

ARKANSAS SENTENCING COMMISSION

Enabling Laws

Act 400 of 2007

A.C.A. §16-90-801 - 16-90-804

History and Organization

"The purpose of the Arkansas Sentencing Commission is to establish a sentencing standard and to monitor and assess impact of practice on policy and existing laws on the correctional resources of the State."

As defined in Acts 532 and 550 of 1993, the Arkansas Sentencing Commission's powers and duties are:

- To adopt the initial sentencing standards grid and seriousness reference table within the new sentencing structure and to make any necessary revisions thereto;
- To establish transfer eligibility for the offenses at the seriousness levels with the more serious offenders serving one-half of their sentences and the less serious serving one-third;
- To monitor compliance with standards, assess impact on correctional resources and determine if the state sentencing policy is furthered;
- To make legislative recommendations on revisions to the target offense group, classifications of crimes, and appropriate changes to sentencing laws, policies and/or practices;
- "Strategic planning" with the Board of Correction to further the goals of equitable sentencing and rational use of correctional resources;
- Gather data relative to sentencing in coordination with the Administrative Office of the Courts, the Arkansas Crime Information Center, the circuit clerks of the State and the Departments of Correction and Community Correction;
- To develop a research and analysis system to determine the feasibility, impact on resources and budget consequences of proposed and existing legislation affecting sentence length.

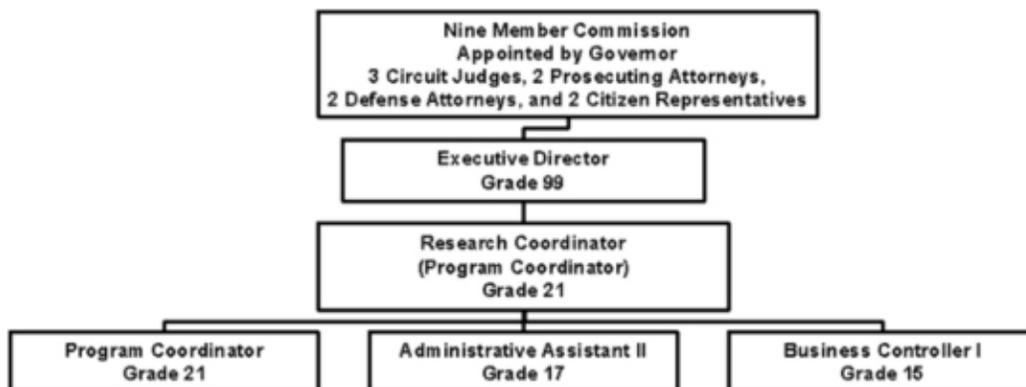
The Commission is composed of nine voting members: three circuit judges, two prosecuting attorneys, two defense attorneys, and two members of the general public. There are two advisory members appointed by the respective chairs of the Senate and House Judiciary Committees. The Commission currently has five full time staff positions. The Executive Director is responsible for compiling the work of the Commission and drafting suggested legislation. The Research Coordinator and Program Coordinator are responsible for monitoring, data entry, data transference and analysis, impact studies and research on various sentencing practices. The Research Coordinator also serves as the Agency Fiscal Officer. The Program Coordinator is also responsible for educational efforts, legal research and some special projects. The Administrative Assistant provides administrative, secretarial, and accounting support to the staff and commission. The grade 15 Business Controller position conducts data collection from judicial districts throughout the State and, under the direction of the Research Coordinator, conducts legal research on special projects.

The Commission has adopted the sentencing grid and the seriousness reference table, and established transfer eligibility for all offenses. The Commission has provided prison population projections and impact assessments for proposed legislation for the General Assembly.

Data collection and analysis continues to be of great importance to the Commission. The lack of any standard form of reporting requires Commission staff to manually collect data by researching criminal case files in each of the State's seventy-five counties. The Sentencing Commission continues to work with the Departments of Correction and Community Correction in developing a continuum of sanctions which will make the most efficient use of the correctional resources of the State.

The Sentencing Commission provides daily research assistance to judges, defense attorneys and prosecutors throughout the State. The Commission provides timely updates on new developments in criminal law to all criminal justice constituents.

The Commission provides monthly training for court personnel, clerks and administrative personnel in the prosecuting attorneys' offices who collect and distribute data. The Commission also provides continuing legal education training for lawyers practicing in the criminal field. This training emphasizes all segments of the criminal justice system and the correctional resources of the State. It also helps improve the accuracy of court data which is used by several different criminal justice agencies in the State. This training also helps the Commission carry out its legislative mandate to work with the Board of Corrections in making the best use of the correctional resources of the State. One of the training sessions includes segments on programs available at the Department of Correction (DOC), understanding the time computations on sentences and transfer eligibility, Parole Board procedures, and a tour of the local Department of Community Correction facility with an emphasis on the therapeutic community treatment model available for offenders with substance abuse behavior. Increased knowledge and understanding of the available alternative sanctions help divert nonviolent offenders from the more costly prison beds. This training is certified by the Arkansas Supreme Court for Continuing Legal Education credit.



Agency Commentary

The Arkansas Sentencing Commission has submitted two Change Level requests for the up-coming biennium. Change Level C01 includes a \$3,000 increase for fiscal year 2010 and \$1,000 for fiscal year 2011. These increases over the Base Level are for printing costs of publishing the sentencing guidelines bench book that is furnished to judges, prosecuting attorneys, and defense attorneys throughout the state. This book is updated each biennium to include changes made to criminal laws during the previous legislative session. The majority of the costs are incurred during the first year of the biennium. Other publishing costs include training materials for sentencing seminars for courtroom practitioners. This training includes information on sentencing issues, and on the correctional resources available, including programs from both the Department of Correction and the Department of Community Correction. This

training is certified by the Supreme Court for continuing legal education credit. It is also an important objective in the agency's strategic plan.

Another part of the strategic plan and part of the agency's legislative mandate is to gather and evaluate data relative to sentencing laws, policies and practices in the State and to study their impact on the correctional resources of the State. The increase in publication expenses is necessary due to the increased cost of updating the Arkansas Code Annotate books. It also includes research material on various criminal justice issues needed to facilitate the production of impact assessments on proposed legislation. As the State of Arkansas struggles with crime issues such as child sex offenders and various computer crimes, keeping abreast of national research issues is also important in completing this mandate. Increases in conference and seminar expenses have been included to cover the cost of continued employee training. This training includes employee development and cross-training for disaster recovery purposes.

Change Level C08 covers information technology improvements for the agency and is for \$8,025 in fiscal year 2010 and \$12,700 in fiscal year 2011. This includes replacement of obsolete computers which will be six years old by the end of the biennium. Also included are costs for updating the agency's Internet website. The current site uses programming language that is incompatible with current technology.

The Commission is mandated to monitor the uses of the correctional resources of the State. One of the methods used to accomplish this task is to provide prison population projections on sentencing practices and impact assessments on proposed legislation. The current projection model includes the population for the prison, probation and parole population, and the Department of Community Correction technical violator facility. The increase requested in professional fees is due to the fact that the current professional services contract will need to be re-bid during fiscal year 2011.

Audit Findings

DIVISION OF LEGISLATIVE AUDIT
AUDIT OF :
ARKANSAS SENTENCING COMMISSION

FOR THE YEAR ENDED JUNE 30, 2007

Findings	Recommendations
None	None

Employment Summary

	Male	Female	Total	%
White Employees	0	4	4	80 %
Black Employees	0	0	0	0 %
Other Racial Minorities	0	1	1	20 %
Total Minorities			1	20 %
Total Employees			5	100 %

Publications

A.C.A. 25-1-204

Name	Statutory Authorization	Required for		# of Copies	Reason(s) for Continued Publication and Distribution
		Governor	General Assembly		
Arkansas Sentencing Seminar Manual	N/A	N	N	300	Used in continuing legal education of attorney and judges on correctional resources of the State
ASC Administration Training Manual	N/A	N	N	300	Train criminal justice practitioners on justice system
Commission Biennial Report	ACA §16-90-802 (e)(2)(A)	N	Y	50	Legislative mandate and for information on commission activities and findings.
Departure Report Form	ACA §16-90-804	N	N	2,000	Court use when departing from the sentencing standards
Sentencing Standards Grid, Offenses Seriousness Rankings, and Related Material	ACA §16-90-802 et seq	N	N	1,250	Policy manual for sentencing standards used by criminal justice practitioners in criminal proceedings (also available on the Internet.)

Agency Position Usage Report

FY2006 - 2007						FY2007 - 2008						FY2008 - 2009					
Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused	Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused	Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused
	Filled	Unfilled	Total	Total			Filled	Unfilled	Total	Total			Filled	Unfilled	Total	Total	
5	5	0	5	0	0.00 %	5	5	0	5	0	0.00 %	5	5	0	5	0	0.00 %

Analysis of Budget Request

Appropriation: 806 - Sentencing Commission State Operations

Funding Sources: HUA - Miscellaneous Agencies Fund

The Arkansas Sentencing Commission was established by Act 532 & 550 of 1993 as codified at A.C.A. § 16-90-801 - 16-90-804 for the purpose of instituting sentencing standards to ensure that sanctions imposed following conviction are proportional to the seriousness of the offense of conviction and the extent of the offender's criminal history. The Commission has developed the sentencing grid, the seriousness reference table and established transfer eligibility for all offenses. The Commission provides impact assessments of proposed legislation for the Governor and General Assembly through a professional service contract with the Institute on Crime, Justice and Correction. This contract also has provided training to the staff of the Sentencing Commission and the Department of Correction in the use of a software program that is utilized in data analysis of criminal justice laws, policies and procedures. The Commission consists of nine (9) Commissioners that are appointed by the Governor for a five-year term.

This is the primary operating appropriation of the Commission and is funded entirely by General Revenue.

Base Level salaries for classified positions reflect the recommendations of the Pay Plan Study and unclassified positions reflect similar adjustments in line item salaries. A 2.3% Cost of Living Allowance is reflected in the second year of the biennium. The Base Level request for Regular Salaries may include board member Stipend payments and Career Service payments for eligible employees. Personal Services Matching includes a \$75 increase in the monthly contribution for State employee's health insurance for a total State match per budgeted employee of \$425.

The Base Level Request is \$371,391 in FY10 and \$377,130 in FY11.

The Change Level Requests submitted are \$11,025 in FY10 and \$13,700 in FY11 and are summarized as follows:

1. Operating Expenses of \$2,000 in FY10 for increases in printing sentencing and bench book guidelines. This manual is updated each biennium to include changes made to criminal laws during the previous legislative session.
2. Information Technology needs in Operating Expenses of \$8,025 in FY10 and \$10,700 in FY11. This includes replacement of outdated desktop computers and the latest Microsoft Office and anti-virus software. Agency access to a legal research service with an on line subscription to Loislaw, and Department of Information System file storage as a backup system.
3. Conference Fees & Travel of \$1,000 each year respectively to attend training seminars and the National Association of Sentencing Commissions, the National Criminal Justice Association, and the Justice Research and Statistics Association Conferences.
4. Professional Fees and Services of \$2,000 in FY11 for cost associated with The Institute of Crime, Justice and Correction contract. The contract is up for renewal in FY11.

The Executive Recommendation provides for a 7% reduction in Base Level in General Revenue Funding and Appropriation in the amount of \$24,687 each year.

Appropriation Summary

Appropriation: 806 - Sentencing Commission State Operations

Funding Sources: HUA - Miscellaneous Agencies Fund

Historical Data

Agency Request and Executive Recommendation

Commitment Item		Historical Data			Agency Request and Executive Recommendation			Agency Request and Executive Recommendation		
		2007-2008 Actual	2008-2009 Budget	2008-2009 Authorized	2009-2010			2010-2011		
					Base Level	Agency	Executive	Base Level	Agency	Executive
Regular Salaries	5010000	192,994	202,574	196,041	212,949	212,949	201,793	217,784	217,784	206,628
#Positions		5	5	5	5	5	5	5	5	5
Personal Services Matching	5010003	59,750	58,688	60,571	65,252	65,252	63,172	66,156	66,156	64,076
Operating Expenses	5020002	78,510	72,640	75,510	72,640	82,665	62,189	72,640	83,340	62,189
Conference & Travel Expenses	5050009	3,283	3,550	3,550	3,550	4,550	3,550	3,550	4,550	3,550
Professional Fees	5060010	16,000	17,000	17,000	17,000	17,000	16,000	17,000	19,000	16,000
Data Processing	5090012	0	0	0	0	0	0	0	0	0
Capital Outlay	5120011	0	0	0	0	0	0	0	0	0
Total		350,537	354,452	352,672	371,391	382,416	346,704	377,130	390,830	352,443
Funding Sources										
General Revenue	4000010	350,537	352,672		371,391	382,416	346,704	377,130	390,830	352,443
Merit Adjustment Fund	4000055	0	1,780		0	0	0	0	0	0
Total Funding		350,537	354,452		371,391	382,416	346,704	377,130	390,830	352,443
Excess Appropriation/(Funding)		0	0		0	0	0	0	0	0
Grand Total		350,537	354,452		371,391	382,416	346,704	377,130	390,830	352,443

The FY09 Budget amount in Regular Salaries exceeds the Authorized amount due to salary adjustments during the 2007-2009 biennium.

The Actual Operating Expense exceeds Authorized due to a higher Authorized appropriation in FY08.

Change Level by Appropriation

Appropriation: 806 - Sentencing Commission State Operations

Funding Sources: HUA - Miscellaneous Agencies Fund

Agency Request

Change Level		2009-2010	Pos	Cumulative	% of BL	2010-2011	Pos	Cumulative	% of BL
BL	Base Level	371,391	5	371,391	100.0	377,130	5	377,130	100.0
C01	Existing Program	3,000	0	374,391	100.8	1,000	0	378,130	100.3
C08	Technology	8,025	0	382,416	103.0	12,700	0	390,830	103.6

Executive Recommendation

Change Level		2009-2010	Pos	Cumulative	% of BL	2010-2011	Pos	Cumulative	% of BL
BL	Base Level	371,391	5	371,391	100.0	377,130	5	377,130	100.0
C01	Existing Program	0	0	371,391	100.0	0	0	377,130	100.0
C08	Technology	0	0	371,391	100.0	0	0	377,130	100.0
C19	Executive Changes	(24,687)	0	346,704	93.4	(24,687)	0	352,443	93.5

Justification

C01	This change level request is to cover the cost of producing the sentencing guidelines manual which is furnished to courtroom practitioners throughout the State. This manual is updated each biennium to include changes made to criminal laws during the previous legislative session. The majority of the costs are incurred during the first year of the biennium. Increases in conference and seminar expenses have been included to cover the cost of continued employee training. This training includes employee development and cross-training in statistical software for disaster recover purposes.
C08	This change request covers replacement of obsolete desktop computers which will be six years old by the end of the biennium. Also included are costs for updating and maintaining the agency Internet website. The current site uses programming language that is obsolete and incompatible with current technology. The increase in subscription and publication expenses is necessary due to the cost of an Internet subscription to LOISLAW legal research service. Access to current laws, court opinions and materials on various criminal justice issues are needed to assist the agency in the production of impact assessments on proposed legislation. Increases in professional services will cover the costs of producing prison, probation and parole population projections and impact assessments on proposed criminal justice legislation. The current professional services contract will need to be rebid during fiscal year 2011. This is necessary to complete the commission's mandate to work with the Department of Correction and the Department of Community Correction to make the best use of the correctional resources of the State. These items are include in the Agency's IT Plan in the IT Support Cost in sections Future Hardware for the computers, and Major Application Information for the subscription to LOISLAW, and Contracted Services for their website design.