

Arizona Criminal Justice Commission
Minutes
May 19, 2011

A public meeting of the Arizona Criminal Justice Commission was convened on May 19, 2011 at the 1110 W. Washington, Suite 250, Phoenix, Arizona 85007.

Members Present:

Ralph Ogden, Chairperson, Yuma County Sheriff
Daniel G. Sharp, Chief, Oro Valley Police Department
John Armer, Gila County Sheriff, Claudia Dalmolin representing
Joseph Arpaio, Maricopa County Sheriff, Ray Churay representing
Duane Belcher, Chairperson, Board of Executive Clemency, Erin Warzecha representing
Dave Byers, Director, Administrative Office of the Courts
Clarence Dupnik, Pima County Sheriff, Warren Alter representing by conference call
Robert Halliday, Director, Department of Public Safety
Tom Horne, Attorney General, Andrew Pacheco representing
Robert Huddleston, Chief, Casa Grande Police Department
Barbara LaWall, Pima County Attorney, Kathleen Meyer representing
Bill Montgomery, Maricopa County Attorney
Charles Ryan, Director, Department of Corrections, Charles Flanagan representing
David Sanders, Pima County Chief Probation Officer
Linda Scott, Former Judge
Carl Taylor, Coconino County Supervisor

Members Absent:

George Silva, Santa Cruz County Attorney

Staff Participating:

John A. Blackburn, Jr., Executive Director
Larry Grubbs, Program Manager
Mary Marshall, 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 Ralph Ogden at 1:30 PM. Roll was taken and a quorum was declared present.

II. Minutes of the March 31, 2011 Meeting

Chairperson Ogden called for a motion to adopt the minutes. Commissioner Linda Scott moved to approve the minutes of the March 31, 2011 meeting. The motion was seconded by Designee Ray Churay and was unanimously adopted by the Commission.

III. Executive Director's Report

A. Budget Update

Executive Director Blackburn noted that ACJC had cuts to the budget of over \$3M for FY12. The breakdown of the cuts included \$761,000 for DUI, \$267,000 for the Drug Prevention Resource Center, \$1M from on-going reduction transfers to CJEF, DEA and Victim Compensation accounts, and \$400,000 to indigent defense.

Executive Director Blackburn reported that on April 19, 2011 at the legislature session, Representative Andrew Tobin offered a floor amendment to divert all indigent defense monies to the Gang and Immigration Intelligence Team Enforcement Mission (GIITEM) and redirect the funds from ACJC. The diverted funds are not accessible and suggestions from the Joint Legislative Budget Committee (JLBC) and the Office of Strategic Planning and Budgeting (OSPB) are to take from other accounts to pay the swept funds.

Executive Director Blackburn informed the Commission that ACJC staff will look at other funds the agency administers that will minimize the impact to our stakeholders and will bring funding suggestions for discussion at the July Commission meeting in Flagstaff. ACJC staff will contact Representative Andrew Tobin regarding the diverted funds and report back to the Commission.

On the federal side, there were 17 percent budget cuts to our federal programs for FY11 and the FY12 budget could be worse. The National Criminal Justice Association (NCJA) has been pushing Congress but our Arizona delegation is not supportive of Byrne/JAG.

Executive Director Blackburn talked about partnering with other organizations/agencies to effectively leverage the limited resources we will be faced with in the future; however, for FY12 we will continue to fight for the funding that Arizona needs.

B. Legislative Update

Executive Director Blackburn reported that the legislature session's main topic this year was defense. There were 1,350 bills introduced, 290 tracked, 386 passed and 29 vetoed. Also, ACJC staff will have the legislative summary ready for distribution at the July Commission meeting in Flagstaff that will detail all the bills.

ACJC sought passage on one bill, a striker to HB 2645. The legislation addressed Arizona's statute that governs the process of restoration of rights for guns to citizens have been adjudicated mentally incompetent. ACJC's interest in this issue was set to the federal National Instant Criminal Background Check System (NICS) act funding that would allow the state to make improvements to the law. The state applied for NICS funding and was turned down because legislation did not meet the requirements. The National Rifle Association (NRA) agreed with the language of the bill and the Governor has signed off for enactment. Arizona has applied for the NICS funding again to assist in setting up strategic plans to improve records.

C. State of Arizona Single Audit

Executive Director Blackburn gave an explanation of a finding in the State of Arizona single audit. Each grant requires detailed tracking of actual time spent by all employees paid by any federal grant fund. Some employees work under multiple grants and each hour must be properly assigned to each grant. ACJC hoped that the state payroll tracking system would work, but to no avail. The requirement has been documented requiring employees to report time worked on federal grant programs and nonfederal activities through biweekly time sheets signed by the employee and supervisor. ACJC is also working with stakeholders and sub-grantees to help them look for effective ways to fulfill the compliance level requirement.

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

IV. Proposed Change to AZ Rule of Evidence 801(d)(1)(A)

Mary Marshall, Public Information Officer reported there was a petition pending to the Arizona Supreme Court to confirm Arizona's rules of evidence to the federal rules that includes a change to the definition of hearsay in Rule 801(d)(1). To conform to the Federal Rule of Evidence 801(d)(1)(A), AZ Rule 801(d)(1)(A) had been amended to have the requirement that a prior inconsistent statement be made under penalty of perjury in order to be considered non-hearsay under the rule. Prosecutors are opposing this as the action may have impact on how domestic violence cases are prosecuted. The proposed rule change was listed on pages 11-13 in the agenda. Ms. Marshall explained that comments were filed by Pima County Attorney's Office, Maricopa County Attorney's Office and Arizona Prosecuting Attorney's Advisory Council, and the Arizona State Bar in opposition of the proposed change.

Kathleen Mayer, Pima County Attorney's Office and Commissioner Bill Montgomery gave examples of how the rule change could affect the way the criminal justice system functions at a considerable cost to the State, defendants and the courts. They both explained the opposition of the rule change for the following reasons: 1) adopting Federal Rule 801(d)(1)(A) would have negative and expensive consequences for our criminal justice system; 2) the ability to prosecute domestic violence cases which frequently must be pursued with a victim who become uncooperative; 3) possible negative impact to victims; 4) the increased cost to the system because of the need to depose witnesses and victims instead of relying on pretrial interviews; 5) the impact to defendants who could have clear evidence excluded under the rule change.

After discussion, Commissioner Bill Montgomery moved to object the adopting of the proposed change to AZ Rule of Evidence 801(d)(1)(A). The motion seconded by Designee Kathleen Meyer passed with Commissioner Dave Byers abstaining.

V. Crime Victim Compensation Program

A. Designation of Operational Units

Larry Grubbs, Program Manager explained that each year the Commission is required to assign one operational unit within each county to receive an allocation of state and federal compensation funds to administer the compensation program during the fiscal year.

Commissioner Linda Scott moved to approve the recommendation of the Crime Victims Committee that the current designation of the 15 County Attorney's Offices continue as operational units for the FY12 Crime Victim Compensation Program. The motion was seconded by Designee Charles Flanagan and was unanimously adopted by the Commission.

B. FY12 Compensation Program Budget

Larry Grubbs, Program Manager proposed that the budget for the FY12 Crime Victim Compensation Program be set at \$3,900,000 that includes \$2,500,000 in state compensation funds and \$1,400,000 in federal VOCA compensation funds. Mr. Grubbs explained that in past years, the allocation of federal and state compensation funds had been made in two separate distribution allotments. The process had not been effective and resulted in the surplus of federal funds that must be spent before the funds expire and returned to the federal government. Staff proposal is to combine the two allotments into one annual compensation allocation awarded on the state fiscal year.

Designee Charles Flanagan moved to approve the recommendation of the Crime Victims Committee that the total funding for the FY12 Crime Victim Compensation Program be set at \$3,900,000 and expended in accordance with the budget on page 17 of the agenda. The motion was seconded by Commissioner Carl Taylor and was unanimously adopted by the Commission.

C. FY12 Compensation Program Funding Allocation

Larry Grubbs, Program Manager discussed the allocation of \$3,900,000 to the Crime Victims Compensation Program. Mr. Grubbs referred to the chart on page 19 of the agenda that outlines the proposed amount for allocation to each county operational unit. The formula shows a set administrative expense, a base allotment of \$11,100 to each county with the balance distributed by population and \$50,000 of the state funds held in reserve as required by Program Rule R10-4-102.D.

Commissioner Linda Scott moved to approve the recommendation of the Crime Victims Committee that the allocation of \$3,900,000 in state and federal Crime Victim Compensation funds to the operational units for the FY12 Crime Victim Compensation Program. The motion was seconded by Designee Charles Flanagan and was unanimously adopted by the Commission.

D. Compensation Fund Distribution Method

Larry Grubbs, Program Manager presented the distribution changeover of state and federal compensation funds to a reimbursement process beginning FY12. ACJC staff identified issues with expenditure of state and federal compensation funds on a statewide level that included: 1) Victim Compensation Program struggling with spending allocated state compensation funds during any fiscal year, and; 2) the current surplus of federal VOCA compensation funds that must be spent before funds expire. Staff proposes the conversion of all compensation fund distributions to a reimbursement process and to include language that allows ACJC staff to approve payments to county programs on separate circumstances.

Designee Charles Flanagan moved to approve the recommendation of the Crime Victims Committee that beginning in FY12, all Victim Compensation program funding be distributed to the 15 county programs as a monthly expenditure reimbursement; however, stipulating that ACJC staff may approve open payments on a case by case basis. The motion was seconded by Commissioner Linda Scott and was unanimously adopted by the Commission.

VI. Crime Victim Assistance Program

A. FY12 Crime Victim Assistance Grant Awards: Government Agencies eligible to serve on ACJC

Larry Grubbs, Program Manager reported that 54 applications were submitted in the amount of \$1,904,614 for the FY12 Crime Victim Assistance grant awards. The funding requests shown on page 23 of the agenda included \$791,712 for criminal justice government agencies eligible to serve as a member of the Commission and \$1,112,902 for non-profit and other government programs. Mr. Grubbs explained the applications were evaluated and scored by ACJC staff and outside evaluators based on the Crime Victim Assistance program rules, criteria, and priorities approved by the Commission.

Mr. Grubbs then presented staff's recommendation proposing to grant the award of FY12 crime victim assistance funds to the 44 programs currently funded at the same individual award levels maintained in FY11. Mr. Grubbs then explained the two factors that influenced the development of the recommendation. 1) All 44 proposed programs funded during FY11 submitted Victim Assistance grant applications and were eligible to receive funding for FY12. From a historical perspective, one or two programs funded during the current fiscal year failed to submit a

grant application for the following year. The reduction in returning programs meant that funding may have been allocated to programs that could be redistributed to either increase the award to the current performing programs, fund a new program, or both. With the current applicants eligible for continued awards, the funds were not available for redistribution this year. 2) Available funding and projected revenue for Victim Assistance program beyond the FY12. Revenue sources for the program make up about \$850,000 a year. In the past, the program balanced the difference between revenue and larger total program size by spending down a fund balance. Due to legislative sweeps and program spending, the fund balance has been depleted. Without the combination of additional revenue, the total program size of revenue for FY13 could be as low as \$850,000. Maintaining support for currently funded programs to qualify for continued funding has been the main concern for the ACJC Crime Victim Assistance Program. The recommendation highlights the focus on recognizing the challenges that lay ahead for FY13. Because of that reason, neither increased funding to current programs or funding to a new program are included in the proposal.

After review, Commissioner Linda Scott moved to award the FY12 Crime Victim Assistance funds, based on the table listed on page 23, to the criminal justice government agencies eligible to serve on the Commission. The motion seconded by Designee Charles Flanagan passed with Commissioner Bill Montgomery and Designee Kathleen Meyer abstaining.

B. FY12 Crime Victim Assistance Grant Awards: Other government, and non-profit agencies

Chairperson Ogden asked if there were members of the public would like to address the Commission. Chairperson Ogden then asked the Commission for a motion on Action Item IV-B.

After further review and discussion, Designee Charles Flanagan moved to award the FY12 Crime Victim Assistance funds, based on the table listed on page 23, to the non-profit agencies, and other government agencies. The motion was seconded by Designee Erin Warzecha and was unanimously adopted by the Commission.

C. Evaluation of Crime Victim Assistance Funding Priorities

Larry Grubbs, Program Manager discussed the need to examine funding priorities for the Crime Victim Assistance Grant program and directed the Commission to the current program priorities listed on page 25 of the agenda. Mr. Grubbs explained that ACJC staff will develop funding priority recommendations over the next several months. The recommendations will be based on past importance of the Commission as it relates to victim services. Mr. Grubbs also stressed that the feedback and participation from the Commission in the evaluation process will be important. ACJC staff will have recommendations for the Commission to review by the November meeting.

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

VII. Drug, Gang and Violent Crime Control Program Cycle 25 Grant Awards

Tony Vidale, Program Manager presented an overview of the Drug, Gang and Violent Crime Control Program Cycle 25 Grant Awards.

Mr. Vidale referred the Committee to the charts in the agenda. Table 1 on page 30 of the agenda included the summary of the FY11 grant awards; the FY12 requests made by the applicants, and the proposed FY12 recommendation. Table 2 on page 31 of the agenda included the display of grant requests for each eligible applicant broken out by priority area and expenditure type. Table 3 on page 32 of the agenda consisted of the proposed awards according to staff's recommendation.

The priority one projects included: 1) apprehension in the amount of \$4,058,248; 2) tandem prosecution in the amount of \$3,972,442; and 3) statewide forfeiture in the amount of \$983,862. The priority three projects consisted of: 1) forensic support in the amount of \$549,284; and 2) drug adjudication in the amount of \$2,103,314.

The grant solicitation opened March 14, 2011 and closed April 8, 2011. There were 37 applications. One law enforcement project did not meet the requirements for being a multi-jurisdictional, multi-agency task force. The other 36 requests were divided by 15 apprehension projects, 16 tandem prosecution projects, two drug adjudication projects, one statewide forfeiture project and two forensic support projects. The projects were scored based on the criteria from the solicitation by four ACJC staff and two outside evaluators.

Mr. Vidale explained that staff's recommendation accomplishes the following: 1) reduces expenditures by \$865,000 from FY11; 2) reduces the number of FTEs by 10.18 from FY11; 3) provides funding task forces in all 15 counties; 4) provides funding support for tandem prosecution projects; 5) balances funding between priority one projects; 6) provides continuous funding support to the statewide forfeiture project by the Attorney General's office; 7) provides sustained funding support to forensic projects by Department of Public Safety and Tucson Police Department; 8) provides consistent funding support through Administrative Office of the Courts (AOC) for adjudication projects.

Mr. Vidale then informed the Commission that the five year State Drug, Gang and Violent Crime Control Program Strategy will be reviewed at the July 21, 2011 meeting. Revisions will need to be discussed since the Drug, Gang and Violent Crime Control Program will be facing large funding reductions next year.

Chairperson Ogden asked if there were members of the public would like to address the Commission.

Commissioner Daniel Sharp moved to award the Arizona Drug, Gang and Violent Crime Control Cycle 25 grant funds to eligible criminal justice agencies for the period beginning July 1, 2011 and ending June 30, 2012 according to Table 3 on page 32 of the agenda. The motion was seconded by Commissioner Robert Halliday and was unanimously adopted by the Commission.

VII. Call to the Public

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

VIII. Date, Time, and Location of Next Meeting

The next Arizona Criminal Justice Commission meeting will be held on Thursday, July 21, 2011 at 2:00 PM at Little America Hotel, Flagstaff, AZ.

IX. Adjournment

The meeting was adjourned at 3:15 PM.

Respectfully submitted,



John A. Blackburn, Jr.
Executive Director