

OHIO CRIMINAL SENTENCING COMMISSION

65 South Front Street · Fifth Floor · Columbus · 43215 · Telephone: (614) 387-9305 · Fax: (614) 387-9309

Chief Justice Maureen O'Connor
Chair

Sara Andrews
Director

AGENDA February 19, 2015
Moyer Judicial Center, Room 281

- 9:30 Call to Order & Roll Call of Commission Members, Advisory Committee**
- 9:40 Welcome and opening remarks – Vice Chair Marcelain**
- 9:45 The Ohio Court Network – Robert Stuart, Director, Information and Technology, Supreme Court of Ohio**
Among the duties of the sentencing commission is the study of sentencing patterns throughout the state, and available correctional resources. Director Stuart will present and we will discuss what data is available from OCN and other Court related sources of data collection.
- 10:30 The Ohio Department of Mental Health and Addiction Services – Tracy Plouck, Director and Dr. Mark Hurst, Medical Director**
Director Plouck and Dr. Hurst will share information regarding agency initiatives that impact sentencing options, jails and available treatment alternatives. Additionally, they will discuss what data is collected and how agency resources align with the other state and local agencies.
- 11:30 Appellate Review Committee Update and Extended Sentence Review – Jo Ellen Cline, Criminal Justice Counsel, Supreme Court of Ohio**
- 12:00 Food for Thought – Lunch provided for those who reserved one**
- 12:30 Preview of the Senate Criminal Justice Committee – The Honorable Senator John Eklund, Chairman**
- Preview of the House Judiciary Committee – The Honorable Jim Butler, Chairman (tentatively confirmed)**
- 1:15p Director's report – Commission business operational update including membership, collaboration opportunities, Supreme Court support, record Retention/public records policy, notable updates**
- 1:45p Member Updates – All**
Brief (3 min) update for the good of the order from Members so inclined

Appellate Review 11 (for Commission, Meeting 02-19-15)

§2953.08. Grounds for Appeal of Criminal Sentence

(A) **Scope** Any appeal of the sentencing aspects of a felony case involving a court's failure to consider and apply Chapter 2929. of the Revised Code and related statutes shall be brought under this section. However, nothing in this section precludes an appeal based on due process or other constitutional considerations.

The appellant shall precisely delineate how the sentence falls within the limited grounds for appeal specified in this section, including any specific errors by the trial court under of this section, as shown in the sentencing transcript or judgment entry that forms the basis for the appeal. An error by the trial court that does not adversely prejudice the appellant is not sufficient to sustain an appeal.

~~(A)~~(B) **Defendant's Appeal of Right** In addition to any other right to appeal and except as provided in division ~~(D)~~(E) of this section, a defendant who is convicted of or pleads guilty to a felony may appeal as a matter of right ~~the~~ a sentence imposed upon a the defendant on ~~any~~ either of the following grounds:

(1) The sentence is contrary to law, as defined in this section. The sentence consisted of or included the maximum prison term allowed for the offense by division (A) of section 2929.14 or section 2929.142 of the Revised Code, the maximum prison term was not required for the offense pursuant to Chapter 2925. or any other provision of the Revised Code, and the court imposed the sentence under one of the following circumstances:

~~(a) The sentence was imposed for only one offense.~~

~~(b) The sentence was imposed for two or more offenses arising out of a single incident, and the court imposed the maximum prison term for the offense of the highest degree.~~

(2) The sentence included an additional prison term of more than five years for a repeat violent offender under division (B)(2) of section 2929.14 of the Revised Code that was not mandated by law. [Should this remain in the draft?]

~~The sentence consisted of or included a prison term and the offense for which it was imposed is a felony of the fourth or fifth degree or is a felony drug offense that is a violation of a provision of Chapter 2925. of the Revised Code and that is specified as being subject to division (B) of section 2929.13 of the Revised Code for purposes of sentencing. If the court specifies that it found one or more of the factors in division (B)(1)(b) of section 2929.13 of the Revised Code to apply relative to the defendant, the defendant is not entitled under this division to appeal as a matter of right the sentence imposed upon the offender.~~

~~(3) The person was convicted of or pleaded guilty to a violent sex offense or a designated homicide, assault, or kidnapping offense, was adjudicated a sexually violent predator in relation to that offense, and was sentenced pursuant to division (A)(3) of~~

section 2971.03 of the Revised Code, if the minimum term of the indefinite term imposed pursuant to division (A)(3) of section 2971.03 of the Revised Code is the longest term available for the offense from among the range of terms listed in section 2929.14 of the Revised Code. As used in this division, "designated homicide, assault, or kidnapping offense" and "violent sex offense" have the same meanings as in section 2971.01 of the Revised Code. As used in this division, "adjudicated a sexually violent predator" has the same meaning as in section 2929.01 of the Revised Code, and a person is "adjudicated a sexually violent predator" in the same manner and the same circumstances as are described in that section.

(4) ~~The sentence is contrary to law.~~

(5) ~~The sentence consisted of an additional prison term of ten years imposed pursuant to division (B)(2)(a) of section 2929.14 of the Revised Code.~~

(B)(C) State's Appeal of Right In addition to any other right to appeal and except as provided in division ~~(D)~~(E) of this section, a prosecuting attorney, a city director of law, village solicitor, or similar chief legal officer of a municipal corporation, or the attorney general, if one of those persons prosecuted the case, may appeal as a matter of right a sentence imposed upon a defendant who is convicted of or pleads guilty to a felony or, in the circumstances described in division (B)(3) of this section the modification of a sentence imposed upon such a defendant, on any of the following grounds: the state may appeal as a matter of right a sentence imposed upon a defendant for a felony that is contrary to law, as defined in this section.

(1) ~~The sentence did not include a prison term despite a presumption favoring a prison term for the offense for which it was imposed, as set forth in section 2929.13 or Chapter 2925. of the Revised Code.~~

(2) ~~The sentence is contrary to law.~~

(3) ~~The sentence is a modification under section 2929.20 of the Revised Code of a sentence that was imposed for a felony of the first or second degree.~~

(D) Contrary to Law Defined; Application

(1) As used in this section, a sentence is "contrary to law" if the trial court clearly failed to consider and apply the following provisions, based on the record at sentencing:

(a) The purposes and principles of sentencing under section 2929.11 of the Revised Code;

(b) The relevant seriousness and recidivism factors under section 2929.12 of the Revised Code;

(c) The relevant guidance by degree of offense under section 2929.13 of the Revised Code;

(d) The relevant guidance and limits on the length of prison terms under section 2929.14 of the Revised Code.

In addition, a sentence is contrary to law if the court imposed a sentence plainly not authorized by statute for the offense or if the sentence.

(2) A contrary to law appeal shall specify the precise aspects of the statute or statutes that the trial court failed to consider or otherwise violated in imposing the sentence. If the basis for the appeal is division (D)(1)(b) or (c) of this section, the appellant shall show either of the following:

(a) The sentencing court failed to state the factors under section 2929.12 of the Revised Code that were present and persuasive in selecting the term and to include those factors in the record.

(b) The sentencing court stated those factors and included them on the record, but the record does not otherwise support that the stated factors were present.

~~(C)(1) In addition to the right to appeal a sentence granted under division (A) or (B) of this section, a defendant who is convicted of or pleads guilty to a felony may seek leave to appeal a sentence imposed upon the defendant on the basis that the sentencing judge has imposed consecutive sentences under division (C)(3) of section 2929.14 of the Revised Code and that the consecutive sentences exceed the maximum prison term allowed by division (A) of that section for the most serious offense of which the defendant was convicted. Upon the filing of a motion under this division, the court of appeals may grant leave to appeal the sentence if the court determines that the allegation included as the basis of the motion is true.~~

~~(2) A defendant may seek leave to appeal an additional sentence imposed upon the defendant pursuant to division (B)(2)(a) or (b) of section 2929.14 of the Revised Code if the additional sentence is for a definite prison term that is longer than five years.~~

~~(D)~~**(E) Agreed Sentence Exception**

(1) A sentence imposed upon a defendant is not subject to review under this section if the sentence is authorized by law, has been recommended jointly by the defendant and the prosecution in the case, and is imposed by a sentencing judge.

(2) ~~Except as provided in division (C)(2) of this section, a sentence imposed upon a defendant is not subject to review under this section if the sentence is imposed pursuant to division (B)(2)(b) of section 2929.14 of the Revised Code. Except as otherwise provided in this division, a defendant retains all rights to appeal as provided under this chapter or any other provision of the Revised Code. A defendant has the right to appeal under this chapter or any other provision of the Revised Code the court's application of division (B)(2)(c) of section 2929.14 of the Revised Code.~~

(3) A sentence imposed for aggravated murder or murder pursuant to sections 2929.02 to 2929.06 of the Revised Code is not subject to review under this section.

~~(E)(F)~~ **Timing** ~~A defendant, prosecuting attorney, city director of law, village solicitor, or chief municipal legal officer shall file an~~ An appeal of a sentence under this section ~~shall be filed~~ to a court of appeals within the time limits specified in Rule 4(B) of the Rules of Appellate Procedure, provided that if the appeal is ~~pursuant to division (B)(3) of this section~~ is based on an allegedly improper grant of judicial release, the time limits specified in that rule shall not commence running until the court grants the motion that makes the sentence modification in question. A sentence appeal under this section shall be consolidated with any other appeal in the case. If no

other appeal is filed, the court of appeals may review only the portions of the trial record that pertain to sentencing.

~~(F)~~(G) **Record on Appeal** On the appeal of a sentence under this section, the record to be reviewed shall include all of the following, as applicable:

- (1) Any presentence, psychiatric, or other investigative report that was submitted to the court in writing before the sentence was imposed. An appellate court that reviews a presentence investigation report prepared pursuant to section 2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2 in connection with the appeal of a sentence under this section shall comply with division (D)(3) of section 2951.03 of the Revised Code when the appellate court is not using the presentence investigation report, and the appellate court's use of a presentence investigation report of that nature in connection with the appeal of a sentence under this section does not affect the otherwise confidential character of the contents of that report as described in division (D)(1) of section 2951.03 of the Revised Code and does not cause that report to become a public record, as defined in section 149.43 of the Revised Code, following the appellate court's use of the report.
- (2) The trial record in the case in which the sentence was imposed;
- (3) Any oral or written statements made to or by the court at the sentencing hearing at which the sentence was imposed;
- (4) Any written findings that the court was required to make in connection with the modification of the sentence pursuant to a judicial release under division (I) of section 2929.20 of the Revised Code.

~~(G)~~(H) **Appellate Court Duties**

(1) **Remand for Findings** If the sentencing court was required to make the findings required by division (B) or (D) of section 2929.13 or division (I) of section 2929.20 of the Revised Code, or to state the findings of the trier of fact required by division (B)(2)(e) of section 2929.14 and divisions (B)(2)(a) and (b) of section 2929.19 of the Revised Code, relative to the imposition or modification of the sentence, and if the sentencing court failed to state the required findings on the record, the court hearing an appeal under ~~division (A), (B), or (C)~~ of this section shall remand the case to the sentencing court and instruct the sentencing court to state, on the record, the required findings.

(2) **Standard of Review; Remand** The court hearing an appeal under ~~division (A), (B), or (C)~~ of this section shall review the record, including the findings underlying the sentence or modification given by the sentencing court.

~~The appellate court may increase, reduce, or otherwise modify a sentence that is appealed under this section or may vacate the sentence and remand the matter to the sentencing court for resentencing.~~ The appellate court's standard for review is not whether the sentencing court abused its discretion. The appellate court may take any action authorized by this division vacate the sentence and remand the matter to the sentencing court for resentencing, on any portion of the sentence in which error is found, if it clearly and convincingly finds either of the following:

- (a) **[This should be revised to square with other changes, when finalized.]**
That the record does not support the sentencing court's findings under division

(B) or (D) of section 2929.13, division (B)(2)(e) or (C)(4) [this reference should be to (C)(3)] of section 2929.14, or division (I) of section 2929.20 of the Revised Code, whichever, if any, is relevant;

(b) That the sentence is otherwise contrary to law.

~~(H)~~(I) **Appeal to Supreme Court** A judgment or final order of a court of appeals under this section may be appealed, by leave of court, to the supreme court.

§2929.19. Felony Sentencing Hearing

(A) **Required Hearing** The court shall hold a sentencing hearing before imposing a sentence under this chapter upon an offender who was convicted of or pleaded guilty to a felony and before resentencing an offender who was convicted of or pleaded guilty to a felony and whose case was remanded pursuant to section 2953.07 or 2953.08 of the Revised Code. At the hearing, the offender, the prosecuting attorney, the victim or the victim's representative in accordance with section 2930.14 of the Revised Code, and, with the approval of the court, any other person may present information relevant to the imposition of sentence in the case. The court shall inform the offender of the verdict of the jury or finding of the court and ask the offender whether the offender has anything to say as to why sentence should not be imposed upon the offender.

(B) Scope

(1) At the sentencing hearing, the court, before imposing sentence, shall consider the record, any information presented at the hearing by any person pursuant to division (A) of this section, and, if one was prepared, the presentence investigation report made pursuant to section 2951.03 of the Revised Code or Criminal Rule 32.2, and any victim impact statement made pursuant to section 2947.051 of the Revised Code.

(2) **Imposing a Prison Term** Subject to division (B)(3) of this section, if the sentencing court determines at the sentencing hearing that a prison term is necessary or required, the court shall do all of the following:

(a) **Stated Prison Term & Factors** Impose a stated prison term and, if the court imposes a mandatory prison term, notify the offender that the prison term is a mandatory prison term. In imposing a prison term, the court shall state, in open court on the record, the seriousness and recidivism factors under section 2929.12 of the Revised Code that were present and persuasive in selecting the term. On appeal, the statement is prima facie evidence that the court considered all of the factors under that section.

(b) **Sentencing Entry Details** In addition to any other information, include in the sentencing entry all of the following:

(i) ~~the~~ The name and section reference to the offense or offenses, the sentence or sentences imposed and whether the sentence or sentences contain mandatory prison terms;

(ii) The section 2929.12 factors that were present and persuasive under division (a) of this section;

(iii) ~~if~~ If sentences are imposed for multiple counts, whether the sentences are to be served concurrently or consecutively, ~~and;~~

(iv) ~~the~~ The name and section reference of any specification or specifications for which sentence is imposed and the sentence or sentences imposed for the specification or specifications;

(c) Notify the offender that the offender will be supervised under section 2967.28 of the Revised Code after the offender leaves prison if the offender is being sentenced for a felony of the first degree or second degree, for a felony sex offense, or for a felony of the third degree that is not a felony sex offense and in the commission of which the offender caused or threatened to cause physical harm to a person. This division applies with respect to all prison terms imposed for an offense of a type described in this division, including a term imposed for any such offense that is a risk reduction sentence, as defined in section 2967.28 of the Revised Code. If a court imposes a sentence including a prison term of a type described in division (B)(2)(c) of this section on or after July 11, 2006, the failure of a court to notify the offender pursuant to division (B)(2)(c) of this section that the offender will be supervised under section 2967.28 of the Revised Code after the offender leaves prison or to include in the judgment of conviction entered on the journal a statement to that effect does not negate, limit, or otherwise affect the mandatory period of supervision that is required for the offender under division (B) of section 2967.28 of the Revised Code. Section 2929.191 of the Revised Code applies if, prior to July 11, 2006, a court imposed a sentence including a prison term of a type described in division (B)(2)(c) of this section and failed to notify the offender pursuant to division (B)(2)(c) of this section regarding post-release control or to include in the judgment of conviction entered on the journal or in the sentence a statement regarding post-release control.

(d) Notify the offender that the offender may be supervised under section 2967.28 of the Revised Code after the offender leaves prison if the offender is being sentenced for a felony of the third, fourth, or fifth degree that is not subject to division (B)(2)(c) of this section. This division applies with respect to all prison terms imposed for an offense of a type described in this division, including a term imposed for any such offense that is a risk reduction sentence, as defined in section 2967.28 of the Revised Code. Section 2929.191 of the Revised Code applies if, prior to July 11, 2006, a court imposed a sentence including a prison term of a type described in division (B)(2)(d) of this section and failed to notify the offender pursuant to division (B)(2)(d) of this section regarding post-release control or to include in the judgment of conviction entered on the journal or in the sentence a statement regarding post-release control.

(e) Notify the offender that, if a period of supervision is imposed following the offender's release from prison, as described in division (B)(2)(c) or (d) of this section, and if the offender violates that supervision or a condition of post-release control imposed under division (B) of section 2967.131 of the Revised Code, the parole board may impose a prison term, as part of the sentence, of up to one-half of the stated prison term originally imposed upon the offender. If a court imposes a sentence including a prison term on or after July 11, 2006, the failure of a court to notify the offender pursuant to division (B)(2)(e) of this section that the parole board may impose a prison term as described in division (B)(2)(e) of this section for a violation of that supervision or a condition of post-release control imposed under division (B) of section 2967.131 of the Revised Code or to include in the judgment of conviction entered on the journal a statement to that effect does not negate, limit, or otherwise affect the authority of the parole board to so impose a prison term for a violation of that nature if, pursuant to division (D)(1) of section 2967.28 of the Revised Code, the parole board notifies the offender prior to the offender's release of the board's authority to so impose a prison term. Section 2929.191 of the Revised Code applies if, prior to July 11, 2006, a court imposed a sentence including a prison term and failed to notify the offender pursuant to division (B)(2)(e) of this section regarding the possibility of the parole board imposing a prison term for a violation of supervision or a condition of post-release control.

(f) Require that the offender not ingest or be injected with a drug of abuse and submit to random drug testing as provided in section 341.26 , 753.33 , or 5120.63 of the Revised Code, whichever is applicable to the offender who is serving a prison term, and require that the results of the drug test administered under any of those sections indicate that the offender did not ingest or was not injected with a drug of abuse.

(g)

(i) Determine, notify the offender of, and include in the sentencing entry the number of days that the offender has been confined for any reason arising out of the offense for which the offender is being sentenced and by which the department of rehabilitation and correction must reduce the stated prison term under section 2967.191 of the Revised Code. The court's calculation shall not include the number of days, if any, that the offender previously served in the custody of the department of rehabilitation and correction arising out of the offense for which the prisoner was convicted and sentenced.

(ii) In making a determination under division (B)(2)(h)(i) of this section, the court shall consider the arguments of the parties and conduct a hearing if one is requested.

(iii) The sentencing court retains continuing jurisdiction to correct any error not previously raised at sentencing in making a determination under division (B)(2)(h)(i) of this section. The offender may, at any time after sentencing, file a motion in the sentencing court to correct any error made in making a determination under division (B)(2)(h)(i) of this section, and the court may in its discretion grant or deny that motion. If the court changes the number of days in its determination or redetermination, the court shall cause the entry granting that change to be delivered to the department of rehabilitation and correction without delay. Sections 2931.15 and 2953.21 of the Revised Code do not apply to a motion made under this section.

(iv) An inaccurate determination under division (B)(2)(h)(i) of this section is not grounds for setting aside the offender's conviction or sentence and does not otherwise render the sentence void or voidable.

(3) (a) The court shall include in the offender's sentence a statement that the offender is a tier III sex offender/child-victim offender, and the court shall comply with the requirements of section 2950.03 of the Revised Code if any of the following apply:

(i) The offender is being sentenced for a violent sex offense or designated homicide, assault, or kidnapping offense that the offender committed on or after January 1, 1997, and the offender is adjudicated a sexually violent predator in relation to that offense.

(ii) The offender is being sentenced for a sexually oriented offense that the offender committed on or after January 1, 1997, and the offender is a tier III sex offender/child-victim offender relative to that offense.

(iii) The offender is being sentenced on or after July 31, 2003, for a child-victim oriented offense, and the offender is a tier III sex offender/child-victim offender relative to that offense.

(iv) The offender is being sentenced under section 2971.03 of the Revised Code for a violation of division (A)(1)(b) of section 2907.02 of the Revised Code committed on or after January 2, 2007.

(v) The offender is sentenced to a term of life without parole under division (B) of section 2907.02 of the Revised Code.

(vi) The offender is being sentenced for attempted rape committed on or after January 2, 2007, and a specification of the type described in section 2941.1418 , 2941.1419 , or 2941.1420 of the Revised Code.

(vii) The offender is being sentenced under division (B)(3)(a), (b), (c), or (d) of section 2971.03 of the Revised Code for an offense described in those divisions committed on or after January 1, 2008.

(b) Additionally, if any criterion set forth in divisions (B)(3)(a)(i) to (vii) of this section is satisfied, in the circumstances described in division (E) of section 2929.14 of the Revised Code, the court shall impose sentence on the offender as described in that division.

(4) If the sentencing court determines at the sentencing hearing that a community control sanction should be imposed and the court is not prohibited from imposing a community control sanction, the court shall impose a community control sanction. The court shall notify the offender that, if the conditions of the sanction are violated, if the offender commits a violation of any law, or if the offender leaves this state without the permission of the court or the offender's probation officer, the court may impose a longer time under the same sanction, may impose a more restrictive sanction, or may impose a prison term on the offender and shall indicate the specific prison term that may be imposed as a sanction for the violation, as selected by the court from the range of prison terms for the offense pursuant to section 2929.14 of the Revised Code.

(5) Before imposing a financial sanction under section 2929.18 of the Revised Code or a fine under section 2929.32 of the Revised Code, the court shall consider the offender's present and future ability to pay the amount of the sanction or fine.

(6) If the sentencing court sentences the offender to a sanction of confinement pursuant to section 2929.14 or 2929.16 of the Revised Code that is to be served in a local detention facility, as defined in section 2929.36 of the Revised Code, and if the local detention facility is covered by a policy adopted pursuant to section 307.93 , 341.14 , 341.19 , 341.21 , 341.23 , 753.02 , 753.04 , 753.16 , 2301.56 , or 2947.19 of the Revised Code and section 2929.37 of the Revised Code, both of the following apply:

(a) The court shall specify both of the following as part of the sentence:

(i) If the offender is presented with an itemized bill pursuant to section 2929.37 of the Revised Code for payment of the costs of confinement, the offender is required to pay the bill in accordance with that section.

(ii) If the offender does not dispute the bill described in division (B)(6)(a)(i) of this section and does not pay the bill by the times specified in section 2929.37 of the Revised Code, the clerk of the court may issue a certificate of judgment against the offender as described in that section.

(b) The sentence automatically includes any certificate of judgment issued as described in division (B)(6)(a)(ii) of this section.

(7) The failure of the court to notify the offender that a prison term is a mandatory prison term pursuant to division (B)(2)(a) of this section or to include in the sentencing entry any information required by division (B)(2)(b) of this section does not affect the validity of the imposed sentence or sentences. If the sentencing court notifies the offender at the sentencing hearing that a prison term is mandatory but the sentencing entry does not specify that the prison term is mandatory, the court may complete a corrected journal entry and send copies of the corrected entry to the offender and the department of rehabilitation and correction, or, at the request of the state, the court shall complete a corrected journal entry and send copies of the corrected entry to the offender and department of rehabilitation and correction.

(C) (1) If the offender is being sentenced for a fourth degree felony OVI offense under division (G)(1) of section 2929.13 of the Revised Code, the court shall impose the mandatory term of local incarceration in accordance with that division, shall impose a mandatory fine in accordance with division (B)(3) of section 2929.18 of the Revised Code, and, in addition, may impose additional sanctions as specified in sections 2929.15 , 2929.16 , 2929.17 , and 2929.18 of the Revised Code. The court shall not impose a prison term on the offender except that the court may impose a prison term upon the offender as provided in division (A)(1) of section 2929.13 of the Revised Code.

(2) If the offender is being sentenced for a third or fourth degree felony OVI offense under division (G)(2) of section 2929.13 of the Revised Code, the court shall impose the mandatory prison term in accordance with that division, shall impose a mandatory fine in accordance with division (B)(3) of section 2929.18 of the Revised Code, and, in addition, may impose an additional prison term as specified in section 2929.14 of the Revised Code. In addition to the mandatory prison term or mandatory prison term and additional prison term the court imposes, the court also may impose a community control sanction on the offender, but the offender shall serve all of the prison terms so imposed prior to serving the community control sanction.

(D) The sentencing court, pursuant to division (I)(1) of section 2929.14 of the Revised Code, may recommend placement of the offender in a program of shock incarceration under section 5120.031 of the Revised Code or an intensive program prison under section 5120.032 of the Revised Code, disapprove placement of the offender in a program or prison of that nature, or make no recommendation. If the court recommends or disapproves placement, it shall make a finding that gives its reasons for its recommendation or disapproval.

§2929.202. Review of Extended Sentences

(A) Eligibility & Timing A person serving an extended prison sentence for multiple counts or offenses who is not otherwise eligible for parole review may petition the Parole Board for a review and possible reduction as follows:

- (1) If the person's stated prison term totals at least least fifteen years, the person may petition for review after serving fifteen years of the term;
- (2) A person sentenced to mandatory consecutive terms that exceed fifteen years may petition for review at the expiration of the mandatory consecutive terms.
- (3) A person sentenced to life in prison without parole is not eligible for review under this section unless the offense was committed when the person was under age eighteen, in which case, the offender may petition after serving twenty years.

(B) Subsequent Petitions If an eligible offender petitions the Parole Board under this section and the person's sentence is not granted, the person may again petition once every five years thereafter.

(C) Procedure, Conditions, Supervision **[To be drafted based on the entity that would make release decisions]**

The Supreme Court of Ohio

MEMORANDUM

TO: Sara Andrews, Executive Director

CC: Chief Justice O'Connor

FROM: Jo Ellen Cline, Criminal Justice Counsel

DATE: January 29, 2015

RE: Ohio Criminal Sentencing Commission – Records Retention

Question Presented

What record retention policy applies to the Ohio Criminal Sentencing Commission?

Brief Answer

Because the Ohio Criminal Sentencing Commission is a statutory entity under Section 181.21 of the Ohio Revised Code but created “in the Ohio Supreme Court”, the Commission’s records are subject to retention under the Supreme Court’s Administrative Policy on Records Management.

Explanation

First, it is important to note that the Rules of Superintendence for the Courts of Ohio would not apply to the Ohio Criminal Sentencing Commission. Sup.R. 1(A) states that the Rules of Superintendence apply to the courts of appeal, the courts of common pleas, municipal and county courts. Therefore, the provisions of the Rules, including Sup.R. 26 through 26.05 would not apply to the records of the Commission.

As a statutory entity, it could be reasoned that the Commission is subject to the Ohio Revised Code’s provisions on records retention; however, Ohio Revised Code Section 181.21 creates the Ohio Criminal Sentencing Commission and specifies that the Commission is created “within the supreme court”. In addition, the funding for the Ohio Criminal Sentencing Commission provided by the Ohio General Assembly is contained in the general operating budget of the Supreme Court/Judiciary, not as a separate appropriation, nor as a line item, within the Supreme Court/Judiciary budget. Compare the Commission’s statutory framework with that of the Ohio Judicial Conference in Section 105.91 of the Revised Code. R.C. 105.91 states that

“There is hereby established an Ohio judicial conference consisting of...” and does not include the phrase “within the supreme court”. In addition, the Conference’s operating budget is completely separate from that of the Supreme Court/Judiciary. These differences are significant and, as a result, it would appear that the Ohio Criminal Sentencing Commission and its employees are a part of the Supreme Court of Ohio.

Based upon the statutory framework for the Commission it can be argued that the Criminal Sentencing Commission’s records can be retained or destroyed under the Supreme Court of Ohio’s Administrative Policies. (Administrative Policy 35). Currently those policies are stated to pertain to employees of the Court, and, in some instances, employees of the Ohio Disciplinary Counsel, the Board of Professional Conduct, and the Lawyers’ Fund for Client Protection. At a future time, consideration should be given to amending the applicability provision to specify that, unless specifically exempted, the policies apply to the Ohio Criminal Sentencing Commission.

Conclusion

Based upon the foregoing analysis, the Ohio Criminal Sentencing Commission should follow the Supreme Court of Ohio’s Administrative Policies regarding the retention and destruction of records.

OHIO CRIMINAL SENTENCING COMMISSION

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Chief Justice Maureen O'Connor
Chair

Sara Andrews
Director

Testimony before the Senate Criminal Justice Committee

Subject: Ohio Criminal Sentencing Commission

Presented by: Sara Andrews, Director

February 18, 2015

Good morning Chairman Eklund, Vice-Chair Obhof, Ranking Minority Member Thomas and members of the Criminal Justice Committee thank you for the opportunity to be here and present to you this morning. My name is Sara Andrews and I am the Director of the Ohio Criminal Sentencing Commission. Many of you worked with my predecessor, David Diroll who officially retired January 5, 2015. And, after more than two decades with the Ohio Department of Rehabilitation and Correction (DRC), I am grateful to have worked with all of you at some time during my career at DRC and certainly look forward to working with you in my new position.

I've provided you with a comprehensive briefing document on the Ohio Criminal Sentencing Commission, so for this morning's testimony I will only give a brief overview. As you know, the General Assembly created the Ohio Criminal Sentencing Commission in Ohio Revised Code §181.21 through 181.26 to, among other things,

- Study Ohio's criminal laws, sentencing patterns, and juvenile offender dispositions;
- Recommend comprehensive plans to the General Assembly that encourage public safety, proportionality, uniformity, certainty, judicial discretion, deterrence, fairness, simplification, more sentencing options, victims' rights, and other reasonable goals;

The Commission began meeting in 1991 and is the only state agency designed, by statute, to bring judges, prosecutors, and defense attorneys together with members of the General Assembly, state and local officials, victims, and law enforcement officers. The Chief Justice of the Supreme Court of Ohio chairs the 31 member Commission and, presently, Judge Tom Marcelain from the Licking County Court of Common Pleas is graciously serving as Vice Chair. The Commission is assisted by the Criminal Sentencing Advisory Committee and the Advisory Committee members freely participate at all Commission meetings.

The Commission has issued a series of reports that served as the basis for several major sentencing bills. As a result, nearly every sentencing statute currently used in Ohio's felony, misdemeanor, and juvenile courts grew out of recommendations from the Commission. Those reports are listed on page two of the briefing document.

In the six weeks I've been at the Commission, I've focused on refreshing and rejuvenating its Members and Advisory Committee by confirming the commitments of current members and requesting appointments for vacancies. Additionally, at tomorrow's meeting the Commission will decide on appointing additional members to its Advisory Committee, to include representation from the behavioral health and academic communities. With the diverse membership of the Commission and the refreshed Advisory Committee, the Commission is well-positioned to bridge the information gap among criminal justice system partners.

As you might notice on page four of the briefing document, the agenda for the meeting tomorrow (February 19, 2015) reflects the Commission's commitment to its duty to study sentencing patterns throughout the state, and available correctional resources. Additionally, the Commission is actively working on the broad topic of appellate review and anticipates making recommendations in May 2015. We also seek to be an active partner in the Recodification Committee established last session in Am. HB483 and stand ready to be of service in providing input, consult and recommendations in other important subjects.

The support and resources of the offices within the Supreme Court has been instrumental in reestablishing the day to day operation of the Commission. The Commission is also partnering with the Ohio Judicial Conference on several important projects including updated Quick Reference Guides for felony sentencing and drug offenses.

The Commission is engaging academic institutions, behavioral health advocates, judges, court and legal practitioners, community corrections organizations, state agency leadership and others to further advance sound, well-rounded criminal justice policy. Notably, as pointed out last week, I've consulted and enlisted some amazingly bright retired judges who are willing to volunteer their time to the Commission and its operation.

As the Commission and its Advisory Committee establish themselves and demonstrate valuable contributions to advance criminal justice operations, the evolution to a broader-based Criminal Justice Commission is expected. A Criminal Justice Commission can tackle a wide range of criminal justice issues and provide an ongoing forum for judges and others to debate policy initiatives under the Court's broad umbrella.

In closing, I'm hopeful you will find the Commission a credible, reliable resource and we will enjoy a mutually beneficial working relationship in the foreseeable future and thereafter. Chairman Eklund and members of the Criminal Justice Committee, thank you again for the opportunity to be here this morning and I'm happy to answer any questions you might have about the Commission.

OHIO CRIMINAL SENTENCING COMMISSION

65 South Front Street · Fifth Floor · Columbus · 43215 · Telephone: (614) 387-9305 · Fax: (614) 387-9309

Chief Justice Maureen O'Connor
Chair

Sara Andrews
Director

The General Assembly created the Sentencing Commission in Ohio Revised Code §181.21 through 181.26 to:

- Study Ohio's criminal laws, sentencing patterns, and juvenile offender dispositions;
- Recommend comprehensive plans to the General Assembly that encourage public safety, proportionality, uniformity, certainty, judicial discretion, deterrence, fairness, simplification, more sentencing options, victims' rights, and other reasonable goals;
- Review correctional resources and make cost-effective proposals;
- Work with the General Assembly as the plans are debated and on individual bills;
- Work to implement any plans once adopted (training, *etc.*);
- Monitor the changes and periodically report on their impact to the General Assembly; and
- Review related bills introduced in the General Assembly and study sentencing and dispositions in other states.

The Commission is the only state agency designed, by statute, to bring judges, prosecutors, and defense attorneys together with members of the General Assembly, state and local officials, victims, and law enforcement officers.

The Chief Justice of the Ohio Supreme Court chairs the 31 member Commission. The Chief Justice appoints 10 members: one appellate judge; 3 municipal or county judges; 3 juvenile court judges; and 3 other common pleas judges. The Governor appoints 12 members: a county, juvenile, and municipal prosecutor; 2 defense attorneys; a Bar Association representative; a sheriff; 2 police chiefs; a crime victim; a county commissioner; and a mayor. Four members of the General Assembly serve on the Commission, one from each caucus. The law also names the State Public Defender, Director of Rehabilitation and Correction, Director of Youth Services, and Superintendent of the Highway Patrol to the Commission.

Members are not paid for their participation, but are reimbursed for actual and necessary expenses.

The Criminal Sentencing Advisory Committee assists the Commission. It includes the Parole Board Chair, the Director of the Correctional Institutions Inspection Committee, a community corrections representative appointed by the Governor, various local corrections officials, and representatives of the Attorney General's office and the Office of Criminal Justice Services. Advisory Committee members freely participate at all Commission meetings.

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Director

The Commission began meeting in 1991. It has issued a series of reports that served as the basis for several major sentencing bills. As a result, nearly every sentencing statute currently used in Ohio's felony, misdemeanor, and juvenile courts grew out of recommendations by the Sentencing Commission.

- **Adult Felons.** Based on the Commission's felony sentencing plan, S.B. 2 and S.B. 269 became law on July 1, 1996. These bills brought "truth in sentencing," guidance based on five felony levels, a continuum of sanctions, and comprehensive victims' rights to Ohio law (also see S.B. 186 in 1994, based on the Commission's work). Under its statutory duty to monitor any plan that becomes law, the Commission suggested refinements that were enacted as S.B. 107 in 2000. Additional refinements were enacted as H.B. 327 in 2002.
- **Adult Misdemeanants.** Late in 1998, the Commission first submitted a plan for sentencing misdemeanants and for redistributing revenue from fines. The General Assembly enacted a version of the plan in 2002 (H.B. 490). The misdemeanor bill took effect January 1, 2004, with further refinements (H.B. 52) taking effect June 1, 2004. Recommendations on collecting and distributing revenue from fines were not addressed.
- **Traffic Law.** Also in 1998, the Commission proposed a plan dealing with the traffic laws. The legislature enacted it as S.B. 123 in 2002. It also took effect January 1, 2004, addressing many longstanding issues in traffic law. Refinements were proposed (and made) in H.B. 52 & H.B. 163, effective 6.1.04 & 9.23.04, respectively.
- **Juvenile Offenders.** The Commission presented a juvenile sentencing plan in July, 1999. The General Assembly approved the key reforms—allowing blended juvenile and adult sentences for certain serious offenders and changing the purposes of the juvenile offender system—as S.B. 179, effective 1.1.02. Some refinements were made in H.B. 393 in 2002.
- **Criminal Forfeitures.** The Commission's plan to improve and simplify Ohio's criminal forfeiture was introduced as H.B. 241 in 2005. The bill passed in 2006, effective July 1, 2007.
- **Code Simplification.** In 2008, the Commission made proposals to make the Revised Code more compact and readable. To date, the General Assembly has not acted on those recommendations.
- **Other Legislation.** In recent sessions of the General Assembly, the Commission has provided input on a range of criminal topics, including legislation for serious sexual offenders, drug offenders, impaired driving law, and prison crowding issues.
- **Training.** The Commission trains judges, prosecuting and defense attorneys, law enforcement officers, probation officers, victims, and other practitioners in these changes.
- **Quick Reference Guides.** The Commission regularly produces quick reference guides pertaining to juvenile, misdemeanor and felony sentencing as well as guides for specific categories of offenses, such as drug offenses.
- **Monitoring Reports.** The Commission has a statutory duty to monitor and biannually report on any Commission proposals that the General Assembly enacts into law.

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Chair

Sara Andrews
Director

Moving forward, the Commission is under new leadership with a strong forward thinking approach. In the short term, the Commission is refreshing, rejuvenating its Members and Advisory Committee. The Commission will be a visible, credible presence in the legislature, with other criminal justice organizations and in state government.

The Commission will also focus on its duty to study sentencing patterns throughout the state, and available correctional resources. With the diverse membership of the Commission and the refreshed Advisory Committee, the Commission is well-positioned to bridge the information gap among criminal justice system partners.

The Commission is actively working on the broad topic of appellate review and anticipates making recommendations in May 2015. We also seek to be an active partner in the Recodification Committee established last session in Am. HB483 and stand ready to be of service in providing input, consult and recommendations in other important subjects.

The support and resources of the offices within the Supreme Court has been instrumental in reestablishing the day to day operation of the Commission. The Commission is also partnering with the Ohio Judicial Conference on several important projects including updated Quick Reference Guides for felony sentencing and drug offenses. Additionally, the Commission is engaging academic institutions, behavioral health advocates, judges, court and legal practitioners, community corrections organizations, state agency leadership and others to further advance sound, well-rounded criminal justice policy.

As the Commission and its Advisory Committee establish themselves, build credibility and demonstrate valuable contributions to advance criminal justice operations, the evolution to a broader-based Criminal Justice Commission is expected. A Criminal Justice Commission can tackle a wide range of criminal justice issues and provide an ongoing forum for judges and others to debate policy initiatives under the Court's broad umbrella.

For more information, please contact Sara Andrews, sara.andrews@sc.ohio.gov or visit <http://www.supremecourt.ohio.gov/Boards/Sentencing/>.



OHIO CRIMINAL SENTENCING COMMISSION

Chief Justice Maureen O'Connor, Chair
Sara Andrews, Director

DRUG OFFENSE QUICK REFERENCE GUIDE

(In Collaboration with the Staff of the Ohio Supreme Court Law Library)

DRUG TRAFFICKING – O.R.C. §2925.03							
DRUG	AMOUNT	LEVEL		DIVISION		GUIDANCE	
		S or J		S or J		S or J	
Schedule I or II*	< bulk	F-4	F-3	C(1)(a)	C(1)(b)	Div. C	Div. C
	≥ bulk → <5 x bulk	F-3	F-2	C(1)(c)	C(1)(c)	In Favor°	Mand.
	≥ 5 → < 50 x bulk	F-2	F-1	C(1)(d)	C(1)(d)	Mand.	Mand.
	≥50 → <100 x bulk	F-1	F-1	C(1)(e)	C(1)(e)	Mand.	Mand.
	≥ 100 x bulk	F-1	F-1	C(1)(f)	C(1)(f)	MDO	MDO
Schedule III, IV, V*	< bulk	F-5	F-4	C(2)(a)	C(2)(b)	Div. B	Div. C
	≥ bulk → <5 x bulk	F-4	F-3	C(2)(c)	C(2)(c)	Div. B	In Favor
	≥ 5 → < 50 x bulk	F-3	F-2	C(2)(d)	C(2)(d)	In Favor	In Favor
	≥ 50 x bulk	F-2	F-1	C(2)(e)	C(2)(e)	Mand.	Mand.
Marijuana	Gift ≤ 20 g	MM^	M-3	C(3)(h)	C(3)(h)	None	None
	< 200 g	F-5	F-4	C(3)(a)	C(3)(b)	Div. B	Div. B
	≥ 200 g → < 1 kg	F-4	F-3	C(3)(c)	C(3)(c)	Div. B	Div. C
	≥ 1 kg → < 5 kg	F-3	F-2	C(3)(d)	C(3)(d)	Div. C	In Favor
	≥ 5 kg → < 20 kg	F-3	F-2	C(3)(e)	C(3)(e)	In Favor	In Favor
	≥ 20 kg → < 40 kg	F-2	F-1	C(3)(f)	C(3)(f)	Mand. 5, 6, 7, 8 yrs	Mand. F-1 max.
	≥ 40 kg	F-2	F-1	C(3)(g)	C(3)(g)	Mand. F-2 max	Mand. F-1 max
Cocaine: Powder or Crack	< 5g	F-5	F-4	C(4)(a)	C(4)(b)	Div. B	Div. C
	≥ 5 g → < 10 g	F-4	F-3	C(4)(c)	C(4)(c)	Div. B	In Favor
	≥ 10 g → < 20 g	F-3	F-2	C(4)(d)	C(4)(d)	In Favor°	Mand.
	≥ 20 g → < 27 g	F-2	F-1	C(4)(e)	C(4)(e)	Mand.	Mand.
	≥ 27 g → < 100 g	F-1	F-1	C(4)(f)	C(4)(f)	Mand.	Mand.
	≥ 100 g	F-1	F-1	C(4)(g)	C(4)(g)	MDO	MDO

* The schedule of controlled substances is in R.C. §3719.41.

^ Minor misdemeanor (MM) on first offense, M-3 on a subsequent offense.

S or J = The offense occurred in the vicinity of a school or juvenile.

MDO (Major Drug Offender) = Mandatory maximum term from F-1 range, R.C. 2929.14(A)(1).

Mand., or Mandatory = Judge must impose a prison term from range available for that offense level.

In Favor = A rebuttable presumption in favor of imposing a prison term.

Div. B = Sentencing is guided by R.C. §2929.13(B), the rules for F-4s and F-5s.

Div. C = Sentencing is guided by R.C. §2929.13(C).

In Favor° = Presumption in favor, but mandatory if 2 or more prior felony drug-abuse offenses.

Note: As used in this section, “drug” includes any substance that is represented to be a drug.

DRUG TRAFFICKING – O.R.C. §2925.03							
DRUG	AMOUNT	LEVEL S or J		DIVISION S or J		GUIDANCE S or J	
Controlled Substance Analog	< 10g	F-5	F-4	C(8)(a)	C(8)(b)	Div. C	Div. C
	≥ 10 g → < 20 g	F-4	F-3	C(8)(c)	C(8)(c)	Div. B	In Favor
	≥ 20 g → < 30 g	F-3	F-2	C(8)(d)	C(8)(d)	In Favor	In Favor
	≥ 30 g → < 40 g	F-2	F-1	C(8)(e)	C(8)(e)	Mand.	Mand.
	≥ 40 g → < 50 g	F-1	F-1	C(8)(f)	C(8)(f)	Mand.	Mand.
	≥ 50 g	F-1	F-1	C(8)(g)	C(8)(g)	MDO	MDO
LSD: Solid	< 10 UD	F-5	F-4	C(5)(a)	C(5)(b)	Div. B	Div. C
	≥ 10 UD → < 50 UD	F-4	F-3	C(5)(c)	C(5)(c)	Div. B	In Favor
	≥ 50 UD → < 250 UD	F-3	F-2	C(5)(d)	C(5)(d)	In Favor°	Mand.
	≥ 250 UD → < 1000 UD	F-2	F-1	C(5)(e)	C(5)(e)	Mand.	Mand.
	≥ 1000 UD → < 5000 UD	F-1	F-1	C(5)(f)	C(5)(f)	Mand.	Mand.
	≥ 5000 UD	F-1	F-1	C(5)(g)	C(5)(g)	MDO	MDO
LSD: Liquid	< 1 g	F-5	F-4	C(5)(a)	C(5)(b)	Div. B	Div. C
	≥ 1 g → < 5 g	F-4	F-3	C(5)(c)	C(5)(c)	Div. B	In Favor
	≥ 5 g → < 25 g	F-3	F-2	C(5)(d)	C(5)(d)	In Favor°	Mand.
	≥ 25 g → < 100 g	F-2	F-1	C(5)(e)	C(5)(e)	Mand.	Mand.
	≥ 100 g → < 500 g	F-1	F-1	C(5)(f)	C(5)(f)	Mand.	Mand.
	≥ 500 g	F-1	F-1	C(5)(g)	C(5)(g)	MDO	MDO
Heroin	< 1 g; < 10 UD	F-5	F-4	C(6)(a)	C(6)(b)	Div. B	Div. C
	≥ 1 g → < 5 g; ≥ 10 UD → < 50 UD	F-4	F-3	C(6)(c)	C(6)(c)	Div. B	In Favor
	≥ 5 g → < 10 g; ≥ 50 UD → < 100 UD	F-3	F-2	C(6)(d)	C(6)(d)	In Favor	In Favor
	≥ 10 g → < 50 g; ≥ 100 UD → < 500 UD	F-2	F-1	C(6)(e)	C(6)(e)	Mand.	Mand.
	≥ 50 g → < 250 g; ≥ 500 UD → < 2500 UD	F-1	F-1	C(6)(f)	C(6)(f)	Mand.	Mand.
	≥ 250 g; ≥ 2500 UD	F-1	F-1	C(6)(g)	C(6)(g)	MDO	MDO
Hashish: Solid	< 10 g	F-5	F-4	C(7)(a)	C(7)(b)	Div. B	Div. B
	≥ 10 g → < 50 g	F-4	F-3	C(7)(c)	C(7)(c)	Div. B	Div. C
	≥ 50 g → < 250 g	F-3	F-2	C(7)(d)	C(7)(d)	Div. C	In Favor
	≥ 250 g → < 1 kg	F-3	F-2	C(7)(e)	C(7)(e)	In Favor	In Favor
	≥ 1 kg - < 2 kg	F-2	F-1	C(7)(f)	C(7)(f)	Mand 5, 6, 7, or 8	Mand. F-1 max.
	≥ 2 kg	F-2	F-1	C(7)(g)	C(7)(g)	Mand. F-2 max.	Mand. F-1 max.

* The schedule of controlled substances is in R.C. §3719.41.

^ Minor misdemeanor (MM) on first offense, M-3 on a subsequent offense.

S or J = The offense occurred in the vicinity of a school or juvenile.

MDO (Major Drug Offender) = Mandatory maximum term from F-1 range, R.C. 2929.14(A)(1).

Mand., or Mandatory = Judge must impose a prison term from range available for that offense level.

In Favor = A rebuttable presumption in favor of imposing a prison term.

Div. B = Sentencing is guided by R.C. §2929.13(B), the rules for F-4s and F-5s.

Div. C = Sentencing is guided by R.C. §2929.13(C).

In Favor° = Presumption in favor, but mandatory if 2 or more prior felony drug-abuse offenses.

Note: As used in this section, “drug” includes any substance that is represented to be a drug.

DRUG TRAFFICKING – O.R.C. §2925.03							
DRUG	AMOUNT	LEVEL		DIVISION		GUIDANCE	
		S or J		S or J		S or J	
Hashish: Liquid	< 2 g	F-5	F-4	C(7)(a)	C(7)(b)	Div. B	Div. B
	≥ 2 g → < 10 g	F-4	F-3	C(7)(c)	C(7)(c)	Div. B	Div. C
	≥ 10 g → < 50 g	F-3	F-2	C(7)(d)	C(7)(d)	Div. C	In Favor
	≥ 50 g → < 200 g	F-3	F-2	C(7)(e)	C(7)(e)	In Favor	In Favor
	≥ 200 g - < 400 g	F-2	F-1	C(7)(f)	C(7)(f)	Mand 5, 6, 7, or 8	Mand. F-1 max.
	≥ 400 g	F-2	F-1	C(7)(g)	C(7)(g)	Mand. F-2 max.	Mand. F-1 max.

* The schedule of controlled substances is in R.C. §3719.41.

^ Minor misdemeanor (MM) on first offense, M-3 on a subsequent offense.

S or J = The offense occurred in the vicinity of a school or juvenile.

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Div. B = Sentencing is guided by R.C. §2929.13(B), the rules for F-4s and F-5s.

Div. C = Sentencing is guided by R.C. §2929.13(C).

In Favor° = Presumption in favor, but mandatory if 2 or more prior felony drug-abuse offenses.

Note: As used in this section, “drug” includes any substance that is represented to be a drug.

DRUG POSSESSION – O.R.C. §2925.11				
DRUG	AMOUNT	LEVEL	DIVISION	GUIDANCE
Schedule I or II*	< bulk	F-5	C(1)(a)	Div. B
	≥ bulk → <5 x bulk	F-3	C(1)(b)	In Favor
	≥ 5 → < 50 x bulk	F-2	C(1)(c)	Mandatory
	≥50 → <100 x bulk	F-1	C(1)(d)	Mandatory
	≥ 100 x bulk	F-1	C(1)(e)	MDO
Schedule III, IV, V*	< bulk	M-1†	C(2)(a)	None
	≥ bulk → <5 x bulk	F-4	C(2)(b)	Div. C
	≥ 5 → < 50 x bulk	F-3	C(2)(c)	In Favor
	≥ 50 x bulk	F-2	C(2)(d)	Mandatory
Marijuana	< 100 g	MM	C(3)(a)	None
	≥ 100 g → < 200 g	M-4	C(3)(b)	None
	≥ 200 g → < 1 kg	F-5	C(3)(c)	Div. B
	≥ 1 kg → < 5 kg	F-3	C(3)(d)	Div. C
	≥ 5 kg → < 20 kg	F-3	C(3)(e)	In Favor
	≥ 20 kg → < 40 kg	F-2	C(3)(f)	Mand. 5, 6, 7, or 8 years
	≥ 40 kg	F-2	C(3)(g)	Mandatory F-2 max.
Cocaine: Powder or Crack	< 5g	F-5	C(4)(a)	Div. B
	≥ 5 g → < 10 g	F-4	C(4)(b)	Div. B
	≥ 10 g → < 20 g	F-3	C(4)(c)	In Favor°
	≥ 20 g → < 27 g	F-2	C(4)(d)	Mandatory
	≥ 27 g → < 100 g	F-1	C(4)(e)	Mandatory
	≥ 100 g	F-1	C(4)(f)	MDO
LSD: Solid	< 10 UD	F-5	C(5)(a)	Div. B
	≥ 10 UD → < 50 UD	F-4	C(5)(b)	Div. C
	≥ 50 UD → < 250 UD	F-3	C(5)(c)	In Favor
	≥ 250 UD → < 1000 UD	F-2	C(5)(d)	Mandatory
	≥ 1000 UD → < 5000 UD	F-1	C(5)(e)	Mandatory
	≥ 5000 UD	F-1	C(5)(f)	MDO

* The schedule of controlled substances is in R.C. §3719.41.

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Mand., or Mandatory = Judge must impose a prison term from range available for that offense level.

In Favor = A rebuttable presumption in favor of imposing a prison term.

Div. B = Sentencing is guided by R.C. §2929.13(B), the rules for F-4s and F-5s.

Div. C = Sentencing is guided by R.C. §2929.13(C).

In Favor° = Presumption in favor, but mandatory if 2 or more prior felony drug-abuse offenses.

Note: As used in this section, “drug” includes any substance that is represented to be a drug.

ADDITIONAL FOOTNOTES FOR DRUG POSSESSION:

† **F-5** if the offender previously has been convicted of a drug-abuse offense.

In Favor°° = Presumption in favor, but mandatory 2- or 5-year minimum if 2 or more priors.

♦ Minimum prison term of 3 years for first offense, 5 years for second offense.

♣ If violation involves the sale or possession of such and court finds MDO, then mandatory max from range.

∞ Minimum prison term of 4 years for first offense, 5 years for second offense. Includes “public premises.”

DRUG POSSESSION – O.R.C. §2925.11				
DRUG	AMOUNT	LEVEL	DIVISION	GUIDANCE
LSD: Liquid	< 1 g	F-5	C(5)(a)	Div. B
	≥ 1 g → < 5 g	F-4	C(5)(b)	Div. C
	≥ 5 g → < 25 g	F-3	C(5)(c)	In Favor
	≥ 25 g → < 100 g	F-2	C(5)(d)	Mandatory
	≥ 100 g → < 500 g	F-1	C(5)(e)	Mandatory
	≥ 500 g	F-1	C(5)(f)	MDO
Heroin	< 1 g; < 10 UD	F-5	C(6)(a)	Div. B
	≥ 1 g → < 5 g; ≥ 10 UD → < 50 UD	F-4	C(6)(b)	Div. C
	≥ 5 g → < 10 g; ≥ 50 UD → < 100 UD	F-3	C(6)(c)	In Favor
	≥ 10 g → < 50 g; ≥ 100 UD → < 500 UD	F-2	C(6)(d)	Mandatory
	≥ 50 g → < 250 g; ≥ 500 UD → < 2500 UD	F-1	C(6)(e)	Mandatory
	≥ 250 g; ≥ 2500 UD	F-1	C(6)(f)	MDO
Hashish: Solid	< 5 g	MM	C(7)(a)	None
	≥ 5 g → < 10 g	M-4	C(7)(b)	None
	≥ 10 g → < 50 g	F-5	C(7)(c)	Div. B
	≥ 50 g → < 250 g	F-3	C(7)(d)	Div. C
	≥ 250 g → < 1 kg	F-3	C(7)(e)	In Favor
	≥ 1 kg - < 2 kg	F-2	C(7)(f)	Mand. 5, 6, 7, or 8
	≥ 2 kg	F-2	C(7)(g)	Mandatory F-2 max.
Hashish: Liquid	< 1 g	MM	C(7)(a)	None
	≥ 1 g → < 2 g	M-4	C(7)(b)	None
	≥ 2 g → < 10 g	F-5	C(7)(c)	Div. B
	≥ 10 g → < 50 g	F-3	C(7)(d)	Div. C
	≥ 50 g → < 200 g	F-3	C(7)(e)	In Favor
	≥ 200 g - < 400 g	F-2	C(7)(f)	Mand. 5, 6, 7, or 8
	≥ 400 g	F-2	C(7)(g)	Mandatory F-2 max.
Controlled Substance Analog	< 10g	F-5	C(8)(a)	Div. B
	≥ 10 g → < 20 g	F-4	C(8)(b)	In Favor
	≥ 20 g → < 30 g	F-3	C(8)(c)	In Favor
	≥ 30 g → < 40 g	F-2	C(8)(d)	Mandatory
	≥ 40 g → < 50 g	F-1	C(8)(e)	Mandatory
	≥ 50 g	F-1	C(8)(f)	MDO

* The schedule of controlled substances is in R.C. §3719.41.

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Div. B = Sentencing is guided by R.C. §2929.13(B), the rules for F-4s and F-5s.

Div. C = Sentencing is guided by R.C. §2929.13(C).

In Favor° = Presumption in favor, but mandatory if 2 or more prior felony drug-abuse offenses.

Note: As used in this section, “drug” includes any substance that is represented to be a drug.

ADDITIONAL FOOTNOTES FOR DRUG POSSESSION:

† **F-5** if the offender previously has been convicted of a drug-abuse offense.

In Favor°° = Presumption in favor, but mandatory 2- or 5-year minimum if 2 or more priors.

♦ Minimum prison term of 3 years for first offense, 5 years for second offense.

♣ If violation involves the sale or possession of such and court finds MDO, then mandatory max from range.

∞ Minimum prison term of 4 years for first offense, 5 years for second offense. Includes “public premises.”

ASSEMBLY OR POSSESSION OF CHEMICALS - §2925.041					
TO MAKE:	AMOUNT	LEVEL S or J		DIVISION S or J	
Schedule I or II*	Any	F-3	F-2	(C)	(C)
Methamphetamine	Any	F-3 F-2		(C)(1) (C)(2)	In Favor°° Mand. 3♦

* The schedule of controlled substances is in R.C. §3719.41.

^ Minor misdemeanor (MM) on first offense, M-3 on a subsequent offense.

S or J = The offense occurred in the vicinity of a school or juvenile.

MDO (Major Drug Offender) = Mandatory maximum term from F-1 range, R.C. 2929.14(A)(1).

Mand., or Mandatory = Judge must impose a prison term from range available for that offense level.

In Favor = A rebuttable presumption in favor of imposing a prison term.

Div. B = Sentencing is guided by R.C. §2929.13(B), the rules for F-4s and F-5s.

Div. C = Sentencing is guided by R.C. §2929.13(C).

In Favor° = Presumption in favor, but mandatory if 2 or more prior felony drug-abuse offenses.

Note: As used in this section, “drug” includes any substance that is represented to be a drug.

ADDITIONAL FOOTNOTES FOR ASSEMBLY OR POSSESSION OF CHEMICALS:

† **F-5** if the offender previously has been convicted of a drug-abuse offense.

In Favor°° = Presumption in favor, but mandatory 2- or 5-year minimum if 2 or more priors.

♦ Minimum prison term of 3 years for first offense, 5 years for second offense.

♣ If violation involves the sale or possession of such and court finds MDO, then mandatory max from range.

∞ Minimum prison term of 4 years for first offense, 5 years for second offense. Includes “public premises.”

DRUG MANUFACTURING AND CULTIVATION – O.R.C. §2925.04							
DRUG	AMOUNT	LEVEL S or J		DIVISION S or J		GUIDANCE S or J	
Schedule I or II*	Any	F-2	F-1	C(2)/E	C(2)/E	Mand.	MDO♣
Methamphetamine	Any	F-2 ♦		C(3)/E		Mand. 3♦	MDO♣
			F-1∞		C(3)/E	Mand. 4∞	MDO♣
Schedule III, IV, or V*	Any	F-3	F-2	C(4)	C(4)	In Favor	
Marijuana	< 100 g	MM	M-4	C(5)(a)	C(5)(a)	None	None
	≥ 100g → < 200g	M-4	M-3	C(5)(b)	C(5)(b)	None	None
	≥ 200 g → < 1 kg	F-5	F-4	C(5)(c)	C(5)(c)	Div. B	Div. B
	≥ 1 kg → < 5 kg	F-3	F-2	C(5)(d)	C(5)(d)	Div. C	Div. C
	≥ 5 kg → < 20 kg	F-3	F-2	C(5)(e)	C(5)(e)	In Favor	In Favor
	≥ 20 kg	F-2	F-1	C(5)(f)	C(5)(f)	Mand. 8 years	Mand. F-1 max

* The schedule of controlled substances is in R.C. §3719.41.

^ Minor misdemeanor (MM) on first offense, M-3 on a subsequent offense.

S or J = The offense occurred in the vicinity of a school or juvenile.

MDO (Major Drug Offender) = Mandatory maximum term from F-1 range, R.C. 2929.14(A)(1).

Mand., or Mandatory = Judge must impose a prison term from range available for that offense level.

In Favor = A rebuttable presumption in favor of imposing a prison term.

Div. B = Sentencing is guided by R.C. §2929.13(B), the rules for F-4s and F-5s.

Div. C = Sentencing is guided by R.C. §2929.13(C).

In Favor[°] = Presumption in favor, but mandatory if 2 or more prior felony drug-abuse offenses.

Note: As used in this section, “drug” includes any substance that is represented to be a drug.

ADDITIONAL FOOTNOTES FOR DRUG MANUFACTURING AND CULTIVATION:

† **F-5** if the offender previously has been convicted of a drug-abuse offense.

In Favor^{°°} = Presumption in favor, but mandatory 2- or 5-year minimum if 2 or more priors.

♦ Minimum prison term of 3 years for first offense, 5 years for second offense.

♣ If violation involves the sale or possession of such and court finds MDO, then mandatory max from range.

∞ Minimum prison term of 4 years for first offense, 5 years for second offense. Includes “public premises.”



OHIO CRIMINAL SENTENCING COMMISSION

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FELONY SENTENCING QUICK REFERENCE GUIDE

Ohio Criminal Sentencing Commission · Chief Justice Maureen O'Connor, Chair · Sara Andrews, Director
Prepared in cooperation with the Ohio Judicial Conference February 2015

PURPOSES AND PRINCIPLES. The sentence must comply with these purposes and principles—§2929.11(A):

- ☐ **Overriding Purposes:** Punish the offender and protect the public from future crime by the offender and others...
 - ☐ “using the **minimum sanctions** that the court determines accomplish the purposes without imposing an unnecessary burden on state or local government resources.”
- ☐ **Principles:** Always consider the need for incapacitation, deterrence, rehabilitation, and restitution—§2929.11(A)
 - ☐ Sentence should be commensurate with, and not demeaning to, the seriousness of offender's conduct and its impact on the victim and consistent with sentences for similar crimes by similar offenders—§2929.11(B)
 - ☐ Do not sentence based on the offender's race, ethnicity, gender, or religion—§2929.11(C)

FACTORS TO CONSIDER IN EVERY CASE. The court must weigh these, if present, and other relevant factor(s):

Offender's Conduct Is More Serious—§2929.12(B):

- ☐ Injury exacerbated by victim's physical or mental condition or age
- ☐ Victim suffered serious physical, psychological, or economic harm
- ☐ Offender held public office or position of trust and the offense related to the office or position
- ☐ Offender's occupation obliged the offender to prevent the offense or to bring those committing it to justice
- ☐ Offender's reputation, occupation, or office facilitated the offense or is likely to influence others' conduct
- ☐ Offender's relationship with the victim facilitated the offense
- ☐ Offender acted for hire or as part of organized criminal activity
- ☐ Offender was motivated by prejudice based on race, ethnicity, gender, sexual orientation, or religion
- ☐ In a domestic violence or assault case, offender is a parent or other custodian, victim was a family or household member, & offense was committed in the vicinity of one or more children other than the victim

Offender's Conduct Is Less Serious—§2929.12(C):

- ☐ Victim induced or facilitated the offense
- ☐ Offender acted under strong provocation
- ☐ Offender did not cause or expect to cause physical harm to person or property
- ☐ Substantial grounds exist to mitigate the offender's conduct, even if they don't constitute a defense

Offender's Recidivism Is More Likely—§2929.12(D):

- ☐ Offense while on bail, awaiting sentencing, on community control or PRC, or after PRC unfavorably terminated
- ☐ Offender has a history of criminal convictions or juvenile delinquency adjudications
- ☐ Offender has not responded favorably to sanctions previously imposed in adult or juvenile court
- ☐ Offender shows pattern of alcohol/drug use related to offense & doesn't acknowledge it or refuses treatment
- ☐ Offender shows no genuine remorse

Offender's Recidivism Is Less Likely—§2929.12(E):

- ☐ Offender has no prior juvenile delinquency adjudication
- ☐ Offender has no prior adult conviction
- ☐ Offender led a law-abiding life for a significant number of years
- ☐ Offense was committed under circumstances unlikely to recur
- ☐ Offender shows genuine remorse

MANDATORY PRISON TERMS. Note: General Assembly frequently changes this list and doesn't always include changes in §2929.13(F)'s list. Always check individual offenses.—§2929.13(F) & elsewhere:

- ☐ **Aggravated murder** (when death sentence not imposed) **or murder**—§2929.13(F)(1)
- ☐ **Assaults against peace officers:** felonious, aggravated, or simple assault when the victim is a peace officer or BCII investigator who suffered serious physical harm—§§2929.13(F)(4) & (13), 2903.11, 2903.12, & 2903.13
- ☐ **Assaults against pregnant woman:** felonious, aggravated, and simple assault if offender knew of pregnancy, with spec—§2929.13(F)(18) & §2929.14(B)(8)
- ☐ **Any other F-1 or F-2** when offender has **prior** agg murder, murder, F-1, or F-2 (§2929.13(F)(6)), including:
 - ☐ **Repeat Violent Offender (RVO)**—defined as person who commits agg murder, murder, a violent F-1 or F-2, or an F-1 or F-2 attempt of violence, with a prior conviction for one or more of the same—§2929.01(DD)
- ☐ **F-3 involuntary manslaughter or an attempt to commit a violent F-2 involving attempted or actual serious physical harm**, if offender has prior agg murder, murder, invol manslaughter, rape, or other F-1/F-2 causing death or physical harm—§2929.13(F)(4) & (7)
- ☐ **Certain sexual offenses:**
 - ☐ Any offense with a **sexually violent predator (SVP)** spec under §2929.13(F)(2), (11), & (15) & §2971.03
 - ☐ Any **rape** and—§2929.13(F)(2)
 - ☐ Attempted rape, if victim <13 &, if completed would be a sexual predator —§2929.13(F)(2)
 - ☐ **Sexual battery** if victim <13—§2929.13(F)(3)(c)(i)

- ☐ Before 8.3.06, if victim <13, with prior rape, FSP, GSI, or sexual battery—§2929.13(F)(3)(c)(ii)
- ☐ **Gross sexual imposition** if victim <13 (§2929.13(F)(3)(a) & (b)):
 - ☐ On and after 8.3.06, with corroboration of victim's testimony; or
 - ☐ Before 8.3.06, with prior rape, FSP, GSI, or sexual battery, but corroboration unneeded
- ☐ **Importuning**, with victim <13, if has prior sex offense or child-victim oriented offense—§2929.13(F)(4) & §2907.07(A), (C), & (F)(2)
- ☐ **SORN Law registration**: Repeat failure to register--§2950.99(A)(2)(b)
- ☐ **Certain drug offenses**:
 - ☐ **Major drug offenders** (MDO)—defined in §2929.01(X)
 - ☐ **F-1, F-2, and F-3 drug offenses** when the statute requires a mandatory term—§2929.13(F)(5) & Ch. 2925
- ☐ **Corrupt activity** if the most serious predicate offense is an F-1—§2929.13(F)(10) & §2923.32
- ☐ **Certain traffic offenses**:
 - ☐ Felony OVI when local incarceration is not imposed & for 5 priors in 20 yr. spec—§4511.19 & §2941.1413
 - ☐ Any OVI-related agg vehicular homicide (AVH) & agg vehicular assault (AVA)—§§2903.06 & 08
 - ☐ Certain other involuntary manslaughters, AVHs, vehicular homicides, & vehicular assaults when specified—§§2929.13(F)(14), §2903.04, 2903.06, & 2903.08
- ☐ **Human trafficking**: Kidnapping, abduction, compelling or promoting prostitution, corrupt activity, using minor in nudity-oriented material or performance, certain child endangering with §2941.1422 spec—(F)(4) & (16)
- ☐ **Felony domestic violence** under certain circumstances—§2929.13(F)(17) & §2919.25(D)(2)-(6)
- ☐ **Illegally conveying** improper items into facility by prison or detention employee—§2929.13(F)(12) & §2921.36
- ☐ **Various specifications for firearms, body armor, sexual activity, OVI, etc.** in Ch. 2941 (listed immediately below)—§2929.13(F)(8), (9), *etc.*; Typically, spec time is mandatory; underlying may not be

LENGTHS OF MANDATORY PRISON TERMS—General rule: select any term from the §2929.14(A) range, except as follows:

- ☐ **For proof of various specifications**—§2929.14(B)(1), (B)(5), (B)(6), (B)(7), (E), (G), & (H), *etc.*:
 - ☐ 6 years if automatic or muffled firearm (§2941.144 spec)
 - ☐ 3 years if other firearm used, displayed, brandished, or otherwise indicated (§2941.145 spec)
 - ☐ 1 year if other firearm not used, displayed, brandished, or otherwise indicated (§2941.141 spec)
 - ☐ 5 years if a drive-by shooting, plus the 6 or 3 year gun spec above (§2941.146 spec)
 - ☐ 2 years if wearing or carrying body armor (§2941.1411 spec)
 - ☐ 7 years if shot at peace or corrections officer in a homicide or attempted homicide (§2941.1412)
 - ☐ 1, 2, or 3 years for participating in a criminal gang (§2941.142 spec)—§2929.14(G)
 - ☐ 2 years for agg. murder, murder, or a violent F-1, F-2, or F-3 in a school zone (§2941.143 spec)—14(H)(1)
 - ☐ 5 years for agg vehicular homicide (AVH) with peace officer victim (§2941.1414 spec)
 - ☐ 3 years for AVH with 3 or more prior OVIs or equivalent offenses (§2941.1415 spec)
 - ☐ 6 months or 1, 2, 3, 4, or 5 years on 6th OVI in 20 years (§2929.13(G)(1) & (2) + §2941.1413 spec; §2929.24(E) + §2941.1416 spec)
 - ☐ AVH with 3 or more prior OVIs or equivalent offenses (§2941.1415 spec)—§2929.13(B)(6)
 - ☐ 5-25 years for attempted statutory rape if offender >16 and victim <13 (§2941.1418 spec)—§2971.03(A)(3)(e)(ii) or (B)(2)(a) & §2929.14(E)
 - ☐ 10-life for attempted statutory rape if offender >16 and victim <10 (§2941.1419 spec)—§2971.03(A)(3)(e)(iii) or (B)(2)(b)
 - ☐ 15-life for attempted rape if offender has prior attempted statutory rape (§2941.1420 spec)—§2971.03(A)(3)(e)(iv) or (B)(2)(c)
 - ☐ Various terms for various sexual offenses near a school (§2941.1421 spec)—§2929.14(H)(2)(a)(i), & (H)(2)(a)(ii) or §2929.24(F)(1)(a), (F)(1)(b)
 - ☐ Various terms for human trafficking offenses (§2941.1422 spec)—§2929.14(B)(7), §2905.32, *etc.*
 - ☐ Various terms for assaults on pregnant woman (§2941.1423 spec)—§2929.14(B)(8)(a) or §2929.24(F)
- ☐ **For Repeat Violent Offenders (RVO), etc.**:
 - ☐ *Must* impose maximum from basic range, plus 1 to 10 more years (§2929.14(B)(2)(b)) for:
 - ☐ RVO with ≥ 3 RVO offenses in 20 yrs, including current, if LWOP not required (§2941.149 spec)
 - ☐ *Must* impose maximum from basic range, but additional 1 to 10 years *optional* (§2929.14(B)(2) & (3)) for:
 - ☐ RVO or terrorism with RVO prior, if doesn't otherwise carry mandatory or LWOP (§2941.149 spec)
 - ☐ Attempted forcible child rape; alternately, 10 or more to life with §2941.1419 spec
 - ☐ Corrupt activity when most serious predicate is an F-1
 - ☐ Other RVOs: term from basic range mandatory. If court *elects* maximum from range, *may* add 1-10 more if basic term inadequate to punish & protect and demeaning to seriousness of offense (in F-2 cases, court also must find serious physical harm or attempt or threat to do so)—§2929.14(B)(2)(a)
- ☐ **For Major Drug Offenders (MDO)**:
 - ☐ F-1 maximum for MDO's specified, high quantity amounts, with §2941.1410 spec

- **For Marijuana/Hashish F-2 Trafficking, Possession, Cultivation:** (§§2925.03, 2925.04, 2925.11)
 - 20 to <40 k. marijuana, 1 to <2 k. solid hashish, or 200 to <400 g. liquid hashish: 4, 5, 6, 7, or 8 years
 - ≥40 k. marijuana, ≥2 k. solid hashish, or ≥400 g. liquid hashish: 8 years
 - In either case, if near school/juvenile: F-1 maximum
- For Trafficking in Persons (F1): (Sec. 2905.32(E)) 10, 11, 12, 13, 14, or 15 years
- **For certain other crimes:**
 - **OVI:** At least 60 days or at least 120 days, as specified for felony OVI—§4511.19(G) & §2929.13(B)(4)
 - **SVP:** At least 2 years to life for other sexual offenses with a sexually violent predator spec (§2971.03)
 - SORN Failure to Register/Report: felony of the same degree as the most serious charge in original crime
 - SORN Repeat Failure to Register/Report:** At least 3 years (§2950.99(A)(2)(b))

OPTIONAL PRISON TERMS. For anyone not facing a mandatory prison term, judge may choose a prison term &/or any community sanction(s)—§2929.13(A), 2929.15(A), etc.

F-1s, F-2s, "In Favor" Drug Offense, or Certain F-3s (theft of weapon (§2913.02(B)(4)), GSI with victim <13 (§2907.05(B)(2)) or F-3 importuning (§2907.07(F))): **Presumption in favor of a prison term**—§2929.13(D)(1)

- **To rebut the presumption**, court must **find** that non-prison sanction(s) would both (§2929.13(D)(2)):
 - Adequately protect the public and punish the offender because the factors indicating recidivism is less likely outweigh the factors indicating recidivism is more likely; *and*
 - Not demean seriousness of the offense because less serious factors outweigh more serious factors

- If no prison term (or if judicial release is later granted), state has **appeal** of right—§2953.08(B)

Other F-3s or "Div. C" Drug Offense: No guidance other than purposes and principles—§2929.13(C)

Certain F-4s & F-5s: Mandatory **1 year community control** sanction(s) if (§2929.13(B)(1)(a)(i)-(iii) & (b)(i)-(iii)):

- Most serious charge is an F-4 or F-5 that is not an offense of violence **and** the offender:
 - Did not cause physical harm to another person;
 - Did not have a firearm during offense;
 - Did not have prior felony at any time or prior misdemeanor offense of violence within 2 years; &
 - Did not violate conditions of bond
- If court believes no appropriate community sanction available to meet purposes & principles, it must stay sentencing and give DRC 45 days to identify appropriate sanction which, if named, court **must** impose
- Court may impose prison term if DRC does not name an appropriate sanction within 45 days—§2929.13(B)(1)(b)(iv) & (B)(1)(c)

Other F-4s, F-5s, or "Div. B" Drug Offenses: If mandatory 1 year community control **doesn't apply**, the court may impose a prison term if **find** whether *any* of these **9 factors** apply—§2929.13(B)(2):

- Physical harm to a person
- Attempt or actual threat of physical harm to a person with a deadly weapon
- Attempt or actual threat of physical harm to a person + prior conviction for causing such harm
- Offense related to public office/position held; position obligated offender to prevent it or to bring others to justice; or offender's reputation/position facilitated the crime or likely to influence others
- Offense was for hire or part of organized criminal activity
- Offense was a sex offense
- Offender served a prior prison term or was in prison at time of offense
- Offense was committed while offender was under community control or on bail or bond
- Offender committed the offense while possessing a firearm

~~**NOTE:** *State v. Foster* (2006) did not affect the findings above.~~

- If 2929.13(B)(1) does not apply, the court must comply with purposes and principles of sentencing. ~~If any of the 9 factors are found, court must impose a prison term if it finds both (§2929.13(D)(2)(a)).~~
 - ~~□ After weighing seriousness & recidivism factors, prison is consistent with purposes/principles &~~
 - ~~□ Offender is not amenable to an available community sanction.~~
 - ~~□ If none of the 9 factors are found—§2929.13(B)(2)(b)).~~
 - ~~□ Court must impose community control sanction(s) if consistent with the purposes & principles~~
 - If a prison term is imposed, defendant has **appeal** of right—§2953.08(A)(2)

LENGTH OF PRISON TERMS. General rule: Select a **definite** term from the §2929.14(A) ranges—See table

□ **Exceptions** requiring **indefinite sentences:**

- Aggravated murder (if death not imposed) & murder (LWOP or X to life)—§§2903.01 & .02 & 2929.02 & .03
- Rape of a person <13 (LWOP); other rape or sexual battery; or GSI of a person <13, with an SVP spec (2 to life)—§§2907.02, 2971.03(A), & 2941.147 spec
- Agg murder, murder, invol manslaughter in felony, felonious assault, & kidnapping with SVP & sexual motive (SM) specs (LWOP for murders, 2-life for others)—§§2971.03(A), 2941.147 (SM spec), & 2941.148 (SVP spec)
- Certain attempted rapes, sex offenses near school, human trafficking, assaults on pregnant women (terms vary)

☐ **Consecutive Prison Terms—General Rule:** presumption of concurrent terms (§2929.41(A)) with court discretion to impose consecutive sentences if necessary to protect/punish, not disproportionate, *and find* (§2929.14(C)(4)):

- ☐ Crimes committed while awaiting trial/sentencing, under sanction, or under post-release control;
- ☐ Two or more of the multiple offenses committed as a single course of conduct; and ~~harm~~ so great or unusual that a single term does not adequately reflect seriousness of the conduct; *or*
- ☐ Offender's criminal history shows that consecutive terms are needed to protect the public

NOTE: The findings above are allowed under *State v. Hodge* (2010), which modified *State v. Foster* (2006).

- ☐ Defendant may **appeal** consecutives exceeding the maximum for the worst offense involved—§2953.08(C)
you guys need to look at this one - it looks like we can leave as is to me, but you need to confirm - you can find it on page 11 of David's 86-337-487 summary document

Consecutive Prison Terms Required: When (§2929.14(C)(1), (2), & (3)):

- ☐ **Specifications:** Gun & other specs carry consecutive terms, served before underlying—§2929.14(C)(1)(a)-(c);
 - ☐ Spec time must be served prior to the term on the underlying offense
 - ☐ Underlying offense may not be mandatory for judicial release and other purposes
- ☐ Certain crimes committed by a prison, jail, *etc.* inmate or escapee (*e.g.*, riot, many escapes, *etc.*)—§2929.14(C)(2)
- ☐ Agg robbery or theft if take (or attempt to) a deadly weapon from a law enforcement officer—§2911.01(B) & §2913.02(A)—(C)(3)

RESIDENTIAL COMMUNITY SANCTIONS. Include, but not limited to (§2929.16; see §2929.01 for definitions):

- ☐ Community-based correctional facility (CBCF) for up to 6 months
- ☐ Jail or minimum security jail for up to 6 months (or up to 1 year for certain F-4 OVIs)
- ☐ Halfway house: no stated time limit, depends on program
- ☐ Alternative residential facility: another place for employment, training, education, treatment, *etc.*

NON-RESIDENTIAL SANCTIONS. Include, but not limited to (§2929.17; see §2929.01 for definitions):

- ☐ Day reporting: report to an approved location to participate in work, training, treatment, *etc.*
- ☐ House arrest and/or electronic monitoring and/or continuous alcohol monitoring
- ☐ Community service for up to 500 hours for felonies, which may be imposed on indigent & non-indigent persons; the 40-hour/month cap is no longer the law; how community service is credited is judge's discretion.
- ☐ Drug treatment: inpatient, outpatient, or both; court determines level of security
- ☐ Drug and alcohol use monitoring, including random drug testing
- ☐ Intensive probation supervision: frequent contact with supervising officer, *etc.*
- ☐ Basic probation supervision: contact with a supervising officer subject to conditions set by the court
- ☐ Monitored time: under court control subject to no conditions other than leading a law-abiding life
- ☐ Curfew: be at a designated place at a specific time
- ☐ Employment: obtain or retain a job
- ☐ Education or training
- ☐ Victim-offender mediation, with the victim's prior consent
- ☐ License violation report: inform an agency granting a business or professional license of the violation
- ☐ Counseling generally. In particular, if a parent or custodian sentenced for domestic violence or assault involving a family or household member committed in the vicinity of a child other than the victim

Sex Offender Registration and Reporting:

Tier 3 Offender: must report every 90 days for life

Tier 2 Offender: must report every 180 days for 25 years (juveniles report for 20 years, unless modified

Tier 1 Offender: must report every 12 months for 15 years (juveniles report for 10 years, unless modified

FINANCIAL SANCTIONS. Include, but not limited to (§2929.18(A); see §2929.01 for definitions):

- ☐ Restitution: for *any* economic loss (+ up to 5% collection charge), but not "non-economic" loss—§2929.18(A)(1)
 - ☐ Also see provisions specific to human trafficking in §2929.18(B)(8)
- ☐ Fines, including (§2929.18(A)(2)-(4)):
 - ☐ Conventional fine from ranges in §2929.18(A)(3)—See sentencing table
 - ☐ If the offender is an organization, see §2929.31
 - ☐ "State fine" or costs: imposed by statute for victims, public defense, law libraries—(A)(4)
 - ☐ "Day fine": standard % of offender's daily income over time, based on offense seriousness—(A)(2)
- ☐ Reimbursement of costs to administer any sanction (§2929.18(A)(5)) & monitoring devices, including:
- ☐ Pay-for-stay in jail, prison, *etc.* up to actual costs (jail repayment must be authorized by local govt.)

Financial sanctions for particular offenses:

- ☐ Drug offense fines (Ch. 2925 & §2929.18(B)):
 - ☐ F-1, F-2, F-3 drug offenses—mandatory fine at least 50% of the max. conventional fine—(B)(1)
 - ☐ F-1, F-2, F-3 drug trafficking "additional" fine = value of offender's property involved in or realized from the offense, or, if no property or undetermined value, additional fine under the (A)(3) ranges; capped at conventional fine maximum—§2929.18(B)(4)-(7); also see million dollar fine below

- ☐ Up to \$1 million for agg. murder, murder, or F-1, or for F-1, F-2, or F-3 drug offense, if 3 or more victims in instant or all such past crimes—§2929.32
- ☐ Felony OVI, mandatory fine specified by offense level—§2929.18(B)(3) & §4511.19(G)(1)(d) or (e)
- ☐ Arson—mandatory investigation & prosecution costs reimbursement—§2929.71
- ☐ **Forfeitures**—Ch. 2981 & Title 45:
 - ☐ Asset forfeiture, particularly in corrupt activity, drug, gang, & Medicaid fraud cases—Ch. 2981
 - ☐ Motor vehicle forfeiture for certain OVIs, DUSs, & wrongful entrustments—§§4510.11, .19, .203, *etc.*

Andrews, Sara

From: libref@sc.ohio.gov
Sent: Wednesday, February 11, 2015 3:59 PM
To: Andrews, Sara
Subject: Thank you for contacting the Supreme Court of Ohio Law Library
Attachments: FELONY SENTENCING TABLE 2015 updates.docx; 292914Prison_terms through March 23, 2015.rtf; 292918 Financial_sanctions through March 23, 2015.docx; 296728 Post-release_control changes through March 23 2015.docx; 292913Sentencing_guidelines through March 23, 2015.docx

----- REPLY ABOVE THIS LINE -----

The following response has been posted for question number #3283.

A
Sara,

This is a chart dealing with some complex sections of the ORC. The prison terms and maximum fines columns are fine. In the footnotes, ORC 2929.31 and .32 have not changed at all since the chart was published. I have added the new language for 2929.01(CC) regarding repeat violent offenders.

I have made a few changes but I think that you, Josh and Marta might be better at this one. I am attaching the current version of the ORC sections this chart references. I have highlighted all the new language since September 30, 2011. I have also included the removed language (you will see the strikethroughs). Please note ORC 2929.14 will go into effect March 23, 2015. I thought it best to go with the section that is going to be effective since it will take a couple of weeks for you to get this updated and out to people (no reason for it not to be current two weeks after you publish it).

I hope this will make it very easy for you to determine what needs changed on the chart. Please let me know if you have any questions.

A
Sincerely,

Erin N. Waltz | Library Public Services Manager | Supreme Court of Ohio
65 South Front Street ■ Columbus, Ohio 43215-3431
614.387.9668 (telephone) ■ 614.387.9659 (fax)
erin.waltz@sc.ohio.gov
www.supremecourt.ohio.gov

S
Your original question:

Update "Felony Sentencing Table"

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FELONY SENTENCING TABLE

Felony Level	Sentencing Guidance §2929.13(B)-(E)	Prison Terms §2929.14(A)	Maximum Fine ^a §2929.18(A)(2) & (3)	Repeat Violent Offender Enhancement §2929.14(B)(2)	Is Post-Release Control Required? §2967.28(B) & (C)	PRC Period §2967.28(B) & (D)(2)
F-1	Presumption for prison (also applies to "in favor" drug offenses)	3, 4, 5, 6, 7, 8, 9, 10, or 11 years	\$20,000	1, 2, 3, 4, 5, 6, 7, 8, 9, or 10 years	Yes	5 years, no reduction
F-2		2, 3, 4, 5, 6, 7, or 8 years	\$15,000			If sex offense, 5 years, no reduction;
F-3	No guidance other than purposes & principles (also applies to "Div.(C)" drug offenses)	9, 12, 18, 24, 30, or 36 months or 12, 18, 24, 30, 36, 42, 48, 54, or 60 months ^b	\$10,000	For F-2 involving attempted serious harm or for invol. manslaughter: 1, 2, 3, 4, 5, 6, 7, 8, 9, or 10 years; otherwise none	Yes if sex or violent offense; otherwise optional	
F-4	Mandatory 1 year community control for non-violent, no prior felony, <i>etc.</i> ^c Otherwise: If any of 11 factors & not amenable to other sanction(s), guidance for prison. ^c	6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, or 18 months	\$5,000	None	Yes if sex offense; otherwise optional	Otherwise, 3 years, reducible by Parole Board
F-5	If none of 11 factors, guidance against prison (also applies to "Div.(B)" drug offenses)	6, 7, 8, 9, 10, 11, or 12 months	\$2,500			

Exceptions: Indeterminate sentences for agg murder, murder, human trafficking, and certain sex offenses & crimes with sexual motivation.

Drug Offenses--Note penalties track degree of offense, but the sentencing guidance may be different than for other offenses at that felony level.

Repeat Violent Offenders are (§2929.01(CC)): Being sentenced for: agg. murder, murder, any F-1 or F-2 that is an offense of violence, or an attempt to commit any of these offenses if the attempt is a F-1 or F-2, with a prior conviction for one or more of the same offenses or their equivalents.

^a**Maximum Fines**—Cover conventional and day fines. There are exceptions in drug trafficking cases (§2929.18(B)(4)-(7)). And some offenses call for a superfine of up to \$1 million (§2929.32). For the fine if the offender is an organization, see §2929.31.

2929.18(B)(9) In addition to any other fine that is or may be imposed under this section, the court imposing sentence upon an offender for a felony that is a sexually oriented offense or a child-victim oriented offense, as those terms are defined in section 2950.01 of the Revised Code, may impose a fine of not less than fifty nor more than five hundred dollars.

^b**Higher F-3s**—The longer sentence range applies to agg vehicular homicides & assaults, sexual battery, GSI, sex with minor, & robbery or burglary with 2 or more separate agg or non-agg robberies or burglaries (see §2929.14(A)(3)(a)).

^c **F-4s & F-5s**—See **Certain F-4s & F-5s** (§2929.13(B)(1)(a)-(c)) & **Other F-4s, F-5s, or "Div. B" Drug Offenses** (§2929.13(B)(2) & (3)).

OHIO CRIMINAL SENTENCING COMMISSION—September 30, 2011–March 23, 2015

RISK ASSESSMENT—The court and its probation officers must use the risk assessment tool selected by DRC if the court orders an assessment of an offender for sentencing or other purposes—§5120.114(A).

SENTENCING HEARING—Required before imposing sentence for a felony—§2929.19

When Imposing a Prison Term—§2929.19(B)(2):

- ☐ **Prison Term(s)**—State a prison term basic range + any gun spec, RVO, MDO, consecutives, *etc.*
- ☐ **Post-Release Control**—Notify that, as part of sentence, PRC is **mandatory** (for F-1, F-2, violent F-3, or sex offense) or **optional** (for all others) for up to 5 years (for F-1 or sex offense) or up to 3 years (for all others).
 - ☐ Notify that violator could be sent to prison for up to 9 months, with maximum for repeated violations = 50% of stated prison term. For a new felony, offender may be sent to prison for the remaining PRC period, or 12 months, whichever is greater, + a prison term for the new crime (§2929.141)
- ☐ **Drugs**—Require offender to remain **free of illegal drugs** and that offender is subject to **random drug testing**
- ☐ **Earned Credit Notice**—Notify that the offender may be eligible to earn credit while in prison and that the credit isn't automatic—§2929.14(D)(3) & §2929.19(B)(2)(g)
- ☐ **SORN Notice**—Provide notices required by SORN Law (Ch. 2950), including duty to register—§2929.19(B)(3)
- ☐ **IPP Recommendation**—Optional: recommend for or against **boot camp or intensive program prison** (§2929.19(D) & §2929.14(I))
- ☐ **Risk Reduction Sentence**—Option to impose such on eligible, non-mandatory prison sentences, under which the inmate may be released by DRC after serving **80%** of the term—see §2929.143 & §5120.036 must notify subject to post release control after release from prison. DRC must adopt rules see §2929.19(B)(2)(c)&(d) & 2967.28(A)(4),(B)-(E) DRC required to provide relates assessment, programs, treatment

When Not Imposing a Prison Term—§2929.19(B)(4): **Directly sentence** to community control sanction(s) and

- ☐ Notify that, if **violated**, court *may* impose longer time, more restrictive sanction, or a specified prison term
- ☐ Before imposing financial sanction(s), consider offender's present and future **ability to pay**—(B)(5)
- ☐ If local incarceration imposed, specify, if appropriate, offender must **reimburse costs** of confinement—(B)(6)

REVERSE BINDOVERS—If the court is sentencing an offender who was transferred from a juvenile court and:

- ☐ If the ultimate conviction is for an offense that would not be subject to mandatory *or* discretionary bindover, the court must transfer the case back to juvenile court for disposition—§2152.122(B)
- ☐ If the ultimate conviction is for an offense that would not be subject to mandatory bindover, but could be subject to discretionary bindover, the court must impose an adult sentence, stay that sentence, and transfer the case back to juvenile court for a blended (serious youthful offender) disposition—§2152.121(B)(3)
the court and other agencies with a record of conviction or guilty plea must expunge & treat as if never occurred (and for other purposes, treat as if it were delinquency adjudication) div.(B)(2)
- ☐ For details and effect of prosecutorial objection see §2152.121 & §2152.122

CONCURRENT SUPERVISION—For the rules governing the supervision of offenders subject to community control by more than one court see §2951.022

JUDICIAL RELEASE—§2929.20

- ☐ **Eligibility:** Any non-mandatory term, except certain offenses by public office holders—(A)(1)(b)
 - ☐ If serving eligible non-mandatory term consecutive to a mandatory term, eligible after serving mandatory A PSI is not necessary to grant judicial release
- ☐ **Filing Deadlines** based on aggregate non-mandatory terms—§2929.20(C):
 - ☐ If < 2 years, can file 30 days after entering prison or 30 days after mandatory term(s) expires
 - ☐ If 2 to < 5 years, can file 180 days after entering prison or 180 days after mandatory term(s) expires
 - ☐ If 5 years, can file 4 years after entering prison or 4 years after mandatory term(s) expires
 - ☐ If > 5 to 10 years, can file 5 years after entering prison or 5 years after mandatory term(s) expires
 - ☐ If > 10 years, can file once 50% is served after entering prison, or 5 years after mandatory term(s) expires, whichever is later
- ☐ **Hearing:** May deny without hearing. Must hold hearing to grant
 - ☐ **Presumption:** Against granting to F-1 or F-2
Under Roberta's Law, the victim or victim's representative must be notified of the hearing if the offense was an offense of violence and an F1, F2, or F3 (the court notifies the prosecutor and the prosecutor notifies the victim)
If a motion for judicial release is denied after a hearing, the court cannot consider a subsequent motion for judicial release
- ☐ **80% Judicial Release**—Initiated by DRC within 90 days of offender's serving 80%—§2967.19
 - ☐ **Procedures:** Similar to regular judicial release

SB 143 also made a few changes to TRANSITIONAL CONTROL and the judicial veto. There is currently no section for transitional control on this reference guide, but I think it impacts sentencing and should be included. Also, importantly, SB 143 made the Commission of Felony While on Transitional Control a factor in considering someone more likely to re-offend, with an additional sentence of up to 1 year (2929.12(D)(1) and 2929.141(B) /similar to PRC-- I think that is important enough to be included.

INTERVENTION-IN-LIEU OF CONVICTION—§2951.041

Impact: Before guilty plea and after hearing & assessment, court may accept defendant's request—div. (A)(1)

If granted, court must take guilty plea and place defendant under probationary, APA, or other appropriate supervision, to follow an intervention plan—divs. (C) & (D)

If court finds defendant successfully completed, it must dismiss all proceedings—div. (E)

If, after a hearing, court finds defendant failed to complete, it must impose sentence—div. (F)

Eligible: These defendants, if **alcohol, other drug usage, mental illness, or intellectual disabilities** were a factor in the offense charged (subject to ineligibility rules, below):

Any offense, specifically including theft, unauthorized use of a vehicle, passing bad checks, forgery, nonsupport, F-5 drug trafficking, F-4 drug possession, *etc.*—div. (A)(1)

Any offender with no prior felony offense of violence or prior I-in-L—div. (B)(1)

Any offender with prior felony that wasn't offense of violence, with prosecutor's approval—(B)(1)

Ineligible: However, defendants charged with the following aren't eligible:

Corrupting another with drugs; drug manufacture/cultivation; steroid violations; F-1, F-2, F-3, or F-4 drug trafficking; F-1, F-2, or F-3 drug possession—div. (B)(3)

Tampering with drugs if physical harm to a person or the defendant had prior drug treatment—(B)(8)

Any other: F-1, F-2, F-3; offense of violence; OVI carrying mandatory prison or jail term; OVI-related, reckless, or construction zone vehicular homicide; OVI-related vehicular assault—div. (B)(2)

An offense in which the victim was ≥ 65 , < 13 , a peace officer on duty, or permanently & totally disabled—div. (B)(7)

OHIO CRIMINAL SENTENCING COMMISSION

65 South Front Street • Fifth Floor • Columbus • 43215 • Telephone: (614) 387-9305 • Fax: (614) 387-9309

Chief Justice Maureen O'Connor
Chair

Sara Andrews
Director

February 19, 2015 Ohio Criminal Sentencing Commission

Director's Report

I. Membership Update:

Review Draft Roster

II. Reports/Quick Reference Guides

OJC, Library and PIO
Draft Review - including retired Judges

III. Supreme Court Support:

Library - record retention, archiving, research

Public Information - website, OG TV, publications, logo-branding

IV. Notable Meetings, Collaboration and Opportunities

Task Force on Community-Police Relations

OJC - Legislative Committee, Criminal Law & Procedure Committee, Municipal Court & DRC meeting

Heroin Partnership Project interview - Ross County and Circleville Municipal

OJACC

DRC JRI and future funding model

Channel 4 interview – update and info from Columbus City Attorney's Office, Director Prosecution Resources Unit, Robert Tobias. Update at April meeting.

Legislative Meetings:

House Minority Leader Strahorn 02-02-15 (with Judge Marcelain)
Senator Eklund 02-02 (with Judge Marcelain)
Representative Butler 02-03 (with Judge Marcelain)
Senator Seitz 02-05
Scott Lundgren on behalf of Speaker Rosenberger 02-09
Senate Minority Leader Schiavoni 02-11
Senate Criminal Justice Committee (thanks of OJC) 02-11
Representative Cupp 02-12
Senator Thomas 02-17
Senator Williams (grand jury) 02-17
Senator Bacon 02-17
Representative Manning 02-17
House Judiciary Committee meeting 02-17
Director Plouck 02-18
Senator Hughes (aide) 02-18
Senate Criminal Justice Committee - presentation 02-18
Frank Strigari - Senate Chief Legal Counsel 02-19

Upcoming Meetings and/or awaiting date confirmation:

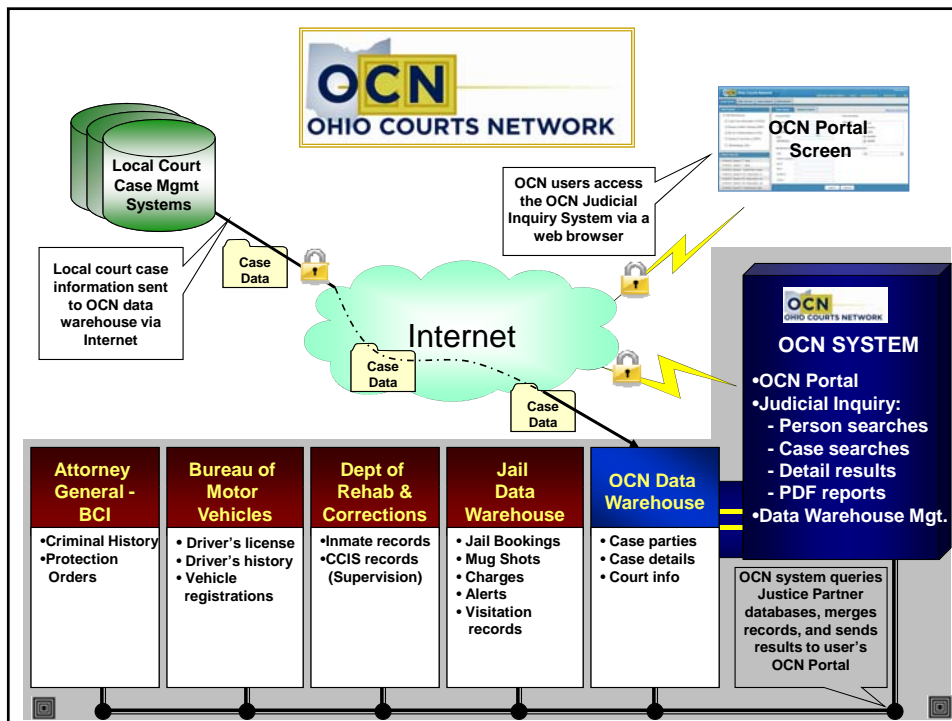
Senator Bacon 03-03-15
Senator Faber
Senator Obhof
Senator Lehner
Senator Ueker
Senator Skindell
Representative Greta Johnson
Representative Stinziano
Representative Antani
Representative Conditt
Representative Celebrezze
Representative Dever
Representative McColley
Representative Rezabek
Representative Sykes

The Ohio Courts Network Includes:

- Centralized data warehouse of court case-related information
- Portal and screen views to access information, manage ID's and security, and view reports
- Connectivity to the data of justice system partners (currently BMV, BCI, ODR, and Jails)
- Secure Internet-based communication network, to access and exchange data
- Access to court data by justice system partners



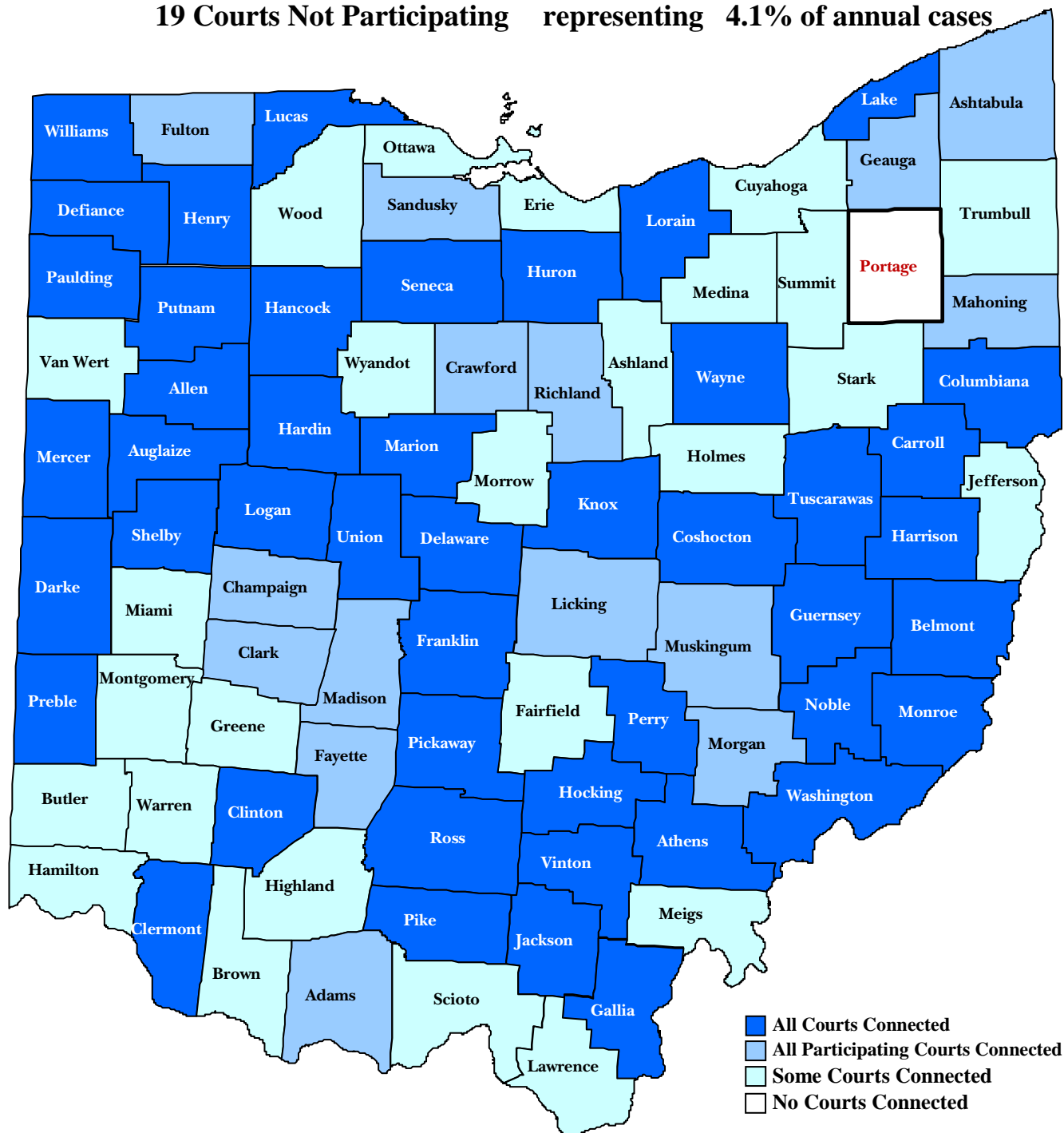
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Court Summary

46 Counties with All Courts Connected

308 Courts Complete	representing 86.2% of annual cases
12 Courts Coming Soon	representing 1.9% of annual cases
32 Courts Unable to Connect	representing 7.8% of annual cases
19 Courts Not Participating	representing 4.1% of annual cases



The courts of appeals for the 12 appellate districts are not reflected in the court counts above. The official record for each case is filed with the Clerk of Courts for the Common Pleas Court for each county in the district.

Complete are those courts that are regularly sending updates to the OCN.

Coming Soon are those courts that will soon be sending regular updates to the OCN.

Unable to Connect are those courts that have signed a Memorandum of Understanding and will begin sharing data with the OCN when their technology will allow.

Courts Not Participating are those courts that have elected not to sign a Memorandum of Understanding and will not be submitting data to the OCN.



Promoting Wellness and Recovery

John R. Kasich, Governor
Tracy J. Plouck, Director

OhioMHAS Updates

Sentencing Commission

February 19, 2015

Tracy J. Plouck, Director
Mark Hurst, M.D., Medical Director

Agenda

- OhioMHAS background
- FY 14/15 progress
- Plans for FYs 16/17 (highlights)
- Questions and discussion

OhioMHAS Background

- 6 regional psychiatric hospitals
- Linkage workers and OASIS at DRC
- Community subsidies and grants
- Regulatory functions

Our Hospitals

- Appalachian Behavioral Healthcare – Athens
- Heartland Behavioral Healthcare – Massillon
- Northcoast Behavioral Healthcare – Northfield
- Northwest Ohio Psychiatric Hospital – Toledo
- Summit Behavioral Healthcare – Cincinnati
- Twin Valley Behavioral Healthcare – Columbus

Bureau of Criminal Justice

- Christopher Nicastro – Chief
- A sample of programs overseen by the Bureau:
 - Community Linkage
 - TASC
 - Circle for Recovery
 - Drug Court
 - Specialized Dockets Payroll Subsidy (more on that later)
 - Ex-Offender MH Stop-Gap Mini Grant
 - Criminal Justice Coordinating Center of Excellence
 - Indigent Driver Alcohol Treatment Fund

Community Linkage

- Provide linkage services to all ODRC prisons and ODYS facilities
- Provide continuity of mental health care for offenders leaving ODRC or ODYS
- Reduce de-compensation rates of released offenders to increase chances of recovery and successful reintegration
- Reduce recidivism of offenders with mental illness who are involved in the criminal justice system

Community Linkage

- Build and strengthen information sharing and alliances across systems
- Enhance public safety by arranging post-release mental health services, recovery supports and benefits
- Assisting with SSI/SSDI benefit applications
- Assisting with Medicaid benefit applications
- In the past year has expanded to include the AOD population

Treatment Alternatives to Safer Communities (TASC)

- Designed to improve service provisions to nonviolent alcohol and drug dependent felons and misdemeanants under the jurisdiction of the court/ probation/ parole system.
- 14 TASC programs located throughout Ohio.
- Managed and staffed by employees of the courts that provide jurisdiction over the TASC programs.
- The mission of these programs is to build a bridge between the criminal justice and treatment systems.

Circle for Recovery

- Located in and administered by a total of nine Urban Minority Alcohol and Drug Addiction Outreach Programs (UMADAOPs) across the state of Ohio.
- The objective is to prevent relapse of chemical dependency and criminal recidivism primarily among African-American adult parolees.
- In addition to providing services to prevent relapse, they provide the following services: employment/vocational, GED/education, health education including AIDS/HIV/STD education, relationship education, peer support, violence prevention, and crisis intervention services.

Drug Courts

- Drug court funds administered by OhioMHAS are designed to provide 1st or 2nd time substance-abusing offenders with an opportunity to receive substance abuse treatment in lieu of incarceration.
- Drug court programs create treatment teams that are made up of probation officers, prosecutors, defense counsel, substance abuse treatment personnel, TASC personnel, schools, children's services personnel and other ancillary service providers.
- The treatment team meets with the judge to staff cases, provide updates, and make recommendations based on participant performance.

Ex-Offender MH Stop Gap Mini Grant

- Provides mini grants to 21 counties in Ohio to expand the capacity and/or services to the SPMI forensic population leaving prisons, jails, and Community Correction Programs.
- Funding is utilized to provide direct services for a limited number of days prior to (in-reach) and upon release.
- Programs include CPST (individual or group), MH Assessment (non-physician or physician), pharmacological management, crisis intervention, housing assistance (short term 7 days maximum), as well as other services if clinically appropriate. All services are provided at a level that prevents decompensation and aids in stabilization.

Criminal Justice Coordinating Center of Excellence

- The Criminal Justice CCOE promotes the sequential intercept model, which includes interventions to help individuals with mental illness obtain appropriate treatment and avoid entering or sinking deeper into the criminal justice system.
- The CCOE provides crisis intervention team training to law enforcement and emergency service providers.
- The CCOE is a collaborative effort involving the Summit County ADAMH Board, Northeastern Ohio University's Colleges of Medicine and Pharmacy and NAMI Ohio.

Indigent Drive Alcohol Treatment Fund

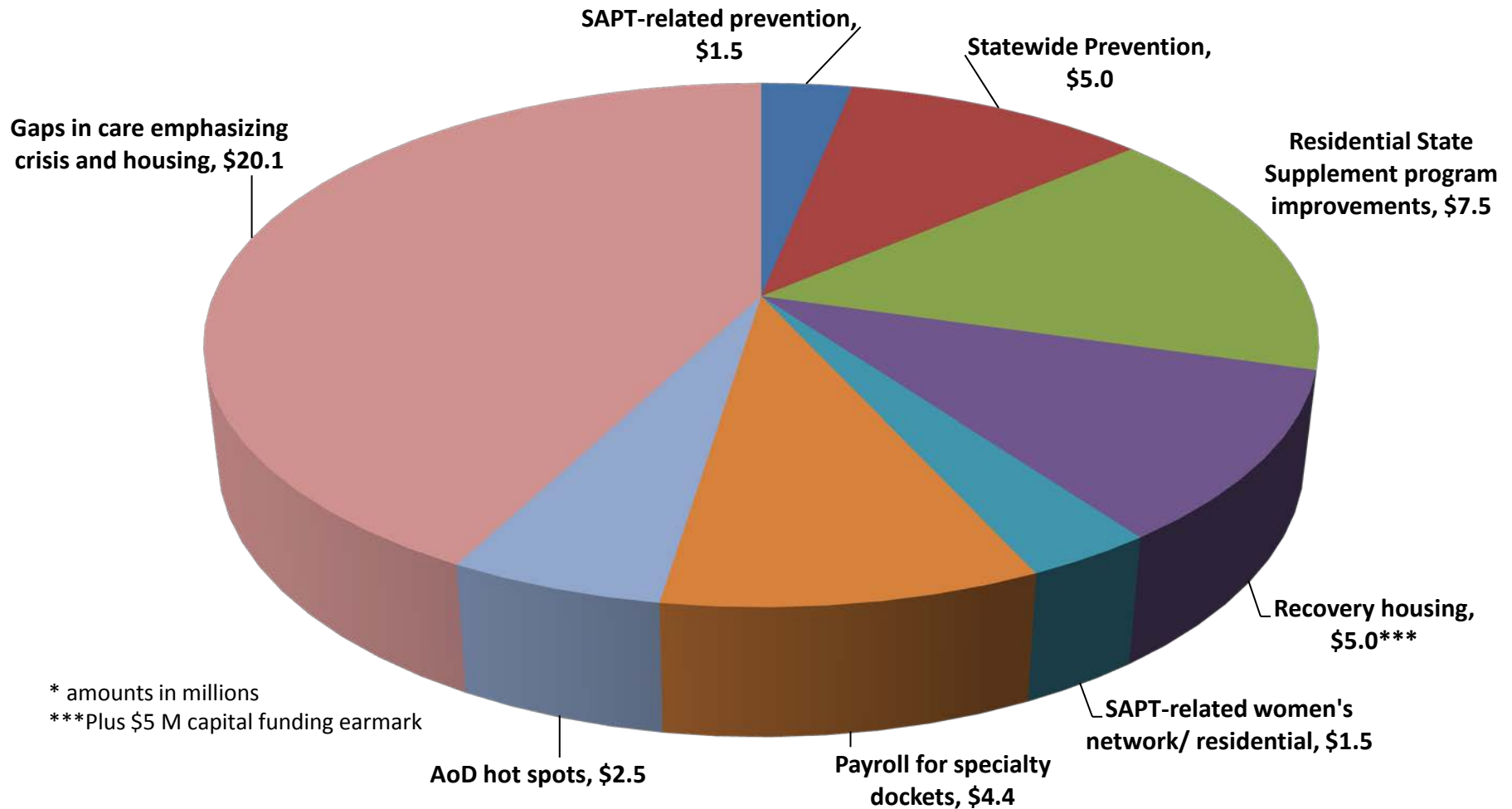
- IDAT is a funding mechanism for substance abuse treatment services for convicted indigent OVI offenders who have a diagnosis of alcohol, other drug abuse or dependence. This enables courts in Ohio to utilize necessary additional treatments services for offenders charged with operating a vehicle under the influence of alcohol or drugs.
- Municipal, county and juvenile courts have IDAT accounts.
- Common Pleas courts and mayors' courts do not have the same statutory authority to create and maintain an IDAT account.
- Surplus IDAT funds can be used for alcohol and drug assessments and treatment for indigent people if substance abuse was a contributing factor of the offense.

FY 14/15 Progress

- Community Innovations: \$1.5 million/year
- Specialty dockets
- Recovery housing
- Other

MBR Funding Distribution

Distribution of ALI \$47.5 million for FY 15



Specialty dockets

Purpose: MBR earmarked \$4.4M in FY 15 **to defray a portion of the annual payroll costs** associated with the employment of one staff member of a Family Dependency Treatment Court.

Specialty dockets

Eligibility Requirements

- A Common Pleas, Municipal, or County Court (including Juvenile or Family Courts) that is certified by the Supreme Court of Ohio for a specialized docket that targets participants with a drug addiction or dependency; and

Specialty dockets

Eligibility Requirements

- The specialty docket staff must be trained in alcohol and other drug abuse and addiction;
- The staff must demonstrate an understanding of their training to engage a person in treatment and recovery; and
- The staff must have an understanding of social service systems and the criminal justice systems.

Specialty dockets

Funding methodology (as defined in the legislation): One-time direct funding to the courts

- The amount of compensation and fringe benefits (total payroll cost) of a FTE or FTE equivalent will be up to 65% of the payroll cost not to exceed \$50,700.

Addiction Treatment Pilot Program

- \$5 million appropriated to Specialty-docket drug courts in six counties (Crawford, Franklin, Hardin, Mercer, Allen and Hocking).
- The program provides addiction treatment, including medication-assisted treatment, to persons who are offenders within the criminal justice system, eligible to participate in a certified drug court program, and dependent on opioids, alcohol or both.

Recovery Housing

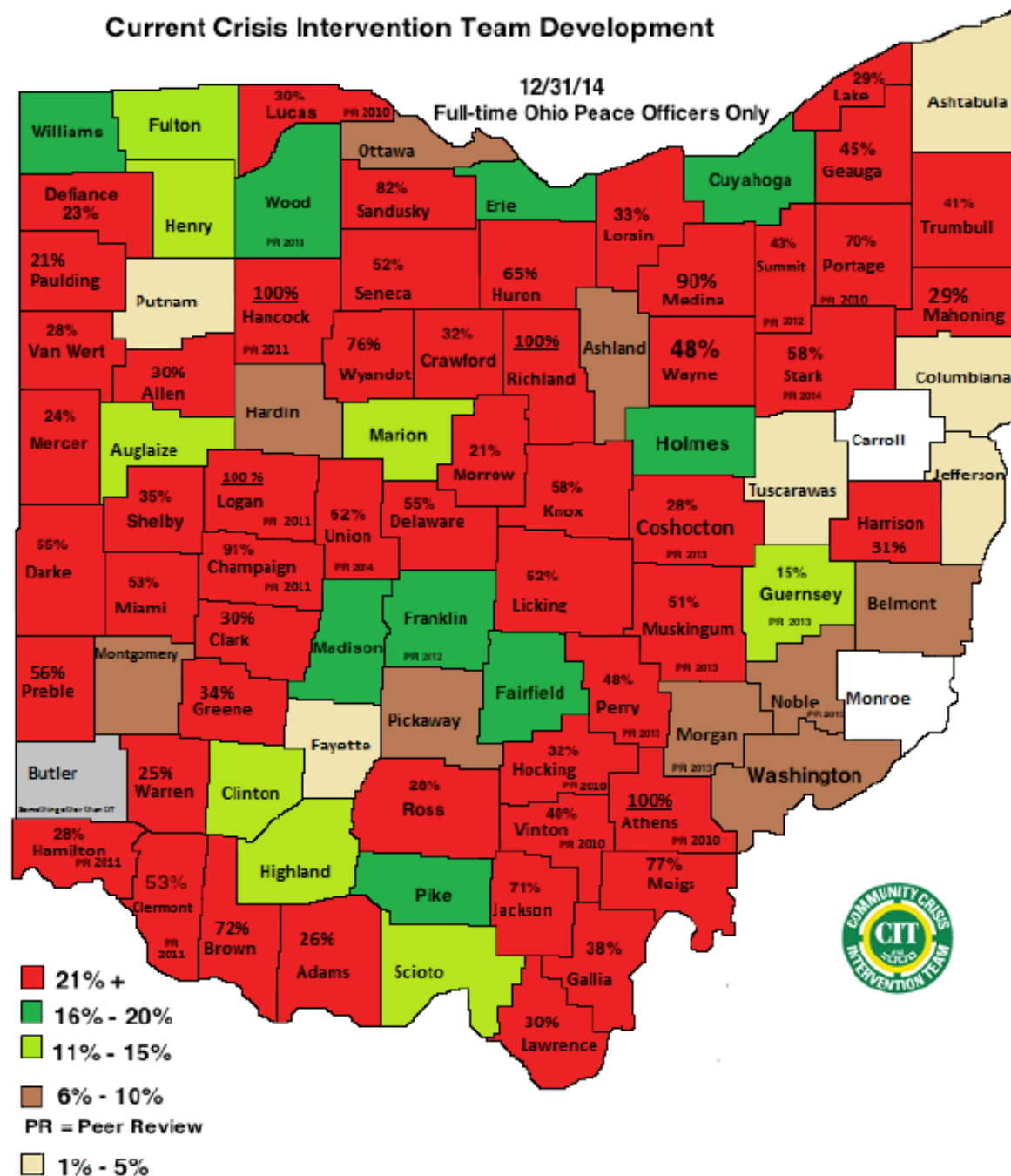
- \$10 million in funding to strengthen and expand housing options for Ohioans seeking a fresh start in recovery from addiction.
- Will expand Ohio's recovery housing capacity by nearly 660 beds.

Crisis Intervention Team training

Selected CIT Training Highlights from May 2000 – Dec 2014:

- Total of 86 Ohio Counties = 7,495 out of 23,714
- Full-Time officers = 31%
- 536 Ohio Law Enforcement Agencies (out of 968 = 55%), including:
 - 77 Ohio County Sheriff's Offices = 1,422 Deputies
 - 49 State Highway Patrol Troopers
 - 54 Ohio Colleges/Universities = 393 trained Officers/Security
 - 597 Corrections Officers
 - 155 Probation Officers & 65 Parole Officers
 - 188 Hospital Security Officers
 - 93 Park Rangers
 - 227 Police Dispatchers

Current Crisis Intervention Team Development



Community Innovation grants

Overview:

- A significant percentage of individuals incarcerated in jails have diagnosable mental illness and/or substance abuse disorder.
- Many of these individuals repeatedly shift between the criminal justice and the behavioral health system and experience poor outcomes.
- The ability of jails to treat inmates with behavioral health disorders is limited.

Community Innovation grants

Needs Identified:

- Divert appropriate individuals from the legal system and into behavioral health services
- Identify and treat inmates with behavioral health problems while incarcerated
- Promptly link them to behavioral health services upon release to improve both health and legal outcomes for these individuals

Community Innovation grants

Objectives:

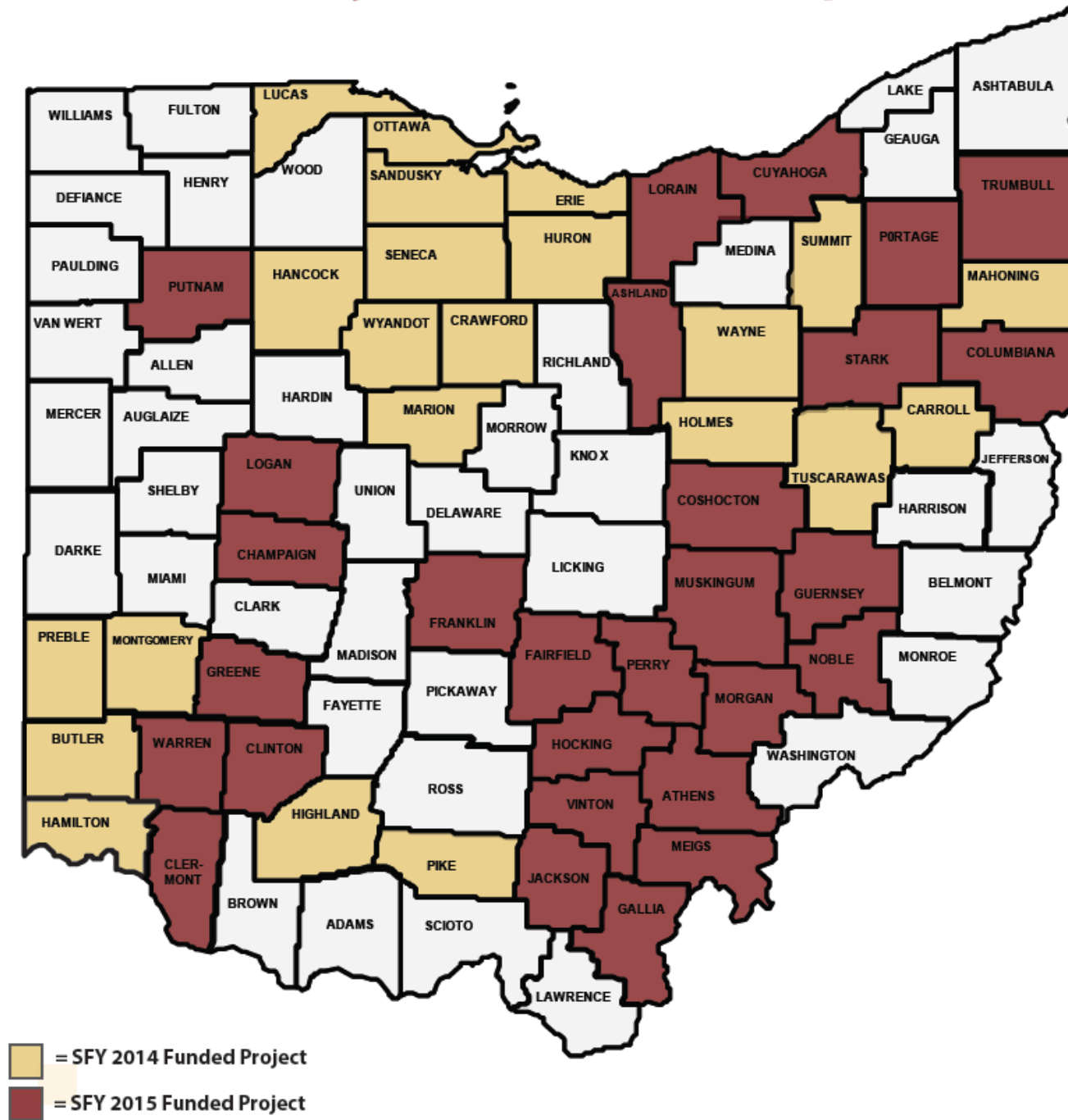
- Reduce state and local correction costs
- Reduce recidivism
- Promote public safety
- Promote behavioral health treatment
- Support local partnerships
- Increase/develop community capacity

Community Innovation grants

Funding:

- \$1.5 million for FY14 and \$1.5million for FY15
- 12 projects were funded in FY14
- 17 projects were funded in FY15
- Serving 24 counties in FY14 and 30 counties in FY15

Community Innovations Fund Recipients



Trauma-Informed Care

- With technical assistance from National Center for Trauma-Informed Care, regional teams are identifying strategies to meet local needs
- OhioMHAS is working with Ohio Council & others to plan specialized focus for youth residential providers
- Contact: Kim.Kehl@mha.ohio.gov

Adverse Childhood Experience (ACE) categories

Abuse

- Emotional
- Physical
- Sexual

Neglect

- Emotional
- Physical

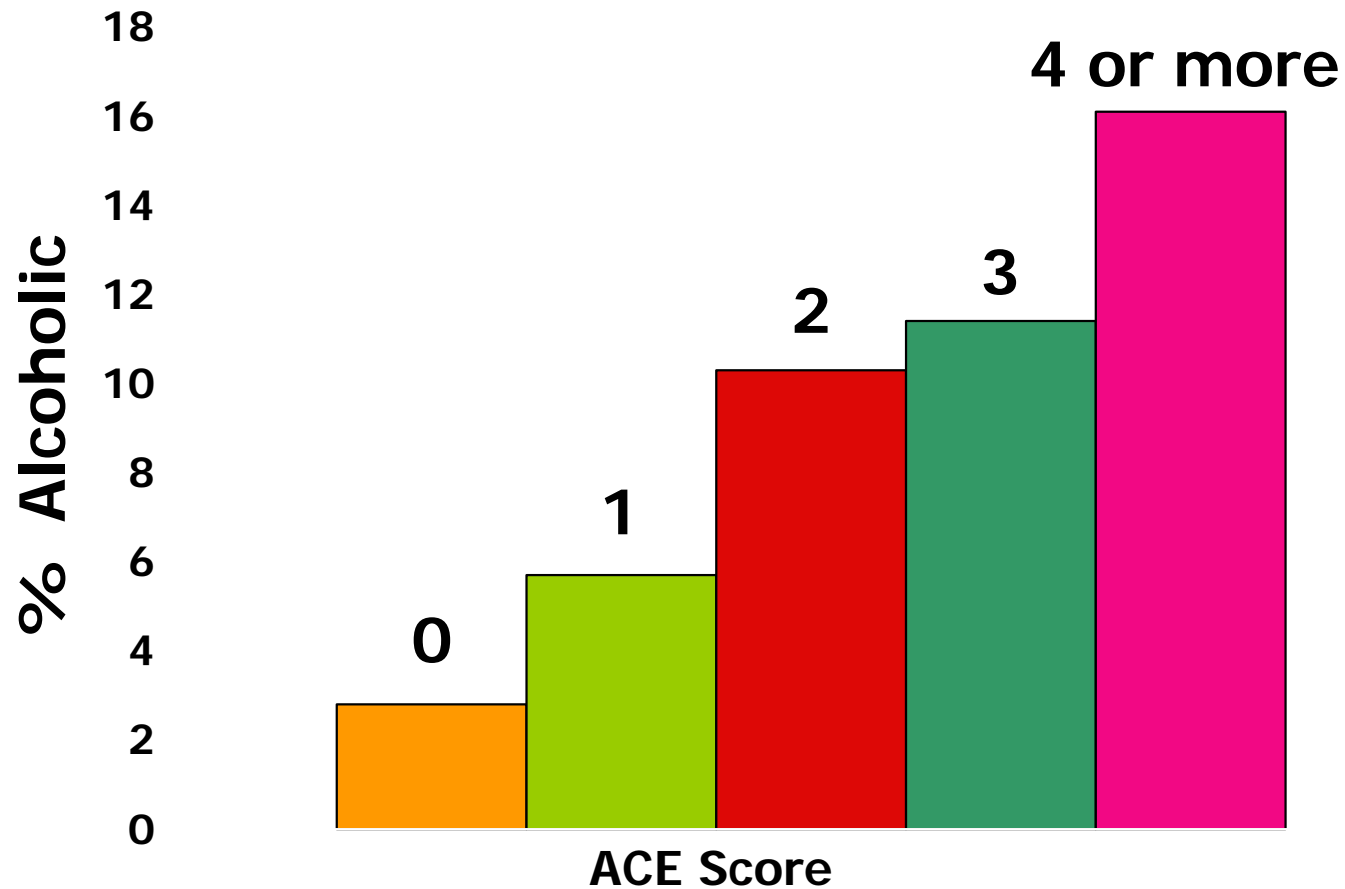
Household Dysfunction

- Mother Treated Violently
- Household Substance Abuse
- Household Mental Illness
- Parental Separation or Divorce
- Incarcerated Household Member

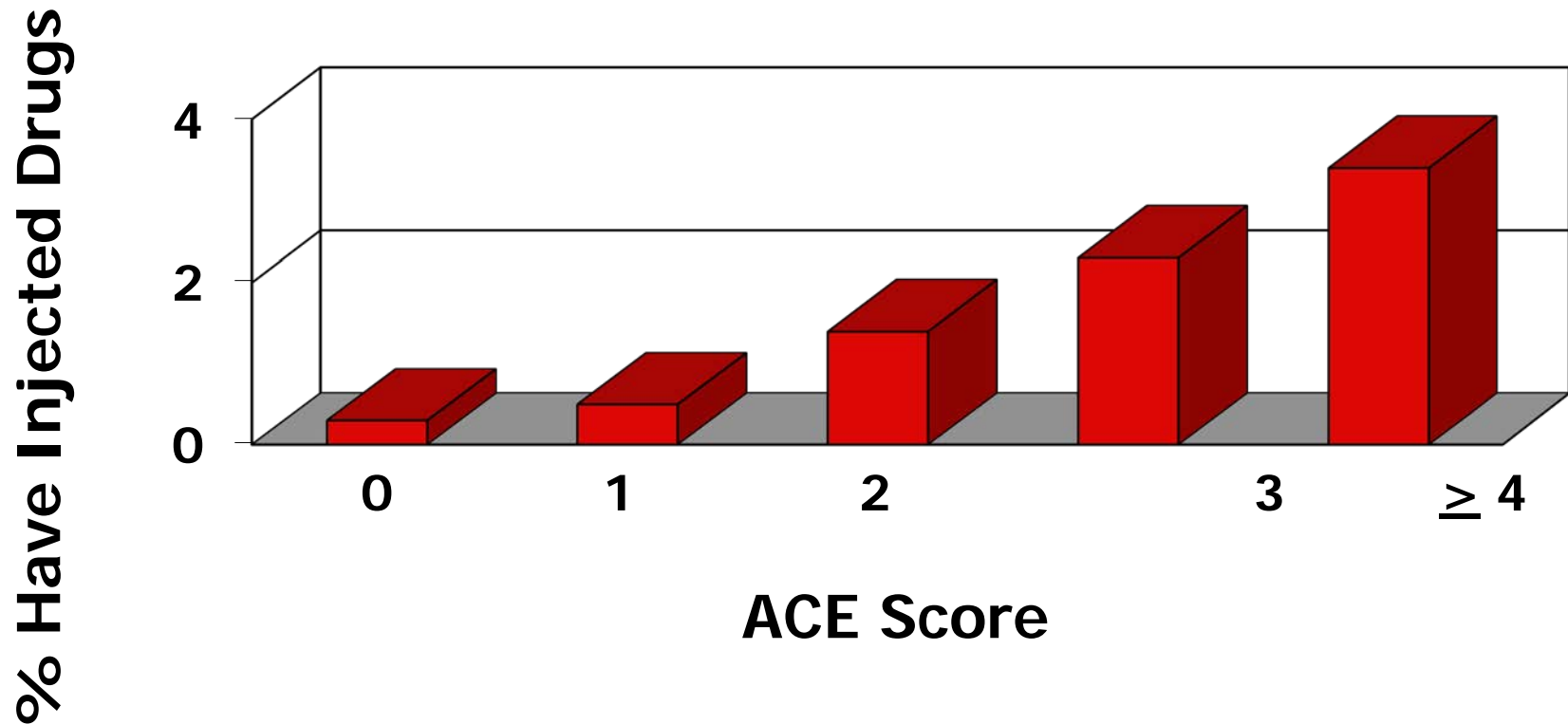
Number of ACE categories

ACE SCORE	WOMEN	MEN	TOTAL
0	34.5	38.0	36.1
1	24.5	27.9	26.0
2	15.5	16.4	15.9
3	10.3	8.6	9.5
4 or more	15.2	9.2	12.5

Childhood experiences and adult alcoholism



ACE score and IV drug use



ACE score and IV drug use

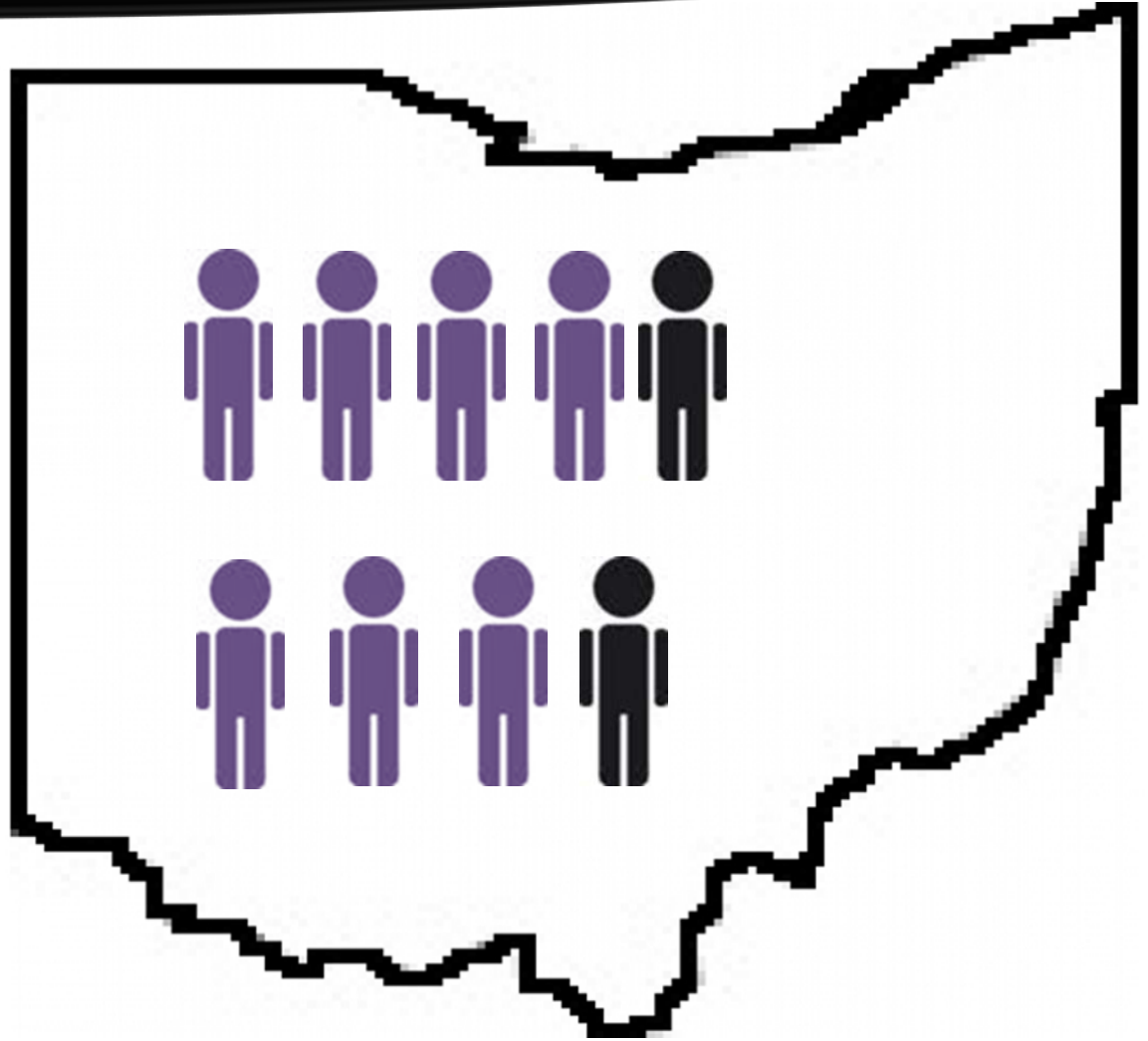
"A male child with an ACE score of 6 has a 4600% increase in likelihood of later becoming an IV drug user when compared to a male child with an ACE score of 0. Might drugs be used for the relief of profound anguish dating back to childhood experiences? Might it be the best coping device that an individual can find?"

-Felitti, 1998

Trauma and Domestic Violence

Of families who experience intimate partner violence:

- Four out of five adult children *commit* violence against partners
- Three out of four adult children become *victims* of domestic violence



ACE categories

Abuse

- Emotional
- Physical
- Sexual

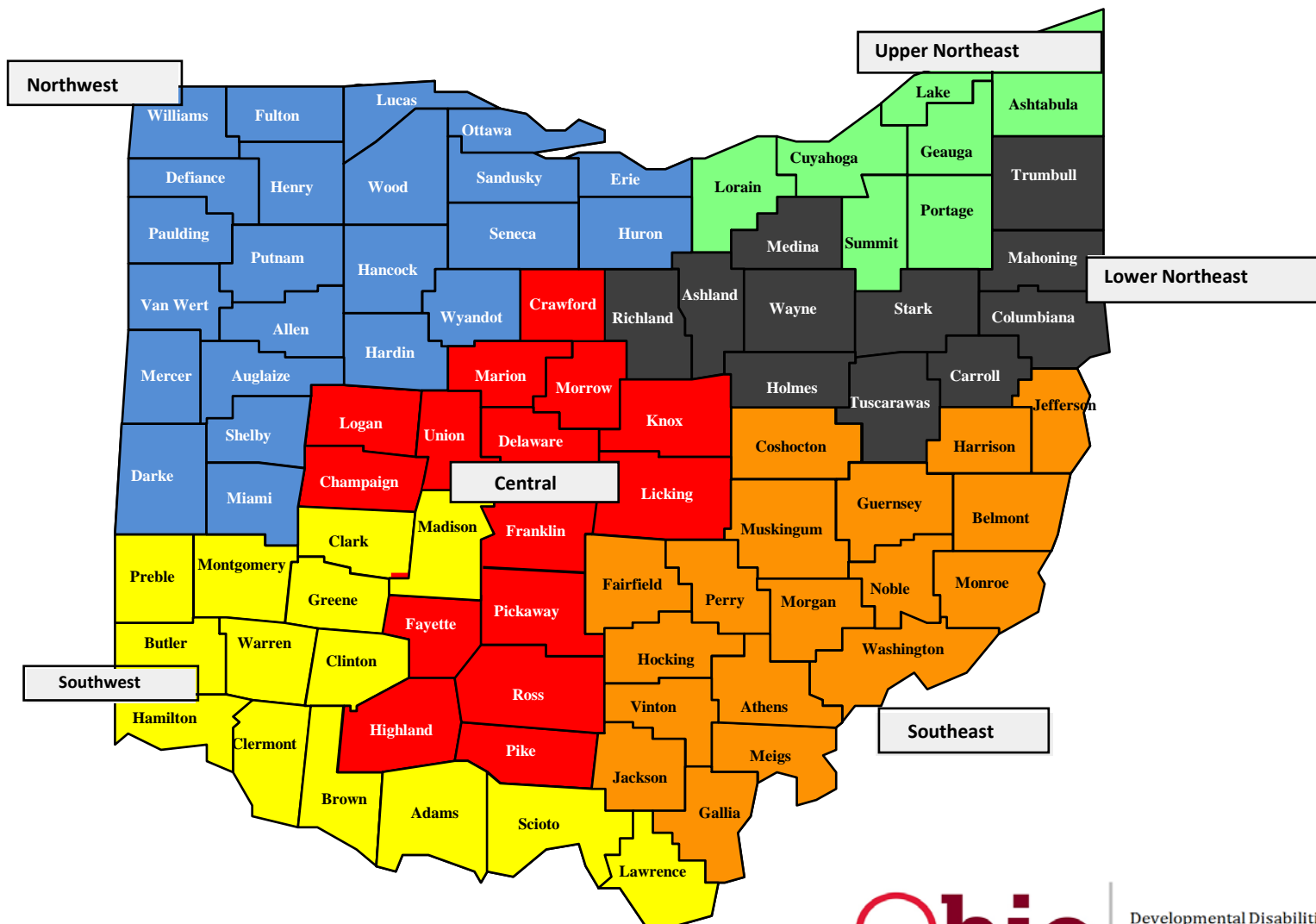
Neglect

- Emotional
- Physical

Household Dysfunction

- Mother Treated Violently
- Household Substance Abuse
- Household Mental Illness
- Parental Separation or Divorce
- Incarcerated Household Member

Trauma-Informed Care Regional Collaboratives



Southeastern Ohio [Coshocton, Jefferson, Harrison, Guernsey, Belmont, Muskingum, Fairfield, Perry, Morgan, Noble, Monroe, Hocking, Vinton, Athens, Washington, Jackson, Meigs, Gallia]

Southeast	DODD	Rob Robbins	robert.robbins@dodd.ohio.gov	740-439-1371
	MHAS	John Hurley – retiring		

Southwest Ohio [Preble, Montgomery, Greene, Clark, Madison, Butler, Warren, Clinton, Hamilton, Clermont, Brown, Adams, Scioto, Lawrence]

Southwest	DODD	Pam Berry	Pamela.Berry@dodd.ohio.gov	614-301-2992
	MHAS	Kathy Coate-Ortiz	Kathy.Coate-Ortiz@mha.ohio.gov	614-644-8905

Northwest Ohio [Williams, Fulton, Lucas, Defiance, Henry, Wood, Sandusky, Ottawa, Erie, Huron, Seneca, Hancock, Putnam, Paulding, Van Wert, Allen, Hardin, Wyandot, Mercer, Auglaize, Darke, Shelby, Miami]

Northwest	DODD	Sara Lawson	sara.lawson@dodd.ohio.gov	419-447-1450
	MHAS	Deb Duris	Deborah.Duris@mha.ohio.gov	419-381-1881

Upper Northeast Ohio [Lorain, Cuyahoga, Summit, Lake, Geauga, Ashtabula]

Upper Northeast	DODD			
	MHAS	Tom Ference	Thomas.Ference@mha.ohio.gov	330-467-7131 x1382

Central Ohio [Crawford, Marion, Morrow, Logan, Union, Delaware, Knox, Champaign, Licking, Franklin, Pickaway, Fayette, Ross, Highland, Pike]

Central	DODD	Dana Mattison	Dana.Mattison@dodd.ohio.gov	740-393-6200
	MHAS	Jackie Doodley	Jackie.Doodley@mha.ohio.gov	614-752-6456

Lower Northeast Ohio [Richland, Ashland, Medina, Wayne, Holmes, Stark, Tuscarawas, Carroll, Columbiana, Mahoning]

Lower Northeast	DODD	Mike Irwin	Mike.Irwin@dodd.ohio.gov	330-978-5136
	MHAS	Joyce Starr	Joyce.Starr@mha.ohio.gov	614-644-8454

FY 16/17 Planning

- DRC partnership – addiction recovery services expansion and community investment
- Recovery housing
- Probate court costs
- Forensic evaluation centers
- Specialty dockets

Preparing for FYs 16/17

- Emphasize partnerships to address gaps in local continuums of care
- Connect Ohioans who are justice involved to meaningful treatment
- Examine Medicaid benefit changes to continue to support our evolving system
- Continue emphasis on prevention, housing, access to hospitalization, etc.

Opportunities to Improve Outcomes

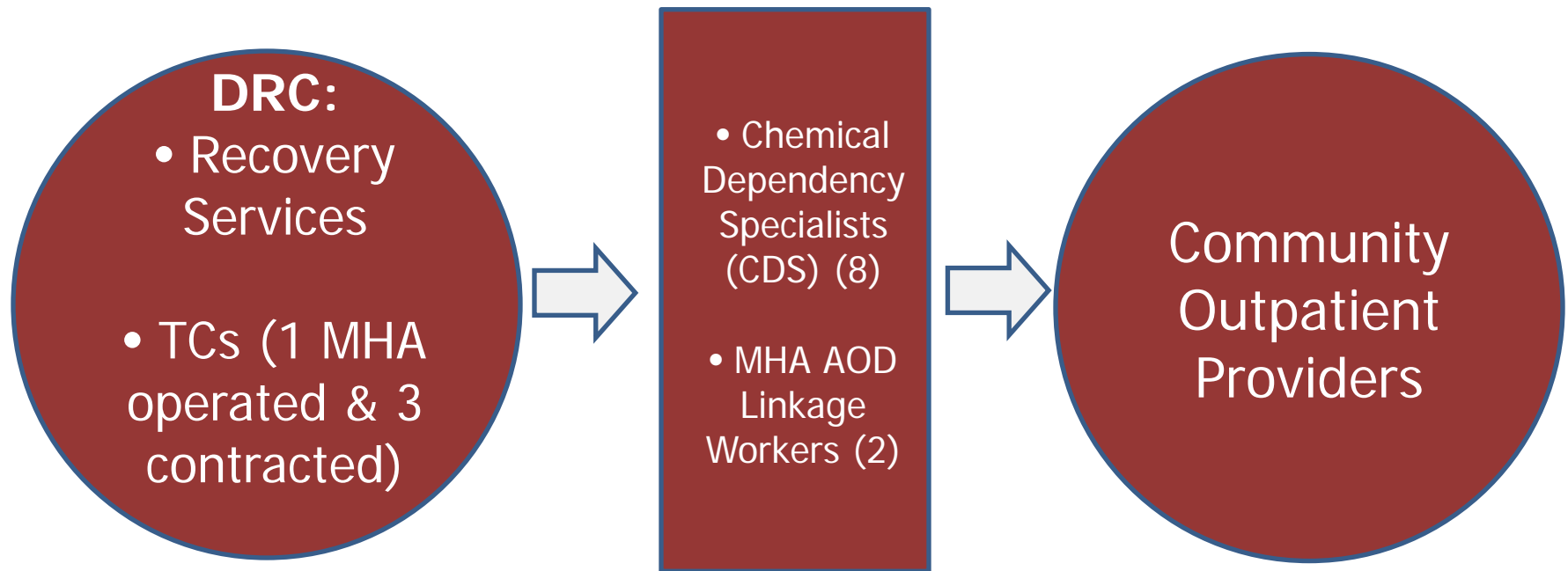
- Recidivism rates (2010):
 - General population: 27.1% (down from 28.7% in 2009)
 - National Average: 40-44%
 - Received treatment in Therapeutic Community: 9%
 - Received treatment in Recovery Services: 10.4%
- Creates significant opportunity to:
 - Further decrease recidivism leading to:
 - Increased public safety
 - More individuals becoming productive citizens

Opportunities to Improve Outcomes

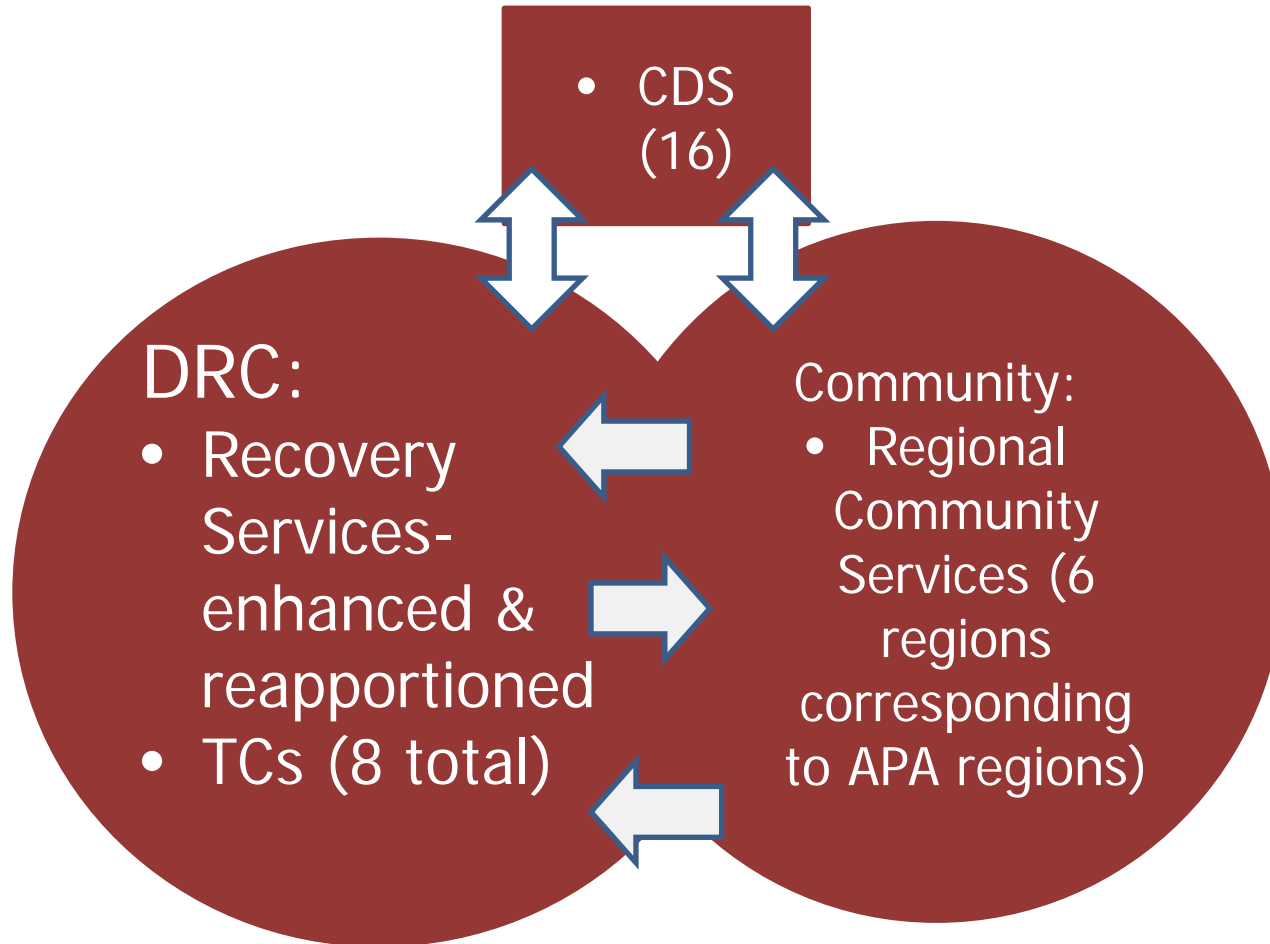
Proposal:

- Enhance services to inmates detained in DRC
 - Continuity of treatment in the community following release
- With a higher % of inmates with SUDS treated during incarceration, a lower number will return to DRC based upon current programming and outcome statistics
- Addition of treatment following release will likely decrease recidivism further
- Utilizing Medication Assisted Treatment (MAT) in individuals with Opiate use disorders will likely reduce recidivism even more

Current State



Goal



Medicaid expansion

Ohio Medicaid & CHIP Enrollment			National		
Total Medicaid & CHIP Enrollment (Oct 2014 - Preliminary)	Comparison of Oct 2014 data to July-Sept 2013 Average Enrollment		Total Medicaid & CHIP Enrollment, all States (Oct 2014 - Preliminary)	Comparison of Oct 2014 data to July-Sept 2013 Average Enrollment	
	Net Change	% Change		Net Change	% Change
2,838,379	496,898	21.2%	68,529,576	9,683,006	16.76%

Source: Ohio Medicaid website

Medicaid expansion

- Status of enrollment for inmates being released from DRC
- Working on a local level to get individuals coming out of jail enrolled into Medicaid

More information

Find us on:



<http://www.mha.ohio.gov/>

Join our OhioMHAS e-news listserv for all of the latest updates!



OHIO CRIMINAL SENTENCING COMMISSION

65 South Front Street · Fifth Floor · Columbus · 43215 · Telephone: (614) 387-9305 · Fax: (614) 387-9309

Chief Justice Maureen O'Connor
Chair

Sara Andrews
Director

January, 2015

*Rosters of the
Ohio Criminal Sentencing Commission
And the Criminal Sentencing Advisory Committee*

Ohio Criminal Sentencing Commission

<u>Name and Address</u>	<u>Position</u>	<u>Term Expires</u>
Chief Justice Maureen O'Connor, Chairperson Supreme Court of Ohio Ohio Judicial Center 65 South Front Street Columbus, Ohio 43215 (614) 387-9010 FAX: (614) 387-9019	Chief Justice	Upon leaving office
Judge David Gormley Delaware County Municipal Court 70 North Union Street Justice Center Delaware, Ohio 43015 (740) 203-1501 FAX: (740) 203-1524	Vice Chair Municipal Court Judge	02/14/17
***elected to common pleas bench		
Judge Gary Dumm Circleville Municipal Court 151 East Franklin Street Circleville, Ohio 43113-0190 (740) 474-3175 FAX: (740)-477-8291	Municipal Judge	02/17/15
Chrystal Alexander Office of Victim Services Ohio Department of Rehabilitation and Correction 770 W. Broad Street Columbus, Ohio 43222 (614) 728-1551 FAX: (614) 728-1980	Victim Representative	08/21/15

Paula Brown, Esq. Kravitz, Brown, & Dortch, LLC 65 E State Street, Suite 200 Columbus, Ohio 43215-4277 (614) 545-5359 FAX: (614) 545-5360	OSBA Representative *pending at Governor's office	08/21/14*
Ronald L. Burkitt Hilliard Police Dept. 5171 Northwest Parkway Hilliard, Ohio 43026 (614) 921-7426 FAX: (614) 921-7401	Juvenile Peace Officer	08/21/16
Judge Janet Burnside Cuyahoga County Common Pleas Court 1200 Ontario Street Cleveland, Ohio 44113-1678 (216) 443-8671 FAX: (216) 348-4038	Common Pleas Court Judge	02/16/15
Judge Nick A. Selvaggio Champaign County Court of Common Pleas 200 North Main Street Urbana, Ohio 43078-1642 (937)-484-1000 (937)-484-1025 fax	Common Pleas Court Judge	02-16-19
Judge Robert C. DeLamatre Erie County Domestic Relations And Juvenile Court 323 Columbus Avenue, 4 th Floor Sandusky, Ohio 44870-2697 (419) 627-7782 FAX: (419) 627-6600	Juvenile Court Judge	03/14/17
Derek W. DeVine Seneca County Prosecutor 71 S. Washington Street, Suite 1204 Tiffin, OH 44883 (419) 448-4444 FAX: (419) 443-7911	Prosecuting Attorney	08/21/17
Paul Dobson Wood County Prosecutor's Office 1 Courthouse Square Bowling Green, Ohio 43402 (419) 354-9250 FAX: (419) 353-2904	Prosecuting Attorney	08/21/16

Kort W. Gatterdam, Esq.
Carpenter, Lipps, & Leland
280 N. High Street, Suite 1300
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(614) 365-4100
FAX: (614) 365-9145

Defense Attorney

08/22/17

Kathleen M. Hamm
Wood County Public Defender
123 North Summit Street
Bowling Green, Ohio 43402
(419) 354-9244
FAX: (419) 353-9865

Public Defender

08/21/16

Judge Frederick "Fritz" C. Hany, II
Ottawa County Municipal Court
1860 E. Perry Street
Port Clinton, Ohio 43452-0777
(419) 734-4143
FAX: (419) 732-2862

Municipal Court Judge

02/17/17

Judge Sylvia Sieve Hendon
First District Court of Appeals
William Howard Taft Law Center
230 East Ninth Street, 12th Floor
Cincinnati, Ohio 45202-2138
(513) 946-3421
FAX: (513) 946-3411

Appellate Court Judge

10/11/17

Judge Thomas M. Marcelain – **Vice Chair**
Licking County Common Pleas Court
Courthouse-Public Square
Newark, OH 43055
(740) 670-5777
FAX: (740) 670-5888

Common Pleas Court Judge

02/16/15-19

Judge Steve McIntosh
Franklin County Common Pleas Court
345 S. High Street
Columbus, Ohio 43215
(614) 525-3550
FAX: (614) 525-3868

Common Pleas Court Judge

02/16/15-19

Director Gary Mohr
Dept. of Rehabilitation & Correction
770 West Broad Street
Columbus, Ohio 43222
(614) 752-1164
FAX: (614) 752-1171

Director of Rehabilitation & Correction

upon
leaving
office

Designee: Steve VanDine
(614) 752-1269
FAX: (614) 728-1033

Mayor Aaron Montz
City of Tiffin
25 Tomb Street
Tiffin, Ohio 44883
(419) 448-5401 (B)
FAX: (419) 618-2830 (C)

Mayor

08/21/18

Jason Pappas, Executive Vice President
FOP Lodge #9
6800 Schrock Hill Ct.
Columbus, Ohio 43229
(614) 882-4683 X 102
FAX: (614) 882-7248

Law Enforcement

08/21/17

Representative Dorothy Pelanda
Ohio House of Representatives
77 S. High Street, 12th Floor
Columbus, Ohio 43215
(614) 466-8147
FAX: (614) 719-6983

State Representative

12/31/16

****Reappointed – awaiting confirmation**

Senator Cecil Thomas
Statehouse
1 Capitol Square, Ground Floor
Columbus, Ohio 43215
(614) 466-5980

State Senator

12/31/16

****New appointment**

Colonel Paul Pride
Ohio Highway Patrol
P.O. Box 182074
Columbus, Ohio 43218-2074
(614) 466-2990
FAX: (614) 644-9749

Ohio State Highway Patrol Superintendent

upon
leaving
office

Designee: ~~Capt. Chad McGinty~~ **S/Lt Ed Mejia**
(614) 752-6066
FAX: (614) 752-3045

Commissioner Bob Proud
Clermont County Commissioners
101 E. Main Street
Batavia, Ohio 45103-2960
(513) 732-7300
FAX: (513) 732-7826

County Commissioner

08/21/17

Director Harvey Reed
Department of Youth Services
30 West Spring Street
Columbus, Ohio 43215
(614) 466-8783
FAX: (614) 752-9078

Director of Youth Services

upon
leaving
office

Designee: ~~Cedric Collins~~ **Kyle Petty**
(614) 466-8657

Sheriff Albert J. Rodenberg
Clermont County Sheriff's Office
4470 State Route 222
Batavia, Ohio 45103
(513) 732-7405
FAX: (513) 732-7515

Sheriff

08/21/17

Judge Kenneth Spanagel
Parma Municipal Court
5555 Powers Boulevard
Parma, Ohio 44129-5462
(440) 887-7473
FAX: (440) 887-7490

Municipal Court Judge

03/02/17

Timothy Young
Ohio Public Defender
250 East Broad Street, Suite 1400
Columbus, Ohio 43215
(614) 466-5394
FAX: (614) 644-9972

Ohio Public Defender

upon
leaving
office

Designee: Craig Jaquith
(614) 466-5394
FAX: (614) 752-5167

Vacant	Juvenile Court Judge	*request for appointment sent 01-27-15
Vacant	Juvenile Court Judge	*request for appointment sent 01-27-15
Vacant	Municipal Prosecuting Attorney	*pending at Governor's Office
Vacant	State Senator	*request for appointment sent 01-09-15
Vacant	State Representative	*request for appointment sent 01-09-15

Sara Andrews
Ohio Criminal Sentencing Commission
Thomas Moyer Judicial Center
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Director

Staff

Cynthia Ward
Ohio Criminal Sentencing Commission
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Administrative Assistant

Staff

Resources:

Jo Ellen Cline
Supreme Court of Ohio
65 South Front Street
Columbus, Ohio 43215-3431
(614) 387-9522
FAX: (614) 387-9509

Criminal Justice Counsel

Other Offices of the Supreme Court of Ohio

181.22 Criminal sentencing advisory committee.

There is hereby created the criminal sentencing advisory committee. The committee shall be comprised of the chairperson of the parole board, the director of the office of the correctional institution inspection committee, a juvenile detention facility operator, a provider of juvenile probation or community control services, a provider of juvenile parole or aftercare services, a superintendent of a state institution operated by the department of youth services, a community-based juvenile services provider, a person who is a member of a youth advocacy organization, a victim of a violation of Title XXIX [29] of the Revised Code that was committed by a juvenile offender, a representative of community corrections programming appointed by the governor, and any other members appointed by the chairperson of the state criminal sentencing commission upon the advice of the commission. The committee shall serve as an advisory body to the state criminal sentencing commission and to the commission's standing juvenile committee.

The members of the committee shall serve without compensation, but each member shall be reimbursed for the member's actual and necessary expenses incurred in the performance of the member's official duties.

Effective Date: 01-01-2002

Ohio Criminal Sentencing Advisory Committee

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Bureau of Motor Vehicles
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FAX: (614) 752-6063~~

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Executive Director
Eastern Ohio Correction Center
P.O. Box 2400
Wintersville, OH 43953
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FAX: (740) 765-4533

~~Retired Judge Burt Griffin
2914 Woodbury Road
Shaker Heights, OH 44120
(216) 561-2777
FAX: (216) 561-2886~~

Director Karlhlon Moore
Office of Criminal Justice Services
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FAX: (614) 466-0308

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Criminal Justice Section
Ohio Attorney General's Office
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c/o Oriana House, Inc.
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County Commissioners' Association
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(614) 221-5627
FAX: (614) 221-6986

Gary Yates
Director of Court Services
Butler County Courthouse
101 High Street
Hamilton, OH 45011
(513) 785-5815
FAX: (513) 785-5816

Chairperson ~~Cynthia Mausser~~ **Andre Imbrogno**
Ohio Parole Board
770 West Broad Street
Columbus, OH 43222
(614) 752-1211
FAX: (614) 752-1251

Recommendations for nomination and approval:

Juvenile:

Dustin Calhoun, DYS Chief Legal Counsel
Jill Beeler-Andrews, Ohio State Public Defender's Office
Jim Cole, Juvenile Court Administrator, Montgomery County

Adult:

Steve Gray, DRC Chief Legal Counsel
Steve Van Dine, DRC Bureau of Research Chief
Michelle Miller, Warden, Belmont Correctional Institution

Other:

Professor Berman, OSU Professor of Law
Lori Criss, Associate Director, Ohio Council of Behavioral Health & Family Services Providers
Tracy Plouck, Director Ohio Department of Mental Health & Addiction Services designee
Ohio Judicial Conference designee
Columbus City Attorney's Office, designee

Nominations from the Commission?