



CRIMINAL SENTENCING COMMISSION  
Chief Justice Maureen O'Connor, Chair • Sara Andrews, Director

**OHIO CRIMINAL SENTENCING COMMISSION & ADVISORY COMMITTEE**  
**Full Commission Meeting Minutes**  
**November 19, 2015**

**MEMBERS PRESENT**

Thomas Marcelain, Vice-Chair, Common Pleas Court Judge  
Ronald Burkitt, Hilliard Police Officer  
Jason Pappas, Fraternal Order of Police  
Derek DeVine, Seneca Prosecuting Attorney  
Kathleen Hamm, Public Defender – Wood County  
John Eklund, State Senator  
Cecil Thomas, State Senator  
Gary Mohr, Director, Department of Rehabilitation and Correction  
Steve McIntosh, Common Pleas Court Judge  
Hearcel Craig, State Representative  
Robert DeLamatre, Juvenile Court Judge  
Paul Dobson, Wood County Prosecutor  
Gary Dumm, Municipal Court Judge  
Dorothy Pelanda, State Representative  
Kyle Petty, representing Director Harvey Reed  
Chrystal Pounds-Alexander, Victim Representative  
Albert Rodenberg, Sheriff, Clermont County  
Nick Selvaggio, Common Pleas Court Judge  
Kenneth Spanagel, Municipal Court Judge  
Tim Young, State Public Defender's Office

**ADVISORY COMMITTEE MEMBERS PRESENT**

Robert Tobias, representing the Columbus City Attorney's Office  
Jill Beeler-Andrews, Ohio Public Defender's Office  
Mark Schweikert, Executive Director, OJC  
Professor Douglas Berman, OSU  
Eugene Gallo, CORJUS  
Kyle Petty, DYS  
Dustin Calhoun, Chief Counsel, Youth Services  
James Cole, Montgomery County Juvenile Court  
Lori Criss, Ohio Council  
Joanna Saul, CIIC  
Steve Gray, Chief Counsel, Rehabilitation and Correction  
James Lawrence, Ohio Community Corrections Association  
Cynthia Mausser, Rehabilitation and Correction  
Michele Miller, Warden, Belmont Correctional Institution  
David Picken, Attorney General's Office  
Kari Bloom, Ohio Public Defender's Office

## **CALL TO ORDER**

The November 19, 2015 meeting of the Ohio Criminal Sentencing Commission and its Advisory Committee was called to order at 10:04a and Vice Chair Marcelain proceeded with the roll call of members.

## **APPROVAL OF THE AUGUST 20, 2015 MINUTES**

The minutes of the August 20, 2015 meeting were unanimously approved with no corrections or discussion.

## **MEETING AGENDA**

Vice-Chair Marcelain remarked that in order to accommodate a number of Member schedules, the order of the agenda will not be as written.

## **ITEM #2 NEW BUSINESS – NOTABLE DRC TRENDS, DIRECTOR MOHR**

Director Mohr referenced the power point included with the meeting materials and proceeded to discuss its content. Notable points of discussion following the presentation included the clarification of the definition of ‘Truly Non-Violent’ offenders. The DRC identifies the Truly Non-Violent offender by offense of commitment exclusive of prior offense history. Other comments included that the qualification and offense of violence definition in many states is being reconsidered, which is timely and appropriate in Ohio. There was mention of allowing time to assess the impact of the influx of DRC funding to community corrections to make more informed recommendations regarding sentence reform. It was also noted that DRC is in the process of identifying their target population for sentencing recodification. Finally there was a suggestion that healthcare partners need to be brought in to the discussion of criminal justice reform.

## **THE HONORABLE JIM BUTLER, HOUSE OF REPRESENTATIVES JUDICIARY COMMITTEE CHAIR**

Chairman Butler discussed the key issues for the Judiciary Committee and their approach to addressing those issues. He stated that the committee is managing its workload of both criminal and civil priorities by convening collaborative workgroups that can informally review topics, identify core problems and recommend solutions in a more expedited fashion. The subject matter for the work groups is OVI law, the Death Penalty, Drug Possession and Trafficking, Abuse of Process, Foreclosure and Housing and Domestic Violence. The work groups are just beginning to meet to discuss these topics and he expects the Commission to be an active partner in their work. It was noted that the conversation and work product regarding drug possession must include treatment and resources for diversion and that the approach to drug trafficking should be multi-faceted as there is not a singular conduct that defines a drug trafficker.

## **JUVENILE JUSTICE COMMITTEE REPORT**

Chair Paul Dobson reviewed the committee work to date and referenced the work chart of priorities. He then noted that the committee has approved statutory revision to the ORC 2152.18 [confinement credit] and that the committee also supports the amendment to that language that is included in the meeting materials. Members discussed the language and amendment, noting that the amendment needs amended to unilaterally incorporate juvenile [v. adult] terms.

Members unanimously favorably voted to accept the amended amendment and proposed language for 2152.18.

Mr. Dobson then moved to discussion of committee's proposed statutory draft of 2967.13(B) [JLWOP]. Jill Beeler summarized the committee's work, recent US Supreme Court decisions and the work of other states on the issue. There was significant discussion regarding the proposal and the fact that the language will reduce the term imposed for Aggravated Murder offenses. There was also clarification of the unique population and the parole board hearing proceedings – namely, the factors considered and attorney representation at the institutional parole hearing. Following a motion and second to advance the proposal, there was discussion pertaining to the retroactive, uncodified law section of the proposal and whether or not it is necessary since the proposal itself specifies the provisions apply to any prisoner in paragraph (1) Scope and Application. Vice Chair Marcelain called the question and a roll call vote was taken resulting in 13 affirmative votes and 5 opposition votes from Members Dobson, DeVine, Alexander, Selvaggio and Pappas.

#### **ITEM #4 NEW BUSINESS – 2016 VICE CHAIR**

Vice Chair Marcelain reminded Commission Members that in December 2015 he will be President of the Common Pleas Judges Association and although he will continue to serve the Commission as a Member, he will resign his position as Vice Chair. He nominated Judge Selvaggio as Vice Chair and asked the Commission to vote to support the recommendation to the Chair Chief Justice O'Connor. The Commission unanimously voted favorably to recommend Judge Selvaggio to serve as Vice Chair.

#### **RECODIFICATION COMMITTEE UPDATE**

Judge Peple provided a general update and status of the Committee's work indicating he is hopeful to share a draft product with the Commission at the end of this calendar year. Judge Peple noted some workgroups are progressing more quickly than others, but he expects to move things forward as projected with a draft for general, public comment in Spring 2016. He encouraged Members to share their ideas and feedback to his work groups or to him directly.

#### **SENTENCING COMMITTEE REPORT**

Chair Judge Spanagel reviewed the committee work chart. He also discussed the OJC summary included in the meeting materials of HB388 'Annie's Law' noting that the committee may want to ask the bill sponsor or staff to attend the meeting in December for an update since they attended a Commission meeting about one year ago.

The Members then discussed the Adult Extended Sentence Review topic. It should be noted, the draft with the meeting materials is a very early draft and is not a proposal close to being ready to advance as a final product. Jo Ellen suggested two options for the group, 1. Refer work to date to the Recodification Committee or 2. Allow the Ad Hoc committee to continue to work to refine the proposal. There was discussion on the merits of the proposal which included strong suggestions to reconsider the number of years for review eligibility for the most serious offenders. The group also wants to obtain the number of inmates the proposal may impact.

The Members agreed that the Ad Hoc Committee will retain the proposal, expediently develop it further and then provide a final product and recommendation to the Recodification Committee.

### **CRIMINAL JUSTICE COMMITTEE**

Professor Berman provided an update on the Rights Restoration subcommittee. He referenced the one-page background paper provided in the meeting materials. He also mentioned conversations with the Council of State Governments and the fact he and Sara have a phone conference scheduled November 30, 2015 with them to discuss national progress on the issue, how and if there is an opportunity for collaboration with Ohio under the Justice Reinvestment Initiative, and to generally discuss the topic. Furthermore, he noted Senator Seitz has said he intends to introduce legislation and that we will want to wait to see what that says before moving too far ahead. Professor Berman mentioned there is interest and activity in this space and the goal to make it cohesive. There is also an opportunity to consider a comprehensive approach to include recommendations for reform to executive branch functions such as clemency and the certificate of qualification for employment.

Sara reported that she, Chair Yates and Kari are working to add members and identify clear priorities for the Financial Sanctions group. They expect additional membership from DRC and the Chief Probation Officer's Association.

Cynthia Mausser provided a brief update on DRC grant funded programs and stated that the committee will more fully discuss the preliminary performance, result data at its December meeting. She then moved on to the presentation and power point in the meeting materials regarding the DRC Community Substance Use Disorder Treatment Program.

### **DATA COLLECTION AND SHARING COMMITTEE**

Chair Judge Dumm noted the committee is progressing in obtaining reports and compiling information. Among the larger issues the committee is tackling is an Ohio specific data primer report identifying statewide data collection, its use and accessibility. Erin Waltz provided a brief overview of the project.

Jill Beeler provided an update on the Sex Offender Registration Ad Hoc Committee and referenced the brief summary included in the meeting materials.

### **NEW BUSINESS**

Robert Tobias, Principal Assistant City Attorney and Director of the Prosecution Resources Unit from the Columbus City Attorney's Office agreed to postpone his presentation until the next full commission meeting on March 17, 2016.

The 2016 meeting schedule was discussed and with no other business identified, Vice Chair Marcelain adjourned the meeting.

**\*2016 Full Commission Meeting dates:**      Thursday, March 17, 2016  
Thursday, June 23, 2016  
Thursday, September 15, 2016  
Thursday, December 15, 2016

**\*Please note Full Commission meetings are scheduled from 10:00a – 2:00p. And, because the Commission has reduced its Full Commission meetings to quarterly, please prepare for a robust agenda at each meeting.**