

OHIO CRIMINAL SENTENCING COMMISSION & ADVISORY COMMITTEE
Full Commission Meeting Minutes
September 22, 2016

MEMBERS PRESENT

Nick Selvaggio, Vice-Chair, Common Pleas Court Judge
Chrystal Alexander, Victim Representative
Lara Baker-Morrish, Columbus City Attorney's Office
Paula Brown, Attorney
Hearcel Craig, State Representative
John Eklund, State Senator – by phone
Derek DeVine, Seneca County Prosecutor
Paul Dobson, Wood County Prosecutor
Kort Gatterdam, Attorney
Kathleen Hamm, Public Defender
Thomas Marcelain, Common Pleas Court Judge
Dorothy Pelanda, State Representative
Bob Proud, Clermont County Commissioner
Harvey Reed, Department of Youth Services
Sheriff Rodenberg, Clermont County Sheriff
Kenneth Spanagel, Municipal Court Judge
Tim Young, State Public Defender

ADVISORY COMMITTEE MEMBERS PRESENT

Jill Beeler, Ohio Public Defender's Office
Kari Bloom, Ohio Public Defender's Office
Douglas Berman, Professor of Law, Ohio State University
Jim Cole, Juvenile Court Administrator
Steve Gray, Chief Counsel, Rehabilitation and Correction
James Lawrence, Ohio Community Corrections Association
Cynthia Mausser, Department of Rehabilitation and Correction
Brian Martin, Department of Rehabilitation and Correction
Michele Miller, Warden
Karhlton Moore, Office of Criminal Justice Services
Kyle Petty, Department of Youth Services
David Picken, Attorney General's Office
Gary Yates, Butler County Court Administrator, Chief Probation Officer's Association

CALL TO ORDER

The September 22, 2016 meeting of the Ohio Criminal Sentencing Commission and its Advisory Committee was called to order by Vice-Chair Selvaggio. Vice-Chair Selvaggio then proceeded with roll call of members.

APPROVAL OF MINUTES FROM JUNE 23, 2016

The minutes of the June 23, 2016 meeting were unanimously approved.

MEMBERSHIP UPDATE

Lara Baker-Morrish was appointed by the Governor August 18, 2016.
Commissioner Proud is retiring and also resigning from the Commission.
Sheriff Rodenberg is retiring and so is Gary Yates.

Introduction of the Fall 2016 Commission Interns:

Jhannelle (JhayTee) Harrison is a 2L at the Ohio State University Moritz College of Law. She comes to us as a part of the Legislation Clinic.

Katie Plumer is a 3L attending the Ohio Northern University Claude Pettit College of Law. She is earning credit hours as a part of their externship program.

Kyra Rouse is a 2L also attending the Ohio Northern University Claude Pettit College of Law. She too is a part of the extern program.

Currently all three are working on some juvenile issues but will be turning their attention to bail and data analytics in the near future.

The Sentencing Commission also recently received approval to become a work-study site for the Ohio State University. The Federal Work Study Program is a need-based program that provides jobs for eligible students with financial need who are enrolled at least half time, allowing them to earn money to help pay education expenses. We have completed a job description for an administrative/research assistant for this academic year and await applications.

JUVENILE TRANSFER (BINDER) DRAFT PROPOSAL – Paul Dobson

Summary: The Commission is asked to vote on recommended changes to R.C. 2152.10 and 2152.12 regarding bindovers. The committee recommends mandatory bindover be eliminated from the statute and that the factors considered by a judge in determining whether or not to transfer a juvenile to adult court be combined to ensure that decisions are made based upon the offender's conduct and condition and not a simple weighing of factors. *Attachment: 2152.10 and 2152.12*

Tim Young moved to approve the proposal, Harvey Reed seconded the motion. Discussion of the proposal ensued. Paul Dobson noted the vote of juvenile justice committee members was nine members in favor and 3 members opposed. The group then discussed and clarified the right to appeal. Paul Dobson noted that the Ohio Prosecuting Attorney Association legislative committee opposes removing all mandatory bind overs – due to an increase workload and because the appellate aspect prolongs cases for victims.

Vice-Chair Selvaggio called for the vote. Twelve in favor and five opposed: Members Devine, Alexander, Morrish, Marcelain and Dobson.

BAIL AND PRE-TRIAL SERVICES REFORM

Summary: The Ad Hoc Committee met on July 22, 2016 and heard from representatives from the bail bonding industry. The Committee met again on September 16, 2016 to discuss results from several surveys that were sent to various stakeholders in the criminal justice system. In addition, the Ad Hoc committee continues to gather data and information on programs already being utilized around the state, including those in Summit and Lucas Counties. The committee anticipates recommendations to the Commission by the end of the year.

Attachment – Pre-Trial Services Survey Summary and Progress Report

Jo Ellen reported the in person meeting on September 16, 2016 was held in conjunction with the Ohio Judicial Conference (OJC) Annual Meeting and Tim Schnacke was there because he presented at the OJC meeting. The purpose of the full meeting was to review the various survey results and begin work on specific recommendations. The goals of the group's work is to maximize release, maximize public safety and maximize appearance. It is anticipated final recommendations will be presented to the full Commission in March 2017.

SENTENCING & CRIMINAL JUSTICE COMMITTEE WORK CHART ITEM – DRC TRANSITIONAL CONTROL UPDATE BRIAN MARTIN, DRC

Brian Martin noted that this information is in follow up to an earlier presentation regarding developing measures to help assess expansion of Transitional Control, a release mechanism that allows the Department of Rehabilitation and Correction to transfer prisoners out to a less restrictive environment for the latter part of their sentence. It is a metrics presentation and a good overview of numbers pre and post SB143. Brian then summarized the data handout and points include:

- Stability in rates – 46% before and after
- County rates on a FY basis, so not a clean break for pre and post. 09-2014 – distinction isn't displayed, but will do in a future report – he estimates it is 1500-1700 cases. The numbers of 'no response' from the Court are not calculated.
- Favorable numbers – same rate, despite expansion of program
- Final line graph speaks to concerns about expansion (lack of oversight) – early numbers are that rates are consistent and minimize that concern.
- Does Institutional Summary Report accompany notice to Court? Doesn't, but would help.
- Supervision is done by Half Way House and the violation process is administrative, not judicial.

RECODIFICATION UPDATE – TIM YOUNG, Ohio Public Defender

2925 will be pursued separately – consensus to change code to allow more treatment options for low level offenders. Low level, low risk.

REQUEST FOR RESEARCH

Summary: The Commission awarded the contract to Case Western Reserve University to gather, compile data and identify trends regarding criminal sentence reform and other legislation impacting criminal sentencing enacted since HB86 in September 2011. The MOU from DRC remains pending and thus, work has not yet commenced. We will have a research advisory group to assist in the effort, comprised of research administrators from the Office of Criminal Justice Services, the Department of Mental Health and Addiction Services and the Supreme Court of Ohio.

Additionally, Sara and the Principal Researcher, Fredrick Butcher and Margaret Hardy from DRC (the Ohio Team) are participating in Urban Institute and Bureau of Justice Assistance, *Justice Reinvestment Initiative Performance Measurement*, convening on October 5 and 6, 2016, in Washington, DC. The conference is cosponsored by the

Bureau of Justice Assistance and The Pew Charitable Trusts and aims to improve the quality, consistency, and use of performance measures across JRI states.

OPERATING GUIDELINES AND MEMBERSHIP HANDBOOK

Summary: We have prepared draft operating guidelines for the Commission to consider, review and comment. Please forward suggestions and revisions to Sara on or before November 1, 2016. We will produce a final draft for Commission vote at the December 2016 meeting. We then will produce a member handbook to provide to Members as they are appointed. *Attachment – Draft Operating Guidelines*

COMMISSION STAFFING – SARA

Sara advised the Commission she had researched similarly situated Commissions (Connecticut, Pennsylvania, New Mexico, Maryland) and prepared a budget/position justification and request to present to the Chief and Administrative Director of the Supreme Court of Ohio. The result of those discussions was agreement to pursue hiring a Research Specialist position this fiscal year, part-time administrative support this fiscal year, academic contracts this fiscal year and a Research Coordinator position next fiscal year and leave a law clerk vacancy on the table of organization. Sara then asked the Commission to vote on allowing her to proceed in working with the Court on the proposed Commission Table of Organization.

Representative Pelanda made the motion and Judge Marcelain seconded. Discussion included a suggestion from Professor Berman that a recommendation be proposed to the Commission created to study the impact/implementation of HB523 (medical marijuana) divert some funding to the Sentencing Commission for research purposes. Representative Pelanda advised the suggestion was a good one, but premature. Vice-Chair Selvaggio called for the vote, which was unanimous in favor of the proposed Table of Organization.

UPDATE ON POSSIBLE DYS/DRC MERGER – DIRECTOR REED

Director Reed indicated all is speculative at this point and there is really no update. Representative Pelanda advised she has received quite a bit of constituent feedback about the possibility and underscored the fact legislative authority will be required if there is a proposed merger/combining of agencies. The Representative further advised it is something that must be thoroughly vetted, explored deliberately, thoughtfully and not rushed through during the lame duck session. She also asked if there is a time table to which Director Reed said there is not.

DATA ANALYTICS PROJECT – SARA, DAN GERARD, MURAT OZER– PRESENTATION AT 11:45A

Summary: The Commission and the University of Cincinnati, Institute of Crime Science (ICS) data analytics pilot project in Scioto County, *Using Data to Improve Public Safety and Criminal Justice Outcomes*, is underway. The project recognizes criminal justice indicators are wide-ranging and complex. Determining if, where and to what extent, criminal justice data indicators are available, accessible and consumable and then seeking viable ways to catalog and analyze that information will provide a platform to recommend legislative and policy strategies to improve outcomes for Ohio's citizens by creating safer, fairer, and a more cost-efficient use of resources in our criminal justice system. The data analytics demonstration was June 7, 2016 and on August 1, 2016 Scioto County was selected and agreed to be our pilot county.

Dan and Dr. Ozer presented and provided an initial look at some Scioto County data dashboards.

With no other business from the members, Representative Craig moved to adjourn and Judge Marcelain seconded the motion. Vice-Chair Selvaggio adjourned the meeting.