



65 SOUTH FRONT STREET • 5TH FLOOR • COLUMBUS, OHIO 43215-3431 • TELEPHONE: 614.387.9305 • FAX: 614.387.9309

## **OHIO CRIMINAL SENTENCING COMMISSION MEETING**

November 16, 2023, 10am-12pm  
Ohio Judicial Center, Room 281

### **MEMBERS PRESENT**

Sharon L. Kennedy, Chief Justice, Chair  
Nick Selvaggio, Common Pleas Court Judge, Vice-Chair  
Amy Ast, Director, Department of Youth Services  
Brooke Burns, Ohio Public Defender, Juvenile Department  
Beth Cappelli, Judge, Municipal Court  
Charles Chandler, Peace Officer  
Sean Gallagher, Judge, Appellate Court  
Joe Grubers, Ohio Department of Rehabilitation and Correction  
Latyna Humphrey, House of Representatives  
Kristen Johnson, Judge, Probate and Juvenile Court  
Nathan Manning, Ohio Senate  
Jennifer Muench-McElfresh, Judge, Common Pleas Court  
Charles Jones, State Highway Patrol  
Larry Sims, Sheriff  
Helen Wallace, Judge, Juvenile Court  
Donnie Willis, County Commissioner  
Tim Young, Ohio Public Defender  
Vernon Sykes, Ohio Senate

### **MEMBERS ATTENDING BY ZOOM**

Nicole Condrey, Mayor  
Gwen Howe-Gebers, County Prosecutor, Juvenile  
Darren Shulman, Municipal Prosecutor  
Kenneth Spanagel, Judge, Municipal Court  
Josh Williams, House of Representatives  
Tyrone Yates, Judge, Municipal Court

### **MEMBERS ABSENT**

Robert DeLamatre, Judge, Juvenile Court  
Robert Krapenc, Attorney, Criminal Defense  
Charles McConville, County Prosecutor  
Stephen McIntosh, Judge, Common Pleas Court

### **STAFF PRESENT**

Melissa Knopp, Executive Director  
Michael Crofford, Research Specialist  
Will Davies, Criminal Justice Counsel  
Niki Hotchkiss, Assistant Director  
Todd Ives, Research Specialist  
Alex Jones, Criminal Justice Counsel



65 SOUTH FRONT STREET • 5TH FLOOR • COLUMBUS, OHIO 43215-3431 • TELEPHONE: 614.387.9305 • FAX: 614.387.9309

## Call to order and Roll Call

1. Chief Justice Kennedy called the meeting to order. Director Melissa Knopp took roll call; a quorum was present.

## Approval of minutes from September 21, 2023

2. Chief Justice Kennedy asked the Commissioners if there were any amendments to the minutes of the September 21, 2023, meeting. Judge Cappelli wanted to clarify that she suggested under personnel matters that hiring the executive director follow the same process as other positions. This is reflected in the Operating Guidelines but not in the minutes. This change was confirmed to be made to the draft minutes. Judge Cappelli moved to accept the minutes with this change, Judge Johnson seconded. Minutes passed unanimously.

## Introduction of Executive Director Melissa Knopp

3. Chief Justice Kennedy welcomed Melissa Knopp as the new Executive Director of the Sentencing Commission. Ms. Knopp introduced herself, including her background and past experience and mentioned that she will be reaching out to members individually to discuss priorities for the Commission.

## Committee Reports

4. Joe Gruber, designee for Director Annette Chambers-Smith of the Department of Rehabilitation and Correction, gave a brief overview of the matters discussed at the first meeting of the adult criminal justice committee. On October 19, the committee met over Zoom and discussed unconstitutional code sections that are present in the Ohio Revised Code, jail time credit and the Uniform Sentencing Entry, and SB201 Reagan Tokes Law. The committee will next meet in January 2024.
5. Judge Helen Wallace reported that the juvenile justice committee met on September 21 and November 2 and created a list of priorities they would like to address, though with some current issues and legislation pending, the priorities are fluid. The committee will meet next on December 7, 2023, via zoom.
6. Chief Justice Kennedy reported that data committee co-chair Lori Criss will be moving from her position at Ohio Mental Health and Addiction Services (Ohio MHAS) to the Ohio State University and therefore will no longer serve as Co-Chair of the data committee. The data committee met September 21 and on October 26 and focused on what the statutory language reflects about data. In October, the Chief Data Officer from



65 SOUTH FRONT STREET • 5TH FLOOR • COLUMBUS, OHIO 43215-3431 • TELEPHONE: 614.387.9305 • FAX: 614.387.9309

Ohio MHAS discussed matters key to effective Data Governance and Supreme Court of Ohio Information Technology Director, Robert Stuart, discussed information contained in the Ohio Courts Network. The Chief Justice is planning to visit the Bureau of Criminal Investigation with Robert to understand what information they store and what can be used. The committee will continue on this path, understanding what information is collected and where and what information is necessary for the Commission to fulfill its responsibilities. The next meeting has not yet been set.

### Legislative Update

7. Alex Jones briefly went over the legislative update included in the meeting materials. He specifically discussed HB56, HB111, HB122, and HB139 as of particular interest to Commission members as they create a new criminal offense, modify existing penalties, and/or modify special victim classifications. HB67 includes specific duties for the Sentencing Commission, namely creating a sample application form and to notify certain entities if new legislation provides for a reduction in penalty.
8. Chief Justice Kennedy asked about why the statutory language regarding the juvenile committee was eliminated from the Sentencing Commission enabling legislation. There are few documents that can be found about why it was eliminated. Chief Justice Kennedy is planning to ask Judge Wallace to investigate this and to look for records about this request.

### Old Business

9. Revisions to the Commission Operating Guidelines were presented at the September 21 meeting. No members proposed additional modifications. Judge Cappelli moved to accept the guidelines as distributed with meeting materials and Judge Muench-McElfresh seconded. The motion passed unanimously through a roll call vote.
10. With the passage of the Operating Guidelines, there needs to be a formation of a personnel committee for the Commission. Chief Justice Kennedy clarified that the Supreme Court of Ohio's Human Resources department will continue to assist and support the activities of the personnel committee, but the committee will do the primary work when needed. Chief Justice Kennedy, Darren Shulman, Chief Chandler, and Gwen Howe-Gebbers volunteered to serve on the personnel committee. Judge Johnson moved to accept these four members as the personnel committee, seconded by Judge Cappelli. The motion is passed unanimously through a voice vote.

### New Business

11. Chief Justice Sharon Kennedy updated the Commission on the status of appointments and that the Governor's Office was already in the process of appointing members whose term will expire on January 1. She asked Commission Members whose terms are expiring soon to contact her by letter, if it is a judicial appointment, letting her know if they wish to renew their terms or not. She then stated that if it was a Governor appointment, they should contact Hailey Dunahay from the Governor's office to express the same.

#### Wrongful Conviction and Postconviction Relief

12. Director Knopp introduced Representative Jarrells, who is sponsoring a to-be-introduced bill to speed up the process of a new trial if there is new evidence. This issue goes hand in hand with the letter from the Supreme Court regarding Criminal Rule 33. Representative Jarrells mentioned that he is trying to talk to as many stakeholders as possible to get feedback to improve the bill prior to introduction. There was brief discussion about if this makes sense for criminal matters in municipal court, since the sentence may be completed by the time the proposed process occurs. There was extensive discussion about whether the Commission should comment on the bill since it has not yet been introduced. There was a discussion about the role of the Commission committees in such a matter and whether this was something that could be considered for them.
13. Chief Justice Kennedy made a motion to consider this bill in conjunction with the Supreme Court of Ohio letter to the Commission regarding Rule 33.1, seconded by Senator Sykes. Judge Selvaggio asked for clarification on the motion and after a brief discussion the motion was withdrawn. Tim Young made a motion to examine the bill from Representative Jarrells prior to its introduction, which was seconded by Brooke Burns. A voice vote was taken and due to there not being a unanimous opinion, a roll call vote taken, four votes in favor of the motion and fourteen opposed. Those voting against the motion were: Chief Justice Kennedy, Judge Selvaggio, Director Ast, Judge Cappelli, Joe Gruber, Chief Chandler, Judge Gallagher, Judge Johnson, Senator Manning, Colonel Jones, Sheriff Sims, Judge Wallace, Judge Muench-McElfresh, and Commissioner Willis. The "YES" votes were Brooke Burns, Representative Humphries, Senator Sykes, and Tim Young.
14. Judge Johnson moved that the adult criminal justice committee examine the issue of postconviction relief pursuant to the letter by the Supreme Court of Ohio and was seconded by Representative Humphrey. After short discussion, the motion was amended by Judge Johnson, that the adult criminal justice committee consider the statutory scheme for postconviction relief, seconded by Representative Humphrey. A



65 SOUTH FRONT STREET • 5TH FLOOR • COLUMBUS, OHIO 43215-3431 • TELEPHONE: 614.387.9305 • FAX: 614.387.9309

short discussion followed where it was concluded that the Commission does not need to vote on what committees consider. The motion was then withdrawn.

#### House Bill 1 Report

15. Research Specialist Todd Ives reviewed the draft of the biennial House Bill 1 Impact Study report that was included in the meeting materials. A final version of the report is due to the Governor and the General Assembly by December 31, 2023. Todd reviewed the results and recommendations. There were no questions or discussion. Tim Young moved to accept the report, Chief Justice Kennedy seconded. Motion passed unanimously.

#### Monitoring report

16. Chief Justice Kennedy informed the Commission that ORC section 181.25 requires a biennial monitoring report due to the General Assembly and Governor on January 1<sup>st</sup>, 2023. She suggested that the Commission send a letter to the General Assembly and the Governor that the staff will begin updating the report and the Commission will approve it at the February meeting. Although late, the Commission will comply with statutory requirements.

#### Announcements and Adjournments

17. Vice-Chair Judge Selvaggio wanted to say thank you to those Commission members who may be at their last Commission meeting including Judge Gallagher, Judge Cappelli, and Tim Young. Representative Humphrey moved to adjourn, seconded by Sheriff Sims. Motion passed unanimously. Meeting adjourned at 11:42am.