

Arizona Criminal Justice Commission
Minutes
January 21, 2016

A public meeting of the Arizona Criminal Justice Commission convened on January 21, 2016, at Arizona Criminal Justice Commission, 1110 W. Washington, Suite 230, Phoenix, AZ 85007.

Members Present:

Bill Montgomery, Chairperson, Maricopa County Attorney
David Byers, Vice Chairperson, Director, Administrative Office of the Courts
Joseph Arpaio, Maricopa County Sheriff, Pat Lopez representing
Mark Brnovich, Attorney General, Paul Ahler representing
Joe Brugman, Chief, Safford Police Department
K.C. Clark, Navajo County Sheriff, James Molesa representing
Sean Duggan, Chief, Chandler Police Department
Chris Gibbs, Mayor, City of Safford
Drew John, Graham County Supervisor
Ellen Kirschbaum, Chairperson, Board of Executive Clemency
Barbara LaWall, Pima County Attorney, Kathleen Mayer representing
Frank Milstead, Director, Department of Public Safety
Sheila Polk, Yavapai County Attorney
Charles Ryan, Director, Department of Corrections, Jeff Hood representing
David Sanders, Pima County Chief Probation Officer by conference call

Members Absent:

Heston Silbert, Law Enforcement Leader

Staff Participating:

John A. Blackburn, Jr., Executive Director
Karen Ziegler, Deputy Director
Andy LeFevre, Public Information Officer
Larry Grubbs, Program Manager
Marc Peoples, Program Manager
Tony Vidale, Program Manager
Wendy Boyle, Executive Secretary

Guest Participating:

Kate Henderson, Department of Public Safety

I. Call to Order and Roll Call

The meeting was called to order by Chairperson Bill Montgomery at 1:30 p.m. and a quorum was declared present.

II. Minutes of the November 5, 2015, Meeting

Chairperson Montgomery called for a motion on the minutes of the meeting on November 5, 2015. Commissioner Drew John entered a motion to approve the minutes of the meeting held on November 5, 2015. The motion was seconded by Designee Kathleen Mayer and was unanimously approved by the Commission.

III. Election of a Chairperson and Vice Chairperson

Executive Director Blackburn reviewed that at the last Commission meeting, the nomination for the position of Chairperson and Vice Chairperson opened.

Chairperson Montgomery called for the motion on the Chairperson nominations. Commissioner Joe Brugman entered a motion to nominate Commissioner Sean Duggan as Chairperson of the Commission. Designee Kathleen Mayer seconded the motion. Chairperson Montgomery called for additional nominations, and there were none. Chairperson Montgomery called for a motion to close the nominations for Chairperson. The motion was then made by Designee Kathleen Mayer, seconded by Designee James Molesa to close the nominations for Chairperson, and was unanimously approved by the Commission.

Chairperson Montgomery called for a motion to elect Commissioner Sean Duggan as Chairperson. Designee Kathleen Mayer entered a motion to elect Commissioner Sean Duggan as Chairperson of the Commission. The motion was seconded by Commissioner Joe Brugman and was unanimously approved by the Commission. Chairperson Montgomery congratulated Commissioner Sean Duggan on being newly elected as Chairperson.

Chairperson Montgomery called for a motion on the Vice Chairperson nominations. Commissioner Joe Brugman entered a motion to nominate Commissioner Sheila Polk as Vice Chairperson of the Commission. Designee Kathleen Mayer seconded the motion. Chairperson Montgomery called for additional nominations, and there were none.

Chairperson Montgomery called for a motion to close the nominations for Vice-Chairperson. The motion was then made by Designee Kathleen Mayer, seconded by Commissioner Joe Brugman to close the nominations for Vice-Chairperson and was unanimously approved by the Commission.

Chairperson Montgomery called for a motion to elect Commissioner Sheila Polk as Vice-Chairperson. Designee Kathleen Mayer entered a motion to elect Commissioner Sheila Polk as Vice-Chairperson of the Commission. The motion was seconded by Commissioner Sean Duggan and was unanimously approved by the Commission. Chairperson Montgomery congratulated Commissioner Sheila Polk on being newly elected as Vice-Chairperson.

IV. Executive Director's Report

A. Staff and Program Updates

Executive Director Blackburn updated the Commission on the Performance and Sunset reviews for ACJC. ACJC staff has been responding to numerous requests regarding ACJC's statutory duties. The final report will be completed by the end of June 2016 by the Auditor General's Office.

Executive Director Blackburn reported there were three vacancies on the Commission that include a Retired Judge, County Sheriff, and a Police Chief from Pima County. Staff continues to reach out to the Governor's Office of Boards and Commissions to fill the positions.

Executive Director Blackburn welcomed new employees and interns at ACJC. Kathleen Shipman is the Grant Coordinator for the Criminal Justice Systems Improvement Program. In the Drug, Gang and Violent Crime Control Program, Anna Haney was hired as Grant Coordinator and Michelle Neitch was promoted to Senior Grant Coordinator. The three interns introduced were Connor Holbert, legislative intern, Banipal Shawil assisting the Statistical Analysis Center and the Drug, Gang and Violent Crime Control Program and Lan Xiao, who will be helping in the Information Technology and Finance Departments. ACJC is currently accepting applications for the grant coordinator position in the victim services program and will begin conducting interviews in February.

B. Budget Update

Executive Director Blackburn stated the federal budget did well for the Byrne/JAG and RSAT programs as the funding was up slightly from last year. The VOCA funding went up tremendously, and staff is working with stakeholders and the Department of Public Safety (DPS) to see how the state can best leverage the additional funding.

Deputy Director Karen Ziegler addressed the state budget for ACJC and reviewed how the Commission approved the four budget issues for submission in the FY17 budget at the July 2015 meeting. The four requests were the Criminal Justice System Improvement and Records Integration project, Arizona Prevention Resource Center SAC funding increase, Crime Victim Compensation and Assistance Fund program funding increase, and the Fill the Gap State Aid to County Indigent Defense funding.

Deputy Director Ziegler reported that two of the four requests were included in the Governor's budget request for FY17, including the Arizona Prevention Resource Center SAC funding and an increase in the Crime Victim Compensation and Assistance Fund. The funding will need to go through the legislative process, and staff is optimistic the funding will be approved. Staff will continue to work with the legislature and the Governor's staff to see if the other two budget issues can be funded next year.

C. Legislative Update

Andy LeFevre, Public Information Officer, stated there were 772 bills introduced thus far in the legislative session. Mr. LeFevre explained the plan is to provide an update to the Commission to outline the broad categories and where the bills fall. The three legislative proposals approved at the Commission meeting in November 2015 were successful in getting sponsorships in the 2016 legislative session. The three bills included HB 2154: Failure to appear; arrest; fingerprinting introduced by House Military Affairs and Public Safety Committee Chairman Sonny Borelli; SB1210: Resource Center Fund; Purposes, and SB1211: Victim Compensation Fund; allocations, both introduced by Senator John Kavanagh. Staff will be working to have the bills placed on committee hearings and agendas.

The Executive Director's report was presented for informational purposes and did not require Commission action.

V. Legislative Proposal

Andy LeFevre, Public Information Officer, reviewed that the Commission voted to table the proposed draft legislation *Prohibited Possessor; Mental Health; Information Sharing with Law Enforcement* at the November 2015 meeting. ACJC staff was asked to conduct a stakeholder meeting with commissioners who headed up law enforcement agencies to inquire whether or not anything can be done to address the issue for the 2016 legislative session. The bill would amend ARS 13-3101 adding to the definition of prohibited possessor in Arizona as those individuals under court appointment guardianship, except if the appointment is due solely to a physical incapacity; and authorizes the courts to share information with law enforcement or prosecuting agencies. Several commission members and their legislative liaisons met to discuss the draft legislation at a meeting held on November 23, 2015, at ACJC.

Mr. LeFevre stated the Commission requested that staff survey a broad cross section of law enforcement agencies to get feedback on the issues and present back to the Commission. An outline presented to the Commission on the policy questions was sent out to chiefs and sheriffs for feedback. The questions were: Does law enforcement support having mental health guardianships added to the Arizona definition of a prohibited possessor and if they are not prohibited possessors, does law enforcement still want to be notified of the mental health guardianship. There were 20 responses received, and all but one indicated that they were interested in having law enforcement receive the notification indicator of the mental health guardianships. All of the respondents except for three added it would be good policy to add the mental health guardianships to the definition of prohibited possessor in Arizona.

The Commission had primary concerns in the category of people that are mentally incapacitated, making them prohibited possessors so law enforcement would arrest, the case would go to prosecution and spend resources that would prosecute and ultimately find the person incompetent. The question asked was how many people under Title 14 guardianships are walking around with guns posing a threat to law enforcement.

Also added to the discussion was that many Title 14 guardianships are not handled by a public fiduciary and are undertaken by family members voluntarily to keep the individual out by the Title 36 commitment process. There were concerns for that population as those guardians find it difficult to make sure family members do not have access to guns.

There were also comments that the initial intent was to notify law enforcement of a situation under this classification.

Marc Peoples, Program Manager explained the confirmation is needed. When law enforcement receives the indicator, they would have to verify whether or not the individual is prohibited because the feed indicates this individual maybe a prohibited possessor.

Commissioner Sean Duggan stated there is a procedure in place currently where law enforcement can stop a vehicle and inquire if there is a weapon. The consensus was for law enforcement to know who they are dealing with and to make it a crime to be a prohibited possessor complicates it.

There was a discussion that there are mentally incompetent records available that includes commitment orders, Rule 11 or Title 14. However, law enforcement does not have a broader database until they run a background check.

After review and discussion, Commissioner Sheila Polk entered a motion not to support the proposed legislation *Prohibited Possessor; Mental Health; Information Sharing with Law Enforcement* as drafted. The motion was seconded by Commissioner Drew John and was approved by the Commission with one opposing.

VI. Crime Victim Assistance Grant Program

A. FY 2017 Grant Program Funding Level

Larry Grubbs, Program Manager, presented the recommendation from the Crime Victims Committee to set the program funding level for the FY17 Crime Victim Assistance Grant Program at \$1,444,200.

Mr. Grubbs reported that the recommended funding level is the maximum amount allowed under the current appropriation. The Committee referred to Table VS-1 listed on page 19 of the agenda that reflects the financial status of the Crime Victim Compensation and Assistance.

Mr. Grubbs referred to a question from the Committee earlier on the gradual decrease of the fund balance going forward. The Criminal Justice Enhancement Fund (CJEF) revenue declined; however, \$2.6M is a healthy balance to begin the FY18 program. Staff submitted a budget issue to the Governor to increase the appropriation by \$125,800 for FY17. The increase is contingent upon legislative approval. There will be opportunities to revisit the Crime Victim Assistance program size at subsequent meetings in March or May depending on when the Legislature finalizes the FY17 budget.

Commissioner Joe Brugman entered a motion to approve the funding level for the Crime Victim Assistance Grant Program for FY17 at \$1,444,200. The motion was seconded by Commissioner Ellen Kirschbaum and was unanimously approved by the Commission.

B. FY 2017 Grant Program Funding Priorities

Larry Grubbs, Program Manager, presented the recommendation from the Crime Victims Committee that the funding for the Crime Victim Assistance Grant Program for FY17 be awarded in accordance with the funding tier structure detailed in Table VS-2 of the agenda.

Mr. Grubbs gave an update on the FY15 award to DPS for the Victims of Crime Act (VOCA) Assistance grant and the suggested changes to ACJC's FY17 Crime Victim Assistance Grant Program funding priorities. The increase of the federal VOCA assistance grant administered in Arizona by DPS rose from \$8M to \$41M. In response to these significant changes, ACJC victim services program staff conducted an assessment of the ACJC victim assistance grant program. The purpose was to determine the best utilization of the state funding in the most responsible and effective way possible. As part of the assessment, ACJC victim services program staff surveyed current grantees and asked what impact ACJC victim assistance funding had on their program.

Kate Henderson, DPS Program Administrator, gave a brief overview of the VOCA Assistance Program, the recently concluded grant processes and results, and the outlook for future Federal awards.

Mr. Grubbs referred to Table VS-2 on page 23 of the agenda that outlines staff's recommendation establishing a three tier funding structure for the FY17 grant cycle. Tier 1 would allow current ACJC victim assistance grantees to extend the current FY 2016 award into the first quarter of FY 2017. This includes additional funding equal to one quarter of the agency's FY 2016 grant award. The projects must be current ACJC victim assistance grant recipients for FY16 and continue to meet current eligibility requirements and established funding priorities.

Mr. Grubbs stated the biggest concern in transitioning from ACJC victim assistance funding to VOCA assistance funding was the differing grant periods. The VOCA assistance grant follows the federal fiscal year, whereas the state victim assistance grant runs on the state fiscal year. The purpose of Tier I funding is to provide current grantees an opportunity to bridge the gap.

Tier 2 would fund projects identified as VOCA Assistance ineligible, and Tier 3 would fund all other ACJC Victim Assistance eligible projects for a period beginning July 1, 2016, and end June 30, 2017.

Mr. Grubbs stated the recommendation maintains the availability of grant awards for currently funded programs while allowing those programs the opportunity to transition completely to VOCA assistance during the next competitive grant process. It also attempts to identify any gaps that exist in current state and federal victim service funding. As the application process moves forward, ACJC will continue to work with ACJC funded projects and coordinate efforts with DPS.

Commissioner Sheila Polk entered a motion to approve the funding for the Crime Victim Assistance Grant Program for FY 2017 be awarded in accordance with the funding tier structure detailed in Table VS-2 of the agenda. The motion was seconded by Commissioner Joe Brugman and was unanimously approved by the Commission.

VII. 2016-2019 Drug, Gang & Violent Crime Control (DGVCC) Strategy

Tony Vidale, Program Manager, presented the clarifying changes and additions to the 2016-2019 Drug, Gang, and Violent Crime Control Strategy. At the November 2015 Commission meeting, the Commission directed staff to make changes and additions to the draft 2016-2019 DGVCC strategy as discussed and bring the strategy back for approval at the January 2016 meeting.

Mr. Vidale guided the Commissioners to page 25 of the agenda. The additions to the strategy included information about Drug Trafficking Organizations (DTO), project activity information related to the Attorney General's Civil Forfeiture project, and a listing of project types funded by the Substance Abuse Prevention and Education Grant.

Mr. Vidale explained that the clarifying changes made to the strategy included ADC data on drug offenders concerning admission numbers, substance abuse cost data from DHS, and data reported in the Current and Coordinated Effort section were for grant-related activity only and not reflective of statewide criminal justice activity. Additionally, in the Current and Coordinated Efforts section, DTO data and drug convictions data were also reported.

Commissioner Sheila Polk entered a motion to approve the 2016-2019 Drug, Gang, and Violent Crime Control Strategy. The motion was seconded by Commissioner Joe Brugman and was unanimously approved by the Commission.

VIII. Call to the Public

Chairperson Montgomery made a call to the public.

Commissioner Sheila Polk spoke about a newly created task force by the Governor called the Arizona Sexual Assault Evidence Collection Kit Task Force.

Commissioner Polk reported there is a back log of over 2,300 untested sexual assault kits in Maricopa County alone, and unknown amounts in the state. The purpose of the task force is to develop a statewide process for the testing protocol of the kits, a tracking system, identify and document the location of untested kits, and provide a legislative recommendation to insure the testing of every kit.

IX. Date, Time, and Location of Next Meeting

The next Arizona Criminal Justice Commission meeting is scheduled on **Thursday, March 24, 2016**, at the Arizona Criminal Justice Commission, 1110 W. Washington, Suite 250, Phoenix, AZ 85007.

X. Adjournment

The meeting was adjourned at 3:55 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'John A. Blackburn, Jr.', written in a cursive style.

John A. Blackburn, Jr.
Executive Director

Audio recording is available upon request.