

## **Committee on Juvenile Courts**

## *Committee Minutes*

Meeting Date: December 2, 2005

The meeting was called to order by Judge Ronan at 10:05 p.m.

Minutes taken by: Charli Mattson

### **Members Present:**

Bruce Brannan  
Barbara Broderick  
Honorable Robert Brutinel  
Hellen Carter for Honorable Robert Duber, II  
Honorable Kimberly Corsaro  
Honorable Patricia Escher  
Stanley Friedman  
Arno Hall for Honorable Dale Nielson  
Tim Hardy  
Rob Lubitz  
Honorable Margaret McCullough  
David Miller  
Honorable John Nelson  
Honorable Emmet Ronan  
Honorable Corey Sanders  
Bill Stanton  
Pat Trebesch  
Honorable Richard Weiss  
Myrtle Young for Honorable Ann Littrell

### **Guests Present:**

Scott Mabery  
Charli Mattson  
Nina Preston  
Fred Santesteban  
Rob Shelley  
Duane Shimpach  
Amy Stuart  
Steve Tyrrell  
Lynn Wiletsky

Approval of Minutes: A motion was made and seconded to approve the September 30, 2005 meeting minutes. Motion passed unanimously **COJC 0517**.

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### **Topic: Legislative Update**

Handouts: 2006 Arizona Judicial Council Legislative Proposals; Arizona Judicial Council Legislative Request for Proposal 2006 Legislative Session

Speaker: Leila Gholam, AOC Legislative Liaison for Jerry Landau

### **Summary of Discussion:**

The seven legislative proposals on the handout were reviewed.

**Arizona Lengthy Jury Trial Fund (A.R.S. § 21-222)** proposes that jurors who serve on a trial lasting longer than ten days and who do not receive their normal wages from their employer are eligible to receive reimbursement of lost income up to \$300 per day.

**JCEF Funding** proposal requests that the Legislature discontinue the past three years' practice of taking money from the JCEF fund to cover court general operations.

**Fingerprinting Court Contractors, Licensees, and Volunteers** amends A.R.S. § 12-202 to provide clear authority to fingerprint and conduct background checks of current and prospective contractors, licensees, and volunteers.

**Service of Process; Order of Protection (A.R.S. § 13-3602)** allows orders of protection to be served by any law enforcement agency where the defendant is located.

**Preparatory Release of Inmates (A.R.S. § 31-233)** would allow inmates with a probation tail to be eligible for temporary early release, up to 90 days, for purposes preparatory to the return to the community.

**Traffic Ticket Enforcement Assistance Program (TTEAP) Vehicle Registration Hold Expansion (A.R.S. §§ 28-1631 and 28-1632)** proposes to expand the TTEAP program to allow MVD to refuse renewal of a person's registration for failure to pay court ordered fees, costs, surcharges, restitution, assessments, penalty adjustments, and penalty enhancements. Parking violations would be included in this language. It further eliminates the requirement that the person owe at least \$200 in order to be placed in the program.

**Availability of Competency Reports (A.R.S. § 13-4508(E))** would permit reports submitted to the court during a proceeding held to determine whether a defendant is competent to stand trial be available for purposes of mental health treatment resulting from a civil commitment, and to a probation department or a mental health treatment provider for the purposes of supervising, monitoring, treating, or assessing the defendant.

Questions were raised whether this bill includes juvenile and parole department. Ms. Gholam will research answers and provide them to this Committee.

**Interstate Compact for Adult Offenders** proposal asks for a 2% increase in registration fees. This proposal is not included on the handout.

Judge Escher informed attendees about a situation in Pima County that may come before the Legislature this year. There are some empty pods in the Pima County Juvenile Detention facility while the adult jail is full, so the sheriff would like to move remanded juveniles back to the detention facility. A legal issue has arisen concerning the authority to house remanded juveniles in the detention facility. The county administrator intends to introduce legislation that would clarify the authority of the county over buildings funded by the county. Judge Escher has asked AOC to monitor this issue as to whether legislation is introduced and take appropriate steps.

Judge Escher met with Representative Mark Anderson and others regarding legislation that he will be introducing to re-enact the severance jury trial legislation that is scheduled to sunset. As a result of this discussion, Judge Escher believes that Representative Anderson will include in his legislation a provision that would allow a parent a choice of a bench trial before the assigned dependency judge, a bench trial before a different judge, or a jury trial. There would also be a provision that would require the judge in a bench trial to issue a decision within 30 days.

During the course of the discussions with Representative Anderson, he was made aware of the permanency mediation work taking place in Pima and Yavapai counties, and a number of counties performing pre-permanency mediation to encourage alternative dispute resolution for these cases. He appeared interested in this and indicated he would support funding for it. He encouraged those at this meeting to submit a proposal for a permanency mediation project. Judge Escher is working with Beth Rosenberg on the wording for this program, and asked for attendees to email her the current costs if the county is currently using mediation, and what it would cost if a county would like to use mediation. This information would be used to help formulate a budget to attach to the project.

Judge Brutinel let attendees know that the Legislative Request for Proposal adding a section to Title 8 A.R.S. to allow a juvenile court in a dependency case to join a behavioral health or other provider as a party to determine why mandated services are not being provided has been submitted to the Arizona Judicial Council (AJC). This proposal will be reviewed by AJC at its next meeting on December 14, 2005.

The question was asked why this proposal was limited only to dependency cases. It is not intended to be limited as such. A suggestion was made to change the beginning wording in paragraph B from “When a child is adjudicated a dependent of the court...” to “When a child who is subject to the jurisdiction of the court...” Another suggestion was made to change the ending wording of paragraph C from “...directly to foster children.” to “directly to a child who is subject to the jurisdiction of the court.”

Concern of the use of word “mandated” in the second to last sentence of paragraph A was expressed by David Miller. When asked for suggestions on correcting it, Mr. Miller asked for some time to thoroughly review the proposal and then get back with Judge Brutinel.

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**Topic: JJSD Update**

Handouts: Preliminary FY '07 Judicial Branch Budget Requests Juvenile Probation; Current Probation Funding Synopsis: Total Probation Salary Request: \$6,332,800; Drug Court Funding Concept for Arizona Courts; Drug Courts: The Ten Key Components; REMAX Current Situation: November 2005; COJC Update December 2005: Title IV-E Program; Legacy JOLTS and Research Projects Update to COJC, December 2, 2005; Juvenile Justice Services Division ADJC Commitments Tracking, Monthly Detention Tracking, Probation Population Reports.

Speaker: Rob Lubitz

Summary of Discussion:

➤ Budget Update

Rob Lubitz reviewed the handout *Preliminary FY '07 Judicial Branch Budget Requests, Juvenile Probation*. He stated that the last three requests on this handout are now up in the air due to the potential of obtaining funds from the REVMAX program and possible use of extra funds due to a decrease in the spending of treatment dollars compared to last year.

Funding the gap in probation officers' salaries is the main focus of this year's budget request. A request of \$6,332,800 is being made to cover both adult and juvenile probation officer salary gaps.

➤ Juvenile Drug Court

A plan for funding drug courts has been formulated. A minimum of \$1,000,000 has been appropriated for these courts statewide. Each interested court will submit a plan specifying how the proposed drug court will address the problem; how their proposals meet *Drug Courts: The Ten Key Components* as specified by the National Drug Court Institute, National Association of Drug Court Professionals, and the Bureau of Justice Assistance; and be consistent with model program guidelines to be established by the AOC based on national best practices. Also to be submitted is a budget outlining costs for the operation of the drug court; the budget shall not include supplanting county or federal funds allocated for the operation of an existing drug court.

The drug court funding program will be presented at the Administrative Leadership Conference in December 2005. Departmental plans are to be submitted no later than February 28, 2006. Most awards will be made effective July 1, 2006, although some could be awarded earlier or later based on funding availability.

A suggestion was made to include in the drug court funding concept a county match component to assist with getting buy-in from local communities and boards of supervisors. Existing funding could be considered part of the match.

➤ REVMAX Update

Approximately two-thirds of the eligible \$10,000,000 FY04 treatment service expenditures have been identified to be reimbursable under Title XIX. While reimbursement has been submitted to the federal government, it is not assured that it will be granted. Even if it is granted, to whom and for what purposes these funds will be disbursed is in question.

➤ Title IV-E Update

The JOLTS Steering Committee has assisted with the determination of a data collection framework and a desktop solution for day-to-day activity to gather, enter, and report critical information.

A Title IV-E education manual has been distributed to appropriate personnel.

Potentially eligible Title IV-E cases are being identified in Maricopa and Pima counties.

Quarterly Administrative Claims have been submitted to Maricopa and Pima counties to cover start-up and program development activities.

Quarterly Administrative Claims for JJSD have been submitted.

An initial maintenance claim was recognized by DES for Pima County.

➤ JOLTS Legacy and JOLTSaz Update

Re-engineering of the current JOLTS program—now referred to as Legacy JOLTS—to become JOLTSaz continues. Please review the handout *Legacy JOLTS and Research Projects Update to COJC December 2, 2005*. Fixes and enhancements to the Legacy JOLTS will continue until JOLTSaz is completed. JOLTS Users Group Meetings will resume being held on a regular basis.

Jennifer Gilbertson is the new JOLTSaz project manager. The phase one Standard Visitation module was rolled out in Santa Cruz County in October 2005. Pima County will assist with the enhancement of this module which will be rolled out statewide in 2006. A new master development plan will be formulated by the end of December 2005 to continue the building of JOLTSaz.

➤ ADJC, Detention and Probation Data Summary

Rob Lubitz reviewed the statistical handout for ADJC, Detention, and Probation Population reports. Please refer to the handout *Juvenile Justice Services Division, ADJC Commitments Tracking, Monthly Detention Tracking, Probation Population Reports*.

➤ Juvenile Delinquency Guidelines

Attendees at the September 30, 2005 meeting were given a copy of the Juvenile Delinquency Guidelines promulgated by the National Council of Juvenile and Family Court Judges. Additional copies are available for those who did not get one at the last meeting.

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**Topic: Dually Adjudicated Workgroup**

Handout: Letter of Agreement

Speakers: Steve Tyrrell and David Barnhouse

Summary of Discussion:

David Barnhouse briefly reviewed the protocol for services to dually adjudicated youth and their families, and drew attention to the Best Practices on the last two pages of the handout.

1. Every county will have available a process for involving youth and families in the identification of service needs and service delivery.
2. Every county will have available an interagency team which includes at a minimum administrative staff representing Juvenile Probation, Juvenile Corrections, Child Protective Services, and Behavioral Health Services, who are authorized by their agency to make decisions that commit agency resources on behalf of youth and families.
3. All juvenile court hearing officers (judges and commissioners) will be informed of the existence and purpose of the county interagency team and the means to access the interagency team and opportunities for training.
4. All agencies will consult with the child and family team or other multi-disciplinary teams prior to a recommendation to terminate services.
5. All Court actions shall be shared in a timely manner with the child and family team and with relevant partner agencies.
6. Decisions will be made within the child and family (or other) team setting unless there are extenuating circumstances which prevent this shared decision making.
7. All actions/decisions made by involved agencies that occur outside the child and family team process will be communicated to the Court and to all partner agencies as they occur.

The question was asked whether a way was set to monitor the way this agreement gets implemented, to provide feedback of the implementation process, and to provide an evaluation on its impact on the outcomes for these children. Mr. Barnhouse answered that the current group

will remain in place and meet to review the progress of the protocols. An evaluation piece has not been considered but would be valuable to look at integrating one into this process.

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**Topic: Code Revisions**

Handouts: Proposed Amendments to ACJA 6-105: Powers and Duties of Officers; Proposed Amendments to ACJA 6-109: Community Service and Volunteer Insurance; Proposed Amendments to ACJA 6-301: Juvenile Standard Probation; Proposed Amendments to ACJA 6-302: Juvenile Intensive Probation Supervision

Speakers: Brett Watson and Debbie Olsen

Summary of Discussion:

The document of proposed changes to ACJA 6-106 Personnel Practice Code has been delayed until March 2006 for further review. The remaining proposed code changes as presented in the handouts will go forth.

A motion was made and seconded to approve all of the proposed codes. Motion passed unanimously. **COJC 0518**

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**Topic: DCSD Updates**

Handout: Petition to Amend Rule 91, Ariz. R. P. JUV CRT., 17B, A.R.S. to Permit Summary Disposition of Appeals for Abandoned or Meritless Appeals.

Speaker: Bill Stanton

Summary of Discussion:

➤ Open Court Pilot

The report of the result of this study on the effects of open courts has been delayed. A new date was not given. It will be distributed to COJC members as soon as it is received.

➤ Dependency Appeals Process—Status of Two Proposals Discussed at Last Meeting

A formal vote was requested regarding expediting appeals in juvenile adoption, dependency, guardianship, or severance cases.

A motion was made and seconded to approve the petition as presented. Motion passed unanimously. **COJC 0519**

➤ Dependency Judges' Training

The Dependent Children's Services Division has been working with Children's Action Alliance to obtain a grant to revise the Dependency Judge's training curriculum taken by new judges to the juvenile bench. The proposal for revising this training would include bringing together representatives from agencies/organization that currently have a dependency curriculum—National Council of Juvenile and Family Court Judges, the National Center for State Courts, and other states—to look at if and how their curriculums could be integrated into ours. Additionally, the possibility of supplying training between the annual training sessions will be considered.

➤ Adoption Hearing Timelines

A joint legislative committee is looking at A.R.S. § 8-113 regarding the time period for an adoption hearing upon termination of parental rights. Currently, if a child has been in the home for a period of one year or longer and the adoption petition has been filed, the court is to hold the adoption hearing within 60 days. If a child under the age of six has been in the home for a period of six months or more, the court is to hold a hearing within 90 days. This committee is asking why there is a 60- or 90-day waiting period and may consider shortening these time frames. It was explained that the court is not prescribed to wait 60 or 90 days and can act before then. Attendees were asked their opinion of changing the 60- and 90-day window periods. Judge Escher stated she would not want to give an opinion without checking with the judge who manages the adoptions in Pima County.

➤ TPR Jury Trial Study

The first draft of the report on this study is expected to be received by the end of December 2005.

➤ DCSD Overview

CASA Program Manager Linda Wright retired on December 2, 2005. The recruitment process for a new manager has begun.

The Joint Legislative Committee held its Sunset review for the Foster Care Review Board and will recommend the program continue for another 10 years. Legislation will be introduced during the upcoming legislative session.

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**Topic: Administrative Leadership Conference**

Handouts: Court Leadership Conference Agenda; What Works in Juvenile Sanctions and Treatment

Speakers: Rob Lubitz and Judge Robert Brutinel

Summary of Discussion:

The agenda for this conference was reviewed. Attendees were encouraged to attend the *What Works in Juvenile Sanctions and Treatment* session with speaker James C. (Buddy) Howell on the morning of December 13. It will provide an overview of national trends and developments relating to best practices in the sanctioning and treatment for adjudicated juveniles.

Attention was also drawn to the Administrative Meetings session from 1:30 to 3:00 p.m. on December 13. This is a time when attendees can meet by groups: court directors, probation officers, presiding judges, and presiding juvenile court judges. A suggestion for the presiding juvenile judges meeting was to spend the first 45 minutes discussing the dependency judges training, and the second 45 minutes on discussing the model delinquency guidelines. The juvenile court directors could be invited to join the discussion on the model delinquency guidelines. General consensus was approval of this suggestion.

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**Topic: Open Discussion/Around the State**

Summary of Discussion:

Judge Richard Weiss told of a dually adjudicated sex offender who was committed five or six years ago. When originally sentenced the sex risk assessment indicated that he didn't need to register as a sex offender unless he failed in treatment. He failed through all sorts of programming at the Department. Approximately one year ago the Department of Juvenile Corrections performed another evaluation. An attorney for one of the parties requested information from the delinquency file with the specific purpose of determining whether he was registered as a sex offender. About one week before turning 18, the Department had the local county attorney file a petition to determine if he should register as a sex offender, and the

hearing was held. The hearing now has a due process problem of finality of judgment and whether a sex offender who should have been ordered to register earlier in the case can now be registered. There is also a public safety issue of letting him back on the streets without making him register. It would have been in the offender's best interest to make him register as a sex offender as a condition from a court that may have had better jurisdiction. Judge Weiss stated that he expects to have his ruling reversed within the next couple of months. If there is a question about whether a delinquent should be registered as a sex offender, it is better to register them where the peril to him is only until age 25. That may provide some modicum of protection to society once he is released. Judge Weiss shared this experience to help other judges avoid this situation if it arises in their courts.

Judge Brutinel reported that the building of the Yavapai County Juvenile Detention Center is on hold until the location of the facility is determined.

Judge Escher stated that she had heard about FCRB boards reviewing cases in place of Report and Review (R & R) hearings with the court and asked about this process. Bill Stanton replied that there was a pilot program in Pima County where the FCRB board reviews were being scheduled between R & R's so that cases were reviewed every three months; there would be an R & R, then three months later an FCRB review, then three months later an R & R, etc. This pilot has been suspended due to the extremely large increase in the number of children in foster care. This pilot may be resumed when FCRB is given additional FTEs to meet the increased case load.

Concern was expressed about the lack of participation by CPS workers at FCRB reviews. FCRB has instituted a new report that identifies caseworkers who do not attend reviews and is sending the reports to supervisors and administration at CPS for their follow-up with the caseworkers.

Judge Corsaro reported that Santa Cruz County will be getting a new 300-bed adult facility and a 30-bed juvenile facility. The juvenile facility will include a place for remanded youth so that they will no longer need to be housed in other counties' facilities. These facilities will be built with expansion capabilities in the county complex.

Santa Cruz County will be holding its first jury trial after the first of the year.

Juvenile Justice system representatives from the state of Sonoro, Mexico traveled to Santa Cruz County to learn about its juvenile justice system. The presentation included information on court proceedings, a discussion about the three branches of government, a review of probation services, and a tour of the detention facility.

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Call to the Public:

No Respondents

Next COJC Meeting:

The next COJC meeting is scheduled for February 10, 2006 at the State Courts Building, Rooms 345 A and B.

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Adjournment:

The meeting was adjourned at 4:23 P.M.