

**MINUTES OF PUBLIC MEETING
FOR THE CORRECTIONS OFFICER RETIREMENT PLAN LOCAL BOARD
FOR THE SUPERIOR COURT**

A Public Meeting of the Corrections Officer Retirement Plan Local Board for the Superior Court was convened Tuesday, January 9, 2018 at 10:00 a.m., Conference Room 109, Arizona State Courts Building, 1501 West Washington Street, Phoenix, Arizona.

Board Members Present in Conference Room 109: Kevin Kluge, Chair; Danna Quinn, Mark Smalley, Rob Lubitz

Board Members Present by Conference Call: Jason Hathcock

Also Present: Hannah Auckland, Board Attorney; Annette Corallo, Board Secretary; Leticia Chavez, Recorder, Ottmar & Associates, Court Reporter; Applicant #16-01, Monique Usher (by conference call); Applicant #17-03, Julian Vince Romero (by conference call); Jennifer Torchia, Pima County Juvenile Court Director (by conference call); Pima County Juvenile Detention Staff by conference call: Yvonne Haymore, Gale Greene, Beau Wilcox, Jane Greis, Matthew Ferguson, Marie Cragle, Deborah Veico, Irene Diaz, Alex Meranza, Brenda Johnson, Ron Cerarro, Robert Perez.

Call to Order:

Approval of the Minutes:

December 5, 2017 – Public Meeting Minutes

MOTION: A motion to approve the public meeting minutes of the December 5, 2017 meeting was made by Rob Lubitz. Motion was seconded and passed unanimously; minutes stand approved. **CORP 2018-01**

Decision on Request for Review – Pima County Detention Officer’ Request to Move from ASRS to CORP:

The Board received a request from approximately 35 juvenile detention officers in Pima County, via a letter from Director of Juvenile Court Services Jennifer Torchia dated December 1, 2017, to be considered for the option to switch from ASRS to CORP membership. The letter explained the request was made because of the very limited education provided when the option was initially presented and available in 2007.

The Board Secretary asked Ms. Torchia to provide the names of the detention staff included in this request to determine which of the included staff signed irrevocable waivers in 2007. The Board Secretary determined that all the detention staff provided by Ms. Torchia via email dated December 4, 2017, did in fact sign waivers to remain in ASRS in 2007.

The “Election to Remain in the Arizona State Retirement System” form that the officers signed in 2007 was provided for the Board’s information. The election form’s text specifically states the officer is acknowledging they “... have obtained all information about my retirement rights that I consider necessary to make this election.” Further, the key language in the form relevant to the pending request is:

“I further understand this election to remain a member of ASRS is irrevocable and once made, cannot under any circumstances, be changed, amended, reversed or appealed. By making this election, I also understand that I waive any and all rights to participate as a member of CORP and hold CORP and ASRS and my employer harmless from any and all damage I may incur as a result of this election and that this election must be approved by the Fund Manager.”

At the Board Attorney’s request, the Board Secretary sent a letter to Jared Smout, PSPRS Administrator, to seek guidance from his office. A response was received January 8, 2018. Mr. Smout stated that unless there is a definitive determination that the waivers were not signed with appropriate informed consent and are not valid, the Plan is obliged to consider the waivers as valid. Mr. Smout went on to state that the Local Board could examine the facts of the case and may consider taking action on the request.

The Board was also provided with a letter from Marc R. Lieberman, attorney for PSPRS, dated November 24, 2008, in which Mr. Lieberman discusses the System’s position and cites case law in a different matter in which officers who initially signed an election to remain in ASRS were requesting to move to CORP. No information is known to indicate the System has changed its position on these irrevocable elections.

After receiving Mr. Smout’s response, the Chair asked the Board Secretary if the Local Board Office had any information regarding the education that was provided or any legal guidance regarding the Boards responsibility as it pertains to this matter. The Board Secretary advised that the Board was provided with two documents for review, one being a letter from the Board’s former Board Attorney, Michael Anthony to the AOC Legal Counsel, David Withey. In his letter, Mr. Anthony stated that he met with counsel from the Fund Manager Office, also known as the PSPRS, and was informed that their staff had prepared a comparison and ‘frequently asked questions’ document regarding transfer from ASRS to CORP, and that this information was available on the Fund Managers website.

The Board Secretary also provided the Board with a copy of the ‘frequently asked questions’ that were posted at the time on the PSPRS website. The first question pertained to an employee’s decision between ASRS and CORP, and stated the election is permanent. The Board Secretary also found limited information about a broadcast that occurred in 2007 to educate officers.

The Chair asked if Jennifer Torchia, Pima County Juvenile Court Director, would like to make a statement. Ms. Torchia stated that, to her recollection, information about the broadcast and access to the PSPRS website was not made available to the Pima County Detention staff. She added that there were education opportunities made available to other staff within the court but not specifically to detention personnel. The Chair asked Ms. Torchia to clarify her statement about information not being made available, as all the necessary information was posted online for all to review. Ms. Torchia stated that she was never referred to a website for information, only to their internal intranet, that included the retirement calculator, and to their internal Human Resources department, who informed her and staff to attend the educational meetings. Ms. Torchia added that

based on the times those educational meetings had been scheduled, detention staff was unable to attend as it conflicted with work schedules.

Yvonne Haymore, Juvenile Detention staff member, stated that, working in detention, the educational sessions that were available at the time were not easy to attend as they were during work hours. Ms. Haymore further stated that she also did not recall ever being directed to a website and when staff tried to approach their Human Resources personnel through the Juvenile Court, there was no information available from that office at that point either.

Jennifer Torchia added that the information she provided to the Board Secretary from Pima County's Human Resources, showing the number of staff from probation who chose to go into CORP as compared to the number of staff from Detention who chose to do, shows the lack of information that was shared with the Detention department. She would like this information to be considered when the Board makes its decision.

Board Member Rob Lubitz asked Ms. Torchia if they were given any information by the Juvenile Court Director regarding CORP. Ms. Torchia stated that they were not provided any information by the Director, to her recollection.

Board Member Rob Lubitz was the AOC Juvenile Justice Services Division (JJSD) Director at the time of the Joinder Agreement. Mr. Lubitz stated that JJSD presented a broadcast which referred and directed staff seeking more information to the PSPRS website, question and answers, and the retirement calculator. Mr. Lubitz added that all information was provided to the Juvenile Court Directors and Chief Probation Officers, and that it was the responsibility of those individuals to relay the information to all staff. Mr. Lubitz also stated that regular meetings were held to update Directors, Probation Chiefs, and County Managers to report on the progress of the CORP implementation.

MOTION: A motion to enter Executive Session to receive legal advice was made by Rob Lubitz at 10:14 a.m. Motion was seconded and passed unanimously. **CORP 2018-02**

Ms. Torchia and all Pima County Juvenile Detention staff were asked to hang up and call back into the meeting at 10:24 a.m., which they did.

MOTION: A motion to return to open session was made by Mark Smalley at 10:24 a.m. Motion was seconded and passed unanimously. **CORP 2018-03**

The Chair stated that the Board could motion to table this item until its next scheduled meeting to gather all information pertaining to this matter or have further discussion.

The Chair stated that he believes the State's obligation was to ensure education was provided to staff members and by completion of the broadcast, online public website and in-person training sessions, the State's obligation had been met. He added that he believes the choice of retirement system was entirely up to each individual to research and determine.

Board Member Rob Lubitz stated that in reviewing the letter from Jennifer Torchia, in which she states very little accommodation was provided to educate detention officers, the letter appears to document that Juvenile Detention staff was aware of the training that was taking place and that information was being presented. The letter also indicates there was attendance by at least one

detention officer, who brought back information about the retirement calculator. Rob Lubitz felt this does not give the characterization that no information was provided from the Director to detention staff. Ms. Torchia stated that information was coming from their internal Human Resources office and when asked for accommodation for detention staff to attend, no accommodation was made.

Board Member Danna Quinn asked where the online calculator was located. Ms. Torchia stated that the calculator was located on their internal intranet. The Chair noted that an educational broadcast was made available online for all to view. Ms. Torchia stated that she does not recall they were made aware of any broadcasts at the time.

Board Member Jason Hathcock advised that he was viewing and would send the Board Secretary emails he received in 2006 that were sent to all Adult Probation Chiefs and Juvenile Court Directors informing them of the AOC-CORP website up and running one year before the Joinder. Ms. Torchia stated that she did not receive an email with a link to that site. Ms. Torchia added that it was their lack of administration providing the information for staff to receive the education.

The Chair asked Ms. Torchia why no contact was made with someone at the AOC who was working on implementation, if at that time she felt she was not obtaining necessary information to make an informed decision. Ms. Torchia stated that at that time she did not have a relationship with AOC nor did she think she was allowed to reach out.

Board Member Jason Hathcock advised that the switch from ASRS to AOC-CORP was pursued by the union and that all educational meetings were held after hours and offsite in Maricopa County. He added that he felt it was not the responsibility of the probation department to ensure information was provided, but that of the union. Ms. Torchia stated that the detention staff in Pima County were separate from Probation and that Pima County Detention was not made aware of the union for probation but only a union by the name of AZCOPS. She added that AZCOPS solicited detention staff but that no sessions were made available in Pima County after hours for staff to attend.

Board Member Danna Quinn asked, at the point when staff was provided the waiver form which clearly states the decision was irrevocable, whether staff sought any educational information on the internet. Ms. Torchia stated that when the waiver was given they had been voicing their concerns and trying to obtain information, but had gotten to the point of giving up. She expressed regret that she signed the form stating that she acknowledged having obtained information about her retirement rights necessary to make the election.

Board Member Jason Hathcock asked if the Board could table this item and find out from Pima County how the information was distributed to staff from the AOC. The Chair stated that since this was occurring 10-11 years ago, it may be difficult to track down that kind of information.

MOTION: A motion to table further review and discussion until the Board's next scheduled meeting, and to gather all information that was disseminated by the AOC regarding the Joinder and to contact Pima County to try to obtain information as to how the information was disseminated to staff, was made by Jason Hathcock. Motion was seconded and passed unanimously. CORP 2018- 04

Consideration of Disability Applications:

B. #16-01, Monique R. Usher – Annual Medical Records Review (Taken out of Order)

The Board approved Application #16-01 for Total and Permanent Disability benefits from Monique R. Usher on August 2, 2016, and voted to review this matter again in one year pursuant to A.R.S. §38-886.

The applicant was a Surveillance Officer in Pinal County. The applicant identified the disabling condition as “PTSD from incidents in the field on duty.”

The Board Secretary advised that the applicant was notified via certified letter that the Board would review her medical records at this meeting and of the applicant’s right to attend. The Board Secretary also advised that the applicant initialed the Waiver of Confidentiality provision, to allow discussion of the medical condition in open public meeting.

Counseling records for the past year from Audra D’Eliso were provided for the Board’s review. The IME reports prepared by Dr. Gary Prince in February and July 2016 were also provided for review.

The applicant’s earliest normal retirement date would have been December 12, 2031, when she would attain 20 years of service.

Board Member Jason Hathcock asked if the Board could set a review of this application based on the guidelines for review the Board adopted after Ms. Usher’s application was originally approved.

The Board Secretary stated that a Total and Permanent disability would imply a long-term disability and could fall under the six-year review as the applicant would be unlikely to improve. Board Member Rob Lubitz stated that when reviewing the last IME, the doctor indicated that it would be impossible to predict the timeframe and likelihood of recovery, so he felt a three-year review would suffice in this case

MOTION: A motion to continue the Total and Permanent Disability benefit for Applicant #16-01, Monique Usher, and to review the case three years from the last approval date was made by Danna Quinn. Motion was seconded and passed unanimously. CORP 2018-05

D. #17-03, Julian Vince Romero – Decision on IME Referral (Taken out of Order)

The Board received Application #17-03 from Julian Vince Romero for Ordinary Disability Retirement on December 11, 2017. The applicant is an adult probation officer in Cochise County whose application indicates he suffered sudden sensorineural hearing loss on August 26, 2017. The application was filed by the member after the disabling incident. The applicant provided medical reports of findings and treatment with the application. The application and medical reports were provided for the Board’s review. The applicant’s physical exam dated March 14, 2014, states the applicant had no pre-existing conditions.

The Board Secretary advised that the applicant initialed the Waiver of Confidentiality provision, to allow discussion of the medical condition in open public meeting. Also, that the applicant was notified via certified letter that the Board would consider the application at this meeting and of the applicant's right to attend.

The Board Secretary also advised that the applicant submitted additional medical records to the Board office on December 18, 2017, which were also provided for the Board's review.

Board Member Jason Hathcock asked Mr. Romero if he has been terminated from employment or if he anticipates being terminated. Mr. Romero stated that he has not been terminated but is currently on short-term disability and completing rehabilitation therapy. Mr. Romero stated that he is unsure if he will be terminated after February 15, 2018.

The Board Attorney added that Mr. Romero does not have to be terminated prior to the Board's consideration of the disability application, but if the Board approves his application based on the IME, Mr. Romero would then be required to terminate his employment.

MOTION: A motion to obtain complete records of medical treatment and findings from all providers listed in Application #17-03 and to provide all such records to the doctor who conducts the independent medical evaluation for the Board, and to refer Applicant #17-03, Julian Vince Romero, for an independent medical evaluation was made by Mark Smalley. Motion was seconded and passed unanimously. CORP 2018-06

C. #17-01, Bradley E. Martin – Notice of Application Withdrawal (Taken out of Order)

The Board received Application #17-01 from Bradley W. Martin for Ordinary Disability Retirement on April 20, 2017. The applicant was a juvenile detention officer in Mohave County. He was separated from employment for medical reasons on August 1, 2017. The applicant was not injured in the course of physical contact or confrontation with a probationer or detainee.

The Board Secretary advised that the applicant initialed the Waiver of Confidentiality provision, to allow discussion of the medical condition in open public meeting.

At its meeting on September 5, 2017, the Board reviewed an IME addendum report from Dr. Charles Breed, in which Dr. Breed stated the applicant does not have a cardiac or pulmonary condition that he believes would totally and permanently prevent Mr. Martin from performing a reasonable range of duties within his department or a mental condition that totally and permanently prevents him from engaging in substantial gainful activity. Mr. Martin subsequently amended his application to include COPD as a disabling condition and the Board voted to refer him for another IME to evaluate his pulmonary condition. After much searching, Medical Consultants Network (MCN) located a pulmonologist to perform an IME and Mr. Martin was scheduled for an IME on December 11, 2017. Mr. Martin was a no-show for the scheduled appointment. The Board Secretary contacted Mr. Martin to determine why he did not keep the IME appointment. Mr. Martin explained that he does not have a vehicle or gas money to reach Phoenix (or any other location) for an IME. He also stated that his financial situation requires immediate income and that he planned to request a refund of CORP contributions.

The Board Secretary informed Mr. Martin that he would be ineligible for further consideration of his application for disability benefits if his contributions are refunded. Mr. Martin stated that he understood a refund would make him ineligible for disability benefits but planned to proceed with the refund. He then sent an email to the Board Secretary documenting that decision. His contributions were refunded by Public Safety in December 2017.

The Chair noted for the record that Applicant #17-01, Bradley W. Martin, received a refund of his CORP contributions in December 2017 and is therefore ineligible for CORP disability benefits, so the Board will cease any further consideration of his application for disability benefits.

A. #11-01, Annette Lemond – IME Review; Decision on Benefit (Taken out of Order)

The Board approved Application #11-01 from Annette Lemond for Ordinary Disability benefits on June 7, 2011. At its meeting on May 9, 2017, during its fifth review of this case and based on medical records that seemed to indicate improvement of her condition, the Board voted to send Ms. Lemond for an independent medical reevaluation after collecting her medical records. Staff subsequently obtained all current medical records and contracted for a medical reevaluation.

Dr. Jean Milofsky, Board Certified in Psychiatry, performed an Independent Medical Examination (IME) of the applicant on November 22, 2017. A copy of the IME report was provided to the Board for review.

Dr. Milofsky answered the questions posed by the Board in the letter dated September 28, 2017, referring the applicant for the reevaluation.

The Board Secretary advised that the applicant's earliest normal retirement date would have been April 1, 2022, when she would attain 20 years of service.

After review of the IME report, the Chair stated that he felt that based on Dr. Milofsky's findings, Ms. Lemond continues to be totally and permanently disabled, and therefore the Board no longer needs to review her case. Board members agreed.

MOTION: A motion to continue the Ordinary Disability benefit for Applicant #11-01, Annette Lemond, and to suspend the requirement for further review was made by Danna Quinn. Motion was seconded and passed unanimously. CORP 2018-07

Determination of Position Eligibility:

Valerie Winters, Human Resources Manager for the Superior Court in Mohave County, requested that the Board review the position of Youth Care Worker to determine if the position is a designated CORP position pursuant to the Joinder Agreement.

The following were provided for the Board's review:

1. Job description for Youth Care Worker I
2. Joinder Agreement

3. Copy of letter from Michael P. Anthony, former Board Attorney, to Bryon Matsuda of Coconino County dated May 14, 2007, regarding the Board's action on what may be a substantially similar position.

Board member Jason Hathcock stated that when the Board considered a similar position in 2007 the Board found it did not meet the position requirements to qualify for CORP. Mr. Hathcock stated that this position does also not seem to meet the position requirements to qualify for CORP based on the education requirements and job duties.

MOTION: A motion that the Board finds the position of Youth Care Worker I (Mohave County) does not meet the eligibility criteria for a designated CORP position was made by Jason Hathcock. Motion was seconded and passed unanimously. **CORP 2018-08**

Review of Notice of Retiree Return to Work – Ricardo A. Rojas:

The Board received a Notice of Retiree Return to Work from Cochise County for Ricardo A. Rojas. The form indicates that Mr. Rojas retired from the Arizona Department of Corrections under CORP on November 21, 2014, and returned to work for the Cochise County Superior Court on December 3, 2017, as a Surveillance Officer.

MOTION: A motion that the Board received a Notice of Return to Work for Ricardo A. Rojas and finds (1) the Notice of Retiree Return to Work form dated December 18, 2017, should be forwarded to the Local Board for the Department of Corrections; (2) Mr. Rojas' employer (Cochise County) is responsible for paying the CORP alternate contribution rate on his behalf was made by Danna Quinn. Motion was seconded and passed unanimously. **CORP 2018-09**

Approval of Normal Retirement Benefits:

Board member Jason Hathcock asked about the retirement date for Julia Galusky. The Board Secretary stated that Ms. Galusky completed a service purchase after her November 2017 retirement date, which is why her effective retirement date is January 1, 2018.

MOTION: A motion to approve the payment of Normal Retirement benefits to the following applicants in about the following amounts, effective January 1, 2018, except as noted, was made by Rob Lubitz. Motion was seconded and passed unanimously. **CORP 2018-10**

Susan K. Boyer:	\$1,261.76, effective December 1, 2017
Lynzie D. Daidone:	\$2,408.22
Orville L. Decker:	\$3,267.42; Reverse DROP Estimate: \$204,303.96
Paul J. Gabaldon, Jr.:	\$3,444.74
Julia D. Galusky:	\$3,176.18
Danielle A. Grasser:	\$3,190.26
Olga Longoria:	\$3,039.83
Tandy N. Manross:	\$3,421.11; Reverse DROP Estimate: \$137,195.35
Estevan D. Ochotorena:	\$1,826.61
Carol A. Piskoty:	\$2,679.00
Scott M. Rister:	\$3,928.88

Approval of Membership:

The Local Board may consider and vote on the approval of the following requests for membership or defer decision to a later date:

Bernardo, Karli	Maricopa	7/17/2017
Burrows, Aaron	Yavapai	12/4/2017
Calderon, Ruth	Pima	10/23/2017
Cannon, Amanda	Yavapai	11/5/2017
Carreon, Francesca	Pima	10/30/2017
Catalan, Ali	Pima	9/25/2017
Crawford, Kristy	Maricopa	9/25/2017
Fashoda, Nicholas	Pima	9/11/2017
Frucci, Jennifer	Pima	12/4/2017
Jameson, Abigail	Coconino	9/9/2017
Hutton, Joshua	Mohave	9/5/2017
Lopez, Jamie	Maricopa	10/30/2017
Lown, Karson	Pima	9/25/2017
Lucero, Michael	Mohave	9/5/2017
MacDougall, Deborah	Maricopa	8/14/2017
Marinello, Kyle	Navajo	6/12/2017
Martinez, Diana	Maricopa	12/4/2017
Martinez, Jorge	Pima	9/18/2017
Morales, Luis	Yuma	10/9/2017
Nelson, Anthony	Pima	9/5/2017
Nguyen, Krista	Yavapai	11/19/2017
Orozco, Laura	Santa Cruz	11/6/2017
Ortiz-Maldonado, Victor	Maricopa	10/30/2017
Rau, Casey	Pima	10/30/2017
Salas, Daniel	Yavapai	11/5/2017
Sanchez, Francisco	Maricopa	7/17/2017
Teo, Michelle	Graham	10/2/2017
Yost, Matthew	Pinal	11/6/2017

MOTION: A motion to approve the 28 applicants listed on the agenda for this meeting for membership in CORP pursuant to A.R.S. §38-893.D and to note for the record that the physical examinations for Ali Catalan, Kristy Crawford, Nicholas Fashoda, Abigail Jameson, Joshua Hutton, Karson Lown, Michael Lucero, Jorge Martinez and Anthony Nelson identified a physical or mental condition or injury that existed or occurred before their date of membership in the plan was made by Jason Hathcock. Motion was seconded and passed unanimously. CORP 2018-11

Future Agenda Items:

The Board asked for information about the implementation of the new Tier 3 for CORP members. The Board Secretary advised that she was told a workgroup will be assembled by Public Safety but has not received any information yet. The Board asked for a presentation on Tier 3 at a future meeting.

The Chair asked Board Members Jason Hathcock and Rob Lubitz to forward all information they have pertaining to the Joinder that was distributed to probation and detention staff.

Member Mark Smalley asked whether a membership audit will be conducted soon. The Board Secretary stated she is waiting for the system upgrades at Public Safety to be completed, so that current membership and contribution data is available for the audit. The upgraded system still has not been released.

Member Rob Lubitz noted that he will not be able to attend the February meeting.

Call to the Public:

No members of the public addressed the Board.

The meeting was adjourned at 11:15 a.m.

Transcribed January 9, 2018