



# The Voice of Arizona Law Enforcement

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## Full Retirement After 20 Years Won For Probation, Surveillance, Detention Officers

One of the key goals of AZCOPS was realized in May with the signature by Gov. Janet Napolitano on SB1142, which provides probation, surveillance and juvenile detention officers with full retirement after 20 years of service.

“We have worked almost from our inception as a union to gain recognition that these officers are part of the law enforcement family and deserve the same benefits,” President Jim Parks said. “It could not have been done without the tireless work of members like Lu Ebratt, our Legislative Director; John Stair, Vice President of both AZCOPS and the Arizona Probation Officers Association; Rick Hornback, Pima County Probation Officers Association; Jack Berry, President, Yavapai County Probation Association; Don Stokes, President, LaPaz County Probation Officers Association; and countless other probation leaders throughout the state,” he added.

Parks also praised the dedicated support of AZCOPS’ more than 6,900 members and the critical work in the State Legislature by friends like Sen. Karen Johnson, who sponsored the bill, and Rep. Russell Pierce, a staunch AZCOPS supporter.

But Parks’ praise turned to wrath in condemning Sen. John Huppenthal for his attempts to kill the bill before its final 18-9 Senate vote. “This Senator’s efforts to kill our bill by deceiving other legislators about its costs both in the Majority Caucus and on the floor of the Senate were despicable,” Parks stated.

Ebratt called Huppenthal’s effort to kill the bill “an act of sabotage that will be remembered at election time. Despite having the fiscal facts from the Joint Legislative Budget Committee, he deliberately distorted cost factors involved concerning this bill.

“Fortunately, Sen. Johnson once again helped me lobby some doubting senators to keep the bill from failing,” Ebratt said.

The new law allows probation, surveillance and juvenile detention officers to participate in the Corrections Officer Retirement Plan (CORP). It conditions that participation on the Administrative Office of the Courts’ entering into a joinder agreement with the CORP Fund Manager. That agreement also must be in accordance with the provisions of CORP.

Once AOC provides the rejoinder agreement, the law requires the judiciary to designate all judicial probation, surveillance and juvenile detention officers for membership in CORP unless written consent to the contrary is obtained from the Fund Manager. The Arizona State Retirement System, into which the officers’ retirement



**SENATOR KAREN JOHNSON, SPONSOR OF SB1142,** reviews the bill’s provisions with AZCOPS leaders (L. to R.) Lu Ebratt, Legislative Director and AZPOA President; AZ-POA Vice President John Stair; and AZPOA Co-Vice President Ricky Nelson.

funds are presently deposited, is required to transfer to CORP within 60 days of the judiciary’s participation the assets necessary to equal the actuarial present value of projected benefits attributable to each transferring employee.

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# President's Message *by Jim Parks*

## Efforts to Scuttle Our "Due Process" Rights Were Again Beaten Back, But We Must Remain Vigilant

It is unfortunate that I must once again inform the membership that we must remain vigilant in demanding our due process rights as law enforcement officers when dealing with discipline issues or for that matter, any issue. We already know that the administration believes that once we don our uniform, the Constitution of the United States does not pertain to us. If that isn't enough, we now have to worry about State Senators following suit.

As we have warned in past newsletters, Pima County has begun taking action to try to minimize our tremendous victory in the Harvey case. Pima County Administrator Chuck Huckelberry has circulated a memo proposing to change the merit rules.

AZCOPS obtained a copy of Huckelberry's memo through a public records request in 2005. In that memo, one of the most damaging changes to be implemented would be "a change in the authority of the Commission regarding modifying the decision of an elected official or appointing authority, rather than simply overturning such a decision." In other words, they want the hearing officer to be stripped of his/her authority and any decision rendered would only be a recommendation.

Think about this: You have been unjustly terminated because the Sheriff doesn't like you. You go before the Merit Commission and the Hearing Officer concludes that termination was excessive. You're still terminated because the elected official or the appointing authority has the final say. So, the County now wants to render the Merit System useless by changing the standard from "just cause" to "reasonable cause" for termination, thus removing any and all authority



**AZCOPS President Jim Parks**  
from the Hearing Officer.

The Huckelberry memo is nothing more than a heavy handed attempt to roll back employee protections.

At the time, I was concerned that we were going to have our hands full in Pima County fighting this battle. Little did I know that other Sheriffs had gone to Senator Jake Flake to lobby him to drop a bill — SB 1453 — that would change the merit rules statewide.

When I contacted Sen. Flake and questioned him on the bill, he told me that he was sponsoring the bill for a "Sheriff friend" of his and that he did not know much about the bill.

I then contacted other sponsors and co-sponsors of SB 1453 to ask that they support law enforcement and remove their names from the bill. Only Rep. Steve Gallardo of District 13 spoke to me personally and pulled his support of the bill. Rep. Michele Regan of District 8 and Rep. John Nelson of District 12 opted not to speak to me and chose to remain supporters of SB 1453. (Apparently, they were too busy to speak to me.)

AZCOPS attended a meeting at the Capitol where Sen. Flake, Sen. John Huppenthal of District 20, Eric Edwards of the Association of Chiefs of Police, a representative from Maricopa County Sheriff Joe Arpaio's office and the Fraternal Order of Police wanted to come to some type of compromise so that the bill could move forward.

AZCOPS refused to compromise on this issue. We will never compromise when it comes to our members' Due Process rights.

Subsequently, SB 1453 was killed, but this issue will surface again next year, as will the Private Prison issue.

We will need to remain steadfast and focused to continue our fight against anti-law enforcement legislation as well as those whom support such legislation.

Stay safe and take care of one another.

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# Know Your Legal Rights



## *Attempt to Strip Personnel Boards of Authority Smashed*

*By Martin Bihn*  
*General Counsel*



**General Counsel Martin Bihn**

Earlier this year AZCOPS caught and killed SB 1453 as it snaked its way through the Arizona Senate. That bill was specifically aimed at reversing AZCOPS' success in the courts. Some of the notable successes occurred last year when the Arizona Supreme Court issued rulings in the Harvey and Juarez cases (both AZCOPS cases) that allowed Merit Commissions to set their own standards by which to judge personnel appeals.

In the Harvey case the Supreme Court went so far as to approve the Pima County standard that authorized the Merit Commission to independently review disciplinary decisions and to set aside discipline that was not supported by just cause.

Of course this did not sit well with the Sheriffs and Chiefs of Police. Almost before the ink could dry on the court rulings, the police chiefs' association was hunting for legislators to carry a bill eliminating the rulings. And they found Senator Jake Flake (R-Dist. 5), who carried their bill as a "favor to a Sheriff friend."

Their bill, SB 1453, would have essentially castrated the Merit Commission. Under SB1453, Merit Commissions would have been stripped of the power to modify or reverse discipline. Instead, the Merit Commission would issue "advisory" opinions to the Sheriff who would give them "due consideration." And we all know what that means.

This legislation was not only devastating to County Merit Commissions, but it allowed cities and towns to opt in. As you can see, this anti-law enforcement legislation was clearly aimed at stripping officer appeal rights on a statewide basis.

The critical point, however, is that this bill was not just defeated by a few of us working hard at the legislature. It was also turned back because AZCOPS lobbying efforts were backed up by more than 6,900 members and, most importantly, tons of telephone calls and emails sent to the legislature.

Please remember, when we send legislative email bulletins requesting your assistance, it is crucial that you take a few minutes and show your support by sending emails and making those calls. As an FYI, we have some big plans for the next legislative session and we once again will be asking for your strong support.

In other news around the state, our Chandler Lieutenants and Sergeants group is working toward full Meet and Confer recognition from the City Council. Although CLASA has "met and conferred" without full recognition from the City for several years, it looks like CLASA is close to getting included in the bargaining ordinance.

The "witch is dead" in Lake Havasu: It seems that the Police Chief and his "heir apparent" have been caught up in an investigation into the misuse of city credit cards. A former City manager and another official have been indicted, and the Chief and Captain were placed

on administrative leave and then "asked to retire." In any event, We certainly hope AZPOST takes a hard look here as it does with regular officers.

At ADC, AZCOPS got a hearing officer to recommend the reversal of an 80 hour suspension. Without actually reading the transcript or looking at any evidence, the full Personnel Board decided to send the matter to a second hearing officer to "get some discipline." AZCOPS believes that shopping for hearing officers is wrong and is presently challenging the Personnel Board's actions in Superior Court.

AZCOPS Legal successfully sued the City of San Luis in order to get hearings for two members. In that case one officer was suspended and another terminated for an on-duty incident. AZCOPS assigned local counsel who objected to the disciplinary letters, noting that the letters failed to set forth the appeal process or even a deadline in which to appeal. Six days later, the City HR director handed the officers amended disciplinary letters indicating that a 10-day appeal period would begin to run from the date of the new letter. Five days later, the officers submitted their appeals.

The City HR director then rejected both appeals. Contradicting his own words in amended letters, the HR director indicated that the 10-day appeal period *actually* began to run when officer received their first disciplinary letters. AZCOPS Legal then intervened, filing a Special action in the Yuma Superior Court accusing the City and its HR director of acting in bad faith and in excess of their legal authority. Only after the suit was filed and served did the City back down. To date, the City has settled with the terminated officer, who had hired on with another agency. The City has also agreed to hold an appeal hearing for the other officer. ■



# AZCOPS Convention Set

## *Fifth Annual Convention To Be Held Oct 20-21 at River Palms Hotel/Casino in Laughlin, Nevada*

The River Palms Hotel and Casino in Laughlin, Nev., will host the AZCOPS Annual Convention for the third consecutive year. The Oct. 20 to 21 conclave will be the union's fifth convention.

"This is the one opportunity each year for our membership throughout Arizona to come together for training, to trade experiences, and to just enjoy each others' company," union President Jim Parks said. "I encourage all who can attend to join us in what is expected to be our best annual convention," he added.

This year's convention will feature four training seminars:

- Grievance training from 0830 to 1130 hours conducted by TPOA President Larry Lopez and TPOA Grievance Chairman Mike Gurr.
- Legal Updates from 1330 to 1430 hours conducted by AZCOPS General Counsel Martin Bihn.
- Police Officers Memorial from 1445 to 1530 hours conducted by Stacey Sipes, Major Gift Manager of the Na-

tional Law Enforcement Memorial Fund.

- How to Survive the Investigation from 1545 to 1645 hours conducted by AZCOPS attorneys Martin Bihn and Mike Storie.

At the conclusion of the Saturday morning sessions, an Awards Luncheon will be hosted by AZCOPS from 1200 to 1300 hours. Members are encouraged to bring their spouses. Luncheon reservations can be made by contacting the

union's Tucson office at 520-622-2215 so the number of meals can be determined. A reservation is required for admittance to the luncheon.

Several vendor displays will be set up throughout the Saturday's sessions.

The cost of the hotel rooms are \$35 per night for Friday and Saturday nights. For members wanting to arrive on Thursday or stay Sunday night, the cost



**RIVER PALMS HOTEL/CASINO** in Laughlin, Nev. hosts the Fifth Annual AZCOPS Convention Oct. 20-21.

is \$20 per night; however, you must confirm your reservation by Sept. 22, 2006, in order to receive that rate.

To reserve your hotel room, telephone the River Palms at 1-800-835-7903, then refer to group code AZCOPS3. Please make your reservations early, then contact the Tucson office by telephone or by e-mail at [azcops7077@aol.com](mailto:azcops7077@aol.com) to confirm your attendance and luncheon reservations. ■



**NUMEROUS RECREATIONAL ACTIVITIES ARE AVAILABLE FOR DELEGATES AND FAMILIES**, attending the Fifth Annual AZCOPS Convention in Laughlin, Nevada, such as golf and cruising the Colorado River in a paddle boat.

# SB1142 Signed Into Law



## Gov. Napolitano Supports Probation With Signature

ferred assets attributable to employee contributions to be allocated to each affected judiciary employee and credited to that employee's initial accumulated contributions based on a schedule furnished by the judiciary.

The law also establishes a local board to administer the fund for probation, surveillance and juvenile detention officers employed by the judiciary. The membership of that board shall consist of two probation or surveillance officers, a designee of the Chief Justice who is approved by the Arizona Supreme Court, and two public members, one of whom will head the Human Resources Department. It prohibits this board from subtracting, modifying or waiving any terms of the plan, or from changing or adding any benefits or waiving or changing eligibility requirements of the plan.

"AZCOPS and its members can be justly proud with the passage of SB1142 because we had to fly solo in fighting to win this benefit," said President Parks. "We had absolutely no help from either the FOP or from AFSCME, both of which claim to represent the interests of law enforcement officers," he added.

Reaction to the passage of SB1142 was swift and enthusiastic throughout the AZCOPS probation associations across the state.

**Rick Hornback, President, Pima County Probation Officers Association:** "When the AZCOPS probation associations held our summit meeting last year we chose 20-year retirement as our primary goal. I believed then it would be a five-year project. When it (SB1142) was introduced this year I kept expecting the bill to die. I firmly believe we got this bill passed on our first try because of our affiliation with AZCOPS. The legislative presence of

President Jim Parks, Legislative Director Lu Ebratt, Chief of Staff Tim Clark, and all the members of AZCOPS who spent numerous hours at the legislature in support of our bill was awesome. This benefit should be a driving force in the recruitment of new members. With AZCOPS, we have attained widespread recognition that we are an integral part of the public safety network."

**John Stair, Vice President, AZPOA/AZCOPS:** "This is a great example of what officers can do if they are willing to work hard for their fellow officers and ignore comments like, 'you can't do that.' AZPOA has built our reputation by doing what the experts told us we could not do."

**Dave Wheeler, Vice President and Acting President, Cochise County Probation Association:** "This bill provides the most significant career enhancement in the history of Arizona probation. It not only adds an important recruiting and retention tool, but also delivers a significant pension boost to those officers nearing retirement. Several years ago, court leadership said such a bill wasn't feasible. But once again, AZCOPS — and particularly Lu Ebratt — showed anything is possible when we stand together."

**Don Stokes, Chapter President, La Paz County Probation Officers Association:** "As more convicted felons with lengthy — and sometimes dangerous — criminal histories are placed on probation by the courts, the need to attract and retain competent probation officers has become an important offi-



**LEGISLATIVE DIRECTOR LU EBRATT TESTIFIES** before the House Appropriations Committee, chaired by Rep. Russell Pierce, on March 29 on behalf of SB1142.

cer safety issue. We need people who are both street smart and, at the same time, have the creativity to institute or locate programs which give these convicted felons a better chance of success. Consequently, probation officers who are successful in these endeavors are more likely to recognize those probationers who pose a danger to officers, and perhaps more importantly, to the community. The 20-year retirement program is an important step in recruitment and retention of highly qualified personnel who might otherwise not enter the profession because of poor pay and benefits, or leave after only a couple of years."

**Jack Berry, President, Yavapai County Probation Association:** "For years, probation officers across Arizona were angry and frustrated over management's unwillingness or inability to deal with low wages and benefits, poor training, and lack of adequate safety measures. Our ultimate rebellion led to the formation of 10 county probation associations within AZCOPS. The success of these 10 associations demonstrates that employees who organize and stick together can bring about permanent change. I am proud to have played a role in the passage of the 20-year retirement legislation." ■

# Canada Corrections Makes News

## *Ontario Scraps Private Prison After Five Year Test*

Ontario will transfer the operation of its only private prison to the public sector after finding that: "After five years, there is no appreciable benefit from the private operation of the Central North Correctional Centre." Community Safety and Correctional Services Minister Monte Kwinter said on April 27.

"We carefully studied its overall performance compared with publicly operated Central East Correctional Centre in Kawartha Lakes, and concluded the CECC performed better in key areas such as security, health care and reducing re-offending rates," Kwinter said. He announced that Ontario's contract with Management Training Corporation of Canada (MTCC) would be allowed to lapse on Nov. 10 without being renewed.

Unlike several American states, including Arizona, which have approved the building of private prisons, Ontario allowed MTCC to operate a publicly-built prison for a five-year pilot period to determine if there was any advantage to private operations of correctional services in Ontario.

During that same five-year period, the Central East Correctional Centre — which is identical in design to the Central North Correctional Centre — opened as a publicly operated facility.

"We acknowledge that MTCC was in material compliance with the contract, but the evidence indicates that the public facility produced better results in key performance areas," Kwinter said.

"This is the first and only instance where a governmental agency has built two identical prisons for the sole purpose of making a legitimate apple-to-apple comparison," said Brian Dawe, Executive Director of Corrections USA, a 90,000-member national organization for corrections officers.

"The privateers have avoided such head-to-head comparisons, hiding behind the corporate veil refusing to disclose what goes on behind their prison gates. We knew what the results would be if given a fair comparison," Dawe said.

Tixoc Munoz, president of the Arizona Correctional Peace Officers Association, said that such a comparison is needed in Arizona.

"It's unfortunate that the Arizona State Legislature did not have the same foresight and wisdom in testing private prisons in this state before committing long-term to this dangerous concept," stated Munoz.

Also, unlike Ontario, private prisons in Arizona have been allowed to keep secret statistics such as violent occurrences as prison riots, assaults on correctional officers, escape attempts, and inmate injuries. (See the special report in the Spring/Summer 2003 issue of *AZCOPS Speaks* at [www.azcops.org](http://www.azcops.org).)

Further, key employment statistics, such as staffing levels, pre-service training, turnover rates, law suits, medical malpractice, and other data that help to determine the level of professionalism in prisons have been allowed to go unreported by private prisons in the state.

"We are convinced that if Arizona's private prisons were required to report such data, the contrast between public and private prison operations would be just as stark and telling as it has been in Canada," Munoz said.

The few data concerning private prison operations in Arizona that have become public raise serious concerns:

- In 2000, Hawaiian inmates injured three corrections officers and smashed windows, computers, television sets

and food carts during a 90-minute melee caused by a dispute over rice.

- The next year, the death of two Hawaiian inmates at the Corrections Corporation of America's Florence Correctional Center led to a lockdown and search for contraband. An investigation by Hawaiian auditors described the facility as a "prison in turmoil." A spokesman for CCA said the company would make operational changes but declined to describe them.

- Five months later, Florence Correctional Center Warden Pablo Sedillo was replaced after Hawaiian corrections officials complained that management problems at the CCA prison jeopardized the safety of inmates there.

The ongoing list of private prison mismanagement includes death and abuse at a boot camp facility for juveniles.

Unfortunately, despite heavy lobbying by AZCOPS to require such public reporting by private prisons, HB 2337 was allowed to die in committee. At the request of AZCPOA and AZCOPS, Rep. Marian A. McClure (R-Dist. 30), introduced the bill. AZCOPS General Counsel Martin Bihn as well as Munoz and AZCOPS Legislative Director Lu Ebratt testified in favor of the bill.

"We want to thank Rep. McClure for her work on behalf of HB2337," said AZCOPS President Jim Parks. "Come the elections this year, we will vigorously support those legislators who supported us, and help to defeat those who, like Rep. John Huppenthal (R-Dist. 20) have repeatedly stabbed us in the back," Parks vowed.

AZCOPS and the Arizona Correctional Peace Officers Association will continue to provide updates on private prison operations, as they can be determined, to our members and to the elected officials of Arizona. ■



# Organizing, Legislative Reports

## All 15 Arizona County Sheriff's Departments Now Have AZCOPS Associations

By Tim Clark  
Organizing Director

The organizing of the Apache County Deputies Association in recent months completes a major union goal of having an AZCOPS association in each of the 15 sheriff's departments in the state.

In just nine years we have been able to organize a group in each of these departments, but our work here is far from being over. We must now build the membership list in each of these associations so that we have a strong voice in advocating for the needs of our law enforcement family.

Our membership statewide now numbers over 6,900. The Arizona Correctional Peace Officers Association, which now has some 2,300 members and continues to grow, makes up a significant part of this union. Several hundred new AZCPOA members have been added this year under the very able leadership of Tixoc Munoz. His emphasis on the importance of organizing new members continues to have a major impact on building AZCPOA.

Another area where we continue to gain strength is in those associations that have achieved 100 percent membership. I congratulate the Quartzsite Police Officers Association and its President, William Ponce, and Vice President, Michelle Norris, for being the latest of our associations to reach that goal. This group began as a segment of the Lake Havasu Police Officers Association, then subsequently formed its own association, and now has 100 percent membership. That's what good leadership will accomplish.

Our ten present probation associations are now being joined by the Apache

County Probation Association as this issue of *AZCOPS Speaks* goes to press.

And, in the last year we have expanded beyond our original base to include law enforcement officers from some of the Native American tribal lands in Arizona, as well as some Fish and Game officers.

We will continue to organize in these new areas as well as in those traditional agencies where we have been so successful in the past. I urge all AZCOPS members to become a "committee of one" to offer the benefits of membership in our union to any law enforcement officer in need of a union home.

Finally, we once again are experiencing the result of building a strong union with the passage in May of SB1142, which accords probation, surveillance and juvenile detention officers with full retirement after 20 years of service (see separate story on Pages 1 and 5). This victory did not come easily or without



**SIGNING NEW MEMBERS** for the Arizona Correctional Peace Officers Association has been a major priority of Tixoc Munoz (right), president of the association.

the hard work of numerous AZCOPS leaders over the past several years, especially those in our probation associations. We won that battle because of our strength, our singleness of purpose, and our ability to influence key legislators with the hard facts and stark realities of today's tough probation working environment. Remember, in unity there is strength! ■

## Decent Wage Scale For Corrections Officers At Stake in Governor's Fight Over Budget

As the fight over Arizona's Fiscal Year 2007 budget heats up between Gov. Janet Napolitano and the State Legislature, the establishment of a decent wage scale for corrections officers hangs in the balance.

The governor has indicated that she wants to use this year's unexpected surplus of over \$1 billion to "invest" in the future of the state by granting more money to educational needs and by boosting the salaries of teachers and corrections officers to levels that are commensurate with the contributions they each make to society. She has repeatedly vetoed legislative bills that

would have siphoned off most of that surplus for a huge tax refund, mainly for corporations, and to finance border security that Napolitano maintains must be provided with federal funding. By law, the state budget must be approved before the legislature adjourns its regular session. ■

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