

Arizona Criminal Justice Commission
Minutes
July 16, 2015

A public meeting of the Arizona Criminal Justice Commission was convened on July 16, 2015 at Little America Hotel, 2515 E. Butler Avenue, Flagstaff, AZ.

Members Present:

Bill Montgomery, Chairperson, Maricopa County Attorney
David Byers, Vice Chairperson, Director, Administrative Office of the Courts
Joseph Arpaio, Maricopa County Sheriff, John MacIntyre representing
Mark Brnovich, Attorney General, Don Conrad representing
Joe Brugman, Chief, Safford Police Department
K.C. Clark, Navajo County Sheriff, James Molesa representing
Sean Duggan, Chief, Chandler Police Department
Clarence Dupnik, Pima County Sheriff, Paul Wilson representing
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
David Sanders, Pima County Chief Probation Officer, by conference call
Roberto Villaseñor, Chief, Tucson Police Department

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
Wendy Boyle, Executive Secretary

Guests Participating:

Heather Cotter, Waterhole Consulting
Tony Coulson, NTH Consulting
Aaron Gorrell, Waterhole Consulting

I. Call to Order and Roll Call

The meeting was called to order by Chairperson Bill Montgomery at 2:00 p.m. Roll was taken and a quorum was declared present.

Chairperson Montgomery also welcomed distinguished visitor Representative Sonny Borrelli to the Commission meeting.

II. Minutes of the May 21, 2015 Meeting

Chairperson Montgomery called for a motion on the minutes. Commissioner David Byers entered a motion to approve the minutes of the meeting held on May 21, 2015. The motion was seconded by Commissioner Joe Brugman and was unanimously approved by the Commission.

III. Executive Director's Report

A. Staff and Program Updates

Executive Director Blackburn stated there were several changes to positions at ACJC. Shana Malone accepted the position of the Statistical Analysis Center (SAC) Director, Matt Bileski was promoted to the position of Senior Research Analyst and Carlina Orosco was promoted to the position of Program Project Specialist II.

Executive Director Blackburn explained another SAC staff person left to pursue a doctoral degree and the position may remain vacant. There is also a vacant Grant Coordinator position and ACJC staff will wait for the available funding to fill the position.

Executive Director Blackburn explained he continues to work with DPS and the Governor's Office trying to get the Sex Offender Registration and Notification Act (SORNA) penalty revenues back to Arizona. The 10 percent penalty assessed on the Byrne/JAG grant for non-compliance since 2013 totals over \$500,000. The penalty funds could come back and be used in Arizona to fund any project that move towards compliance with SORNA. DPS has ideas to use the funding effectively for other projects. The Governor signed off that Arizona is in compliance with the Prison Rape Elimination Act (PREA); therefore, Arizona will not be penalized five (5) percent for non-compliance.

B. Legislative Update

Andy LeFevre, Public Information Officer presented the 2015 ACJC Legislative Summary. Mr. LeFevre explained the summary covers the pieces of legislation that ACJC was tracking throughout the session that dealt with law enforcement, criminal justice, and government issues. The ACJC criminal justice issues in 2015 included two legislative priorities: 1) *SB 1295*; ACJC's fingerprinting bill that required the booking agency to take the 01 fingerprint for the criminal case file and 2) *SB1373*; ACJC's NICS expansion bill that provided authorization to DPS to provide law enforcement the indicator notification of the mental health information. Both bills passed unanimously in both chambers and was signed into law July 3, 2015. *SB1170* was also signed into law on July 3, 2015 requiring additional Racketeer Influenced and Corrupt Organization (RICO) reporting requirements. It requires all counties to maintain on the county's website a link to the Arizona Criminal Justice Commission, where the quarterly reports are maintained. The bill also requires agencies to provide additional reporting to their county board of supervisors' office or city/town council. Mr. LeFevre thanked the legislative liaisons this year for working together and getting the legislation through in a timely manner.

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

IV. Criminal Justice Records Improvement Strategy Review

Marc Peoples, Program Manager reviewed the vision and goals of the Criminal Justice Records Improvement Strategy. Goal I is to automate information sharing and promote improvement of the criminal records; Goal II is to enhance information sharing across jurisdictional boundaries.

Mr. Peoples provided an overview of the priorities in FY2016. The first three high level activities are: 1) the continuation of activities supporting the funding through the Arizona National Instant Criminal Background Check System (NICS) Records Improvement Plan; 2) the Criminal eFiling, with the proto type funded through the Administrative Office of the Courts (AOC); and 3) the Failure to Appear project currently in progress is looking at the issues through the various workgroups. The remaining high level initiatives: the 2FID pilot projects through Maricopa County Superior Court and Pinal County Superior Court; and the eWarrant Proof of Concept Project initiated by Coconino County Sheriff's Office and the Flagstaff Municipal Court are ongoing.

Mr. Peoples discussed the medium priority plans which included: the eCitation Implementation in all jurisdictions; the Synchronization of Probation data; and the JWJ Data Source Sharing where further research is required. Also, it was recommended that the Arizona Disposition Reporting System (ADRS) be moved to the level of high importance, for multi-disciplinary outreach and training.

Chairperson Montgomery and Commissioner Roberto Villaseñor suggested that along with JWJ data source sharing, to look at the Arizona Joint Powers Public Safety Committee that was authorized in previous legislation. Having both efforts cooperating would incorporate the data source sharing network information for law enforcement throughout Arizona.

Mr. Peoples reviewed the Percentage of Disposition Charges by Submission Type – CY 2004-2013. With Pima County and Maricopa County using the Arizona Disposition Reporting System (ADRS) and the Simplified Segmented Approach, a reduction in the number of paper processes is expected. In addition, a strategy will be to look at building an ADRS computer based training (CBT) for Disposition Reporting.

Chairperson Montgomery stated that when looking at the usage implementation going forward, there may be a significant backlog of the yellow paper sheets. During the implementation of electronic based submissions, there will be a period of time when the paper submissions would still be utilized until the backlog gets resolved.

Next, Mr. Peoples discussed the grant funding supporting the strategy goals and activities. The first section covered funding for the NICS Act Records Improvement Program (NARIP). The grant awards were given by the Bureau of Justice Statistics (BJS) for FFY 2013 and FFY 2014 in the amount of \$1,426,645. The National Criminal History Records Improvement Program (NCHIP) grant funding included awards by BJS for FFY 2013 and FFY 2014, in the amount of \$893,766. The Bureau of Justice Assistance (BJA) Improving Background Checks initiative had funding for FFY13 in the amount of \$634,236. Funding for FY 2015, in the amount of \$211,749 was awarded through Criminal Justice Records Improvement Program (CJRIP) funds. A total amount of \$3,166,396 had been awarded for criminal justice system improvement projects.

Mr. Peoples gave an update on applications submitted for federal grant funds supporting the strategy goals/activities for federal fiscal year 2015. The first grant funding request is for NICS, totaling \$1.7 million, to continue the NICS task force; resolve issues in the Orders of Protection System through AOC; review the Gap Initiative; and Automation of Missing Disposition Reports through DPS. The second grant application for NCHIP, totaling \$1.3 million, is to fund the e-Warrant Expansion through AOC, Missing Disposition Backlog Project through Maricopa County Prosecutors Office, Police Data Sharing Project for Apache County Livescan Machine Project and the AZ AFIS equipment update through DPS. The third grant application is a partnership with the City of Phoenix, for an Office on Violence Against Woman (OVW) grant, in the amount of \$305,775. This would be a collaboration on the Orders of Protection Project.

This agenda item was presented for informational purposes and did not require Commission action.

V. 2FID Pilot Project and Recommendations for Criminal Justice Records Improvement Program (CJRIP)

Heather Cotter, Waterhole Consulting updated the Commission on the 2FID pilot project in Maricopa and Pinal counties that resulted from the strategic assessment report published in 2014.

Ms. Cotter explained the completed pilot project examined using a biometric technology that would produce a better quality fingerprint taken in the court room at sentencing, rather than the current ink and roll process. The rollout involved using two different technologies called MorphoTrak and Cross Match, in both jurisdictions. Preliminary key findings include the DPS review which indicates fingerprints using a 600 DPI, COTS printer are sufficient for the ADC GAP Filler Project, and there is a perceived ease of use in the courtroom environment, with no significant change in courtroom business processes. The purpose of the pilot program was to look at the image of the fingerprint to see if the quality was better.

Chairperson Montgomery asked about the deployment in the remaining 14 county superior courts and in what courts did the pilot project take place.

Ms. Cotter explained the DUI court was used in Maricopa County, and the early disposition court was used for testing in Pinal County. Another question was asked if both products allowed for capturing the fingerprint. The answer was yes. The resulting benefit is; if a bailiff takes a fingerprint upon sentencing, within 60-90 seconds, they will receive from AFIS confirmation the defendant is who the person says they are, if their print is in the system.

Commissioner David Byers entered a motion to approve setting aside five (5) percent of the FY 2016 through FY 2017 Byrne/JAG funding, designated for the Gerald Hardt Criminal Justice Records Improvement Program, in the amount not to exceed \$200,000, to support the initiative for implementing mobile fingerprint devices in the remaining 14 County Superior Courts' criminal courtrooms. The motion was seconded by Commissioner Chris Gibbs.

Commissioner Byers shared that the Information, Technology and Systems Improvement Committee had discussions on the disclosures of the initiative; adding the courts will ask about the ongoing maintenance and responsibility of the technologies for the mobile fingerprint devices.

Chairperson Byers also talked about how the details will need to clarify what the commitment, responsibility, and the costs will be for the project.

Commissioner Roberto Villaseñor shared his concerns with dedicating funds for a project where there are no total costs defined. He expressed a need for more details on the maintenance costs and total expenditures.

Chairperson Montgomery directed staff to provide an update on the estimated costs and the progress in selecting the vendor, prior to moving forward. The Commission will be updated on how close the amount is to the \$200,000; and identify if there will be additional costs, before the amount is expended.

Chairperson Montgomery asked if there were any other questions on the motion. The motion on the table was that the amount would not exceed \$200,000 to support the initiative and was unanimously approved by the Commission.

VI. National Instant Criminal Background Check System (NICS) Taskforce Update with Added Recommendations

Marc Peoples, Program Manager explained that from the NICS task force meeting on July 14, 2015, the task force made five recommendations that included four recommendations for Condition of Release and one for Protection Orders.

Tony Coulson, NTH Consulting reviewed the five recommendations. The first proposal is all Conditions of Release that prohibit the possession of firearms be reported to NICS. When a judge, for any criminal matter imposes a condition of release that prohibits firearms possession, it is reported to NICS. The second proposal is Conditions of Release that prohibit a possession of firearms are reported electronically and automatically to NICS. The third proposal is the system used to report Conditions of Release that prohibit the possession of firearms, shall also be able to automatically modify/cancel a record. Since Conditions of Release can change quickly and be modified, the information can be pulled automatically and updated, if needed. The fourth proposal is that law enforcement should have access to Conditions of Release that prohibit the possession of firearms through their automated systems.

Commissioner David Byers entered a motion to approve the addition of the four recommendations under Conditions of Release to the Arizona National Instant Criminal Background Check System (NICS) Records Improvement Plan. The motion was seconded by Designee Kathleen Mayer and unanimously approved by the Commission.

Next, Mr. Coulson presented the NICS task force recommendation that the Arizona Criminal Justice Commission should develop a statewide protocol that establishes a best practices model on how Protection Orders should be processed and shared.

Mr. Coulson reported that the task force wants to look at practices, in terms of: how the orders of protection are issued, how they are made available to all of law enforcement, and how a victim can decide that the orders of protection should be served. Law enforcement through their automated system should have the ability to get the orders of protection served, and to have the notice of service automated, therefore it would be done more efficiently. As of now, the process is built on paper forms entered into the National Crime Information Center (NCIC), by the Sheriff.

Designee John MacIntyre entered a motion that the Commission approve the recommendation that the Protection Orders be added to the Arizona National Instant Criminal Background Check System (NICS) Records Improvement Plan and reads as follows: **that the Arizona Criminal Justice Commission should develop a statewide protocol that establishes a best practices model on how Protection Orders should be processed and served.** The motion was seconded by Designee Kathleen Mayer and unanimously approved by the Commission.

VII. Full Service Forensic Crime Laboratory Grant Program

Marc Peoples, Program Manager reported to the Commission on the Full Service Forensic Crime Laboratory Grant Program and the allocation of funds in the amount of \$800,000 for the cycle July 1, 2015 through June 30, 2016.

Mr. Peoples stated the amount funded last year was \$850,000 and was decreased by two percent. The Commission was referred to the Full Service Crime Lab funding summary on page 16 of the agenda. The allocation includes a base of \$100,000 for the four police department full service crime labs, and \$300,000 for three labs within the Department of Public Safety, with the balance distributed by population. Commissioner David Byers entered a motion to approve the Full Service Forensic Crime Laboratory Grant allocations for \$800,000 to the five funding recipients shown on page 16 of the agenda. The motion seconded by Commissioner Joe Brugman and was approved unanimously by the Commission.

VIII. FY17 Crime Victim Assistance Grant Program

Larry Grubbs, Program Manager presented an update on the FY15 award to DPS for the Victims of Crime Act (VOCA) Assistance grant and the potential changes to ACJC's FY17 Crime Victim Assistance Grant Program.

Mr. Grubbs explained the increase of the federal VOCA assistance grant administered in Arizona by DPS, has increased from \$8 million for FFY14 to \$40.7 million for FFY 2015. It is also anticipated that the FFY16 award will equal or exceed the FFY15 amount. The competitive grant process will take place in August with awards being made in October 2015.

Mr. Grubbs stated ACJC victim services program staff will conduct an assessment of the ACJC victim assistance program that will address points to consider because of the significant increase to victim service grant funding. Items to consider are: maintaining the program as is, tailoring the program to become a more specialized fund source, or rolling the victim assistance funding into a larger victim compensation program administered by ACJC. The assessment will be used to determine the best utilization of the state funding in the most responsible and effective way possible. The analysis could result in significant changes to the grant program for FY17. The Commission inquired how the VOCA funding differs from the state funding. Mr. Grubbs responded that the VOCA funding is subject to federal guidelines, and is limited and more stringent. However, Federal VOCA Administration is reviewing the guidelines at this time.

Commissioner Byers suggested staff look at applying for the \$1M from DPS, so the state could have the flexibility within the state statute; thereby; VOCA could be used for other projects and the two funding sources could be coordinated.

Mr. Grubbs explained there is a mechanism to coordinate. DPS and ACJC, as well as other agencies that distribute state and federal victim funding, participate on a state coordinating team facilitated by the Governor's office. Also, DPS is facilitating a strategic planning process to help identify any gaps in the services. We are all waiting for the federal guidelines as we move forward from here.

Chairperson Montgomery stated, the critical aspect is to see whether or not VOCA guidelines are amended to allow for greater use of the increase of funds.

Mr. Grubbs maintained the staff intends on updating the Commission on the initial feedback from the stakeholders, current victim assistance grantees, victim services community, and other state and federal victim service fund administrators. There will be a recommendation to the Crime Victims Committee and Commission in January 2016.

This agenda item was presented for informational purposes and did not require Commission action.

IX. ACJC Budget

A. FY2015/2016 Budget Update

Deputy Director Karen Ziegler reported that ACJC closed the state fiscal year (FY15) on June 30, 2015. The actual expenses were under the budgeted expenses for the year and that revenues have not rebounded from the pre-recession numbers. Staff continues to look for ways to cut costs and stretch the resources.

Deputy Director Ziegler outlined the revenues that support the agency. The entire Criminal Justice Enhancement Fund (CJEF) revenue was \$38.4 million, down 4.2 percent from last fiscal year. This has been a five year trend and an increase in future revenues does not appear to look favorable. Staff is looking at other means of funding the criminal justice activities so there can be less dependence on the CJEF revenues.

Deputy Director Ziegler explained the state Drug Enforcement Account (DEA) revenues saw a similar decline. There was a 1.7 percent decline over last year. This account helps fund the multi-jurisdictional task forces and ACJC also uses the fund to support the agency's operations budget. Another funding source is the Victim Compensation and Assistance fund that has been surprisingly stable the last two years. The program receives CJEF funding but there are other revenue sources that go into the compensation program to help stabilize the fund. One in particular, is the unclaimed restitution monies from the Department of Revenue. In FY15, \$683,000 was deposited to the fund.

Next, Deputy Director Ziegler presented the summary of the ACJC operating and program budget for FY15-16. A handout was given that showed the operating budget and pass through accounts for the FY15 actual expenses and the FY16 approved budget. The total ACJC expenditures in FY15 were \$18,475,728. The FY16 approved budget do not include the grants that were applied for this year because they have not been awarded. ACJC has been successful in carrying out the mission with the current funding; however, there have been significant declines in the administrative monies on the federal side where the agency is now using two years of federal grants to get through one state fiscal year and that is not sustainable. The goal for FY17 is to secure additional funding from the Arizona Prevention Resource Center to fund the SAC unit and alleviate the stress on the other funding sources.

Deputy Director Ziegler reported the FY17 request to the legislature is due on September 1, 2015; however, with the implementation of the new state accounting system, staff has asked for an extension until October 1, 2015 to submit the budget. The Governor's office will review the budget proposals, put together a proposal for the legislature, and the Joint Legislative Budget Committee (JLBC) will print their baseline report. Staff will bring back any updates to the Commission at future meetings.

Chairperson Montgomery then acknowledged Arizona Speaker of the House David M. Gowan, Sr. was present and if needed, would address the meeting at the call to the public.

This agenda item was presented for informational purposes and did not require Commission action.

B. FY2017 Budget Issues Request

Deputy Director Karen Ziegler explained ACJC will submit as its top priority, a General Fund request for funding the Criminal Justice Systems Improvement efforts in the state. The same funding requests were presented last year and will be resubmitted in the FY17 budget proposal.

The first budget issue relates to the Criminal Justice Systems Improvement and Records Integration program request of \$6.1M from the general fund to allow the establishment of an integrated computer information system with specifically, \$1.8M to fund the first year of a multi-year project.

The second funding request is the Arizona Youth Survey (AYS) Arizona Prevention Resource Center Fund. Staff proposes to expand the use of the funds to support the research activities of the entire SAC unit. This frees up the DEA funding that is currently used to fund SAC so those funds can support the federally funded positions where the revenues are declining. Deputy Director Ziegler stressed this is a critical issue for FY17.

Commissioner Byers questioned if the first budget issue should be retooled and make a request to be consisted with the current plan.

Deputy Director Ziegler stated the projects that were put in the project investment justification (PIJ) last year are not the same projects that were listed for the federal funding and are still consistent with the current plan.

Aaron Gorrell, Waterhole Consulting added the projects listed were the full statewide rollout of an arrest warrant system and the second expenditure was a series of livescan machines for the missing fingerprint issue. Commissioner Villaseñor strongly suggested the need for communication between ACJC and the Arizona Joint Power Safety Committee so the two groups can create a partnership regarding the same goals.

The third issue is the Fill the Gap funding for the State Aid to County Indigent Defense. The last two years ACJC has not received an appropriation for the State Aid to Indigent Defense program as the monies have been swept by the legislature to fund the Department of Public Safety (DPS) and the Arizona Attorney General's Office for specific projects. ACJC recommends directing the funds back to the Indigent Defense program for its original intended purpose.

The fourth item is for the Crime Victim Compensation and Assistance Fund. There is a stable fund balance and as Executive Director Blackburn and Larry Grubbs, Program Manager stated, staff is anticipating an increase in requests for compensation because of

the increase in services funded through the DPS victim assistance program. Chairperson Montgomery also discussed a change in the victim compensation rules to cover more items and this may be the appropriate time to review.

Commissioner David Byers entered a motion to approve the four budget issues for submission in the FY17 budget. The motion was seconded by Commissioner Drew John and was unanimously approved by the Commission.

C. CJEF Formula Recommendation

Deputy Director Karen Ziegler stated *ARS 41-405.7* requires the Commission to make a recommendation to the legislature regarding the purpose and formula for allocation of CJEF funds. The recommendation is to be included in the agency's budget submittal. Staff recommended no change to the current formula. The current distribution was listed on page 23 of the agenda.

There was discussion on the increase in funds administered by DPS from the Office of Victims of Crime (OVC) for the Victims of Crime Act (VOCA) assistance grant award. Also, discussion regarding a legislative request to increase the allocation to ACJC for a specific time by shifting the percentage from *ARS 41-2401.D.13* and *14* in the statute up to *41-2401.D.10*, to address the agency's budgetary problems.

Larry Grubbs, Program Manager spoke specifically on *D.14* for the Victim Compensation and Assistance fund. The OVC is clear that the federal victim assistance funds cannot be used to pay for victim compensation expenses. The majority of state funds are used for the purposes to pay for actual benefits to victims of crime through the crime victim compensation program.

The Commission discussed having staff examine an alternate formula distribution and bring the item back to the Commission at the next meeting.

Commissioner Joe Brugman entered a motion to table this item. The motion was seconded by Designee John MacIntyre and passed unanimously. The Commission instructed staff to look at the options, identify if adjustments could be made to the formula, and present an updated recommendation at the next meeting.

X. Call to the Public

Chairperson Montgomery made a call to the public. Arizona Speaker of the House David M. Gowan, Sr. spoke to the Commission about taking back control of the budget with intentions to focus on public safety.

XI. Date, Time, and Location of Next Meeting

The next Arizona Criminal Justice Commission meeting will be held on **Thursday, September 24, 2015** at the Arizona Criminal Justice Commission, 1110 W. Washington, Suite 250, Phoenix, Arizona 85007.

XII. Adjournment

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

Respectfully submitted,



John A. Blackburn, Jr.
Executive Director

Audio recording is available upon request.