

**Arizona Criminal Justice Commission
Minutes
November 5, 2015**

A public meeting of the Arizona Criminal Justice Commission was convened on November 5, 2015 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, Jerry Landau representing
Joseph Arpaio, Maricopa County Sheriff
Joe Brugman, Chief, Safford Police Department, by conference call
K.C. Clark, Navajo County Sheriff
Sean Duggan, Chief, Chandler Police Department
Chris Gibbs, Mayor, City of Safford, by conference call
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, Ken Hunter representing
Sheila Polk, Yavapai County Attorney
Charles Ryan, Director, Department of Corrections, Jeff Hood representing
David Sanders, Pima County Chief Probation Officer, Carl Sheets representing by conference call
Heston Silbert, Law Enforcement Leader, Department of Public Safety
Roberto Villaneseñor, Chief, Tucson Police Department, Ramon Batista representing

Members Absent:

Mark Brnovich, Attorney General

Staff Participating:

John A. Blackburn, Jr., Executive Director
Andy LeFevre, Public Information Officer
Tony Vidale, Program Manager
Wendy Boyle, Executive Secretary

I. Call to Order and Roll Call

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

II. Minutes

Chairperson Montgomery called for a motion on the minutes from the meetings on July 16, 2015 and September 10, 2015. Commissioner Chris Gibbs entered a motion to approve the minutes of meetings held on July 16, 2015 and September 10, 2015. The motion was seconded by Commissioner Drew John and was unanimously approved by the Commission.

III. Election of a Chairperson and a Vice Chairperson

Executive Director Blackburn stated the current terms of the Chairperson and Vice Chairperson will expire January 2016. According to ACJC policy, the process to nominate members for these positions needs to be announced in an open public meeting. Current Vice-Chairperson David Byers has expressed an interest in succeeding to the Chairperson position, and may succeed the Chairperson position unless a Commission member requests a vote to waive the policy. If the policy is not waived, the Commission would vote on the Chairperson position at the January 21, 2016 meeting. No motion would be necessary at this time.

Chairperson Montgomery explained that the Commission has so many new members that every member should have a say in the process and called for a motion on the nominating process that would allow anyone on the Commission to be considered for the nomination of the Chairperson. Designee Kathleen Mayer entered a motion to approve opening the nominating process for the position of Chairperson to all Commission members. The motion was seconded by Commissioner Sheila Polk and was unanimously approved by the Commission.

Chairperson Montgomery called for a motion on the nominating process that would allow anyone on the Commission to be considered for nomination of the Vice Chairperson. Designee Kathleen Mayer entered a motion to approve the nominating process for the position of Vice Chairperson for any member of the Commission. The motion was seconded by Designee Jeff Hood and was unanimously approved by the Commission.

An explanation of the nominating process for the position of Chairperson and Vice Chairperson was given and nominations will remain open until January 4, 2016. Interested Commission members should contact the Executive Director with the nominations. The names of the nominees will be announced at the Commission meeting on January 21, 2016 and the Chairperson and Vice Chairperson positions will be elected by vote.

IV. Executive Director's Report

A. Staff and Program Update

Executive Director Blackburn introduced Audrey Richardson and Samantha Faltermeier as new staff for the Statistical Analysis Center (SAC). ACJC also had three college interns for the fall semester working in the SAC unit and the Drug, Gang and Violent Crime Control Program. There were two offers to fill the two grant coordinator positions, with the hope of hiring by the end of November.

Executive Director Blackburn stressed that the reports in the agenda were done by a minimal staff because of reduced staffing levels. ACJC staff were thanked for their efforts and work to produce the timely reports.

Next, the Commission membership was reported with two open positions. They include the Retired Judge and Sheriff of Pima County. Another position will become vacant when Chief Villaneseñor retires from the Tucson Police Department at the end of December. ACJC hopes to have the vacancies filled and will continue working with the Governor's Office of Boards and Commissions.

B. 2016 Meeting Schedule

Executive Director Blackburn presented the ACJC 2016 public meeting schedule and asked the Commission members to review the schedule and contact staff if there are any significant conflicts with the meeting dates.

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

V. Legislative Proposals

Andy LeFevre, Public Information Officer presented proposed legislation for the 2016 legislative session. The Legislative Committee met earlier to review, discuss and support the draft legislation for recommendation to the Commission.

Mr. LeFevre introduced the first item of legislation that amends ARS 13-3101 adding to the definition of prohibited possessor in Arizona as those individuals under court appointed 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.

Commissioner Heston Silbert brought forth the following issues that were presented at the Legislative Committee: 1) is the intent on the mental health order to see if a person is a prohibited possessor and to arrest them for the charge or seize the weapon; 2) where will the data be stored; and 3) is the information for law enforcement able to show that a prohibited possessor is a convicted felon.

Chairperson Montgomery reported as part of other statutory changes in the last legislative session, there is a database of those who are adjudicated mentally incompetent by virtue of a court process that is being maintained and uploaded to NICS. Legislation was passed that gives law enforcement access to the database. Currently, there is no database of registered firearms owners that can be cross-referenced with the database of those who may have been adjudicated mentally incompetent.

Designee Jerry Landau commented there are two issues: 1) the first is a policy issue that addresses if it is a crime to possess a firearm when a person is subject to a court order guardianship; and 2) under the previous legislation, if a person is entered into NICS, it was decided law enforcement should have information from an officer safety standpoint.

Commissioner Sheila Polk stated that if this is an officer safety issue, there are ways to accomplish that. Officers could receive notice that someone is under a guardianship, without making that person a criminal.

Designee Landau summarized on page four of the Prohibited Possessor; Mental Health, Information Sharing with Law Enforcement legislation, line 3, gives the authority for the court to transmit the information to DPS. Legislation was passed last year that gives DPS the authority to provide the information to local law enforcement, so they can decide what to do with it. The second part of the discussion is that the proposed definition would make it a crime to possess the weapon if the individual was under a court-ordered guardianship.

After discussion, Designee Jerry Landau motioned to address questions on ARS 13-3101 separately from ARS 14-5304. The motion was seconded by Commissioner Sheila Polk and was unanimously approved by Commission.

The Commission directed staff to meet with stakeholders, who are heading law enforcement agencies, to inquire whether or not anything can be done to address the issue. A separate stakeholder meeting will be scheduled.

Chairperson Montgomery called for a motion to table the item and refer back to the Legislative Committee for additional discussion. Designee Jerry Landau motioned to send the Prohibited Possessor; Mental Health; Information Sharing with Law Enforcement legislation back to the Legislative Committee for further discussion. The motion was seconded by Commissioner Sheila Polk and passed unanimously. Andy LeFevre, Public Information Officer stated he would schedule a meeting with stakeholders to address the issue.

The second piece of legislation Law Enforcement; Courts; Fingerprinting consists of amending ARS 41-1750 to define *the county sheriff as the booking agency*; (except if the person is booked into a municipal jail, it would mean the *municipal law enforcement agency*). It requires the booking agency to take a legible ten-print fingerprint for all persons arrested for certain crimes. It also requires courts to send individuals summoned into court for certain offenses, back to the booking agency to obtain a legible ten-print fingerprint.

Designee Landau shared that the last two years; committees comprised of DPS, AOC, ACJC, county sheriffs, local judges, and other local law enforcement, looked at mechanisms to increase the accuracy of the completion of criminal history records. The stakeholders agreed that the fingerprinting should be centered at the sheriff's office for all felonies, misdemeanors, sex crimes, domestic violence and DUI. This would lead to a higher rate of completeness.

Designee Jerry Landau entered a motion to support of the Law Enforcement; Courts; Fingerprinting legislation. The motion was seconded by Commissioner Drew John and was unanimously approved by the Commission.

The third item of legislation Failure to Appear; Classification amends the definition of *failure to appear in the second degree* and sets appropriate penalties.

Commissioner Drew John stated the Legislative Committee discussed combining the two pieces of legislation to send as one bill. Designee Landau further clarified the benefit of merging this draft legislation with the Law Enforcement; Courts; Fingerprinting legislation, as they both came out of the same series of discussions. There are currently two failure to appear statutes. Joining these two pieces of legislation would make it easier for law enforcement to know what to cite, book and identify the cases in the system. Commissioner Sheila Polk addressed a change to the language on ARS 13-2506, page 1, line 7, GIVEN A WRITTEN PROMISE TO APPEAR IN COURT should be replaced with the word, GAVE.

Chairperson Montgomery called for a motion to approve the change to the language in ARS 13-2506 and support the combination of the two pieces of legislation, ARS 41-1750 and ARS 13-2506. Designee Jerry Landau entered a motion to approve the language change to ARS 13-2506; and support combining the two pieces of legislation: Law Enforcement; Courts; Fingerprinting and Failure to Appear; Classification. The motion was seconded by Commissioner Heston Silbert. Designee Kathleen Mayer added a friendly amendment to the motion to give Andy LeFevre, Public Information Officer, permission to make decisions at the legislature that is best for the new legislation to advance. Designee Jerry Landau agreed to the amendment to the motion. It was unanimously approved by the Commission.

The fourth piece of legislation Resource Center Fund; Spending Flexibility amends ARS 41-2402, paragraph G to allow greater flexibility in how the Arizona Criminal Justice Commission's Statistical Analysis Center can utilize Arizona Prevention Resource Center funds. Currently, statute only allows for funds to be used to support the Arizona Youth Survey. The language change would allow unused funds to be spent to conduct research identified by the Commission as important to Arizona's criminal justice community.

Commissioner Sheila Polk entered a motion to support the Resource Center Funds; Spending Flexibility legislation. The motion was seconded by Commissioner K.C. Clark and was unanimously approved by the Commission.

The fifth legislative proposal was the Victim Compensation and Assistance Fund; Spending Flexibility that amended ARS 41-2407 to allow greater flexibility in how the Victim Compensation and Assistance Fund can expend funds across both program areas to meet the needs of Arizona's victims of crime and those agencies that provide direct services to victims. The amendment removes the word victim compensation from line 5 and victim assistance from line 6 since both funds are combined; and lines 14-16 removes the language: Not more than fifty percent of the monies distributed statewide for victim assistance shall be allocated to the governmental agencies or public officers specified in section 41 2404, subsection A and to the governmental agencies or public officers specified in section 41 2404, subsection B.

Designee Jerry Landau suggested combining both legislative proposals - ARS 41-2402 and ARS 41-2407 into one bill for lobbying purposes and getting sponsors as the volume of bills becomes an issue at the legislature.

Chairperson Montgomery called for a motion to approve the changes to ARS 41-2407 for presentation to the legislature and give Andy LeFevre, Public Information Officer the flexibility to determine how the legislation should best be presented.

Designee Kathleen Mayer entered a motion to support the Victim Compensation and Assistance Fund; Spending Flexibility legislation with the language change and to give Mr. LeFevre the flexibility for determination of how the legislation should be presented. The motion was seconded by Commissioner Drew John and was unanimously approved by the Commission.

VI. CY2016 Residential Substance Abuse Treatment Program (RSAT) Grant Awards

Tony Vidale, Program Manager, presented the recommendation by the Drug, Gang and Violent Crime Control Committee to award \$366,508 in federal and local cash and/or in-kind match funds for the 2016 Residential Substance Abuse Treatment (RSAT) grant program.

Mr. Vidale explained the purpose of the RSAT program is to assist governments in developing and implementing substance abuse treatment programs in state and local correctional and detention facilities; and to create and maintain community-based post-release services for offenders. The RSAT program is structured into three areas: 1) residential, 2) jail-based and 3) post-release treatment. There are two funding requirements for the RSAT program: ten percent of the federal award must be made available to local correctional or detention facilities, and funds cannot be awarded for post-release treatment services that exceed one year after release.

Mr. Vidale stated ACJC was awarded \$249,027 for the FFY 2015 grant; of which the agency was allocated ten percent for administrative costs totaling \$24,903. A total of \$366,508 is available to fund the CY2016 projects. The funding breakdown contains \$274,881 in federal funds (including \$50,757 in unexpended prior year grant funds) and \$91,627 in required matching funds. The RSAT grant solicitation opened on August 31, 2015 and closed on October 9, 2015. Table DC2 on page 25 of the agenda showed the requested amount of \$610,766 from five agencies with a breakdown of \$458,075 in federal monies and \$152,691 in match funds. The recommendation would be to fund the Coconino County Sheriff's Office, Arizona Department of Corrections, Maricopa County Sheriff's Office, Arizona Department of Juvenile Corrections, and Chicanos Por La Causa.

Chairperson Montgomery commented that although the monies are provided for substance abuse treatment programs in jails and prisons, the use of these funds is still consistent with Arizona's approach as a treatment first state in dealing with substance abuse and criminal offenses.

Commissioner Ellen Kirshbaum entered a motion to approve the award of \$366,508 in federal and local cash and/or in-kind match funds for the 2016 RSAT grant program beginning January 1, 2016 and ending December 31, 2016. The motion was seconded by Commissioner K.C. Clark and was unanimously approved by the Commission.

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

Tony Vidale, Program Manager, reported that the Drug, Gang and Violent Crime Control Committee decided to table the approval of the 2016-2019 Arizona DGVCC Strategy and to allow staff the time to make some clarifying statements in the document related to some of the data. Staff will work with Commissioner Sheila Polk to refine language for some of the data to help the reader better understand and interpret the information.

Mr. Vidale asked Chairperson Montgomery for permission to present the 2016-2019 Arizona Drug, Gang and Violent Crime Control (DGVCC) Strategy to the Commission; which includes the overall content and purposes, with the exception of the clarifying data.

Chairperson Montgomery referred to DGVCC Committee member, Commissioner Sheila Polk, asking if there were issues and concerns with the data being given. Commissioner Polk stated there were not and noted the report has tremendous value. Because of its importance, there were a few areas that needed to be clarified before it is presented to the public and law enforcement.

Mr. Vidale added that delaying the approval of the strategy would not hinder moving forward with the process in 2016. Staff can make the clarifying changes and come back in January 2016 and present it to the Commission for approval.

Mr. Vidale reviewed the process that was used to develop the DGVCC Strategy. The current strategy focuses on projects that enforce and prosecute drug offenders and trafficking violators, as well as, projects that support forensic testing, court programs, treatment/drug education, and prevention programs. The DGVCC strategy takes a balanced approach to a statewide, system-wide program that supports drug control efforts in Arizona. In developing the strategy, a public hearing was held at ACJC on October 14, 2015, with the opportunity to participate by web-conferencing. Additionally, the presentation was recorded, posted on the ACJC website, and comments were accepted from the public.

Mr. Vidale shared the strategy is used as a primary decision-making tool and directs funds to achieve the established goals of the program.

Mr. Vidale reviewed the following content in the strategy: 1) the nature and extent of the problem; 2) current and coordinated efforts; 3) program analysis of strengths, weaknesses, opportunities, and challenges; 4) goals and purpose areas; 5) strategic principles; and 6) program performance monitoring and evaluation.

Chairperson Bill Montgomery referred to the power point presentation slide titled, *Challenge examples*. A challenge listed for the DGVCC Program Analysis was the *"erosion of support for apprehension and prosecution of drug cases, as they are costly to manage."* Chairperson Montgomery asked staff to identify statistics on the potential costs of not apprehending and prosecuting drug offenders and suggested staff also review High Intensity Drug Trafficking Area's (HIDTA) recently produced report that looks at the impact of medical marijuana.

Chairperson Montgomery called for a motion to table approval as recommended by the Drug, Gang and Violent Crime Control Committee.

Commissioner Sheila Polk entered a motion to table the approval of the 2016-2019 Drug, Gang and Violent Control Strategy. The motion was seconded by Commissioner Sean Duggan and passed unanimously.

VIII. 2015 Enhanced Drug & Gang Enforcement (EDGE) Report

Tony Vidale, Program Manager, presented the 2015 Enhanced Drug & Gang Enforcement (EDGE) Report.

Mr. Vidale explained the report meets the statutory requirement for ACJC to submit a report on law enforcement activities related to illicit drugs and drug-related gang activity.

Mr. Vidale reviewed the highlights of the report with the Commission. In 2015, ACJC awarded a combined total of \$10,518,946. Of this amount, \$3,623,283 was awarded in federal funds, \$4,344,068 in state funds, and \$2,551,595 in local matching funds.

The projects included: 14 drug task forces, under the drug apprehension program; 16 prosecution projects; one statewide forfeiture project; two drug forensic projects; one adjudication project at the Administrative Office of the Courts; one Medicaid Fraud project at the Attorney General's office; and one criminal records improvement project.

Under the purpose areas, the following allocations were funded: 1) \$3,439,148 for apprehension programs; 2) \$3,719,944 for prosecution program activities; 3) \$503,343 for Forensic Drug Analysis Programs; 4) \$1,677,546 for Arizona Supreme Court Anti-Drug Adjudication project; 5) \$211,749 for Criminal Justice Records Improvement Program (CJRIP); and 6) \$100,816 for Arizona Attorney General's Office Medicaid Fraud project.

Mr. Vidale summarized the results of the programs and projects. There were 4,900 arrests by the funded task forces, with marijuana, as the number one drug involving arrests; followed by, methamphetamine and heroin. The most common arrestee was male, Caucasian, and over 18. 439 weapons were seized, of which 237 were handguns. There were 212 drug trafficking organizations dismantled and 186 were disrupted. Drug seizures totaled: 84,000 pounds of marijuana, 752 pounds of cocaine, 2,000 pounds of methamphetamine, and 197 pounds of heroin. On the prosecution side, there were over 30,451 drug prosecutions: 77 percent resulted in convictions, 15.2 percent were dismissed, and 0.1 percent resulted in acquittal.

Mr. Vidale reported the most common type of drug offense was for possession or concealment of drugs; 86 percent of drug offenses were prosecuted as felony charges and 14 percent were misdemeanors. Marijuana was the drug most often involved in prosecutions. The report indicated 15,533 offenders received sentences. The most common sentence was probation, followed by a prison sentence.

On the other projects, the civil forfeiture project, under the Attorney General's office, reported there were close to \$26.5M forfeited in assets that included 283 weapons. The forensic support project performed over 13,000 analyses on various types of drugs. Forensic staff testified 203 times in court and the project trained 497 officers on drug field testing. The adjudication project supported 12 drug courts that served 2,059 participants and 4,495 probationers. Probation officers produced 1,924 pre-sentence investigation reports, and 1,090 indigent defendants were provided services.

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

IX. Call to the Public

Chairperson Montgomery made a call to the public. No members of the audience addressed the Commission.

X. Date, Time, and Location of Next Meeting

The next Arizona Criminal Justice Commission meeting will be held on **Thursday, January 21, 2016** at the Arizona Criminal Justice Commission, 1110 W. Washington, Suite 250, Phoenix, AZ 85007.

XI. Adjournment

The meeting was adjourned at 3:10 p.m.

Respectfully submitted,



John A. Blackburn, Jr.
Executive Director

Audio recording is available upon request.