

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

**AUGUST 3, 2012
9:00 A.M. – 12:00 P.M.**

Chair:

Tim Hardy

Attending Members:

Stan Alexander
John Armstrong
Jacqueline Barnes
Barbara Broderick
Chad Campbell
C. Daniel Carrion
Hon. Kimberly Corsaro
John Dyess
Carl Fox
Hon. Warren Granville
Billie Grobe
Arno Hall – by phone
Josh Halversen
Paul Hancock (Interim)
Steve Hardy
Tim Hardy

Scott Mabery
Bryon Matsuda
Eric Meaux
Mario Moreno
Chuck Moter
Darrell Reeves
Tivo Romero
Stephen Rubin
David F. Sanders
Delcy Scull
Betty Smith
Don Stokes
Livingston Sutro
Kathy Waters

With Regrets:

Paul O’Connell
Kendall Rhyne
Sharon Sikora
Lucinda Yellowhair
Cindy Winn
Todd Zweig

Proxies:

Holly Dorman

Mary Walsh
Chris Varner

Guests:

Kevin Kluge
Amy Love

AOC Committee

Staff:

Mark Koch
Diane Herst

I. WELCOME, PLEDGE OF ALLEGIANCE and INTRODUCTIONS

Chair, Tim Hardy, called the meeting to order at 9:03am and asked Mr. Steve Hardy to lead the Pledge of Allegiance. Chairman Hardy welcomed new committee members, Judge Kimberly Corsaro, Josh Halversen, Paul Hancock (Interim), Eric Meaux and Stephen Rubin. Introductions were then made around the room.

Chairman Hardy reminded the committee that at times, phone lines are available on a limited basis for those who may not be able to attend in person.

II. APPROVAL OF MINUTES (from April 27, 2012)

The committee was given some last minute corrections by email, and as a hardcopy handout, which will be incorporated upon approval.

MOTION: Mr. Darrell Reeves moved to approve the minutes from April 27, 2012 as amended by the email of the given corrections; Mr. David Sanders seconded. All in favor, motion carries. (COP 12-05)

III. BUDGET UPDATE – Mr. Kevin Kluge, Chief Financial Officer (CFO), (AOC)

Mr. Kluge explained that during the presentation at the April 27th COP meeting, the legislature was discussing a judiciary budget sweep of \$12 million for each of the fiscal years, FY13 and FY14 for a total of \$24 million. He then thanked Ms. Amy Love, AOC Legislative Liaison, for helping in the debate to get that number decreased.

➤ Budget impacts for FY13

- Legislature funded the general fund appropriations at the baseline
- Judiciary was excluded from funding increases to cover the increased cost in retirement, health and dental; judiciary has never been excluded until this year
- Due to the exclusion, the judiciary took approximately \$1 million in cuts; will be asking for it back in the FY14 budget requests
- Were able to negotiate the \$24 million fund sweep (FY's 13 and 14) down to \$12 million - (\$6 million FY13 and \$6 million FY14)
- The big impact on probation is in taking \$5 million from the Juvenile Delinquent Reduction Fund in each of the next two fiscal years; no other impacts on juvenile probation
- There was \$150,000 taken out of Drug Treatment and Education Fund; \$400,000 out of Juvenile Court Enhancement Fund (JCEF) probation in each of the next two FY's
- The JCEF balance is around \$4 million; the revenue is coming in at a higher level than the spending authority allows; will be requesting \$1 million increase in JCEF for probation salaries / raises funded by AOC in FY14
- JCEF revenue comes from additional \$20 fee placed on speeding tickets, watercraft tickets, etc.; Maricopa County retains their own JCEF, so this money is only for the other 14 counties
- The State will be in a better position going into the next two fiscal years

Chairman Hardy thanked Mr. Kluge for the hard work he does on behalf of probation and how well he communicates the financial issues to those who may not understand the numbers as well. He also congratulated him on his promotion to Director of Administrative Services at the AOC, while maintaining his position as CFO.

IV. LEGISLATIVE UPDATE – Ms. Amy Love, Legislative Liaison, (AOC)

- Bills that impacted this committee from the last session fell under the general effective date of yesterday (8/2/2012)
- Anticipating some more issues from the legislature over the Independent Redistricting Committee’s decision; with the elections later this year, many of those who were upset about it will either be reelected and content or not be back at all; two individuals in key leadership positions are anticipated to be reelected

Ms. Love asked the committee if there was any legislation that came out of the previous chief’s meeting held on July 27th as the deadline to submit proposals is fast approaching.

- Do you have any idea if the “guns in public buildings” bill will be reintroduced this year?
 - Anticipate it will be reintroduced, but it fought an uphill battle before so it will probably be unsuccessful again

Chairman Hardy thanked Ms. Love for the hard work she does on behalf of the AOC and probation departments.

V. AOC GUIDELINES FOR FIREARM HOLSTERS (ACTION ITEM) – (handouts) - Mr. David F. Sanders, Adult Chief Probation Officer, Pima County and Chairman of the Staff Safety Advisory Committee (SSAC)

Advancing this issue on behalf of SSAC, a subcommittee of COP, Mr. Sanders presented the subcommittee’s position on the issue of using thigh holsters. The original request was submitted in 2011 to Barbara Broderick, Maricopa County Adult Chief Probation Officer, by a member of her fugitive apprehension unit (FAU). The request was forwarded to SSAC for their recommendation.

SSAC’s discussion points on the issue from the meeting on June 7, 2012:

- Thigh holster would be limited to officers working full-time in FAUs who wear protective vests; justification in using thigh holster is increased access to the weapon
- If the officer’s dominant hand is disabled, reaching for a weapon on their hip is much more difficult to do with the weak hand; hand to thigh reach has better accessibility
- The thigh holster is more comfortable in times of long surveillances
- Officer’s attire would be more consistent with the other members of the task force units
- Thigh holsters however, are not readily concealable (number one criteria of AOC holster guidelines), but does meet criteria numbers two, three and four
- Would meet criteria number one if officer exchanged the holster for others in times where concealment is necessary; SSAC members declined to take that approach

- SSAC unanimously voted that the administrative directive outlining the holster guidelines, be modified to exclude criteria number one and is advancing that recommendation to COP

Summary of discussion:

- Ms. Broderick suggested, instead of excluding criteria number one completely, modifying it to read "...except for officers who are working in fugitive apprehension units or on task forces";
- Speaking on behalf of SSAC, Mr. Sanders stated that the committee would not object to that modification; however, it would still require an amendment to the directive
- The question was asked if that modification would be too restrictive for those counties who do not have FAUs, but do have special assignment officers
 - The language needs to be specific to fugitive apprehension, search and designated units who perform higher risk activities
 - Some departments have "search units" while others have "search teams"; the previously suggested language may not be appropriate for "search teams"; whatever language is used in the modification needs to be flexible enough to include both
- SACC's perspective is that this would be used in full-time assignments, working on a task force with mostly executive branch officers who are similarly attired
- If both holsters are issued to an officer, they have to qualify twice as often; can become an issue of time and expense
- SACC's recommendation is that it be restricted to full-time assignments working FAUs; would have the option of wearing either the hip holster or the thigh holster unless otherwise directed by the chief
- Ms. Kathy Waters suggested the language in the guidelines state "be readily concealable" and then build in the exception "for those designated by special assignment"; it then falls back to the chief to designate who is required to be armed as is stated in [Arizona Code of Judicial Administration (ACJA) §6-113].
- The suggested language allows some smaller counties flexibility in assigning an officer to assist another agency on a warrant case

Chairman Hardy asked for a motion on the issue.

MOTION: Mr. David Sanders moved that the administrative directive on holsters dated August 23, 2006 be amended as to number one, that it read "readily concealable except under special assignment by the chief probation officer." Livingston Sutro seconded. All in favor, motion carries. (COP 12-06)

VI. HISTORY OF COP / COMMITTEE MEMBERSHIP DISCUSSION

- Ms. Kathy Waters, Adult Services Division Director, AOC
- Mr. Tim Hardy, Chairman, COP

Chairman Hardy presented a brief summary of the agenda item which is to explore some of the history of the committee, and discuss some of the more recent accomplishments, goals and future direction.

Ms. Waters presented the history of the committee:

- Back in the 1980's, and under the direction of Chief Justice Frank Gordon, the Commission on the Courts was created; a large group that studied the functionality of the entire court

system to make recommendations; similar to the government structure as found in the states of Utah and California

- The commission recommended and created the Council on Judicial Administration, which is essentially now the Arizona Judicial Council (AJC)
- The first Committee on Probation was established by an Administrative Order (AO) 88-3 and was created to assist the new council; order stated the committee would include chief probation officers and juvenile court directors as well as others, but not every one of them;
- AO 90-52 directed the creation of COP; the purpose of COP is to serve as an advisory committee to assist the Committee on Superior Court (COSC) “to carry out its justice”
- The membership is listed as all chief probation officers, all juvenile court directors, the division directors of adult and juvenile services at the AOC, as well as some judges; very similar to the membership of the committee today
- Due to the extensive changes happening to the structure of the judicial branch, it was necessary for the membership to be inclusive so as to gain input from all over the state; as the governance has evolved and is more clear, COP functions as an advisory council
- COP is a very large committee; most areas that work with the courts are represented including both juvenile and adult probation line staff
- There is some concern that the COP meetings have become just another meeting to attend without any true substance; chiefs and directors are required to attend and also attend administrative meetings the day before where much of the discussion is repeated at COP

Chairman Hardy asked for a short discussion by committee members on issues such as the future direction of the committee and substantive agenda items.

Summary of discussion:

- The purpose of the committee is to understand budget process from a major statewide perspective, discuss action items that may come through other committees, and especially focusing on legislation impacting probation
- At times bringing meaningful discussion to such a large group can be difficult to manage; COP is the only committee, out of all of those that are governance up to the judicial council, that is all inclusive of every position; the Committee on Juvenile Courts and COSC have a select amount of either directors or judges
- COP is by far the largest committee within the supreme court with 36 members; even larger than AJC
- Standardizing probation, creating the operational review process and moving into evidence based practices (EBP) has been the committee’s purpose over a number of years; those issues have now been completed
- The diversity of the committee with members who are not chiefs and directors is valuable; public members can bring a certain perspective to the discussion that other members cannot
- There can be issues with discussion taking place at other meetings, i.e., the Chiefs’ Association Meeting, where non-chief / non-director members of COP have not been privileged to the discussion; if a vote on the issue then takes place at COP, there is a risk of violating the open meetings law
- Reducing the number of chiefs and directors was suggested; i.e. still have representation from large, medium, small and combined departments, but only one or two for each
- Clarification was asked as to what the problem is; i.e., the committee is too large, there are issues with having enough agenda items or communication issues;

- The initial concern was in having a solid agenda making it worthwhile for everyone attending
- It was suggested, rather than reduce the membership, to reduce the number of meetings to twice a year rather than quarterly
 - The requirement is to meet three times a year at minimum; the possibility exists in changing code, upon approval from the chief justice, to reflect a reduction in meeting occurrences
- Since COP is an advisory council to COSC, their input should be given on the issue
- The previous year was slower in terms of work for the committee after working on code implementation, EBP, etc.
- Reducing the membership may not be beneficial when major issues arise in the future and there is insufficient representation

Mr. Don Stokes announced his retirement at the end of August and expressed his admiration and appreciation for the time spent as a member of the committee.

Chairman Hardy then concluded the topic and asked the members to respond more often to the request for agenda items when sent out a few weeks prior to the next meeting. He expressed his appreciation to the members for the time they give to attend the meetings. He also reminded newer committee members that COP is different than any other committee in that, it does take a 2/3 vote to pass agenda item.

VII. SUB COMMITTEE UPDATES

SSAC (Staff Safety Advisory Committee)

- **Mr. David F. Sanders, Adult Chief Probation Officer, Pima County**

- The last meeting on June 7th, 2012 was long as some code revisions were considered, i.e., ACJA § 6-106: Personnel Practices
- SSAC is unanimously in favor of some physical standards prior to entry on duty
- There is some controversy involved as some chiefs and directors believe that successful completion at the defensive tactics academy should be enough; however, some new officers do not attend the academy right away
- Certain physical standards prior to entry are consistent with industry standards; common in law enforcement and quasi law enforcement positions
- Ms. Waters' additional research on some of the standards included changes to the requirement of physically dragging a 200lb body - could be reduced to 150lb which is common in many organizations
- Additional code revisions relative to physical standards will be available for comment later this year
- The subcommittee also reviewed ACJA §6-107: Safety Training, §6-112: Use of Force, §6-113: Firearms Standards; they are not recommending substantial changes to those codes
- Will be removing the pilot program for using Tasers on warrants teams, and using them will be written into ACJA §6-112: Use of Force
- Later this year, the subcommittee will be reviewing ACJA§6-104: Probation Officer Certification and Training, as well as, ACJA§1-302: Education and Training

Summary of discussion:

- Available feedback on performance of the Tasers within the pilot program:
 - There have been no officer injuries resulting from the use of Tasers on warrants teams; although injuries were not common prior to that
 - Deployments of the Taser are somewhat rare and across the board when a fugitive sees it unholstered, they stop and surrender
 - In order for some deployments to be effective, two “hits” were necessary due to distance between officer and fugitive; only one incident of a direct hit not being effective, possibly due to the fugitive’s clothing
 - It is considered one of the FAUs most valuable tools for all involved in accomplishing safe take downs
- Information about the use of the Taser on juveniles:
 - No information has been gathered, as it was the impression of the subcommittee that the use on juveniles was not popular with juvenile chiefs and directors; COP voted not in favor on the issue more than once
- It is evident that the Taser is strictly being used to subdue a fugitive; if lethal force should be necessary because of a threat on the officer’s life, the firearm would be utilized
- Tasers are typically used on fugitives who are fleeing; firearms are not used in that situation;
- Arizona Department of Corrections officers are certified to use Tasers and they attend regular trainings; typically, they do not have to use it as visual presentation alone is effective

Chairman Hardy asked for clarification on the Taser pilot program’s status and who the pilot counties are. Ms. Waters replied that Pima and Maricopa were the original counties, with Mohave County being added later; there have also been a couple of other counties requesting to be added to the program. When the issue was taken to the AOC’s director and assistant director, the preference was to place it within existing code. Since TASER® is actually the brand; the language which will be used in code is “Electroshock Device...” Also, it will be written as truly adult specific, as COP has voted more than once for Tasers not to be used on juveniles.

Discussion ended.

Ms. Waters suggested, as to the content of the agenda, adding a standing item where members can give county / department updates. This can help inform and educate new members, public members, and other agency partners of the good things happening around the state.

Ms. Broderick submitted an agenda item for the October 5th COP meeting; Critical Incident Reports. Chairman Hardy agreed.

VIII. CALL TO THE PUBLIC

None.

Meeting was adjourned at 10:41am.