

ARKANSAS SENTENCING COMMISSION

Enabling Laws

Act 94 of 2014
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; and
- 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.
- 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;
- 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

- 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 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 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. A report of the 2012 and 2013 data has been prepared and submitted to the Governor and Legislative committees.

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 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. 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 Arkansas Sentencing Commission is requesting an additional staff position for a Legal Support Specialist. The Commission is tasked with reporting on sentencing practices for the State of Arkansas. All criminal cases passing through Circuit Court must be reported on a Sentencing Order. This office receives each Sentencing Order entered for all criminal cases prosecuted in the State. For the Commission, this

means collecting data from all 75 counties. The volume of data processed by the office is very high. For example there were 60,752 offenses entered into the Sentencing Order Database in 2013. There are currently three staff members entering this high volume of data. This new position would allow the senior staff to conduct more guidelines training, especially in the outlying counties where courtroom schedules make it difficult for court personnel to travel to Little Rock. The agency is also requesting an upgrade in the Legal Services Specialist position to an Attorney. This will allow the agency to reduce the turnover in this position. These position requests reflect the increase of \$53,217 in Regular Salaries and Personal Services Matching for each year of the biennium.

The Arkansas Sentencing Commission has submitted two Non-Personnel Change Level request for the up-coming biennium. Change Level C01 includes a \$6,300 increase for both fiscal year 2016 and 2017. The increases over the Base Level are for an increase in rent on office facilities and parking fees. Change Level C08 totaling \$15,025 for FY 2016 and \$4,425 for FY 2017, represents a price increase on Department of Information Services fees, for both years, an update to the agency's website and the replacement of obsolete desktop computers in the first year and obsolete printers during the second year of the biennium. There is also a request for an increase in funds for professional services to cover the costs of producing prison, probation and parole population projections and impact assessments on proposed criminal justice legislation.

Audit Findings

DIVISION OF LEGISLATIVE AUDIT
AUDIT OF :
ARKANSAS SENTENCING COMMISSION

Findings

Recommendations

The most recent audit report was not available at the time of printing.

State Contracts Over \$50,000 Awarded To Minority Owned Businesses Fiscal Year 2014

None

Employment Summary

	Male	Female	Total	%
White Employees	0	5	5	100 %
Black Employees	0	0	0	0 %
Other Racial Minorities	0	0	0	0 %
Total Minorities			0	0 %
Total Employees			5	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	300	Continuing legal education regarding the sentencing guidelines. Presented to judges, prosecuting attorneys and deputies, and public defenders and their deputies.	300	0.00
Commission Annual Report	A.C.A. 16-90-802(d)	N	Y	50	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	N	2,500	Policy manual for sentencing standards used by criminal justice practitioners in criminal proceedings. This manual is also available via the Internet.	0	0.00

Agency Position Usage Report

FY2012 - 2013					FY2013 - 2014					FY2014 - 2015							
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 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 continuation of the previously authorized 2015 1% Cost of Living Adjustment and Career Service Payments for eligible employees. Personal Services Matching also includes a \$10 increase in 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 Merit Pay Increases.

For the 2015-17 Biennium, the Board is requesting \$74,542 in FY16 and \$63,942 in FY17 in general revenue funding and appropriation and includes the following:

- Regular Salaries and Personal Services Matching of \$53,217 for both years of the biennium to reclassify the Legal Services Specialist (C117) to an Attorney (C124) and for the addition of a Legal Support Specialist (C113).
- Operating Expenses of \$20,325 in FY16 and \$9,725 in FY17 including increases in postage, rents and leases, mileage, miscellaneous technical services (costs of maintaining the agency website) and other expenses (costs of computer replacements).
- Conference and Travel of \$1,000 in each year of the biennium for staff training.
- Reallocation of \$5,250 between Operating Expenses and Professional Fees commitment items to better reflect current agency spending.

The Executive Recommendation provides for the following above Base Level:

- Operating Expenses increase of \$1,000 in funding and appropriation for increased rents and leases.
- Reallocation of \$5,250 in appropriation between Operating Expenses and Professional Fees commitment items to better reflect current agency spending.

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		
		2013-2014 Actual	2014-2015 Budget	2014-2015 Authorized	2015-2016			2016-2017		
					Base Level	Agency	Executive	Base Level	Agency	Executive
Regular Salaries	5010000	249,524	247,258	247,597	249,704	289,041	249,704	250,904	290,241	250,904
#Positions		5	5	5	5	6	5	5	6	5
Personal Services Matching	5010003	80,844	80,729	78,801	81,208	95,088	81,208	81,477	95,357	81,477
Operating Expenses	5020002	61,928	61,917	63,506	61,917	81,242	61,917	61,917	70,642	61,917
Conference & Travel Expenses	5050009	4,316	4,550	4,550	4,550	5,550	4,550	4,550	5,550	4,550
Professional Fees	5060010	70,000	70,000	70,000	70,000	71,000	71,000	70,000	71,000	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
Total		466,612	464,454	464,454	467,379	541,921	468,379	468,848	532,790	469,848
Funding Sources										
General Revenue	4000010	464,454	464,454		467,379	541,921	468,379	468,848	532,790	469,848
Merit Adjustment Fund	4000055	2,066	0		0	0	0	0	0	0
M & R Sales	4000340	92	0		0	0	0	0	0	0
Total Funding		466,612	464,454		467,379	541,921	468,379	468,848	532,790	469,848
Excess Appropriation/(Funding)		0	0		0	0	0	0	0	0
Grand Total		466,612	464,454		467,379	541,921	468,379	468,848	532,790	469,848

FY15 Budget amount in Personal Services Matching exceeds the authorized amount due to matching rate adjustments during the 2013-2015 Biennium.

Change Level by Appropriation

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

Agency Request

Change Level		2015-2016	Pos	Cumulative	% of BL	2016-2017	Pos	Cumulative	% of BL
BL	Base Level	467,379	5	467,379	100.0	468,848	5	468,848	100.0
C01	Existing Program	43,833	1	511,212	109.4	43,833	1	512,681	109.3
C04	Reallocation	0	0	511,212	109.4	0	0	512,681	109.3
C08	Technology	15,025	0	526,237	112.6	4,425	0	517,106	110.3
C10	Reclass	15,684	0	541,921	115.9	15,684	0	532,790	113.6

Executive Recommendation

Change Level		2015-2016	Pos	Cumulative	% of BL	2016-2017	Pos	Cumulative	% of BL
BL	Base Level	467,379	5	467,379	100.0	468,848	5	468,848	100.0
C01	Existing Program	12,002	0	479,381	102.6	12,002	0	480,850	102.6
C04	Reallocation	0	0	479,381	102.6	0	0	480,850	102.6
C08	Technology	0	0	479,381	102.6	0	0	480,850	102.6
C10	Reclass	0	0	479,381	102.6	0	0	480,850	102.6
C13	Not Recommended	(11,002)	0	468,379	100.2	(11,002)	0	469,848	100.2

Justification

C01	Agency requests an additional position and the reallocation of an existing position to more adequately support the agency's needs. The increase in operational costs covers the State Building Authority's 3% increase in rental of the agency's office space and in parking fees for an additional employee. It also covers an increase in prepaid postage used to mail the sentencing guidelines manual to courtroom practitioners throughout the state. The increase in mileage will allow the senior staff to conduct more guidelines training, especially in the outlying counties where courtroom schedules make it difficult for court personnel to travel to Little Rock for training.
C04	Agency requests to reallocate funds from subscriptions and publications by canceling the subscription to LOISLAW, a legal research tool. The information derived from this subscription is now available through the legislative website at no cost to the agency. The increases in professional services will cover the cost of producing prison, probation and parole population projections and impact assessment on proposed criminal justice legislation. Other funds are being reallocated from one general ledger code to another code that is more descriptive of the expense.
C08	Agency requests appropriation and funding to cover the cost of replacing obsolete desktop computers which will be six years old at the start 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. This request also includes cost increases in telephone and Internet access due to Department of Information Services price increases. This request is in compliance with the Agency's IT Plan.
C10	Agency requests the reclassification of the Legal Services Specialist (C117) to an Attorney (C124).