

OHIO CRIMINAL SENTENCING COMMISSION & ADVISORY COMMITTEE
Full Commission Meeting Minutes
December 14, 2017

MEMBERS PRESENT

Nick Selvaggio, Vice-Chair, Common Pleas Court Judge
Lara Baker-Morrish, Columbus City Attorney's Office
Kristin Boggs, State Representative
Paula Brown, Attorney
Robert DeLamatre, Juvenile Court Judge
John Eklund, State Senator
W. Scott Gwin, Appellate Court Judge
Thomas Marcelain, Common Pleas Court Judge
Charles McConville, County Prosecutor
Kevin Miller, State Highway Patrol
Gary Mohr, Department of Rehabilitation and Correction
Harvey Reed, Department of Youth Services
Jeffrey Rezabek, State Representative
Larry Sims, Sheriff
Kenneth Spanagel, Municipal Court Judge
Tim Young, State Public Defender

ADVISORY COMMITTEE MEMBERS PRESENT

Jill Beeler, Ohio Public Defender's Office
Jim Cole, Juvenile Court Administrator
Lori Criss, The Ohio Council
Paul Dobson, County Prosecutor
Brian Martin, Research Chief – DRC
Karlton Moore, Office of Criminal Justice Services
Kyle Petty, Department of Youth Services
Paul Pfeifer, Executive Director – Ohio Judicial Conference
Dave Picken, Ohio Attorney General's Office
Keith Spaeth, OJACC – Common Pleas Court Judge

CALL TO ORDER

The December 14, 2017 meeting of the Ohio Criminal Sentencing Commission and its Advisory Committee was called to order by Director Andrews and she then proceeded with roll call of members and advisory committee.

APPROVAL OF MINUTES FROM SEPTEMBER 21, 2017

The minutes of the June 15, 2017 meeting of the full Commission were unanimously approved.

IMPACT OF HB86 & SUBSEQUENT SENTENCING LEGISLATION ON THE INCARCERATED POPULATION IN OHIO

Due to weather, Fredrick Butcher, PhD, Case Western Reserve University and Krystel Tossone, PhD, Case Western Reserve University were unable to attend the meeting and therefore, this topic was not discussed.

APPELLATE REVIEW

Judge Gallagher shared several hand-outs and noted there is a ‘crisis’ in appellate review in Ohio – Section 2953.08 is unreadable, for example – what does contrary to law mean? He noted that the Ohio Judicial Conference Appellate Judges Committee is working on redrafting 2953.08 – taking into consideration the previous work of the Commission (2015) and the work of the Recodification Committee. He noted they are hopeful to have a working draft for distribution/adoption at their February 2018 meeting.

COMMITTEE REPORTS & GENERAL UPDATES

Members discussed the Commission’s role in providing legislative feedback and a historical context for legislators. Representative Rezabek said the recent overview and history on sentencing provided by Director Andrews was enlightening and informative – the background perspective is beneficial. There was general consensus that the Commission should provide perspective on larger bills and help legislators understand history.

Judge Spanagel proposed approval of the legislative analysis form, Representative Rezabek seconded the motion and the vote for approval was unanimous.

JUVENILE JUSTICE:

Paul Dobson advised that the committee received a project proposal from the RFK National Resource Center for Juvenile Justice for a multi-county site review of juvenile probation in Ohio. He noted that the committee continues to evaluate the best approach to systemic juvenile probation reform and will hear more from those involved with JDAI at its January 2018 meeting.

Chair Dobson also said that the committee will hear from Case Western Reserve University researchers at the January 2018 meeting regarding the data wish list of the committee. The researchers have completed the evaluation of the impact of HB86 and other enacted sentence reform measures and have worked on several juvenile justice data related projects.

SENTENCING/CRIMINAL JUSTICE:

Judge Spanagel advised that the report and recommendations from the Commission have generated the introduction of legislation, HB439, and the Supreme Court of Ohio will consider the recommendations in the 2018-2019 rule review period.

The committee is also reviewing/discussing the Reagan Tokes Act – HB365, SB201, SB202 – and, the Recodification Committee’s Chapter 2929 recommendations. Tim Young reviewed a comparison chart of the Reagan Tokes Act and the Recodification Committee recommendations. Members engaged in active discussion. Judge Selvaggio pointed out that the influence of high profile cases and scrutiny on the sentencing scheme coupled with the administrative complexity invites error. He also cautioned that the complexity will have significant prosecutorial impact in the implementation of Marsy’s Law and explanation to victims. Representative Boggs advised that they want to develop system that is the best alternative. She also advised there will be an interested party meeting in the near future and the Commission should make its thoughts known.

Senator Eklund pointed out that it is difficult for such a diverse group to achieve consensus but, what is important is the information – an independent, expert panel to inform legislators. He suggested the Commission is a neutral, dispassionate body that can advise legislators about what has been tried, relevant data points and a national perspective. Representative Rezabek agreed and stated that the objective of information outweighs the value of position.

Marta Mudri from the Ohio Judicial Conference (OJC) provided an update from the judicial perspective on the impact of 2929.15 and T-CAP noting they had a judicial roundtable on the topic.

Per Cynthia Mausser, there are no implementation issues as far as the Department of Rehabilitation and Correction is concerned.

Ms. Mudri said that the OJC will identify suggestions to improve the statute to ease its implementation and administration and meet the intended goals. Senator Eklund said the legislature can use OJC ideas to fix T-CAP, but the Commission can add information and perspective to move forward.

DATA:

Lisa Hickman said that she is hopeful to resume the data workgroup. That group will provide content expertise and understanding of the legal landscape in Ohio to ensure that data produced by, and for, the Commission serves to enhance and inform our work. Knowledge about data analyses is not needed (but welcome).

DIRECTOR’S REPORT:

Sara reported the following:

Positions for the Commission staff were posted and interviews and candidate selection is forthcoming.

The 2018 National Association of Sentencing Commissions annual conference will be in Columbus August 12-15, 2018.

The Ohio JRI 2.0 Ad Hoc Committee met in November 2017 and will be meeting again shortly after the first of the year, hopefully following the receipt of data. Carl Reynolds and Patrick Armstrong greeted the group and noted they are looking forward to their work in Ohio and with the Commission.

With no further business before the Commission, Senator Eklund moved to adjourn the meeting, the motion was seconded by Representative Rezabek and by unanimous vote the meeting was adjourned by Vice-Chair Selvaggio.

2018 Full Commission Meeting Dates

Thursday, March 15, 2018 *Riffe Center – 31st floor*

Thursday, June 21, 2018 Ohio Judicial Center, Room 101

Thursday, September 20, 2018 Ohio Judicial Center, Room 101

Thursday, December 13, 2018 *Riffe Center – 31st floor*

Meeting materials/attachments:

- * Meeting Agenda
- * Minutes of September 21, 2017 meeting
- * Committee Updates – November 2017
- * Commission Legislative Impact Analysis form
- * HB365 Interested Party Testimony – Historical Perspective of Sentencing, Director Sara Andrews
- * Reagan Tokes Act and Chapter 2929 Recodification Comparison (Ohio Public Defender)
- * Appellate Review by Judge Gallagher
- * Ohio Community Corrections Association legislative comparison document