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## FULL SENTENCING COMMISSION MEETING MINUTES

September 21, 2023

10:00 a.m.

Ohio Judicial Center, Room 281 or Zoom

### **MEMBERS PRESENT**

Sharon L. Kennedy, Chief Justice, Chair  
Nick Selvaggio, Common Pleas Court Judge, Vice-Chair  
Amy Ast, Director, Department of Youth Services  
Brooke Burns, Ohio Public Defender, Juvenile Department  
Beth Cappelli, Judge, Municipal Court  
Annette Chambers-Smith, Director, Department of Rehabilitation and Correction  
Charles Chandler, Peace Officer  
Nicole Condrey, Mayor  
Robert DeLamatre, Judge, Juvenile Court  
Sean Gallagher, Judge, Appellate Court  
Gwen Howe-Gebers, County Prosecutor, Juvenile  
Kristen Johnson, Judge, Probate and Juvenile Court  
Robert Krapenc, Attorney, Criminal Defense  
Teri LaJeunesse, Victim Representative  
Nathan Manning, Ohio Senate  
Charles "Chip" McConville, County Prosecutor  
Stephen McIntosh, Judge, Common Pleas Court  
Jennifer Muench-McElfresh, Judge, Common Pleas Court  
Rob Sellers, State Highway Patrol  
Darren Shulman, Municipal Prosecutor  
Larry Sims, Sheriff  
Brandon Standley, Law Enforcement  
Helen Wallace, Judge, Juvenile Court  
Josh Williams, House of Representatives  
Donnie Willis, County Commissioner  
Tyrone Yates, Judge, Municipal Court  
Tim Young, Ohio Public Defender

### **MEMBERS ATTENDING BY ZOOM**

Vernon Sykes, Ohio Senate

### **GUESTS PRESENT**

*In Person:*

Director Lori Criss, Ohio Mental Health and Addiction Services  
Dustin Ensinger, Gongwer News



## CRIMINAL SENTENCING COMMISSION

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Kyle Petty, Ohio County Commissioner's Association  
Marta Mudri, Ohio Judicial Conference  
Dr. Hazem Said, University of Cincinnati

### *Zoom:*

Paul Pfeifer, Ohio Judicial Conference  
Paul Teasley, Hannah News

### **STAFF PRESENT**

Michael Crofford, Research Specialist  
Will Davies, Criminal Justice Counsel  
Niki Hotchkiss, Interim Director  
Todd Ives, Research Specialist  
Alex Jones, Criminal Justice Counsel

### **CALL TO ORDER AND APPROVAL OF MEETING MINUTES**

Chief Justice Kennedy called the meeting to order at 10:00 am. Niki Hotchkiss took roll call, and a quorum was achieved. Sheriff Sims motioned to approve the July 27, 2023, meeting notes. Chief Chandler seconded. A roll call vote was taken and the minutes were approved unanimously.

### **COMMITTEE REPORTS**

Director Chambers-Smith updated the group on the Criminal Justice Committee. They are currently rounding up membership and getting consensus from the group on what to work on. The committee intends to bring the membership and work to the Commission for approval. The major tasks include the development of the uniform sentencing entry as well as clarifying Senate Bill 201. The first meeting date is set for October 19, at 2:30 PM via zoom. Judge Yates signaled his intent to join the Committee.

Judge Wallace updated the Commission on the Juvenile Justice subcommittee. A proposed roster was circulated among the Commission. Judge Wallace welcomed participation from anyone else on the Commission. Judge Wallace moved that the roster be adopted. Judge Selvaggio seconded. A roll call vote was held and the motion carried unanimously. The Juvenile Justice Committee will be meeting at 12:30, in person with a Zoom option, on September 21, to go over their agenda. The operating guidelines will be discussed at the Committee meeting.

Director Criss updated the Commission on the Data Committee. The initial Data Committee was held on the morning of September 21. The group is using the first meetings to level-set and fully understand the ORC 181 statutory requirements. The group is also evaluating what data is already collected and the development of a data governance structure. The group will move forward from there to determine how the data can be deployed to inform policy. Director Criss invited others to join the group as well. Representative Williams agreed to join the Data Committee.



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## OLD BUSINESS

Uniform Sentencing Entry and Associated Template Draft Contract with University of Cincinnati (Option 1: \$210,000; Option 2: \$400,000)

Dr. Said summarized the two options for the continued development of the USE. The first option represents the minimum to keep the USE going. The second proposal takes a more active role in advancing features of the system and collecting feedback from judges. The largest part of that is customizing entries for judges. Another part of it is the development of the offense codes associated with the template. This would make the form smarter, allowing the judge to see what is mandatory. Mayor Condrey asked how many active members are on the system. Niki updated the group that 54 judges have login credentials. At least 30 judges are using the form regularly.

Judge Selvaggio asked about the attachments of the contract, and why the indicator "Attachment F" is at the top. Dr. Said explained that the original contract was signed in 2020, and the subsequent contracts are amendments to the contract. The contract gives the Commission the right to the software, but UC may use the code for non-competing purposes. The contract also stipulates that the Commission owns the data. Judge Selvaggio suggests that a copy of the current contract and one of these options be attached. If it comes time to renew in the future or there are new members, members will be able to understand better.

Judge McIntosh asked if the Commission selected option 1, will a new judge be given the opportunity to access the system. Dr. Said answered that with option 1 any judge can reach out to get login credentials, but UC will not be active in outreach and site visits. Director Chambers-Smith asked about the ORC not being included in option 1. Dr. Said answered that it is still included in option 1. The code is still maintained, but the offense code portal and the digitization of the code is in option 2. Hazem specified that all contracts are fixed costs, as well.

There was a discussion about how the code updates happen in the system with changes to law. Dr. Said explained that this is done through Commission staff and regular meetings with the UC team. The Update Protocol Group finalizes the changes to the code based on legislative or judicial updates. These changes are developed and reviewed by the UC team.

Director Chambers-Smith asked if there was a renewed interest in the USE? Niki answered that there were about 30 regular users, and in the past two months there have been five new judges interested in the project. This is likely due to clarification in the data portion of the project, and mention of this in the OJC newsletter. Director Chambers-Smith asked if additional interest by judges will necessitate more support from UC. Niki answered that Commission staff is devising a way to bring in new judges.

Mayor Condrey asked how this contract compares to the previous contract. Dr. Said answered that this contract is 60% of the previous contract. The Chief added that this contract is less than what was proposed for 2023-2024 initially. Judge Selvaggio stated that although he is not a user of this system, he is thinking about how new judges may think of the system. The sentencing entry plays a critical role in the criminal justice process. Judge Selvaggio stated that going from 200 to 400 thousand in contract



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options is not a big jump. Judge Selvaggio noted that there does not seem to be anyone on the Commission having opposition to the development of the USE.

Chief Justice Kennedy stated that a pause button was hit to allow judges who are using the system to continue using it. Eventually the body has to decide whether to continue investing in updating the entry. Niki added that legislative changes go through the Update Protocol Committee which then go to UC to be put into the system.

Judge Gallagher stated that there is a unified prison system in Ohio even though there is not a unified court system. He discussed the necessity of the USE due to the complexity of the code. As new judges come on this document is critical to teach them what they need to be aware of to write their sentencing entry. Judge Gallagher ask that whether option 1 or 2 is picked, that it be vetted through the Data Committee. Judge Gallagher stated that due to the high cost of appeals, a uniform sentencing entry is needed to get sentencing entries right.

There was a discussion about whether the opportunity to bring on new judges with option 1 would be lost. Niki stated that it will still be possible to bring on new judges with option 1. Director Chambers Smith motioned to accept option 1. Judge Yates seconded. A roll call vote was held. The motion passed with Judge Selvaggio, Judge McIntosh, and Representative Williams voting no.

## **NEW BUSINESS**

### *Community Corrections Committee*

A letter from OCCA asked for a stand-alone committee on community corrections. Director Chambers-Smith stated that community corrections should address both Juvenile and Adult Committees, as it would not be appropriate to put it in one or the other committee. Judge Cappelli asked if there is a need for this committee. Director Chambers-Smith said that community corrections is large and touches everything. Director Chambers-Smith suggests addressing the issue in both existing Committees rather than a standalone committee. The Chief Justice suggested reaching out to OCCA to get additional members on the Adult and Juvenile Committees.

Sheriff Simms motioned to divide the responsibilities of community corrections into the existing standalone committees. Chief Justice Kennedy Seconded. The motion was passed by unanimous roll call vote. Chief Justice Kennedy asked the Commission to permit her to write letters to OCCA and OJACC to solicit participation in the committees. Chief Standley moved to permit the Chief Justice to write the letter to the respective organizations. Judge Johnson seconded. The motion was approved unanimously by roll call vote.

### *Revised Commission Operation Guidelines*

Chief Justice Kennedy introduced the proposed updated/revised Commission Operating Guidelines. The guidelines are required to be distributed at this meeting and voted on at the next meeting. Judge Selvaggio read Judge Spanagel's written comment, asking that section 1, subdivision (c) be modified to



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allow voice votes, rather than a roll call vote with dissents noted. Judge Selvaggio clarified that executive session needs a roll call vote. The language should note that exception.

Niki summarized the proposed changes made to the operating guidelines, noting the removal of the advisory committee, update of ad hoc committees, and updates to office operations. Judge Cappelli asked if it is realistic to approve in-state travel quarterly. Niki stated this rule is mostly for conferences, but if the Commission approves, will make it possible for the Executive Director to approve their own in-state travel as well as the in-state travel of staff. Chief Justice Kennedy stated that a monetary threshold could be set to allow single day or overnight travel. The in-state travel threshold was raised to \$1,500 per trip. Judge Cappelli suggested that the hiring process for the Executive Director be identical to the hiring process for other staff members. Additional changes included allowing for a voice vote on most matters, with the exception of entering executive session. Nos or abstentions on a voice vote would require a roll call vote. The proposed changes to the guidelines were noted and changes will be distributed once they are made. A vote will be held in November on the revised guidelines.

#### *Personnel Matters*

Chief Justice Kennedy suggested revising language in the at-will employment section of the employee position descriptions to remove the Supreme Court's role. It should be rewritten to say the "Commission and its personnel committee" instead of "the Court." The position descriptions will be rewritten to address the court expectations paragraph and a few other areas mentioning court/court business.

Judge Selvaggio moves to amend all position descriptions so that it reflects statute and the Commission rather than the Supreme Court. Director Chambers-Smith seconds. A roll call vote is held. The motion is approved with Judge Gallagher dissenting.

Mayor Condrey raised a question about the background check and suggests modifications to it. Chief Chandler recommends the personnel committee determine this.

#### *Change of the September 2024 meeting to second Thursday*

A discussion was held regarding moving the September 2024 full Commission meeting as it conflicts with the OJC meeting. Chief Justice Kennedy motioned to move the September 2024 meeting to September 12, 2024. Director Chambers-Smith seconded the motion. The motion passed by unanimous roll call vote.

#### **EXECUTIVE SESSION**

Chief Justice Kennedy moved to enter executive session at 11:15 a.m. Chip McConville seconded. The motion was unanimously approved by roll call vote.

At 11:57 a.m., Chip McConville moved to exit executive session. Chief Justice Kennedy seconded the motion. The motion was unanimously approved by roll call vote.

Chief Chandler motioned to not reclassify employees and that staff receive a 3% raise, effective July 1, 2023. Judge Yates seconded the motion. The motion passed unanimously by roll call vote.



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Judge Yates moved to extend an offer of employment for Executive Director to Melissa Knopp, at the current Director's salary with the 3% salary raise. Director Ast seconded the motion. The motion was approved with Judge Gallagher, Robert Krapenc, and Judge Cappelli voting no. Darren Shulman abstained. Judge Selvaggio formally commended Niki Hotchkiss and Will Davies for their work leading the Commission and participating in the candidacy process.

**ANNOUNCEMENTS: NOVEMBER MEETING IS SET AT 10:00 AM IN ROOM 281.**

#### **ADJOURN**

Sheriff Simms moves to adjourn at 12:02 p.m. Judge Johnson seconded. The motion was approved unanimously by roll call vote.