

NOTICE OF PUBLIC MEETING

ARIZONA CRIMINAL JUSTICE COMMISSION

JOINT EXECUTIVE AND LEGISLATIVE COMMITTEE

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the **Joint Executive and Legislative Committee** and to the general public that the **Joint Executive and Legislative Committee** will hold a meeting open to the public on **Friday, February 19, 2021**, beginning at **1:00 p.m.** at the **Arizona Criminal Justice Commission Office, 1110 W. Washington, Suite 250, Phoenix, Arizona 85007**. Members of the Commission may attend either in person or by telephone, video or internet conferencing.

Pursuant to the Americans with Disabilities Act (ADA), the Arizona Criminal Justice Commission endeavors to ensure the accessibility of its meetings to all persons with disabilities. Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Commission Office at (602) 364-1146. Requests should be made as early as possible to allow time to arrange the accommodation.

Agenda for the meeting is as follows:

| | <i>Agenda Items</i> | <i>Presenter</i> |
|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| I. | Call to Order and Roll Call | David Sanders |
| II. | Approval of Previous Meeting Minutes | David Sanders |
| | | P-F-T |
| III. | Special Action Item | Andrew LeFevre |
| | | P-F-T |
| IV. | Review Introduced Criminal Justice Legislation | Molly Edwards |
| | | P-F-T |
| V. | Call to the Public | |
| | Those wishing to address the Committee need not request permission in advance. Action taken as a result of public comment will be limited to directing staff to study the matter or rescheduling the matter for further consideration and decision at a later date. | |
| VI. | Next Meeting | |
| | The next Committee meeting is at the Call of the Chairperson | |

A copy of the agenda background material provided to Committee members is available for public inspection at the Arizona Criminal Justice Commission Office, 1110 West Washington, Suite 230, Phoenix, Arizona 85007. (602) 364-1146. This document is available in alternative formats by contacting , Phoenix, Arizona 85007, (602) 364-1146. This document is available in alternative formats by contacting the Commission Office.

**ARIZONA CRIMINAL JUSTICE COMMISSION
LEGISLATIVE COMMITTEE
ACTION-MOTION/ INFORMATION ITEM**

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| Presenter | <i>David Sanders</i> | |
| Agenda Title | <i>Approval of Previous Meeting Minutes</i> | |

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|--------------------------------|---------------------------------------------------------------------------------------|
| Recommended Action | The Committee will consider approval of the minutes of its February 12, 2021 meeting. |
| Details/Discussion | None |
| Fiscal Impact | None |
| Alternatives Considered | Not Approve-Modify-Table |

**Joint Executive Committee and Legislative Committee
of the Arizona Criminal Justice Commission
Minutes
February 12, 2021**

A public meeting of the Joint Executive and Legislative Committees of the Arizona Criminal Justice Commission was convened on Friday, February 12, 2021 at the Arizona Criminal Justice Commission, 1110 W. Washington, Suite 230, Phoenix, AZ 85007.

Members Present via Google Meets:

David Sanders, Chairperson, Pima County Chief Probation Officer
Sheila Polk, ACJC Chairperson, Yavapai County Attorney
Steve Stahl, ACJC Vice Chairman
Ken Vick on behalf of Maricopa County Attorney Allister Adel
John Johnson on behalf of Attorney General Mark Brnovich
Dave Byers, Director, Administrative Office of the Courts
Joseph Grossman on behalf of Director David Shinn
Blaze Baggs on behalf of Col. Heston Silbert, Department of Public Safety
Tommy McKone on behalf of Sheriff Paul Penzone
Kathryn Ptak on behalf of Mina Mendez, Board of Clemency

Members Absent

Laura Conover, Pima County Attorney
Chris Nanos, Pima County Sheriff
Mayor Greg Mengarelli

ACJC Staff Present in person:

Molly E. Edwards, Public Information Officer/Legislative Liaison
Andy LeFevre, ACJC Executive Director
Tony Vidale, ACJC Deputy Director
Jesus Emiliano Galvin, Legislative Intern
Wendy Boyle
Matt Bileski, IT

Guests via Google Meets:

Liana Garcia, Administrative Office of the Courts

I. Call to Order and Roll Call

The meeting was called to order by Chief David Sanders at 1:30 pm. Roll was taken and a quorum was present.

II. Approval of Minutes from February 5, 2021

Ken Vick made a correction. He was present on behalf of County Attorney, Allister Adel at the February 5, 2021 meeting. Change was noted. Joe Grossman made the motion to approve the minutes with the correction. Blaze Baggs seconded the motion. Motion passed unanimously.

III. Legislative Overview

Molly Edwards Public Information Officer/Legislative Liaison stated the legislature is in its 33rd day and that 1,707 bills had been introduced to date. The last date for bills to be heard in their house of origin is February 19. Staff is currently tracking over 100 bills. Ms. Edwards noted that data bills and data collection bills are very important to both sides of the aisle this session. She encouraged members on the call to bring up any bills of importance towards the end of the meeting.

HB2166 current status. This bill did pass the Rules Committee and noted that Director LeFevre was able to identify funding from the Criminal History Project and were able to remove the \$300,000 appropriation from the bill. Staff will continue to work to keep amendments off of this bill. Staff has spoken with the bill sponsor, Rep. Blackman about keeping the bill clean of amendments. Staff has also spoken with Rep. Roberts, who has HB2190, which is asking for County Attorneys to collect data. Smaller counties have expressed concern about this collection data. Staff has asked this that bill remain a standalone bill without amending it onto our bill, 2166. HB2190 will be heard in the Criminal Justice Reform Committee on 2/17. Staff continues to talk with Rep. Blackman to make sure the desires of the Commission are kept intact. Joe Grossman stated that he understood that Rep. Blackman and Rep. Roberts were considering a condensed version of Roberts's bill onto 2166 and asked if we had a guarantee that 2190 would remain a standalone? Director LeFevre stated that it was our understanding from Rep. Blackman as of the last time we spoke with him and that staff will be hyper vigilant as both bills head to the floor with the split being so close, we would be concerned about a member adding on an amendment on the floor.

SB1290, Ms. Edwards stated this bill would be utilizing funding from ACJC's APRC account. Staff met with Senator Engel that week. Staff expressed concerns about Senator Engel proceeding forward with this bill. Bill has been assigned to Senate Judiciary, but has not received a hearing. Dave Byers inquired about what the Criminal Case Statistics Report was? Director LeFevre explained that this was the same report that Yavapai and Pinal Counties had to do a few years ago to create a website with case statistics information on it. Director Byers stated, this would be a good thing, but the money source was a concern. Director LeFevre stated that some County Attorneys may be ok with reporting some data, but since ACJC put forward 2166 which would create a streamlined process for consistency and comprehensively on a statewide basis that the State would allow ACJC to conduct that work first before ACJC starts creating a whole bunch of systems for data. Sheila Polk echoed what Director LeFevre stated and re-affirmed that collection of data is important but it needs to be done in a strategic way like 2166 is. The other two bills, 1290 and 2190 are arbitrary and many of the data is not within the County Attorneys databases or even collect. She stated that we are not objecting to collecting data, we just want it done in a strategic way. She further stated that the sealed records bill by Rep. Toma, this bill will throw a wrench into things by requiring records to be sealed by County Attorneys, which could also impact any bill that passes. Joe Grossman stated that not all county attorneys have software available to capture this data – one may be on cobalt where another county may be on something different. He asked Ms. Polk if that was her understanding. Ms. Polk stated that many counties don't have that capacity and that's why 2166 would allow staff to look at building that capacity before we mandate data requests, yes, you are correct.

HB2260, Ms. Edwards stated that the bill did pass the floor with an amendment with the additional members. Director LeFevre and Ms. Edwards have been in discussions with individuals across in the Senate and are working on getting meetings set up with members of the senate to discuss the psychologist/psychiatrist and the non-profit juvenile defense agency and having those removed, but confirming our approval of an indigent defense attorney in lieu of the Public Defender title.

HB2158, Ms. Edwards, the Protective Orders bill was heard in House Judiciary on 2/10 and received a do pass. ACJC and AOC have been meeting with stakeholders/Sheriffs to establish a possible amendment. Director LeFevre stated that he had a stakeholders meeting the day before to understand the whys and the hows of making a change to the law. A second stakeholder meeting is scheduled.

A number of bills that list ACJC as the fiscal agent were heard in House Appropriations this past week. 2141 passed, 2164 was held, 2189 passed, and 2401 passed.

Ms. Edwards noted that none of the membership bills outside of ACJC's membership bills are having any movement. Staff will continue to monitor those bills for any movement.

HB2168, Use of Force bill. Ms. Edwards explained that this bill would require ACJC to collect Use of Force data. Staff has been in discussions with the lobbyist on this bill. Staff will continue to discuss with them reporting requirements. It is ACJC's goal to see if we can get the lobbyist to move the date of reporting after November 2022. Director LeFevre stated that IF this bill were to pass, how we make it workable. It is not our goal to tell anyone what they are collecting is the right or wrong data. Again, ACJC is trying to put a process in place with 2166 that would allow us to undertake data collection responsibly for the state. If the Legislature decides that it wants a specific piece of information should be collected and reported and tells ACJC to do that, by a bill, ACJC will do that. If the legislature does decide to do that, we are asking that the implementation date be pushed back far enough back so we can accomplish Phase 1 of the process. If you, as members have concerns, he encouraged each of the members to work with their associations, to make sure their positions are known about the kinds of data that they are requesting. ACJC will step in to discuss how the data is collected and reported so we can do that correctly.

SB1256, Senator Boyer and Director LeFevre did have a discussion about this. This bill received a do pass in Senate Judiciary, then went to Senate Consent on 2/10. This is the bill that would require ACJC to collect and report out on restitution data. Liana Garcia stated that the amendment had not been added. Director LeFevre encouraged Senator Boyer to move the implementation date back January of 2023. That ACJC is not opposed to collecting the data, but implementation would need to be then. Liana Garcia did state that the bill did go through COW and that it did not have the reporting requirement on the bill. Dave Byers stated that they already collect this data, so maybe individuals are not sure where to find it. Liana stated that they already have the restitution ordered, but stated that AOC is being asked to show how much they collect. Chairman Sanders stated that in Pima County they have collected about \$4M in restitution however, during any given month they collect about 3% of what's actually due. There are any number of reasons why restitution is not paid.

Ms. Edwards asked the Committee if there were any specific bills they wanted to discuss and explained we cannot vote on any of these bills.

Dave Byers asked to go back to HB2401 stated this bill was to provide more funding to indigent defense counsel for juvenile dependency cases. He stated that his staff was able to convince DCS to activate a federal provisional law that now allows us to reimburse county for their indigent defense costs for representing both parents and children. His office is processing those. It was retroactive and were able to go back for a full year and \$8M was transmitted to the counties and then this year another \$8M-\$10M. To his knowledge, this money isn't even being deployed yet. So there is a significant amount of money going there that wasn't there a year ago. He further stated that there are counties that don't even have a public defender's office they still use contract attorneys. So if this bill proceeds, it may leave a few counties out. Director LeFevre stated that he believes this bill is being run by the County Board of Supervisors Association and he believes this is a direct result of the state aid to indigent defense fund being swept for the last number of fiscal years. This is their attempt to bring that funding back. Director LeFevre was not aware of that funding source, so that's a good conversation to have.

Sheila Polk asked about the funding to the County Attorneys Offices to carry out the mandated Victim Assistance Fund? ACJC has seen a decline in those grant awards and also the Attorney General's Office. Is there any bill out there that will help to take care of this issue? Ms. Edwards stated that she was not aware of any bill that was introduced to add tress that issue. Director LeFevre also had not heard of any bill, but he was working to get a meeting set up with Speaker Bowers to discuss this.

Dave Byers asked about SB1551, the bill that wipes out traffic offenses. If you can't suspend either a driver's license or license plate upon receiving a fine for a civil traffic offense. Liana Garcia stated that she is working on getting an amendment on the bill. Dave Byers stated there would be no sense in law enforcement writing any tickets anymore. There's no enforcement anymore. It used to be this way 20-30 years ago, no one ever collected any of the fines. If that bill passes, we might as well stop writing tickets.

HB2810 – Civil Asset Forfeiture bill. This bill has been referred to the House Criminal Justice Reform Committee on 2/8 and to be heard on 2/17. Director LeFevre stated that Speaker Bowers has signed onto this bill and feels this bill will move through the process. With this bill requiring a criminal conviction will have a dramatic impact on Sheriffs and Chiefs and County Attorneys and their ability to interact with forfeiture. ACJC is working on a report that would show what local, municipal and counties would need to replace in their budgets that RICO is currently funding. Joe Grossman asked if this is the same bill that Eddie Farnsworth ran last year? Director LeFevre stated it's probably mostly similar, but he has not compared the two bills to know if they are identical. Joe Grossman stated that no one is willingly going to turn themselves in to be incarcerated so you can seize their assets. This funding is used to dismantle illegal enterprises and it's been highly effective and wondering if people are understanding that. Director LeFevre is hopeful the Counties and the County Board of Supervisors will be on the bill. Dave Byers stated that no one has complained about bringing down the enterprises. People are just hearing about teenage kids stopped in a car, with a small amount of marijuana. So there is concern that it's being used against the average citizen. Maybe there needs to be a report that shows what's happening with illegal enterprises vs. what they believe is really going on because of what they hear from constituents. Steve Stahl asked if Director LeFevre had the statistics to compare the arguments prior to the clear and convincing amendment that happened two years ago to get RICO because he has not heard near the complaints about RICO since clear and convincing was the pre-requisite to do so. Director LeFevre stated that ACJC collects the data and we don't ever hear from the legislature about the data we collect. More discussion ensued about clear and convincing that passed a few years ago.

Ms. Edwards asked Joe Grossman about the impacts of the Earned Release Credit bills on DOC? Joe Grossman stated that they are pulling the data as it relates to HB2713. The way the bill is written you can get 50% off your time for any drug offense as long as you are not selling to a minor and there is no consideration of prior criminal history, violent or otherwise. They are striking the mandatory literacy component and what is considered a "program" is very broad. Currently you can take a four hour money management class and qualify for earned credit and working in the kitchen applies towards that credit. Ultimately we'd like to show the impacts of the data. He discussed HB2775 – giving 11 days for every four days served for a drug offense. Two days for every one day served for dangerous crimes. A constructive conversation around these bills is important. Ms. Edwards asked if the committee could see the data when he is completed. Kathryn Ptak stated that these earned release credit bills, some impact the clemency board and some do not. She is monitoring those bills as well to potentially acquire some funding to hire additional staff to help with these hearings. Mr. Grossman stated that they might have to quadruple the number of hearings that may be required of the board if these bills pass. Dave Byers asked Joe Grossman if any of his data showed the probation tails? That if they release a significant number of people, they will end up coming into their probation program at AOC. Joe Grossman concurred. Dave Byers stated that at one point there were around 17,000 people with probation tails. Chairman Sanders stated that he would rather it be tied to good behavior than to programming. Most of the effective programming is going to happen post release.

Staff will continue to monitor other bills that impact Criminal Justice issues.

This concludes the legislative report.

IV. Call to the Public

Chief Sanders made a call to the public. No members of the public were present. Director LeFevre stated that NCJA has been made aware of a bill that's moving through Congress that is attempting to expand the available

use of Medicaid dollars for 30 days prior to release from prison or jail. He will get more information and forward out to everyone who is involved with jail or prisons. Arizona is a Medicaid expansion state if we wanted to receive those funds.

V. Date, Time, and Location of Next Meeting

The next legislative update is scheduled to occur on February 19, 2021 at 1:00 PM. Time is moved up for this meeting only.

V. Adjournment

The meeting was adjourned at 2:18 pm.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Andrew T. LeFevre". The signature is fluid and cursive, with a large initial "A" and "L".

Andrew T. LeFevre, Executive Director

Audio recording available upon request.

**ARIZONA CRIMINAL JUSTICE COMMISSION
LEGISLATIVE COMMITTEE
ACTION-MOTION/ INFORMATION ITEM**

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| Presenter | <i>Molly Edwards</i> | |
| Agenda Title | <i>Review Introduced Criminal Justice Legislation</i> | |

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| Recommended Action | Committee Members will provide staff with positions on the discussed introduced legislation. |
| Details/Discussion | <p>Review, discussion, consideration and possible action on ACJC positions of various criminal justice legislation: Committee Members may take the following positions on the discussed legislation</p> <ul style="list-style-type: none"> - Support - Oppose - Neutral - Monitor |
| Fiscal Impact | None |
| Alternatives Considered | Not Approve-Modify-Table |