screening test could be used; there are two screening tests which are used at that

time. If a positive reading comes out on the screening test, and the officer and probationer decide not to proceed with the confirmation test, then the officer can use limited sanctions if the department allows.

Cliff F. continued, the PBT test falls under the on-site testing (or field testing). As long as the officer follows the manufacturer's directions and has been trained to utilize the test, then the code allows it.

David S. then suggested it may be a training issue; if somebody tests positive for amphetamines, rather than accepting their denial that they have used an illegal substance, we should be asking them if they have used a prescribed or non-prescribed drug.

Don S. agreed that it may be a training issue; however he said that officers tend to follow exactly what is written down. His concern is that there will be undeserved sanctions imposed upon a segment of the supervised population which may create further behavioral issues.

Tim H. stated that at minimum, departments are to meet the directive of the code; however they can go above and beyond the written policy. Cliff F. added that was the intention; to allow room for the counties to develop their own procedures and include these as the minimum. The intention was not to take the testing away from the counties.

Rik Schmidt added that this particular issue is not articulated in the code, and it should be. If everyone ends up with their own policy, and it is not stated in the code that it is allowed, we could be challenged. He suggested, some language being placed under the "Purpose" section that reads something to the effect of, "...counties may have local policies that have the minimum standards but may vary in more restrictive policies..."

Judge Granville referenced *Section G. 8, 9 and 10 Chain of Custody for Specimen Collection* – he stated that it is not normal that the person who is providing the evidence is needed for the chain of custody. If the offender is not able or is unwilling to do those things stated in *section G. 8, 9 and 10*, it may be perceived as an improper chain which would affect the admissibility of the sample. Normally, the police are responsible for the chain and the person providing the sample does not sign anything. Obviously, if the offender does sign, then it's a stronger case if it goes to court.

Don S. stated that terms and conditions require submission of a viable sample; if they refuse to comply with the procedures, it is then not a viable sample and is considered a refusal.

Tim H. then called for a motion to approve to move up to AJC.

Barbara Broderick added that this is very prescriptive on our laboratories. The way Maricopa Adult has dealt with Treatment Assessment Screening Center (TASC) so that the AO does not have to be changed is by saying they "must obtain and maintain accreditation in good standing by the College of American Pathologists (CAP) for forensic drug testing." Otherwise every time there is a change, then the code will need to

be changed as well. It may be better to have something simpler that covers those instances so that it does not have to be re-visited every time there is a change.

Cliff F. stated that was one of the concerns; they also realized how unfamiliar they were with the specifics of lab accreditation. They actually met with the labs and they are the ones that created that portion after review and comments; it is a minimum of labs perspective within that section.

Steve Tyrell stated that juvenile probation has direct contracting with three labs and that all meet the minimum standards under the College of American Pathology (CAP). The process used on a regular basis is proficiency testing and quality assurance testing between the lab sites. We can discontinue or suspend a contract in order to make sure the labs to continue to function at the highest standards.

Barbara B. asked why pre-trial is still in effect under the proposed changes. Mark S. replied that there was a concern of changing the language of “probationer” to “offender”, so they chose to leave the AO active for the pretrial portion; reflective only of probationers.

David S. stated with regard to the minimum standard issue and the ability of local departments to build on it, it may be apparent in Section C. on page 1. And Section 2.D.A. on page 2 also gives some latitude where it says we are not limited in our ability to build on it.

**MOTION: David F. Sanders made a motion that COP approve and endorse AJCA 6-110 Offender, Alcohol and Drug Testing as currently drafted. Livingston Sutro seconded the motion. Discussion ensued.**

Rik S. suggested that “Offender” may not be an appropriate term when used in description of juveniles due to the fact that legally they are not convicted of offenses. They are found to be “delinquent.”

Bryon Matsuda added that the language should align with the juvenile principles and philosophies. He also stated that although he agrees with everything else, if the word “offender” is going to be inclusive of juveniles, he will not be in favor of it.

Rik S. then stated that he would propose a friendly amendment to the motion, placing “Delinquent/Offender” throughout the code. Upon that, David S. asked to hear more opinions on the suggestion before amending his motion.

John Dyess stated that the code is fine with him stated as is; Tim H. added that the term “offender” is used in several parts pertaining to juvenile probation. Chad Campbell also stated that he was neutral on the subject and interjected that the term “juvenile sex offender” is standard and used in many documents in referring to juveniles. Rik S. then withdrew his friendly amendment recommendation.

Tim H. again called for the vote on motion by David S. as stated. 27 votes yes; 5 no; **Motion carries. COP 11-08.**

**VI. Arizona Association of Drug Court Professionals (AADCP)  
2011 Specialty Court Conference: Back to Basics and Beyond –  
C. Daniel Carrion and Mark Stodola**

- Conference is being held on May 19th
- Awarded 42 scholarships; 22 more still available
- Focusing on the rural communities to attend

Livingston Sutro asked if all of the scholarship recipients have been notified yet. Daniel C. answered that he is the one who confirms the recipients and that so far they have all been notified that he is aware of; however if someone had submitted a scholarship application and has not heard yet, then he will confirm by email.

- This is the first conference to take place in three years
- Drug courts, re-entry court, Veteran's court are some of the presentations; Attorney Dennis Burke also presenting
- Participants can receive up to 6 hours of Committee on Judicial Education and Training (COJET) credit
- Focused on re-energizing the group to continue annual conference
- Would like Pima County representatives to become part the committee
- Public members are also invited to attend

Tim H. called for a break at 10:00am

Meeting reconvened at appx.10:12am

**VII. SUB-COMMITTEE UPDATES**

 **SSAC (Staff Safety Advisory Committee) - David F. Sanders**

- David S. stated that he was named the Committee Chair in February, 2011
- Has not held a meeting since COP last met; waiting on results from the work that the Administrative Offices of the Court (AOC) is doing with Concentra (physical standards to employ new probation officers); will hold next meeting after results are known
- Currently looking at safety training for support staff members; have been working with Barbara Broderick and her existing program to find ways to implement some of the same; will address at the next meeting

- SSAC itself has been in existence since around the time that statewide use of firearms was introduced into probation
- Has recommended particular duty weapons in the past; updated the recommendations as improvements of firearms took place
- Created the ammunition standards in existence today
- Made modest changes to Defensive Tactics (DT)
- Made recommendations to the taser issue two years ago; they were not approved
- Basic approach now is for Chiefs and Directors to work through the AOC to gain approval to launch any project that involves tasers; no longer through SSAC and COP
- Committee has no standing outside of COP and concentrates mainly on safety trainings and continuum of control
- Open to any agenda items for future meetings

Tim H. added that he would like the Chiefs and Directors to respond to the emails that are sent asking for their staff to be appointed or re-appointed to the sub-committees; also noted that Kendall Rhyne is the co-chair of SACC. Tim thanked the work of the committee over the years it has been in existence.

Don S. asked if the support personnel are considered non-safety sensitive positions. David S. replied yes they are.

#### **COPE (Committee on Probation Education) - Todd Zweig**

- March 8<sup>th</sup>, 2011 was the last meeting held; finalized the changes for the Probation Officer Certification Academy
- Surveyed recent participants and leadership and ended up with more of a “tune-up” of the academy, rather than an “overhaul”; some curriculums were condensed; while others were expanded
- Approved addition of two new classes for the academy:
  - Interstate Compact and Evidence Based Practices
- This week is the first week of the academy with the updated curriculum
- 37 participants this week; being joined by 7 Surveillance Officers (SO’s) next week; evaluations will be sent out at the conclusion
- Also approved an outline of a case management class created by the Court Leadership Institute of Arizona (CLIA); specific to probation supervisors; piloting the class in December
- Reviewed learning objectives and purpose statements for new classes being developed for IPS training institute
- Landscape of JIPS and IPS has changed over the last couple of years which requires some changes to the institute
- Subcommittee has met four times; met last on March 24<sup>th</sup>; reviewing our existing classes as well as developing 13 new classes for the IPS program
- Detention subcommittee last met on April 6<sup>th</sup>; developing 3 new classes for their academy:
  - Professionalism

- Conflict of Interest
- Substance Abuse
- Next Detention Academy is May 24th
- Next Detention Train the Trainer (TTT) is in August (Suicide Prevention)
- Motivational Interviewing (MI) program – administrative oversight taken over by Education Services (AOC)
- MI Booster training for Lead Officers; revising the 3 day curriculum; developing refresher models for counties
- Next MI TTT – Pima County in July; Next DT Academy – June 6th; Next DT TTT – October 24th; Next Firearms TTT – in September

 **PACC (Probation Automation Coordinating Committee) – Rona Newton (Handout)**

- April 25<sup>th</sup> was the last meeting held
- Pima County implementation is moving forward although there have been some holdups within the testing; looking at Labor Day rollout
- Integration between JOLTSaz and AJACS has not been completed; no final date set
- Statewide Identifier (SWID) for juveniles has been successfully implemented in Pima County and all rural counties as well
- Looking at 6 more months for implementation of SWID in Maricopa County; giving people time to get used to the changes that SWID represents
- Adult Probation Enterprise Tracking System (APETS) - after many fix builds it is moving forward; integration of APETS/AJACS is being worked on
- Training for Justice Web Interface (JWI) will take place soon; Barbara Broderick and her staff were heavily involved in development of it and utilizes it; reviews are positive
- Newly created APETS steering committee held first meeting in March; another conduit for getting information to the AOC group
- Court Automation Coordinating Committee (CACC) is asking for funding for integration between AJACS/Juvenile Online Tracking System (JOLTSaz)/APETS
- Due to e-filing priority, resources were shifted away from some of these projects which pushed them behind
- Historically with AJACS, biggest complaint has been not being able to retrieve all reports necessary; putting a lot of emphasis on that now
- Question of counties being able to see other counties basic information on juveniles; answer was yes, depending on the security level

Susan Von Borstel asked if the security level for access to the reports will be locally administered or will it be at a higher level; Rona responded that in Pima it will be locally; however she cannot speak for the other counties. AOC provides support for some rural counties, while others have their own IT departments, so it may be administered on a county by county basis.

- Diversion fees – seems to be a business function issue; how fees are collected in the rural counties (who do not have clerks) is being looked at now

## VII. NON AGENDA ITEMS

Public member Carl Fox is the current president of AZ Probation, Parole and Corrections Association. He spoke about the National Institute of Corrections (NIC) Training that Kathy Waters had sent an email to all of the Chiefs and Directors about. The state association is picking up most of the costs, so attendees pay only \$25. The second day is geared directly at Chief, Director, and Supervisor level of management.

David S. discussed the Search Team Coordinator training on August 31, 2011 hosted by Pima County. Pima Adult Probation will be filling 10 of the 20 spots, but the other 10 are still available. He stated that typically, case officers are the people in charge of a probation search. Sometimes they can be a new officer and may be uncomfortable performing that role at first. Pima County has designated certain individuals to be search team coordinators who can be contacted to lead the team. This program trains those individuals to become coordinators. The program is consistent with what is taught at the academy and contains a lot of tactics training.

Tim H. asked to hear feedback on what other Chiefs/Directors do for their staff during Probation, Parole and Community Supervision Week which is July 17 - 23:

- Governor usually issues a proclamation; Chad C. verified that it is in process for this year
- Barb B. stated that last year the proclamation only included Parole and not Probation; would be meaningful to many people if the Chief Justice would also issue a proclamation or resolution
- Friend Walker relayed that Mohave County does the following during that week:
  - Recognitions at Board of Supervisors (BOS) meetings
  - Ceremony in the Historic courtroom – Presiding Judge awards annual winners
  - Media coverage
- Rik S. commented that each day during the entire week is devoted to a different level of acknowledgement, i.e. swearing in of new officers
- Tim H. then added that the website for the American Probation and Parole Association (APPA) contains a wealth of free information, such as a media kit, different ideas to recognize staff, etc. He and Steve H. host a luncheon for their employees; and he stressed the extreme importance in recognizing employees.

Barb B. commented that the APPA Conference is in Chicago this year July 24 - 27 and features a leadership academy. The SAFER Foundation in Cook County is heavily involved with it. The theme will include a lot more juvenile programming this year; yearend money can help pay for registrations. The APPA is the national

voice for probation and parole; opportunity in increasing leadership skills with a nationally accredited institution. She added that the Department of Justice, both pre-trial and probation is engaging more with the state and county levels.

**XI. CALL TO THE PUBLIC**

Nothing from the public.

**XII. ADJOURNMENT**

**MOTION: Barbara Broderick made a motion to adjourn the meeting. Arno Hall seconded the motion. Motion passed unanimously. COP 11-09.**

**Meeting adjourned at 10:52am**

**Next meeting – Friday, August 26, 2011**