



OHIO CRIMINAL SENTENCING COMMISSION MEETING

March 6, 2025, 10:00 am—12:00 pm

Ohio Judicial Center, Room 281

- I. Call to Order Chair Chief Justice Sharon L. Kennedy
- II. Roll Call Director Melissa A. Knopp, Esq.
- III. Approval of Minutes from November 21, 2024
- IV. Nominate & Elect New Commission Vice-Chair
(Vote Needed) Chair Chief Justice Sharon L. Kennedy
- V. Committee Reports
 - A. Adult Criminal Justice Committee Director Annette Chamber-Smith
 - 1. Nominate & Elect New Committee Chair **(Vote Needed)**
 - 2. Updated Indefinite Sentencing Reference Guide **(Vote Needed)** Will Davies, Esq.
 - 3. Updated NGRI Reference Guide **(Vote Needed)** Will Davies, Esq.
 - 4. Updated Sentencing Entry **(Vote Needed)** Will Davies, Esq.
 - B. Juvenile Justice Committee Judge Robert DeLamatre
 - C. Data Committee Chief Justice Sharon L. Kennedy
 - 1. 2025 Monitoring Report Supplemental **(Vote Needed)** Todd Ives/Michael Crofford
 - 2. Data Map—Jails **(Vote Needed)** Todd Ives/Michael Crofford
 - D. Personnel Committee Chief Justice Sharon L. Kennedy
 - 1. Introduction of Emily Haynes, Esq.
- VI. Legislative Update Alex T. Jones, Esq.
- VII. Old Business
- VIII. New Business
 - A. New Commission Members Director Melissa A. Knopp, Esq.
 - B. Next HB1 Report due December 31, 2025, vote due September 25, 2025 Todd Ives
 - C. HB 257 (135th General Assembly) permitting hybrid meetings for certain Boards and Commissions Alex T. Jones, Esq.
- IX. Adjourn

2025 Full Commission Meeting Dates

All meetings will be held at the Ohio Judicial Center unless otherwise indicated:

Thursday, May 8, 2025, at 10:00 am, Room 101

Thursday, September 25, 2025, at 10:00 am, Room 101

Thursday, December 18, 2025, at 10:00 am, Room 101



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OHIO CRIMINAL SENTENCING COMMISSION MEETING

November 21, 2024, 10am-12pm

Ohio Judicial Center, Room 101

MEMBERS PRESENT

Sharon L. Kennedy, Chief Justice, Chair
Nick Selvaggio, Judge, Common Pleas Court, Vice-Chair
Amy Ast, Director, Department of Youth Services
Annette Chambers-Smith, Director, Department of Rehabilitation and Corrections
Charles Chandler, Peace Officer
Julia Dorrian, Judge, 10th District Court of Appeals
Kyle Erdeljac, Lieutenant, Columbus Police Department, FOP
Timothy France, Judge, Municipal Court
Marianne Hemmeter, Judge Municipal Court
John Hinton, Sheriff
Gwen Howe-Gebbers, County Prosecutor, Juvenile
Latyna Humphrey, House of Representatives
Kristen Johnson, Judge, Probate and Juvenile Court
Robert Krapenc, Attorney, Criminal Defense
Teri LaJeunesse, Victim Representative
Nathan Manning, Ohio Senate
Charles McConville, County Prosecutor
Stephen McIntosh, Judge, Common Pleas Court
Elizabeth Miller, Ohio Public Defender
Jennifer Muench-McElfresh, Judge, Common Pleas Court
Robert Sellers, Lieutenant, State Highway Patrol
Darren Shulman, Municipal Prosecutor
Helen Wallace, Judge, Juvenile Court
Josh Williams, House of Representatives
Tyrone Yates, Judge, Municipal Court

MEMBERS ABSENT

Brooke Burns, Ohio Public Defender, Juvenile Department
Robert DeLamatre, Judge, Juvenile Court
Vernon Sykes, Ohio Senate
Donnie Willis, County Commissioner

STAFF PRESENT

Melissa Knopp, Executive Director
Michael Crofford, Research Specialist
Will Davies, Criminal Justice Counsel
Angela Kay Garvey, Program Coordinator
Todd Ives, Research Specialist
Alex Jones, Criminal Justice Counsel



Call to order and Roll Call

1. Chief Justice Kennedy called the meeting to order at 10:00 AM. Director Melissa Knopp took roll call, and a quorum was present.

Approval of minutes from September 12, 2024

2. Chief Justice Kennedy asked if there were any changes needed for the September 12th, 2024, meeting minutes. None were noted. Judge Yates moved to approve the minutes from the September meeting as presented. Director Chambers-Smith seconded, and the motion passed unanimously.

Committee Reports

Adult Criminal Justice Committee

3. Director Annette Chambers-Smith gave an update on the work of the Adult Criminal Justice Committee. She discussed that the felony sentencing bench card had been published, printed, and was ready for distribution. She then shared that the committee had started a robust discussion on presentence investigation (PSI) reports. They would be continuing to discuss what information they would recommend be included, the concerns and barriers with sharing reports, and looking at potential recommendations to clean up associated laws to increase clarity in the new year.

Juvenile Justice Committee

4. Judge Wallace then presented on the work of the Juvenile Justice Committee. She shared that the committee had met last on October 31st and had discussed Rep. Williams pending proposal to eliminate mandatory bindover and increase utilization of Serious Youthful Offender (SYO) status. There is ongoing discussion on modifying and expanding amenability factors and the pros and cons of increasing those factors. Brian Farrington from the Case Management section of the Supreme Court of Ohio (SCO) and Dr. Jordan Argus of the Department of Youth Services (DYS) shared data on juvenile transfers/bindover in Ohio. Commission Research Specialist Michael Crofford presented national trends on juvenile transfers at the last juvenile committee including national trends toward blended sentencing such as Ohio's SYO status. The next committee meeting is scheduled for January 24th, 2025, and they plan to continue the discussion of Rep. Williams proposal into next year.

Data Committee

5. Chief Justice Kennedy then presented on the work of the Data Committee. She stated that the committee had begun discussing jail data at their last meeting on October 9th. At that meeting Commission staff presented on the new additions to the Monitoring

Report including county prosecutor's offices appeal costs and a juvenile section. At the next data committee meeting they will hear from Andy Laubenthal from Lorain County and Chris Galli from the Bureau of Adult Detention (BAD) to continue the discussion on available jail data. She shared that she had visited and talked to the Cuyahoga County prosecutor Michael O'Malley to discuss prosecutor costs. They discussed how the prosecutor's office uses Matrix and whether they have the ability to log time in the program. He plans to discuss this with Matrix in the next few weeks. This would assist in the collection of prosecutor appeals cost data. The Chief Justice is meeting with Butler County on December 20th to discuss as well.

6. Chief Justice Kennedy then asked if there were any changes needed for the 2025 Monitoring Report. The report will be published in color for ease of reading the figures and the court's Public Information Office is able to assist with visual formatting. Judge Selvaggio had sent several stylistic edits to commission staff which they have begun updating. He commented on figure 31 which illustrates available jail resources and there was a discussion on jail populations, the population of people on pre-trial, and the lack of behavioral health providers available in jails. Currently, jails rely on mental health facilities for services. The possibility of doing a deeper policy dive on this issue was discussed in order to help provide more guidance and resources to jails and judges. Director Chambers-Smith stated that DRC inspects jails, that they have received funds to update the physical plant of jails to provide more opportunities for treatment, and they have more capital dollars to distribute for this. She then discussed the forensic stakeholder report led by OHMAS that discussed, among other topics, how jails utilize mental health resources. A copy of this report was requested, and State Public Defender Elizabeth Miller shared that it was not published yet but would be soon.
7. Further discussion was had on the 2025 Monitoring Report including a suggestion to add specialty court data to the next report, adding clarifying language to account for diversion programs and TCAP, and adding a footnote to the current report that these subjects will be discussed in more detail in future reports. Chief Justice Kennedy motioned to add a footnote to the monitoring report to clarify that future reports will cover specialty courts and TCAP. The motion was seconded by Lt. Kyle Erdeljak and was passed unanimously.
8. There was a brief discussion on adding updated DRC data that had been received after the meeting materials had been distributed earlier in the week and the inclusion of DRC in the acknowledgments. The materials were received Tuesday night and added to the report on Wednesday along with the acknowledgement. County Prosecutor Chip McConville motioned to adopt the Monitoring Report with the stated edits. This was seconded by Rep. Josh Williams and passed unanimously.



Personnel Committee

Executive Session on Personnel Matters

9. Chief Justice Kennedy then motioned to enter executive session to discuss personnel matters. The motion was seconded by Judge Tyrone Yates and was approved unanimously. After the discussion had concluded, Chief Justice Kennedy motioned to exit executive session. The motion was seconded by Judge Yates and passed unanimously.
10. Municipal Prosecutor Darren Shulman then motioned to extend an offer of employment to Emily Hanes at \$98,696. The motion was seconded by Chief Charles Chandler and passed unanimously.
11. Chief Justice Kennedy then asked Commission Program Coordinator Angela Kay Garvey to introduce herself. She did and shared her experience working with the court and her appreciation at being selected for her new position.
12. Chief Justice Kennedy motioned to accept the recommendation of the Office of Talent Management as it relates to employees Davies, Jones, Crofford, Ives, and Garvey as it relates to the range and step, COLA and longevity and that it be backdated to July 1, 2024. She stated this would put these employees in line with other state employees that had already received those adjustments, but Commission staff had not. The motion was seconded by Director Chambers-Smith and was passed unanimously.
13. Chief Justice Kennedy then made a motion that the director's position for the fiscal year receive that COLA that would change the pay rate to \$139,776 backdated to July 1, 2024. The motion was seconded by Director Chambers-Smith and passed unanimously.

Case Law Update

14. Criminal Justice Counsel Will Davies then presented on case law updates coming from legislation and Supreme Court decisions. He discussed several cases on topics including consecutive sentencing, juvenile record sealing, state employee discipline and public hearings, and companion animals.

Legislative Update

15. Criminal Justice Counsel Alex Jones then discussed the legislative update. He shared that Director Knopp had testified for the Sunset Review committee and it had gone well. The committee had met and that the Sentencing Commission had been renewed till 2028 and will be ready for review again in 2027. He then stated that he will be following lame



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duck and will send out a report of any pertinent legislation that comes from it. He reviewed several bills that had introduced new charges or increased penalties including increased penalties for fleeing police, new offenses of street takeover and stunt driving, and the modification of the term companion animal.

Old Business

16. No old business was discussed.

New Business

17. Chief Justice Kennedy then opened the room for any new business. Rep. Williams requested that the Commission examine the issue of 1115 Medicaid waivers for people in their last 90 days of incarceration. This would allow for better access to treatment and services upon reentry. He requested the Commission study the national perspective including California where this has passed. Currently Ohio suspends coverage while a person is incarcerated but people cannot even be evaluated while they are in custody as their coverage is suspended. Director Chambers-Smith stated that DRC has been working with the department of Medicaid on this issue for the prison population and the two departments are preparing something for the Governor's office.

Adjourn

18. Chief Justice Kennedy reviewed the next Commission meeting date was scheduled for March 6th, 2025, at 10:00am. She motioned to adjourn and was seconded by Director Chambers-Smith. The motion passed unanimously, and the meeting was adjourned at 11:12am.



Indefinite Sentencing *Reference Guide*

S.B. 201 – The Reagan Tokes Law

Senate Bill 201 went into effect March 22, 2019, and applies to all non-life felonies¹ of the first and second degree that occur on or after the effective date. The S.B. 201 provisions titled “The Reagan Tokes Law” significantly alter the sentencing structure for many of Ohio’s most serious felonies. For non-life felonies of the first and second degree, an indefinite sentencing system has been implemented. The sentencing judge will impose a “minimum term” from within the currently established sentencing range and a “maximum term” of an additional fifty percent of the “minimum term” imposed. Release is presumed to occur at the expiration of the “minimum term,” however the Department of Rehabilitation and Correction (DRC) may, under certain circumstances rebut that release presumption and extend the prison time up to the “maximum term.” For most offenses, DRC also has the authority, with approval of the sentencing judge, to reduce the “minimum term” by between 5-15% for exceptional conduct or adjustment to incarceration.

Indefinite Sentencing Process

1. Sentence offender² on each count.
2. Determine consecutive and allied offenses of similar import (merger) counts.
3. Calculate “aggregate minimum term.”
4. Calculate “maximum term” – specifications are *never* considered in the calculation.³
5. Impose specifications (if necessary).
6. Pronounce sentence, including “stated prison term.”

1 Only applies to non-life offenses. An offense that carries a life sentence is subject to parole, not indefinite sentencing.

2 Includes the adult portion of a Serious Youthful Offender sentence (R.C. 2152.13(D)).

3 R.C. 2929.144(B)(4).



Indefinite Sentencing Calculation

(Should be done at plea and during sentencing.)

1. Judge Imposes Prison Terms for All Offenses
 - a. Qualifying Offenses – The judge selects a “minimum term” from the F1 or F2 range as appropriate.⁴
 - b. Non-Qualifying Offenses - F3, F4, and F5 sentencing is unchanged. F1 and F2 offenses committed prior to March 22, 2019 are subject to definite terms.
 - c. Specifications – Sentencing for specifications or other mandatory time is unchanged. *Not part of the maximum indefinite term but are added to the maximum for plea advisements.*
2. Judge Calculates Maximum Term – R.C. 2929.144
 - a. Single Qualifying Offense – The maximum term is the minimum term plus 50% of that term. [R.C. 2929.144(B)(1)]
 - **Example:** Defendant is convicted of burglary, a felony of the second degree. The judge imposes a “minimum term” of four years in prison. The “maximum term” is the four-year minimum term plus two years (50% of that 4-year term) for a total of six years. The “stated prison term” would be four to six years.
 - b. Multiple Qualifying Offenses and Consecutive Sentences – The court adds up *all* indefinite minimum terms imposed *plus* any definite terms imposed *plus* any specifications *plus* an additional 50% of either the longest minimum term *or* definite term for the most serious felony sentenced. [R.C. 2929.144(B)(2)]
 - **Example:** Defendant is convicted of one count of aggravated burglary (1), a felony of the first degree, two counts of burglary (2) and (3), each a felony of the second degree, and one count of grand theft(4), a felony of the third degree. The judge imposes four years on (1), 3 years on (2) and (3) each, and one year on (4), and orders the sentences on each count to run consecutively. The aggregate “minimum term” would be 11 years (4+3+3+1), and the “maximum term” is: 4+3+3+1+2 (50% of 4 years – the longest minimum term or definite term for the most serious felony being sentenced) for a total of 13 years. The “stated prison term” would be 11 to 13 years.
 - c. Multiple Qualifying Offenses and Concurrent Sentences – The “maximum term” is equal to the longest minimum term imposed plus 50% of the longest term for the most serious qualifying felony** being sentenced. [R.C. 2929.144(B)(3)]
 - **Example:** Defendant is convicted of an aggravated burglary (1), a felony of the first degree and burglary (2), a felony of the second degree. The judge imposes “minimum terms” of four years on (1) and three years on (2) and orders the sentences to run concurrently. The “maximum term” is: four years (the longest minimum term for the most serious qualifying felony) plus two years (50% of four years) for a total of six years. The “stated prison term” would be four to six years.

⁴ For felonies of the first and second degree that specify a different minimum term or penalty (mandatory or otherwise), *that* term is considered the “minimum term” for calculation purposes.



Indefinite Sentencing Terminology

- **Qualifying Offense:** Felony of the first or second degree committed after March 22, 2019 and sentenced under R.C. 2929.14(A)(1)(a) or (2)(a). Offenses subject to a life sentence are *not* “qualifying offenses.”
- **Non-Qualifying Offense:** Felonies of the third, fourth, or fifth degree, felonies of the first or second degree committed before March 22, 2019, or felonies subject to a term of life imprisonment.
- **Non-Life Felony Indefinite Prison Term (R.C. 2929.01 (GGG)):** A prison term imposed under R.C. 2929.14(A)(1)(a) or (2)(a) for a qualifying felony of the first or second degree committed on or after March 22, 2019.
- **Definite Term:** A prison sentence imposed for “non-qualifying offenses” that are not punishable by life imprisonment.
- **Minimum Term:** The term of imprisonment imposed by the sentencing judge from the range of terms available for that offense for a particular qualifying offense. The defendant is presumed to be released at the expiration of the “minimum term,” subject to either “earned early release” or the “rebuttal of presumption of release.”
- **Maximum Term:** Calculated as per R.C. 2929.144. The maximum prison term that a defendant could be ordered to serve through “rebuttal of presumption of release” by the DRC.
- **Most Serious Felony:** determined by degree of felony. Felony of the first degree is the most serious.
- **Stated Prison Term:** The actual minimum sentence defendant will serve before consideration for release and the potential maximum amount of time the defendant could serve.
- **Presumptive Release Date:** The expiration of the defendant’s stated minimum term as calculated by DRC. Includes jail time credit. Defendant may be held beyond that date only through the “rebuttal of presumption of release.”
- **Earned Reduction of Minimum Prison Term (ERMT):** DRC recommended reduction of five to fifteen percent for “exceptional conduct while incarcerated or the defendant’s adjustment to incarceration.” R.C. 2967.271.
- **Presumptive Earned Early Release Date:** Date determined by the DRC recommended reduction, if any, of the minimum prison term. R.C. 2967.271(A)(2). A potential 5-15% reduction for “exceptional conduct or adjustment to incarceration,” subject to the review at a hearing in the sentencing court.
- **Rebuttal of Presumption of Release:** Procedures by which DRC may extend an offender’s incarceration up to the maximum term. R.C. 2967.271(C).



Advisements at Time of Plea

- The defendant must be informed of the longest potential maximum term during the Rule 11 plea colloquy.

[Criminal Rule 11\(C\)\(2\)\(a\)](#) requires the defendant to be notified of the maximum penalty involved. For SB201 qualifying sentences, the defendant should be informed of the potential maximum term they could face. This advisement should include the aggregate minimum term and maximum term if all counts were to be run consecutively.

Example 1: A defendant entering a guilty plea to one aggravated burglary, a felony of the first degree, should be informed of the potential 11 to 16.5 years in prison – 11 years being the max in the felony of the first-degree range for that offense, plus an additional 5.5 years for a 16.5-year maximum indefinite sentence.

Example 2: A defendant entering a guilty plea to two counts of aggravated burglary, each of which is a felony of the first degree, should be informed of the potential sentence of 11 to 16.5 years on each count for a total potential 22 to 27.5 years in prison.

- The court must notify the defendant of any mandatory terms.

Any qualifying offenses that carry mandatory terms are still subject to indefinite sentencing. The minimum term selected by the judge or mandated by statute is the mandatory portion of the sentence, and the defendant should be informed that the minimum term is mandatory.

- Non-mandatory offenses are still eligible for community control.

Defendants subject to indefinite sentencing for community control eligible offenses can still overcome the presumption in favor of a prison sentence. The court will then suspend minimum and maximum prison terms to be imposed for violation of the terms of community control.

- The court should notify the defendant of the mandatory sentence advisements in [R.C. 2929.19\(B\)\(2\)\(c\)](#).

Best practice in order to establish a knowing, intelligent, and voluntary waiver is to advise the defendant of the indefinite sentencing procedures as outlined in [R.C. 2929.19\(B\)\(2\)\(c\)](#). This includes the potential “earned reduction of minimum term” for “exceptional conduct or adjustment to incarceration” as determined by DRC. Mandatory and sexually oriented offenses are not eligible for earned reduction of minimum term.



Advisements at Sentencing R.C. 2929.19(B)(2)(c)

Defendants being sentenced for qualifying offenses *must* be notified of the following:
These advisements must be read exactly or face reversal.

- i. That it is rebuttably presumed that the offender will be released from service of the sentence on the expiration of the minimum prison term imposed as part of the sentence or on the offender's presumptive earned early release date, as defined in R.C. 2967.271, whichever is earlier;
- ii. That the department of rehabilitation and correction may rebut the presumption described in division (B)(2)(c)(i) if, at a hearing held under R.C. 2967.271, the department makes specified determinations regarding the offender's conduct while confined, the offender's rehabilitation, the offender's threat to society, the offenders restrictive housing, if any, while confined, and the offender's security classification;
- iii. That if, as described in division (B)(2)(c)(ii), the department at the hearing makes the specified determinations and rebuts the presumption, the department may maintain the offender's incarceration after the expiration of that minimum term or after that presumptive earned early release date for the length of time the department determines to be reasonable, subject to the limitation specified in R.C. 2967.271;
- iv. That the department may make the specified determinations and maintain the offender's incarceration under the provisions described in divisions (B)(2)(c)(i) and (ii) of this section more than one time, subject to the limitation specified in R.C. 2967.271;
- v. That if the offender has not been released prior to the expiration of the offender's maximum prison term imposed as part of the sentence, the offender must be released upon the expiration of that term.

The court must impose the maximum sentence both on the record and in the sentencing entry.

The judge must inform the defendant on the record of the minimum terms and the maximum term imposed. Those terms must also be journalized in the sentencing entry per R.C. 2929.144(C).

The Court Should Inform the Defendant of the Stated Prison Term.

Where the sentence contains specifications, it is important to note those specifications are served prior to any indefinite prison term and are not included in the maximum term per R.C. 2929.144(B)(4). In this case it is prudent to inform the defendant of the actual minimum sentence (the stated minimum prison term) that will be served before presumption of release and the potential maximum amount of time that could be served (the stated maximum prison term).

Indefinite Sentences are Subject to Post-Release Control (PRC).

Defendants must be notified that they will be subject to a term of post-release control. As with current law, violators may be sent back to the institution in up to 9-month increments, and the time served for PRC revocation cannot exceed one-half of the defendant's stated minimum term.



R.C. 2967.271 – Earned Reduction Of Minimum Term⁵ “Presumed Early Release Date”

DRC may recommend reduction of an offender's minimum sentence by 5-15% for “exceptional conduct or adjustment to incarceration” as described in R.C. 2967.271(F)(7). If DRC recommends this reduction, it is presumed the offender will be released at what is then called the “presumed early release date.”

That presumption may be rebutted by the sentencing court. DRC must provide notice of the recommendation to the sentencing court at least 90 days before the early release date. This request must include an ISR as well as program documentation and disciplinary records.

The court then has 60 days to make a decision. It must schedule a hearing on the request and notify the prosecutor.

At the hearing, it is presumed the court will grant the reduction. The court may overcome that presumption if any of the following apply:

1. Regardless of the offender's security level, the offender violated institutional rules that compromised prison security, or the safety of staff or inmates, or that involved physical harm or threat of physical harm to staff or inmates, or committed a violation of law that was not prosecuted and that those infractions or violations demonstrate a lack of rehabilitation.
2. The offender's behavior while incarcerated demonstrates a continued threat to society.
3. The offender is classified at security level 3 or higher.
4. The defendant did not productively participate in a majority of the rehabilitative programs and activities recommended by DRC for the offender or did not successfully complete a reasonable number of programs they participated in.
5. Upon release, the offender will not be residing in a halfway house, reentry center, or licensed community residential center and does not have any other fixed residence address to reside in.

If the court finds the presumption has *not* been rebutted, it must grant the requested reduction of the minimum term.

If the court finds the presumption has been rebutted, it *must* notify DRC of its reasons in writing.

The prosecutor will inform the victim of the hearing, and both the prosecutor and victim may present information at the hearing as well. Judges are also instructed to consider the 2929.12(B) factors, but only as they relate to the five findings above.

⁵ Individuals convicted of a sexually oriented offense are *not* eligible for a reduction of the minimum term under R.C. 2967.271.



R.C. 2967.271 – Continued Incarceration Beyond Minimum Term “Rebuttal of Presumption Of Release”

DRC may maintain an offender’s incarceration beyond the minimum term if it makes specified findings rebutting the presumption of release.

DRC must hold a hearing pursuant to [R.C. 2967.271](#) and find that one or more of the following three conditions apply:

1. Regardless of the offender’s security level, the offender violated institutional rules that compromised prison security, or the safety of staff or inmates, or that involved physical harm or threat of physical harm to staff or inmates and that those infractions demonstrate a lack of rehabilitation *and* the offender’s behavior demonstrates they continue to pose a threat to society.
2. The offender was placed in extended restrictive housing at any time during the year preceding the hearing.
3. The offender is classified at security level 3 or higher.

If the release presumption is rebutted, DRC may maintain the offender’s incarceration for a reasonable period as specified by DRC, but it may not exceed the maximum term.

The presumption of release applies to the additional period imposed by DRC, and another hearing must be held to further extend the incarceration.

The offender must be released at the expiration of the maximum term. They will then be subject to PRC.

When an offender is subject to multiple consecutive indefinite sentences in different case files, the incarceration may be extended for one sentence before beginning the minimum term on another sentence.

Example: Defendant is sentenced to an indefinite term of 2-3 years for Burglary in Franklin county. The defendant is later sentenced to a 4–6-year sentence in Delaware county, and that sentence is ordered to run consecutively. The defendant could have the Franklin County prison term extended to the full 3-year maximum term before starting the 4-year minimum term on the Delaware county case.

Unlike the reduction of the minimum term, there is no hearing at the sentencing court when DRC maintains incarceration beyond the minimum term. That hearing will occur administratively through DRC.



Notable Ohio Supreme Court Case Law

State v. Maddox, 2022-Ohio-764, Decided March 16, 2022. The Court resolved the certified conflict regarding whether the non-life felony indefinite sentencing scheme of S.B. 201 is ripe for constitutional review. In a 4-3 opinion, the majority held that the defendant could challenge the constitutionality of the sentencing scheme on direct appeal. The Court found that the requiring the defendant to wait until the incarceration is extended beyond the maximum term would cause hardship, and that as the maximum term is imposed at the initial sentencing hearing, no further factual development is necessary to make the constitutional determination. The Court further found sufficient harm by the potential additional loss of liberty to allow for challenge of the sentencing scheme.

State v. Hacker, Slip Opinion No. 2023-Ohio-2535, decided July 26, 2023. The Court held that the “Reagan Tokes Law” is not void for vagueness and is not facially unconstitutional. The Court held that the “Reagan Tokes Law” does not give the Ohio DRC the authority to extend a prison term beyond the maximum range imposed by the trial court and, thus, does not exceed the power given to the executive branch. Likewise, this extension beyond the minimum as a form of prison discipline does not interfere with the judiciary’s authority because the trial court imposed the maximum range at the time of sentencing. The Court also declined to adopt the defendant’s facial due process challenges, holding that the law is not void-for-vagueness and that because the law required the DRC to hold a hearing before extending the prison term beyond the minimum but within the maximum range there is not a facial procedural due process violation. Finally, the Court determined that the defendant’s right to a jury trial was not violated because the imposed “Reagan Tokes Law” sentence range is not changed by DRC at the hearing, the maximum amount of the defendant’s sentence is always capped at the maximum amount of time the trial court imposed.

Questions? Concerns?

Contact the Ohio Criminal Sentencing Commission at ocsc@sc.ohio.gov.



Not Guilty By Reason of Insanity Reference Guide

What Is Not Guilty By Reason Of Insanity (NGRI)?

[R.C. 2901.01(A)(14)]

A person is “not guilty by reason of insanity” relative to a charge of an offense only if the person proves, by a preponderance of the evidence and in the manner specified in section 2901.05 of the Revised Code, that at the time of the commission of the offense, the person did not know, as a result of a severe mental disease or defect, the wrongfulness of the person’s acts.

A defendant who does not plead not guilty by reason of insanity is conclusively presumed to have been sane at the time of the commission of the offense charged. [R.C. 2943.03]

A diagnosis of mental illness or intellectual disability, alone, is not sufficient for a finding of NGRI. There must be a connection between the behavior of the offense and the inability to know the wrongfulness of the behavior as a product of the underlying mental disease or defect.

What Does Not Constitute A Defense Of NGRI?

[R.C. 2945.391]

Proof that a person’s reason, at the time of the commission of an offense, was so impaired that the person did not have the ability to refrain from doing the person’s act or acts, does not constitute a defense.

Competency to Stand Trial and NGRI are separate and independent issues in a case. While both issues may be raised in the same case and the court can request joint evaluations, if both issues are raised the trial court will likely want to resolve the competency issue prior to resolving the NGRI issue. If only one issue is present in a case, then that is the only evaluation that needs to be conducted. The issue of NGRI may be raised only if a defendant enters a plea of not guilty by reason of insanity and enters that plea in writing.

How Is Competency Different From a Not Guilty By Reason Of Insanity Plea?

Competency to stand trial is a determination by the judge about a defendant’s present mental condition and about the defendant’s capacity to understand the proceedings and assist in the defendant’s own defense. [R.C. 2945.37(G)]

A plea of not guilty by reason of insanity (NGRI) asserts an affirmative defense regarding the defendant’s mental condition at the time of the offense and focuses on the defendant’s knowledge of the wrongfulness of the defendant’s actions at that time.

[R.C. 2901.01(A)(14)]



Entering A Not Guilty By Reason Of Insanity Plea

Who may raise NGRI? [R.C. 2901.01(A)(14)]

Only the defense may enter a plea of NGRI, and the plea must be made before the commencement of trial.¹ The plea must be made in writing by either the defendant or defense counsel.²

Who has the burden to prove NGRI? [R.C. 2901.05]

The defendant has the burden to prove NGRI by a preponderance of the evidence.

May a juvenile enter an NGRI plea?

No. No provision for an insanity plea exists in Ohio R. Juv. P. 29.³

Evaluations For NGRI [R.C. 2945.371]

If a defendant enters a plea of not guilty by reason of insanity, the court may order one or more evaluations of the defendant's mental condition at the time of the offense charged.

Who conducts the evaluation? [R.C. 2945.371]

If the court orders an evaluation, it must be conducted by an "examiner" as defined by R.C. 2945.37(A)(2) of the court's choosing. The examiner must be a qualified psychiatrist or clinical psychologist or be one employed by the Department of Mental Health and Addiction Services (OMHAS) to conduct such examinations.

[Administrative Code 5122-32-01(M)(3)]

Postdoctoral fellows may participate in the preparation of the report and may co-sign reports on which they have made significant contributions. No examiner may co-sign a report prepared by a postdoctoral psychology fellow without having personally participated in the evaluation of the examinee.

What is the time frame and format for the evaluation?
[R.C. 2945.371(G) and (H)]

An examiner must send a report to the court within 30 days after the court orders the evaluation. The evaluation may be conducted through electronic means.

1 R.C. 2943.03 and Ohio R. Crim. P. 11(H)

2 Ohio R. Crim. P. 11(A)

3 *In re Chambers*, 116 Ohio App.3d 312 (3rd Dist. 1996)



What must be included in the evaluation report?
[R.C. 2945.371(H)]

The report must include all of the following:

1. The examiner’s findings;
2. The facts in reasonable detail on which the findings are based;
3. If the evaluation was ordered to determine the defendant’s mental condition at the time of the offense charged, the examiner’s findings as to whether the defendant, at the time of the offense charged, did not know, as a result of a severe mental disease or defect, the wrongfulness of the acts charged.

Can statements made to examiners during NGRI evaluations or hearings be used against the defendant? [R.C. 2945.371(K)]

Statements made by the defendant during evaluations or hearings cannot be used to determine guilt.

Who pays the cost of the evaluation? [R.C. 2945.371(L)]

Examiners are paid a reasonable amount. Costs are borne by the court and may be taxed as costs in the case.⁴

What about a second opinion? [R.C. 2945.371 (B)]

If the court orders more than one evaluation under division (A) of this section, the prosecutor and the defendant may recommend to the court an examiner whom each prefers to perform one of the evaluations. If a defendant enters a plea of not guilty by reason of insanity and if the court does not designate an examiner recommended by the defendant, the court must inform the defendant that the defendant may undergo an independent expert evaluation and that, if the defendant is indigent and unable to pay for an independent expert evaluation, it will be arranged for the defendant at public expense.

Levels of Movement¹ and Forensic Status

Once a defendant has been committed to an OMHAS facility, depending on the defendant’s forensic status, various levels of movement are permitted within the facility:

Level 1 – Restricted to unit placement

Level 2 – Supervised on-grounds movement

Level 3 – Unsupervised on-grounds movement

Level 4 – Supervised off-grounds movement

Level 5 – Unsupervised off-grounds movement

Trial Visit – Unsupervised community contact with expectation to return

Conditional Release – Treatment in community for a period of time, not to exceed maximum term of imprisonment for most serious offense.

Medical Movement - Emergency and non-emergency.

1 See Appendix D <https://mha.ohio.gov/static/AboutUs/MediaCenter/PublicationsandFactSheets/ohio-forensic-manual.pdf>. For more guidance, contact OMHAS Director of Forensic Services, Lisa Gordish, PsyD, lisa.gordish@mha.ohio.gov.

4 Department of Mental Health and Addiction Services (OHMAS) has been funding NGRI evaluations in common-pleas courts.



NGRI Verdict By Jury Or Judge

What happens once the trier of fact finds the defendant NGRI?
[R.C. 2945.40(A)]

The court must conduct a full hearing within 10 days of the verdict finding NGRI.

What is the purpose of the full hearing within 10 days?
[R.C. 2945.40(A)]

To determine whether the person found NGRI is a person with a mental illness subject to court order or a person with an intellectual disability subject to institutionalization by court order. (See Sidebar)

What happens if the court does not conduct the hearing within 10 days? [R.C. 2945.40(B)]

The person who was found NGRI is to immediately be discharged. However, in *State v. Pollock*, 2002-Ohio-102 (2nd Dist. 2002) the court held that the time limits are directory, not mandatory, regarding R.C. 2945.40(B).

May the hearing be continued? [R.C. 2945.40(B)]

Yes. If the continuance is granted upon motion of the defendant, then any period of time is allowed. If the continuance is granted for good cause, then the delay may be no longer than 10 days.

May the court order temporary detention prior to the 10-day hearing? [R.C. 2945.40(A)]

Yes. Prior to the hearing, if the trial court has probable cause to believe that the person is a person with a mental illness subject to court order or a person with an intellectual disability subject to institutionalization by court order, then the court may order temporary detention up to 10 days or until the hearing, whichever is earlier.

Where is the defendant detained while awaiting the 10-day hearing? [R.C. 2945.40(A)]

Any person detained under a temporary order of detention must be held in a suitable facility, taking into consideration the place and type of confinement prior to and during trial.

Levels of Movement and Forensic Status, Continued...

Hospitals may move an individual from level one to level two with an attending psychiatrist's order. Approval of levels 3-5 and Conditional

Release may be changed only by court order. (R.C. 2945.401(D) (1))

Forensic Status (Available level of movement)

Jail Transfers and police holds - (Level 1).

Competency/Sanity Evaluation [R.C. 2945.371(H) (3) and (4)] - (Level 1).

Incompetent, restorable [R.C. 2945.38(B)] - (Levels 1 and 2)

Incompetent, unrestorable, probate court jurisdiction [R.C. 2945.38(H) (4)] - (Levels 1-5)

Maintain Competency [R.C. 2945.38(A)] - (Levels 1 and 2)

Incompetent, unrestorable, criminal court jurisdiction [R.C. 2945.39(A)] - (Levels 1-5)

Not Guilty by Reason of Insanity [R.C. 2945.40] - (Levels 1-5)

Mentally ill probationer or parolee [R.C. 2967.22 and Chapter 5122] - (Levels 1-5)



What are a defendant's rights at hearings regarding commitment terminations or changes? [R.C. 2945.40(C)(1)-(5)]

Defendant has a right:

- to attend hearings
- to counsel
- to independent expert evaluation
- to subpoena witnesses and documents
- to present evidence on his/her behalf
- to cross-examine witnesses
- to testify or not be compelled to testify
- to have copies of any relevant medical or mental-health document in the custody of the state, unless release of such a document would create substantial risk of harm to any person.

What are the requirements for the hearing that the trial court must hold? [R.C. 2945.40(D)]

The hearing must be open to the public.

The hearing must be conducted in accordance with the rules of civil procedure

The court must make and maintain a full transcript and record of the proceedings

What evidence may the court consider at the full hearing? [R.C. 2945.40(D)]

All relevant evidence, including but not limited to:

- Any psychiatric, psychological, or medical testimony or reports
- Acts constituting the offense for which the defendant found NGRI
- Any history of the defendant that is relevant to his or her ability to conform to the law

What findings must the court make at the full hearing? [R.C. 2945.40(E)]

If there is no clear and convincing evidence that the defendant is a person with a mental illness subject to court order or a person with an intellectual disability subject to institutionalization by court order, then the court should discharge the defendant.

Role of the Forensic Monitor

R.C. 2945.402 refers to actions that "the monitor" will conduct. OAC 5119.29 requires OhioMHAS in conjunction with boards of alcohol, drug addiction, and mental health services and community mental health boards to develop a coordinated system for tracking and monitoring persons found NGRI and granted Conditional Release and persons found Incompetent to Stand Trial and granted Conditional Release.

Each county ADAMH Board has designated a Forensic Monitor to monitor the compliance of a person on conditional release with the conditions of their release. The Forensic Monitor acts as a liaison between the court, hospital, outpatient treatment provider, and the individual. The Forensic Monitor notifies the court of any violation of the conditional release plan.

It is important for the Court to inform the Forensic Monitor of any defendant being placed on Conditional Release to the community directly without hospitalization as early in this process as possible. The Forensic Monitor must meet with the defendant and design the Conditional Release Plan prior to the hearing where the least restrictive placement is determined to be the community.

The Forensic Monitor may remind the Court to complete "Form 95" in accordance with Sup. R. 95.



[R.C. 2945.40(F)]

If clear and convincing evidence is presented that the defendant is a person with a mental illness subject to court order or person with an intellectual disability subject to institutionalization by court order, then the court should commit the person.

Where should the court commit the defendant found NGRI and also to be a person with a mental illness subject to court order?

[R.C. 2945.40(F)]

Either to the department of mental health and addiction services for treatment in a hospital, facility, or agency as determined clinically appropriate by the department of mental health and addiction services or to another medical or psychiatric facility, as appropriate.

Where should the court commit the defendant found NGRI and also found to be a person with an intellectual disability subject to institutionalization by court order? [R.C. 2945.40(F)]

A facility operated by the department of developmental disabilities or another facility, as appropriate.

What factors should the court consider in placement?

[R.C. 2945.40(F)]

- Extent to which the person is a danger to the person and to others
- The need for security
- Type of crime involved

In weighing these factors, the court must give preference to protecting public safety.

Where can the court commit the defendant? [R.C. 2945.40(F)]

The least restrictive alternative available that is consistent with public safety and the welfare of the person.

Prior to making a placement determination, courts can request that an examiner conduct a least restrictive setting evaluation to assist in determining placement pursuant to R.C. 2945.40(F).



NGRI Commitment

What are the reporting requirements once the court commits a defendant? [R.C. 2945.401(C)]

Facility of commitment must report in writing to the trial court whether the defendant remains a person with a mental illness subject to court order or a person with an intellectual disability subject to institutionalization by court order.

[R.C. 5122.311]

The hospital, agency, or facility where the defendant has been committed must notify the Office of the Attorney General of the identity of the defendant. The notification must be submitted using the [Notification Form for Records Checks](#).

How often must the report be made? [R.C. 2945.401(C)]

After the initial 6 months of treatment and every 2 years after the first report.

What must the court do after receiving the report?

[R.C. 2945.401(C)]

Within 30 days hold a hearing on the continued commitment or any changes in the condition of the commitment.

May the defendant request a change of conditions of confinement? [R.C. 2945.401(C)]

Yes. The trial court must conduct a hearing on that request if six months or more have elapsed since the most recent hearing conducted.

Does the trial court have continuing jurisdiction?

[R.C. 2945.401(A)]

Yes. NGRI defendant remains subject to the jurisdiction of the trial court until final termination of the commitment.

May the court release a defendant on conditional release?

[R.C. 2945.402(E)(1)]

Yes. If the court does approve conditional release, the court must report the approval and information pertaining to the release to the local law-enforcement agency. [See [Rules of Superintendence for the Courts of Ohio, Sup. R. 95](#), which supplies the form for reporting.]

Relevant Case Law

State v. Hickman, 2024-Ohio-5747. When a request for terminating commitment or move to nonsecured status the trial court must review all relevant factors plus R.C. 2945.401(E)(1) to (6). The ultimate determination is not dependent on whether the prosecutor carries the burden.

State v. Stutler, Ohio St.3d, 2022-Ohio-2792. Following a finding of NGRI and commitment, unless the state proves by clear and convincing evidence that the recommended changes to commitment conditions would result in a threat to public safety or to any person, the trial court does not have discretion to deny the requested change.

State v. Curry, 45 Ohio St.3d 109 (1989). A plea of not guilty by reason of insanity may be a defense to any crime regardless of the requisite mens rea. Thus, an insanity defense may be entered in cases requiring proof that the defendant's conduct be purposeful, knowing, reckless, or negligent because criminal intent or lack thereof is not the focus of the insanity question.

State v. Foster, 2014-Ohio-530 (2nd Dist.). Counsel was not ineffective in failing to pursue an insanity defense, as an insanity defense would have conflicted with defendant's defense strategy of pleading not guilty and denying all allegations regarding her behavior.

... continued on following page



What happens when the defendant is granted conditional release? [R.C. 2945.402]

The court may set any conditions on the release with respect to the treatment, evaluation, counseling, or control of the defendant that the court considers necessary to protect the public and the welfare of the defendant. [See sidebar. Forensic Monitors work with the court to assist with designing a Conditional Release Plan.]

A conditional release is a commitment. The R.C. 2945.401 hearings still apply.

Monitor must notify the trial court immediately of any violation of terms of conditional release. Court may order defendant detained and then hold a hearing within 10 days to determine if conditional release should be modified or terminated.

Courts should be aware that the notification requirements in R.C. 5122.311 are still applicable to defendants who have been conditionally released. The hospital, agency, or facility where the defendant has been committed must notify the Office of the Attorney General of the identity of the defendant. The notification must be submitted using the [Notification Form for Records Checks](#).

What happens if the defendant violates the terms of conditional release? [R.C. 2945.402(A)]

Trial court may revoke conditional release and reinstitutionalize the defendant if the conditions have not been satisfied.

[R.C. 2945.402(C)]

The Forensic Monitor must notify the trial court immediately of a violation of terms of conditional release. The court may order the defendant detained and then hold a hearing within 10 days to determine if conditional release should be modified or terminated.

[R.C. 2945.402 (D)]

If the Court finds by a preponderance of the evidence that the defendant violated the terms of the conditional release, the court may continue, modify, or terminate the conditional release.

Relevant Case Law, *Continued...*

State v. Tuomala, 104 Ohio St.3d 93, 2004-Ohio-6239.

The amount of time a person found not guilty by reason of insanity may be subject to court-ordered commitment is not reduced by the period of time spent in pretrial custody. R.C. 2967.191, which mandates the reduction of a prison term for prisoners convicted and sentenced, does not apply to a person found not guilty by reason of insanity because such a person is never convicted of an offense or sentenced to a period of confinement as a prisoner. Therefore, a person who is found not guilty by reason of insanity and subsequently deemed a mentally ill person subject to court-ordered hospitalization is not eligible for a reduction of the term of the court-ordered commitment at a behavioral health facility for pretrial time spent in detention.

State v. Swiger, 2013-Ohio-3519 (9th Dist.). A plea of not guilty by reason of insanity may be a defense to strict-liability offenses. A trial court erred by refusing to give a not guilty by reason of insanity instruction solely because the underlying criminal offenses were strict-liability offenses.

... continued on following page



Termination of Commitment

How long may a defendant be committed after an NGRI finding? [R.C. 2945.401(J)(1)]

The earlier of:

Defendant no longer a person with a mental illness subject to court order or a person with an intellectual disability subject to institutionalization by court order, as determined by trial court

Expiration of the maximum prison term⁵ or term of imprisonment that the defendant could have received if the defendant had been convicted of the most serious offense with which the defendant was found not guilty by reason of insanity.

Who has the burden of proof in hearings regarding terminating or changing a commitment pursuant to R.C. 2945.401(C) or R.C. 2945.401 (D)(1)? [R.C. 2945.401(G)]

In each instance, the prosecutor has the burden of proof as follows:

Recommendation of termination of commitment:

To maintain the court's jurisdiction, the prosecutor must show by clear and convincing evidence that the defendant remains a person with a mental illness or intellectually disabled person subject to court order.

Recommendation to a less restrictive status:

The prosecutor must show by clear and convincing evidence that the proposed changes represent a threat to public safety or a threat to the safety of any person.

What if a defendant still needs treatment after termination of commitment? [R.C. 2945.401(A)]

If terminated due to expiration of maximum prison term, the prosecutor or the court may file an affidavit for the civil commitment of the defendant.

Relevant Case Law, *Continued...*

State v. Ware, 44 Ohio App. 3d 201 (1st Dist. 1988). When a defendant is simultaneously found guilty of one or more counts of an indictment but not guilty by reason of insanity of the remaining counts of the indictment, the court may not postpone or stay the hearing on hospitalization or institutionalization that is mandated by R.C. 2945.40(A) pending the defendant's release. Instead, R.C. 2945.40(A) requires that the hearing be held first in order to accomplish the legislative purpose of treating mentally ill defendants who are found not guilty by reason of insanity, before or in lieu of punishment. See also *State v. Bailey*, 2010-Ohio-6155 (8th Dist.).

State v. Davis, 2014-Ohio-90 (10th Dist.). Where criminal defendant was found competent to stand trial, trial counsel was not ineffective because he acceded to the inmate's directive to forgo a not guilty by reason of insanity defense, as counsel's professional obligation was to abide by the client's wishes.

State v. Tenace, 121 Ohio App. 3d 702 (6th Dist. 1997). Trial court erred in permitting defense counsel, over defendant's objection, to withdraw defendant's plea of not guilty by reason of insanity and proceed on a plea of not guilty.

⁵ *State v. Tuomala*, 104 Ohio St.3d 93, 2004-Ohio-6239.



Person with a Mental Illness Subject to Court Order:

A “person with a mental illness subject to court order” is defined by R.C. 5122.01 (B) as a person with a mental illness who, because of the person’s illness: (ANY of the following apply)

- (1) Represents a substantial risk of physical harm to self as manifested by evidence of threats of, or attempts at, suicide or serious self-inflicted bodily harm;
- (2) Represents a substantial risk of physical harm to others as manifested by evidence of recent homicidal or other violent behavior, evidence of recent threats that place another in reasonable fear of violent behavior and serious physical harm, or other evidence of present dangerousness;
- (3) Represents a substantial and immediate risk of serious physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person’s basic physical needs because of the person’s mental illness and that appropriate provision for those needs cannot be made immediately available in the community;
- (4) Would benefit from treatment for the person’s mental illness and is in need of such treatment as manifested by evidence of behavior that creates a grave and imminent risk to substantial rights of others or the person;
- (5)(a) Would benefit from treatment as manifested by evidence of behavior that indicates **ALL** of the following:
 - (i) The person is unlikely to survive safely in the community without supervision, based on a clinical determination.
 - (ii) The person has a history of lack of compliance with treatment for mental illness and **ONE** of the following applies:
 - (I) At least twice within the thirty-six months prior to the filing of an affidavit seeking court-ordered treatment of the person under section 5122.111 of the Revised Code, the lack of compliance has been a significant factor in necessitating hospitalization in a hospital or receipt of services in a forensic or other mental health unit of a correctional facility, provided that the thirty-six-month period shall be extended by the length of any hospitalization or incarceration of the person that occurred within the thirty-six-month period.

Person With an Intellectual Disability Subject to Institutionalization by Court Order:

A “person with an intellectual disability subject to institutionalization by court order” is defined by R.C. 5123.01 (O) as “a person eighteen years of age or older with at least a moderate level of intellectual disability and in relation to whom, because of the person’s disability, either of the following conditions exists:

The person represents a very substantial risk of physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person’s most basic physical needs and that provision for those needs is not available in the community.

The person needs and is susceptible to significant rehabilitation in an institution.”



(II) Within the forty-eight months prior to the filing of an affidavit seeking court-ordered treatment of the person under section [5122.111](#) of the Revised Code, the lack of compliance resulted in one or more acts of serious violent behavior toward self or others or threats of, or attempts at, serious physical harm to self or others, provided that the forty-eight-month period shall be extended by the length of any hospitalization or incarceration of the person that occurred within the forty-eight-month period.

(iii) The person, as a result of the person’s mental illness, is unlikely to voluntarily participate in necessary treatment.

(iv) In view of the person’s treatment history and current behavior, the person is in need of treatment in order to prevent a relapse or deterioration that would be likely to result in substantial risk of serious harm to the person or others.

(b) An individual who meets only the criteria described in division (B)(5)(a) of this section is not subject to hospitalization.

UNIFORM SENTENCING ENTRY INTRODUCTION

The Uniform Sentencing entry is intended to provide practitioners with a template prescribing the minimum information required in a felony sentencing entry. Recognizing the complex nature of felony sentencing in Ohio, the Ad Hoc Committee worked to identify all elements necessary for an entry to comply with the Revised Code, Criminal Rule 32 as well as existing case law, and to develop the clearest and most concise language to comply with those requirements. Courts will be able to supplement the provided language with additional case-specific information pertinent to sentencing decisions or orders of the court at the time of sentencing.

Not every case requires an interpreter, and as such not every case will need interpreter language in the sentencing entry. But where an interpreter is used at a hearing, the entry should reflect that fact. The Ad Hoc Committee identified these conditional variables with a checkbox () in the entry with a reference to the instructions section where the appropriate language can be found. By leaving the check-box headings in the body of the uniform entry, practitioners are informed as to where that language should be found in the entry, when necessary. The check boxes are not intended for inclusion in the filed entry, but merely to identify when conditional language should be used when applicable. Similarly, bracketed text appearing in red e.g. **[EXAMPLE]** represents a fillable field or options to be selected depending on case-specific circumstances e.g. “The defendant is advised that post-release control is **[MANDATORY / DISCRETIONARY]**...” Blue bracketed heading without the conditional selection check box represent mandatory language in the entry.

The instructions sections following the entries also include additional information related to the topic, such as issues that may arise during the sentencing hearing and additional inquiries the Court may need to make. Courts will need to comply with local appellate decisions specific to sentencing entries – for example in Uniform Sentencing Entry instruction 9, where there is a split among appellate districts as to the application of R.C. 2929.13(B)(1)(a) regarding multiple offenses. The instructions currently attempt to point out where several such conflicts exist.

Several charts are included as the clearest and most accessible way to quickly look at an entry to determine the sentence imposed. In the Uniform Sentencing Entry, the Disposition chart lays out all counts before the Court for sentencing in the case. The sentence chart details both the count-specific sentence and provides a space for aggregate minimum and maximum terms in non-life felony indefinite sentencing cases, and for the total stated prison term in the case. A specification chart is included to detail count-by-count specification time – members felt a separate chart was necessary to delineate complicated cases with multiple specifications, particularly where merger of specifications could become an issue.

The Supreme Court has revisited much of its prior jurisprudence on when a sentence in a criminal case is void and subject to attack at any time versus when it is merely voidable and must be attacked on direct appeal, as illustrated in the decisions in *State v. Henderson*, 161 Ohio St.3d 285, 2020-Ohio-4784; *McKinney v. Haviland*, 162 Ohio St.3d 150, 2020-Ohio-4785; and *State v. Harper*, 160 Ohio St.3d 480, 2020-Ohio-2913. These decisions highlight the need for errors in the sentencing entry to be addressed on direct appeal. The Uniform Sentencing Entry will help courts avoid these errors and provide for easier review of the entry by the parties, ensuring that errors will not go unnoticed and be addressed before time deadlines have expired.

Finally, the Ohio Criminal Sentencing Commission will monitor legislation and Supreme Court case law, work to keep the uniform entry up to date with any necessary changes, notify practitioners of those changes, and work with jurisdictions to provide any necessary implementation training as the entry is adopted.

State of Ohio :

Plaintiff :

Case No. CR N

v. :

UNIFORM SENTENCING ENTRY

[NAME] :

Defendant :

() [INITIAL SENTENCING]¹

() [SENTENCING ON REMAND]²

() [VISITING / SUBSTITUTE JUDGE / RECUSAL]³

() [DEFENDANT'S PRESENCE]⁴

() [COUNSEL FOR DEFENDANT / WAIVER]⁵

[STATE'S REPRESENTATIVE]⁶

HEARING RECORDED⁷

() [INTERPRETER QUALIFICATION]⁸

() [VICTIM INQUIRY]⁹

[ALLOCUTION, PARTY STATEMENTS, AND CONSIDERATIONS]¹⁰

() [DEFENSE COUNSEL PRESENT]

() [PRO SE DEFENDANT]

CONVICTION & FINDINGS

[DISPOSITION]¹¹

The Court finds that the defendant was found guilty of the following:

INSTRUMENT - TYPE	COUNT #	STATUTORY OFFENSE CODE	NAME OF OFFENSE	OFFENSE LEVEL	DISPOSITION	DATE	SPECIFICATIONS (NAME AND CODE SECTION)

- [JUVENILE BINDOVER – MANDATORY OR DISCRETIONARY]¹²
- [SERIOUS MENTAL ILLNESS FINDING – DEFENDANT INELIGIBLE FOR CAPITAL PUNISHMENT]¹³
- [MERGER OF OFFENSES]¹⁴
- MERGER OF SPECIFICATIONS¹⁵
- [R.C. 2929.11 AND 2929.12 FACTORS]¹⁶
- [JUVENILE BINDOVER SENTENCING CONSIDERATIONS]¹⁷
- [COMMUNITY CONTROL SANCTION FOR NON-VIOLENT F4/F5 & DIV. B DRUG OFFENSES]¹⁸
RC 2929.13(B)(1)]
- [TCAP]¹⁹
- [F3 AND DIV. C DRUG OFFENSES]²⁰
- [PRISON PRESUMPTION]²¹
- [MANDATORY SENTENCES]²²
- [JOINT RECOMMENDATION]²³
- [MULTIPLE COUNTS – CONSECUTIVE / CONCURRENT SENTENCING]²⁴

SENTENCE

- [INCARCERATION IMPOSED]²⁵

The Court hereby imposes the following sentence:

COUNT #	SENTENCE (SPECIFY DEFINITE, MINIMUM, OR LIFE)	LENGTH OF TERM	MANDATORY	CONC W/ COUNT(S)	CONSEC TO COUNT(S)	SPECS	SPEC CONC	SPEC CONSEC
			<input type="checkbox"/>				<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>				<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>				<input type="checkbox"/>	<input type="checkbox"/>
AGGREGATE MINIMUM TERM								
MAXIMUM TERM								

STATED PRISON TERM (Includes sum of any specifications below)	
--	--

- () [SPECIFICATION CHART]²⁶
- () [JUVENILE BINDOVERS – PAROLE ELIGIBILITY]²⁷
- () [REPEAT VIOLENT OFFENDER SPECIFICATIONS]²⁸
- () MULTIPLE CASES – CONSECUTIVE / CONCURRENT SENTENCING²⁹
- () [ORDER OF SENTENCES]³⁰
- () [NON-LIFE FELONY INDEFINITE SENTENCING]³¹
- () [RISK REDUCTION SENTENCE]³²
- () [COMMUNITY CONTROL IMPOSED]³³
- () [NON-LIFE FELONY INDEFINITE MAXIMUM TERM]³⁴

[CONDITIONS OF COMMUNITY CONTROL IF NOT ATTACHED]

- () [RESIDENTIAL SANCTIONS]³⁵
- () [NONRESIDENTIAL SANCTIONS]³⁶
- () [COURTESY SUPERVISION / INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION]³⁷
- () [JOINT RECOMMENDATION ACCEPTED]³⁸

[POST-RELEASE CONTROL]³⁹

- () OFFENDER ON TRANSITIONAL / POST-RELEASE CONTROL AT TIME OF A NEW FELONY OFFENSE⁴⁰

[COURT COSTS AND FEES]⁴¹

- () [RESTITUTION]⁴²
- () [FINES]⁴³
- () [OTHER FINANCIAL SANCTIONS]⁴⁴
- () [LICENSE SUPENSION]⁴⁵
- () [FORFEITURE]⁴⁶
- () [PROPERTY DISPOSITION]⁴⁷

[BOND]⁴⁸

- () [DISMISSED CHARGES / SPECIFICATIONS]⁴⁹
- () [REMAND / CONVEY]⁵⁰

[JAIL TIME CREDIT]⁵¹

- () [REGISTRATION OFFENSES]⁵²
- () [DNA COLLECTION]⁵³
- () [FINGERPRINTING]⁵⁴
- () [BCI / LEADS / NICS REPORTING]⁵⁵
- () [CIVIL RIGHTS / FIREARM DISABILITIES]⁵⁶
- () [APPEAL RIGHTS]⁵⁷
- () [STAY OF EXECUTION / APPELLATE BOND]⁵⁸

IT IS SO ORDERED

JUDGE: _____

DATE: _____

UNIFORM SENTENCING ENTRY INSTRUCTIONS

As reminder, the Uniform Sentencing entry was developed as a template prescribing the minimum information required, and the provided language may be supplemented with additional case-specific information pertinent to the sentencing decisions or with specific orders of the court at the time of sentencing.

1- [INITIAL SENTENCING]

Language for use at initial sentencing of the case.

() **[INITIAL SENTENCING]**

This case came before the Court on **[DATE]** for sentencing pursuant to R.C. 2929.19.

2- [SENTENCING ON REMAND]

Language for use when a case is back before the Court for resentencing. Courts will include the original sentencing date, as well as information regarding the Court of Appeals case which led to the resentencing.

A space is provided for the Court to detail what issues led the Appellate Court to order a resentencing hearing take place. Courts can indicate in this space if the remand was to the case as a whole or just for specific counts.

() **[SENTENCING ON REMAND]**

This case came before the Court on **[DATE]** for sentencing after remand by the Court of Appeals. The case originally came before the Court on **[DATE]** for sentencing pursuant to R.C. 2929.19. On **[DATE]** the **[NUMBER]** District Court of Appeals issued a decision in **[CASE NUMBER]** following appeal of the previous judgment and/or sentence in this case. **[DETAIL APPELLATE DECISION / COUNTS SUBJECT TO RESENTENCING]**.

3- [VISITING / SUBSTITUTE JUDGE / RECUSAL]

Note where the hearing was conducted by a visiting / Substitute Judge other than the assigned judge on the case.

() **[VISITING / SUBSTITUTE JUDGE / RECUSAL]**

Due to the **[UNAVAILABILITY / RECUSAL]** of **[NAME OF ASSIGNED JUDGE]**, **[VISITING / SUBSTITUTE]** Judge **[NAME]** presided over the hearing on this date.

4- [DEFENDANT'S PRESENCE]

Note the defendant's presence or absence for the record.

() **[DEFENDANT'S PRESENCE]**

The defendant was present in the courtroom.

Pursuant to Crim.R. 43, a defendant may waive the defendant's physical presence at a criminal proceeding either orally on the record or in writing and participate in the proceeding via remote contemporaneous video technology. See Crim.R. 43(A)(2)(a-e) for specific requirements of the video conferencing technology.

() **[DEFENDANT NOT PRESENT – WAIVER]**

The Court notified the parties in advance of the availability of videoconferencing technology. The defendant waived the defendant's right to be physically present at the hearing **[ORALLY/IN WRITING]** pursuant to Crim.R. 43(A)(3) and the proceedings were conducted via remote contemporaneous video technology that allowed for the defendant to see and

hear the proceedings, to speak and be heard by the court and the parties, and to communicate with counsel privately.

A defendant may also be excluded from a proceeding due to disruptive behavior pursuant to Crim.R. 43(B). Courts should note that disruptive behavior for the record, as well as any accommodations (such as use of contemporaneous video technology) made to preserve the rights of the defendant.

[DEFENDANT NOT PRESENT – DISRUPTIVE BEHAVIOR]

[DETAIL DEFENDANT’S DISRUPTIVE BEHAVIOR] Due to the persistent disruptive conduct of the offender, the Court found pursuant to Crim.R. 43(B) that the proceedings could not reasonably be conducted with the defendant present in the courtroom, and therefore ordered that the defendant be removed. The Court then proceeded with the hearing. **[NOTE ANY STEPS TAKEN TO PRESERVE RIGHTS OF DEFENDANT]**

5. [COUNSEL FOR DEFENDANT / WAIVER]

Note the presence or absence of defense counsel for the record, including whether the defendant has previously waived the defendant’s right to counsel, whether the defendant did so at the hearing in question, and where standby counsel has been appointed to assist the defendant.

Ohio allows for standby counsel to be appointed by the trial court, in its discretion, when a defendant has waived the right to counsel. The role of standby counsel is to assist the defendant should the defendant request it. If at any point it is decided the defendant no longer wishes to represent themselves or is otherwise incapable, standby counsel can step in to present a defense in the case. However, the Court has cautioned repeatedly against what is commonly known as “hybrid representation,” or allowing standby counsel to participate alongside a pro se defendant. Hybrid representation is seen- as problematic for a variety of reasons; it can cause confusion in how to manage courtroom proceedings and can usurp the defendant’s right to represent themselves in the proceeding. Courts choosing to appoint standby counsel should be clear as to the role and duties standby counsel is being appointed to fulfill. For more information on standby counsel, see [State v. Martin, 103 Ohio St.3d 385, 2004-Ohio-5471](#), and [State v. Hackett, 164 Ohio St.3d 74, 2020-Ohio-6699](#).

[DEFENDANT HAS COUNSEL]

Counsel for the defendant, **[NAME]**, **[WAS PRESENT/APPEARED BY VIDEO]**.

[PRO SE DEFENDANT]

Defendants have a sixth amendment right to waive the right to counsel and represent themselves. The request must be unequivocal, and the trial court must conduct an inquiry to insure the defendant is aware of the consequence of giving up the right to counsel and of the “dangers and disadvantages of self-representation” – including specific facts and circumstances about the defendant’s situation or charges that affect the decision to waive counsel. The request and waiver inquiry must take place on the record pursuant to Crim.R. 22, and in “serious offenses” (felonies), that waiver must also be in writing pursuant to Crim.R. 44.

[PRIOR WAIVER]

At a hearing on **[DATE]**, the defendant requested to waive the right to counsel and represent themselves. The Court conducted an inquiry and found that waiver to be knowingly, intelligently, and voluntarily made.

[STANDBY COUNSEL PREVIOUSLY APPOINTED]

Standby counsel for the defendant, **[NAME]**, **[WAS PRESENT/APPEARED BY VIDEO]**.

[WAIVER AT THE HEARING]

The defendant expressed on the record a request to represent themselves in the proceedings. The Court then conducted an inquiry into the reasons thereof and made the defendant aware of the benefits of having counsel and the dangers and disadvantages of proceeding pro se. After the inquiry, the Court found that the defendant was making a knowing, intelligent, and voluntary waiver of the right to counsel, and allowed the defendant to proceed without representation. This waiver was memorialized in writing after the inquiry on the record.

() [STANDBY COUNSEL APPOINTED AT HEARING]

The defendant having waived the right to be represented by counsel, The Court discussed the appointment of stand-by counsel with the defendant, and the court appointed standby counsel [NAME] in this case [AT THE DEFENDANT'S REQUEST/ON ITS OWN MOTION].

6- [STATE'S REPRESENTATIVE]

() [STATE'S REPRESENTATIVE]

The State of Ohio, as represented by [NAME] [WAS PRESENT / APPEARED BY VIDEO].

7- [HEARING RECORDED]

() [HEARING RECORDED]

The hearing took place [ENTIRELY BY REMOTE VIDEOCONFERENCING] / [IN PART BY REMOTE VIDEOCONFERENCING] / [IN PART BY TELEPHONE CONFERENCING] / [ENTIRELY BY TELEPHONE CONFERENCING].

The proceedings were recorded by [NAME OF REPORTER] / [ELECTRONIC RECORDING SYSTEM].

8- [INTERPRETER QUALIFICATION]

Language for use when interpreter is necessary at the sentencing hearing. For additional information about interpreters, see the Supreme Court of Ohio's [Court Interpreter Bench Notes](#).

The Court had previously inquired and found, pursuant to R.C. 2311.14 and Sup.R. 88, that a [LANGUAGE] interpreter was necessary to assist the defendant in understanding the proceedings. The [CERTIFIED/PROVISIONALLY QUALIFIED/REGISTERED/LANGUAGE-SKILLED] interpreter [NAME] [WAS/HAD BEEN PREVIOUSLY] appointed, was sworn on the record, and interpreted for the defendant.

9- [VICTIM INQUIRY]

In crimes involving a victim, the victim/victim's representative has the right to be present during any public proceeding, other than grand jury, and victim/victim's representative and victim's attorney has the right to be heard by the court at any proceeding in which any right of the victim is implicated.

() [VICTIM PRESENT]

The [VICTIM(S)/VICTIM REPRESENTATIVE(S)] was/were present at the hearing and were given the opportunity to be heard.

() [VICTIM PRESENT - VIRTUALLY]

The [VICTIM(S)/VICTIM REPRESENTATIVE(S)] was/were present at the hearing virtually and was/were given the opportunity to be heard.

() [VICTIM NOT PRESENT]

The [VICTIM(S)/VICTIM REPRESENTATIVE(S)] was/were not present at the hearing. The Court asked the prosecutor all of the following:

(i) Whether the victim and victim's representative, if the victim or victim's representative requested notifications, were notified of the time, place, and purpose of the court proceeding;

(ii) To disclose to the court any and all attempts made to give each victim and victim's representative, if applicable, notice;

(iii) Whether the victim or victim representative were advised that the victim and victim's representative had a right to be heard at the court proceeding;

(iv) Whether the victim and victim representative were conferred with pursuant to section [2930.06](#) of the Revised Code.

The Court determined that the hearing may proceed as the prosecutor informed the court that the victim and victim's representative, if the victim or victim's representative requested notifications, were notified of the time, place, and purpose of the court proceeding and that the victim or victim's representative had a right to be heard at the court proceeding, and any and all attempts to give each victim and victim's representative, if applicable, notice. The prosecutor shall inform the court of the victim's and victim's representatives, if applicable, position on the matter before the court, if the position is known to the prosecutor.

10- [ALLOCATION, PARTY STATEMENTS, AND CONSIDERATIONS]

Language regarding the court giving the defendant the opportunity for allocution, along with the opportunity for the state to address the court, as well as the considerations the court has made prior to imposing sentence. The initial language differs based on whether or not the defendant is represented. The concluding paragraph appears regardless of which option is selected.

() **[DEFENSE COUNSEL PRESENT]**

The Court gave defense counsel an opportunity to speak and present mitigation on the defendant's behalf, personally addressed the defendant, and provided the defendant an opportunity for allocution.

() **[PRO SE DEFENDANT]**

The Court personally addressed the defendant, and provided the defendant an opportunity for allocution.

() **[PROSECUTING ATTORNEY]**

The Court gave the prosecuting attorney an opportunity to address the court.

() [The State deferred to the court regarding specific sentencing recommendations.](#)

(MANDATORY LANGUAGE)

Having considered all statements in mitigation as well as the statements of the parties, any presentence investigation, any victim impact statement and/or other statement from the victim or victim's representative, as well as the principles and purposes of sentencing in R.C. 2929.11, the seriousness and recidivism factors in R.C. 2929.12, and all other relevant sentencing statutes, the Court pronounced sentence on the defendant as follows.

CONVICTIONS & FINDINGS

This section uses a chart to illustrate the counts the defendant has been found guilty of as well as findings the court may need to make before imposing sentence. Please note that the Uniform Sentencing Entry was constructed with an assumption that a separate entry will be prepared journalizing the disposition for each count – e.g. an entry of guilty plea.

11- [DISPOSITION]

This section of the entry begins with an eight-column chart detailing the charges for which the defendant was convicted (from left to right in chart). *Columns highlighted in grey indicate that when no data is entered, the column will not appear in the final, published version of the entry.*

Recognizing that counts may be added or amended prior to sentencing, the Disposition chart now includes a "Instrument/Type" column to detail where the count originated and if it has changed in any way since originally filed. This

would include noting if a specification to the count has changed since the indictment. Specifications that were amended during the case would fall under the “amended” category, specifications for which a defendant was found not guilty would fall under the lesser included offense category, and those amended/dismissed pursuant to a plea would fall under the “stipulated lesser” category.

The columns in the Disposition chart are as follows:

1. The charging instrument and type of charge. Codes for other charge types:
 - a. **IND** – Defendant convicted of charge as indicted.
 - i. **IND - AM** – Amended from indicted charge/specification.
 - ii. **IND - STLIO** – Stipulated Lesser of indicted charge/specification.
 - iii. **IND - LIO** – Lesser included offense of indicted charge/specification
 - b. **BOI** – Defendant convicted of charge in Bill of Information
 - i. **BOI - AM** – Amended from charge/specification in Bill of Information.
 - ii. **BOI - STLIO** – Stipulated Lesser of charge/specification in Bill of Information.
 - iii. **BOI - LIO** – Lesser included offense of charge/specification in Bill of Information.
 - c. **COM** – Defendant convicted of charge in Complaint
 - i. **COM - AM** – Amended from complaint’s charge/specification.
 - ii. **COM - STLIO** – Stipulated Lesser of charge/specification in complaint.
 - iii. **COM - LIO** – Lesser included offense of charge/specification in complaint.
2. The count numbers should be referenced as they originally appeared in the charging instrument, even if the counts were re-numbered prior to jury consideration (any such renumbering of counts will be noted as part of the verdict upon trial entry).
3. The statutory offense code - e.g. 2913.02(A)
4. The name of the offense - e.g. Theft
5. The offense level described simply as F# - e.g. F5
6. The method by which the disposition occurred - e.g. guilty plea, bench trial, jury trial
7. The date of the plea or verdict in MM/DD/YYYY format - e.g. 02/01/2020
8. Any specifications attached to the count, by specification number (if multiple specifications per count), name and code section - e.g. 3-year Firearm 2941.145. This column is highlighted in grey to indicate that when no specifications are present in the case, the column will not appear in the final, published version of the entry.

12- [JUVENILE BINDER – MANDATORY OR DISCRETIONARY]

In cases where the offender was under the age of 18 at the time of the offense and is bound over to adult court, Courts should use the following template language in the sentencing entry.

Pursuant to R.C. 2152.121, when a youth aged 16 or 17 at the time of the offense and subject to a mandatory bindover pursuant to R.C. 2151.12(A)(2)(a)(i) [R.C. 2152.02(BB) Category One offense] or (A)(1)(b)(ii) [R.C. 2152.02(CC)] Category Two offense committed with a firearm] is before the court for sentencing, the court must determine if the offense the offender has been convicted of or pleaded guilty to would still subject the defendant to a mandatory bindover. This typically occurs in cases where the offender has been found guilty of a lesser offense or has entered a plea to a charge other than that to which the offender was bound over. If the court finds under those circumstances that the bindover would have been discretionary, it must then impose a sentence and then order that sentence stayed and the case transferred back to juvenile court for additional determinations as to the amenability of the offender.

For additional information on the juvenile bindover process, see the Supreme Court of Ohio’s [Youth in Adult Court Bench Card](#)

() **[JUVENILE BINDER]**

As the offense in question occurred before the defendant’s eighteenth birthday, jurisdiction in this case was transferred to this court as the result of a **[MANDATORY/DISCRETIONARY]** juvenile bindover in **[NAME]** County Juvenile Court on **[DATE OF ENTRY CERTIFYING BINDER]**.

() [DEFENDANT GUILTY OF MANDATORY BINDOVER OFFENSE]

As the defendant was age [SIXTEEN/SEVENTEEN] at the time of the offense, and was subject to a mandatory bindover for a [CATEGORY ONE OFFENSE/CATEGORY TWO OFFENSE COMMITTED WITH A FIREARM], pursuant to R.C. 2152.121 this Court further finds that the offender was found guilty of an offense subject to mandatory bindover in Count [NUMBER] and jurisdiction will remain with the Common Pleas Court for sentencing.

() [DEFENDANT FOUND GUILTY OF DISCRETIONARY BINDOVER OFFENSE]

As the defendant was age [SIXTEEN/SEVENTEEN] at the time of the offense, and was subject to a mandatory bindover for a [CATEGORY ONE OFFENSE/CATEGORY TWO OFFENSE COMMITTED WITH A FIREARM], pursuant to R.C. 2152.121 this Court further finds that the offender was found guilty of an offense subject to discretionary bindover in Count [NUMBER] and therefore orders the sentence imposed in this case stayed and the case transferred back to [NAME] County Juvenile Court for additional hearings as to the amenability of the offender for rehabilitation within the juvenile system.

13- [SERIOUS MENTAL ILLNESS FINDING – DEFENDANT INELIGIBLE FOR CAPITAL PUNISHMENT]

With the passage of 2021 Am.Sub.H.B. No. 136 (effective April 12, 2021) Ohio law now prohibits imposition of the death penalty for individuals who suffered from a statutorily defined “serious mental illness” at the time of the commission of the capital offense. R.C. 2929.025 governs how the defendant may raise the issue and request an evaluation and pretrial hearing on the issue. The burden is on the defendant to prove by a preponderance of the evidence that the defendant were suffering from one of the specified illnesses at the time of the offense, and that the illness significantly impaired the defendant’s capacity to exercise rational judgment in either conforming the defendant’s behavior to legal requirements or appreciating the nature, consequences, or wrongfulness of the defendant’s conduct. If proven, the Court must find that the defendant is not eligible for a sentence of death.

When the defendant has been found ineligible for the penalty and the indictment alleges a capital specification under R.C. 2929.04(A)(5) of a prior conviction, that specification must still be presented to the jury, trial judge, or 3 judge panel for consideration of the prior conviction. If proven beyond a reasonable doubt, that specification may impact the sentencing pursuant to R.C. 2929.022(A)(2)(b). To that end, the first sample entry above deals with memorializing the Court’s findings after a hearing on the issue.

A finding of serious mental illness would alleviate the need for use of a capital case specific uniform sentencing entry, and the following language should be added to the standard uniform sentencing entry indicating that the finding had been made and noting any relevant sentencing consequences. Use the following language in such circumstances, supplemented as necessary with case specific facts.

Count(s) [NUMBER] were indicted with capital specifications under R.C. 2929.04, and the defendant alleged and successfully proved the defendant was suffering from a serious mental illness at the time of the offense(s) and that the illness significantly impaired the defendant’s capacity to exercise rational judgment in relation to the person’s conduct with respect to either conforming the defendant’s conduct to the requirements of law or appreciating the nature, consequences, or wrongfulness of the defendant’s conduct. [SUPPLEMENT WITH CASE SPECIFIC FINDINGS]. Therefore, this Court found at a hearing on [DATE] that the defendant was not eligible for the death penalty in this case.

14- [MERGER OF OFFENSES]

Courts must consider the issue of merger regardless of whether community control or prison terms are being imposed. If the issue of merger is raised, the Court should conduct a hearing and address the issue on the record to determine what, if any, counts may merge. This analysis occurs prior to sentencing, as the defendant does not receive a sentence on merged counts. As such, the section memorializing the Court’s decision on merger is located before the sentences are formally imposed.

The language of the entry eschews the formal language of R.C. 2941.25 “allied offenses of similar import” as the Ad Hoc Committee felt that the term “merger” better reflects the language used by practitioners throughout the state. Courts involved in a merger analysis should supplement the language below with specific findings.

NOTE: Both optional sections – [MERGER APPLIES] and [MERGER DOES NOT APPLY] – could be used.

[MERGER APPLIES]

The Court finds that Counts **[NUMBERS]** merge under R.C. 2941.25 for purposes of final conviction and sentence.

The State elected to proceed on Count **[NUMBER]** and therefore a final conviction and sentence is hereby entered on Count[s] **[NUMBER]** only.

(REPEAT AS NECESSARY)

The Court finds that merger under R.C. 2941.25 does not apply to any other counts.

[MERGER DOES NOT APPLY]

The Court finds that Counts **[NUMBERS]** do not merge under R.C. 2941.25 for purposes of final conviction and sentence. **(REPEAT AS NECESSARY)**

The Court finds that merger under R.C. 2941.25 does not apply to any counts.

15- [MERGER OF SPECIFICATIONS]

A court generally may not impose additional prison terms for multiple specifications of the same type for offenses committed as part of the same act, transaction, scheme, or plan – though specific language varies by type of specification, as listed below.

“Acts or transaction” and “scheme or plan” are understood as having the same meaning as under Crim.R.8(A) considerations of joinder. “Transaction” has been interpreted in the specification context to mean a “series of continuous acts bound together by time, space, and purpose, and directed toward a single objective” *State v. Wills*, 69 Ohio St.3d 690, 1994-Ohio-417, 635 N.E.2d 370 (1994). More recently, the Supreme Court of Ohio in *State v. Dean*, 146 Ohio St. 3d 106, 2015-Ohio-4347, 54 N.E.2d 80 (2015) found that specifications for offenses “[committed on] different days and at different locations and involved separate victims” did not require merger under this section. For a recent summary of appellate holdings on this issue, see *State v. Williams*, 2020-Ohio-1368 (1st Dist.) at paragraphs 16-17.

Prohibitions against imposition of multiple specifications include:

- Multiple firearm specifications under R.C. 2941.141, 2941.144, or 2941.145 – [R.C. 2929.14(B)(1)(b)]
 - Not more than one prison term for felonies committed as part of the same act or transaction, except as provided in R.C. 2929.14(B)(1)(g) – When the defendant is convicted of two or more specified felonies, and those convictions include firearm specifications, the court **must** impose prison terms for each of the two most serious specifications for which the offender is convicted, and may, in its discretion, impose prison terms for any and all remaining specifications which will be run concurrently to all other imposed prison terms. *State v. Beatty*, 2024-Ohio-5684.
 - Note that R.C. 2941.141(B) and (E), R.C. 2941.144(B) and (E), and R.C. 2941.145(B) and (E), prohibit these specifications stacking with each other on a given felony count.
 - Note offense exclusions in R.C. 2929.14(B)(1)(e)
- Multiple drive-by shooting specifications under R.C. 2941.146 [R.C. 2929.14(B)(1)(c)(iii)]
 - Can only impose one such specification for felonies committed as part of the same act or transaction.
 - Mandatory that court impose a prison term for a 2929.14(B)(1)(a) specification as well, if conditions satisfied.
 - Note offense exclusions in R.C. 2929.14(B)(1)(e)
- Multiple body armor specifications under R.C. 2941.1411 [R.C. 2929.14(B)(1)(d)]
 - Not more than one prison term for felonies committed as part of the same act or transaction.
 - Not precluded from imposing this additional prison term if a prison time for a R.C. 2929.14(B)(1)(a) or R.C. 2929.14(B)(1)(c) spec is also imposed.
- Multiple specifications for discharge of a firearm at a peace or corrections officer under R.C. 2941.1412 [R.C. 2929.14(B)(1)(f)(iii)] – the court must impose two of the specifications, and has discretion to impose any other such specifications]
 - If a prison term is imposed for a R.C. 2929.1412 specification, the court **may not** impose a prison term for a firearm specification (2941.141, 2941.144, 2941.145) or a drive-by shooting specification (2941.146)

- Multiple repeat violent offender specifications under R.C. 2941.149 [R.C. 2929.14(B)(2)(c) – offenses committed at the same time or as part of the same act or event are considered one offense]
- Multiple peace officer/BCI investigator victim specifications under R.C. 2941.1414 [R.C. 2929.14(B)(5)]
 - Cannot impose more than one prison term for felonies committed as part of the same act.
- Multiple specifications for 3 or more OVI offense convictions under R.C. 2941.1415 [R.C. 2929.14(B)(6)]
 - Cannot impose more than one prison term for felonies committed as part of the same act.
- Multiple human trafficking specifications under R.C. 2941.1422 [R.C. 2929.14(B)(7)(b)]
 - Cannot impose more than one prison term for felonies committed as part of the same act, scheme, or plan.
- Multiple 6-year specifications for use of an accelerant resulting in permanent serious disfigurement or permanent substantial incapacity under R.C. 2941.1425 [R.C. 2929.14(B)(9)(b)].
 - Cannot impose more than one prison term for felonies committed as part of the same act.
- Multiple 6-year specifications for permanent disabling harm to a victim under 10 under R.C. 2941.1426 [R.C. 2929.14(B)(10)]
 - Cannot impose another other additional prison terms on the offender relative to the same offense.
- Multiple MDO specifications for fentanyl-related compounds under R.C. 2941.1410 [R.C. 2929.14(B)(11)]
 - Cannot impose more than one prison term for felonies committed as part of the same act.
- Multiple Violent Career Criminal specifications under R.C. 2941.1424 [R.C. 2929.14(K)(1)]
 - Cannot impose more than one prison term under R.C. 2929.14(K)(1) and 2929.14(B)(2)(a)(RVO spec) for felonies committed as part of the same act or transaction. “Merger” of these specifications with an RVO spec are handled in the RVO Specification section.

Cases with multiple firearm specifications may require consideration of both merger of specifications under R.C. 2929.14(B)(1)(b) and whether the sentencing court chooses to run any of the specifications concurrently under R.C. 2929.14(B)(1)(g).

Use the following language to supplement the record regarding the sentences imposed for specifications. *State v. Bollar*, 2022-Ohio-4370, the Supreme Court held that cumulative prison terms for firearm specifications were allowed as part of the same act.

) **[FIREARM SPECIFICATION MERGER / CONSECUTIVE ANALYSIS]**

) **[FIREARM SPECIFICATIONS MERGED] (REPEAT AS NECESSARY)**

Pursuant to R.C. 2929.14(B)(1)(b) the Court hereby finds that that Specification(s) **[NUMBER(S)]** to Count(s) **[NUMBER(S)]** and Count(s) **[NUMBER(S)]** were committed as part of the same act or transaction and as such will only impose one prison term for those specifications.

) **[FIREARM SPECIFICATIONS NOT MERGED] (REPEAT AS NECESSARY) (CAN USE BOTH)**

Pursuant to R.C. 2929.14(B)(1)(b) the Court hereby finds that Specification(s) **[NUMBER(S)]** to Count(s) **[NUMBER(S)]** and Count(s) **[NUMBER(S)]** were not committed as part of the same act or transaction and as such will impose prison terms for each of those specifications.

) **[R.C. 2929.14(B)(1)(g) – FIREARM SPECIFICATIONS NOT MERGED – OPTIONAL, ADDITIONAL TERMS] (REPEAT AS NECESSARY) (CAN USE BOTH)**

Pursuant to R.C. 2929.14(B)(1)(g) the defendant being before the court for two or more felonies, one of which is Aggravated Murder, Murder, Attempted Aggravated Murder, Attempted Murder, Aggravated Robbery, Felonious Assault, or Rape, with a firearm specification attached to two or more of said felonies, the Court shall impose a mandatory, consecutive prison term for two most serious Specifications **[NUMBERS]** and:) **[2929.14(B)(1)(g)] (REPEAT AS NECESSARY) (CAN USE BOTH)** Pursuant to that statute, the Court will impose a mandatory, consecutive prison term for Specification(s) **[NUMBER(S)]**.

[2929.14(B)(1)(g) (REPEAT AS NECESSARY) (CAN USE BOTH)

Pursuant to that statute, the Court **will not** impose a prison term for Specification(s) **[NUMBER(S)]**.

[MULTIPLE FIREARM SPECIFICATIONS]

Language for use when there are multiple firearm specifications per count. R.C. 2941.141(B) and (E), R.C. 2941.144(B) and (E), and R.C. 2941.145(B) and (E), prohibit firearm specifications stacking with each other on a given felony count. Note that the code is silent as to which specification the courts should impose a prison term for.

[MULTIPLE FIREARM SPECIFICATIONS]

Pursuant to statute, the Court is precluded from imposing more than one prison term for a firearm specification relative to the same felony, and as such will only impose a prison term for one such firearm specification per applicable count.

[DRIVE-BY SPECIFICATION MERGER]

[DRIVE-BY SPECIFICATIONS MERGED] (REPEAT AS NECESSARY)

Pursuant to R.C. 2929.14(B)(1)(c)(iii) the Court hereby finds that Specification(s) **[NUMBER(S)]** to Count(s) **[NUMBER(S)]** and Count(s) **[NUMBER(S)]** were committed as part of the same act or transaction and as such will only impose one mandatory, consecutive prison term for those specifications.

[DRIVE-BY SPECIFICATIONS NOT MERGED] (REPEAT AS NECESSARY)(CAN USE BOTH)

Pursuant to R.C. 2929.14(B)(1)(d) the Court hereby finds that Specification(s) **[NUMBER(S)]** to Count(s) **[NUMBER(S)]** and Count(s) **[NUMBER(S)]** were not committed as part of the same act or transaction and as such will impose mandatory, consecutive prison terms for each of those specifications.

[BODY ARMOR SPECIFICATION MERGER]

[BODY ARMOR SPECIFICATION MERGED] (REPEAT AS NECESSARY)

Pursuant to R.C. 2929.14(B)(1)(d) the Court hereby finds that Specification(s) **[NUMBER(S)]** to Count(s) **[NUMBER(S)]** and Count(s) **[NUMBER(S)]** were committed as part of the same act or transaction and as such will only impose one mandatory, consecutive prison term for those specifications.

[BODY ARMOR SPECIFICATIONS NOT MERGED](REPEAT AS NECESSARY)(CAN USE BOTH)

Pursuant to R.C. 2929.14(B)(1)(d) the Court hereby finds that Specification(s) **[NUMBER(S)]** to Count(s) **[NUMBER(S)]** and Count(s) **[NUMBER(S)]** were not committed as part of the same act or transaction and as such will impose mandatory, consecutive prison terms for each of those specifications.

[DISCHARGE OF FIREARM AT A PEACE OFFICER SPECIFICATION MERGER]

[DISCHARGE OF A FIREARM AT A PEACE OFFICER SPECIFICATIONS – DISCRETIONARY MERGER] (REPEAT AS NECESSARY)(MUST IMPOSE TWO SPECIFICATIONS, DISCRETION AS TO REMAINING)

Pursuant to R.C. 2929.14(B)(1)(f)(iii) the Court must hereby impose a mandatory, consecutive prison term on Specification(s) **[NUMBER(S)]** to Count(s) **[NUMBER(S)]**.

[ATTENDANT FIREARM SPECIFICATIONS](REPEAT AS NECESSARY)(CAN USE BOTH)

Pursuant to R.C. 2929.14(B)(1)(f)(iii) the Court **may not** impose a prison term for Specifications **[NUMBER(S)]** to Count(s) **[NUMBER(S)]**.

[PEACE OFFICER / BCI INVESTIGATOR SPECIFICATION MERGER]

[PEACE OFFICER / BCI INVESTIGATOR VICTIM SPECIFICATIONS MERGED](REPEAT AS NECESSARY) (CAN USE BOTH)

Pursuant to R.C. 2929.14(B)(5) the Court hereby finds that Specification(s) **[NUMBER(S)]** to Count(s) **[NUMBER(S)]** and Count(s) **[NUMBER(S)]** were committed as part of the same act and as such will only impose one mandatory,

consecutive prison terms for those specifications.

() **[PEACE OFFICER / BCI INVESTIGATOR VICTIM SPECIFICATIONS NOT MERGED] (REPEAT AS NECESSARY)(CAN USE BOTH)**

Pursuant to R.C. 2929.14(B)(5) the Court hereby finds that Specification(s) **[NUMBER(S)]** to Count(s) **[NUMBER(S)]** and Count(s) **[NUMBER(S)]** were not committed as part of the same act and as such will impose mandatory, consecutive prison terms for each of those specifications.

() **[OVI SPECIFICATION MERGER]**

() **[OVI SPECIFICATIONS MERGED](REPEAT AS NECESSARY)**

Pursuant to R.C. 2929.14(B)(6) the Court hereby finds that that Specification(s) **[NUMBER(S)]** to Count(s) **[NUMBER(S)]** and Count(s) **[NUMBER(S)]** were committed as part of the same act and as such will only impose one mandatory, consecutive prison term for those specifications.

() **[OVI SPECIFICATIONS NOT MERGED](REPEAT AS NECESSARY)(CAN USE BOTH)**

Pursuant to R.C. 2929.14(B)(6) the Court hereby finds that Specification(s) **[NUMBER(S)]** to Count(s) **[NUMBER(S)]** and Count(s) **[NUMBER(S)]** were not committed as part of the same act and as such will impose mandatory, consecutive prison terms for each of those specifications.

() **[HUMAN TRAFFICKING SPECIFICATION MERGER]**

() **[HUMAN TRAFFICKING SPECIFICATIONS MERGED](REPEAT AS NECESSARY)**

Pursuant to R.C. 2929.14(B)(7)(b) the Court hereby finds that that Specification(s) **[NUMBER(S)]** to Count(s) **[NUMBER(S)]** and Count(s) **[NUMBER(S)]** were committed as part of the same act and as such will only impose one mandatory, consecutive prison term for those specifications.

() **[HUMAN TRAFFICKING SPECIFICATIONS NOT MERGED](REPEAT AS NECESSARY)(CAN USE BOTH)**

Pursuant to R.C. 2929.14(B)(7)(b) the Court hereby finds that Specification(s) **[NUMBER(S)]** to Count(s) **[NUMBER(S)]** and Count(s) **[NUMBER(S)]** were not committed as part of the same act and as such will impose mandatory, consecutive prison terms for each of those specifications.

() **[ACCELERANT SPECIFICATION MERGER]**

() **[ACCELERANT SPECIFICATIONS MERGED](REPEAT AS NECESSARY)**

Pursuant to R.C. 2929.14(B)(9)(b) the Court hereby finds that that Specification(s) **[NUMBER(S)]** to Count(s) **[NUMBER(S)]** and Count(s) **[NUMBER(S)]** were committed as part of the same act and as such will only impose one mandatory, consecutive prison term for those specifications.

() **[ACCELERANT SPECIFICATIONS NOT MERGED] (REPEAT AS NECESSARY) (CAN USE BOTH)**

Pursuant to R.C. 2929.14(B)(9)(b) the Court hereby finds that Specification(s) **[NUMBER(S)]** to Count(s) **[NUMBER(S)]** and Count(s) **[NUMBER(S)]** were not committed as part of the same act and as such will impose mandatory, consecutive prison terms for each of those specifications.

() **[PERMANENT DISABLING HARM SPECIFICATIONS MERGER]**

() **[PERMANENT DISABLING HARM SPECIFICATIONS] (REPEAT AS NECESSARY)**

Pursuant to R.C. 2929.14(B)(10) the defendant having been found guilty of a R.C. 2910.1426 permanent disabling harm specification in Specification(s) **[NUMBER(S)]** to Count(s) **[NUMBER(S)]** the Court will impose the required additional 6-year mandatory, consecutive prison term and no other additional prison terms for that offense.

() **[MDO – FENTANYL RELATED COMPOUND SPECIFICATION MERGER]**

() **[MDO – FENTANYL RELATED COMPOUND SPECIFICATIONS MERGED] (REPEAT AS NECESSARY)**

Pursuant to R.C. 2929.14(B)(11) the Court hereby finds that that Specification(s) **[NUMBER(S)]** to Count(s)

[NUMBER(S)] and Count(s) **[NUMBER(S)]** were committed as part of the same act and as such will only impose one mandatory, consecutive prison term for those specifications.

[MDO – FENTANYL RELATED COMPOUND NOT MERGED] (REPEAT AS NECESSARY) (CAN USE BOTH)
Pursuant to R.C. 2929.14(B)(11) the Court hereby finds that Specification(s) **[NUMBER(S)]** to Count(s) **[NUMBER(S)]** and Count(s) **[NUMBER(S)]** were not committed as part of the same act and as such will impose mandatory, consecutive prison terms for each of those specifications.

[VIOLENT CAREER CRIMINAL SPECIFICATION MERGER]

[VIOLENT CAREER CRIMINAL SPECIFICATIONS MERGED] (REPEAT AS NECESSARY)
Pursuant to R.C. 2929.14(K)(1) the Court hereby finds that that Specification(s) **[NUMBER(S)]** to Count(s) **[NUMBER(S)]** and Count(s) **[NUMBER(S)]** were committed as part of the same act and as such will only impose one mandatory, consecutive prison term for those specifications.

[VIOLENT CAREER CRIMINAL SPECIFICATIONS NOT MERGED] (REPEAT AS NECESSARY) (CAN USE BOTH)
Pursuant to R.C. 2929.14(K)(1) the Court hereby finds that Specification(s) **[NUMBER(S)]** to Count(s) **[NUMBER(S)]** and Count(s) **[NUMBER(S)]** were not committed as part of the same act and as such will impose mandatory, consecutive prison terms for each of those specifications.

16- [R.C. 2929.11 AND 2929.12 FACTORS]

In keeping with the spirit of the USE as a template document, Courts wishing to detail considerations of the R.C. 2929.11 purposes of sentencing, or the R.C. 2929.12 seriousness and recidivism factors may supplement the entry with the court's desired language here. Case specific considerations are always able to be added to the USE template language. The statutory provisions are listed here for reference.

[PURPOSES & PRINCIPLES OF SENTENCING R.C. 2929.11]

In fashioning the sentence(s) in this case, the Court has considered the need to protect the public from future crime by the defendant and others, to punish the defendant, and to promote the defendant's effective rehabilitation while using the minimum sanctions to accomplish those purposes without imposing an unnecessary burden on state or local government resources. This includes the need for incapacitation, deterrence, rehabilitation of the defendant, and restitution to the victim and/or the public. This sentence is commensurate with, and not demeaning to, the seriousness of the defendant's conduct and its impact on the victim, consistent with sentences for similar crimes by similar offenders, and is in no way based the defendant's race, ethnicity, gender, or religion.

SERIOUSNESS AND RECIDIVISM FACTORS 2929.12 (GENERAL)

The Court has considered R.C. 2929.12 and has weighed the factors which indicate the defendant's conduct is more or less serious than that normally constituting the offense(s) charged as well as the factors which would indicate that the defendant is more or less likely to commit future crimes.

SERIOUSNESS AND RECIDIVISM FACTORS 2929.12 (SPECIFIC FACTORS)

The court has weighed the following R.C. 2929.12 seriousness and recidivism factors in imposing the sentence in this case:

OFFENDER'S CONDUCT MORE SERIOUS [R.C. 2929.12(B)]

The Court believes this conduct is more serious than that normally constituting the offense because:

- That the injury(ies) caused in this case were exacerbated by the physical or mental condition or age of the victim.
- That the victim(s) suffered serious physical, psychological, or economic harm.
- That the defendant held public office or position of trust related to the offense.
- That the defendant's occupation, elected office, or profession obliged the offender to prevent the offense or to bring those committing it to justice.

- () That the defendant's professional reputation or occupation, elected office, or profession facilitated the offense or is likely to influence others' conduct.
- () That the defendant's relationship with the victim facilitated the offense.
- () That the defendant acted for hire or as part of organized criminal activity.
- () That the defendant was motivated by prejudice based on race, ethnicity, gender, sexual orientation, or religion.
- () In this **[DOMESTIC VIOLENCE/ASSAULT]** case, the defendant was a parent or custodian, the victim was a family or household member, and the offense was committed in the vicinity of one or more children other than the victim.
- () **[OTHER RELEVANT SERIOUSNESS FACTOR DETAILED BY COURT]**

() **OFFENDER'S CONDUCT LESS SERIOUS [2929.12(C)]**

The Court believes this conduct is less serious than that normally constituting the offense because:

- () Of the extent to which the victim induced and/or facilitated the offense.
- () The defendant acted under strong provocation.
- () The defendant did not cause or expect to cause physical harm to person or property.
- () Substantial grounds exist to mitigate the defendant's conduct, even if those grounds do not constitute a defense.
- () **[OTHER RELEVANT SERIOUSNESS FACTOR DETAILED BY COURT]**

() **OFFENDER'S RECIDIVISM MORE LIKELY [R.C. 2929.12(D)]**

The Court believes the defendant is more likely to commit future crimes as:

- () The offense(s) was/were committed while the defendant was on bail, awaiting sentence, on felony community control or post-release control, or after post-release control had been unfavorably terminated.
- () The defendant has a history of criminal convictions or juvenile delinquency adjudications.
- () The defendant has not responded favorably to sanctions previously imposed in adult or juvenile court.
- () The defendant shows pattern of alcohol/drug use related to offense and doesn't acknowledge it or refuses treatment.
- () The defendant shows no genuine remorse.
- () **[OTHER RELEVANT RECIDIVISM FACTOR DETAILED BY COURT]**

() **OFFENDER'S RECIDIVISM LESS LIKELY [2929.12(E)]**

The Court believes the defendant is less likely to commit future crimes as:

- () The defendant has no prior juvenile delinquency adjudication and/or no prior adult conviction.
- () The defendant has led a law-abiding life for a significant number of years.
- () The offense was committed under circumstances unlikely to recur.
- () The defendant shows genuine remorse.
- () **[OTHER RELEVANT RECIDIVISM FACTOR DETAILED BY COURT]**

() **OFFENDER'S VETERAN STATUS [R.C. 2929.12(F)](SELECT IF DEFENDANT IS A VETERAN)**

The Court has considered the defendant's military service record pursuant to R.C. 2929.12(F).

() **MILITARY SERVICE CONSIDERATIONS**

[OPEN TEXT FIELD FOR JUDGE TO SHOW HOW THE DEFENDANT'S MILITARY SERVICE AFFECTED SENTENCING CONSIDERATIONS]

() **CONTRIBUTING FACTOR TO OFFENSE**

The Court notes that the offender has an emotional, mental, or physical condition traceable to the offender's service that was a contributing factor to the offender's commission of the offense or offenses.
[OPEN TEXT FIELD FOR JUDGE TO DETAIL CONSIDERATIONS]

OTHER RELEVANT FACTORS

[FREE TEXT SPACE FOR COURTS TO LIST ANY OTHER FACTORS CONSIDERED IN FASHIONING SENTENCE]

RESULTS OF RISK ASSESSMENT TOOL (OPTIONAL)

Courts that consider the result of a validated risk/needs assessment tool in fashioning a sentence may choose to indicate in the entry such consideration.

RESULTS OF RISK ASSESSMENT TOOL

The Court has considered the results of **[NAME]**, a validated risk assessment tool, in fashioning the sentence in this case. **[OPEN TEXT FIELD FOR COURT TO DETAIL ASSESSMENT INFORMATION]**

17- [JUVENILE BINDOVER SENTENCING CONSIDERATIONS]

In cases where the offender was under the age of 18 at the time of the offense and is bound over to adult court, special sentencing considerations have been made part of R.C. 2929.19(B) requirements at the sentencing hearing when imposing a prison term, consistent with the Supreme Court's decision in [State v. Patrick, Slip Opinion No. 2020-Ohio-6803](#), decided December 22, 2020. The Supreme Court held that failure to expressly consider the defendant's age as a sentencing factor, constituted cruel and unusual punishment. *State v. Morris*, Slip Opinion No. 2022-Ohio-4609, decided December 23, 2022. Courts are required to make specified considerations in fashioning a sentence for juvenile offenders. Include language regarding the following mitigating factors when imposing sentence on a juvenile bindover case to reflect the courts considerations of the offenders age-related mitigation considerations, and the impact on the sentencing decisions in the case of those considerations.

AGE-RELATED MITIGATION [R.C. 2929.19(B)(1)(b)]

The Court has considered the following as it relates to the defendant and the sentence imposed:

The chronological age of the offender at the time of the offense and that age's hallmark features, including intellectual capacity, immaturity, impetuosity, and a failure to appreciate risks and consequences;

The family and home environment of the offender at the time of the offense, the offender's inability to control the offender's surroundings, a history of trauma regarding the offender, and the offender's school and special education history;

The circumstances of the offense, including the extent of the offender's participation in the conduct and the way familial and peer pressures may have impacted the offender's conduct;

Whether the offender might have been charged and convicted of a lesser offense if not for the incompetencies associated with youth, such as the offender's inability to deal with police officers and prosecutors during the offender's interrogation or possible plea agreement or the offender's inability to assist the offender's own attorney; and

Examples of the offender's rehabilitation, including any subsequent growth or increase in maturity during confinement.

18- [COMMUNITY CONTROL FOR NON-VIOLENT F4'S, F5'S, AND DIV.B DRUG OFFENSES – R.C. 2929.13(B)(1)]

R.C. 2929.13(B) mandates that non-violent felonies of the fourth degree as well as "Division B" drug offenses be sentenced to community control under the circumstances delineated in (B)(1)(a). Where (B)(1)(a) does not apply, (B)(1)(b) provides the sentencing court discretion to impose a prison term where certain findings are made. Those circumstances and findings are laid out with check-boxes for the sentencing court to select from below:

[COMMUNITY CONTROL MANDATORY]

The Court finds that a community control sanction is required under R.C. 2929.13(B)(1)(a) because the defendant does not have a prior conviction for a felony offense, the most serious charge before the court is a felony of the fourth or fifth degree, and the defendant has not been convicted for a misdemeanor offense of violence in the two years prior to the

offense being sentenced.

[COMMUNITY CONTROL NOT MANDATORY – R.C. 2929.13(B)(1)(a) FACTORS]

The Court finds that a community control sanction is not required under R.C. 2929.13(B)(1)(a) because:

The defendant has a prior conviction for a felony offense, or;

[PRIOR CONVICTION INFORMATION]

The Court finds the defendant was previously convicted of **[DETAIL PRIOR CONVICITION(S)]**.

The most serious charge before the court is not a felony of the fourth or fifth degree, or;

The defendant has been convicted for a misdemeanor offense of violence in the two years prior to the offense being sentenced.

[PRIOR CONVICTION INFORMATION]

The Court finds the defendant was previously convicted of **[DETAIL PRIOR CONVICITION(S)]**.

NOTE: Some appellate jurisdictions have held that convictions for multiple F4/F5 offenses in the same indictment render R.C. 2929.13(B)(1)(a) inapplicable. If this is the case in your jurisdiction, use language below:

The defendant is convicted of or pleading guilty to more than one felony of the fourth or fifth degree, rendering R.C. 2929.13(B)(1)(a) inapplicable per **[LOCAL APPELLATE DECISION]**

[DISCRETIONARY COMMUNITY CONTROL – R.C. 2929.13(B)(1)(b) FACTORS]

The Court further finds the record supports application of a prison sentence under R.C. 2929.13(B)(1)(b) because:

The defendant committed the offense while having a firearm on or about the defendant's person or under the defendant's control.

The defendant caused physical harm to another person while committing the offense.

The defendant violated a term of the conditions of bond as set by the court.

The offense is a sex offense that is a F4 or F5 violation of any provision of R.C. 2907.

In committing the offense, the defendant attempted to cause or made an actual threat of physical harm to a person with a deadly weapon.

In committing the offense, the defendant attempted to cause or made an actual threat of physical harm to a person, and the defendant previously was convicted of an offense that caused physical harm to a person.

The defendant held a public office or position of trust, and the offense related to that office or position; the defendant's position obliged the defendant to prevent the offense or to bring those committing it to justice; or the defendant's professional reputation or position facilitated the offense or was likely to influence the future conduct of others.

The defendant committed the offense for hire or as part of an organized criminal activity.

The defendant at the time of the offense was serving, or the defendant previously had served, a prison term.

The defendant committed the offense while under a felony community control sanction, while on probation, or while released from custody on a bond or personal recognizance.

19- [TCAP]

In counties participating in the Targeted Community Alternatives to Prison (TCAP) program, use the following language:

[TCAP RESTRICTED]

The Court further finds that pursuant to R.C. 2929.34(B)(3)(c-d) TCAP does apply and hereby orders that any term of incarceration imposed on the defendant will be served at a local detention facility.

[DEFENDANT BEING PLACED ON COMMUNITY CONTROL]

If the defendant is placed on community control with a reserved prison term, and the defendant is later revoked or has community control terminated, TCAP may no longer apply and the defendant may be required to serve incarceration in prison depending on the circumstances at the time of that sentencing.

[NOT TCAP RESTRICTED]

The Court further finds that the defendant is not TCAP restricted:

Pursuant to R.C. 2929.34(B)(3)(d)(i) the felony of the fourth or fifth degree in this case is: **[COURT SHOULD PICK APPLICABLE CONDITION(S)]**

- An offense of violence as defined in R.C. 2901.01,
- A sex offense under R.C. Chapter 2907,
- A violation of R.C. 2925.03,
- An offense for which a mandatory prison term is required.

Pursuant to R.C. 2929.34(B)(3)(d)(ii) the defendant previously has been convicted of or plead guilty to a felony offense of violence, as defined in R.C. 2901.01.

[PRIOR CONVICTION INFORMATION]

The Court finds the defendant was previously convicted of **[DETAIL PRIOR CONVICTION(S)]**.

Pursuant to R.C. 2929.34(B)(3)(d)(iii) the defendant previously has been convicted of or plead guilty to any felony sex offense under R.C. Chapter 2907.

[PRIOR CONVICTION INFORMATION]

The Court finds the defendant was previously convicted of **[DETAIL PRIOR CONVICTION(S)]**.

Pursuant to 2929.34(B)(3)(d)(iv) the defendant's sentence in this case is required to be served concurrently to another sentence that is required to be served in an institution under the control of the department of rehabilitation and correction.

[CONCURRENT SENTENCE INFORMATION]

This sentence will run concurrently to a prison term in **[DETAIL APPLICABLE CASE(S)]**.

20- [F3 AND DIVISION C DRUG OFFENSES]

Pursuant to 2929.13(C) there is generally no presumption for prison or community control for felonies of the third degree and "Division C" drug offenses, other than the purposes and principles of sentencing in R.C. 2929.11 and 2929.12. Use the following language:

Pursuant to 2929.13(C) the Court finds there is no presumption relative to Count(s) **[NUMBER]** and has considered the purposes and principles of sentencing in R.C. 2929.11 and the seriousness and recidivism factors in R.C. 2929.12 in fashioning the sentence(s) on these count(s).

21- [PRISON PRESUMPTION]

Non-mandatory felonies of the first and second degree, along with several F3 offenses, carry a presumption that imposition of a prison term is necessary to comply with the R.C. 2929.11 purposes and principles of felony sentencing. A non-exhaustive list of such offenses may be found in R.C. 2929.13(D):

1. Non-mandatory F1 and F2 offenses;
2. Felony drug offenses where specified by statute in R.C. Chapter 2925, 3719 (controlled substance regulations), and 4729 (pharmacist regulations), including those F3 drug offenses enhanced by proximity of the offense to a school or juvenile (see the Sentencing Commission's [Drug Offense Quick Reference Guide](#)); as well as
3. Third degree felony theft of firearm R.C. 2913.02(B)(4), certain Gross Sexual Imposition offenses R.C. 2907.05(A)(4) or (B), or Importuning R.C. 2907.07(F).

Offenses which carry a presumption in favor of a prison term but are not included in R.C. 2929.12(D)(1) include:

1. Theft of a firearm [R.C. 2913.02(B)(4)]
2. F3 Importuning [R.C. 2907.07(F)(2)]
3. F5 Importuning [R.C. 2907.07(F)(3)]

Future intelligence of the Ohio Sentencing Data Platform will prompt judges when a count entered includes a prison presumption.

Pursuant to R.C. 2929.13(D)(2), a presumption in favor of a prison term may be overcome by the sentencing court if certain two specific findings are made:

1. “A community control sanction or a combination of community control sanctions would adequately punish the offender and protect the public from future crime, because the applicable factors under section 2929.12 of the Revised Code indicating a lesser likelihood of recidivism outweigh the applicable factors under that section indicating a greater likelihood of recidivism.” [R.C. 2929.13(D)(2)(a)]
2. “A community control sanction or a combination of community control sanctions would not demean the seriousness of the offense, because one or more factors under section 2929.12 of the Revised Code that indicate that the offender’s conduct was less serious than conduct normally constituting the offense are applicable, and they outweigh the applicable factors under that section that indicate that the offender’s conduct was more serious than conduct normally constituting the offense.” [R.C. 2929.13(D)(2)(b)]

Note that (D)(2) does not apply to the presumption in favor of prison for F3 GSI in violation of R.C. 2907.05(A)(4) or (B).

If the presumption in favor of a prison term laid out in R.C. 2929.13 or R.C. Chapter 2925 is overcome by the sentencing court, the state has a right to appeal the decision pursuant to R.C. 2953.08(B)(1).

Use the following language for presumptive prison offenses. The first checkbox indicates the counts for which there is a presumption, after which the judge may select language indicating the presumption is or is not overcome:

() **[PRISON PRESUMPTION]**

There is a presumption in favor of a prison sentence on Count[s] **[NUMBER]**.

() **[PRISON PRESUMPTION OVERCOME]** *(COURT MAY SELECT BOTH OPTIONS, ONLY FOR DIFFERENT COUNTS)*

The Court finds on Count[s] **[NUMBER]** this presumption is overcome and that a community control sanction or combination of community control sanctions will adequately punish defendant and protect the public from future crime because the applicable factors under R.C. 2929.12 indicating a lesser likelihood of recidivism outweigh the applicable factors indicating a greater likelihood of recidivism, and does not demean the seriousness of the offense because one or more factors under R.C. 2929.12 indicating that the defendant’s conduct was less serious than conduct normally constituting the offense and outweigh the factors indicating the conduct was more serious than conduct normally constituting the offense. **[COURTS MAY DETAIL REASONS FOR THESE FINDINGS]**

() **[PRISON PRESUMPTION NOT OVERCOME]** *(COURT MAY SELECT BOTH OPTIONS, ONLY FOR DIFFERENT COUNTS)*

The Court finds on Count[s] **[NUMBER]** the presumption is not overcome and that a community control sanction or combination of community control sanctions will not adequately punish defendant and protect the public from future crime because the applicable factors under R.C. 2929.12 indicating a lesser likelihood of recidivism do not outweigh the applicable factors indicating a greater likelihood of recidivism, and would demean the seriousness of the offense because one or more factors under R.C. 2929.12 indicating that the defendant’s conduct was more serious than conduct normally constituting the offense and outweigh the factors indicating the conduct was less serious than conduct normally constituting the offense. **[COURTS MAY DETAIL REASONS FOR THESE FINDINGS]**

22- [MANDATORY SENTENCES]

A prison sentence may be made mandatory in one of two ways – by operation of law, where the code itself dictates that a prison term must be imposed, and/or due to the defendant’s criminal history. More information regarding mandatory sentences may be found at page 8 of the Sentencing Commission’s [Felony Sentencing Reference Guide](#).

Note that penalty enhancements other than a defendant’s prior conviction must be specified in the indictment, proven

beyond a reasonable doubt and/or plead to.

Mandatory prison terms imposed under R.C. 2929.13(F) – either by operation of law or due to the defendant’s prior convictions – are generally not eligible for many types of release or reduction of the prison term. Always refer to RC 2929.13(F), the specific release or reduction statute, or the relevant statutory sentence provision to check whether a particular type of release or reduction is possible.

[MANDATORY BY OPERATION OF LAW]

A sentence made mandatory by operation of law may either specify a penalty or range from which the judge must select a prison term, or the law may specify the term that must be imposed. For sentences that are mandatory by operation of law, courts may wish to include the following language in addition to the notation in the prison imposed chart:

The Court finds that a prison term is mandatory by operation of law pursuant to **[CODE SECTION]** for Count(s) **[NUMBER(S)]** and/or Specification **[NUMBER(S)]** to Count **[NUMBER(S)]** (**ALLOW TO REPEAT SPECIFICATIONS AS NECESSARY**)

[MANDATORY SENTENCES DUE TO PRIOR CONVICTIONS]

Some sentences are made mandatory due to the defendant’s prior convictions. See R.C. 2929.13(F)(6) (Aggravated Murder, Murder, F1, and F2 convictions) and R.C. 2929.13(F)(7) (F3 offenses that are either a violation of R.C. 2903.04 Involuntary Manslaughter or an attempted F2 offense of violence and involved an attempt to cause serious physical harm to a person or that resulted in serious physical harm to a person) and use the following language in these cases:

The Court finds that, pursuant to **[R.C. 2929.13(F)(6)] / [R.C. 2929.13(F)(7)]** the sentences on Count(s) **[NUMBERS]** is made mandatory due to the defendant’s prior conviction(s) for **[DETAIL PRIOR CONVICTION(S)]**.

23- [JOINT RECOMMENDATION / AGREED UPON SENTENCE]

If the court wishes to detail any joint recommendation or agreed upon sentence, use the following language.

[JOINT RECOMMENDATION]

The Court noted the joint recommendation of the parties that the defendant be sentenced to **[DETAIL JOINT RECOMMENDATION FROM DISPOSITION FORM-PLEA ENTRY]**.

[AGREED UPON SENTENCE]

The Court agreed upon the sentence that was jointly recommended by the parties and authorized by law that the defendant be sentenced to **[DETAIL AGREED UPON SENTENCE FROM DISPOSITION FORM-PLEA ENTRY]**.

24- [MULTIPLE COUNTS – CONSECUTIVE / CONCURRENT SENTENCING]

[MANDATORY CONSECUTIVE SENTENCES – COUNTS]

Several felony offenses (e.g. R.C. 2921.331 Failure to Comply), while not mandatory prison terms, are required be run consecutive to other counts by operation of law when a prison term is imposed. These are listed under “Sentencing Considerations & Advisements – Section E. Consecutive Prison Terms” in the Sentencing Commission’s [Felony Sentencing Quick Reference Guide](#). Use the following language with regard to these offenses:

[MANDATORY CONSECUTIVE SENTENCES – COUNTS](REPEAT AS NECESSARY)

The Court finds that pursuant to **[R.C. 2929.14(C)(2)] / [R.C. 2929.14(C)(3)]** that the prison term imposed on Count(s) **[NUMBER(s)]** shall be served consecutively by operation of law.

[JOINTLY RECOMMENDED / AGREED UPON CONSECUTIVE SENTENCES - COUNTS]

Pursuant to [State v. Sergeant, 148 Ohio St.3d 94, 2016-Ohio-2696](#) Courts are not required to make the R.C. 2929.14(C)(4) findings when consecutive sentences have been jointly recommended by the parties.

[JOINT RECOMMENDATION FOR CONSECUTIVE SENTENCES – COUNTS]

Pursuant to the joint recommendation of the parties, the prison term(s) imposed on Count(s) [NUMBER] shall be served consecutively to the prison term(s) on Count(s) [NUMBER]. (REPEAT AS NEEDED)

() [AGREED UPON SENTENCE FOR CONSECUTIVE SENTENCES - COUNTS]

Pursuant to the agreed upon sentence, the prison term(s) imposed on Count(s) [NUMBER] shall be served consecutively to the prison term(s) on Count(s) [NUMBER]. (REPEAT AS NEEDED)

[DISCRETIONARY CONSECUTIVE SENTENCE FINDINGS]

If the sentencing court wishes to order that counts within the indictment be served consecutively, use the following language to make the requisite findings in the entry, selecting those statutory factors that apply. Courts may supplement this language with further explanation

() [DISCRETIONARY CONSECUTIVE SENTENCE FINDINGS]

Pursuant to R.C. 2929.14(C)(4) the court orders that consecutive sentences are made necessary to protect the public from future crime or to punish the defendant, and that consecutive sentences are not disproportionate to the seriousness of the defendant's conduct and to the danger the defendant poses to the public, and because:

() The defendant committed one or more of the offenses while awaiting trial or sentencing or was under a sanction imposed pursuant to R.C. 2929.16, 2929.17, or 2929.18, or was under post-release control for a prior offense.

() At least two of the multiple offenses were committed as part of one or more courses of conduct, and the harm caused by two or more of the multiple offenses so committed was so great or unusual that no single prison term for any of the offenses committed as part of any of the courses of conduct adequately reflects the seriousness of the defendant's conduct.

() The defendant's history of criminal conduct demonstrates that consecutive sentences are necessary to protect the public from future crime by the defendant.

SENTENCE

The second section of the entry details the imposition of a prison sentence or a term of community control. Each of the two sections contains a chart detailing the prison term either imposed or reserved for each count, as well as other factors relevant to the sentence. The charts in this section do not require that the name of the offense or the statutory code sections be repeated – all offenses are referred to by count number and can be referenced with the conviction chart above.

25. [INCARCERATION IMPOSED]

This chart details when incarceration is being imposed and is distinct from residential sanctions of community control. The columns detail (from left to right):

1. The count number of the offense
2. The type of sentence being imposed – e.g. minimum term, definite term, or life term, or jail term in the case of a misdemeanor offense. Local incarceration imposed as part of a community control sentence is imposed in the [COMMUNITY CONTROL] section of the entry below. Local incarceration on a felony charge must be part of a residential sanction of community control, and should be noted in that section. TCAP sentences to be served locally are definite terms.
3. The length of the term being imposed for the offense. Life without parole (LWOP) sentences can indicate n/a here. Life terms should be entered by selecting "LIFE" as the type of term, then entering the number of years until the defendant is eligible for parole. This will export as "with parole eligibility after X years"
4. Whether the term is a mandatory term – a yes/no indication.
5. The number of any counts to which the offense will run concurrently, if any.
6. The number of any counts to which the offense will run consecutively, if any.
7. Any specifications for which a prison term is being imposed, or those for which a different penalty (eg Sexually Violent Predators) is mandated.
8. Whether the specification will run concurrently per findings above.

9. Whether the specification will run consecutively per findings above.
10. The non-life felony indefinite aggregate minimum term in the case – only necessary if there are multiple non-life felony indefinite terms are run consecutively.
11. The non-life felony indefinite maximum term imposed in the case – MANDATORY if any non-life felony indefinite minimum term is imposed.
12. The “stated prison term” in the case – this is a “global” maximum advisement. This would include specifications and is not required by law. Courts are only legally required to impose a legal sentence on each count, and a non-life felony indefinite maximum term if any qualifying offenses are present. However, sentencing judges often wish to inform a defendant of “how long the defendant will *actually* serve” and this row provides the opportunity for courts to do so.

26- [SPECIFICATION CHART]

Where a case involves specifications to one or more counts, a separate chart will be inserted following the prison imposed chart detailing those specifications. The Ad Hoc Committee felt that a separate chart was necessary given the number of issues that can arise with multiple specifications to the same count, multiple counts with specifications, and issues of merger of specifications under R.C. 2929.14(B)(1)(b). The specification chart is made up of 6 columns (from left to right):

1. The count number of the offense
2. The specification number in the indictment
3. The specification name and code section – e.g. Firearm R.C. 2941.145
4. The prison term imposed on the specification.
5. Whether the specification has merged. If merger is checked, no prison term can be imposed
6. The count number and specification number of any specifications to which the specification will run consecutively.

Specifications run consecutively by operation of law pursuant to R.C. 2929.14(C)(1). Regarding the consecutive/concurrent specifications, the issue of merger of specifications under R.C. 2929.14(B)(1)(b) and (g) is addressed in instruction 17, where necessary.

Finally, the specification chart includes a final row for the Court to indicate the sum of all consecutive specification terms imposed. This number of years is added to the consecutive terms imposed for the underlying offenses and is reflected in the stated prison term in the prison imposed chart.

COUNT #	SPECIFICATION #	SPECIFICATION NAME AND CODE SECTION	PRISON TERM	MERGED	CONSEC TO
				(<input type="checkbox"/>)	(<input type="checkbox"/>)
				(<input type="checkbox"/>)	(<input type="checkbox"/>)
SUM OF CONSECUTIVE TERMS FOR SPECIFICATIONS (add to stated prison term above)					

Courts wishing to supplement the chart with additional text may use the following language:

() **[SPECIFICATION TERM IMPOSED]** (REPEAT AS NECESSARY) For Specification **[NUMBER OF SPECIFICATION]** to Count **[NUMBER]**, the defendant shall serve an additional **[TERM]** of mandatory and consecutive imprisonment pursuant to **[CODE SECTION]**

() **[MDO / RVO / VCC]**

Having been convicted of a **[REPEAT VIOLENT OFFENDER/MAJOR DRUG OFFENDER/VIOLENT CAREER CRIMINAL/]** specification in Count **[NUMBER]**, the defendant is sentenced to an additional term of **[NUMBER OF YEARS]** beyond the basic prison term listed above for the underlying offense.

27- [JUVENILE BINDOVERS – PAROLE ELIGIBILITY]

In cases where the offender was under the age of 18 at the time of the offense and is bound over to adult court, special sentencing provisions are in place in statute following the passage of 2021 Sub.S.B. No. 256. Juveniles may no longer be sentenced to life without the possibility of parole, and juveniles facing extended sentences are eligible for parole after certain statutory periods of time based on the nature of the juvenile’s convictions. That eligibility is as follows below.

For reference, “Aggravated Homicide Offense” is defined in R.C. 2967.132(A)(1) “as any of the following that involved the purposeful killing of three or more persons, when the offender is the principal offender in each offense: (1) the offense of aggravated murder, or (2) any other offense or combination of offenses that involved the purposeful killing of three or more persons.”

“Homicide Offense” is defined in R.C. 2967.132(A)(2) as “the offense of murder, voluntary manslaughter, involuntary manslaughter, or reckless homicide or the offense of aggravated murder that is not an aggravated homicide offense.”

“Principal Offender” is not currently defined by statute as it relates to these provisions. As with the Violent Offender Database considerations, Ohio Jury Instructions CR 503.01 regarding Aggravated Murder may provide guidance – (N) *PRINCIPAL OFFENDER. In order to find that the defendant was the PRINCIPAL OFFENDER in the aggravated murder, you must find that he/she (was the actual killer) (personally performed every act constituting the offense charged).*

[NON-HOMICIDE OFFENSES]

As the defendant was under the age of 18 at the time of the offense(s), the defendant will be eligible for parole after having served eighteen (18) years, unless the conviction allows for earlier consideration.

[ONE OR MORE HOMICIDE OFFENSES THAT ARE NOT “AGGRAVATED HOMICIDE OFFENSES”]

As the defendant was under the age of 18 at the time of the offense(s), and the defendant has been convicted of one or more homicide offenses that are not aggravated homicide offenses the defendant will be eligible for parole after having served twenty-five (25) years.

[TWO OR MORE HOMICIDE OFFENSES THAT ARE NOT “AGGRAVATED HOMICIDE OFFENSES”]

As the defendant was under the age of 18 at the time of the offense(s), and the defendant has been convicted of two or more homicide offenses that are not aggravated homicide offenses *and* as the court further finds that the defendant was the principal offender in two or more of those offenses, the defendant will be eligible for parole after having served thirty (30) years.

[AGGRAVATED HOMICIDE OFFENSES]

The offender will be eligible for parole in accordance with the sentence for the offense or offenses.

28- [REPEAT VIOLENT OFFENDER SPECIFICATIONS]

Ohio sentencing law includes a specification in R.C. 2929.149 for Repeat Violent Offenders (RVO), defined in [R.C. 2929.01\(CC\)](#) as individuals who are being sentenced for aggravated murder, murder, an F1 or F2 offense of violence, or an F1 or F2 attempt of one of those offenses, who have one or more prior convictions for the same or substantially equivalent offenses. The specification provides for an additional definite prison term selected by the sentencing judge of between 1-10 years in prison to be served consecutively and prior to the underlying offense. Depending on the defendant’s number of prior convictions, the trial court either has discretion to impose the additional prison term on the specification (Discretionary RVO Specs) or an additional term from the range is required by law (Mandatory RVO Specs). Sentencing provisions for RVO specifications are set forth in R.C. 2929.14(B)(2). When sentencing on RVO specifications, trial courts must state the court’s findings for the imposed sentence for the record pursuant to R.C. 2929.14(B)(2)(e). An additional prison term imposed for the RVO specification is not subject to reduction and must be served consecutively and prior to the sentence for the underlying offense pursuant to R.C. 2929.14(B)(2)(d).

When an offender has fewer than 3 prior RVO-type convictions in the preceding 20 years, sentencing on the RVO specification is governed by R.C. 2929.14(B)(2)(a). The trial court has discretion whether to impose additional time for the specification, and imposing that additional term requires **both** that the trial court impose the longest (non-LWOP) prison term available for the offense as well as additional findings set forth in R.C. 2929.14(B)(2)(a)(i-iv).

When an offender has 3 or more prior RVO-type convictions in the past 20 years, RVO sentencing is mandatory under R.C. 2929.14(B)(2)(b). The trial court **must** impose **both** the longest (non-LWOP) prison term available for the offense itself and must also impose an additional prison term selected from the 1-10 year range.

Note that if the underlying offense is a felony of the second degree, the trier of fact must make a finding that the offense involved either resulted in serious physical harm to a person or involved an attempt or threat to do so (subsection iii) and that two or more offenses committed as part of the same act or event are considered one offense for RVO purposes under R.C. 2929.14(B)(2)(c).

Finally, pursuant to R.C. 2929.14(K)(1) a prison sentence may not be imposed for both a Repeat Violent Offender specification and a Violent Career Criminal specification for offenses committed as part of the same act or transaction. Language is provided to reflect the Court's consideration of that statute in imposing sentence in those circumstances.

[MANDATORY RVO SPEC – PRIOR CONVICTIONS]

The defendant stands convicted of a repeat violent offender specification to Count(s) **[NUMBER(S)]** and **DOES/DOES NOT** have 3 or more prior convictions for qualifying RVO offenses within the past twenty years.

[MANDATORY RVO SPEC – MERGER OF PRIOR CONVICTIONS]

The Court notes that pursuant to R.C. 2929.14(B)(2)(c) that one or more of the prior repeat violent offender offenses were committed at the same time or as part of the same act or event and as such are considered one offense.

[MANDATORY RVO SPEC – ADDITIONAL TERM IMPOSED] (REPEAT AS NECESSARY)

Having found the defendant to have 3 prior RVO qualifying offense convictions in the preceding twenty years, the Court has imposed the longest prison term authorized for the underlying offense and imposes an additional prison term of **[NUMBER OF YEARS BETWEEN 1 AND 10]** for the repeat violent offender specification to Count **[NUMBER]** pursuant to R.C. 2929.14(B)(2)(a).

[DISCRETIONARY RVO SPEC – ADDITIONAL TERM IMPOSED] (REPEAT AS NECESSARY)

The defendant stands convicted of a repeat violent offender specification to Count **[NUMBER]**. The Court has imposed the longest prison term authorized for the underlying offense, and hereby finds pursuant to R.C. 2929.14(B)(2)(a)(iv) that prison term is inadequate to punish the offender as the applicable R.C. 2929.12 factors indicating a higher likelihood of recidivism outweigh those indicating a lesser likelihood:

OFFENDER'S RECIDIVISM MORE LIKELY [R.C. 2929.12(D)]

The Court believes the defendant is more likely to commit future crimes as:

The offense(s) was/were committed while the defendant was on bail, awaiting sentence, on felony community control or post-release control, or after post-release control had been unfavorably terminated.

The defendant has a history of criminal convictions or juvenile delinquency adjudications.

The defendant has not responded favorably to sanctions previously imposed in adult or juvenile court.

The defendant shows pattern of alcohol/drug use related to offense and doesn't acknowledge it or refuses treatment.

The defendant shows no genuine remorse.

[OTHER RELEVANT RECIDIVISM FACTOR DETAILED BY COURT]

OFFENDER'S RECIDIVISM LESS LIKELY [2929.12(E)]

The Court believes the defendant is less likely to commit future crimes as:

- The defendant has no prior juvenile delinquency adjudication and/or no prior adult conviction.
- The defendant has led a law-abiding life for a significant number of years.
- The offense was committed under circumstances unlikely to recur.
- The defendant shows genuine remorse.
- [OTHER RELEVANT RECIDIVISM FACTOR DETAILED BY COURT]**

The Court further finds pursuant to R.C. 2929.14(B)(2)(a)(iv) that the prison term imposed for the underlying offense demeans the seriousness of the offense as the R.C. 2929.12 factors indicating the defendant's conduct is more serious are present and outweigh any applicable factors indicating the conduct is less serious:

OFFENDER'S CONDUCT MORE SERIOUS [R.C. 2929.12(B)]

The Court believes this conduct is more serious than that normally constituting the offense because:

- That the injury(ies) caused in this case were exacerbated by the physical or mental condition or age of the victim.
- That the victim(s) suffered serious physical, psychological, or economic harm.
- That the defendant held public office or position of trust related to the offense.
- That the defendant's occupation, elected office, or profession obliged the offender to prevent the offense or to bring those committing it to justice.
- That the defendant's professional reputation or occupation, elected office, or profession facilitated the offense or is likely to influence others' conduct.
- That the defendant's relationship with the victim facilitated the offense.
- That the defendant acted for hire or as part of organized criminal activity.
- That the defendant was motivated by prejudice based on race, ethnicity, gender, sexual orientation, or religion.
- In this **[DOMESTIC VIOLENCE/ASSAULT]** case, the defendant was a parent or custodian, the victim was a family or household member, and the offense was committed in the vicinity of one or more children other than the victim.
- [OTHER RELEVANT SERIOUSNESS FACTOR DETAILED BY COURT]**

OFFENDER'S CONDUCT LESS SERIOUS [2929.12(C)]

The Court believes this conduct is less serious than that normally constituting the offense because:

- Of the extent to which the victim induced and/or facilitated the offense.
- The defendant acted under strong provocation.
- The defendant did not cause or expect to cause physical harm to person or property.
- Substantial grounds exist to mitigate the defendant's conduct, even if those grounds do not constitute a defense.
- [OTHER RELEVANT SERIOUSNESS FACTOR DETAILED BY COURT]**

The Court therefore **DOES** impose an additional prison term of **[NUMBER OF YEARS BETWEEN 1 AND 10]** for the repeat violent offender specification to Count **[NUMBER]** pursuant to R.C. 2929.14(B)(2)(a).

[DISCRETIONARY RVO SPEC – ADDITIONAL TERM NOT IMPOSED](REPEAT AS NECESSARY)

The defendant stands convicted of a repeat violent offender specification to Count **[NUMBER]**. The Court has determined that the prison term imposed for the underlying offense is adequate to punish the offender as the applicable R.C. 2929.12 factors indicating a lesser likelihood of recidivism outweigh those indicating a higher likelihood:

OFFENDER'S RECIDIVISM MORE LIKELY [R.C. 2929.12(D)]

The Court believes the defendant is more likely to commit future crimes as:

- () The offense(s) was/were committed while the defendant was on bail, awaiting sentence, on felony community control or post-release control, or after post-release control had been unfavorably terminated.
- () The defendant has a history of criminal convictions or juvenile delinquency adjudications.
- () The defendant has not responded favorably to sanctions previously imposed in adult or juvenile court.
- () The defendant shows pattern of alcohol/drug use related to offense and doesn't acknowledge it or refuses treatment.
- () The defendant shows no genuine remorse.
- () **[OTHER RELEVANT RECIDIVISM FACTOR DETAILED BY COURT]**

() **OFFENDER'S RECIDIVISM LESS LIKELY [2929.12(E)]**

The Court believes the defendant is less likely to commit future crimes as:

- () The defendant has no prior juvenile delinquency adjudication and/or no prior adult conviction.
- () The defendant has led a law-abiding life for a significant number of years.
- () The offense was committed under circumstances unlikely to recur.
- () The defendant shows genuine remorse.
- () **[OTHER RELEVANT RECIDIVISM FACTOR DETAILED BY COURT]**

The Court further finds pursuant to R.C. 2929.14(B)(2)(a)(iv) that the prison term imposed for the underlying offense does not demean the seriousness of the offense as the R.C. 2929.12 factors indicating the defendant's conduct is less serious are present and outweigh any applicable factors indicating the conduct is more serious:

() **OFFENDER'S CONDUCT MORE SERIOUS [R.C. 2929.12(B)]**

The Court believes this conduct is more serious than that normally constituting the offense because:

- () That the injury(ies) caused in this case were exacerbated by the physical or mental condition or age of the victim.
- () That the victim(s) suffered serious physical, psychological, or economic harm.
- () That the defendant held public office or position of trust related to the offense.
- () That the defendant's occupation, elected office, or profession obliged the offender to prevent the offense or to bring those committing it to justice.
- () That the defendant's professional reputation or occupation, elected office, or profession facilitated the offense or is likely to influence others' conduct.
- () That the defendant's relationship with the victim facilitated the offense.
- () That the defendant acted for hire or as part of organized criminal activity.
- () That the defendant was motivated by prejudice based on race, ethnicity, gender, sexual orientation, or religion.
- () In this **[DOMESTIC VIOLENCE/ASSAULT]** case, the defendant was a parent or custodian, the victim was a family or household member, and the offense was committed in the vicinity of one or more children other than the victim.
- () **[OTHER RELEVANT SERIOUSNESS FACTOR DETAILED BY COURT]**

() **OFFENDER'S CONDUCT LESS SERIOUS [2929.12(C)]**

The Court believes this conduct is less serious than that normally constituting the offense because:

- () Of the extent to which the victim induced and/or facilitated the offense.
- () The defendant acted under strong provocation.
- () The defendant did not cause or expect to cause physical harm to person or property.
- () Substantial grounds exist to mitigate the defendant's conduct, even if those grounds do not constitute a defense.
- () **[OTHER RELEVANT SERIOUSNESS FACTOR DETAILED BY COURT]**

The Court therefore DOES NOT impose an additional prison term for the repeat violent offender specification to Count [NUMBER] pursuant to R.C. 2929.14(B)(2)(a).

() **RVO AND VIOLENT CAREER CRIMINAL SPECIFICATIONS MERGED [R.C. 2929.14(K)(1)] (REPEAT AS NECESSARY)**

Having imposed a sentence for a Repeat Violent Offender specification in Count(s) [NUMBER(S)] Specification(s) [NUMBER(S)], pursuant to R.C. 2929.14(K)(1) the Court will not impose a sentence for the Violent Career Criminal Specification in Count(s) [NUMBER(S)] Specification(s) [NUMBER(S)] as the Court finds that those offenses were committed as part of the same act or transaction.

() **RVO AND VIOLENT CAREER CRIMINAL SPECIFICATIONS NOT MERGED [R.C. 2929.14(K)(1)] (REPEAT AS NECESSARY)**

Having imposed a sentence for a Repeat Violent Offender specification in Count(s) [NUMBER(S)] Specification(s) [NUMBER(S)], pursuant to R.C. 2929.14(K)(1) the Court will impose a sentence for the Violent Career Criminal Specification in Count(s) [NUMBER(S)] Specification(s) [NUMBER(S)] as the Court finds that those offenses were not committed as part of the same act or transaction.

29- [MULTIPLE CASES – CONSECUTIVE / CONCURRENT SENTENCING]

Use the following language where the Court is aware of other active cases pending against the defendant and wishes to make an order for how those sentences are to be served in relation to each other:

() **[MULTIPLE CASES – CONCURRENT]**

The Court orders that the sentence in this case shall be served **concurrently** to Case [NUMBER] [SPECIFY IF DIFFERENT JURISDICTION]. **(REPEAT AS NEEDED)**

() **[MULTIPLE CASES – CONSECUTIVE]**

If the sentencing court wishes to order separate cases be served consecutively, use the following language to make the requisite findings in the entry and to order the sentence to be served consecutive to the other cases.

() **[DISCRETIONARY CONSECUTIVE SENTENCE FINDINGS](NEED TO REPEAT IF USED FOR COUNTS)**

Select those statutory factors that apply. Courts may supplement this language with further explanation.

Pursuant to R.C. 2929.14(C)(4) the court orders that consecutive sentences are made necessary to protect the public from future crime or to punish the defendant, and that consecutive sentences are not disproportionate to the seriousness of the defendant's conduct and to the danger the defendant poses to the public, and because:

() The defendant committed one or more of the offenses while awaiting trial or sentencing or was under a sanction imposed pursuant to R.C. 2929.16, 2929.17, or 2929.18, or was under post-release control for a prior offense.

() At least two of the multiple offenses were committed as part of one or more courses of conduct, and the harm caused by two or more of the multiple offenses so committed was so great or unusual that no single prison term for any of the offenses committed as part of any of the courses of conduct adequately reflects the seriousness of the defendant's conduct.

() The defendant's history of criminal conduct demonstrates that consecutive sentences are necessary to protect the public from future crime by the defendant.

The Court orders that the sentence in this case shall be served consecutively to Case [NUMBER] [SPECIFY IF DIFFERENT JURISDICTION]. **(REPEAT AS NECESSARY)**

() **[MULTIPLE CASES – SPECIFICATIONS]**

Courts may wish to order that a sentence containing specifications be served concurrently to a sentence in another case. However, certain specifications require that the sentence must be served consecutively to any other prison terms imposed [see, e.g., R.C. 2929.14(C)(1)(a)]. This issue is highlighted by the Supreme Court of Ohio’s decision in [State ex rel. Fraley v. ODRC, 161 Ohio St.3d 209, 2020-Ohio-4410](#). Courts should use the following language to distinguish these types of specifications and sentences:

By operation of law, the specifications to Count(s) **[NUMBER(s)]** in this case shall be served consecutively to the sentence in Case **[NUMBER] [SPECIFY IF DIFFERENT JURISDICTION]**.

[JOINTLY RECOMMENDED CONSECUTIVE SENTENCES – CASES]

Pursuant to [State v. Sergeant, 148 Ohio St.3d 94, 2016-Ohio-2696](#) Courts are not required to make the R.C. 2929.14(C)(4) findings when consecutive sentences have been jointly recommended by the parties.

[JOINT RECOMMENDATION FOR CONSECUTIVE SENTENCES – CASES](REPEAT AS NECESSARY)

Pursuant to the joint recommendation of the parties, the sentence in this case shall be served consecutively to Case **[NUMBER] [SPECIFY IF DIFFERENT JURISDICTION]**.

30- [ORDER OF SENTENCES]

Courts can structure the specific order where sentences will be served, when not otherwise dictated by law (e.g. specifications) with the following language:

[ORDER OF SENTENCES]

The Court also orders that the counts in this case will be served in the following order: **[DETAIL ORDER OF SENTENCES BY COUNT]**

31- [NON-LIFE FELONY INDEFINITE SENTENCING]

For cases involving non-life felony indefinite sentencing qualifying offenses (F1 and F2 offenses committed after March 22, 2019) use the following language to clearly state the maximum term involved in the case, as well as language indicating the defendant has been advised of indefinite sentencing procedures on the record as required by law. For additional information on non-life felony indefinite sentencing, see the Sentencing Commission’s [SB201 Indefinite Sentencing Quick Reference Guide](#).

[NON-LIFE FELONY INDEFINITE SENTENCING]

Counts **[NUMBER]** are qualifying offenses subject to indefinite sentencing and the defendant has been sentenced to a minimum term on each qualifying count as detailed above

[NON-LIFE FELONY INDEFINITE TERM SUMMATION] [Single Count]

Having imposed the minimum term[s] on Count **[NUMBER]** the Court further sentences the defendant to a maximum term of **[THAT MINIMUM TERM + 50% of ITSELF]** pursuant to R.C. 2929.144(B)(1).

[NON-LIFE FELONY INDEFINITE TERM SUMMATION] [Multiple Counts / Indefinite terms run Concurrently]

Having imposed the minimum term[s] on Count[s] **[NUMBER]**

and definite terms on Count[s] **[NUMBER]**

and having ordered all prison terms in the case to run concurrently, the Court further sentences the defendant to a maximum term of imprisonment in this case of **[THE LONGEST MINIMUM TERM IMPOSED FOR THE MOST SERIOUS QUALIFYING FELONY + 50% OF THAT TERM]** pursuant to R.C. 2929.144(B)(3).

[NON-LIFE FELONY INDEFINITE TERM SUMMATION] [Multiple Counts / Indefinite terms run Consecutively]

Having imposed the minimum term[s] on Count[s] **[NUMBER]**

and definite terms on Count[s] **[NUMBER]**

And having ordered Counts [NUMBER] to be run consecutively, the Court further sentences the defendant to an aggregate minimum term of **[SUM OF ALL CONSECUTIVE MINIMUM AND DEFINITE TERMS]** and a maximum term of **[THE SUM OF ALL CONSECUTIVE MINIMUM AND DEFINITE TERMS + 50% OF THE LONGEST MINIMUM OR DEFINITE TERM IMPOSED FOR THE MOST SERIOUS FELONY BEING SENTENCED]** pursuant to R.C. 2929.144.

[NON-LIFE INDEFINITE SENTENCING NOTIFICATIONS] (MANDATORY IF OPTION ABOVE IS SELECTED)

R.C. 2929.19(B)(2)(c) **requires** Courts to notify defendants sentenced to a non-life felony indefinite term of the procedures of indefinite sentencing and the fact that the defendant was notified should be memorialized in the sentencing entry with the following language. Also note that R.C. 2929.19(B)(2)(c)(i) as written contains language that may be confusing to defendants who are facing a mandatory term on the defendant's 2019 Am.Sub.S.B. No. 201 qualifying offense. Mandatory terms and sexually oriented offenses are not eligible for earned reduction of the minimum prison term, and that language in (B)(2)(c)(i) relating to the "presumed earned early release date" should be omitted in those circumstances.

[NON-LIFE FELONY INDEFINITE TERM SUMMATION]

Pursuant to R.C. 2929.19(B)(2)(c), having imposed a non-life felony indefinite prison term, the Court advised the defendant on the record of the indefinite sentencing procedures. The Court explained on the record that:

- (i) It is rebuttably presumed that the offender will be released from service of the sentence on the expiration of the minimum prison term imposed as part of the sentence or on the offender's presumptive earned early release date (if applicable), as defined in R.C. 2967.271, whichever is earlier;
- (ii) That the department of rehabilitation and correction may rebut the presumption described in R.C. 2929.19(B)(2)(c)(i) if, at a hearing held under R.C. 2967.271, the department makes specified determinations regarding the offender's conduct while confined, the offender's rehabilitation, the offender's threat to society, the offender's restrictive housing, if any, while confined, and the offender's security classification;
- (iii) That if, as described in R.C. 2929.19(B)(2)(c)(ii), the department at the hearing makes the specified determinations and rebuts the presumption, the department may maintain the offender's incarceration after the expiration of that minimum term or after that presumptive earned early release date for the length of time the department determines to be reasonable, subject to the limitation specified in R.C. 2967.271;
- (iv) That the department may make the specified determinations and maintain the offender's incarceration under the provisions described in R.C. 2929.19(B)(2)(c)(i) and (ii) more than one time, subject to the limitation specified in R.C. 2967.271;
- (v) That if the offender has not been released prior to the expiration of the offender's maximum prison term imposed as part of the sentence, the offender must be released upon the expiration of that term.

32- [RISK REDUCTION]

Use the following language to indicate the Court's decision regarding a risk reduction sentence after considering whether the defendant is eligible for and agrees to such a sentence under R.C. 2929.143(A):

The defendant **[IS/IS NOT]** recommended for a risk reduction sentence per R.C. 2929.143

33- [COMMUNITY CONTROL IMPOSED]

Am.Sub. H.B. 110, the 2021-2022 State Budget Bill (effective 09/30/21) makes changes to [R.C. 2929.19\(B\)\(4\)](#) and [R.C. 2929.15\(B\)\(3\)](#) regarding the notifications required at the sentencing hearing when a defendant is placed on community control. Judges no longer are required to indicate a specific prison term that will be imposed. Instead, the court must "indicate the range from which the prison term may be imposed as a sanction for the violation, which shall be the range of prison terms for the offense that is specified pursuant to R.C. 2929.14."

Courts are required to have a pre-sentence investigation (PSI) completed prior to sentencing a defendant to community control, unless specifically waived by the parties, in every felony case. A language selection regarding the PSI is provided at

the beginning of the Community Control Imposed section.

When imposing a term of community control in lieu of a prison term, the court will first state the term of community control and then detail the reserved sentence range for each count in the community control imposed chart. This chart contains 9 columns, referencing each offense by count number as detailed in the conviction chart above. *Cells shaded in grey will not appear in the final entry if no data is entered.*

The columns detail (from left to right):

1. The count number of the offense
2. The length of the community control supervision on each count, expressed in months or years.
3. The reserved sentence range for a definite sentencing offense, as specified under R.C. 2929.14, including what type of term is reserved – A definite term from the range of between 6-12 months for a F5. *As noted above, a specific reserved prison term is no longer required after 09/30/21 and the court should state the range of definite terms available for the offense.*
4. The reserved sentence range for a non-life felony indefinite sentencing offense, as specified under R.C. 2929.14, including what type of term is reserved – e.g. an indefinite minimum term of between 2-8 years for a F2. When an indefinite range is entered into the chart, courts **must** also use the non-life felony indefinite maximum term advisement below. *As noted above, a specific reserved prison term is no longer required after 09/30/21 and the court should state the range of indefinite minimum terms available for the offense.*
5. The number of any counts to which the reserved prison term will run concurrently, if any. This column is optional, as offenses run concurrently by operation of law, but provides courts the ability to select counts to run concurrently.
6. The number of any counts to which the reserved prison term will run consecutively, if any. See the note on *State v. Howard* below for additional information on reserved consecutive sentences. This column is optional, as notice of the potential imposition of consecutive sentences on each count is sufficient under *Howard*, but provides courts the ability to select which counts to run consecutively.
7. Whether a mandatory fine is attached to the count – a yes/no indication.
8. The amount of fine imposed for the count. Other considerations around fines including ability to pay considerations are detailed later in the entry.
9. Any residential sanction imposed by the court pursuant to R.C. 2929.16 – e.g. 180 jail sanction or a term in a Community Based Correctional Facility (CBCF). This will also be listed as a community control residential sanction, whether in the language of the entry or an attached form.

In [State v. Howard, 162 Ohio St.3d 314, 2020-Ohio-3195](#), the Supreme Court held that when placing a defendant on community control, the sentencing court needs to inform the defendant that consecutive terms would be imposed in the event of revocation, but need not make the R.C. 2929.14(C) consecutive sentence findings until the reserved prison term is imposed following a revocation hearing. Those findings will **always** be required at the time of revocation and imposition of the reserved prison sentence, but at the initial placement on community control, notice of reserved consecutive sentences will suffice. Note that an indication of **specific** counts that will run consecutively may limit the courts options upon violation – R.C. 2929.15(B)(3) continues to limit the length of prison terms available upon revocation of community control to that stated at the initial sentencing hearing. Put simply, a court that says “Counts 1 and 2 will run concurrently to each other but consecutively to Count 3” when reserving a sentence may be estopped from running those counts in another manner at a later revocation hearing.

Courts are only legally required to state the range of prison terms for each offense, and to indicate that counts may be run consecutively. There is no legal requirement that the judge give a “global” maximum sentence advisement – or the sum of all terms to be run consecutively. Courts may do so on the record, but no row is provided in the USE as it is not legally required. This “global” maximum is different from the necessary advisement on a non-life felony indefinite maximum term as described below.

A space is after the chart for the court to list any conditions/sanctions of community control, or to reference an attached sheet detailing those conditions. The Uniform Sentencing Entry package includes a Sample Community Control Sanctions

form.

Courts should include any payment plans/requirements for financial sanctions as part of the list of community control sanctions.

Community Control violations are handled in a separate entry.

() [COMMUNITY CONTROL IMPOSED]

() [THE COURT HAS CONSIDERED THE PRESENTENCE INVESTIGATION.]

() [THE PRESENTENCE INVESTIGATION WAS WAIVED BY THE PARTIES.]

() [NO PSI ORDERED (MISDEMEANOR ONLY)]

The Court has considered the factors in R.C. 2929.13, finds the defendant amenable to available community control sanctions, and sentences the defendant to a term of [NUMBER] [MONTHS/YEARS] community control supervision on each count as listed below, to run concurrently. The period of community control will include the conditions and sanctions [AS LISTED BELOW] [AS LISTED ON ATTACHED FORM]. The defendant is ordered to report forthwith to the [PROBATION SERVICES PROVIDER]. The Court reserves the right pursuant to R.C. 2929.15 to modify the conditions of community control, to extend the period of supervision, or to impose more restrictive sanctions if the defendant is found to be in violation of community control.

The defendant was informed that if any conditions of a community control sanction are violated or if the defendant violates a law or leaves the state without the permission of the court or the defendant’s probation officer, the sentencing court may impose a longer time under the same sanction, may impose a more restrictive sanction or may impose a prison term as detailed below:

COUNT #	LENGTH OF COMM CONTROL	SENTENCE RANGE DEFINITE	SENTENCE RANGE INDEFINITE MINIMUM

() [CONSECUTIVE SENTENCE POSSIBILITY]

The defendant was also informed that the Court may impose consecutive sentences at a future revocation hearing.

34- [NON-LIFE FELONY INDEFINITE MAXIMUM TERM]

If the presumption in favor of prison has been overcome on a non-life felony indefinite sentencing qualifying offense, Courts must advise the defendant of a single potential maximum term of imprisonment in addition to the minimum term(s) and any definite term(s) imposed in the event community control is revoked. As this maximum term cannot be calculated without specific terms being imposed and concurrent/consecutive decisions being made, Courts should inform the defendant of the additional length of the maximum term that could be imposed if the longest minimum term were imposed – an additional 5.5 years if the highest charge is a qualifying F1, or an additional 4 years if the highest charge is a qualifying F2. The below language can be used to reflect that advisement in the entry.

() [NON-LIFE FELONY INDEFINITE MAXIMUM TERM]

Count(s) [NUMBER(S)] are qualifying offenses subject to indefinite sentencing and the defendant has been informed of the applicable range of minimum terms as set forth in R.C. 2929.14 on each qualifying count. The defendant has also been

informed that the defendant would also be sentenced to an indefinite maximum prison term in this case as calculated as set forth in R.C. 2929.144.

35- [RESIDENTIAL SANCTIONS]

Courts may order community residential sanctions per R.C. 2929.16 as conditions of community control. Residential sanctions rise to the level of “confinement” and should not be confused with in-patient treatment which can be ordered as a nonresidential sanction in the next section. Residential sanctions include, but are not limited to the options below. A court may use any or all of these sanctions as part pf community control. Courts may choose to allow limited release from residential sanction for specified purposes as detailed in R.C. 2929.16(B), though these conditions may be part of a residential facility’s program structure. Language is also provided for counties with a minimum security jail facility per 2929.16(D) and/or a county jail industry program per R.C. 2929.16(C).

A local jail sanction may not exceed 6 months pursuant to R.C. 2929.16(A)(2), except that F-4 OVI convictions may serve up to one year per R.C. 2929.16(A)(3).

Non-violent felonies of the fourth and fifth degree may serve any jail term imposed as a residential sanction in a minimum-security jail when appropriate per R.C. 2929.16(D).

The Court imposes the following residential sanction(s) pursuant to R.C. 2929.16(A):

- () A term of up to six (6) months at **[NAME OF COMMUNITY BASED CORRECTIONAL FACILITY]**
- () A **[LENGTH (DAYS)]** term of incarceration at **[NAME OF JAIL FACILITY]**
 - () The defendant is approved for participation in **[NAME OF JAIL TREATMENT PROGRAM]**
- () A term at **[NAME OF HALFWAY HOUSE FACILITY]**
 - () **[LENGTH (DAYS)]** (optional)
- () A term at **[NAME OF ALTERNATIVE RESIDENTIAL FACILITY]**
 - () **[LENGTH (DAYS)]** (optional)

() Having ordered the above residential sanction, the Court authorizes the defendant’s limited release under R.C. 2929.16(B) to:

- () Seek or maintain employment
- () Receive education and/or training
- () Receive treatment

() Having ordered the above term in local jail, the Court specifies that the defendant may serve the term in a minimum security jail if found appropriate by the jail administrator.

() The Court orders that the defendant **[MAY/MAY NOT]** be considered for the county jail industry program.

36- [NONRESIDENTIAL SANCTIONS]

Below are the nonresidential sanctions named by statute in R.C. 2929.17. This list is not exhaustive, as the sentencing court has broad discretion to fashion community control sanctions so long as the sanctions are reasonably related to the goals of community control and do not unnecessarily infringe on the defendant’s liberty – see *State v. Jones*, 49 Ohio St.3d 51, 550 N.E.2d 469 (1990). The sentencing court must order the conditions of community control, and can only add additional or more restrictive conditions once a violation of community control has been found.

Note that if any nonresidential sanction is imposed, the Court must impose the condition that defendant follow all laws and not leave the state without permission pursuant to R.C. 2929.15(A)(1) – hence, that sanction is not “optional” and has no checkbox.

House Arrest is defined in R.C. 2929.01(P). Courts may choose to impose one or more of the R.C. 2929.17(B) sanctions for a set term or until further order of the court.

Pursuant to R.C. 2929.17(C) courts may impose up to five hundred hours of community service.

Note that victim-offender mediation requires prior approval from the victim per R.C. 2929.17(L). Also note that R.C. 2929.17(N) counseling for offenders convicted of R.C. 2919.25 Domestic Violence or of felonious assault, aggravated assault, or simple assault where the victim was a family or household member and the offense was committed in the vicinity of non-victim children of whom the defendant or victim is a parent or guardian. Where defendant was convicted of R.C. 2907.04 Unlawful Sexual Conduct with a Minor and defendant was under age 21 at the time of the offense, sex offender treatment under R.C. 2929.17(O) and R.C. 2950.16 may be ordered.

The Court may wish to make payment of those sanctions a condition of the defendant's community control supervision, and may do so here, but the imposition of said financial sanctions is covered in a separate section below.

The Court imposes the following nonresidential sanction(s) pursuant to R.C. 2929.17:

Pursuant to R.C. 2929.17(A) the defendant must follow all local, state, and federal laws and ordinances, and may not leave the state without the permission

() of the Court

() of the defendant's probation officer

() A term of day reporting on community control for **[LENGTH (DAYS) / UNTIL FURTHER ORDER OF THE COURT]**

() A term of

() **[ELECTRONIC MONITORING]**

() for **[LENGTH (DAYS) / UNTIL FURTHER ORDER OF THE COURT]**

() **[CONTINUOUS ALCOHOL MONITORING]**

() for **[LENGTH (DAYS) / UNTIL FURTHER ORDER OF THE COURT]**

() **[HOUSE ARREST]**

() **[ADDITIONAL CONDITIONS OF HOUSE ARREST]**

() for **[LENGTH (DAYS) / UNTIL FURTHER ORDER OF THE COURT]**

() That the defendant perform **[AMOUNT]** hours of community service.

() Having considered the substance abuse assessment of the defendant by a treatment professional, a term of treatment at **[NAME OF TREATMENT PROVIDER] [COURT MAY SPECIFY SECURITY LEVEL]**

() The defendant will abstain from the use of **[DRUGS / ALCOHOL / BOTH]**.

() The defendant will be subject to drug and alcohol monitoring, including random drug testing.

() The defendant will abide by the following curfew: **[COURT MAY SPECIFY HOURS]**

() The defendant will obtain and/or maintain employment, or be involved in full-time education or job training.

() The defendant will participate in victim-offender mediation.

() The defendant will complete the following assessment(s) and comply with all treatment recommendations:

() **Substance Abuse**

() **Mental/Behavioral Health**

() **Anger Management**

() **[SPECIFY OTHER TYPE]**

() The defendant will participate in Alcoholics Anonymous/Narcotics Anonymous or other 12-step group meetings.

() The defendant will attend **[NUMBER] [PER MONTH / WEEK]** and will provide attendance verification to the probation department.

() A license violation report.

() The defendant will participate in counseling pursuant to R.C. 2929.17(N).

() The defendant will participate in a certified sex offender treatment program pursuant to R.C. 2929.17(O) and R.C. 2950.16.

() The defendant will comply with any and all orders of any other court with relation to the Child Support Enforcement Agency.

() Stay away from and have no contact in person or by any means with **[VICTIM, LOCATION, OR OTHER]** as a condition of community control.

() The defendant will set up an installment payment plan for all court-ordered financial sanctions imposed below.

() **[SPECIFY OTHER CONDITIONS]**

37- [COURTESY SUPERVISION / INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION]

An offender may have community control supervision transferred to another county where the defendant resides (courtesy supervision) pursuant to R.C. 2301.28, or, under certain circumstances, to another state pursuant to the Interstate Compact for Adult Offender Supervision pursuant to R.C. 5149.21.

More information on the Interstate Compact for Adult Offender Supervision may be found via the [bench book on the topic](#) and information about potential transfer issues [in a white paper](#) published by the group.

() **[COURTESY SUPERVISION]**

As the defendant is a resident of **[NAME OF COUNTY]** the Court hereby orders the defendant’s community control supervision transferred to that county, subject to this Court’s continuing jurisdiction pursuant to R.C. 2301.28.

() **[INTERSTATE COMPACT]**

As the defendant is a resident of **[NAME OF STATE]** and at the defendant’s request, the Court hereby orders the probation department to submit an application to the Ohio Interstate Compact Office for the defendant’s supervision to be transferred to **[NAME OF STATE]**.

38- [JOINT RECOMMENDATION ACCEPTED / AGREED UPON SENTENCE IMPOSED]

Where a joint recommendation of the parties or an agreed upon sentence is adopted as the sentence of the court, insert this language to supplement the record in case of an appeal:

The stated prison term imposed in this case is authorized by law and was recommended jointly by the defendant and the prosecution in the case pursuant to R.C. 2953.08(D)

39- [POST-RELEASE CONTROL]

All defendants must be notified pursuant to R.C. 2929.19(B)(2)(d & e) of post-release control (PRC) obligations at sentencing both on the record and in the entry. The decision by the Supreme Court in [State v. Grimes, 151 Ohio St.3d 19, 2017-Ohio-2927](#) does not distinguish between sentencing to community control or to prison – it holds that court’s must notify the defendant orally of post-release control obligations at “the sentencing hearing” and that the entry must include whether that post-release control is mandatory or discretionary, its duration, a statement that PRC will be administered by the Adult Parole Authority, and the potential consequences of any violation.

The lengths of PRC terms were amended with passage of Am.Sub.H.B. 110, effective 09/30/2021. All felony sex offenses remain subject to a mandatory 5 year term of PRC. Other mandatory terms of post-release control – those for felonies of the first and second degree, as well as felonies of the third degree which are offenses of violence, have had the applicable term of PRC reduced and made indefinite. The remaining felonies of the third, fourth, and fifth degree have had the discretionary term of PRC reduced from three years to two years.

When sentencing a non-sex offense F1 or F2, or an F3 offense of violence, the court should inform the defendant of the mandatory minimum term of post-release control, and of the maximum term of post-release control. Selection by the trial judge of a specific term of post-release control from that range should be avoided, as the amount of time served under PRC sanctions has historically been under the discretion of the parole board, as authorized in R.C. 2967.28.

[POST-RELEASE CONTROL]

() **[POST-RELEASE CONTROL (SINGLE COUNT/LONGEST TERM JURISDICTION)]**

As a result of the conviction(s) in this case and the imposition of a prison sentence, and pursuant to R.C. 2967.28, the defendant **[WILL/MAY]** be subject to a period of post-release control of:

() **ANY felony sex offense** – Five years.

() **F1 offense** – A mandatory minimum 2 years, up to a maximum of 5 years.

- () **F2 offense** – A mandatory minimum 18 months PRC, up to a maximum of 3 years.
- () **F3 offense of violence** – A mandatory minimum 1 year PRC, up to a maximum of 3 years.
- () **All other F3, F4, and F5 offenses** – Up to 2 years of PRC at the discretion of the Parole Board.

The Adult Parole Authority will administer post-release control pursuant to R.C. 2967.28, and the defendant has been advised that if the defendant violates post-release control, the Parole Board may impose a prison term as part of the sentence of up to half of the stated prison term or stated minimum term originally imposed upon the defendant in nine-month increments. If, during the period of the releasee's post-release control, the releasee serves as a post-release control sanction the maximum prison time available as a sanction, the post-release control shall terminate.

If while on post-release control the defendant is convicted of a new felony, the sentencing court will have authority to terminate the post-release control and order a consecutive prison term of up to the greater of twelve months or the remaining period of post-release control.

Note that pursuant to R.C. 2967.28(G) when a defendant is subject to parole and post-release control, or to multiple periods of post-release control the term of supervision will be the period of supervision that expires last as determined by the parole board. However, jurisdictions are split as to whether, at sentencing, the defendant must be informed of the term of post-release control the defendant could potentially face on each individual count. Courts in those jurisdictions requiring an advisement on each count should repeat the following language as necessary in the first line of the PRC section:

() **[POST-RELEASE CONTROL (MULTIPLE COUNTS)]**

As a result of the conviction for:

- () A Felony sex offense in Count(s) **[NUMBER(S)]** the defendant will be subject to a 5-year term of post-release control.
- () A Felony of the First Degree in Count(s) **[NUMBER(S)]** the defendant will be subject to a minimum 2-year term of post-release control, up to a maximum 3 years
- () A Felony of the Second Degree in Count(s) **[NUMBER(S)]** the defendant will be subject to a minimum 18-month term of post-release control, up to a maximum 3 years
- () A Felony of the Third Degree that is an offense of violence in Count(s) **[NUMBER(S)]** the defendant will be subject to a minimum 1-year term of post-release control, up to a maximum 3 years.
- () A Felony of the Third, Fourth, or Fifth Degree in Count(s) **[NUMBER(S)]** the defendant may be subject up to a maximum 2 years of post-release control at the discretion of the parole board.

Upon release from prison, the defendant will be supervised for the period of supervision which expires last. All periods of post-release control run concurrently.

The Adult Parole Authority will administer post-release control pursuant to R.C. 2967.28, and the defendant has been advised that if the defendant violates post-release control, the Parole Board may impose a prison term as part of the sentence of up to half of the stated prison term or stated minimum term originally imposed upon the defendant in nine-month increments. If, during the period of the releasee's post-release control, the releasee serves as a post-release control sanction the maximum prison time available as a sanction, the post-release control shall terminate.

If while on post-release control the defendant is convicted of a new felony, the sentencing court will have authority to terminate the post-release control and order a consecutive prison term of up to the greater of twelve months or the remaining period of post-release control.

40- [OFFENDER ON TRANSITIONAL / POST-RELEASE CONTROL AT TIME OF A NEW FELONY OFFENSE]

When a defendant commits a new felony offense while on post-release control, [R.C. 2929.141](#) provides the sentencing court in the new felony case with additional sentencing options. The sentencing court in the new felony case may terminate the defendant's community control, and either:

R.C. 2929.141(A)(1): impose an additional, consecutive prison term of either the greater of 12 months OR the defendant’s remaining time on PRC reduced by any prison term imposed by the Parole Board as a sanction for violating PRC.

R.C. 2929.141(A)(2): impose sanctions under R.C. 2929.15-18 (community control sanctions, residential or nonresidential and financial sanctions) to run either concurrently or consecutively to any community control sanctions imposed for the new felony.

The statute provides the “new felony” sentencing court jurisdiction over this PRC sentence regardless of where the defendant’s PRC case originated. Court’s imposing a prison term of the length of the remaining time on PRC should account for the period of PRC originally imposed, the time the defendant has spent under PRC supervision, as well as any prison terms imposed by the parole board for violating PRC.

Note that pursuant to *State v. Bishop*, 156 Ohio St.3d 156, 2018-Ohio-5132, the Court in the new felony must inform the defendant of this potential consequence at the time of the plea in order to sentence under R.C. 2941.141. Use the following language in this circumstance:

[OFFENDER ON POST-RELEASE CONTROL AT TIME OF NEW FELONY OFFENSE]

The Court, having found the defendant to have been on post-release control supervision at the time of the commission of the felony **[OFFENSE/OFFENSES]** in this case, hereby orders the post-release control terminated and:

[PRISON IMPOSED]

the defendant is ordered to serve **[PRISON TERM]** consecutively to the prison term in this case.

[COMMUNITY CONTROL IMPOSED]

That the defendant serve a **[COMMUNITY CONTROL SANCTION / COMMUNITY RESIDENTIAL SANCTION / NONRESIDENTIAL SANCTION] [CONCURRENTLY/CONSECUTIVELY]** to the community control sanctions in this case.

The statute also provides a similar sentencing option when the defendant committed the new felony while on transitional control (R.C. 2967.26) following release from prison. The court may impose an additional, consecutive prison term of not more than 12 months for committing the new offense while on transitional control. Use the following language to impose that additional term:

[OFFENDER ON TTRANSITIONAL CONTROL AT TIME OF NEW FELONY OFFENSE]

The Court, having found the defendant to have been on released from prison on transitional control at the time of the commission of the felony **[OFFENSE/OFFENSES]** in this case, hereby orders the defendant to serve an additional **[PRISON TERM NOT TO EXCEED 12 MONTHS]** consecutively to any prison term imposed in this case.

[FINANCIAL SANCTIONS GENERALLY]

As noted below, pursuant to R.C. 2929.19(B)(5) the sentencing court must consider the defendant’s ability to pay when imposing certain financial sanctions under R.C. 2929.18 or R.C. 2929.32. If necessary, the court may hold a hearing on the defendant’s ability to pay under R.C. 2929.18(E). Those sanctions requiring an ability to pay consideration are noted below.

See the Supreme Court of Ohio’s [Collection of Court Costs & Fines in Adult Court](#) for more information. Please note the language below can be further supplemented with payment schedules, apportionment, or other orders within the discretion of the Court.

Each jurisdiction retains the discretion to prioritize what order any financial sanctions, court costs, or fees are to be paid. Should the sentencing Court wish to do so, supplement the financial sanctions sections with that order of prioritization.

⁴¹- **[COURT COSTS AND FEES]**

The sentencing court is obligated under R.C. 2947.23 to impose the costs of prosecution and any jury fees, commonly referred to as court costs. The Court retains discretion and jurisdiction to waive, suspend, or modify payment of those costs and fees

under R.C. 2947.23(C). The Supreme Court held that there is no legislative requirement to consider a defendant's ability to pay when imposing the costs of prosecution and jury fees under R.C. 2947.23. See *State v. Taylor*, 161 Ohio St.3d 319, 2020-Ohio-3514. The decision to waive, modify, or suspend payment of those costs of prosecution may be made with consideration of the defendant's ability to pay, and as such that language has been included in the waiver option.

NOTE - The Court must consider the defendant's present and future ability to pay in imposing any other financial sanction under R.C. 2929.18 and any fine imposed pursuant to R.C. 2929.32. See R.C. 2929.19(B)(5).

Pursuant to the decision in *State v. Taylor*, Slip Opinion No. 2020-Ohio-6786, appointed counsel fees are civil in nature and not part of the criminal sentence imposed for the offense. The Court noted in its holding that best practice would be to impose this fee using a separate entry, or to include language indicating the fee is civil in nature. That language is provided below.

[COURT COSTS / FEES IMPOSED]

The Court orders that the defendant shall pay the cost of prosecution and any jury fees permitted pursuant to R.C. 2947.23, **[INCLUDING \$[AMOUNT] to [ENTITY]/AS DETERMINED BY THE CLERK OF COURTS]**.

[COMMUNITY SERVICE IN LIEU OF COSTS – FUTURE ORDER]

If the defendant fails to pay that judgment or fails to timely make payments towards that judgment under a payment schedule approved by the Court, the Court may order the defendant to perform community service until the judgment is paid or until the Court is satisfied that the defendant is in compliance with the approved payment schedule.

If the Court orders the defendant to perform the community service, the defendant will receive credit upon the judgment at the specified hourly credit rate of **[\$ AMOUNT NOT LESS THAN FEDERAL MINIMUM WAGE]** per hour of community service performed, and each hour of community service performed will reduce the judgment by that amount.

[COMMUNITY SERVICE IN LIEU OF COSTS – ORDER]

The Court orders that the defendant may perform **[AMOUNT NOT MORE THAN 40]** hours per month of community service until the judgment is paid or until the Court is satisfied that the defendant is in compliance with the approved payment schedule. The defendant will receive credit upon the judgment at a specified hourly credit rate of **[\$ AMOUNT NOT LESS THAN FEDERAL MINIMUM WAGE]** per hour of community service performed, and each hour of community service performed will reduce the judgment by that amount.

[COURT COSTS / FEES WAIVED]

Upon the record before the Court and any evidence presented, and having considered the defendant's present and future ability to pay, the Court orders that the costs of prosecution and any jury fees in this case shall be waived.

[APPOINTED COUNSEL FEES] (unless separate form used)

NOTE: In *State v. Taylor*, Slip Opinion No. 2020-Ohio-6786, decided December 22, 2020, the Ohio Supreme Court held that while it is best practice for the court to state its ability to pay findings on the record, the findings need not be explicitly made pursuant to statute when imposing appointed counsel fees. The Court further held that appointed counsel fees are not costs and should not be included as part of the defendant's sentence. Best practice would be to impose appointed counsel fees by separate entry, but the Court also opined that if fees are assessed in the sentencing entry it should be noted that they are a civil assessment. A separate entry is available as part of the USE "Good Civics" entry package. Use the following language if not imposing appointed counsel fees via a separate entry:

The Court finds pursuant to R.C. 2941.51(D) that the defendant is able to pay some or all of the costs the defendant's legal representation in this case and orders the defendant to pay **[\$[AMOUNT] to [ENTITY]**. Pursuant to the decision in *State v. Taylor*, Slip Opinion No. 2020-Ohio-6786 this fee is civil in nature and not

part of the criminal sentence imposed for the offense(s) in this case.

[COSTS OF SUPERVISION] R.C. 2929.18(A)(5)(a)(i) (requires ability to pay consideration)

Upon the record before the Court and any evidence presented, and having considered the defendant's present and future ability to pay, the Court finds pursuant to R.C. 2929.18 that the defendant is able to pay some or all of the costs of supervision in this case and orders the defendant:

To pay **[\$[AMOUNT]]** to **[ENTITY]**.

To pay **[\$[AMOUNT]]** to **[ENTITY]** on a monthly basis.

[CONFINEMENT COSTS] R.C. 2929.18(A)(5)(a)(ii) and (b) (requires ability to pay consideration)

Upon the record before the Court and any evidence presented, and having considered the defendant's present and future ability to pay, the Court finds pursuant to R.C. 2929.18 that the defendant is able to pay some or all of the costs of the defendant's confinement in this case and orders the defendant:

To pay **[\$[AMOUNT]]** to **[ENTITY]**.

To pay **[\$[AMOUNT]]** to **[ENTITY]** on a monthly basis.

[COSTS OF TRANSPORTATION]

This order to pay will include the cost of transporting the defendant to confinement.

[COSTS OF IMMOBILIZING / DISABLING DEVICE] R.C. 2929.18(A)(5)(a)(iii) (requires ability to pay consideration)

The Court finds that defendant has been convicted of an arson offense, and subsequently held a hearing to determine the amount of costs incurred in investigating and prosecuting the offense in this case pursuant to R.C. 2929.71. Upon the record of the Court and any evidence presented, the Court finds by a preponderance of the evidence that the following costs were incurred in the arson investigation in this case and that the offender has assets available for reimbursement purposes, and therefore orders that the defendant pay **[\$[AMOUNT]]** to **[ENTITY]**. *(repeat as necessary)*

To pay **[\$[AMOUNT]]** to **[ENTITY]**.

To pay **[\$[AMOUNT]]** to **[ENTITY]** on a monthly basis.

[REIMBURSEMENT FOR CONTROLLED SUBSTANCE TEST] R.C. 2925.511

The Court finds that defendant has been convicted of a drug abuse offense, and subsequently held a hearing to determine the amount of cost incurred in having tests conducted to confirm the presence of a controlled substance in this case pursuant to R.C. 2925.511. Upon the record of the Court and any evidence presented, the Court orders that the defendant pay **[\$[AMOUNT]]** to **[ENTITY]**.

[REIMBURSEMENT FOR ARSON INVESTIGATION COSTS] R.C. 2929.71 (requires ability to pay consideration)

The Court finds that defendant has been convicted of an arson offense, and subsequently held a hearing to determine the amount of costs incurred in investigating and prosecuting the offense in this case pursuant to R.C. 2929.71. Upon the record of the Court and any evidence presented, the Court finds by a preponderance of the evidence that the following costs were incurred in the arson investigation in this case and that the offender has assets available for reimbursement purposes, and therefore orders that the defendant pay **[\$[AMOUNT]]** to **[ENTITY]**. *(repeat as necessary)*

⁴² **[RESTITUTION]**

A victim is entitled to restitution under Ohio Constitution, Article I, Section 10a(7). Courts may order this restitution as part of the sentence in a case. **If restitution is contested by the defendant or victim, the Court must hold a hearing on the matter** pursuant to R.C. 2929.18(A)(1). Once the court has determined the amount of restitution, if any, by a preponderance of the evidence use the following language to memorialize the order

in the entry. Please note the language below can be further supplemented with payment schedules, apportionment, or other orders within the discretion of the Court. When legislative enactment of the provisions of Article I, Section 10a takes place, this language and instruction will be updated to reflect any changes to the restitution statutes.

The Court must consider the defendant’s present and future ability to pay in making a restitution order pursuant to R.C. 2929.19(B)(5). Courts should conform to the holdings in local appellate districts as to the scope of that consideration and the necessary record in the entry.

[RESTITUTION ORDERED]

[BY STIPULATION OF THE PARTIES / HAVING HELD A RESTITUTION HEARING PURSUANT TO R.C. 2929.18] and having considered the defendant’s present and future ability to pay, the defendant is ordered to make restitution in the amount of \$[AMOUNT] to [ENTITY]. (repeat as necessary) [IF HEARING IS NECESSARY, COURT SHOULD DETAIL EVIDENCE CONSIDERED AND FINDINGS MADE]

This order of restitution by the Court can be converted to a civil judgment and collected by the victim through a civil action.

[RESTITUTION ORDERED – Prison Imposed]

[BY STIPULATION OF THE PARTIES / HAVING HELD A RESTITUTION HEARING PURSUANT TO R.C. 2929.18] and having considered the defendant’s present and future ability to pay, the defendant is ordered to make restitution in the amount of \$[AMOUNT] to [ENTITY]. (repeat as necessary) [IF HEARING IS NECESSARY, COURT SHOULD DETAIL EVIDENCE CONSIDERED AND FINDINGS MADE]

It is further ordered that the payment of restitution will be monitored by the Adult Parole Authority and that all payments of restitution shall be made to the Clerk of Courts on behalf of the victim. The Clerk of Courts is further ordered to disburse any restitution collected to the victim. This order of restitution is a Judgment in favor of the victim and against the defendant. Said victim, pursuant to this Judgment, may bring any action to collect said debt as provided for in R.C. 2929.18(D), and/or may accept payment pursuant to a payment schedule that will be determined and monitored by the Adult Parole Authority.

[RESTITUTION NOT ORDERED]

Having held a restitution hearing pursuant to R.C. 2929.18 and having considered the defendant’s present and future ability to pay, the Court does not order restitution as to Count **[NUMBER]**, due to the following: **[DETAIL EVIDENCE CONSIDERED AND FINDINGS MADE] (repeat as necessary)**

43- [FINES]

Columns are provided for fines to be imposed in both the prison imposed and community control charts above. If any fine is imposed, the court must assess the defendant’s present and future ability to pay pursuant to R.C. 2929.19(B)(5) and note that consideration in the entry with the language below. Please note the language below can be further supplemented with payment schedules, apportionment, or other orders within the discretion of the Court.

[FINES ORDERED]

Upon the record before the Court and any evidence presented, and having considered the defendant’s present and future ability to pay, the Court finds that the defendant is able to pay a fine, and imposes a fine as listed below.

COUNT	MANDATORY FINE	AMOUNT OF FINE IMPOSED	FINE WAIVED Y/N
-------	----------------	------------------------	-----------------

	(<input type="checkbox"/>)		
	(<input type="checkbox"/>)		

Language regarding any affidavit of indigency is included in this section. This language may be re-used or referenced with regard to other financial sanctions. Note the filing of an affidavit in the entry for the record if one is filed.

() **[FINES NOT ORDERED / WAIVED]**

() **[AFFIDAVIT OF INDIGENCY]**

The defendant has filed an affidavit of indigency with the court.

() **[INABILITY TO PAY] (repeat as necessary if specific count chosen)**

Upon the record before the Court and any evidence presented, and having considered the defendant’s present and future ability to pay, the Court finds that the defendant is indigent or otherwise is unable to pay and orders that the fine(s) **[ON COUNT #] / [IN THIS CASE]** be waived.

() **[FINES NOT ORDERED] (repeat as necessary if specific count chosen)**

Upon the record before the Court and any evidence presented, and having considered the defendant’s present and future ability to pay, the Court will not order a fine **[ON COUNT #] / [IN THIS CASE]**.

NOTE: Community service may be ordered toward credit for payment of fines in felony cases under R.C. 2951.02(B) if the defendant requests the opportunity and the court finds the defendant financially unable to pay the fines. See that section for the requirements if the defendant requests this option and include the language regarding community service from the Costs & Fees instruction above.

44- [OTHER FINANCIAL SANCTIONS]

Language for use in ordering financial sanctions not covered above. Courts must notify the parties and hold a hearing if the amount is not agreed to, and consider the defendant’s ability to pay before ordering the sanction.

() **[OTHER FINANCIAL SANCTIONS]**

[BY AGREEMENT OF THE PARTIES / BY ORDER OF THE COURT] and having considered the defendant’s present and future ability to pay, the defendant is ordered to pay a financial sanction in the amount of **\$(AMOUNT)** to **[ENTITY]**. **(REPEAT AS NECESSARY)**

[IF HEARING IS NECESSARY, COURT SHOULD DETAIL EVIDENCE CONSIDERED AND FINDINGS MADE]

45- [LICENSE SUSPENSION / POINTS ASSESSED]

Where a license suspension is imposed, note that suspension for the record. Courts wishing to indicate in the sentencing entry the number of points being assessed for a given offense may also do so with the language below.

Note that R.C. 4510.36(B) requires the sentencing court to report this information to the Ohio Bureau of Motor Vehicles via a separate form. A copy of that form can be found here: [Ohio BMV Report of Convictions](#). A list of violations subject to BMV reporting is hosted at the Ohio BMV website here: [Ohio Revised Code Offense &](#)

[Conviction Code List.](#)

The defendant's driver's license **will** be suspended for a period of **[TERM]** beginning on **[DATE]**. This is a **[CLASS _____/UNCLASSIFIED]** suspension. The Clerk is ordered to report this information to the Bureau of Motor Vehicles.

[POINTS ON LICENSE] (REPEAT AS NECESSARY)

As a result of the conviction in **[COUNT NUMBER]** the defendant **will** have **[NUMBER OF POINTS]** assessed against the defendant's driver's license.

[LICENSE NOT BEING SUSPENDED]

The Court **will not** impose a driver's license suspension in this case.

46- [FORFEITURE]

Forfeiture specifications found in the disposition chart should be disposed of here, as well as forfeitures which are agreed upon by the parties.

Where property other than contraband or proceeds obtained from the offense are subject to a forfeiture specification, the Court must decide of the proportionality of the forfeiture under R.C. 2981.09 under a clear and convincing evidence standard.

[FORFEITURE] (REPEAT AS NECESSARY)

Pursuant to the **[R.C. 2941.1417(A) SPECIFICATION(S) /AGREEMENT OF THE PARTIES]** the defendant shall forfeit interest in **[PROPERTY]** to **[ENTITY]** to be disposed of pursuant to R.C. 2981.12.

[NON-CONTRABAND PROPERTY]

[NON-CONTRABAND/PROCEEDS – FORFEITURE PROPORTIONATE]

The Court finds that, pursuant to R.C. 2981.09, the forfeiture of **[PROPERTY]** is/are proportionate to the offense(s) committed.

[NON-CONTRABAND / PROCEEDS – FORFEITURE NOT PROPORTIONATE]

The Court finds that, pursuant to R.C. 2981.09, the of **[PROPERTY]** is/are not proportionate to the offense(s) committed, and the property will not be subject to forfeiture.

47- [PROPERTY DISPOSITION]

Disposition of property other than contraband or property subject to forfeiture should be limited to agreement of the parties. Courts should insert the agreed-upon language here.

48- [BOND]

Courts may need to use the court's own language for non-standard bond orders, such as returning posted property to owner.

[BOND]

The defendant's bond is ordered **[RELEASED / TERMINATED / CONTINUED / FORFEITED / FREE TEXT ENTRY]**.

49- [DISMISSED COUNTS / SPECIFICATIONS]

Where counts and/or specifications are not otherwise disposed of at the time of the plea, note any dismissed counts and/or specifications for the record in the sentencing entry. Note that any dismissal by the court pursuant to Crim.R.48 requires that the court state its findings and reasons for the dismissal on the record. Optional language for those findings is provided below.

() [DISMISSED COUNTS]

The court hereby dismisses Count(s) [NUMBER(S)] [PURSUANT TO THE PLEA / BY AGREEMENT OF THE PARTIES / AT THE STATE'S REQUEST / BY ORDER OF THE COURT PURSUANT TO CRIMINAL RULE 29 / BY ORDER OF THE COURT PURSUANT TO RULE 48].

() [DISMISSED SPECIFICATIONS]

The court hereby dismisses Specification [NUMBER] to Count [NUMBER] [PURSUANT TO THE PLEA / BY AGREEMENT OF THE PARTIES / AT THE STATE'S REQUEST / BY ORDER OF THE COURT PURSUANT TO CRIMINAL RULE 29 / BY ORDER OF THE COURT PURSUANT TO RULE 48]. (REPEAT AS NECESSARY)

() [CRIM.R.48 DISMISSAL FINDINGS]

Count(s) [NUMBER(S)] are being dismissed [STATE FINDINGS OF FACT AND REASONS FOR DISMISSAL].

⁵⁰- [REMAND / CONVEY]

Language for courts who do not prepare a separate conveyance entry.

() [REMAND / CONVEY]

The defendant is remanded to the custody of [ENTITY] to await transport to [FACILITY]. The Clerk of Courts shall issue a warrant directed to the Sheriff of [NAME] County, Ohio, to convey the said Defendant to the custody of [LOCAL FACILITY / THE OHIO DEPARTMENT OF REHABILITATION AND CORRECTION].

⁵¹- [JAIL TIME CREDIT]

Courts must award credit for time served awaiting trial while being held for the case in question. If the case is being terminated for time served, indicate so in this section.

Recently the Department of Rehabilitation and Correction has announced its intention to amend Ohio Adm.Code 5120-2-04 addressing how confinement credit will be applied towards a sentence to reflect the changes in 2019 Am.Sub.S.B. No. 201 and the Ohio Supreme Court decisions in *State ex rel. Fraley v. Ohio Dep't of Rehab. & Corr.*, 161 Ohio St.3d 209, 2020-Ohio-4410 and *State v. Henderson*, 161 Ohio St.3d 285, 2020-Ohio-4784. The onus will be on the sentencing court to calculate appropriate jail time credit. Courts must ensure that this calculation does not include any days that the defendant spent in DRC custody on other offenses pursuant to R.C. 2929.19(B)(2)(g)(i).

DRC will also assume that the jail time credit on consecutive sentences has not been duplicated, so courts must also take care to ensure entries on cases run consecutively reflect where the jail credit is to be assigned, so as to avoid double counting. Best practice is for courts to track jail time credit internally to ensure proper credit is applied.

Finally, DRC will be instructing all inmates who claim errors in jail time credit to file motions in the sentencing court to seek redress.

ALSO NOTE: The September 2020 Ohio Supreme Court decision in *State v. Reed*, 162 Ohio St.3d 554, 2020-Ohio-4255 held that a defendant is not entitled to jail time credit for postconviction house arrest or electronic home monitoring."

Use the following language for jail time credit:

() [STIPULATION]

The parties have stipulated to [NUMBER] days of jail time credit on [COUNT(S) # / CASE]. (REPEAT AS NECESSARY)

[JAIL TIME CREDIT] (MANDATORY REGARDLESS OF WHETHER THE STIPULATION BOX IS CHECKED)

The Court orders the defendant be granted **[NUMBER]** days of jail time credit on **[COUNT(S) # / CASE]** up to and including date of sentencing and excluding conveyance time. **(REPEAT AS NECESSARY)**

52. [REGISTRATION OFFENSES]

Use the following language with regard to any registration offenses for which the defendant was convicted. This is in addition to the necessary notification forms provided by BCI or the Ohio Attorney General's Office.

[SEX OFFENDER]

The Court finds pursuant to R.C. 2950.01 that as a result of these convictions the defendant is a Tier **[NUMBER]** Sex Offender and has been given written and oral notice of responsibilities to register as a Sex Offender pursuant to R.C. 2950.04.

The Court explained from the written notice of registration duties that the defendant will be required to register in person with the sheriff of the county in which the defendant establishes residency within three days of coming into that county. The defendant will also be required to register in person with the sheriff of the county in which they establish a place of education or employment immediately upon coming into that county. If the defendant establishes a place of education or place of employment in another state but maintains a residence in Ohio, the defendant will also be required to register in person with the sheriff or other appropriate official in that other state immediately upon coming into that state. The defendant will also be prohibited under R.C. 2950.034(A) from residing within 1,000 feet of any school, preschool, or child day care center.

The defendant was also informed that they must provide notice of the defendant's intent to establish residence, employment, or education to the sheriff in that county at least 20 days prior to the change and within 3 days of changing employment, and are required to report any international travel to the sheriff no less than twenty-one days prior to travel. Written notice must be provided in person, within 3 days of any change in vehicle information, email addresses, internet identifiers or telephone numbers registered to or used by the defendant to the sheriff with whom the defendant has most recently registered. As a result of this conviction, the defendant will be classified as a:

[TIER I SEX OFFENDER]

And will be required to comply with these requirements and address verification in person every twelve months for a period of fifteen years.

[TIER II SEX OFFENDER]

and will be required to comply with these requirements and address verification in person every one-hundred and eighty days for a period of twenty-five years.

[TIER III SEX OFFENDER]

and will be required to comply with these requirements and address verification in person every ninety days for life. There will also be notification to the victim and the community whenever the defendant registers or changes address.

The defendant was also informed that failure to comply with these registration duties may result in criminal prosecution.

[CHILD VICTIM ORIENTED OFFENDER] (may be combined with sex offender)

The Court finds pursuant to R.C. 2950.01 that as a result of these convictions the defendant is a Tier **[NUMBER]** Child Victim Offender and has been given written and oral notice of responsibilities to register as a Child Victim Offender pursuant to R.C. 2950.04.

The Court explained from the written notice of registration duties that the defendant will be required to register in person with the sheriff of the county in which residency is established within three days of coming into that county. The defendant will also be required to register in person with the sheriff of the county in which a place of education or employment is established immediately upon coming into that county. If the defendant establishes a place of education or place of employment in another state but maintain a residence in Ohio, the defendant will also be required to register in person with the sheriff or other appropriate official in that other state immediately upon coming into that state. The defendant will also be prohibited under R.C. 2950.034(A) from residing within 1,000 feet of any school, preschool, or child day care center.

The defendant must also provide notice of intent to establish residence, employment, or education to the sheriff in that county at least 20 days prior to the change and within 3 days of changing employment, and the defendant is required to report any international travel to the sheriff no less than twenty-one days prior to travel. The defendant must also provide written notice in person, within 3 days of any change in vehicle information, email addresses, internet identifiers or telephone numbers registered to or used by the defendant to the sheriff with whom they have most recently registered. As a result of this conviction, the defendant will be classified as a:

[TIER I CHILD VICTIM OFFENDER]

And will be required to comply with these requirements and address verification in person every twelve months for a period of fifteen years.

[TIER II CHILD VICTIM OFFENDER]

and will be required to comply with these requirements and address verification in person every one-hundred and eighty days for a period of twenty-five years.

[TIER III CHILD VICTIM OFFENDER]

and will be required to comply with these requirements and address verification in person every ninety days for life. There will also be notification to the victim and the community whenever the defendant registers or changes address.

The defendant was also informed that failure to comply with these registration duties may result in criminal prosecution.

[COMMUNITY NOTIFICATION]

NOTE: A limited number of appellate courts have held that the defendant must be informed of the community notification provisions under the defendant's registration status on the record and in the sentencing entry. If this is the case in your jurisdiction, supplement this language with acknowledgment of the notification.

[COMMUNITY NOTIFICATION ORDERED]

The Court finds pursuant to R.C. 2950.11(F)(1) that as the defendant is a Tier III Sex Offender/Child Victim Oriented offender, the defendant shall be subject to community notification provisions as a part of the defendant's registration duties.

[COMMUNITY NOTIFICATION NOT ORDERED]

The Court finds, after consideration of the factors set forth in R.C. 2950.11(F)(2) that the defendant would not have been subject to the community notification provisions as they existed prior to January 1, 2008, and as such is not subject to community notification as part of the defendant's registration duties.

[ARSON OFFENDER]

The Court finds pursuant to R.C. 2909.14 that as a result of these convictions the defendant is an arson offender, and the defendant was given a written and oral notice of duties to register as an Arson Offender per

R.C. 2909.14.

[VIOLENT OFFENDER DATABASE]

NOTE: Defendant's convicted of offenses qualifying them for the Violent Offender Database must be informed of the defendant's rights to contest the imposition of enrollment duties **prior** to the sentencing hearing. For further information, see the Sentencing Commission's [Violent Offender Database Guide](#).

[PRINCIPAL OFFENDER – STIPULATION]

The parties having stipulated that the offender was the principal offender in a qualifying offense, the Court finds pursuant to R.C. 2903.41 that the offender was the principal offender and is a Violent Offender subject to a duty to enroll in the Violent Offender Database upon release. The defendant has been given written and oral notice of enrollment duties as a Violent Offender pursuant to R.C. 2903.42(C).

[PRINCIPAL OFFENDER – COURT FINDING]

The Court finds pursuant to R.C. 2903.41 that the offender was the principal offender in a qualifying offense and is a Violent Offender subject to a duty to enroll in the Violent Offender Database upon release. The defendant has been given written and oral notice of enrollment duties as a Violent Offender pursuant to R.C. 2903.42(C).

[NOT PRINCIPAL OFFENDER STIPULATION – COURT FINDS OFFENDER MUST ENROLL]

The parties have stipulated that the offender was not the principal offender in a qualifying offense for the Violent Offender database, and the Court has found the same. However, after consideration of all the factors in RC 2903.42(A)(4)(a)(i-iv), the Court finds that the offender was convicted of a qualifying offense and is a Violent Offender subject to a duty to enroll in the Violent Offender Database upon release. The defendant has been given written and oral notice of enrollment duties as a Violent Offender pursuant to R.C. 2903.42(C).

[NOT PRINCIPAL OFFENDER – COURT FINDS OFFENDER MUST ENROLL]

After a hearing conducted pursuant to R.C. 2903.42(A)(4)(a) the defendant has proven by a preponderance of the evidence that the defendant was not the principal offender in the Violent Offender Database qualifying offense. After consideration of all the factors in RC 2903.42(A)(4)(a)(i-iv), the Court finds that the offender was convicted of a qualifying offense and is a Violent Offender subject to a duty to enroll in the Violent Offender Database upon release. The defendant has been given written and oral notice of enrollment duties as a Violent Offender pursuant to R.C. 2903.42(C).

[NOT PRINCIPAL OFFENDER – COURT FINDS OFFENDER NEED NOT ENROLL]

After a hearing conducted pursuant to R.C. 2903.42(A)(4)(a) the defendant has proven by a preponderance of the evidence that the defendant was not the principal offender in the Violent Offender Database qualifying offense. After consideration of all the factors in RC 2903.42(A)(4)(a)(i-iv), the Court finds that the presumption of enrollment has been rebutted and that the defendant is NOT subject to a duty to enroll in the Violent Offender Database upon the defendant's release.

53- [DNA COLLECTION]

Defendants who commit a felony offense [as well as certain misdemeanor offenses](#), must submit a DNA sample for inclusion in the Combined DNA Index System (CODIS) if that sample was not collected at the time of arrest, arraignment, or first appearance. At sentencing, courts must order such defendants to report to the sheriff or chief of police in the defendant's jurisdiction and to submit to the DNA collection process. The sample is then forwarded to the Bureau of Criminal Investigation and Identification by law enforcement.

[DNA COLLECTION]

If the defendant has not yet submitted a DNA sample as required by [R.C. 2901.07](#), the defendant is ordered to report to **[ENTITY]** to provide that sample within twenty-four hours.

54- [FINGERPRINTING]

Pursuant to [R.C. 2301.10](#) and [R.C. 109.60](#), if not done at arrest, arraignment, or first appearance the defendant must be ordered by the court at sentencing to be fingerprinted by the sheriff or chief of police in the defendant's jurisdiction.

Those fingerprints are then forwarded to the Bureau of Criminal Investigation and Identification by law enforcement. See the [Supreme Court of Ohio's guidance](#) on this issue for additional information.

() **[FINGERPRINTING]**

If the defendant has not yet been fingerprinted in this case as required by [R.C. 2301.10](#), the defendant is ordered to report to **[ENTITY]** to be fingerprinted within twenty-four hours.

55- [BCI / LEADS / NICS REPORTING]

Courts must report criminal case disposition and several other types of information to the Bureau of Criminal Investigation (BCI) and/or the Ohio Law Enforcement Automated Data System (LEADS). Data submitted through these reports is then included in various law enforcement and public information databases including in the National Instant Criminal Background Check System (NICS). Responsibilities for such reporting are shared between local courts and clerk's offices.

See the [Supreme Court of Ohio's guidance](#) on required reporting. The following types of data must be reported:

- Final disposition of criminal cases.
- Orders for mental health evaluation or treatment for offenses of violence [R.C. 2929.44 and Sup. R. 95]
- Not Guilty by Reason of Insanity (NGRI) or incompetency findings, and orders for conditional release of such defendants [R.C. 2945.402 and Sup. R. 95].
- Sex/Child Victim Offender registration, Arson Offender registration, and/or Violent Offender Database enrollment.
- Court orders granting relief from a firearm disability.
- Court orders a modifying or vacating of a sentence.
- Orders sealing or expunging criminal convictions.
- Charges not being filed as shared by the Prosecuting Attorney.
- Protection orders issued by the court pursuant [Sup.R. 10](#) in conjunction with the Clerk of Court.
- Capias/Warrants issued in conjunction with the Clerk of Courts and local law enforcement pursuant to [Crim.R. 9\(A\)](#).

() **[BCI / LEADS / NICS REPORTING]**

All necessary information regarding the final disposition and orders made in this case will be reported to the Ohio Bureau of Criminal Investigation and Identification and/or the Law Enforcement Automated Data System. **[COURT MAY DETAIL SPECIFIC ITEMS BEING REPORTED]**.

56- [CIVIL RIGHTS / FIREARM DISABILITIES]

Optional language regarding loss of certain civil rights and firearm disabilities to be inserted at the judge's discretion.

() **[CIVIL RIGHTS / FIREARM DISABILITIES]**

() **[CIVIL RIGHTS LOST]**

Defendant is informed that incarceration for a felony renders them incompetent to serve as a juror or

to hold an office of honor, trust or profit, and the defendant will be unable to vote during incarceration for a felony offense pursuant to R.C. 2961.01, and the defendant will need to re-register to vote with the local board of elections upon release.

() **[POSITIONS OF PUBLIC TRUST – CRIMES OF MORAL TURPITUDE]**

Pursuant to R.C. 2961.02 conviction for a felony theft offense or offense that involves fraud, deceit or theft disqualifies the defendant from holding public office, a position of public employment or serving as a volunteer with a state agency, political subdivision or certain private entities.

() **[STATE FIREARM DISABILITY – FELONY OFFENSE OF VIOLENCE OR DRUG OFFENSE]**

Defendant was informed of the defendant’s disability to own or possess a firearm based on the conviction for a felony offense of violence or a felony drug offense pursuant to R.C. 2923.14.

() **[FEDERAL FIREARM DISABILITY – FELONY OFFENSES]**

The Court informed the Defendant that under federal law, a person convicted of a felony cannot lawfully possess a firearm pursuant to 18 U.S.C. 922(g)(1).

57- [APPEAL RIGHTS]

Note that Crim.R. 32 requires notification of appellate rights upon conviction for “a serious offense.” Best practice is to notify defendant of appellate rights in every felony case. While some defendants may waive the right to appeal pursuant to the plea agreement, several members of the Ad Hoc Committee report a significant number of appeals being heard after pleas under R.C. 2953.08.

Additional information on the standards and guidance for appointed counsel reimbursement can be found in the [Office of the Ohio Public Defender Standards and Guidelines](#) (revised September 2021) and information on the required qualifications for appointed counsel by case type can be found on the [Ohio Public Defender’s website](#) and in [OAC 120-1- 10](#).

The defendant was notified of rights to appeal per Crim.R. 32 as well as the defendant’s right to have counsel appointed for them and a transcript of all proceedings provided to them at no cost if the defendant is determined to be indigent and unable to afford counsel.

() **[APPELLATE COUNSEL TO BE APPOINTED – SEPARATE ENTRY]**

The defendant having indicated the defendant’s desire to appeal this case, the Court will appoint counsel to represent the defendant on appeal.

() **[APPELLATE COUNSEL APPOINTED]**

The defendant having indicated the defendant’s desire to appeal this case, the Court hereby appoints **[NAME]** to represent the defendant on appeal.

58- [STAY OF EXECUTION / APPELLATE BOND]

Courts may grant a stay of the execution of a criminal sentence for a bailable offense pending an appeal of the conviction or sentence pursuant to R.C. 2949.02 and Ohio App.R.8. The defendant must give the court written notice of intent to file an appeal or to apply for leave to file an appeal. Execution of the sentence would then be suspended for a fixed amount of time set by the judge, who may also release the defendant on bail provided that the conviction is not for an offense prohibited by R.C. 2949.02(B). Note the special restrictions on stays for appeals to the Supreme Court of Ohio and in capital cases in R.C. 2953.09.

() **[STAY OF EXECUTION OF SENTENCE DENIED]**

The Court hereby denies the defendant’s request for stay of execution of the sentence in this case.

() **[STAY OF EXECUTION OF SENTENCE GRANTED]**

Having received written notice of the defendant's intent to file an appeal or to apply for leave to appeal the defendant's convictions, the Court hereby grants a stay of execution of the sentence in this case for a period of **[LENGTH OF TIME]**. The defendant is ordered to appeal without delay and to abide by the following conditions:

() **[BOND CONTINUED]**

Pursuant to R.C. 2937.011(G), the current bond imposed on the defendant is continued pending disposition of the appeal.

() **[APPELLATE BOND GRANTED]**

The Court hereby imposes the following bond and conditions for the defendant's release pending disposition of the appeal **[DETAIL BOND AND CONDITIONS]**.

() **[APPELLATE BOND DENIED]**

The Court hereby denies the defendant any release on bond pending the disposition of the appeal.

() **[PROHIBITED OFFENSE]**

The Court finds that bond pending appeal is prohibited as one of the convictions in question is subject to life imprisonment or is otherwise prohibited pursuant to R.C. 2949.02(B).

Monitoring Sentencing Reform Supplemental Report

2025

An Ohio Criminal Sentencing Commission Report

March 2025

Draft

Ohio Criminal Sentencing Commission

Chief Justice Sharon L. Kennedy, Chair
Melissa A. Knopp, Esq., Executive Director

Ohio Criminal Sentencing Commission

Chief Justice Sharon L. Kennedy, Supreme Court of Ohio, Chair
Judge Nick Selvaggio, Champaign County Common Pleas Court, Vice Chair
Director Amy Ast, Ohio Department of Youth Services
Brooke M. Burns, Office of the Ohio Public Defender, Youth Defense Department
Director Annette Chambers-Smith, Ohio Department of Rehabilitation and Correction
Chief Charles Chandler, Westerville Division of Police
Judge Robert DeLamatre, Erie County Common Pleas Court, Juvenile Division
Judge Julia L. Dorrian, Ohio 10th District Court of Appeals
Lieutenant Kyle Erdeljac, Columbus Division of Police
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Sheriff John Hinton, Morrow County Sheriff's Office
Gwen Howe-Gebers, Henry County Prosecuting Attorney, Juvenile
Representative Latyna Humphrey, Ohio House of Representatives
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Judge Kristen Johnson, Hancock County Common Pleas Court, Probate and Juvenile Divisions
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Teri LaJeunesse, Victim Witness Division Director, Greene County Prosecutor's Office
Senator Nathan Manning, Ohio Senate
Charles T. "Chip" McConville, Knox County Prosecuting Attorney
Judge Stephen McIntosh, Franklin County Common Pleas Court
Elizabeth Miller, State Public Defender, Office of the Ohio Public Defender
Judge Jennifer Muench-McElfresh, Butler County Common Pleas Court
Darren Shulman, City Attorney, City of Upper Arlington
Judge Helen Wallace, Montgomery County Common Pleas Court, Juvenile Division
Representative Josh Williams, Ohio House of Representatives
Commissioner Donnie Willis, Jackson County Commissioner
Judge Tyrone Yates, Hamilton County Municipal Court

Staff

Melissa A. Knopp, Esq., Executive Director
Michael Crofford, M.Ed., LPC, Research Specialist
William J. Davies, Esq., Criminal Justice Counsel
Angela Kay Garvey, Coordinator
Emily S. Haynes, Esq., M.L.S., Criminal Justice Counsel
Todd Ives (Lead Author), MPA, Research Specialist
Alex T. Jones, Esq., Criminal Justice Counsel

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The Commission also would like to extend its gratitude to the following organizations for their assistance in providing information, expertise, or for otherwise contributing to this report:

- Ohio Department of Mental Health and Addiction Services
- Ohio Department of Rehabilitation and Correction
- Ohio Office of Criminal Justice Services
- Supreme Court of Ohio Office of Court Services

Executive Summary

Overview

The Ohio Criminal Sentencing Commission (Commission) is statutorily required to produce a biennial Monitoring Report as prescribed by R.C. 181.25(A)(2)(a)-(c). The 2023 edition of the report, published in June 2024, was the first Monitoring Report since 2011. That edition of the report was the first to fully address all provisions of the Commission's R.C. 181.25(A)(2) responsibilities and set a framework for future reports. At the November 21, 2024, Commission meeting, the 2025 edition of the Monitoring Report was approved for publication on January 1, 2025. In addition, the Commission approved work on a supplemental report to the Monitoring Report to highlight the role of Ohio's specialized dockets and the Ohio Department of Rehabilitation and Correction's (ODRC) Targeted Community Alternatives to Prison (TCAP) program. This supplemental report is intended to showcase the effects of these programs on individuals who are not sentenced to prison, as laid out in the R.C. 181.25(A)(2)(a)(i) provision of the Commission's Monitoring Report guidelines.

This supplemental report has been made possible by data provided by the Supreme Court of Ohio Specialized Dockets Section and the ODRC Bureau of Community Sanctions. As with previous Monitoring Reports, this report does not offer an evaluation of the efficacy of these programs or a cost-benefit analysis. It is intended to generate a baseline understanding of the nature of these programs and how they currently operate. This report is divided into two main sections – first an overview of the TCAP program and second, an analysis of Ohio's certified specialized dockets. The addition of these sections in the supplemental report will be included in future versions of the Monitoring Report.

Findings

Targeted Community Alternatives to Prison

The Ohio Department of Rehabilitation and Correction's TCAP program provided over \$53,000,000 to 63 counties in the 2024-2025 state fiscal year. The number of felony four (F4) and felony five (F5) commitments in the Ohio Department of Rehabilitation and Correction's population decreased from 2018 to 2024, as did its total population. As a percentage of new commitments, F5s committed to ODRC decreased from 20% in 2018 to 14% in 2024. Targeted F5 offenders committed among the FY 24/25 TCAP counties represented just over 19% of all admissions within those counties as a group in FY 2017, compared to just 7.6% in CY 2024. The percentage of new F4 commitments to ODRC decreased from 21% in 2021 to 18% in 2024. Because of the recency of including F4 offenders in the TCAP grant as a result of H.B. 110 (134th General Assembly), there is likely a lag in results of this program change.

Ohio's Certified Specialized Dockets

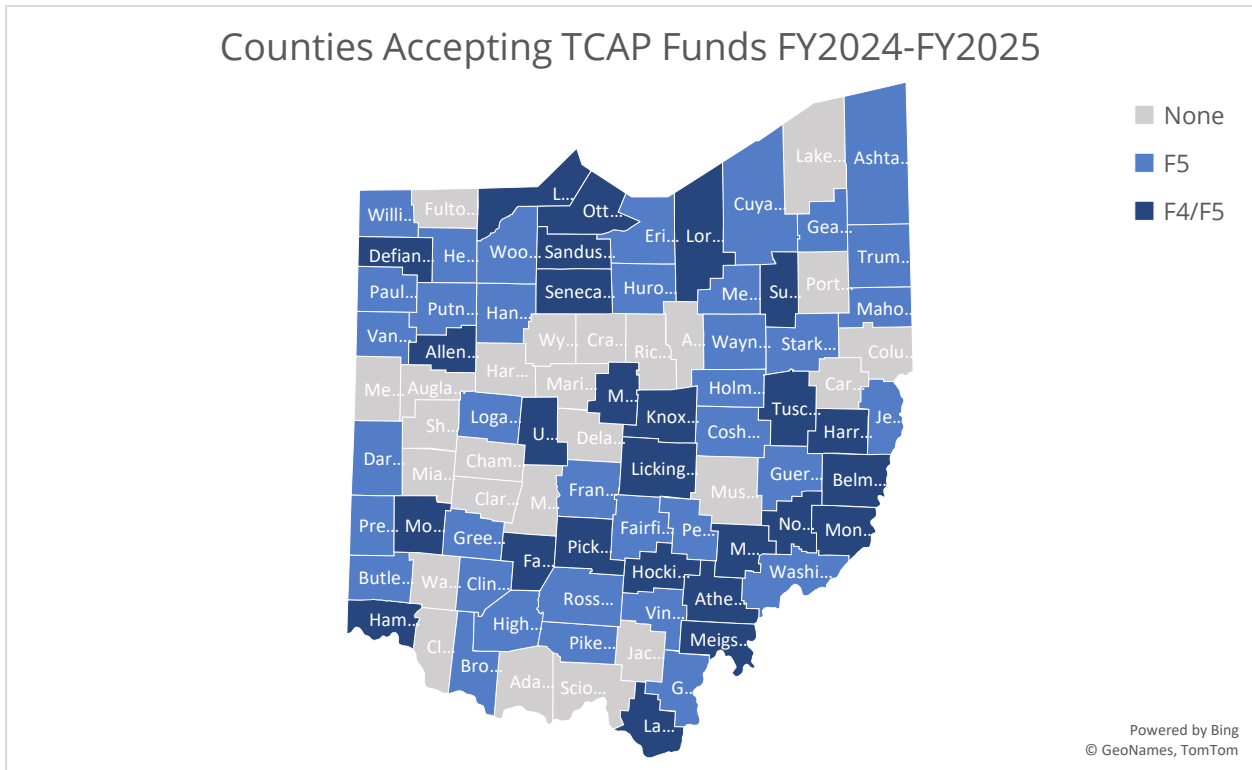
For the first time, programmatic data on Ohio's certified specialized dockets has been analyzed for publication in a report to Ohio's policymakers. Currently, there are 255 specialized dockets serving more than 6,100 individuals across the state. There are 13 types of specialized dockets, including dockets providing treatment services to families, juveniles, those suffering from substance abuse and/or mental health illnesses, veterans, and victims of human trafficking. Depending on the type of docket, an individual could spend 10 months to more than two years in a program. On average between 57-59% of those entering a specialized docket successfully graduate the program, and only 11-13% are charged with a new offense while in the program. The dockets receive funding from a variety of sources, and more than 70% of the participants in the programs receive Medicaid.

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Figure 1. Counties Accepting TCAP Funds FY2024-2025



Source: Ohio Department of Rehabilitation and Correction, Bureau of Community Sanctions

Table 1. Number of Counties Participating in TCAP and Funding Amounts

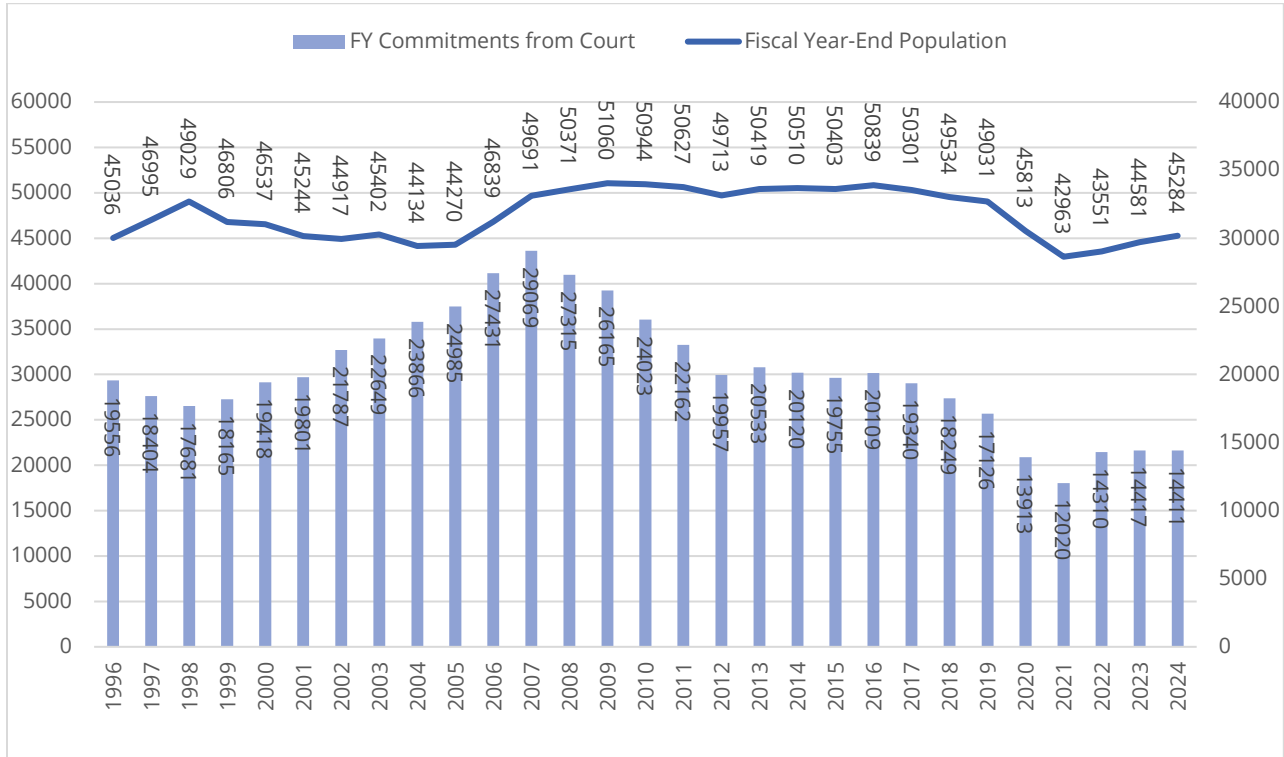
Level of TCAP Funds Accepted	Number of Participating Counties	Funding Amount
None	25	
F5	37	\$ 25,877,680.00
F4/F5	26	\$ 27,829,123.00
Total TCAP Funding FY24-25	63	\$ 53,706,803.00

Source: Ohio Department of Rehabilitation and Correction, Bureau of Community Sanctions

One of the initial concerns with the TCAP program is that it would shift the incarcerated population from prisons to the county jails. Jail population statistics over the course of the TCAP show a major decrease in jail incarceration in 2020, corresponding to COVID-19, and a plateauing of individuals incarcerated in jails from 2021 through 2023, below the levels from 2018-2019. Figures 2 through 7 display population trends encompassing the timeframe in which TCAP was active.

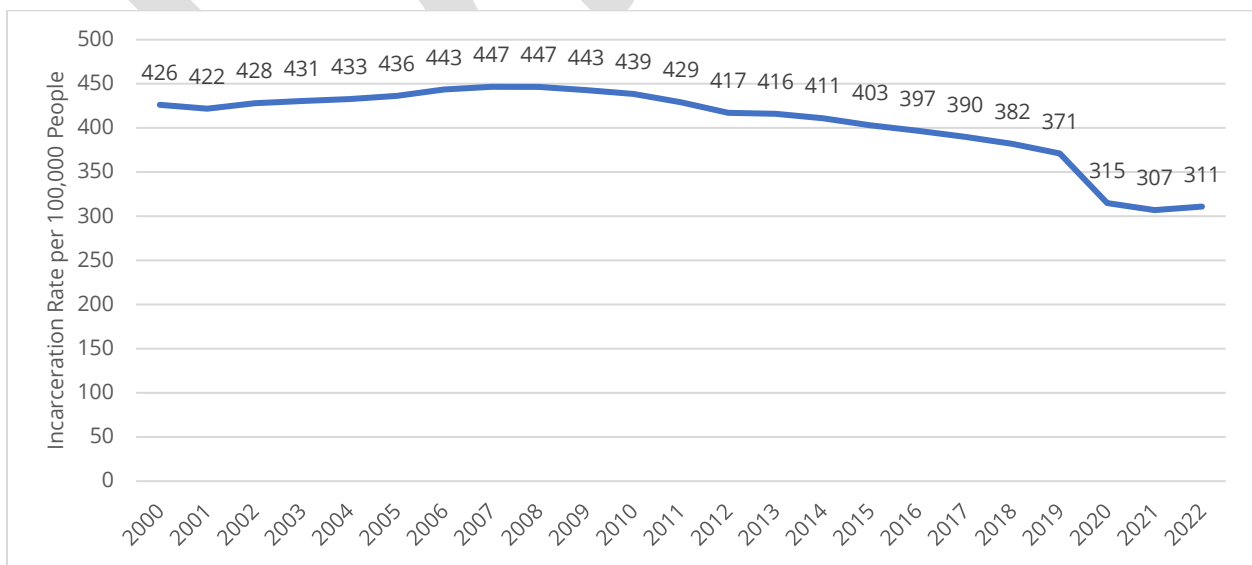
Figure 2 displays a historic look at ODRC's custody population over the last three decades. It shows total population by the number of annual commitments from the courts. This is compared to Figure 3, illustrating the incarceration rate nationwide in all state prisons.

Figure 2. ODRC FY Custody Population Count and New Court Commitments, 1996 - 2024



Source: Ohio Department of Rehabilitation and Correction, Bureau of Research and Evaluation

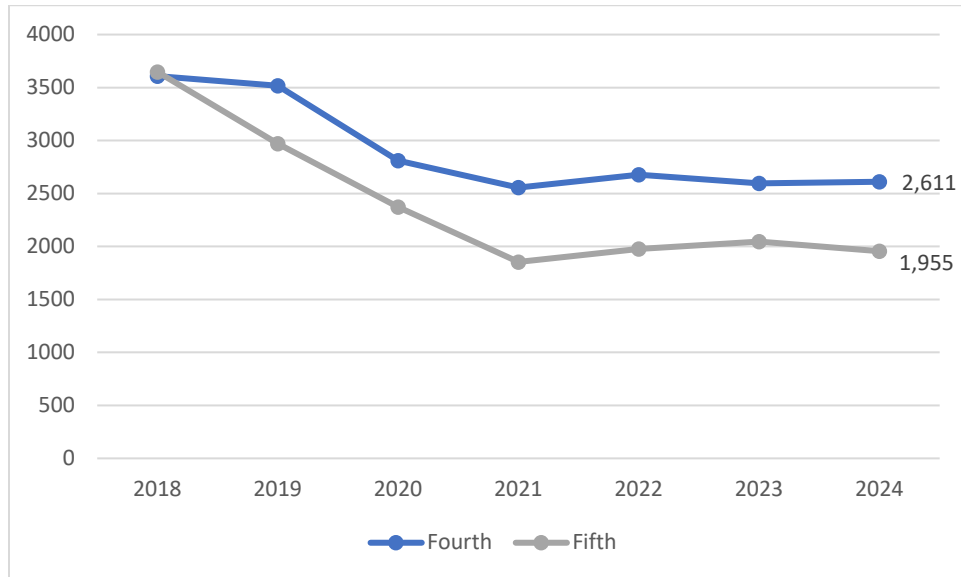
Figure 3. Incarcerated Rates in State Prisons Nationwide, 2000-2022



Source: U.S. Bureau of Justice Statistics, Prisoners in 2022 – Statistical Tables

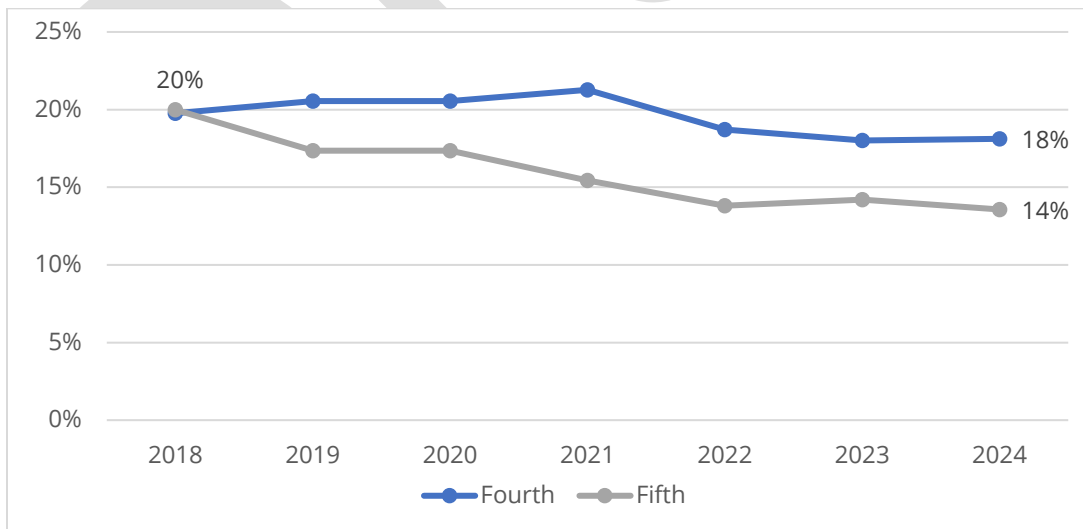
Figure 4 and Figure 5 show the trends in ODRC's F4 and F5 commitments over the last seven years. Figure 4 displays the total number of new commitments for F4s and F5s, while Figure 5 shows new commitments of F4s and F5s as a percentage of all new commitments.

Figure 4. ODRC Total Number of F4 and F5 New Commitments, FY18-FY24



Source: Ohio Department of Rehabilitation and Correction, Annual Reports (2018-2024)

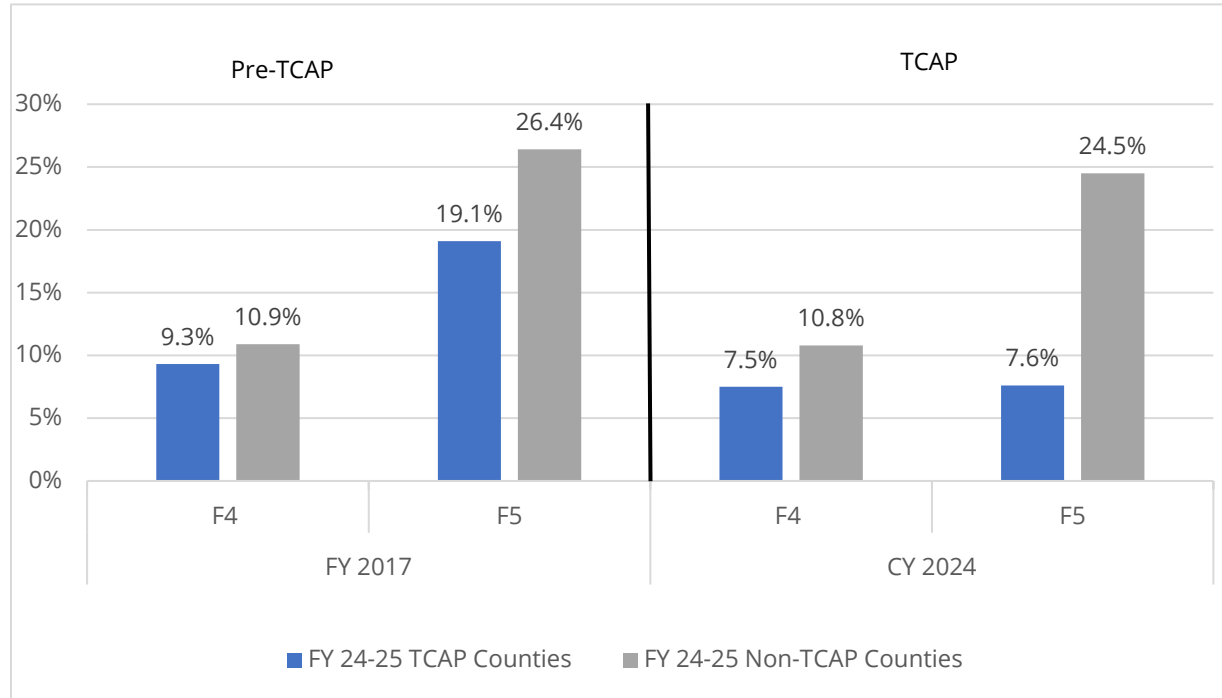
Figure 5. ODRC Percentage of F4 and F5 New Commitments, FY18-FY24



Source: Ohio Department of Rehabilitation and Correction, Annual Reports (2018-2024)

Figure 6 shows a pre- and post- TCAP comparison of the program from 2017 to 2024, isolating the counties participating in the grant compared to those counties not participating.

Figure 6. F4/F5 TCAP Offenses⁷ as a Percentage of Total Commitments in FY 2017 and CY 2024, by TCAP Funding Recipient Status⁸



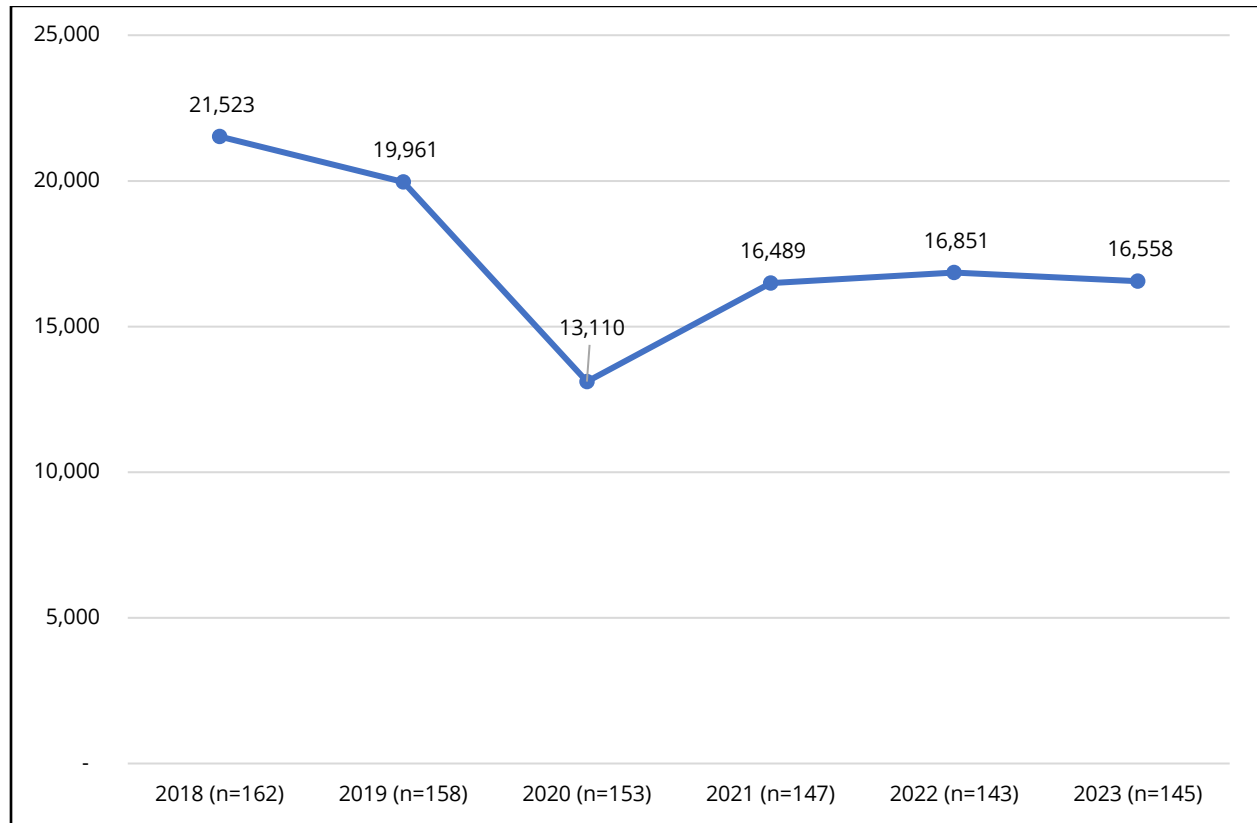
Source: Provided by ODRC Bureau of Research and Evaluation

⁷ *F4/F5 TCAP offenses represent commitments where the most serious offense is a non-violent, non-mandatory time, non-2907/2925.03 offense. Offenders with a TCAP offense may have been committed under exclusionary criminal history criteria not available in administrative data

⁸ TCAP counties are defined on the basis of funding recipient status in the FY 24/25 grant period. Not all TCAP counties have both an F4 and F5 MOU, and not all currently participating counties were necessarily grant recipients in prior funding cycles.

Finally, Figure 7 gives a snapshot of the average daily jail inmate count in Ohio, from 2018 to 2023.

Figure 7. Average Daily Jail Inmate Count, 2018-2023 (Number of Jails in Parentheses)



Source: Ohio Department of Rehabilitation and Correction, Bureau of Adult Detention

The introduction of TCAP has corresponded with a decrease in new commitments for that population, indicating that these policy changes are achieving their goals. The prison population was most dramatically impacted following the COVID-19 pandemic and remains below pre-pandemic levels, a trend that has been experienced in state prisons nationwide. Corresponding with the rollout of TCAP, the number of F5 commitments to prison began decreasing in 2019. Total new commitments of F5 offenders decreased from over 3,600 in 2018 to just below 2,000 in 2024, accelerated by COVID-related impacts on court processing and thus new prison commitments. Similarly, F4 commitments dropped from 3,600 in 2018 to around 2,600 in 2024. As a percentage of all commitments, F5s decreased from around 20% in 2018 to 14% in 2024., H.B. 110 (134th General Assembly) expanded TCAP to include fourth-degree felonies. Accordingly, the percentage of F4 commitments dropped from 21% in 2021 to 18% in 2024.

Figure 6 shows how the magnitude of these drops varied by whether a county participated in the FY 24/25 TCAP grant program by isolating the subset of non-violent/non-R.C. 2907 offenses targeted under TCAP. Targeted F5 offenders committed among the FY 24/25 TCAP counties represented just over 19% of

all admissions within those counties as a group in FY 2017 (the most recent pre-TCAP statutory environment), compared to just 7.6% in CY 2024. In contrast, the change among non-TCAP counties was less than two percentage points (26.4% to 24.5%). The contrast is less pronounced among targeted F4 offenders, with a decline of just under two percentage points among the TCAP counties (9.3% to 7.5%) while virtually unchanged (10.9% to 10.8%) among the counties not participating in the F4 program.

Due to the recency of changes in sentencing F4 offenders and the inclusion of F4s into TCAP, the impact is likely to develop in future years. Although the impact of COVID-19 on jail populations cannot be isolated, the trends have not shown an increase in jail incarceration over the last three years.

Draft

Ohio's Certified Specialized Dockets

History and Overview

The specialized docket model is based on providing a therapeutically oriented judicial approach to providing court supervision and appropriate supervision to offenders. The framework for specialized dockets was first developed in 1989 in Miami - Dade County, Florida, the site of the nation's first drug court. The premise of treatment programs is to develop community collaborations for a complete systems approach to handling cases with the highest rates of recidivism. The model promotes wrap-around treatment services, intensive court monitoring, and immediate sanctions based on compliance with court supervision and treatment orders.⁹ Note that while the Ohio General Assembly has the authority to create courts, the local courts and the Supreme Court of Ohio maintains the sole authority to create treatment dockets.

In 2001, Chief Justice Thomas J. Moyer created the Specialized Dockets Section in the administrative offices of the Supreme Court of Ohio.¹⁰ To institutionalize the specialized docket program, Chief Justice Moyer created the Advisory Committee on Specialized Dockets in 2009 with the stated purpose:

To provide ongoing advice to the Court and its staff regarding the promotion of statewide rules and uniform standards concerning specialized dockets in Ohio courts; the development and delivery of specialized docket services to Ohio courts, including training programs for judges and court personnel; and the consideration of any other issues the advisory committee deems necessary to assist the Court and its staff regarding specialized dockets in Ohio courts.¹¹

In 2012, the Supreme Court of Ohio, as a result of this Committee, created minimum standards for specialized docket operations and a certification process to enforce these standards. The Advisory Committee on Specialized Dockets was elevated to the Commission on Specialized Dockets with the responsibility of overseeing the specialized docket certification process.¹²

Rule 36.20 of the Rules of Superintendence for the Courts of Ohio establishes the procedure for certification of a specialized docket as follows:

The judge of a court of common pleas, municipal court, or county court or division of the court operating or establishing a particular session of court that offers a therapeutically oriented judicial approach to providing court supervision and appropriate treatment to individuals may receive certification of the session from the Supreme Court by doing both of the following:

⁹ The Supreme Court of Ohio Specialized Dockets Section. 2008. *A Handbook for Developing a Mental Health Court Docket*.

¹⁰ Knopp, Melissa A. (2023) "Breaking the Cycle: Ohio Reentry Courts," *Ohio Northern University Law Review*: Vol. 41: Iss. 3, Article 9.

Available at: https://digitalcommons.onu.edu/onu_law_review/vol41/iss3/9

¹¹ *Ibid*.

¹² See The Supreme Court of Ohio, Rules of Superintendence, SUP. R. 36.02-36.28, available at <https://www.supremecourt.ohio.gov/docs/LegalResources/Rules/superintendence/Superintendence.pdf#Rule36.02>

- (1) Complying with and adopting a local rule or issuing an administrative order implementing the “Specialized Docket Standards,” as set forth in Appendix I to this rule;
- (2) Successfully completing the certification application process pursuant to Sup. R. 36.21 through 36.26.

Pursuant to Superintendence Rules 36.20 through 36.28, effective January 1, 2013, all specialized dockets operating in Ohio must be certified by the Supreme Court of Ohio. The data presented in this section is provided by the Specialized Dockets Section, unless otherwise noted.

As of 2024, there are 255 certified specialized dockets operating in Ohio tied to substance use or mental health. Table 2 displays the total number of certified specialized dockets in Ohio by type. Table 3 displays the total number of certified specialized dockets by court jurisdiction. Figure 8 provides a map of the total number of specialized dockets in each county in Ohio. Currently, 68 counties (77%) in Ohio have at least one certified specialized docket.

Table 2. Number of Specialized Dockets by Docket Type

Docket Type	Number of Specialized Dockets
Drug	106
Drug - Domestic Violence	5
Drug - Human Trafficking	6
Drug - Reentry	10
Drug - Veterans Treatment	29
Family Dependency Treatment	31
Juvenile Drug	11
Juvenile Drug - Human Trafficking	1
Juvenile Mental Health	4
Juvenile Treatment	6
Mental Health	36
Operating Vehicle under the Influence (OVI)	7
Substance Abuse Mental Illness (SAMI)	3
Grand Total	255

As shown in Table 2, the thirteen specialized docket types are designed to address specific populations. Table 4, provided by the Supreme Court of Ohio Specialized Dockets Section, displays the treatment docket type with a definition of each docket’s intended population. Note that specific eligibility criteria may vary by program. The Specialized Dockets Section offers training and assistance to dockets based on Ohio’s certification standards and national best practices.¹³ Guidance exists for each of the treatment docket types, but the dockets themselves determine eligibility in adherence to certification standards.

Table 4. Treatment Docket Type by Intended Population

Treatment Docket Type	Intended Population
Adult Drug Court (ADC or ATC)	Individuals with a drug-related arrest (e.g., possession, theft) and a substance use disorder
Adult DUI or DWI Court (DUI)	Individuals with a driving under the influence or while intoxicated arrest and a substance use disorder
Adult Reentry Court	Individuals released from extended incarceration
Veterans' Treatment Court (VTC)	Individuals who've served in the U.S. military and are arrested, often drug-related
Juvenile Drug Court (JDC or JTC)	Individuals under 14-17 who are moderate to high risk of disorder reoffending and have a substance use
Family Treatment Court (FTC)	Parents with allegations of abuse or maltreatment of their children, often with a substance use or mental health disorder
Mental Health Court (MHC) aka Behavior Health Court (BHC)	Individuals with a diagnosed mental health disorder (e.g., bipolar, schizophrenia) and an arrest

Source: Provided by Supreme Court of Ohio Specialized Dockets Section

¹³ See <https://www.supremecourt.ohio.gov/courts/services-to-courts/specialized-docket-section/national-best-practices-resources/>

Methodology

In 2019, the Supreme Court of Ohio, pursuant to Sup. R. 37, began collecting data among the certified specialized dockets.¹⁴ This supplemental report relies on a data extract, pulled on December 9, 2024, provided to the Commission for analysis. Analysis primarily centers on years of 2019-2023 to show the most complete picture of full program reporting. Because at the time of the data extraction not all dockets reported full 2024 program data, this year is excluded from the trend analyses. This analysis does not study the efficacy or Ohio's specialized dockets, but instead provides a descriptive, programmatic overview of the operation of these programs.¹⁵ For a comprehensive study on the impact of treatment dockets, a standard definition of treatment docket type and target populations would be required. Data collected should also match the stated goals of performing an impact evaluation of the dockets.

Certified specialized dockets report data monthly on all individuals in their docket.¹⁶ Commission staff analyzed the aforementioned data extract to present key data at an aggregated level on Ohio's specialized dockets. As only certified specialized dockets are required to report data, this report does not present analysis on any programs that are not certified. The analysis provides policymakers and stakeholders with a descriptive overview of the various treatment dockets and presents no individually identifiable information.¹⁷ Appendix B of this report shows more detailed tables by docket type for the graphics presented below.

¹⁴ See

<https://www.supremecourt.ohio.gov/docs/LegalResources/Rules/superintendence/Superintendence.pdf#Rule37>

¹⁵ For an impact study of Ohio drug courts see Shaffer, D. K., Listwan, S. J., Latessa, E. J., & Lowenkamp, C. T. (2008). Examining the Differential Impact of Drug Court Services by Court Type: Findings From Ohio. *Drug Court Review*, 6(1), 33–66.

¹⁶ For reporting instructions and definitions of each data point, see

<https://www.supremecourt.ohio.gov/docs/JCS/specDockets/events/dataCollectionWebinar/dataCollectionInstruct.pdf>

¹⁷ For more information on certified docket data reporting, see

<https://www.supremecourt.ohio.gov/courts/services-to-courts/specialized-docket-section/>

Analysis of Ohio’s Specialized Dockets

As of December 9, 2024, there are over 6,000 individuals participating in a specialized docket. Table 5 shows a snapshot of all current participants, by docket type.

Table 5. Current Specialized Docket Participants by Docket Type

Docket Type	Number of Participants	Percent
Drug	3,274	53.3%
Drug - Domestic Violence	188	3.1%
Drug - Human Trafficking	267	4.4%
Drug - Reentry	254	4.1%
Drug - Veterans Treatment	593	9.7%
Family Dependency Treatment	380	6.2%
Juvenile Drug	83	1.4%
Juvenile Drug - Human Trafficking	11	.2%
Juvenile Mental Health	33	.5%
Juvenile Treatment	28	.5%
Mental Health	851	13.9%
Operating Vehicle under the Influence (OVI)	100	1.6%
Substance Abuse Mental Illness (SAMI)	75	1.2%
Grand Total	6137	

The majority of individuals in specialized dockets participate in a drug docket of some kind, which drives most of the trends shown in this report, and mental health dockets represent nearly 15% of all participants. Adult treatment dockets also make up the largest slice of participants, at just below 92% of all participants. Juvenile and family treatment dockets represent 8.7% of all participants in the data. It is also important to note the length of time spent in these programs. Table 6 displays the average length of time in each program in months. This length of time in program is defined from the date an individual entered the program to the date they exited the program. The program participation time is shown across each type of exit, successful, unsuccessful, or neutral. The average time in program is derived from all exits from treatment dockets from 2019 to 2024, of which there were 15,982 exits.

Table 6. Time in Docket by Exit Type, from all Exits 2019-2024¹⁸

Docket Type	Successful Exit (Mos)	Neutral Exit (Mos)	Unsuccessful Exit (Mos)	All Exits Average (Mos)
Drug	18.6	11.5	13.3	16.1
Drug - Domestic Violence	11.0	8.8	10.1	10.7
Drug - Human Trafficking	25.6	20.9	18.6	22.0
Drug - Reentry	14.6	13.6	12.1	13.5
Drug - Veterans Treatment	17.7	15.3	16.9	17.4
Family Dependency Treatment	15.6	11.1	9.4	12.7
Juvenile Drug	12.2	12.7	14.7	13.1
Juvenile Drug - Human Trafficking	9.9	6.5	8.3	9.1
Juvenile Mental Health	17.9	13.7	16.3	17.0
Juvenile Treatment	12.2	11.8	11.7	11.9
Mental Health	17.5	11.0	12.6	15.3
Operating Vehicle under the Influence (OVI)	16.5	11.2	10.2	14.7
Substance Abuse Mental Illness (SAMI)	25.5	9.8	13.9	18.7

On average, those who successfully exited a treatment docket spent more time in the program than those who had a neutral or unsuccessful exit. Depending on the docket, the average participant who exited a docket successfully could spend anywhere from ten months to over two years in a program.

The remainder of the report shows trends in specialized dockets from 2019 to 2023. To provide context to these numbers, Figure 9 shows the number of specialized dockets reporting data, per calendar year. Overall, the number of specialized dockets has remained steady after a slight increase in 2021.

¹⁸ Note that it is possible for individuals to exit a docket due to the docket ending. These individuals have been excluded from analysis.

Figure 9. Number of Specialized Dockets Reporting Data, 2019-2023

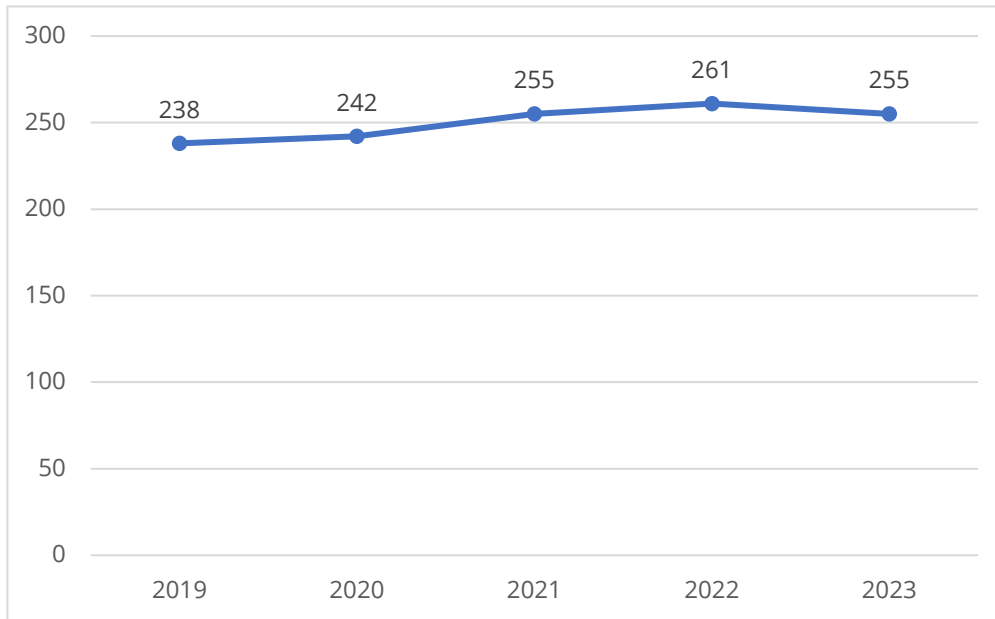
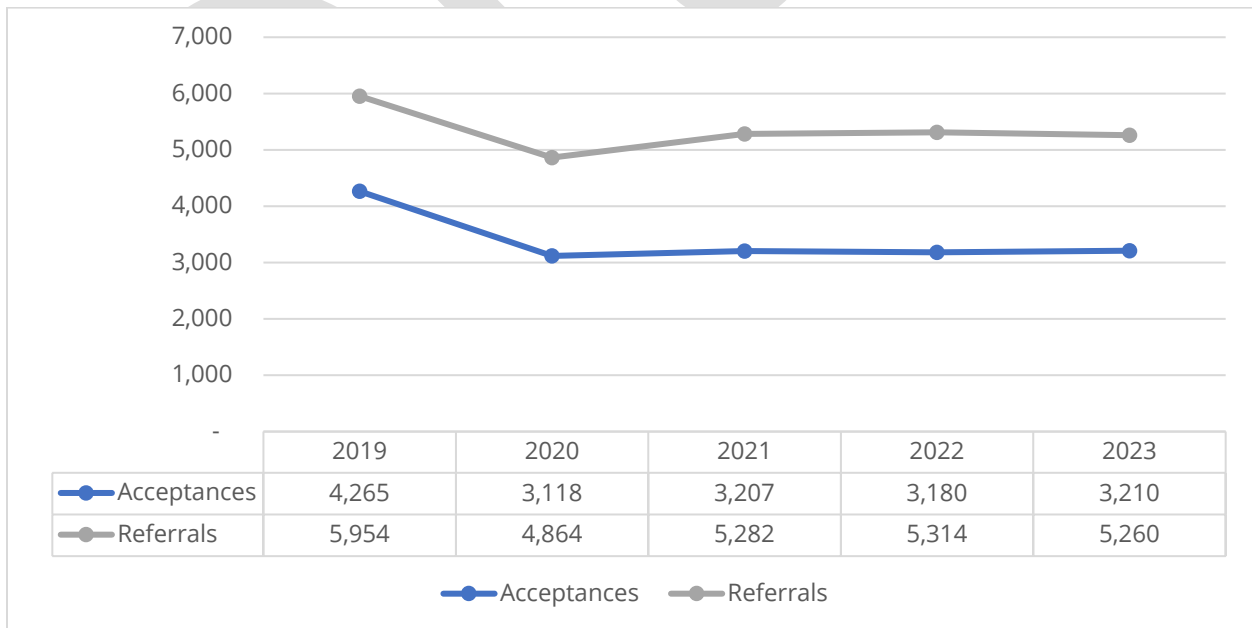


Figure 10 displays the total number of program referrals and acceptances by year from 2019 through 2023 for all specialized docket. This gives an idea of how many individuals are accepted into a specialized docket out of the total number referred. Note that an individual may be referred to a specialized docket in a calendar year and accepted in the next calendar year.

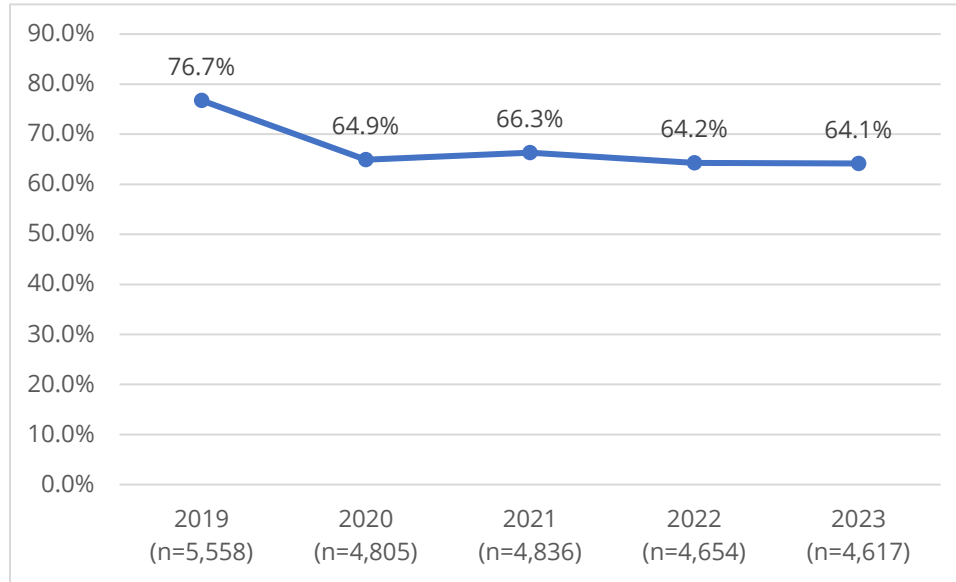
Figure 10. Referrals and Acceptances to Specialized Dockets, by Year



Again, similar trends emerge where program referrals and acceptances decrease in 2020. While referrals begin to rebound in 2021, the number of acceptances remains static around 3,200 for the last four years. Figure 11 shows the acceptance rate, as a percentage, from 2019 to 2023. This represents the

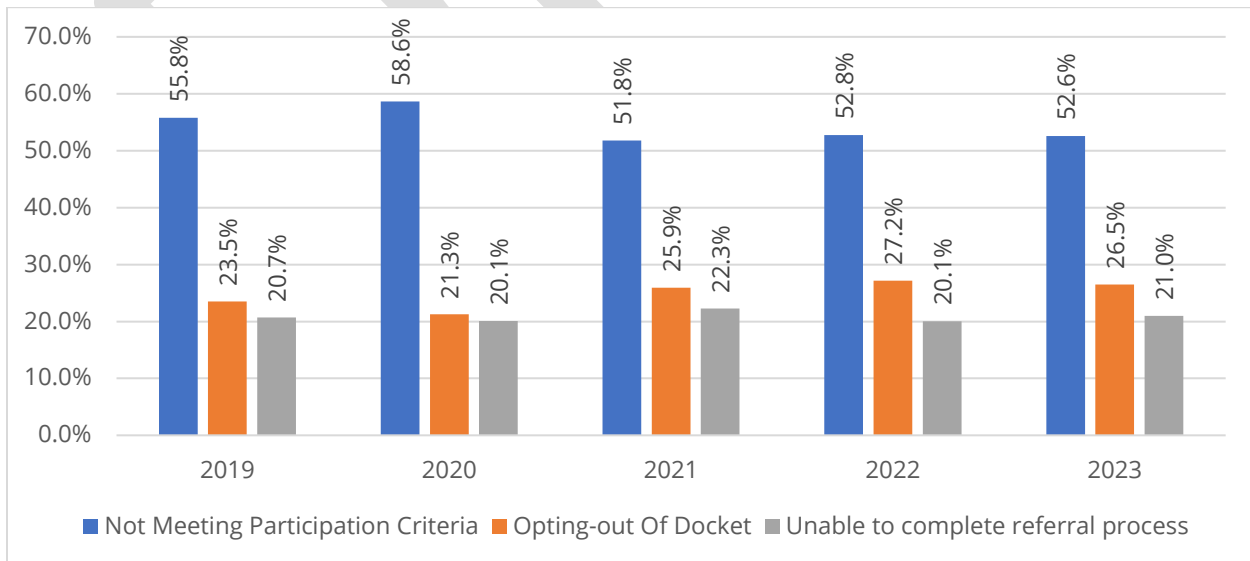
percentage of individuals who had a determination of acceptance into a docket in a calendar year and were ultimately accepted into a docket. The (n=) by the year indicates the total number of people who had an acceptance determination in each year.

Figure 11. Docket Acceptance Rate, by Year



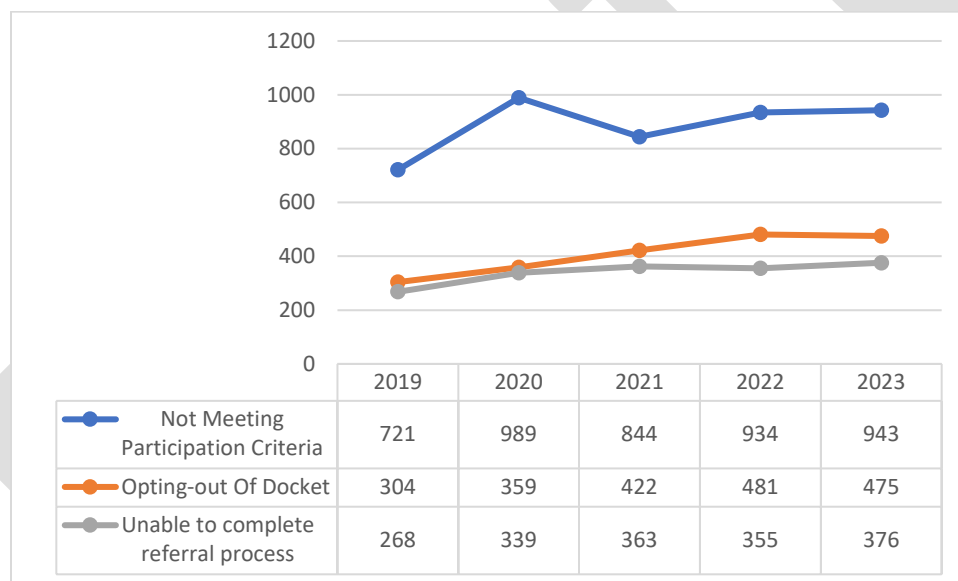
Pre-COVID-19 trends cannot be established with the data available. Since 2020, however, on average 64-66% of individuals are accepted into a specialized docket. Figure 12 explores the reasons why an individual does not enter a specialized docket.

Figure 12. Reason for Non-Acceptance into Docket (in percentages), by Year



For data reporting, dockets can record one of three reasons for why an individual does not ultimately make it into a specialized docket. It can be determined that an individual does not meet the program criteria, an individual could opt-out of a docket, and an individual might not complete the referral process for a variety of reasons. The trends for not being accepted into a docket remain static, with those not meeting the participation criteria as the most common reason. Note that individuals may opt out of a docket for many reasons. The intensive treatment process of specialized dockets and length of time required may deter individuals from enrolling in a program. One study of federal drug courts from the Government Accountability Office found that individuals might not enroll in a program “because of the day-to-day time commitment or overall length of the program. Adult drug court programs last from 12 to 36 months, and require frequent drug testing, regular court appearances, intensive treatment, and more intensive oversight from probation officers. For instance, individuals may perceive conditions placed on program participants as severe.”¹⁹ Figure 13 shows the same data on specialized docket non-acceptances in raw numbers.

Figure 13. Reason for Non-Acceptance into Docket (in raw totals), by Year



The data also shows how individuals are referred to a specialized docket. The case status at referral is divided into different reporting types for adult versus juvenile and family dockets. For adults, cases can be referred pre-conviction, post-conviction, or through a diversion program such as intervention in lieu of conviction or prosecutorial diversion. Figure 14 shows how cases are referred to adult dockets. Figure 15 displays the same data in raw totals.

¹⁹ United States Government Accountability Office. (2023). Factors Related to Eligibility and Acceptance of Offers to Participate in DOJ Funded Adult Drug Courts. Available at <https://www.gao.gov/assets/gao-23-105272.pdf>

Figure 14. Case Status at Referral in Adult Dockets (by percentage), by Year

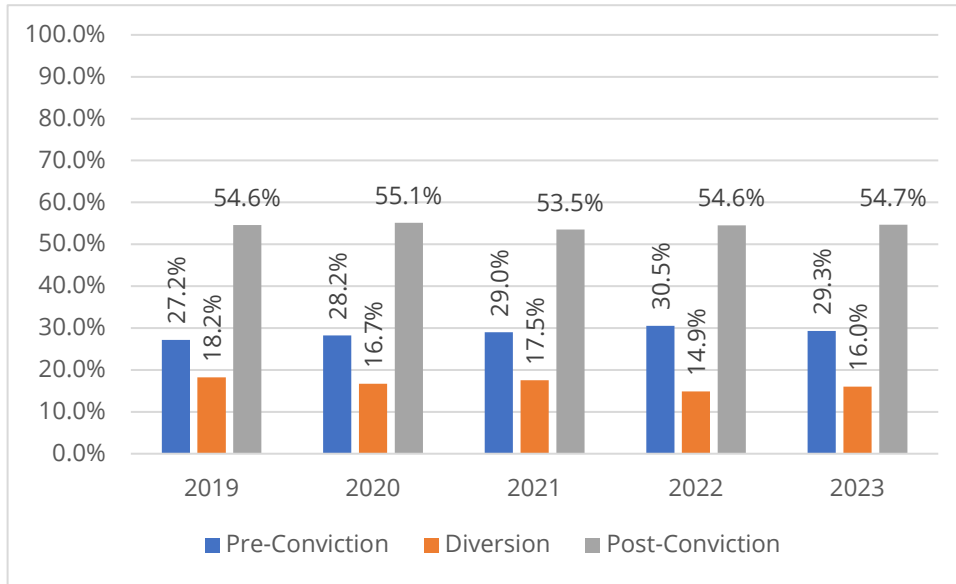
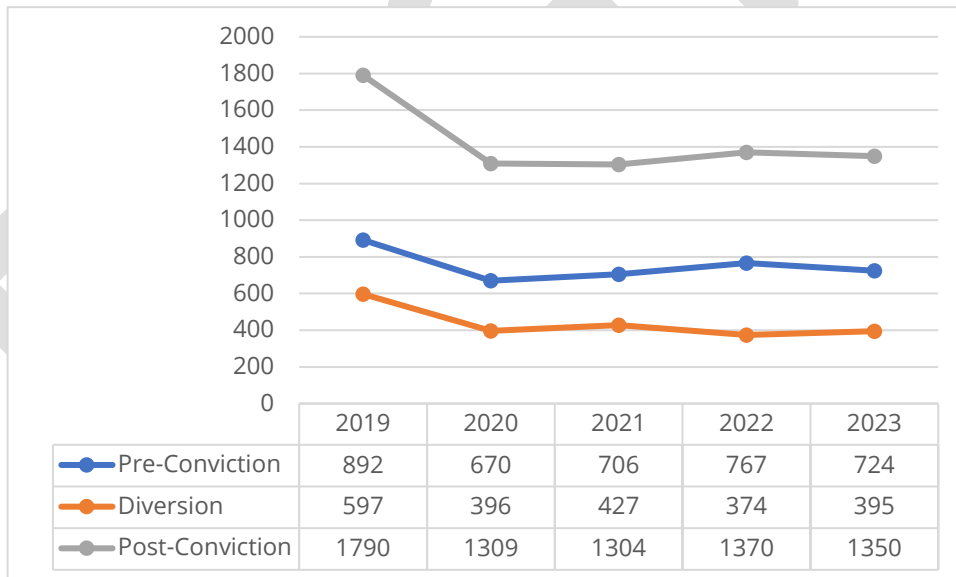


Figure 15. Case Status at Referral in Adult Dockets (by raw total), by Year



For juvenile and family dockets, individuals are referred either pre-adjudication or post-adjudication. Figure 16 shows how individuals in these dockets are referred. Figure 17 displays the same data as raw totals rather than percentages.

Figure 16. Case Status at Referral in Juvenile and Family Dockets (by percentage), by Year

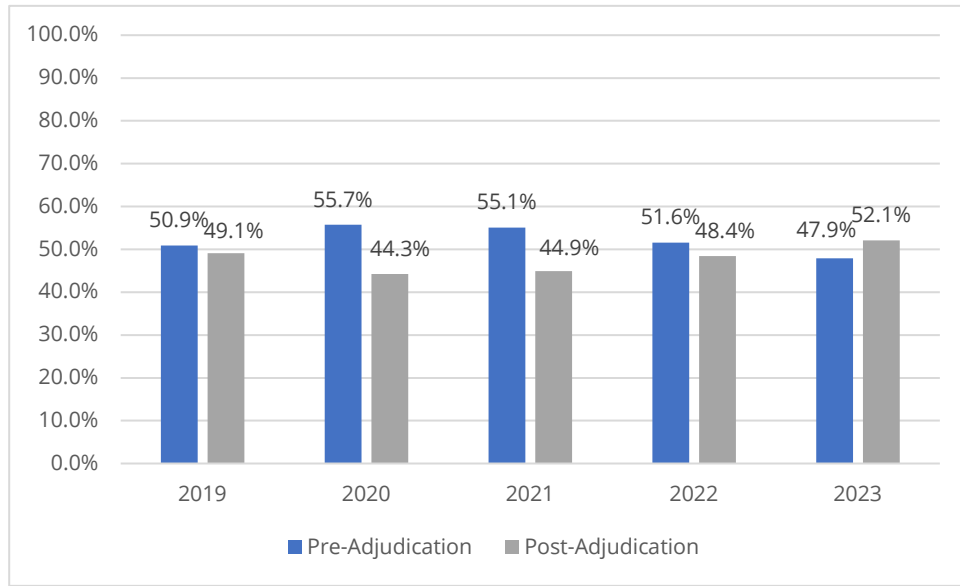
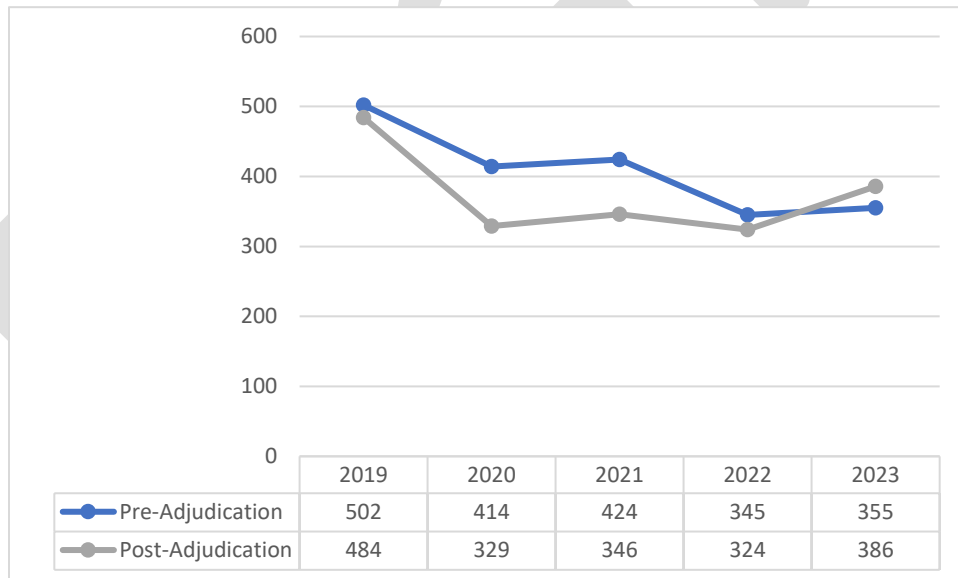


Figure 17. Case Status at Referral in Juvenile and Family Dockets (by raw total), by Year



The next set of figures looks at program exit data. Individuals in a specialized docket can exit in one of four ways: (1) successfully, (2) unsuccessfully, (3) neutrally, or (4) because the docket ended. While a docket can end while an individual is still participating, this is relatively rare. Figure 18 shows total docket exits by year, including all types of exits. Note that because data collection began in the middle of 2019, there is not full reporting on all exits for 2019. Therefore, analysis for exits is included for years 2020-2023.

Figure 18. Total Docket Exits, by Year

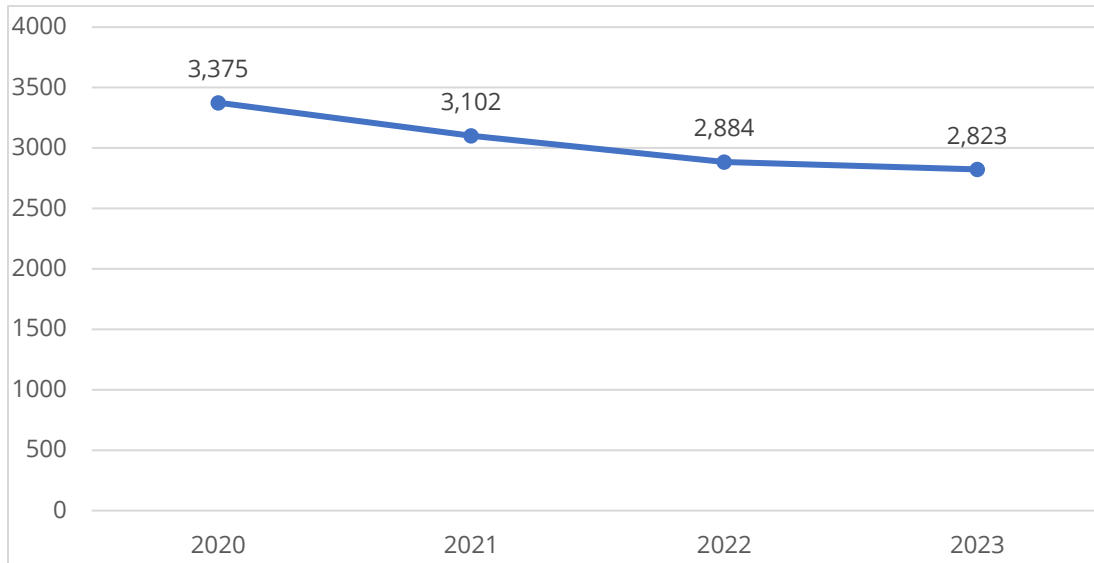
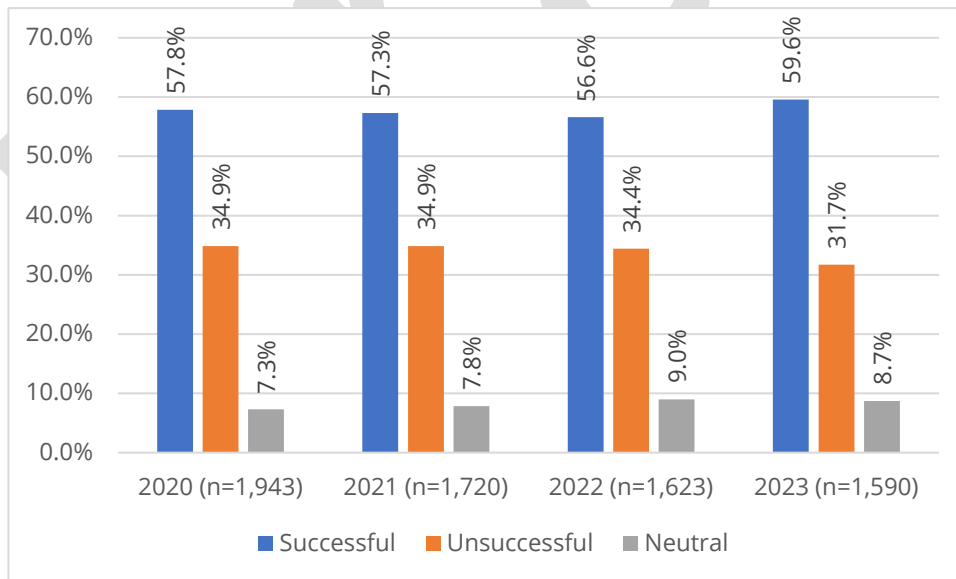


Figure 19 shows percentages of each exit type by year. Note that for this figure, exits due to a docket ending are excluded from analysis as this does not represent individuals who have the possibility of completing the program. The (n=) indicates the total number of exits by year.

Figure 19. Type of Program Exit (by percentage), by Year



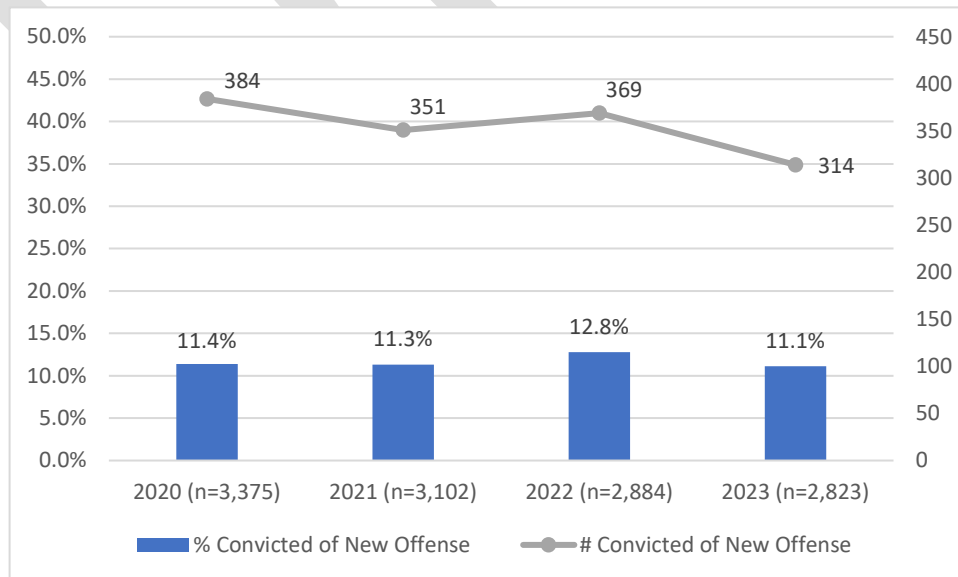
The majority of specialized docket participants exit the program successfully, with 2023 representing the most successful year in which nearly 60% of the participants graduated the program. Table 7 shows the same data in raw numbers.

Table 7. Type of Program Exit (by raw total), by Year

Year	Successful Exit	Unsuccessful Exit	Neutral Exit	Total Exits
2019	1,074	741	189	2,004
2020	1,943	1,171	245	3,359
2021	1,720	1,046	235	3,001
2022	1,623	987	258	2,868
2023	1,590	847	232	2,669

Data is also collected on individuals who were charged with a new offense while participating in a specialized docket. This only applies to new charges that occurred while the participant was in the docket only, not violations. Also, if the participant is charged with an offense while in the docket, but for an action that occurred before docket participation, this is not counted as a new offense. Figure 20 is a combination graph which shows the percentage and total number of all participants who exited a program and were charged with a new criminal offense, by year. This is evaluated for each cohort of participants who exited a specialized docket in each given year. The (n=) indicates the total number of program exits for each year. For example, of all individuals who exited a docket in 2020, 11.4% were charged with a new offense.

Figure 20. Percentage and Total of Program Exits Charged with a New Offense while Participating in the Docket



Overall, the percentage of exiting treatment docket participants who picked up a new charge in the program remains low, between 11-13% for the last four years. To reiterate, this is not a measure of program violations or other in-program sanctions.

The final set of figures shows how individuals in specialized dockets are funded. To start, the Ohio Department of Mental Health and Addiction Services provides funding for all types of specialized docket programs. The line item for specialized dockets funding increased from \$5 million in fiscal year 2020 to \$10 million in fiscal year 2021, where it remains today. This increased the number of specialized dockets funded from 138 in fiscal year 2020 to 225 currently.²⁰ The average funding award for each program is \$45,428. The allowable use of funding includes staff, services, medication, recovery supports, and more.²¹

Specialized dockets also received funding grants through the Ohio Office of Criminal Justice Services. From fiscal year 2018 through 2025, over \$1,400,000 has been provided to specialized dockets through Justice Assistance Grants (JAG). In addition to the JAG, in 2024, over \$1,300,00 in grants were awarded through the Byrne State Crisis Intervention Program (SCIP) to specialized dockets.²²

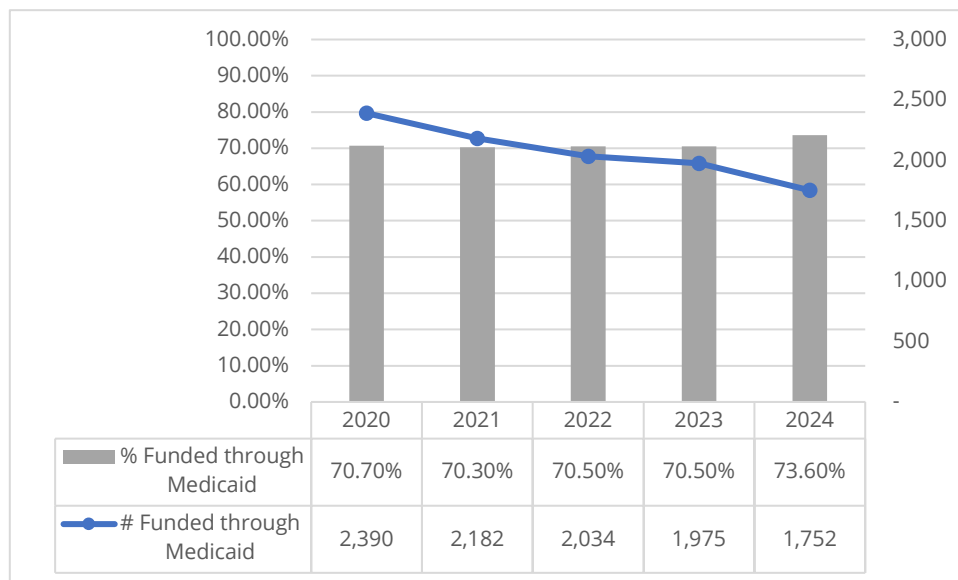
Finally, data provided by the Supreme Court of Ohio Specialized Dockets Section records the source of funding for specialized dockets among participants to be used for medical care, behavioral health treatment, and other services or requirements of the docket (for example drug testing, group fees, etc.). Figure 21 shows the number and percentage of participants for each year that received funding through Medicaid or Managed Care. Note that an individual might have more than one source of health insurance. Also note, that this is among exiting participants, as the final source of health insurance is marked upon program exit.

²⁰ Figures provided by Christopher Nicastro, Chief of the Bureau of Criminal Justice at the Ohio Department of Mental Health and Addiction Services. Note that funding goes to additional programs outside of the certified specialized dockets. For more information see: <https://mha.ohio.gov/community-partners/criminal-justice/court-resources/specialized-dockets>

²¹ The full list of allowable funding categories can be found here: <https://dam.assets.ohio.gov/image/upload/mha.ohio.gov/CommunityPartners/criminal-justice/CourtResources/Specialized-Dockets-Allowable-Expenses.pdf>

²² For more information on grants administered through the Ohio Office of Justice Statistics, see: <https://ocjs.ohio.gov/grants-funding-monitoring>

Figure 21. Percentage and Number of Individuals on Medicaid, by Year



This supplemental report marks the first time comprehensive data on specialized dockets has been analyzed for publication. It is designed to provide policymakers and Commission stakeholders with an overview of how certified specialized dockets operate in Ohio. Ideally, this analysis contributes to a baseline understanding of the programs designed to divert individuals from incarceration. Further, this report can guide further insight and thought into how this data can be used for future evaluation and analysis on the operation of these programs. The Commission will continue to monitor the subject of this supplemental report along with its other statutory duties in future iterations of its biennial Monitoring Report.

Appendix A: TCAP Funding by County

TCAP Funding by Ohio County - Felony 5 Only	
Ohio County	TCAP Funding
Ashtabula	\$ 468,973.00
Brown	\$ 293,391.00
Butler	\$ 2,476,698.00
Clinton	\$ 317,606.00
Coshocton	\$ 169,480.00
Cuyahoga	\$ 4,500,000.00
Darke	\$ 178,251.00
Erie	\$ 552,715.00
Fairfield	\$ 723,952.00
Franklin	\$ 4,500,000.00
Gallia	\$ 218,659.00
Geauga	\$ 284,023.00
Greene	\$ 873,739.00
Guernsey	\$ 202,458.00
Hancock	\$ 322,294.00
Henry	\$ 150,000.00
Highland	\$ 290,926.00
Holmes	\$ 150,000.00
Huron	\$ 294,852.00
Jefferson	\$ 228,840.00
Logan	\$ 235,439.00
Mahoning	\$ 1,171,446.00
Medina	\$ 824,332.00
Paulding	\$ 154,063.00
Perry	\$ 150,000.00
Pike	\$ 150,000.00
Preble	\$ 207,481.00
Putnam	\$ 150,000.00
Ross	\$ 615,690.00
Stark	\$ 1,961,002.00
Trumbull	\$ 1,227,333.00
Van Wert	\$ 156,626.00
Vinton	\$ 150,000.00
Washington	\$ 254,880.00
Wayne	\$ 453,761.00
Williams	\$ 184,047.00
Wood	\$ 634,723.00
Total	\$ 25,877,680.00

TCAP Funding by Ohio County - Felony 4 and Felony 5	
Ohio County	TCAP Amount
Allen	\$ 655,361.00
Athens	\$ 386,987.00
Belmont	\$ 610,332.00
Defiance	\$ 233,000.00
Fayette	\$ 834,955.00
Hamilton	\$ 6,172,800.00
Harrison	\$ 190,800.00
Hocking	\$ 265,227.00
Knox	\$ 362,562.00
Lawrence	\$ 921,711.00
Licking	\$ 1,525,560.00
Lorain	\$ 1,701,580.00
Lucas	\$ 2,244,164.00
Meigs	\$ 150,000.00
Monroe	\$ 231,600.00
Montgomery	\$ 3,952,495.00
Morgan	\$ 170,400.00
Morrow	\$ 272,400.00
Noble	\$ 190,800.00
Ottawa	\$ 292,800.00
Pickaway	\$ 740,057.00
Sandusky	\$ 485,494.00
Seneca	\$ 392,488.00
Summit	\$ 3,970,263.00
Tuscarawas	\$ 544,388.00
Union	\$ 330,899.00
Total	\$ 27,829,123.00

Appendix B: Additional Specialized Dockets Data Tables

Table B1. Dockets Reporting Data in Each Year

Docket Type	2019	2020	2021	2022	2023
Drug	98	100	105	104	103
Drug - Domestic Violence	5	5	5	7	6
Drug - Human Trafficking	5	6	6	6	6
Drug - Reentry	11	9	9	10	9
Drug - Veterans Treatment	23	23	28	29	27
Family Dependency Treatment	28	31	35	33	32
Juvenile Drug	15	15	12	13	12
Juvenile Drug - Human Trafficking	0	1	1	2	2
Juvenile Mental Health	5	4	4	4	3
Juvenile Treatment	5	5	6	6	7
Mental Health	35	35	36	38	39
OVI	6	6	6	6	5
SAMI	2	2	2	3	4
Total	238	242	255	261	255

Table B2. Docket Acceptances by Year

Docket Type	2019	2020	2021	2022	2023
Drug	2322	1638	1731	1665	1735
Drug - Domestic Violence	123	125	71	118	112
Drug - Human Trafficking	116	62	80	92	97
Drug - Reentry	242	155	132	124	148
Drug - Veterans Treatment	274	208	268	261	246
Family Dependency Treatment	350	312	288	263	268
Juvenile Drug	149	100	87	85	74
Juvenile Drug - Human Trafficking	10	7	5	6	8
Juvenile Mental Health	41	35	26	17	11
Juvenile Treatment	29	33	36	44	33
Mental Health	516	365	378	413	388
OVI	59	49	49	52	47
SAMI	34	29	56	40	43
Total	4265	3118	3207	3180	3210

Table B3. Docket Referrals by Year

Docket Type	2019	2020	2021	2022	2023
Drug	2322	1638	1731	1665	1735
Drug - Domestic Violence	123	125	71	118	112
Drug - Human Trafficking	116	62	80	92	97
Drug - Reentry	242	155	132	124	148
Drug - Veterans Treatment	274	208	268	261	246
Family Dependency Treatment	350	312	288	263	268
Juvenile Drug	149	100	87	85	74
Juvenile Drug - Human Trafficking	10	7	5	6	8
Juvenile Mental Health	41	35	26	17	11
Juvenile Treatment	29	33	36	44	33
Mental Health	516	365	378	413	388
OVI	59	49	49	52	47
SAMI	34	29	56	40	43
Total	4265	3118	3207	3180	3210

Table B4. Docket Acceptance Rate by Year

Docket Type	2019	2020	2021	2022	2023
Drug	79.9%	69.7%	70.7%	66.3%	66.2%
Drug - Domestic Violence	61.8%	64.1%	63.4%	68.2%	62.9%
Drug - Human Trafficking	85.9%	78.5%	78.4%	90.2%	85.1%
Drug - Reentry	67.0%	42.7%	52.4%	50.6%	58.7%
Drug - Veterans Treatment	76.5%	70.5%	69.1%	64.8%	65.3%
Family Dependency Treatment	73.1%	59.8%	61.4%	60.3%	60.0%
Juvenile Drug	89.2%	80.0%	76.3%	85.9%	80.4%
Juvenile Drug - Human Trafficking	100.0%	100.0%	100.0%	100.0%	100.0%
Juvenile Mental Health	80.4%	79.5%	83.9%	77.3%	100.0%
Juvenile Treatment	85.3%	100.0%	90.0%	93.6%	94.3%
Mental Health	71.8%	55.6%	54.2%	55.4%	57.0%
OVI	76.6%	63.6%	58.3%	73.2%	67.1%
SAMI	55.7%	50.0%	61.5%	44.9%	36.1%
Total	76.7%	64.9%	66.3%	64.2%	64.1%

Table B5. Total Program Exits by Year

Docket Type	2019	2020	2021	2022	2023
Drug	993	1895	1729	1553	1558
Drug - Domestic Violence	43	81	94	75	101
Drug - Human Trafficking	56	73	70	71	64
Drug - Reentry	167	152	144	142	118
Drug - Veterans Treatment	128	207	195	211	220
Family Dependency Treatment	184	317	288	249	269
Juvenile Drug	108	126	96	80	75
Juvenile Drug - Human Trafficking	13	7	6	6	5
Juvenile Mental Health	38	31	24	18	10
Juvenile Treatment	11	28	36	41	41
Mental Health	240	360	355	351	285
OVI	39	49	35	45	41
SAMI	14	49	30	42	36
Total	2034	3375	3102	2884	2823

Table B6. Percentage of Successful Exits, by Year

Docket Type	2019	2020	2021	2022	2023
Drug	51.7%	55.6%	56.8%	56.1%	58.1%
Drug - Domestic Violence	65.1%	65.4%	73.4%	77.3%	79.2%
Drug - Human Trafficking	44.6%	43.8%	50.0%	43.7%	42.2%
Drug - Reentry	45.5%	66.2%	52.8%	53.5%	61.9%
Drug - Veterans Treatment	71.9%	76.3%	76.9%	74.9%	73.1%
Family Dependency Treatment	47.3%	53.3%	46.9%	49.0%	50.4%
Juvenile Drug	58.3%	56.7%	61.7%	59.5%	58.9%
Juvenile Drug - Human Trafficking	38.5%	57.1%	33.3%	50.0%	100.0%
Juvenile Mental Health	56.0%	71.0%	66.7%	61.1%	90.0%
Juvenile Treatment	45.5%	39.3%	36.1%	46.3%	39.0%
Mental Health	58.3%	61.1%	57.5%	54.7%	63.6%
OVI	81.3%	65.3%	68.6%	73.3%	75.6%
SAMI	21.4%	53.1%	40.0%	23.8%	30.6%
Total	53.6%	57.8%	57.3%	56.6%	59.6%

Agency and Available Data: Jails

Agency	What is collected	Collection Method	Public Dashboard or Reports?
ODRC Bureau of Adult Detention (BAD) – R.C. 5120:1-7	<ul style="list-style-type: none"> • Jail Administrative Data <ul style="list-style-type: none"> ○ Capacity ○ Staffing • Annual jail census <ul style="list-style-type: none"> ○ Population ○ Average length of stay ○ Select demographics ○ Pretrial status 	<ul style="list-style-type: none"> • Annual jail inspection and data reporting to the Bureau of Adult Detention 	<ul style="list-style-type: none"> • Full Service Jail Inspection Reports available at ODRC • BAD census data provided for OCSC reporting requirements
Local Jails	<ul style="list-style-type: none"> • Pretrial information • Offense types and levels • Confinement credit • Programmatic services • Resources/funding 	<ul style="list-style-type: none"> • Local jail management system • Administrative records and data 	<ul style="list-style-type: none"> • Determined at local level • Jail management systems are not linked statewide

- **Bureau of Adult Detention (BAD) Select Data Points Available at the Statewide Level**

- Jail classification
- Facility capacity
- Total bookings/admissions
 - Adult and Juvenile
- Average daily inmate count
- Low/high daily inmate count
- Average length of stay
- Point in time population count
- Demographics
 - Race
 - Gender

- Felony count
- Misdemeanor count
- Inmates confined due to at least one drug offense
- Inmates awaiting sentencing
- Sentenced inmates
- Adult Parole Authority (APA) holders
- Federal inmates
- ODRC offenders
- Jail open date
- Major renovation date
- Renovation description
- Operating authority
- Jail staffing

Agency and Available Data: Jails

This explanatory document is designed to highlight the available data for analysis to inform policymakers pursuant to the Ohio Criminal Sentencing Commission's duty to study the comprehensive criminal sentencing structure in the state of Ohio. Among other duties, the Commission is to study the fiscal and other impact of the sentencing structure on jails and review bills introduced in the general assembly that provide for a new criminal offense or that change the penalty for an existing criminal offense. As such, this primer is designed to understand data available at the statewide level for analysis as well as gaps in the data that would be useful for the duties of informing the general assembly and other policymakers. Below is a bulleted list of data items not collected statewide that may be available in some jurisdictions and could be useful in informing policymakers if available at a statewide level. This list is informed by data elements collected nationally by the US Bureau of Justice Statistics as well as programmatic data elements collected in some local jurisdictions. This is intended to highlight potential gaps in data availability.

- Detailed conviction status
 - Awaiting trial
 - Awaiting sentence
 - Awaiting prison transfer
 - Serving sentence
- Program services and utilization
 - Availability and usage of medical, mental health, alcohol, and drug treatment programs
 - Measures of fiscal impact, including resource allocation to specific programs
- Unconfined persons under jail supervision¹
- Release/reentry data
 - Type of release
 - Outcome data, such as recidivism
 - Reentry services availability and utilization
- Juvenile status
 - Held as adult or juvenile
- Confined inmates by probation, parole, or pretrial release violation status

¹ According to the report from the Bureau of Justice Statistics, *Jail Inmates in 2022 – Statistical Tables* report ([Jail Inmates in 2022 – Statistical Tables](#)), Persons under jail supervision but not confined is defined as “All persons in community-based programs operated by jail facilities, including electronic monitoring, house arrest, community service, day reporting, and work programs. This group excludes persons on pretrial release who are not in community-based programs run by jails; persons under supervision of probation, parole, or other agencies; persons on weekend programs; and persons who participate in work release programs and return to jail at night.”



Overview of New R.C. 121.221

135th General Assembly

House Bill 257 | Authorize certain public bodies to meet virtually

Effective April 9, 2025

Legislative History

House Bill 257 (HB 257) was passed by the General Assembly on December 18, 2024, and signed by Governor DeWine on January 8, 2025. HB 257 creates new R.C. 121.221, which authorizes certain public bodies to hold virtual meetings.

Applicability

R.C. 121.221 adopts the R.C. 121.22 definitions of both “public body” and “meeting”.

R.C. 121.22(B)(1)(a) defines a “public body” as:

“Any board, commission, committee, council, or similar decision-making body of a state agency, institution, or authority, and any legislative authority or board, commission, committee, council, agency, authority, or similar decision-making body of any county, township, municipal corporation, school district, or other political subdivision or local public institution;”

R.C. 121.22(B)(2) defines a “meeting” as “any prearranged discussion of the public business of the public body by a majority of its members.”

Effect of Actions and Attendance at a Virtual Meeting

R.C. 121.221(B): “Except as otherwise provided in the Revised Code, members of a public body may hold and attend meetings and may conduct and attend hearings by means of video conference or any other similar electronic technology, and all of the following apply:

(1) Any resolution, rule, or formal action of any kind has the same effect as if it occurred during an open meeting or hearing of the public body.

(2) Notwithstanding division (C) of section 121.22 of the Revised Code, members of a public body who attend meetings or hearings by means of video conference or any other similar electronic technology shall be considered present as if in person at the meeting or hearing, shall be permitted to vote, and shall be counted for purposes of determining whether a quorum is present at the meeting or hearing.”



Adoption of Policy Prior to Meeting Virtually

R.C. 121.221(B)(3) provides that “The public body shall not hold hearings or meetings by means of video conference or any other similar electronic technology until the public body has adopted a policy that specifies at least all of the following:”

The delineated policy conditions under R.C. 121.221(B)(3)(a) through (f) are extensive and include items such as public notice requirements¹ and public access requirements².

Exclusions

R.C. 121.221(B)(3)(e):

“No public body may hold, and no member of a public body may attend meetings or conduct and attend hearings by means of video conference or other similar electronic technology if any of the following apply:

- (i) The meeting or hearing involves a vote to approve a major nonroutine expenditure as defined in the policy adopted by the public body under this section;
- (ii) The meeting or hearing involves a vote to approve a significant hiring decision as defined by that policy;
- (iii) The meeting or hearing involves a purpose to propose, approve, or vote on a tax issue or tax increase;
- (iv) Excluding expense reimbursements to members for actual expenses incurred while fulfilling their duties, the members of the public body are compensated for their position as members of the public body, except when members are participating in a multi-party meeting if the multiparty meeting does not involve a vote to approve a major nonroutine expenditure or significant hiring decision or involve a purpose to propose, approve, or vote on a tax issue or tax increase;
- (v) The members of the public body are elected by vote of the general public to their positions as members, except when members are participating in a multi-party meeting if the multi-party meeting does not involve a vote to approve a major nonroutine expenditure or significant hiring decision or involve a purpose to propose, approve, or vote on a tax issue or tax increase.”

¹ R.C. 121.221(B)(3)(a)

² R.C. 121.221(B)(3)(b)