

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

**MINUTES
OCTOBER 31, 2008
10:00 A.M. - 2:00 P.M.**

**ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS (AOC)
1501 WEST WASHINGTON
CONFERENCE ROOMS 119A&B**

MEMBERS PRESENT:

Livingston Sutro, Chair
Marty Krizay, Vice Chair
Leslie Anderson
Stephen Arend
Patrice Buzan
Mike Faust
Brenda Flynn
Lester James
Henry Meraz
Jim Meyer
Steve Nesky

Lance Nickell
George Owens
Alan Palomino
John Ryder
David F. Sanders
Saul Schoon
Mark Smalley
Jon Thompson
Dan Tomlinson
Mary Walensa
Art Waterman

MEMBER ABSENT:

Charles Counts

GUESTS:

Carol Boone
Diane McGinnis
Martin Mendez

Barbara Ortolano
Fred Santesteban
Brett Watson

STAFF:

Kevin Jeffries

Lorraine Lerma

CALL TO ORDER

Livingston Sutro called the meeting to order at 10:05 a.m., welcomed the committee members and guests, and asked everyone to introduce themselves. There are new members to SSAC: George Owens, Probation Supervisor, Yuma County Juvenile Probation, replaced David Sherman; and Art Waterman, Senior Surveillance Officer, Pima County Adult Probation, replaced Ian Alexander.

I. APPROVAL OF THE MARCH 31, 2008, MINUTES

MOTION: Steve Nesky made a motion to approve the March 31, 2008, meeting minutes. Barbara Ortolano seconded the motion. Motion passed unanimously.

The chair was advised of an improper “second” to the motion. David Sanders wanted a correction made to agenda item III. Use of Force Code Revisions, paragraph item 2, line 2, first word from “than” to “that”. He also wanted a correction to reflect the officers present at the meeting.

MOTION: Steve Nesky made a motion to approve the March 31, 2008, meeting minutes. George Owens seconded the motion. Motion passed unanimously. SSAC 08-05

II. NEW BODY ARMOR STANDARDS

Fred Santesteban presented and provided a handout on Body Armor Update (handout attached) with the New Standards and the Old Standards for the committee to discuss: The new standards were officially published in July, 2008, and the entire document was sent to SSAC, the Adult Chief Probation Officers, and the Juvenile Court Directors. Fred’s recommendation based on the new standards is to buy 2A, 2, or 3A. The minimum standard under 2A under the New Body Armor Standard is designed to defeat .40 S&W ammunition up to 1,155 ft/s and under the conditioned armor test will defeat up to 1,065 ft/s. The practice ammunition that is used by Arizona Probation is Speer 180 grain ammunition, with a velocity of 1,000 ft/s; which is under the threshold. The duty ammunition that is used is the gold dot 180 grain; with a velocity of 1,025 ft/s; which is also under the threshold for both the new and conditioned armor tests.

MOTION: George Owens made a motion to accept the minimum standard for ballistic panels to be at a 2A and above. Lester James seconded the motion. Motion passed unanimously. SSAC 08-06

III. USE OF FORCE CODE

A motion was made and approved, SSAC 08-03, on March 31, 2008, to allow Kevin Jeffries a small work group to revise the Use of Force code and gave an update on the revisions they propose (handout attached) including the updates from the last recommended changes.

1. Change the title from Use of Force to Officers Response to Threats, Resistance and Assaults (ORTRA). Kevin contacted an FBI legal advisor and supervisory special agent, Tom Petrowski, and this was his recommendation. Mr. Petrowski felt that use of force had a negative connotation especially when things go to a jury trial that the reality of an officer's use of force is that it is always in a response to threats resistance or assaults and he thought the ideal policy would be labeled as such. The work group all agreed to this recommendation.
2. Remove the Continuum of control from policy, but not remove it from training. Many experts feel that the idea of the continuum mindset is bad for officers that it causes hesitation, but also attorneys feel that if a jury gets the mindset of continuum in place, it blurs the reality, which is just the reasonableness of the use of force.
3. Remove all the A.R.S. language, but list the citations. The International Association of Chiefs of Police has stated in a position paper that use of force policy should be short and concise. After additional discussion, removing the language may not occur and will be based on AOC's legal decision.
4. The group talked about removing the language of ability and opportunity. The recommended language by Tom Petrowski is capability. Mr. Petrowski's logic is that if someone has ability, which is called size, strength, skill level, and opportunity, and if someone does not have that ability, they are not within distance, and if they are not within that distance, there truly is no ability.
5. The Electronic Control Device definition was added and also under Use of Force Options, which came directly from the TASER manual.
6. The work group noticed that the language in all of the codes wherever it mentions chief probation officers, directors of juvenile court was also added.
7. Appendix 1, the Continuum of Control is deleted.
8. Added Less than Lethal force definition.
9. Section C., a disclaimer is added.
10. Section E.3., removed "use of the continuum of control" and added "Dynamics of a use of force situation".

After additional discussions, the following were recommended:

- Change "Deadly physical force" to "Less than lethal force".
- Cite Code for consistency
- Remove the term "force" with "response".
- Section D.1a, b, & c., is language from Graham v. Connor.

MOTION: Lester James made a motion to move forward with the way the code is written. Steve Arend seconded the motion. Motion passed unanimously. SSAC 08-07

IV. STATEWIDE VEHICLE INCIDENTS COMPARED WITH PROBATION

Brett Watson gave an update on Arizona Probation State Vehicles (handout attached). The incidents that are reported through the Arizona Department of Administration's (ADOA) Vehicle Incident Review Committee (VIRC), does not include county, other state departments that no longer lease through ADOA, or utilize the state fleet. DES was the largest fleet, but when they left, it made probation the largest fleet in the state with 295 vehicles at last count. Risk Management does not see probation as high risk. As far as officer safety, ADOA has implemented new rules when it comes to running MVD checks.

V. DRIVING INSTRUCTOR

At the last SSAC meeting, Barbara Ortolano was asked to make a suggestion to the Education Services Division to include a driving class in the Certification Academy. There appears to be no room available in the academy; officers are required to attend defensive driving by their county risk management departments; and some academies may be scaled back due to budget constraints. 2002 was the last year a driving class was offered in the IPS Academy. Barbara brought a handout on archival materials (handout attached) from that class for the committee to peruse. The IPS Academy, office and field safety section, talks about safe transport of offenders. George Owens has also taught safe transport of offenders.

Brett Watson mentioned that it is every four years that anybody that utilizes a vehicle for any type of business has to take defensive driving. DOA recommends that if someone gets in a preventable accident to take defensive driving again. Defensive Driving is close to being made available online.

VI. SEARCH AND SEIZURE

David Sanders reported on how Pima County's training went. The search team coordinator once trained would be someone who's designated to be in charge of a search. The training was one day. There were 18 participants ranged from Surveillance Officers, Probation Officers, and those who were nominated by their supervisors.

The morning was spent on:

- The Fourth Amendment;
- Griffin Knights Stokes Matlock;
- Relevant case laws from the U.S. Supreme Court;
- Leadership issues;
- How to run a meeting;
- How to brief a search;
- How to take charge without offending people;
- How to keep the case officer involved in key decision making responsibilities (Case

- Officers role is to determine if there should be an arrest or not be an arrest, to file a petition or not to file a petition, and briefing the search);
- Ensures that everyone does their respective assignments;
 - Ensures the order of entry goes as planned;
 - How to pre-stage before the search and summarize what everybody is going to do;
 - How to conduct yourself in the home in a professional manner;
 - How to have a command presence in the home;
 - How to handle third parties;
 - What to seize and what not to seize;
 - What to do if you are in doubt; and
 - Some report writing.

The afternoon was spent on:

- Simmunition Training primarily related to clearing a house using the cross and roll method.

Thereafter, training was provided to the chief, three division directors, 20 supervisors, 175 sworn officers, and all case carrying officers on how to be search team members and also about the role of the leader.

The feedback from the coordinators and team members is that they are better managed.

After some discussion, it was suggested that Barbara Ortolano and Education Services Division look to see what is applicable for a statewide training.

VII. TASERS

Livingston Sutro gave a recap for the new members. The pilot study was done; the results came back from the pilot study, and all seemed to be good. The results were given to COP and COP approved the continuation of the pilot study until such time as code exists, which provides for the use of TASER in the Use of Force Continuum, but it was only approved for the existing adult departments and other adult departments that had fugitive apprehension team, absconder team situations, or arrest teams where the TASER could be affectively used. The recommendation that the concept also be expanded to use in juvenile departments was taken to COP and the response was that the COP committee would like SSAC to do some serious research into the use of TASERS in the juvenile setting. Develop a position paper covering the pros and cons, and COP would like some recommendations. Livingston proposes that SSAC form an Ad Hoc Committee to look at this in-depth and report back in order to present something substantive to COP.

David Sanders also mentioned that there are two controversial issues, 1) whether or not there should be any deployment of TASERS in a juvenile court environment and 2) whether in any environment, juvenile or adult, should the TASERS be deployed beyond the scope of arrest teams and absconder units. The justification for that was that SSAC and no other committee should object to a less than lethal option if carrying firearms.

After a lengthy discussion, it was decided to form an Ad Hoc Committee to do research on the pros and cons in terms of the juvenile departments using TASERS in a juvenile setting, the effects of using ECD on juveniles, vis-a-vis brain development issues, and should TASERS be available to anybody in adult or juvenile.

MOTION: Mary Walensa made a motion to request from COP the specific questions they would like SSAC to address, and then create a subcommittee to address those very issues and report back to SSAC.

After additional discussion, Mary amended her motion.

MOTION: Mary Walensa motioned for SSAC to create a subcommittee to look into those issues as presented by COP, and then create a subcommittee to address those very issues and report back to SSAC. Lester James seconded the motion. The motion was approved with one abstention by Steve Nesky. SSAC 08-08

The volunteers of the subcommittee are: Leslie Anderson, Patrice Buzan, Mike Faust, Brenda Flynn, Steve Nesky, Lance Nickell, George Owens, Alan Palomino, John Ryder, Dan Tomlinson, and Art Waterman. Lance Nickell volunteered to coordinate this subcommittee.

ACTION ITEM: The subcommittee to do research on the cost and training requirements and to report back to SSAC.

VIII. OFFICER SAFETY STRATEGIC PLANNING SESSION

The Officer Safety Strategic Planning Session will be held on December 12, 2008, at the Grace Inn, Phoenix, Arizona. Bob Thornton will be moderating/facilitating. For anyone who has an agenda item to contact Livingston Sutro. The morning will be discussing officer safety and officer safety issues. The afternoon will be discussing arming statewide.

IX. NON AGENDA ITEMS

Steve Nesky brought up budget cuts and how it would affect training, academies, or equipment. Barbara Ortolano mentioned that there has been some discussion only of bringing some academies to the counties. Kevin Jeffries mentioned that there might be less hiring's, which means there will be less defensive tactics and firearms academies.

Leslie Anderson asked how the other juvenile departments deal with a warrant and the juvenile runs, will they be pursued and does it differ if the juvenile is handcuffed by probation?

- Pima County – they do not pursue and they would certainly keep control of the handcuffed juvenile.
- Pinal Juvenile – they do not pursue and they are responsible for the handcuffed juvenile.
- Mohave County – they do not pursue and they have an obligation to find them and retain custody of the handcuffed juvenile.

- Apache County – they do not pursue, they call the police and they will pursue and call the police on the handcuffed juvenile.

X. ADJOURNMENT

MOTION: Lester James made a motion to adjourn. David Sanders seconded the motion. Motion passed unanimously. SSAC 08-09.

Livingston Sutro told everyone to drive safely and to be safe.

The meeting adjourned at 12:23 P.M.