PERFORMANCE AUDIT

ARIZONA CRIMINAL JUSTICE COMMISSION
and the DRUG AND GANG ENFORCEMENT TASK FORCE

Report to the Arizona Legislature
By the Auditor General
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July 10, 1996

Members of the Arizona Legislature

The Honorable Fife Symington, Governor

Mr. Rex Holgerson, Executive Director
Arizona Criminal Justice Commission

Transmitted herewith is a report of the Auditor General, A Performance Audit of the Arizona Criminal Justice Commission and the Drug and Gang Enforcement Task Force. This report is in response to a May 17, 1996, resolution of the Joint Legislative Audit Committee. The performance audit was conducted as part of the Sunset review set forth in A.R.S. §§41-2951 through 41-2957.

The report addresses both the Arizona Criminal Justice Commission (ACJC) and the Drug and Gang Enforcement Task Force. Regarding the ACJC, it is a 19-member body consisting primarily of representatives from criminal justice agencies that is mandated to enhance the coordination and effectiveness of the criminal justice system. However, we found that the Commission should play a greater role as Arizona's systemwide resource for information about criminal justice issues and analysis of criminal justice data. No other body within the State contains such a broad range of representatives from criminal justice entities or is charged with reviewing, reporting, and making recommendations on the criminal justice system as a whole. As such, the Commission has a unique opportunity to provide systemwide perspectives and recommendations. In addition, our report suggests the need to diversify the Commission's membership to further broaden its perspective on criminal justice issues. Finally, the Commission's statutes regarding the Arizona Criminal Justice Information System should be amended to eliminate mandates regarding the system that are duplicative of the mandates for the Department of Public Safety.

Regarding the Drug and Gang Enforcement Task Force, we recommend that the Legislature consider sunsetting it because its activities essentially duplicate those of the Arizona Criminal Justice Commission. The Task Force was originally established in 1987 to provide the Governor's Office with a direct participative role in monitoring the nature and scope of drug- and gang-related activities. By statute, the Governor serves as chair of the Task Force. However, our review indicates that the Task Force's responsibilities, operations, and membership essentially duplicate those of the Commission's Drug, Gang, and Violent Crime Committee. Despite the similarities, the Governor's Office has expressed a desire to retain

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involvement in the development of criminal justice policy. We believe that the Governor could retain such involvement as a permanent member of the Commission. However, a statutory change would be necessary to amend the Commission's composition to allow the Governor's appointment.

My staff and I will be pleased to discuss or clarify items in the report.

This report will be released to the public on July 11, 1996.

Sincerely,

Douglas R. Norton
Auditor General

Enclosure

SUMMARY

The Office of the Auditor General has conducted a performance audit and Sunset review of the Arizona Criminal Justice Commission and the Drug and Gang Enforcement Task Force, pursuant to a May 17, 1995, resolution of the Joint Legislative Audit Committee. This audit was conducted as part of the Sunset review process set forth in Arizona Revised Statutes (A.R.S.) §§41-2951 through 41-2957.

ARIZONA CRIMINAL JUSTICE COMMISSION

The Legislature created the Arizona Criminal Justice Commission, a 19-member body consisting primarily of representatives from criminal justice agencies, in 1982. The Commission is mandated to enhance the coordination and effectiveness of the criminal justice system by monitoring criminal justice legislation, facilitating information and data exchange among criminal justice agencies, and preparing an annual criminal justice system review report. The Commission is supported by an Executive Director and 17 staff.

The Commission Should Provide More Criminal Justice Information and Analyses (See pages 5 through 11)

The Commission should play a greater role in providing systemwide criminal justice information and analyses. Although the Commission effectively monitors legislation and administers several criminal justice funds, it performs other important duties, such as evaluation and analyses, only to a limited extent. Further, it has prepared only three system review reports in the last ten years, even though it is required to produce an annual report. This lack of focus on evaluation, analyses, and reporting hinders the Commission's ability to serve Arizona as a systemwide resource for information about criminal justice issues.

To become a more effective systemwide resource, the Commission needs to take several steps. Specifically, the Commission needs to begin collecting and analyzing basic criminal justice information, such as number of arrests and number of cases prosecuted. It will also need to prepare its annual system review report, more fully utilize its Statistical Analysis Center to conduct analyses and evaluations, and establish systemwide goals that can be incorporated into long-term strategic plans.

Diversifying the Commission's Membership Could Provide Broader Perspective (See pages 13 through 17)

The Commission could broaden its perspective on criminal justice issues with diversified membership. Arizona's statutes prescribe a commission membership that emphasizes law enforcement and prosecution positions. Specifically, these positions comprise 12 of 19, or 63 percent, of the Commission's overall membership. While law enforcement and prosecution are vital system components, the criminal justice system contains many other aspects that are not represented by the Commission's current membership. In contrast, other states' commissions place less emphasis on law enforcement and prosecution, contain broader representation from other criminal justice agencies, such as juvenile justice representatives and members of the judiciary, and are likely to include legislators, citizens, or social service agency representatives.

To increase the Commission's ability to provide a comprehensive approach to criminal justice issues, a change in commission membership should be considered. This could be accomplished by reducing the number of duplicate positions, and replacing them with representatives from other areas within the criminal justice system and/or increasing the number of Commission members.

Commission's Statutes Should Be Amended to Eliminate Duplicative ACJIS Mandates (See pages 19 through 21)

The Commission's mandates regarding the Arizona Criminal Justice Information System (ACJIS) are unnecessary, as they parallel responsibilities of the Department of Public Safety (DPS). The ACJIS, a computerized network of criminal justice information, is operated and managed by the DPS. Responsibility for the system's development and oversight was originally given to the Comprehensive Data Systems Policy Board in 1977. However, the Board was sunset in 1988 and its duties were given to the Commission. The Commission has not played an active role in the system's oversight, since they believe that many of the ACJIS responsibilities concern operational issues that should be left to the DPS. In fact, DPS' current statutory authority overrides the Commission's authority regarding ACJIS and allows it to perform many of the Commission's ACJIS duties.

To clarify the Commission's duties and to eliminate duplicative responsibilities, several statutory changes are needed. Eliminating most of the Commission's ACJIS mandates and revising several other statutes to correspond with these changes will eliminate the potential for future duplication.

DRUG AND GANG ENFORCEMENT TASK FORCE

The Drug and Gang Enforcement Task Force was created in 1987 to provide the Governor's Office with a participative role in monitoring the nature and scope of drug- and gang-related activities. The Task Force serves in an advisory capacity to the Arizona Criminal Justice Commission, and is required to make recommendations for funding and report on programs supported by the Drug and Gang Enforcement Account, which is administered by the Commission.

Drug and Gang Enforcement Task Force Should Be Sunset (See pages 35 through 37)

The Task Force is not needed because its activities essentially duplicate those of the Arizona Criminal Justice Commission. Specifically, the Task Force's duties and operations are similar to the Commission's Drug, Gang, and Violent Crime Committee. For example, the Task Force has combined its meetings with the Committee's on several occasions, it uses the same meeting agenda (even when meetings are not combined), and it makes recommendations that are identical to the Commission's. Finally, the Task Force's membership is similar to the Commission's with the exception of the Governor, who acts as chair of the Task Force. However, since 1994, even this distinction has been absent, since the Governor has designated the DPS Director to serve as the chair. Because the Task Force's duties, operations, and membership are virtually identical to the Commission's, it should be considered for sunset.

The Governor's Office has expressed a concern that sunsetting the Commission may reduce the Governor's direct involvement in criminal justice policy formulation. Therefore, if the Task Force were sunset, the Governor's involvement could be continued through direct membership on the Commission. To do this, the Legislature would have to amend the Commission's statutes to include the Governor as a permanent member of the Commission.

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ARIZONA CRIMINAL JUSTICE COMMISSION

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INTRODUCTION AND BACKGROUND

The Office of the Auditor General has conducted a performance audit and Sunset review of the Arizona Criminal Justice Commission, pursuant to a May 17, 1995, resolution of the Joint Legislative Audit Committee. This audit was conducted as a part of the Sunset review set forth in Arizona Revised Statutes (A.R.S.) §§41-2951 through 41-2957.

Overview of the Criminal Justice System

The criminal justice system consists of a complex, loosely connected network of agencies, bureaus, and organizations designed to prevent or control crime, establish defendants' guilt or innocence, and punish or rehabilitate those who have been found guilty. The system is considered multi-tiered because its functions—law enforcement, prosecution, adjudication, incarceration, and extended supervision—are carried out at various levels of government. Specifically, in Arizona, more than 400 separate agencies or departments are involved in the system, including local police departments; county sheriff departments; the Department of Public Safety; city, county, and state prosecutors' offices; county probation offices; and the Arizona Department of Corrections and the courts.

In addition to involving several agencies and functions, the criminal justice system is also quite expensive. During fiscal year 1995, an estimated $591 million was dedicated to state criminal justice functions.[1] The U.S. Bureau of Justice Statistics indicates that total expenditures for all the agencies and departments involved in Arizona's criminal justice system (i.e., state, county, and municipal) exceeded $1.4 billion in fiscal year 1992.[2]

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1 This figure is compiled from the Joint Legislative Budget Committee's Appropriations Report for Fiscal Years Ending June 30, 1996 and 1997, and includes the following state criminal justice functions: the Department of Public Safety, the Department of Corrections, the Attorney General's Office (Criminal Division), the Department of Juvenile Corrections, the Board of Executive Clemency, the Arizona Criminal Justice Commission, and the judiciary (Supreme Court, Court of Appeals, and Superior Court). While some monies appropriated to the judiciary are easily discernable as non-criminal justice related, it is difficult to isolate all monies that are exclusively criminal justice activities. Therefore, the judiciary figure included in the total amounts dedicated to criminal justice functions is the best available estimate.

2 U.S. Bureau of Justice Statistics, *Sourcebook of Criminal Justice Statistics*—1994. (Most current figures available.)

Arizona Criminal Justice Commission Created to Help Coordinate the Complex Criminal Justice System

The Legislature created the Arizona Criminal Justice Commission in 1982. Although it is not a "criminal justice" agency, its responsibilities are designed to help coordinate and enhance the system. The Commission has 12 mandates outlined in A.R.S. §41-2405(A) that include the following:

- Monitor the progress and implementation of new and continuing criminal justice legislation;
- Facilitate information and data exchange among criminal justice agencies;
- Prepare an annual criminal justice system review report;
- Evaluate and gather information concerning potential and existing programs designed to effect community crime prevention; and
- Make recommendations to the Legislature and Governor regarding the Criminal Justice Enhancement Fund, the Drug and Gang Enforcement Account, the Victim Compensation Fund, and the Victim Assistance Fund.

Although its statutes do not contain an objective or purpose statement, the Commission has adopted the following mission statement:

> *"...to develop, implement, monitor and report on programs, functions and activities to sustain and enhance the coordination, the cohesiveness, the productivity, and the effectiveness of the criminal justice system in Arizona."*

Organization and Budget

The Commission's membership consists primarily of state, county, and municipal criminal justice representatives, and includes

- The Attorney General
- The Director of the Department of Public Safety
- The Director of the Department of Corrections
- The Administrative Director of the Courts
- The Chairman of the Board of Executive Clemency
- Three Police Chiefs[1]
- Three County Attorneys
- Three County Sheriffs
- One Law Enforcement Leader
- One former Judge
- One Mayor
- One member of a County Board of Supervisors
- One Chief Probation Officer

The Governor appoints the 14 non-state agency members, and no more than 7 of these positions may be from the same political party.

The Commission is authorized an Executive Director and 17 staff.[2] It receives both state and federal funds to support its operations. For fiscal year 1996, the Commission received approximately $335,000 in state-appropriated funds and approximately $500,000 in federal funds. In addition, the Commission administers nearly $40 million in federal and state criminal justice monies dedicated to specific programs such as the Crime Victim Compensation Program and the Street Gang Enforcement Program.[3] Its duties regarding administration of funds vary by type of fund, but include acting as a pass-through agency, making recommendations for funding allocations, receiving and reviewing funding applications, and distributing and monitoring funds.

Audit Scope and Methodology

This audit focuses primarily on the extent to which the Commission has met its mandates. To evaluate how well the Commission is fulfilling its purpose, we analyzed its statutory

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1 One police chief, county attorney, and county sheriff must be from a county with a population of 1,200,000 or more persons; one of each from a county with a population equal or greater than 400,000 but less than 1,200,000; and one of each from a county with a population of fewer than 400,000.

2 Five positions are funded by state appropriations. The remaining positions are federally funded.

3 The Victim Compensation Program consists of both federal and state monies dedicated to compensating crime victims for expenses incurred as a result of victimization. The Street Gang Enforcement Program receives a state appropriation that is dedicated to helping prosecute gang members charged with an offense. For more information on the funds administered by the Commission, please refer to pages 23 through 25 of this report.

mandates, observed commission meetings, and reviewed minutes of previous meetings dating back to the Commission's inception. To obtain further perspectives on its performance, we interviewed all commission members, some individuals who regularly attend commission meetings on behalf of commission members, some former members, and several individuals knowledgeable about the Commission. Our audit also included a review of past and current criminal justice reports the Commission prepared to determine how these documents help it to fulfill its mandates. Finally, to offer recommendations for improving the Commission's operations, we contacted other states' commission directors and reviewed statutes and documents pertaining to their commissions.

Our report presents findings and recommendations in three areas:

- The need for the Commission to focus more of its efforts on planning, research, and evaluation so that it can provide more meaningful information to policy makers;
- The need to diversify the Commission's membership to enable it to provide a comprehensive systemwide perspective; and,
- The need to revise the Commission's mandates regarding the Arizona Criminal Justice Information System since these duties are currently being handled by the Department of Public Safety.

This report also contains a section on the Commission's administrative responsibilities for various criminal justice funds, and responses to the 12 Sunset Factors.

This audit was conducted in accordance with government auditing standards.

The Auditor General and staff express appreciation to the Commission, and its Executive Director and staff, for their cooperation and assistance throughout this audit.

FINDING I

THE COMMISSION SHOULD PROVIDE MORE CRIMINAL JUSTICE INFORMATION AND ANALYSES

The Arizona Criminal Justice Commission has not fully met its potential to serve as a systemwide resource on criminal justice issues. The Commission, which consists of several experienced criminal justice leaders, has a unique opportunity to provide systemwide perspectives and recommendations. Although the Commission has numerous responsibilities designed to effectively coordinate the system, its lack of analyses and evaluation hinder its ability to provide meaningful recommendations. Varied perspectives on the Commission's role, funding restrictions, and limited data collection have impeded the Commission's ability to fulfill its overall mission. Therefore, to enhance its role as a systemwide resource, the Commission should focus more on such activities as planning, research and analysis, and developing meaningful recommendations for policy makers.

The Commission Could Play an Important Role in Helping to Coordinate the Complex Criminal Justice System

The Commission is in a unique position to provide Arizona policymakers and agencies with comprehensive information, policy analyses, and recommendations for improvements to the criminal justice system. Specifically, the Commission includes several key criminal justice leaders with extensive experience, and its overall mission is to enhance the effectiveness and coordination of the criminal justice system. To do this, the Commission's duties as defined in A.R.S. §41-2405(A) include establishing criminal justice archives, facilitating data and information exchange among criminal justice agencies, and coordinating, evaluating, and reporting about criminal justice system programs.

No other body within the State contains this broad range of representatives from criminal justice entities or is charged with reviewing, reporting, and making recommendations on the criminal justice system as a whole.

Lack of Evaluation and Analyses Limits the Commission's Ability to Provide Recommendations

Although the Commission has numerous responsibilities designed to effectively coordinate criminal justice activities, its lack of evaluation and analyses may hinder its ability to make effective recommendations. While it effectively monitors criminal justice legislation and administers several criminal justice funds, it performs other duties, such as analyzing and evaluating criminal justice information, only to a limited extent. Further, it has failed to provide an annual review of the system since 1992.

Commission effectively monitors legislation and funds—The Commission effectively performs several activities designed to monitor criminal justice legislation. For example, during the legislative session it holds weekly informal meetings with criminal justice lobbyists, it monitors proposed legislation, and it makes recommendations on whether to support or oppose any legislation that affects the criminal justice system.

The Commission also effectively administers funds, and has several administrative duties pertaining to this role that vary by type of fund. These duties range from providing recommendations for funding allocations to distributing and monitoring funds. Our review found that the Commission follows state and federal policies, procedures, or guidelines when conducting these activities. For example, the Commission withheld an agency's quarterly distribution when it failed to meet financial reporting requirements. (See the Other Pertinent Information section of this report on pages 23 through 25 for more information on the Commission's administration of funds.)

Commission does little evaluation and analysis—The Commission performs limited evaluation and analysis of the criminal justice system. For example, the Commission does not regularly solicit or disseminate materials that would be useful for research purposes. The Commission is also required to evaluate or analyze several programs, but generally only compiles information about these programs rather than assessing their effectiveness. For example, it is required to "evaluate and gather information" regarding community crime prevention programs, and has interpreted this to mean compiling a directory. This directory, the *Crime Prevention Programs in Arizona – 1994 Directory*, merely identifies school districts, organizations, and criminal justice agencies throughout the State that have prevention programs. Moreover, it has been produced only once, and is not actively disseminated to the public, despite the mandate's requirement.

Other reports prepared by the Commission also contain little analysis. For example, it produced a 400-page document titled *Crime and the Criminal Justice System in Arizona* (also known as the *White Paper*). Although this document contains very detailed information on crime trends and criminal justice expenditures, it does not contain any analysis or evaluation of the system that could be helpful in determining the effectiveness of criminal justice expenditures. The *White Paper* was part of a November 1995 symposium on crime and the criminal justice system, and was distributed to more than 250 elected officials, and business,

civic, and criminal justice leaders throughout the State who attended. This day-long seminar divided participants into regional work groups that raised fundamental criminal justice issues and offered solutions. However, despite several suggestions made by each work group, the Commission has yet to compile or report on the symposium's outcome or determine what further action is required to address the many issues raised.

In addition, while the Commission has been involved in a number of studies addressing various criminal justice issues, such efforts are not conducted on an ongoing basis. For example, in 1993, the Commission created a Youth and Crime Task Force which produced two reports making recommendations regarding youth crime issues. While the Commission recently recognized the substantial increase of juvenile crimes in the State in its 1995 *White Paper*, it has not initiated another effort similar to that of the 1993 Task Force.

Finally, the Commission has failed to produce an annual system review report as currently required by statute. This report should consist of an overall system review, an assessment of funding needs, and recommendations for necessary constitutional, statutory, or administrative changes. Over the last 10 years, the Commission has produced only 3 such reports, in 1986, 1987-88 (biennial), and 1992. The Commission does not consider this report a priority because the Governor's Office has not expressed concern over its absence.

Several Factors Impede the Commission's Ability to Provide Meaningful Information

Several factors impede the Commission's ability to provide meaningful information or more fully developed analyses and recommendations. First, commission members disagree as to its overall mission and responsibilities. Second, the Commission's dependence on federal funding dictates much of its activity. Finally, the Commission lacks sufficient data to report on the State's criminal justice system.

Perspectives about the Commission's role vary—Commission members' perspectives vary regarding the Commission's overall mission and responsibilities. Since its inception, the Commission has struggled with what its primary and ultimate role can and should be. During its earlier years, commission members debated whether it should move beyond administration of funds and play an important role in criminal justice policy making. This debate continues today. Interviews with commission members and other parties indicate that the Commission is perceived as a viable body capable of valuable analysis and lobbying on behalf of the criminal justice system as a whole, even though many feel the Commission's primary role is to administer funds. For example, one commission member felt that it is in a unique position to comprehensively study the State's criminal justice problems, because no other group takes into account systemwide issues. Further, symposium participants in November 1995 suggested that the Commission can play a more important role in actively coordinating criminal justice activities throughout the State. For example, participants expressed an interest

in the Commission performing systemwide evaluations of existing programs and efforts and coordinating activities among criminal justice entities.

Federal funding dictates many of the Commission's staff activities—The majority of the Commission's staff are funded through federal grants, and dedicate most of their activities to fulfilling federal requirements, including monitoring and reporting on federal grants. Moreover, four of these staff are assigned to the Commission's primary research unit—the Statistical Analysis Center (SAC). Although these positions are federally funded, the federal government does not require SAC activities to be limited to federal issues. For example, according to the Criminal Justice Statistics Association, SACs (which operate in each of the 50 states), were established to collect and analyze data and generate statistical reports. State-related SAC activities in other states include projects such as:

- Providing objective analysis of criminal justice data and generating statistical reports on crime;
- Collecting, analyzing, and disseminating management and administrative statistics on the criminal justice resources expended in the State;
- Promoting the orderly development of criminal justice information systems in the State; and
- Providing uniform data on criminal justice processes for the preparation of national statistical reports.

Commission fails to obtain sufficient criminal justice information—However, even if the Commission's SAC was focused on researching state issues, the Commission lacks sufficient data to accurately report on the State's criminal justice system. The SAC currently has regular access to Uniform Crime Reporting (UCR) data maintained by the DPS. However, this data addresses only certain aspects of the criminal justice system, such as the number of crimes reported and number of persons arrested. Since the criminal justice system also encompasses many other facets, such as prosecution, treatment, and corrections, the Commission should formally establish minimum data reporting standards for the State's criminal justice agencies. For example, the Commission should regularly be collecting data on the number of crimes reported, investigations pursued, and arrests made from law enforcement agencies. Likewise, from prosecutor's offices, it should be obtaining data on the number of cases submitted for prosecution by law enforcement agencies, cases formally charged for prosecution, cases sent to trial or plea bargained, and convictions. This additional information would enable the Commission to provide the criminal justice community and its policy makers with relevant and useful information for the purpose of determining system trends and projecting system resource needs.

The Commission has taken some steps toward this end through its Criminal Justice Records Improvement Plan. As part of qualifying for available federal grant funds, the Commission has developed a comprehensive plan for the improvement of criminal justice records throughout the State at all government and agency levels.

However, to ensure the Commission can collect needed data, it may need a change in its statutory authority. Currently, under A.R.S. §41-2405(B)(1), the Commission may only *request* that agencies provide them with data, rather than require them to do so. Therefore, if the Commission embarks on a study and requests data, agencies may decline or ignore the request. For instance, when the Commission attempted to compile the *White Paper*, only 2 percent of the contacted agencies provided requested information. This resulted in the project scope being narrowed, and commission staff expending many hours seeking out alternate sources of data. Even then, there were gaps in the report because other sources of information could not always be found.

Changes Needed to Enhance the Commission's Effectiveness

The Commission needs to take several steps to enhance its role in serving as a criminal justice resource and policy-recommending body. For example, other states indicate that research and analysis is a vital function of commission entities. In addition, practices in other states, as well as current commission members and symposium participants, suggest the need for the Commission to refocus its efforts by conducting statewide planning.

Perform more in-depth research and analyses—To better fulfill its systemwide coordination role, the Commission needs to move its research and analysis efforts beyond statistical or "descriptive reporting" to the next level—policy analysis. While the Commission's SAC has performed research in the past, its current activities focus on compiling descriptive statistics and monitoring grant recipients. Although these activities are required to meet statutory mandates and federal grant requirements, it is policy analysis information that assists policy makers in understanding the systemwide ramifications of their decisions.

Periodic surveys conducted by the Justice Research and Statistics Association (JRSA) indicate that the majority of state SACs have been performing some type of policy analysis since 1985. Likewise, in 1995, the JRSA published a directory indicating that while 44 of 49 states perform general data compilations, nearly two-thirds perform additional forms of analyses, such as program evaluations and impact analysis.[1] Specifically, unlike Arizona, 22 of 49 states conduct program evaluations, and 23 of 49 states perform impact analysis. For example:

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[1] This information was based on 1994 activities and was compiled in the Justice Research and Statistics Association publication *Criminal Justice Issues in the States, 1995 Directory*. Information on SAC activities was only reported for 49 states. Nevada did not respond to the survey.

- **Iowa's SAC** is conducting various analyses to help prepare it for potentially extensive changes in Iowa's sentencing laws and practices. The SAC's studies are used by the State's Criminal and Juvenile Justice Planning Advisory Council to develop recommendations for changes in correctional policy.

- **Texas' SAC** monitors the number of adult felons and compares them with inmate projections to assist the Department of Criminal Justice administrators in planning the opening of new facilities and assuring that Texas fulfills its legislative duty to accept offenders sentenced to prison within 45 days of sentencing.

- **Washington's SAC** produces a 240-month forecast of juvenile inmates by crime type and age. The forecast is based on admission and length of stay data and is used to determine state funding for juvenile institutions.

Similar to other states, the Commission needs to support and direct the SAC in performing more meaningful and useful analyses. The Commission can do this through reassigning grant monitoring activities to other commission staff and providing input on a research agenda that addresses systemwide issues and is useful to state policy makers. It can then promote the SAC's research products to the policy makers.

Concentrate more on statewide planning efforts—Commission members, criminal justice leaders, and trends in other states suggest that the Commission also needs to broaden its efforts by conducting statewide planning for the criminal justice system. Through interviews, we found that several commission members believe that the Commission can provide meaningful information and statewide direction for criminal justice policy makers. One member stated that the Commission should refocus its efforts and emphasize statistical gathering in order to facilitate an informed debate of issues facing the criminal justice system. This opinion was also presented throughout the November 1995 symposium. For example, one work group identified the need for systemwide critical evaluations of existing programs and efforts, while another group suggested that the Commission should be gathering, analyzing, and reporting accurate and timely information for the purpose of making policy decisions.

Similarly, trends in other states also suggest that commissions are participating in statewide planning efforts. While the Commission disbanded its Strategic Planning Committee in January 1995, several other states see strategic planning as a priority and have initiated comprehensive efforts to plan a future direction for their criminal justice systems. For example, Iowa, Nebraska, Pennsylvania, and Utah produce annual reports that outline various goals and objectives of their state's criminal justice system. Likewise, some state commissions are mandated to prepare strategic plans, with projected goals and activities as far as 20 years into the future. For example:

- **Iowa's** 1995 *Criminal and Juvenile Justice Plan* presents 8 long-range goal areas, including violence reduction and crime prevention, and supervision and treatment services for adult and juvenile offenders. The goals and their objectives are designed to "serve as a guide to the Governor and General Assembly as they respond to proposals and develop initiatives to address immediate justice system issues and concerns."

- **Delaware's** Criminal Justice Council's Strategic Planning and Budgeting Workgroup developed a 3- to 5-year criminal justice system strategic plan and presented identified budget priorities to the State Budget Office. While the Council continues to lobby for the support of these identified priority budget issues, the working group continues its efforts to develop a strategic plan. In addition, Delaware's comprehensive crime victims report contains recommendations for improving the system's response to crime victims.

RECOMMENDATIONS

1. To ensure that the Commission is able to collect systemwide data, the Legislature should consider increasing the Commission's statutory authority by revising A.R.S. §41-2405(B)(1), to allow the Commission to require criminal justice agencies to submit any necessary information.

2. The Commission should develop minimum data standards for all criminal justice agencies and should begin collecting basic information about the criminal justice system. This information should be used to provide general system information or trends as well as to project resource needs.

3. The Commission should take additional steps to ensure more meaningful data is available for policy makers by:

    - Preparing an annual criminal justice system review report,

    - Directing and utilizing the SAC to conduct analyses and evaluations, and present reports and recommendations, and

    - Developing long-term strategic plans for the system.

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FINDING II

DIVERSIFYING THE COMMISSION'S MEMBERSHIP COULD PROVIDE BROADER PERSPECTIVE

The Commission could broaden its perspective on criminal justice issues with diversified membership. The Commission's statutorily prescribed membership emphasizes law enforcement positions, which may limit its ability to provide a diversified perspective. In contrast, other states' commissions contain broader representation from the criminal justice system. Therefore, to ensure the Commission can provide a balanced perspective on a broad range of criminal justice issues, the Legislature should consider modifying the Commission's membership.

The Commission's Law Enforcement Emphasis May Limit a Systemwide Approach

The Commission's current membership may limit its ability to provide a systemwide approach to criminal justice issues. Although the criminal justice system spans a wide range of entities and activities, Arizona's statutes prescribe a commission membership heavily weighted toward law enforcement and prosecution positions. This emphasis, which came about in 1987, may hinder the Commission's ability to address a broad range of criminal justice issues and fulfill its responsibilities.

Commission's membership does not represent broader criminal justice system—While the Commission contains a number of Arizona's criminal justice leaders, it does not necessarily represent the broader criminal justice system. The criminal justice system includes a broad range of entities and activities. As defined by the U.S. Bureau of Justice Statistics, "law enforcement and criminal justice" means any activity pertaining to crime prevention, control, or reduction or the enforcement of the criminal law, including, but not limited to:

- Police efforts to prevent, control, or reduce crime or to apprehend criminals;
- Activities of courts having criminal jurisdiction and related agencies (including prosecutorial and defender services);

- Activities of corrections, probation, or parole authorities; and
- Programs relating to the prevention, control, or reduction of juvenile delinquency or narcotic addiction.

In contrast to this definition, Arizona's statutes prescribe a Commission that consists primarily of law enforcement and prosecution officials. Current statutes require 8 law enforcement representatives and 4 prosecutors to serve on the 19-member Commission. Collectively, these 12 individuals comprise the majority (63 percent) of the Commission's membership, while representing only 2 aspects of the complex criminal justice system.

The remaining 7 Commission members consist of the Director of the State Department of Corrections, the Administrative Director of the Courts, the Chairperson of the Board of Executive Clemency, a former judge, one mayor, one member of a county board of supervisors, and one chief probation officer. While the remaining members represent other criminal justice components, Arizona's membership still falls short of representing the full system because it lacks some key components, such as public defenders or defense attorneys, current trial court criminal judges, juvenile justice advocates, and advocates for treatment or rehabilitative services.

Commission's membership changed in 1987—In 1982, when the Commission was established, its membership consisted of five law enforcement and prosecution representatives, six legislators, three criminal justice leaders, and four civic and business representatives. However, in 1987, the legislators and the civic and business leaders were removed and an additional 7 law enforcement and prosecution representatives were added. As a result, the percentage of law enforcement and prosecution representatives nearly tripled, growing from 28 percent to 71 percent. Even with the addition of a chief probation officer and the Administrative Director of the Courts in 1988, the law enforcement and prosecution emphasis continues today.

Since 1988, there have been few attempts to modify the Commission's current composition. According to commission meeting minutes, approximately four years ago the Commission requested legislation to increase its membership to include a public defender and the Director of the Department of Juvenile Corrections. However, when a number of other positions were added through the legislative process, the Commission requested that the bill be removed from further consideration "before it sank under its own weight." Consequently, it has been the Commission's position for several years to not recommend adding any members. Although a few commission members indicated the need to add such positions as a public defender or a juvenile justice representative, the majority of interviews with commission members did not suggest the need for membership changes. Nevertheless, during the most recent legislative session, a bill proposing the addition of a public defender position to the Commission passed the Legislature. However, the Governor vetoed this bill, indicating the Commission did not need another lawyer. The Governor stated he would rather see a crime victim than a public defender as a member of the Commission if another person were added.

Commission's narrow focus may limit a systems approach—Because the criminal justice system includes a broad range of organizations, the Commission's law enforcement emphasis may limit its ability to address a broad range of criminal justice issues and fulfill its responsibilities. Specifically, the Commission's mission is to ". . . enhance the coordination, the cohesiveness, the productivity, and the effectiveness of the criminal justice system in Arizona." To achieve this, the Commission is required to perform various criminal justice system analyses and make recommendations on areas for improvement and funding needs for the criminal justice system. To make meaningful systemwide recommendations, the Commission would need expertise in a number of criminal justice areas, such as juvenile corrections, treatment, and defense.

Other States' Commissions Promote a Broader Perspective

Other states' commissions, although comparable in size to Arizona's, contain a much more diversified membership. We conducted a 50-state survey and found 23 other states that have commissions similar to Arizona's.[1] Among these 23 states, commission size ranged from 6 to 51 members, with an average of 21 members. However, aside from commission size, there were few similarities between Arizona's membership and that of other states. Specifically, as illustrated in Table 1 (see page 16), our analysis revealed that other states' commissions contain a much broader range of criminal justice representatives, with less emphasis on law enforcement, and greater participation by the legislature, social services programs, and the general public:

- **Less Emphasis on Law Enforcement**—The first notable difference is the reduced emphasis on law enforcement and prosecution. Whereas all commissions contain at least one representative from the law enforcement and prosecutor categories, these members comprise, on average, only 29 percent of other states' commission membership. Though all state commissions acknowledge the importance of law enforcement and prosecution participation, it is not at the expense of other groups' representation.

- **Increased Criminal Justice Agency Representation**—Additionally, we found that 21 of the 23 commissions have broader criminal justice agency representation than Arizona. For example, of the 23 state commissions, 17 have juvenile justice representation and 17 have at least one active judge. Further, more than half of the commissions include either a public defender or defense attorney.

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1 Each state was contacted to determine whether a commission existed that dealt with similar criminal justice issues beyond grant administration such as conducting systemwide planning, performing research or evaluation, and monitoring the effectiveness of the criminal justice system. Our review determined that 23 other states had similar commissions, created either by statute or executive order. Commission size and composition were analyzed, taking into account only voting members. See Appendix A for a listing of the other states' commissions and their size.

- **Greater Legislative, Social Service, and Citizen Participation**—Other states' commissions also include more participation by legislators, social service agencies, and members of the public. While Arizona's Commission lacks representatives from the Legislature, treatment programs, education, social services, and citizens, all 23 state commissions contain members from one or more of these groups. More specifically, half contain legislators, half include treatment, rehabilitation, or social service representatives, three-fourths have citizen participation, and a third has education advocates. These groups can be particularly important since the Commission is mandated to participate in prevention, education, and treatment activities, as well as address victims' issues.

Table 1

Frequency of Other Criminal Justice Representatives Not Found on Arizona's Commission

	Of 23 states:	
Criminal Justice Agency Representation		
Juvenile Justice	17	(74%)
Judiciary (excluding chief justice of supreme court)	17	(74%)
Public Defender or Defense Attorney	13	(57%)
(At least one of the above three categories)	21	(91%)
Legislative, Social Service, and Citizen Participation		
Legislator	11	(48%)
Treatment/Rehabilitation or Social Services	13	(57%)
Citizen Participation	18	(78%)
Education Representation	8	(35%)
(At least one of the above four categories)	23	(100%)

Source: Auditor General survey of other states' commission membership.

Arizona Should Consider Diversifying the Commission's Membership

To ensure the Commission can provide policy makers with a systemwide perspective, a change in membership should be considered. Following the examples of other states, Arizona has several options for altering its membership. For example:

- **Reduce number of duplicative positions**—The Commission could consider reducing duplicative positions (e.g., police chiefs, county sheriffs, and county attorneys) and replacing them with representatives from other areas within the criminal justice system. Arizona's Commission contains the largest percentage of law enforcement and prosecution positions of any state commission. These positions could be reduced by limiting these groups to one representative per government level (i.e., one municipal police chief, one county sheriff), a method commonly used by other states. To address concerns of rural versus urban representation, some states allow the police chief, sheriff, or county attorney representative to be selected by their own state association rather than be appointed by another source, such as the governor or legislature. By eliminating duplicative positions, additional perspectives could be added in their place, leaving the Commission's size relatively unchanged.

- **Increase Commission size**—Our review indicates that other commissions' average size is 21 members, slightly higher than Arizona's 19 members. Several states, however, have commissions considerably larger than average. For example, California, Louisiana, North Carolina, and Rhode Island have more than 30 members on their commissions. Arizona could diversify its membership by adding a few positions such as a public defender or defense attorney, a juvenile justice representative, a criminal trial court judge, and a private citizen.

- **Eliminate multiple positions and increase size**—Alternatively, Arizona could implement a combined option of increasing commission size and eliminating certain positions. This option could provide for several additional perspectives (i.e., representatives from juvenile, education, criminal defense, judiciary, treatment, citizen, legislative, and victims' groups) while keeping the Commission's overall size near the national average of 21 members.

RECOMMENDATION

To increase the Commission's ability to provide a comprehensive system approach to criminal justice issues, the Legislature should consider diversifying the Commission's membership. This could be accomplished by:

1. Reducing the number of duplicated positions and replacing them with representatives from other areas within the criminal justice system,

2. Increasing the number of commission members to include such positions as a public defender or defense attorney, a juvenile justice representative, a criminal trial court judge, and a private citizen, or

3. Using a combination of these options.

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FINDING III

COMMISSION'S STATUTES SHOULD BE AMENDED TO ELIMINATE DUPLICATIVE ACJIS MANDATES

The Commission's mandates regarding oversight of the Arizona Criminal Justice Information System (ACJIS) are unnecessary as they parallel responsibilities of the Department of Public Safety (DPS). Although the Commission was given oversight responsibility for the system in 1988, it never took an active role in fulfilling its ACJIS duties. In 1992, the DPS was statutorily mandated similar oversight responsibilities. Therefore, the Commission's statutes should be amended to remove the parallel responsibilities.

Background

The ACJIS is a computerized network of criminal justice information managed and operated by the DPS. It consists of hardware, software, human resources, and databases containing more than 10 million records. Via the ACJIS network, authorized agencies can access information such as criminal history records, stolen vehicle files, and outstanding warrants, at any time. In addition, the DPS' network is linked to criminal justice and other information systems in other agencies in Arizona and in other states, and at the Federal Bureau of Investigation.

In its early stages of development, ACJIS was administered and managed by the Comprehensive Data Systems (CDS) Policy Board. The Board was established in 1977 as a means of obtaining federal funding for the ACJIS and was responsible for system development, policies, and rules. However, as the system matured, the Board's role in system and policy development diminished. In 1988, the Board was sunset and its duties were transferred to the Commission.

Commission Has Never Taken an Active Role in ACJIS

Since receiving its ACJIS duties in 1988, the Commission has not played an active role in the system's oversight. These duties, as specified in A.R.S. §41-2405(A)(11), are virtually unchanged from those originally charged to the CDS Policy Board. The ten specified duties include adopting rules for the administration and management of the system, formulating policies and plans for any necessary expansion of the system, setting developmental priorities for the system, and receiving petitions for the review of criminal history record information by individuals.

The Commission has argued that many of the responsibilities outlined in statute concern operational issues that should be left to DPS, which actually manages the system. In addition, both the Commission and the DPS have indicated some of the responsibilities that were appropriate for the CDS Policy Board when the system was being developed are no longer relevant now that the ACJIS is a mature, operational system. As a result, the Commission has essentially left its ACJIS responsibilities unfulfilled.

DPS Also Received Authority to Perform ACJIS Duties

The DPS has assumed most ACJIS responsibilities. In fact, authority granted the DPS under state and federal law overrides the Commission's authority regarding ACJIS, and allows the DPS to perform similar duties.

In 1992, the DPS sought and received statutory authority (under A.R.S. §41-1750) to perform many of the Commission's ACJIS duties because the Commission was not fulfilling them. These duties involve adopting rules and regulations relating to the collection, dissemination, and security of criminal history record information as well as establishing procedures for citizen review and challenges of their criminal history records.

In addition to state authority, federal regulations also mandate the DPS with managing ACJIS. As system manager, DPS is authorized to set system operational and developmental priorities, and establish policies governing its operation. Therefore, as system manager, the DPS can and does perform many of the Commission's ACJIS mandates. In fact, our review found that the DPS is addressing all but the following three commission mandates regarding the ACJIS:

- **Develop a cost-sharing formula for system participants**—Although DPS has considered cost sharing, it does not feel it is appropriate to charge agencies for using ACJIS services since the DPS is intended to be a support agency for the criminal justice community.

- **Provide information to the public on the system's purposes**—Neither the DPS nor the Commission feels this is necessary since the system is primarily a law enforcement tool.

- **Oversee the Statistical Analysis Center (SAC)**—The DPS does not oversee the SAC because it is an operating section of the Commission.

The Commission's Statutes Should Be Amended to Remove Duplicative ACJIS Mandates

To prevent the Commission from duplicating DPS' activities relating to ACJIS, several statutory changes are needed. The statutes regarding several of the Commission's ACJIS responsibilities have been rendered ineffective by the statutory duties assigned DPS. Therefore, if the Commission did attempt to carry out some of the mandates, such as making rules for operating the system, DPS would be under no obligation to implement the rules.

To clarify the Commission's duties and to eliminate duplicative responsibilities, there are several sections within both the Commission's and DPS' statutes that will need to be reviewed for continued applicability. However, in considering elimination of the Commission's ACJIS duties, the Legislature should be careful to retain the statute regarding the SAC. Since this group conducts research and analysis and prepares reports and publications of criminal justice statistics for the Commission, it would not be appropriate to transfer its function to DPS. (See the Sunset Factors section of this report on pages 27 through 31 for more information on statutory changes needed.)

Even though its ACJIS mandates should be eliminated, the Commission still has a role in the development of Arizona's overall criminal justice information system. For example, the Commission recently coordinated development of the State's Criminal Justice Records Improvement Plan and allocated over $2.5 million to 20 projects supporting the Plan's goals and objectives. In addition, the Commission also seeks out and applies for funding. In fact, its staff regularly reviews the *Federal Register* to identify federal funding sources that can be used to enhance criminal justice information systems.

RECOMMENDATION

To eliminate the potential for future duplication, the Legislature should consider reviewing and amending the Commission's and DPS' ACJIS statutes.

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OTHER PERTINENT INFORMATION

During the audit, we obtained other pertinent information regarding the Arizona Criminal Justice Commission's administration of funds.

The Commission Oversees Nearly $16 Million in Criminal Justice Funds

Each year, nearly $16 million in federal and state criminal justice funds is overseen by the Arizona Criminal Justice Commission, and distributed to various criminal justice agencies throughout the State. As illustrated in Table 2, during fiscal year 1996, the Commission administered six specific appropriated and nonappropriated funds, totaling $15,987,700:

Table 2

Criminal Justice Funds Administered by the Arizona Criminal Justice Commission Fiscal Year 1996 (unaudited)

Fund or Program Name	Funding Amount
Appropriated State Funds	
Street Gang Enforcement Program	$ 1,100,000
Drug Prevention Resource Center	220,000
Nonappropriated State, Local, and Federal Funds	
Drug and Gang Enforcement Account (state, local, and federal)	12,516,600
Crime Victim Compensation Program (state and federal)	1,588,600
Crime Victim Assistance Program (state)	562,500
Total (Appropriated and Nonappropriated)	$15,987,700

Source: Auditor General Analysis of the Fiscal Year 1996 and 1997 Joint Legislative Budget Committee Appropriated and Nonappropriated Funds Reports. Please refer to Appendix B for a description of each fund.

The Commission's Duties for Administration of Funds Vary

The Commission's administrative duties related to the administration of funds vary by type of fund. For example, the Commission acts merely as a pass-through agency for the two appropriated funds listed in Table 2 (see page 23). Specifically, the Commission received a $1,100,000 general fund appropriation for the Street Gang Enforcement Program. These monies were allocated to county and city prosecutors statewide to assist in the prosecution of gang offenders. It also received $220,000 from the Drug and Gang Enforcement Account that was distributed to the Drug Prevention Resource Center to help offset its operating costs.

For the nonappropriated funds, the Commission plays a more direct role. The Commission's responsibilities for these funds include receiving and reviewing applications for funding, determining which programs receive funding, distributing funds on a quarterly basis, and monitoring and reporting on the activities of fund recipients. For example, the Drug and Gang Enforcement Account comprises over $12 million in federal, state, and local funds, and is distributed among 39 criminal justice programs throughout Arizona. Program recipients typically include law enforcement agencies, and the monies are generally used to hire additional personnel to assist in enhancing the State's drug, gang, and violent crime control efforts.

In addition, the Commission has limited involvement in another nonappropriated fund—the Criminal Justice Enhancement Fund (CJEF). Specifically, the Commission's sole responsibility for the CJEF is to provide annual recommendations to the Governor and Legislature on how to distribute the CJEF monies.[1] The CJEF monies are statutorily allocated among 14 criminal justice entities or programs, and the Commission must make recommendations regarding the percentage share each program receives. During fiscal year 1996, program recipients received anywhere from 1.6 percent to 17 percent of the total $22,726,000 available.

Established Rules Guide the Commission's Allocation of Funds and Monitoring

When the Commission must allocate and monitor funds, its activities are guided by established rules, or policies and procedures. It has established rules for allocating the Drug and Gang Enforcement Account, the Crime Victim Compensation Fund, and the Crime Victim Assistance Fund. These rules prescribe what types of programs are eligible for funding and therefore guide the Commission's funding allocation decisions.

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1 The State Treasurer receives and distributes the CJEF monies. This fund's revenues are generated by a 46 percent assessment on every fine, penalty, and forfeiture imposed by the courts for criminal offenses, civil traffic violations, motor vehicle violations, and game and fish statute violations.

Additionally, the U.S. Department of Justice has established certain restrictions on the use of criminal justice funds. For example, it does not allow awards to be used to supplant state or local funds. Further, it requires that the parent political subdivision (i.e., the County Board of Supervisors) formally approve the reversion of unused funds. The federal government, like the State, also designates the purposes for which its monies can be used. For example, it has designated 26 "purpose areas" for the Edward Byrne Memorial Grant. Monies for this grant flow through the Drug and Gang Enforcement Account, and Arizona has chosen to focus these resources in 6 of the 26 purpose areas—apprehension, prosecution, detention, education, forensics, and adjudication.[1]

Similarly, the Commission uses federal guidelines to direct its fund monitoring and review process by conducting annual on-site visits with each subgrantee to compare the recipients' use of funds with federal requirements. Additionally, the Commission requires that grant recipients submit monthly activity reports and quarterly financial reports. The monthly activity reports include information such as number of arrests or drug seizures, weapons confiscated, and the value of assets seized. The quarterly financial reports focus on whether the subgrantees are expending funds for the dedicated purpose and according to grant requirements. The financial reports are used by the Commission to determine if programs should continue to receive funding. For example, if an entity fails to meet its financial reporting requirements (i.e., submitting quarterly financial statements), the Commission may withhold the entity's next quarterly disbursement until proper documentation is received.

The Commission dedicates approximately ten staff to activities related to the administration of funds. The Commission's monitoring and reporting activities result in both federal and state reports. For example, the Commission must produce an annual report for the Governor and Legislature on the activities funded by the Drug and Gang Enforcement Account. This report includes the name and description of each program, the programs' goals and objectives, and the amount of money received by each program. The Commission is also required to submit this report to the federal government to help determine the need for continued funding.

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1 Prior to choosing these six purpose areas, the Commission conducted statewide hearings to obtain input on which areas to focus Arizona's resources. However, these areas have remained constant since they were implemented in 1988.

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SUNSET FACTORS

In accordance with A.R.S. §41-2954, the Legislature should consider the following 12 factors in determining whether the Arizona Criminal Justice Commission should be continued or terminated.

1. The objective and purpose in establishing the Commission.

The Arizona Criminal Justice Commission was created by the Legislature in 1982. The Commission's 19 members consist primarily of state, county, and municipal criminal justice representatives including the attorney general, several county attorneys and sheriffs, police chiefs, and the directors of the Department of Corrections and the Department of Public Safety.

The Commission is required, in accordance with A.R.S. §41-2405(A), to conduct (among others) the following activities:

- Monitor new and continuing criminal justice legislation;
- Facilitate information and data exchange among criminal justice agencies;
- Evaluate and gather information concerning potential and existing programs designed to effect community crime prevention;
- Make recommendations on the purpose and allocation of several criminal justice funds; and,
- Review, report, and make recommendations for system improvement.

Although the mandates do not contain an objective statement, the Commission has adopted the following mission statement:

> *". . .to develop, implement, monitor and report on programs, functions and activities to sustain and enhance the coordination, the cohesiveness, the productivity, and the effectiveness of the criminal justice system in Arizona."*

2. The effectiveness with which the Commission has met its objective and purpose and the efficiency with which it has operated.

Our review indicates that the Commission has not fulfilled its role to serve as a systemwide resource on criminal justice information. While there are a few areas where the Commission has been effective, such as monitoring legislation and administering funds, there are other areas where it could improve its efforts. For example, it has prepared its annual system review report only three times in the last ten years. This report provides the Governor with an overall review of the criminal justice system in addition to any recommendations for constitutional, statutory, and administrative changes necessary to develop and maintain a cohesive and effective criminal justice system. Likewise, the Commission conducts few analyses of criminal justice information or evaluations of various criminal justice programs. Therefore, the Commission cannot adequately assess criminal justice trends or program effectiveness.

Due to the unique mandates of the Commission, it is the only entity in the State poised to evaluate and analyze criminal justice information and to make recommendations for improving the criminal justice system as a whole. Therefore, to enhance the Commission's effectiveness in serving as a criminal justice system resource, the Commission should focus more of its efforts on collecting basic criminal justice information, conducting analyses, and implementing systemwide strategic planning (see Finding I, pages 5 through 11).

3. The extent to which the Commission has operated within the public interest.

The Commission generally operates in the public interest by bringing together key criminal justice representatives from throughout the State to discuss fundamental issues facing the criminal justice system. Its mandates are designed to facilitate information exchange among criminal justice agencies and to provide policy makers with reports about the system and recommendations for improvements. Further, the Commission's funding recommendations could help achieve a more efficient use of resources.

However, our review indicates the Commission could do more to operate in the public's interest by focusing more of its efforts on conducting analyses of criminal justice trends, coordinating systemwide planning, and providing meaningful information to policy makers that could be used to enhance system effectiveness (see Finding I, pages 5 through 11). It could also increase its ability to provide systemwide information by diversifying its membership to include elements currently not represented, such as defense, judiciary, or juvenile justice representatives, as well as citizens, social service, and education representatives (see Finding II, pages 13 through 17).

4. **The extent to which rules and regulations promulgated by the Commission are consistent with the legislative mandate.**

The Commission has the authority to promulgate rules for the purpose of allocating monies from three specific state funds—the Drug and Gang Enforcement Account, the Crime Victim Compensation Fund, and the Crime Victim Assistance Fund. These rules are located in the *Arizona Administrative Code* section R10-4-101 through R10-4-404 and are consistent with the purposes outlined in Arizona's statutes for each fund.

5. **The extent to which the Commission has encouraged input from the public before promulgating its rules and regulations and the extent to which it has informed the public as to its actions and their expected impact on the public.**

The Commission's meetings are open to the public, and held at various locations throughout the State. Further, the Commission solicits public input at these meetings, including those when funding allocations are considered. We did not find any instances of noncompliance with Open Meeting Law requirements.

6. **The extent to which the Commission has been able to investigate and resolve complaints that are within its jurisdiction.**

The Commission has no authority to investigate and resolve complaints.

7. **The extent to which the Attorney General or any other applicable agency of state government has the authority to prosecute actions under enabling legislation.**

This factor is not applicable to the Commission.

8. **The extent to which the Commission has addressed deficiencies in the enabling statutes which prevent it from fulfilling its statutory mandate.**

The Commission indicates that its enabling statutes outline specific objectives in some areas but contains general language in others areas so that objectives and purposes must be implied. However, the Commission has not sought any legislative changes because it "does not perceive the statutory language as an obstacle or hindrance in carrying out its overall mission."

9. The extent to which changes are necessary in the laws of the Commission to adequately comply with the factors listed in the sunset laws.

The Commission's statutes may need revisions in several areas:

- To ensure the Commission can collect the data needed to perform evaluations and analysis, the Commission should seek a change in its statutory authority. Currently, per A.R.S. §41-2405(B), the Commission may only "request" that criminal justice agencies submit information. The word "request" should be changed to "require" (see Finding I, pages 5 through 11).

- The Legislature may want to consider revising the Commission's membership as outlined in A.R.S. §41-2404(A). The current statutes prescribe a membership that emphasizes law enforcement and prosecution, and lacks representation from other areas such as juvenile justice, the judiciary, and the general public (see Finding II, see pages 13 through 17).

- The Commission's responsibilities regarding ACJIS, outlined in A.R.S. §41-2405(A)(11)(a) through (i), should be eliminated to remove duplicative mandates. Our review found that the DPS is fulfilling these responsibilities so there is no need for the Commission to retain these mandates. However, A.R.S. §41-2405(A)(11)(j) should be retained under the Commission's authority since it pertains to the Statistical Analysis Center located within the Commission (see Finding III, pages 19 through 21).

- In conjunction with eliminating the Commission's ACJIS mandates, there are several other statutory changes needed regarding ACJIS:

  1) Amend A.R.S. §41-2201 to eliminate the definition of the Commission within the ACJIS statutes.

  2) Amend A.R.S. §41-2204 to eliminate references to the Commission and its policies, rules, and regulations; and remove mandates (5) "submit recommendations to the Commission concerning establishment of research, statistical and planning programs including a study of the system," and (7) "perform such other powers and duties as may be prescribed or delegated by the Commission."

  3) Amend A.R.S. §41-2205(A) to eliminate reference to the Commission and its rules and regulations.

4) Amend A.R.S. §41-2206 substituting the DPS for the Commission and thereby authorizing the DPS to remove ACJIS participants who do not comply with the rules and regulations governing the system.

5) Amend A.R.S. §41-1750 eliminating the reference to §41-2205 because, after these clarifying changes, the Commission will not have any responsibility for the operation of the Central State Repository.

10. The extent to which the termination of the Commission would significantly harm the public health, safety or welfare.

Although the termination of the Commission would not significantly harm the public health, safety, or welfare, its elimination could hinder the effectiveness of the criminal justice system. Because the Commission's membership contains several criminal justice experts, and it duties are designed to enhance the effectiveness of the system, it is an ideal entity for serving as a systemwide resource. If the Commission improves its performance in reviewing, reporting, and making recommendations on the criminal justice system, it could provide the public and policy makers with meaningful criminal justice information. This information could then be used to make any necessary statutory changes and to redirect funding so that Arizona can "develop and maintain a cohesive and effective criminal justice system."

11. The extent to which the level of regulation exercised by the Commission is appropriate and whether less or more stringent levels of regulation would be appropriate.

The Commission has no regulatory authority.

12. The extent to which the Commission has used private contractors in the performance of its duties and how effective use of private contractors could be accomplished.

The Commission reports that it has used very few private contractors in the performance of its duties. Further, it indicates that the use of private contractors would be difficult to achieve due to the nature of its mandates and its limited budget resources.

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Agency Response

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Arizona Criminal Justice Commission

June 26, 1996

Chairman
G.C. 'BUCK' BUCHANAN
Yavapai County Sheriff

Vice Chairman
MARLIN GILLESPIE
Board of Supervisors
Navajo County

GRANT WOODS
Attorney General

JOE ALBO, Director
Department of Public Safety

TERRY L. STEWART, Director
Department of Corrections

DAVID K. BYERS, Director
Administrative Office of the Courts

DUANE BELCHER, Chairman
Board of Executive Clemency

RICHARD M. ROMLEY
Maricopa County Attorney

STEPHEN NEELY
Pima County Attorney

CHARLES HASTINGS
Yavapai County Attorney

JOSEPH ARPAIO
Maricopa County Sheriff

CLARENCE DUPNIK
Pima County Sheriff

MICHAEL HEIDINGSFIELD, Chief
Scottsdale Police Department

WILLIAM ROBINSON, Chief
Yuma Police Department

DOUGLAS F. SMITH, Chief
Tucson Police Department

WILLIAM HOLOHAN
Chief Justice Retired

CHRISTOPHER BAVASI
Mayor, City of Flagstaff

LES TAYLOR
Executive Director
Assoc. of Chiefs of Police

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Mr. Douglas R. Norton
Auditor General
2910 N. 44th Street
Suite 410
Phoenix, Arizona 85018

Dear Mr. Norton:

Enclosed are the Arizona Criminal Justice Commission's final comments to the performance audit revised draft report.

Please convey to the members of the performance audit team our appreciation for the professional manner in which they carried out their responsibilities and our appreciation of the effort that was devoted to this performance audit by the team members.

Sincerely,

Rex M. Holgerson
Executive Director

Enclosure
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Arizona Criminal Justice Commission

Response to Auditor General Performance Audit Draft Report

Finding I: The Commission should provide more criminal justice information and analysis.

The Commission acknowledges the audit report opinion that the Commission should play a greater role in providing systemwide criminal justice information and analysis and that the Commission has not fully met its potential to serve as a systemwide resource on criminal justice issues. The Commission also acknowledges the audit report opinion that varied perspectives on the Commission's role, funding restrictions, and data collection limitations have impeded the Commission's ability to totally fulfill this aspect of the Commission's potential mission.

The Commission welcomes and appreciates the overall assessment in the audit report regarding the potential for systemwide statistical reporting, analysis, and evaluation given the unique opportunity that the Commission has. In fact, the Commission has focused on precisely that **potential** on selected issues and is currently enhancing that focus with organizational and programmatic actions. It is appropriate to briefly describe a few of these past and current activities which received very brief mention in the audit report.

The audit report makes very brief mention of the Youth and Crime Task Force created in 1993 by the Commission. This 14 member group was augmented by four working groups, each containing 15 members representing the spectrum of the criminal justice system. The Task Force and working groups produced two (2) reports (December 1993 and July 1994) with systemwide, government wide, and legislative recommendations. These reports were approved by the Commission and disseminated widely to all policy-makers and criminal justice entities. This work, and the attendant liaison and advocacy, was a very relevant work in the initiation and development of serious policy dialogue on youth crime issues. Some of the recommendations in these reports were the foundation for current high government level policy proposals and actions regarding the youth crime situation in Arizona.

In 1992 and 1993, the Commission contributed significantly to the extensive revision of the Arizona criminal code that was passed by the Legislature and signed into law by the Governor. During those years the Commission created a Criminal Code Committee chaired by the Attorney General, which then developed an ad hoc working group of system representatives who participated significantly in the actual development of the criminal code revisions. This working group of ten was referred to by state legislators and others as the Rump Group. That criminal code revision dealt with many serious criminal codes issues of that time.

More recently the research, development, and production of the *1995 White Paper - Crime and the Criminal Justice System in Arizona* was a unique and massive undertaking in focus

development regarding collection of criminal justice data statewide. This *1995 White Paper* project was a necessary and very eye-opening educational experience for the Commission and its staff. As the audit report points out, the Commission does not have the authority to require criminal justice system entities to provide reports and data, and many did not provide the requested data. The *1995 White Paper* was produced on time by deadline using alternative sources of information in many circumstances. This alone was a signal achievement. The Commission believes that most system entities would have provided the data if they could have and this was the most relevant lesson learned in the project. With the exception of several large agencies and a few in-place or developing statewide reporting systems, most agencies either do not collect and collate the data requested in any type of format and/or they lack any type of automated data processing ability to collate and produce the data. In addition, there had not been any incentive or requirement to collect and produce such data before.

This revelation not only identifies the existing foundation deficiency (or impediment) regarding collection and analysis of systemwide data, but also confirmed the identification of a significant systemwide operational problem. Many criminal justice agencies throughout the system lack the ability, or the capacity, or the resources, to provide realtime, accurate, and comprehensive criminal history record reporting on offenders to the state repository of such information at the Arizona Department of Public Safety.

The Commission is, and has been, addressing these system deficiencies in several ways. In 1994, the Commission developed and produced a *Criminal Justice Records Improvement Plan* for Arizona. One reason for development of this plan was to qualify for available federal grant funds from two federal programs. The second reason was to put into action an overall comprehensive plan for the improvement of criminal justice records throughout the State at all government and agency levels. This Commission program is not limited to administering federal grants but is a priority issue program regarding the statewide criminal justice system. There is only brief mention of this program and the plan in the audit report. The development and implementation of this plan involved considerable research and analysis by the Statistical Analysis Center (SAC) and again included a working group of relevant representatives from many agencies in the system. A very intensive current research and analysis project is underway by the Commission to collect the information, data, and justification needed to seek state and local funding in 1997 and 1998 and possibly beyond for this very important systemwide records improvement program.

These examples are cited to demonstrate that the Commission has been, and is, a system resource and coordinator on statewide system issues.

Arizona Criminal Justice Commission

Response to Auditor General Performance Audit Draft Report

As a result of reviewing the audit report, and to give the analysis and evaluation potential optimum focus and direction, the Commission has established a standing Systems Analysis Committee containing six key members of the Commission representing the principle disciplines and government levels in the criminal justice system. This Committee is charged with providing enhanced focus, leadership and direction, and executive level energy to the research, analysis, and evaluation of criminal justice system issues and activities.

The Commission will also develop and introduce legislation seeking statutory authority to require criminal justice agencies to submit necessary and appropriate information to the Commission. Such authority without commensurate ability to sanction non-compliance is often impotent so the Commission will also explore possible approaches in this category.

The audit report states that practices in other states suggest the need for the Commission to refocus its efforts by conducting statewide planning. Examples previously cited in this response, such as the *Criminal Justice Records Improvement Plan,* demonstrate that the Commission is involved in statewide planning and, such as the Youth and Crime Task Force and the criminal code revision activities, demonstrate that the Commission has been involved previously in statewide, systemwide policy and planning. The Commission agrees that more should be done and that the focus in this area is being enhanced.

Strategic planning for the criminal justice system by the Commission is also advocated in the audit report. It must be noted that strategic planning for the criminal justice system by the Commission is not mandated by statute, and it is not authorized by statute. In other states, this may be mandated to, or authorized for, similar state entities. Nevertheless, the Commission did undertake such a large scale project in 1991 establishing a Strategic Planning Committee and creating a 60 member task force of system representatives to develop such a strategic plan. In 1992, this task force and Committee had developed a mission statement and a set of four (4) goals and eighteen (18) supporting objectives as the foundation for a strategic plan for the criminal justice system. The Commission approved this initial effort and it was published as part of the *1992 Arizona Criminal Justice System Review Report.*

Subsequently, one discipline in the criminal justice system informed the Commission it could not support the mission statement and the wording in two goals. The task force and the Committee continued their work for two (2) more years. Eventually the effort became so compartmentalized by system disciplines and so discipline-specific that their recommendations were rejected by the Commission as lacking in overall system cohesion and less than a systemwide strategic plan. The Commission shut down this effort in late 1994 and eliminated the Committee in January 1995 because the effort was not cost effective, not making

definitive progress, and the demands of other Commission activities required the time and energies of the small Commission staff.

The pivotal consideration is what is envisioned by the term strategic plan. If it is the elaborate detailed strategic plan concept currently mandated on each state agency for their own agency and programs then any attempt to develop such a strategic plan for a criminal justice system with over 400 departments and agencies is a multi-year project of considerable difficulty and complexity. It is also problematic that a meaningful practical strategic plan can be developed for a "system" such as the criminal justice system with disciplines that are juxtaposed by constitutional design, agencies and departments at three levels of government many controlled by either state, county or locally elected officials, and all competing for limited available resources. At this time, the Commission will unlikely initiate a criminal justice systemwide strategic planning effort unless it is specifically mandated and authorized by statute.

Recommendations:

1. To ensure that the Commission is able to collect systemwide data, the Legislature should consider increasing the Commission's statutory authority by revising A.R.S. § 41-2405(B)(1), to allow the Commission to require criminal justice agencies to submit any necessary information.

The Commission agrees and will seek such statutory authority by the development and introduction of legislation in 1997. To be effective, such authority must also contain sanction authority for non-compliance. This will be explored.

2. The Commission should develop minimum data standards for all criminal justice agencies and should begin collecting basic information about the criminal justice system. This information should be used to provide general system information or trends as well as to project resource needs.

This minimum data standards recommendation has merit and the Commission will begin such an activity. The Commission is already collecting basic statistical activity data where it is available and the implementation of the *Criminal Justice Records Improvement Plan* will make more information available as system entities acquire and develop automated data processing capabilities.

3. The Commission should take additional steps to ensure more meaningful data is available for policy makers by:

- Preparing an annual criminal justice system review report

The Commission agrees and will issue a *Criminal Justice System Review Report* in 1996 precisely as required in the statute.

- Directing and utilizing the SAC to conduct analyses and evaluations, and present reports and recommendations, and

The Commission agrees and is increasing and enhancing focus and direction to the activities of the SAC

- Developing long-term strategic plans for the system.

The Commission will unlikely initiate a significant and necessarily large scale criminal justice systemwide strategic planning program unless and until it is statutorily authorized and mandated to do so with the appropriate resources made available to do the job well. If such a systemwide long-range strategic planning mandate is dictated, it should contain a clear definition of the strategic planning concept being mandated. The Commission is and has been engaged in systemwide planning on specific issues or programs.

Finding II: Diversifying the Commission's membership could provide broader perspective.

The audit report expresses the opinion that the Commission could broaden its perspective with diversified membership and the Commission's current membership may limit its ability to provide a systemwide approach to criminal justice issues. The audit report does provide some history on the original membership changes in 1987 and 1988. It also relates that no changes have occurred since 1988.

According to available information, the Commission membership was changed in 1988 with the realization that it was an executive branch agency now administering funds and it was determined that legislators should not serve on it. When the Commission membership was reconstituted in 1987, the judiciary took the position that sitting judges should not serve on

the Commission because the Commission was required to take certain actions, and set policies regarding criminals and the criminal law that might give the appearance of partiality.

The audit report goes into some detail on the membership of similar commission's in 23 other states. The membership of these similar commission's vary from six to fifty-one. The audit report also expresses the opinion that 24 states (including Arizona) have commission's with responsibilities broader than grant administration, but it does not provide detail on the specifics for them.

Recommendations:

1. Reducing the number of duplicated positions and replacing them with representatives from other areas within the criminal justice system,

2. Increasing the number of Commission members to include such positions as a public defender or defense attorney, a juvenile justice representative, a criminal trial court judge, and a private citizen, or

3. Using a combination of these options.

The Commission responds that the membership of the Commission is certainly a subject worthy of further consideration and ultimately it is a legislative issue. The audit report recommendations with this finding are addressed to the Legislature

Finding III: Commission's statutes should be amended to eliminate duplacative ACJIS mandates.

The Commission agrees with the audit report assessment of the ACJIS responsibilities and operations. The Commission agrees that the Commission's ACJIS mandates are unnecessary and in conflict because ACJIS is an operational computerized network managed and operated by the Department of Public Safety. The audit report also correctly states that DPS authority to operate ACJIS under state and federal law overrides the Commission's statutory responsibilities. The Statistical Analysis Center (SAC) is not an element of the ACJIS and the oversight and responsibility for the SAC were statutorily transferred to the Commission in 1994.

Arizona Criminal Justice Commission

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Recommendations:

1. To eliminate the potential for future duplication, the Legislature should consider reviewing and amending the Commission's and DPS' ACJIS statutes.

The Commission agrees and will coordinate with DPS on the development and introduction of appropriate legislation to accomplish this recommendation in the 1997 legislative session. A senior staff member of the Commission, the Criminal Justice Records Coordinator, has been assigned to carry out this action.

Other Pertinent Information:

The Commission does directly administer over $16,000,000 in federal and state criminal justice funds each year and that figure has been significantly higher when the Commission was administering the federal High Intensity Drug Trafficking Area (HIDTA) funds in Arizona for several years. The annual amount will vary somewhat but is more likely to be higher than lower because additional federal grant monies in other criminal justice related programs are available for 1997 and 1998. The administration of these funds is a high profile and essential part of the Commission's mission and coordination potential.

The audit report does not appear to relate the effective administration of these funds with the systemwide coordination and planning potential it critiques. Each program requires statewide planning, strategy development, considerable analysis, and effective distribution and management of the program and grants. The effective expenditure of these funds in such systemwide, statewide priority issue subjects as drug, gang, and violent crime control, crime victim assistance/compensation and criminal justice records improvement is of significant importance and relevance to the Commission's mission.

Appendices

Appendix A
State with Criminal Justice Commissions

State	Agency or Commission/Council Name	Size
Arizona	Criminal Justice Commission	19
California	Council on Criminal Justice	37
Connecticut	Prison and Jail Overcrowding Commission	14
Delaware	Criminal Justice Council	19
Georgia	Criminal Justice Coordinating Council	23
Hawaii	Governor's Committee on Crime	11
Idaho	Criminal Justice Council	15
Illinois	Criminal Justice Information Authority	15
Indiana	Criminal Justice Institute Board of Trustees	16
Iowa	Criminal and Juvenile Justice Planning Advisory Council	18
Kansas	Criminal Justice Coordinating Council	6
Louisiana	Commission on Law Enforcement and the Administration of Criminal Justice	51
Maine	Criminal Justice Commission	25
Maryland	Cabinet Council on Criminal and Juvenile Justice	11
Montana	Board of Crime Control	18
Nebraska	Commission on Law Enforcement of Criminal Justice	19
New Mexico	Criminal and Juvenile Justice Coordinating Council	23
North Carolina	Governor's Crime Commission	34
Oklahoma	Criminal Justice System Task Force Committee	19
Pennsylvania	Commission on Crime and Delinquency	26
Rhode Island	Criminal Justice Policy Board	32
Utah	Commission on Criminal and Juvenile Justice	17
Virginia	Criminal Justice Services Board	27
Wisconsin	Governor's Law Enforcement and Crime Commission	14

A 50-state survey determined that a total of 24 states (including Arizona) have commissions with responsibilities broader than grant administration, such as conducting systemwide planning, performing research or evaluation, monitoring the effectiveness of the criminal justice system, or assessing the appropriateness of criminal justice legislation.

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Appendix B

Criminal Justice Funds Administered by the Arizona Criminal Justice Commission for Fiscal Year 1996 (unaudited)

Street Gang Enforcement Program ($1,100,000)

Created by the Governor and Legislature in fiscal year 1994 as part of the enhanced effort against criminal street gangs in Arizona, this General Fund money goes towards the prosecution of gang members charged with an offense.

Drug Prevention Resource Center ($220,000)

Established to decrease the incidence of drug and alcohol abuse by children and youth. A.R.S. §12-284(C) maintains that 2 percent of Superior Court filing fees must be deposited into the Drug and Gang Enforcement Account and then appropriated to the Prevention Resource Center.

Drug and Gang Enforcement Account ($12,516,600)

This includes federal grant money from the Edward Byrne Memorial State and Local Law Enforcement Assistance Grant Program administered by the Bureau of Justice Assistance, mandatory fines collected for state drug offense felony convictions, and local cash match funds furnished by grantees.

Crime Victim Compensation Program ($1,588,600)

Comprised of federal grants and 4.7 percent of Criminal Justice Enhancement Fund monies, this fund compensates crime victims for expenses incurred as a result of victimization.

Crime Victim Assistance Program ($562,500)

Developed to help crime victims recover from trauma, this program is financed through probation and parole supervision fees.

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DRUG AND GANG ENFORCEMENT TASK FORCE

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INTRODUCTION AND BACKGROUND

The Office of the Auditor General has conducted a performance audit and Sunset review of the Drug and Gang Enforcement Task Force, pursuant to a May 17, 1995, resolution of the Joint Legislative Audit Committee. This audit was conducted as a part of the Sunset review set forth in Arizona Revised Statutes (A.R.S.) §§41-2951 through 41-2957.

History and Purpose

The Legislature created the Drug and Gang Enforcement Task Force in 1987 to provide the Governor's Office with a direct, participative role in monitoring the nature and scope of drug- and gang-related activities. The Task Force acts in an advisory role to the Arizona Criminal Justice Commission regarding funding allocations for programs designed to reduce the incidences of drug and gang activities. Specifically, the Task Force has five mandates that are outlined in A.R.S. §41-2406(B):

- Monitor the nature and scope of drug offenses and gang-related activity and related criminal activity in this State;
- Recommend to the Arizona Criminal Justice Commission specific purposes for monies in the Drug and Gang Enforcement Account to enhance the deterrence, investigation, prosecution, adjudication, and punishment of drug offenders and members of criminal street gangs;
- Recommend to the Arizona Criminal Justice Commission specific programs for the purpose of enhancing the deterrence, investigation, prosecution, adjudication, and punishment of drug offenders and members of criminal street gangs;
- Recommend to the Arizona Criminal Justice Commission constitutional, statutory, and administrative revisions that are necessary to enhance the deterrence, investigation, prosecution, adjudication, and punishment of drug offenders and members of criminal street gangs; and
- Evaluate and report to the Arizona Criminal Justice Commission the effectiveness of programs funded through the Drug and Gang Enforcement Account.

Organization and Budget

The eight-member Task Force consists of state, county, and municipal criminal justice representatives, including:

- The Governor, or designee (Chairman)
- The Director of the Department of Public Safety
- The Administrative Director of the Courts, or designee
- The Attorney General
- A County Attorney
- A County Sheriff
- Two Police Chiefs

As members are not eligible for compensation, the Task Force does not have a budget. Instead, the Task Force's activities are supported through the staff of the Arizona Criminal Justice Commission. This includes the preparation of meeting agendas, minutes, transcripts, and any other materials necessary for Task Force meetings.

Audit Scope and Methodology

This audit focuses on the continued need for the Drug and Gang Enforcement Task Force. To evaluate the extent to which the Task Force serves a useful purpose, we observed its meetings and reviewed minutes of previous meetings from March 1993 to current meetings. We also compared the statutory mandates of the Task Force to those of a subcommittee of the Arizona Criminal Justice Commission to analyze the duties and responsibilities of both. Finally, we conducted interviews with task force members, commission members (current, former, and proxy members), and the Governor's Office to obtain their perspective on the task force duplication and continued need for it.

This audit was conducted in accordance with government auditing standards.

The Auditor General and staff express appreciation to all the Task Force and Commission members, and staff of the Arizona Criminal Justice Commission, for their cooperation and assistance throughout the audit.

FINDING I

DRUG AND GANG ENFORCEMENT TASK FORCE SHOULD BE SUNSET

The Drug and Gang Enforcement Task Force is not needed because its activities essentially duplicate those of another entity. Specifically, the Task Force's responsibilities, operations, and membership are similar to the Arizona Criminal Justice Commission's. Therefore, the Task Force parallels the efforts of the Commission, and it should be considered for sunset.

Task Force Duties Mirror Commission's Responsibilities

Although the Governor's Office has expressed a desire to retain the Task Force because it "provides a unique dimension to the work of the Commission," our review indicates that the Task Force's responsibilities, operations, and membership essentially duplicate those of the Commission.

Duplicative responsibilities—The Task Force's activities are encompassed within the broader duties of the Commission; therefore, a duplication of effort exists between the two groups. Like the Task Force, the Commission is mandated to review and make recommendations on programs that are designed to enhance the deterrence, investigation, prosecution, adjudication, and punishment of drug offenders and members of criminal street gangs. In March 1989, the Commission designated its Drug, Gang, and Violent Crime Committee to complete these responsibilities. Based on recommendations developed separately by both the Committee and the Task Force, the Commission prepares an annual report for the Governor and the Legislature on the law enforcement programs that are funded by the Drug and Gang Enforcement Account.

Not only are the two groups' overall objectives the same, their specific statutory mandates regarding the Drug and Gang Enforcement Account are identical. For example, both entities are required to:

- Make recommendations regarding the purposes of monies in the Drug and Gang Enforcement Account;
- Report on the effectiveness of programs funded through the Drug and Gang Enforcement Account; and,

- Make recommendations for constitutional, statutory, and administrative revisions that are necessary to enhance these programs.

The Task Force, however, is only required to make recommendations to the Commission. The Commission, on the other hand, makes recommendations and reports to the Governor and the Legislature.

Similar operations—Because the Task Force's responsibilities parallel those of the Commission, its operations are very similar. Our review of meeting minutes as well as observation of both groups reveals that the Task Force and the Commission's Committee conduct similar meetings and make similar recommendations. Specifically, since 1993, the Task Force has met 12 times. Three of the 12 sessions occurred on the same day as the Committee, while 4 sessions were combined with the Committee. Although both entities conducted separate votes on agenda items, agendas for the Task Force and the Committee were identical in all 7 of the aforementioned meetings. Likewise, since 1993, the Task Force developed a total of 17 recommendations, all of which were identical to recommendations provided by the Committee during the same time period.

Comparable membership—In addition to having similar duties and performing similar tasks, both entities are comprised of similar participants. For example, the Attorney General and the Director of the Department of Public Safety serve on both groups. Additionally, each group contains a county sheriff, county attorney, and a police chief. Although the same person in each of these positions cannot serve on both groups, they still represent the same criminal justice element. Therefore, the only unique element to the Task Force is the Governor, who acts as the chairperson. However, since 1994, the Governor has designated the DPS Director to chair the Task Force.

Task Force Not Necessary for Governor's Input

While we did not find significant differences in the functioning of both the Task Force and the Commission, the Governor's Office believes it is important for the Governor to have a voice in the development of criminal justice policy. However, the Governor could still be included in decision making on criminal justice issues without the continuation of the Task Force. If the Task Force were to be sunset, the Governor could retain direct involvement as a permanent member of the Commission. During our audit of the Commission, we found that some other state commissions similar to Arizona's have either the Governor or a member of the Governor's Office on the Commission. Specifically, 9 out of 23 states surveyed included such representation. However, a statutory change would be necessary to amend the composition of Arizona's Commission to allow for a Governor appointment.

RECOMMENDATIONS

1. The Legislature should consider sunsetting the Drug and Gang Enforcement Task Force because its responsibilities, operations, and membership duplicate the efforts of the Arizona Criminal Justice Commission.

2. If the Task Force is sunset, the Legislature may want to consider amending the Arizona Criminal Justice Commission's statutes to allow the Governor to participate as a permanent member of the Commission.

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SUNSET FACTORS

In accordance with A.R.S. §41-2954, the Legislature should consider the following 12 factors in determining whether the Drug and Gang Enforcement Task Force should be continued or terminated.

1. Objective and purpose in establishing the Agency.

The Drug and Gang Enforcement Task Force was created by the Legislature in 1987 to provide the Governor's Office a direct, participative role in monitoring the nature and scope of drug- and gang-related activities. The Task Force's eight members include the Governor as chairman, as well as various representatives from the criminal justice community (see page 34 of this report for a listing of current members). The Task Force's primary responsibility is to provide recommendations to the Arizona Criminal Justice Commission on issues regarding the establishment and funding of programs designed to enhance the deterrence, investigation, prosecution, adjudication, and punishment of drug and gang offenders.

2. The effectiveness with which the Agency has met its objectives and purposes and the efficiency with which the Agency has operated.

The Task Force has regularly met and provided recommendations to the Commission as required by statute. However, the Task Force's duties are duplicated by the Commission's Drug, Gang, and Violent Crime Committee. Therefore, we do not believe there is a continued need for the Task Force (see Finding I, pages 35 and 37).

3. The extent to which the Agency has operated within the public interest.

The Task Force operates in the public interest by reviewing numerous programs designed to enhance the deterrence, investigation, prosecution, adjudication, education, and punishment of drug and gang offenders and making recommendations regarding funding allocation for such programs.

4. The extent to which rules and regulations promulgated by the Agency are consistent with the legislative mandate.

The Task Force has no authority to promulgate rules and regulations.

5. **The extent to which the Agency has encouraged input from the public before promulgating its rules and regulations and the extent to which it has informed the public as to its actions and their expected impact on the public.**

The Task Force's meetings are open to the public. The Task Force solicits public input at these meetings. Our review indicates that the Task Force has followed Open Meeting Law requirements.

6. **The extent to which the Agency has been able to investigate and resolve complaints that are within its jurisdiction.**

The Task Force has no authority to investigate and/or resolve complaints.

7. **The extent to which the Attorney General or any other applicable agency of state government has authority to prosecute actions under the enabling legislation.**

This factor does not apply to the Task Force.

8. **The extent to which the Agency has addressed deficiencies in its enabling statutes which prevent it from fulfilling its statutory mandate.**

This factor does not apply to the Task Force.

9. **The extent to which changes are necessary in the Agency's laws to adequately comply with the factors listed in the subsection.**

We did not identify the need for any statutory changes.

10. **The extent to which termination of the Agency would significantly harm public health, safety, or welfare.**

We recommend that the Legislature consider sunsetting the Task Force as its duties are duplicated by another entity and its termination would not significantly harm public health, safety, or welfare. As noted earlier, the Task Force serves in an advisory capacity to the Arizona Criminal Justice Commission. The Commission is required to report to the Governor and the Legislature on programs funded by the Drug and Gang Enforcement Account, and the Commission has established the Drug, Gang, and Violent Crime Committee to perform these duties. Our review found that the Task Force and Committee perform virtually the same functions and have produced

identical recommendations to the Commission for the last five years. In addition, the Task Force and Commission are comprised of virtually identical participants with the exception of the Governor, who serves on the Task Force. However, the Governor designated the Director of DPS to serve as the chair of the Task Force in June 1994.

While the Task Force may have been intended to provide a distinct perspective, its duplication of duties and members within the Commission supports the argument that elimination of the Task Force would not significantly harm public health, safety, or welfare. However, the Governor's Office continues to view the Governor's direct involvement in criminal justice matters as important. This involvement could still be accomplished by including the Governor as a permanent member of the Arizona Criminal Justice Commission. However, a statutory change to the composition of the Commission would be necessary to allow for such an appointment.

11. The extent to which the level of regulation exercised by the Agency is appropriate and whether less stringent levels of regulation would be appropriate.

This factor does not apply to the Task Force.

12. The extent to which the Agency has used private contractors in the performance of its duties and how the effective use of private contractors could be accomplished.

This factor does not apply to the Task Force.

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Agency Response

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STATE OF ARIZONA

EXECUTIVE OFFICE

FIFE SYMINGTON
Governor

June 28, 1996

Mr. Douglas R. Norton
Auditor General
2910 North 44th Street, Suite 410
Phoenix, Arizona 85018

Dear Mr. Norton:

I have read your draft report on the Drug and Gang Enforcement Task Force (DGETF) which was attached to a letter dated 20 June 1996. In response to your request for comments, I offer the following:

- The DGETF should not be sunset because it is an arm of the Arizona Criminal Justice Commission (ACJC) that is allowed to meet in executive session to discuss confidential issues such as, for example, the funding of ongoing investigations. Although this option is not exercised frequently, it can be quite beneficial under certain circumstances.

- The membership of the DGETF is different from the Drug, Gang, and Violent Crime Committee (DGVCC). The membership of the DGVCC is limited to ACJC members. The membership of the DGETF is not. I believe there may be some benefit to retaining a mechanism for interested law enforcement agencies that are not represented on the ACJC to make formal recommendations to the Commission.

- Because of my unique position in state government, I can contribute substantially to the work of the ACJC. This is particularly true as programs and projects are being developed. The mechanism through which I currently can contribute most directly is the DGETF. Were the DGETF sunset, this important "front end" opportunity would be lost. The need for such front-end participation is certain to be enhanced as the federal government moves further toward a "block grant" funding system in which governors often are asked to name disbursing agencies.

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I appreciate your suggestion, were the DGETF to be sunset, that our statutes be amended to allow my office permanent membership on the Commission. Such a change would be vital under the aforementioned circumstance. I will conclude, however, by reemphasizing my continued opposition to the elimination of the task force.

Thank you for this opportunity to comment.

Sincerely,

Fife Symington
GOVERNOR

FS:mb