

**MINUTES OF THE
ARKANSAS CRIME INFORMATION CENTER
SUPERVISORY BOARD**

DECEMBER 2, 2011

The meeting was held in the ACIC training room at One Capitol Mall in Little Rock. Members present:

Mr. Jack Lassiter, Chairman
Chief Danny Bradley, Vice-Chairman
Hon. Dustin McDaniel by Ms. Kathryn Henry
Sheriff Larry Sanders
Mr. Larry Robinson
Colonel JR Howard by Lt. Cora Gentry
Mr. J. D. Gingerich by Mr. John Stewart
Mr. Harold Pointer
Sgt. Lloyd White
Ms. Debbie Wise
Mr. David Guntharp

Also attending were: Danny Ormand, ACIC Director; Letha Osborne, Administrator of the Information Services Division; Brad Cazort, Administrator of the Field Services Division; Bill Clinton, Administrator of the Operations Division; Mary Rogers, Administrative Services Manager; Warren Readnour; Ralph Ward, ACIC; Lesa Winston, ACIC; Rick Stallings, ACIC; Paula Stitz, ACIC; Karen Burgess, ACIC; and Judy Lepper, ACIC.

Chairman Jack Lassiter called the meeting to order and asked for approval of the minutes of the September 9, 2011 regular meeting.

MOTION: That the minutes of the September 9, 2011 regular meeting be approved.

MOTION BY: Mr. Harold Pointer

SECONDED BY: Sgt. Lloyd White

VOTING: Unanimous

Operations Committee Report

New Terminal Site Applications

Bill Clinton reported that the Operations Committee met prior to the Board meeting to consider five applications for direct access, and copies of those applications were included in the packet. The applications were from Conway County/Morrilton District Court, Union County District Court, Redfield Police Department, Norfolk Police Department, and Prairie Grove Police Department. The Committee recommended that the applications be approved.

Chairman Jack Lassiter and the Board looked over the applications to see if there were any questions.

David Guntharp had a question about the district courts. He asked how the administrative system works.

Bill Clinton responded that they have someone in the office to receive training on running a workstation. We would then install it on one of their PC's.

Mr. Guntharp asked if these are full-time district court employees.

Mr. Clinton said yes, as far as he knew.

Mr. Guntharp said that some of the larger ones are full-time employees. He asked if that was an issue that we should be concerned about.

Mr. Clinton answered that the only concern would be from a security standpoint. When the agent goes in to install the software, they make sure that it's installed in a secure location. If it's not a full-time court then the office would be secured.

Mr. Guntharp asked if the office would be a dedicated district court office.

John Stewart said it depends on which one you are talking about. Some are and some are not.

Mr. Clinton asked David Guntharp if he was asking if it would be a dedicated office for the court.

Mr. Guntharp answered yes.

Warren Readnour said that from a security standpoint a private attorney could be the district court judge. But they are still going to have district court staff somewhere. Mr. Readnour said he wouldn't contemplate putting the terminal in a private attorney's private office because it would be a security concern.

Mr. Guntharp said that it would more than likely be dedicated to the county or city than an employee, not necessarily a private attorney.

Bill Clinton said that they receive training that can only be used for official criminal justice purposes.

Chairman Lassiter asked if there were any other questions.

MOTION: That the applications for Conway County/Morrilton District Court, Union County District Court, Redfield Police Department, Norfolk Police Department, and Prairie Grove Police Department be approved.

VOTING: Unanimous

Division Status Reports

Operations Division

On-Line System

Bill Clinton provided a handout on the Operations Division detailing the progress they have made during the months of September through November.

Field Services Division

Training and Legal

Brad Cazort reported and included a training handout in the packets. The first section talks about the number of personnel we've trained and the third item is for the first time we have created a Train-the-Trainer class with six people attending. Below that details the test results we have administered. At the bottom of the handout we are working on creating a terminal area coordinator training class that we should have up and running and available in the first quarter of this next year to train all the TAC's and various sheriff and police departments. It will also allow everyone to submit their registration for all of our classes electronically rather than having to call them in or submit paperwork. It will speed-up the registration process for all of our training classes. We now have our schedule up and we will have our mobile classroom out in 15 different cities this next year as opposed to having 11 this past year. On the legal side, Mr. Cazort reported that ACIC is not involved in any litigation at this point.

Vine/JusticeXchange

Rick Stallings reported for Vine, JusticeXchange, AlertXpress, LeadsOnLabs and Field Agents, etc., and included a handout in the packets. Mr. Stallings started with a comment about the Field Agents and the great job they are doing. They continue to stay busy assisting our agencies around the state with training, technical issues and replacing hardware. They have been scheduling their training classes for next year, and Mr. Stallings invited the Board members to attend some of those training classes. They have also been scheduling their audits for 2012.

Rick Stallings then reported on Vine, JusticeXchange and AlertXpress. For Vine Mr. Stallings last reported that they were installing the DSI Lite software to replace the old SOMS Lite workstations. We have nine that have been converted, with twenty remaining to be converted. Hopefully, we will finish that up by June of next year. A registration link is being added to Vine and he reported on that as well. That is being done through a SAVIN grant, the state's automated Victim Information Notification grant. We are almost completed with that. Out of 99 percent of the agencies that are online we have one left, and that is Department of Community Corrections. That will allow our victims who are registered to maintain the registration throughout incarceration, from the county jail, ADC and on to Parole and Probation instead of having to re-register multiple times. They will be registered through the entire process.

Currently in Vine, there are 41,672 people registered on incarcerations as of November 28, 2011. There are 3,072 people registered on parolees. For JusticeXchange we have 3,821 users currently. We have had over 642,000 searches since January.

There have been over 145,000 DL photos pulled through JusticeXchange and this year we have had 310 EPIC forms submitted, which is considerably lower than last year's when it was over 600. LeadsOnLabs total sales or total transactions were a little over 18,000. Total sales blocked were 205 for October, which is considerably down from June, which were 2,265.

Chief Danny Bradley asked Rick Stallings what he contributed the decrease to.

Mr. Stallings responded the decrease was because of the new law that was passed requiring the pharmacist to actually talk to the person and make sure they actually need that pseudoephedrine product when someone goes in to purchase it.

Chief Bradley asked if Wal Mart and Walgreens made a change in the way that's handled.

Mr. Stallings stated that Wal Mart has gone to prescription only. At Walgreens and Kroger you have to have an active account. Walgreen's is for six months and Kroger is a three month active account.

Sex Offender Registry

Paula Stitz reported and included a handout. Ms. Stitz said that as of November 30, 2011 there have been 11,189 sex offenders registered. That total is from August 1, 1997 to present date. We started out with 1,200 in 2000 and now we have 11,000. It grows about 700-800 a year. Last year by December 1, we had 835 additional sex offenders added from January 1 through December 1. So far this year at the beginning of the month we had 786. We've had a little bit more this last year. We've had quite a few coming in on CENSOR. The CENSOR program is up and running. By and large, law enforcement is pleased with it. We have had some additions to it and have upgraded it a couple of times since it started. The electronic system seems to be running quite well and we are getting a lot of information from it.

Ms. Stitz mentioned that the Field Agents have played a key role in getting the system out there and answering a lot of questions about CENSOR. They had to come up to speed pretty quickly and have done an outstanding job in helping law enforcement with this program. Ms. Stitz wanted to thank them for that. She also mentioned how the training staff of Benny Battles and Jennifer Tomlin have helped out a great deal in getting the field agents and law enforcement trained. They got out there and showed them how to do it, and they did a great job.

Ms. Stitz said that currently they are working on revising the training manual for the 2012 Sex Offender Screening Risk Assessment regional workshops with DOC. We will be starting on those after the first of the year.

David Guntharp asked if the sex offenders were registered after they're assessed, or if they are being registered at the time of arrest.

Ms. Stitz answered they are registered upon conviction. If they are put on parole or probation from court, the court or the probation officer will register them. If they're going into prison for any length of time, they're registering them on the front end.

Mr. Guntharp asked if that was for any sex offender.

Ms. Stitz answered any sex offender that is required to register. She said there are very few sex offenses that are not required to register.

Chief Danny Bradley said that some of the chiefs in the state were concerned that sex offenders in their jurisdictions were staying in places that are not their permanent residences. Maybe they have a permanent residence and they have registered at that residence, but they are going to a friend's house or a motel in a place that would be a violation for them to stay. He asked Ms. Stitz if she knew of any state that has any regulation governing that sort of thing.

Paula Stitz said that there has always been a challenge in managing sex offenders. They're allowed by law to travel. They can go visit their Mother, go for Thanksgiving, etc. If they go out of state they have to register, depending on what that state's regulation is. We have that problem with truck drivers. They live in Arkansas but they drive a truck in Oklahoma. Most states have a 72-48 hour. If you're there longer than that you have to report to the law enforcement agency. If someone comes here from out of state they have three business days to register. That's always a challenge because you're balancing their constitutional rights to move about to our need to know. So it depends on the length of time. We have sex offenders all the time trying to circumvent the system by having their address at their mother's house and living with their girlfriend across town. That's illegal and they can't do that. But they also live at their mother's and visit their girlfriend in the next county. The legal question is have they established residency somewhere else. That would be against the law. But just visiting back and forth is very hard to prosecute. Years ago, they could visit someplace two weeks or 30 aggregate days in a year and not have to register. That got taken out but didn't get replaced by anything.

Chief Bradley said so now there's nothing that would prohibit them under the Arkansas statute to spend half their time living with a girlfriend or someone in a different city.

Paula Stitz answered that it's very hard to prove when you have the mother saying he lives here and the girlfriend says he's not living with her. They do that a lot to prevent you from doing a community notification at the girlfriend's. They've already done a community notification at the mother's, because that's where his address is. But they haven't done one at the girlfriend's house. So he won't admit that he lives there. You're going to have to prove that he's actually spending his time there.

Chief Bradley said so no one has a good answer for that.

Paula Stitz said there's no one set, definitive answer. She said she thought if we started prosecuting these cases and make case law out of it, it would make it easier.

Warren Readnour said that residency in all areas has been something that's been litigated. It comes up in election lawsuits. They are so fact-intensive about what the person's intent was. Such as did they change their voter registration, do they get electric bills, where are their clothes, how often do they sleep, etc. If there's any doubt at all you're going to be hard-pressed, especially when you put it in a criminal context of the standard for criminal guilt as opposed to proving whether or not somebody is a resident to hold office. That's what all the cases are.

Chief Danny Bradley asked about the issue of changing the law that would require a visiting sex offender to make notification to a local department if they are going to visit outside their register jurisdiction for 72 hours a week or something like that.

Warren Readnour said you are going to have to be concrete and have some sort of notification requirement. For example, if they stay more than 3 or 5 nights they have to notify the proper law enforcement jurisdiction.

Chief Bradley said that he understood that legally the law would have to be changed.

Warren Readnour said that a simple notification requirement wouldn't be a problem.

Paula Stitz said that under the way the law reads now, you could do a community notification whether he's living there or not. If he's visiting there and he's a Level 3 or Level 4 sex offender, you could do a community notification even though he's not living there.

Brad Cazort said he had a couple of other comments he wanted to bring to the Board's attention. If you look at the numbers, in this last quarter we added 199 new registrants to the sex offender registry. 105 of those are now incarcerated. The reason for that is the DOC has changed their process. They used to register sex offenders right before they released them. They are now registering them upon intake. The sex offenders are going into our system immediately. We are not getting the documentation right away from the DOC so they are sitting in our pending file. They are registering them up front but they are not assessing them until they're leaving the DOC. Mr. Cazort stated that with them having changed that policy that's allowed by law, you're going to see over the next several quarters the numbers of incarcerated go up drastically. It doesn't mean we have a lot of people out there who are violating the law and are being arrested. It's just a change in process of what the DOC is doing. Mr. Cazort pointed out that even though our numbers are going up, the address unknowns, the actual absconders that we don't know where they are, has actually gone down in the last quarter. He attributes that to CENSOR and the ease of availability of law enforcement to keep track of everybody. The last thing he wanted to point out is a reminder that the Sex Offender Law went into effect on August 1 of 1997. Under the law, persons who were on the registry who were not Level 4's can petition the court to be removed from the Sex Offender Registry once they have been on the registry for 15 years. Mr. Cazort said he thinks starting in August of next year we are going to start seeing a number of petitions to courts to be removed from the registry. Whether or not a judge grants that is a different question. The first time anybody is going to be eligible to ask to be removed will be August 1 of next year.

Criminal Justice Information Division

Arkansas Incident Based Reporting System (AIBRS)

Ralph Ward provided a handout and reported on the current program status for NIBRS. There are 272 agencies that are required or requesting to report to NIBRS. 264 of those agencies have been cleared to report NIBRS. We have four agencies that are changing vendors and we are recertifying them right now. Regarding the NIBRS repository upgrade, we are finished with the loader application and are now processing data to the arrest table. We will then continue testing with the FBI to certify the new system. Regarding the Law Enforcement National Data Exchange (N-Dex), we have currently processed and submitted over 60,000 records for the North Little Rock Police Department since April. Testing for the Little Rock Police Department N-Dex file format should begin next week and we are in the early stages of planning to implement N-Dex at the Pulaski County Sheriff's Office for 2012. The Statistical Analysis Center (SAC) has received and processed several requests for statistics. Some of the more notable ones are from the DEA Gulf Coast HITA, or high intensity drug trafficking area, Arkansas Democrat Gazette, FBI Intelligence Office for assistance in Operation Delta Blues, University of Arkansas, Northwestern University and Bureau of Justice and Statistics. You will see on the last three pages of your handout the preliminary drug arrests by type and age for 2010, the preliminary state totals that include under-18 years of age, 748 arrests with marijuana possession and 67 for sale or manufacturing. For adults we have over 7,100 arrests for marijuana and over 1,400 for meth possession versus 828 for the sale of meth. And that is for sheriffs and police only. The last page contains the descriptions for each drug type for your review.

David Guntharp asked Danny Ormand when the annual report was due.

Danny Ormand responded around July. Mary Rogers said the Comprehensive Annual Financial Report starts in July and will end the last part of that in September. Ms. Rogers said that will be on the DFA website, but that it may not be on there until the beginning of the year. It is available online through the DFA Office of Accounting.

Mr. Guntharp asked if the Board would get a hard copy.

Ms. Rogers responded that we could arrange for that. We could arrange for each Board member to receive a copy of the report.

Mr. Ormand said that we would have one available for each Board member.

Criminal History Division

Lesa Winston commended the Criminal History Division on getting the work out quickly. She said they are back to October, so we are not that far away from making sure we are at a day-to-day basis. Ms. Winston said if you look at your handout, you'll see that we had a total of 14,875 AFIS that we had worked. The 9,000 is due to the fact that she didn't get the numbers for the total of November until this morning, so the total received on AFIS IS 16,759 so we're just a little shy. Some of those were errors due to kickbacks with State Police and some things with AFIS, a fingerprinting issue. We are currently up to date.

Administrative Division

Mary Rogers reported for the Administrative Division and introduced herself to the Board. She said that we've talked about CAFR (Comprehensive Annual Financial Report) and said that the Administrative Division has completed their part of that report. They haven't come back with any questions so hopefully we're done with that. That's a process that takes several months because different parts come due at different times from July until September. When we get those we will get printed copies for all the Board members.

Ms. Rogers reported that they are keeping an eye on the finances, expenses and trying to keep expenditures down. We are still well aware that revenue may not be quite up to where DFA wants, so we are trying to keep our expenditures down as much as possible. We have used quite a bit of some operating expense but we have a lot of expenditures that are due at the first part of the fiscal year. It looks large on that end, our DP and Professional Services, but actually that's pretty normal for every year. Ms. Rogers said she had a couple of questions from the Budget Office about it and we're keeping an eye on that. She doesn't foresee any problems and if it comes to decreasing our budget a little, we can do that.

David Guntharp asked when there are budget hearings, would ACIC have to go before a budget committee or would you just submit your budget unless they called you over.

Danny Ormand responded that we will just submit our budget showing them where we are. Last year we didn't have to go over. They called and had a couple of questions. We answered those and that was it. They really looked at the bigger agencies and studied those, but they looked at us and saw that we were on target and where we had made the two cuts. Next thing we knew, we got a call saying our budget had been approved.

David Guntharp said so it would just be routine and then it should go through.

Danny Ormand said if it goes like it did last year, then that's what will happen. We may not have to go over or we may have to go over and answer a few questions. Last year it was painless. We just submitted our paperwork and went right through it.

David Guntharp asked if we submitted a budget for two years or one last year.

Danny Ormand answered two years, like we always have and then we resubmit.

Chief Danny Bradley asked about the revenues of the agency. He asked if ACIC gets to spend that or does that go into a general fund for reappropriation.

Danny Ormand responded no, we just get to use what we have here. We recover some cost, but we don't actually get to keep that. We can request for that budget to come back, and we do some of that.

Mary Rogers said those were actual revenues that are collected by receipt here in the office or by State Police. She listed those so that the Board would be aware that we do collect some cash.

Guntharp asked if those go into the general fund.

Mary Rogers said that some of these go into our operating fund, such as the background checks. The sex offender collections and hot files go into a different fund that we don't utilize as our operating fund.

Chief Danny Bradley said that some of those funds don't collect the full amount. It's shared with State Police or some of those.

David Guntharp said it goes into your budget and you don't have what you classify as a cash fund.

Danny Ormand said that most of them are not real high-dollar amounts, such as the Sex Offender fund. It runs \$6,000 to \$10,000 and we use that throughout the year for different things that Brad and his staff need. That's the one we talked about the other day. We've got to buy some additional software equipment and it's approximately \$5,500 and we've got \$7,800. So it eats it up pretty fast. Some of those funds we do keep and use from day to day.

Chief Danny Bradley asked about the background check funds and wanted to know if ACIC gets to keep any of that in a cash fund.

Danny Ormand answered 50 percent, and that is shared with Arkansas State Police.

Mary Rogers said that the \$886,000 is exactly what ACIC has received.

Chief Bradley asked if ACIC got to keep that for agency use.

Mary Rogers answered yes.

Chief Bradley asked if that was in addition to your budget.

Danny Ormand added that we can't spend it unless we get Legislative approval.

David Guntharp said that you have to have appropriation to spend it. If you get the appropriation, you're ok. You always have a lot more appropriation once you have funds, if they will give it to you.

Mary Rogers said that the ACIC system usage is collected, but we actually have expenditures related to that. During the year sometimes we are able to reclaim some of what we expend versus what we have taken in from our users. Basically, that's supposed to replace what we are expending every month or every year for that program.

David Guntharp asked if ACIC received anything for DNA.

Danny Ormand answered that all goes to the Crime Lab.

Brad Cazort said that the budget for the Sex Offender Registry is \$250,000. As Danny Ormand mentioned, in the past we have been getting about \$8,000 a year. That budget came from the last Legislative Session. The Sex Offender fee is another fee we divide. We get half of it and half of it goes to the DOC to do the assessment program. It supposedly was mandatory in the law but it wasn't being applied. The judges and prosecutors were overlooking it. This last session, the Legislature made it more mandatory that it be assessed than it was. So hopefully, the anticipation is if we're adding roughly 1,000 new sex offenders a year, say 800 new sex offenders a year, we ought to be getting about \$40,000 or so. They're actually only assessing the fee, or the fee is only being applied to a very small percentage of new sex offenders who are convicted in Arkansas. They amended the law to make it a little more mandatory and make sure it's there. The judgment and commitment form has been changed so that it's very prevalent to the prosecutor and the judge. At the same time, they upped our appropriation so that if the funds actually do increase like they think they will, we will have the appropriation to spend that already in the budget.

Information Services Division

Letha Osborne reported for the ISD Division and stated that there was a handout in the packet. One of the things Ms. Osborne pointed out that was not listed was that we have configured testing and IPatrol that will allow the users to access ACIC transactions on Android devices that have the operating systems. We are preparing for Alpha testing with State Police this coming Tuesday on the eCite project. Our Sex Offender letters are now printing on the 6th floor, and that will allow us to cut costs for what we were spending to print these at DIS. We're always looking for ways to cut costs and save money. Ms. Osborne said that ISD is doing their day-to-day support inside and outside the agency.

David Guntharp asked what the difference was in printing them at DIS and ACIC printing them.

Letha Osborne responded that when they were printed at DIS, we had costs and charges from printing them there. So now we print them on our own printer.

Danny Ormand said that he thought the cost was \$.32 a copy at DIS.

David Guntharp asked what ACIC was paying now per copy.

Danny Ormand answered approximately three to four cents a copy. That cost is for paper and ink.

Danny Ormand wanted to add a little about the Android device that Letha talked about. Her staff has been working on that with CPI. As you know, right now a lot of law enforcement officers have a computer in their car. If you have that Android device, and at some point in time they'll have that on the iPhone too, you'll go and register that device. That law enforcement officer can actually stand out on the side of the road and run that information on that telephone. Mr. Ormand said that's going to be a big step in the future.

Chief Danny Bradley asked if there was a per-device cost for that from ACIC.

Danny Ormand answered there's not anything other than the cost of the transaction and whatever they want to buy for the phone and their service.

Chief Bradley asked if it was required that the phone be owned by the department.

Danny Ormand said that we have not issued any out yet, so that may be something we need to address.

Chief Bradley said that he knows that's a question that's going to be asked. We furnish a lot of phones for our department but just about every officer has got their own phone. That's going to be a question if that gets out there. Chief Bradley asked if they don't have a department-issued phone, can we put that on their personal phone.

David Guntharp said he would think that would almost need to be on a state, county or city telephone.

Danny Ormand said it will have the same tracking software no matter who owns the phone. So if it was on my personal phone, it would still show that it had been run verses your phone. Mr. Ormand said he could see the concern and that may be something we need to look at. We are just in the testing phase of it now and it will be probably approximately 30 days before we roll it out.

David Guntharp said that if they lost their personal phone they wouldn't have to report that to the agency.

Danny Ormand said that was correct. And there's a login so that it's secure.

Warren Readnour said that it also raises an FOI issue of that officer using that personal phone for office use. Granted the ACIC information is not FOI-able, but now they're not using that for a work purpose and potentially that could be the subject of an FOI request.

Sheriff Larry Sanders said that when you look at it from another angle, most agencies are not able to provide every officer with a phone. So your workers who are actually on the street working that need that information wouldn't be able to get it.

Danny Ormand said that we would sit down and talk to the legal side a little more before we actually roll that out.

David Guntharp asked if that was something that this Board needs to have a policy on.

Danny Ormand said that we would get with Warren Readnour a little later.

Warren Readnour said that most of those really came up as a security issue. He said he knows that the Board doesn't delve into the security of the room where a computer is or a car. Mr. Readnour stated he thinks that would be more of an agency security matter.

Danny Ormand said that the security of the use of the system will be covered through CJIS. We've got that because you have to sign in and that phone has to be registered and there's a long form that has to be filled out to register that device and that user. Mr. Ormand said he can see the issue that the Chief was talking about. It's probably something we need to look at before we roll it out. And we just have one phone here that we're using and testing. The IT Department has got that and showed it to me yesterday and how it works.

Warren Readnour said that one suggestion might be when you first roll it out to require that it be a departmental or agency-issued phone so you limit who all it goes to mainly to further your testing. If you're only doing one now, instead of rolling out to everybody roll it out initially to those that are department-issued and make sure that's going ok for a couple of months. Then you could really address the issue and see how that's going and see what problems you've had with it.

Sheriff Larry Sanders asked if there were any other states that were utilizing it and if they have had any problems.

Danny Ormand said the IT Department was working on that.

Sheriff Sanders said that might be a way to find out what others are doing and if they've had any problems.

Chief Danny Bradley said that he sees some issue on that. It goes back to the issue of having the terminal in the private attorney's office who's also a part-time judge. We tried to counter that along with other issues in our department with a policy that says if you bring an electronic device to the workplace, there is no expectation of privacy. If you bring it to my workplace, if you put it in my police car or office, then it's subject to inspection. Phones get to be a little bit tougher issue because they are so common now that everybody carries a phone. Chief Bradley said he thought there are some legal issues there. As a chief, he's charged with monitoring that and having checks in place to make sure things don't get misused. Chief Bradley said he thinks that's something that needs to be carefully considered. But he understands the Sheriff's viewpoint too. He said he guarantees that question is coming as soon as this hits the street, and it will be in my office.

Rate Structure for Public Defender's Office

Brad Cazort said that this is an issue that he overlooked getting on the agenda at the prior Board meeting. He then gave a background of where we are and said that Lt. Cora Gentry is also involved in this. Two sessions ago the Arkansas Public Defender's Commission was successful in getting legislation passed that allowed the Commission itself, not the public defenders around the state, to do a state named-based background check through State Police at the regular fee of potential witnesses they were calling to trial. They did that for a couple of years and had a fairly large number. They were paying \$22.00 a name for all of that. This last session, apparently that amount of money was breaking their bank. They had a bill seeking to declare themselves as a criminal justice agency, trying to get terminal access to our system, which they can't do. The FBI is very clear. The FBI Access Integrity Unit helped Mr. Cazort write a letter to them that

even if the bill passed, the FBI was not going to give them an ORI. They were not going to have access to our system. The big reason they wanted access to the system was the transaction rate is about \$.5 as opposed to \$22.00. Lt. Cora Gentry and Mr. Cazort talked to them during the session trying to figure out some way to go to help them but understand that they are not a criminal justice agency. What we decided is that they are something of a quasi-criminal justice agency and negotiated with them a rate of \$2.00 per name, subject to this Board's approval that they would pay. This should have been on the agenda earlier, so it is here for the Board's consideration and a motion to approve it. They've been paying \$22.00 a name. They wanted to pay five cents a name, and we've negotiated \$2.00 a name for them.

David Guntharp asked if this was for the Public Defender's Commission.

Brad Cazort answered yes, the Commission office itself.

David Guntharp asked if there was any issue with private attorneys.

Mr. Cazort answered that private attorneys have no access to our system.

Mr. Guntharp asked if a private attorney who was in the criminal justice business could get the same rate as a public defender.

Mr. Cazort responded no. A private attorney could not be considered a quasi-criminal justice agency.

Lt. Cora Gentry asked if it was written into the law that it's the Public Defender's Commission.

David Guntharp asked if there was legislation establishing that.

Lt. Gentry said that when they first came in. What is usually required is you have to have the written permission of the subject to get access to their criminal history except for criminal justice purposes. For non-criminal justice purposes, you have to have their written consent. That's what this was going to be. So they had to have legislation to override that to say they didn't have to have written consent of the person they were going to run the check on. But they were a witness, not necessarily their client. So in the course of doing that, that's when the Public Defender Commission was written into the law. So it is their specific access.

David Guntharp asked about a criminal defense attorney who went to the public defender to get the information for his use on a client.

Lt. Gentry responded that's usually accessible through discovery in the prosecution stage.

Brad Cazort stated that while defense attorneys have no direct access to our system, they do have access through the prosecutor. And the prosecutor can get the information from our system and turn it over to the defense attorney.

Mr. Guntharp said so we are not opening a can of worms.

Warren Readnour said that the public defender could not turn it over because that would be a violation of the use policy. He could turn it over to the public counsel for use in that case but he can't give it to somebody else. That's a violation of the system.

Lt. Cora Gentry said that the \$22.00 fee had \$10.00 of it going to State Police and \$10.00 of it going to ACIC and the \$2.00 fee is the minimum if they use the online system. We tried anywhere between \$22.00 and \$2.00 and \$2.00 was what was agreed on as the minimum transaction to use the online system. So that means ACIC would be getting \$0 and State Police would be getting \$0, but they would be paying the transaction fee to use the online system.

David Guntharp said that knowing the difficulty of the Public Defender's budget, he wouldn't have any problem with it. He knows that their money is coming also from the state as well as other state agencies.

Warren Readnour asked if State Police had already voted on this.

Lt. Cora Gentry responded no, that they were going to vote on it.

David Guntharp asked if State Police and ACIC are recommending it.

Brad Cazort answered that they both have to approve it, and this Board is here and it is here for your consideration and approval whether or not to allow the Public Defender Commission to pay the \$2.00 fee.

Mr. Guntharp asked if that was going to be a recommendation of the State Police board.

Lt. Gentry said it won't necessarily have to go to the Board but to the Director.

Chief Danny Bradley said so they were given access by legislation.

Brad Cazort said that two sessions ago they were given access to do name-based state name checks only for their witnesses without their written consent. And for two years they were doing that but paying the full public rate.

Chief Danny Bradley asked why they should have the right to do that when a private criminal defense attorney can't.

Brad Cazort answered it's probably a matter of policy. The FBI has long said as long as private attorneys don't have access. The Legislature decided as a matter of policy two years ago that the Commission itself could run name-based checks on potential witnesses.

Chief Bradley said the Commission itself was not going to be defending any cases.

Brad Cazort answered that obviously they're going to be doing it for the public defenders around the state.

Bill Clinton asked if this was just for Arkansas.

Mr. Cazort answered yes, that they have no authorization to get NCIC records of any kind.

David Guntharp put a motion before the Board that it be approved.

Chairman Jack Lassiter asked if there was a second. He stated there was a motion, but no second and asked if there was any further discussion.

Brad Cazort said that if it's not approved they're going to be back in the next session trying again to be declared a criminal justice agency. He thought it would end up having to be voted on by the Committee.

David Guntharp wanted to ask Col. JR Howard what his take was on this.

Col. JR Howard said that we have discussed this and we are fine with the will of the Board.

Warren Readnour said what's going on now is the Legislature is appropriating X thousands of dollars to them, they in turn are paying us to do the background check at \$20.00, which goes back to the Legislature who appropriates our budget. Whether it's \$2.00, \$22.00 or \$200.00, it's going to the left pocket of the state around to the right pocket of the state.

Mr. Guntharp said they're getting information anyway, so why don't we just go ahead and give them a break financially.

Lassiter asked if there was a motion.

MOTION: That the Arkansas Public Defender's Commission request to pay \$2.00 per minimum transaction to use the online system be approved.

MOTION BY: Mr. David Guntharp

SECONDED BY: Sheriff Larry Sanders

VOTING: Unanimous

Board Meeting Dates for 2012

Chairman Lassiter asked the Board if there was a problem with any of the dates and for someone to move to adopt these dates for next year.

MOTION: That the Board meeting dates for 2012 be approved.

MOTION BY: Sgt. Lloyd White

SECONDED BY: Lt. Cora Gentry

VOTING: Unanimous

Chairman Jack Lassiter stated that the Board had a personnel matter to discuss and needed to move into Executive Session.

The Board came back from Executive Session and Chairman Lassiter reported that there was no action taken on the matter.

Other Business

There was no further business and the meeting was adjourned at 11:21 a.m.

ACIC Director

Date