

# ARKANSAS SENTENCING COMMISSION

## Enabling Laws

Act 56 of 2016  
A.C.A. §16-90-801 - 16-90-804

## History and Organization

The purpose of the Arkansas Sentencing Commission is to establish, maintain and revise sentencing guidelines and to monitor and assess the effect of legislation and policy on correctional resources, and to educate the criminal justice community and the public regarding sentencing laws and policy.

As defined in A.C.A. §16-90-802, 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;
- To collect 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;
- To produce an annual report to include compliance with the sentencing guidelines, including county-by-county and statewide data, sentence to the Arkansas Department of Correction (ADC) and the Department of Community Correction (DCC), average sentence length by offense type and seriousness level, percentage of upward departures; average number of months above the recommended sentence, and a comparison with data from prior years beginning with 2012;
- To prepare and conduct annual continuing legal education seminars regarding the sentencing guidelines to be presented to judges,

- prosecuting attorneys and their deputies, and public defenders and their deputies; and
- To collaborate with the Administrative Office of the Courts to produce and implement an integrated sentencing and departure form that shall include demographic information including the race and ethnicity of the offender and victim(s), the placement decision, sentence length, any departure from the sentencing guidelines on placement and sentence length, the number of months above or below the presumptive sentence, justification for departure and signature of the judge and prosecuting attorney.

The Sentencing Commission has adopted the initial sentencing grid and the seriousness reference table; continues to establish transfer eligibility for all offenses created or modified by the General Assembly after each legislative session; reviews and revises the guidelines as deemed necessary. The Commission also continues to work with the Departments of Correction and Community Correction in developing a continuum of sanctions which makes the most efficient use of the correctional resources of the State.

The Sentencing Commission works with the Departments of Correction and Community Correction in producing projections on the inmate, parole and probation populations of the State. Commission staff monitors these projections for accuracy on a monthly basis. The Commission also does extensive analysis and tracking of sentencing trends. The population projections and sentencing trends are used to produce impact assessments of proposed legislation for the General Assembly during each legislative session.

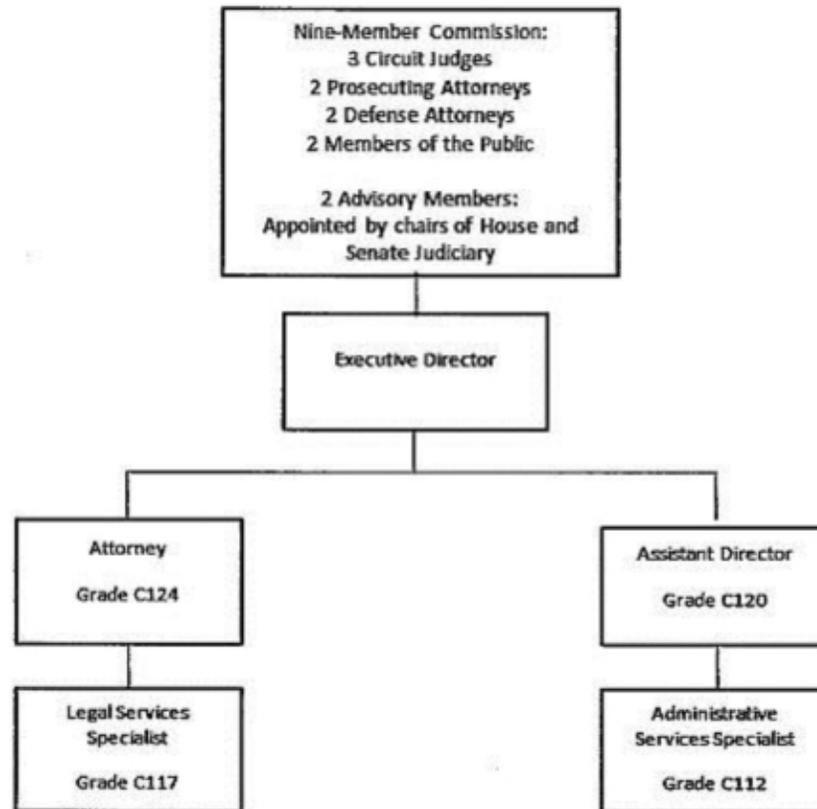
The Sentencing Commission provides daily research assistance to judges, defense attorneys and prosecutors throughout the State. The Commission provides timely updates on new developments in criminal law to all criminal justice constituents.

The Sentencing Commission, in collaboration with the Administrative Office of the Courts and other criminal justice agencies, developed an integrated Sentencing Order which the circuit courts began using on January 2, 2012. The Commission has also developed an electronic database of the Sentencing Order to collect data for the annual report. Reports for annual sentencing data through the end of the calendar year 2014 have been submitted to the legislature.

The Sentencing Commission staff conducts training seminars on the use of the sentencing guidelines and the Sentencing Order. The Commission also provides other Continuing Legal Education training for attorneys practicing in the criminal law field. This training emphasizes all segments of the criminal justice system and the correctional resources of the State. These training sessions include segments on programs available at the ADC, understanding how to compute time on sentences and transfer eligibility, Parole Board procedures, and a tour of the local DCC facility with an emphasis on the therapeutic community treatment model available for offenders with substance abuse behavior. Increased knowledge and understanding of available alternative sanctions helps divert nonviolent offenders from the more costly prison beds. This training is certified by the Arkansas Continuing Legal Education Board.

The Sentencing Commission is composed of nine voting members: three (3) circuit judges, two (2) prosecuting attorneys, two (2) defense attorneys, and two (2) members of the general public. There are also two (2) advisory members, who serve at the will of the Chairs of the House and Senate Judiciary Committee. The Commission currently has five (5) full time staff positions. The Executive Director is responsible

for compiling the work of the Commission and drafting suggested legislation. The Assistant Director, Attorney and Legal Services Specialist are responsible for data entry, data transference and analysis, impact studies and research on various sentencing practices. The Assistant Director also serves as the Agency Fiscal Officer. The Attorney and Legal Services Specialist are responsible for educational efforts, legal research, data collection from judicial districts throughout the State, and other special projects. The Administrative Services Specialist provides administrative, secretarial, and accounting support to the staff and commission.



## Agency Commentary

The purpose of the Arkansas Sentencing Commission is to establish, maintain, and revise sentencing guidelines, to monitor, and assess the effect of legislation and policy on correctional resources, and to educate the criminal justice community and public regarding sentencing laws

and policy.

In accordance with Governor Asa Hutchinson's Executive Policy Statement, the Arkansas Sentencing Commission conducted a review of expenditures and programs with a purpose of budget reduction. Through the past two years, the Arkansas Sentencing Commission has done a considerable amount of reallocation, cutting expenses in order to absorb the cost of maintaining the new technology and producing the guidelines compliance reports required by Act 570 of 2011. The Sentencing Commission has cut legal research access through Lois Law and statistical analysis through SPSS, opting for free alternatives instead. Additionally, retirement of two longtime employees will result in budget savings of almost 5% because the salaries on the two positions will return to entry level.

The Agency's Change Level request is for appropriation of \$30,000 in Professional Fees in both years of the biennium in anticipation of changes potentially required to the Sentencing Order Program and Database due to changes in sentencing policy in the upcoming legislative session.

### **Audit Findings**

DIVISION OF LEGISLATIVE AUDIT  
AUDIT OF :  
ARKANSAS SENTENCING COMMISSION  
FOR THE YEAR ENDED JUNE 30, 2013

Findings

Recommendations

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None

None

### **State Contracts Over \$50,000 Awarded To Minority Owned Businesses Fiscal Year 2016**

None

## Employment Summary

	Male	Female	Total	%
White Employees	0	3	3	100 %
Black Employees	0	0	0	0 %
Other Racial Minorities	0	0	0	0 %
Total Minorities			0	0 %
Total Employees			3	100 %

## Publications

### A.C.A. 25-1-201 et seq.

Name	Statutory Authorization	Required for		# of Copies	Reason(s) for Continued Publication and Distribution	Unbound Black & White Copies Produced During the Last Two Years	Cost of Unbound Copies Produced During the Last Two Years
		Governor	General Assembly				
Arkansas Sentencing Seminar Manual	A.C.A. 16-90-802(d)(10)	N	Y	100	Continuing legal education regarding the sentencing guidelines. Presented to judges, prosecuting attorneys and deputies, and public defenders and their deputies.	0	0.00
Commission Annual Report	A.C.A. 16-90-802(d)	N	N	2,500	Legislative mandate and for information on commission activities and findings.	0	0.00
Sentencing Standards Grid, Offenses Seriousness Rankings, and Related Material (Bench Book)	A.C.A. 16-90-802 et seq.	N	Y	100	Policy manual for sentencing standards used by criminal justice practitioners in criminal proceedings. This manual is also available via the Internet.	100	65.00

## Agency Position Usage Report

FY2014 - 2015						FY2015 - 2016					FY2016 - 2017						
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	3	2	5	0	40.00 %	5	3	2	5	0	40.00 %

## **Analysis of Budget Request**

**Appropriation:** 806 - Sentencing Commission State Operations

**Funding Sources:** HUA - Miscellaneous Agencies Fund

The Arkansas Sentencing Commission was established by Acts 532 & 550 of 1993 as codified at Arkansas Code 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 operating appropriation of the Commission. It is funded entirely by general revenue.

Base Level Regular Salaries and Personal Services Matching include the continuation of the previously authorized 2017 Salaries and Career Service Payments for eligible employees. Personal Services Matching includes the monthly contribution for State employee's health insurance for a total State match per budgeted employee of \$420 per month. Base Level salaries and matching do not include appropriation for a Cost of Living Adjustment or Merit Pay Increases. The Base Level salary of unclassified positions reflects the FY17 line item maximum plus the previously authorized 2016 1% Cost of Living Adjustment authorized by Act 1007 (3 (B)) of 2015. The Base Level request for Regular Salaries includes board member stipend payments.

For the 2017-2019 Biennium, the Board is requesting \$30,000 unfunded general revenue appropriation in Professional Fees in anticipation of changes potentially required to the Sentencing Order Program and Database due to changes in sentencing policy in the upcoming legislative session.

The Executive Recommendation provides for the Base Level 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		
		2015-2016 Actual	2016-2017 Budget	2016-2017 Authorized	2017-2018			2018-2019		
					Base Level	Agency	Executive	Base Level	Agency	Executive
Regular Salaries	5010000	239,015	235,816	250,904	235,816	235,816	235,816	235,816	235,816	235,816
<b>#Positions</b>		<b>5</b>	<b>5</b>	<b>5</b>	<b>5</b>	<b>5</b>	<b>5</b>	<b>5</b>	<b>5</b>	<b>5</b>
Personal Services Matching	5010003	75,821	77,335	81,477	78,652	78,652	78,652	78,652	78,652	78,652
Operating Expenses	5020002	56,605	61,917	61,917	61,917	61,917	61,917	61,917	61,917	61,917
Conference & Travel Expenses	5050009	4,103	4,550	4,550	4,550	4,550	4,550	4,550	4,550	4,550
Professional Fees	5060010	70,000	71,000	71,000	71,000	101,000	71,000	71,000	101,000	71,000
Data Processing	5090012	0	0	0	0	0	0	0	0	0
Capital Outlay	5120011	0	0	0	0	0	0	0	0	0
<b>Total</b>		<b>445,544</b>	<b>450,618</b>	<b>469,848</b>	<b>451,935</b>	<b>481,935</b>	<b>451,935</b>	<b>451,935</b>	<b>481,935</b>	<b>451,935</b>
<b>Funding Sources</b>										
General Revenue	4000010	445,544	450,618		451,935	451,935	451,935	451,935	451,935	451,935
Total Funding		445,544	450,618		451,935	451,935	451,935	451,935	451,935	451,935
Excess Appropriation/(Funding)		0	0		0	30,000	0	0	30,000	0
<b>Grand Total</b>		<b>445,544</b>	<b>450,618</b>		<b>451,935</b>	<b>481,935</b>	<b>451,935</b>	<b>451,935</b>	<b>481,935</b>	<b>451,935</b>

## Change Level by Appropriation

**Appropriation:** 806 - Sentencing Commission State Operations  
**Funding Sources:** HUA - Miscellaneous Agencies Fund

### Agency Request

Change Level		2017-2018	Pos	Cumulative	% of BL	2018-2019	Pos	Cumulative	% of BL
<b>BL</b>	<b>Base Level</b>	<b>451,935</b>	<b>5</b>	<b>451,935</b>	<b>100.0</b>	<b>451,935</b>	<b>5</b>	<b>451,935</b>	<b>100.0</b>
C05	Unfunded Appropriation	30,000	0	481,935	106.6	30,000	0	481,935	106.6

### Executive Recommendation

Change Level		2017-2018	Pos	Cumulative	% of BL	2018-2019	Pos	Cumulative	% of BL
<b>BL</b>	<b>Base Level</b>	<b>451,935</b>	<b>5</b>	<b>451,935</b>	<b>100.0</b>	<b>451,935</b>	<b>5</b>	<b>451,935</b>	<b>100.0</b>
C05	Unfunded Appropriation	0	0	451,935	100.0	0	0	451,935	100.0

### Justification

C05	The Sentencing Commission is requesting additional appropriation to allow for professional fees needed to adjust the Sentencing Order Program and the Sentencing Order Database if required by legislation in the 2017 legislative session.
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