



OHIO

CRIMINAL SENTENCING COMMISSION

ANNUAL REPORT 2015



VISION: To Enhance Justice

MISSION: To Ensure Fair Sentencing in the State of Ohio



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A Message From the Commission Chair

As chair of the Ohio Criminal Sentencing Commission, I am pleased to share with you the 2015 annual report. It has been a year of transition and revitalization. I thank and commend the members of the Commission, its advisory committee, and Director Sara Andrews in their effort to reinvigorate and reenergize the Commission's operation and work. During 2015, the Commission engaged in constructive collaboration and purposeful debate on a wide range of important topics resulting in accomplishments to be proud of. I appreciate the inclusive, diverse, and balanced nature of their work and trust you will find this report a reflection of inspired, forward-thinking leadership to create a solid foundation for the future of criminal justice policy in Ohio.

Sincerely,

A handwritten signature in black ink that reads "Maureen O'Connor". The signature is fluid and cursive, with the first name being the most prominent.

Maureen O'Connor
Chief Justice





Executive Summary

On Jan. 5, 2015, after more than two decades with the Ohio Department of Rehabilitation and Correction (DRC), I accepted the opportunity to lead the Ohio Criminal Sentencing Commission. During calendar year 2015, the Criminal Sentencing Commission refreshed and rejuvenated its membership and advisory committee by confirming the commitments of current members and requesting appointments for vacancies. The Criminal Sentencing Commission also appointed additional members to its advisory committee to include representation from the behavioral health and academic communities. With a diverse membership and the refreshed advisory committee, the Criminal Sentencing Commission is well-positioned to bridge the information gap among criminal justice system partners.

The support and resources of the offices within the Supreme Court of Ohio, such as the Law Library, and the collaboration with the Ohio Judicial Conference was instrumental in re-establishing the day-to-day operation of the Criminal Sentencing Commission. We also recruit and utilize unpaid law students, interns, amazingly bright retired judges, and affiliated organizations to support our operation and workload.

I'm proud to report the Ohio Criminal Sentencing Commission is focused on broad categories, including juvenile justice, sentencing, criminal justice, and data collection and sharing. We seek bipartisan, relevant, current-day, informed processes and outcomes through creative solutions — beyond simplification and modernizing the Revised Code — our work is about people, over-penalization, crowded prisons, mental health, drug addiction, and sentencing.

We've created a dynamic, spirited energy that provides the opportunity to work hard and fast while being deliberate and thoughtful as demonstrated by our brand, our logo, and importantly, our mission and vision. We have identity, we have purpose, and we are delivering tangible outcomes. The 2015 annual report is just the beginning. You will find that the Ohio Criminal Sentencing Commission is a credible, high-performing, useful, effective, and reliable resource to further advance sound, well-rounded criminal justice policy and public safety reform in the state of Ohio.

A handwritten signature in black ink that reads "Sara Andrews". The signature is written in a cursive, slightly slanted style.

Sara Andrews
Director, Criminal Sentencing Commission



Commission Authority, Structure, and Operation

The General Assembly created the Ohio Criminal Sentencing Commission and the Criminal Sentencing Advisory Committee in R.C. 181.21–181.26 to, among other things:

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

The Commission began meeting in 1991 and is the only long-standing state agency designed, by statute, to bring judges, prosecutors, and defense attorneys together with members of the General Assembly, state and local officials, victims, and law enforcement officers. The chief justice of the Ohio Supreme Court chairs the 31-member Commission and, in 2015, Judge Thomas M. Marcelain of the Licking County Court of Common Pleas graciously served as vice chair. The Commission is assisted by its advisory committee, and advisory committee members freely participate at all Commission meetings, which are open to the public. Detailed information about the Commission and its work activity is available at www.supremecourt.ohio.gov/Boards/Sentencing.

At the April 23, 2015 meeting of the Ohio Criminal Sentencing Commission and the Criminal Sentencing Advisory Committee, Commission priorities were grouped by time frame and subject matter. The time frame categories range from immediate — three months or less, to extended — more than one (1) year. The subject matter committees are:

Executive – To consider recommendations from committees of the Commission, review and provide guidance with regard to the work of the Commission, including legislative matters and publicly represent the Commission’s interests, if needed.

Juvenile Justice – To review and recommend strategies to combat juvenile delinquency and recidivism.

Sentencing – To study criminal penalties and sentencing statutes and patterns in Ohio, recommend statutory change, and review national developments and trends on matters of sentencing.

Criminal Justice¹ to address the future role of the Commission, respond and make recommendations regarding more broad areas including probation, risk assessment, release programs, specialized dockets, community corrections and improving as well as building relationships and coordinating the work of the Commission with other justice partners — both state and federal.

Data Collection and Sharing – To develop, coordinate and identify ways to collect and develop methods for sharing appropriate data and information with justice system partners.

¹ In December 2015, the Criminal Justice and Sentencing Committees combined to create the Sentencing and Criminal Justice Committee.

Each committee consists of a chair, a vice chair, and individual members. The committee chairs will be a Commission or Advisory Committee member and staffed by the Criminal Sentencing Commission. Committee membership may include individuals outside of the Criminal Sentencing Commission members and its advisory committee that have a vested interest in the commission's work. The committees meet regularly, and the full Commission meets quarterly.

Vision and Mission

In 2015, the Ohio Criminal Sentencing Commission established its vision statement to enhance justice and its mission statement to ensure fair sentencing in the state of Ohio.

Vision

To Enhance Justice

To fulfill its vision, the Criminal Sentencing Commission will develop and recommend policy to the General Assembly that is designed to:

- Advance public safety
- Realize fairness in sentencing
- Preserve meaningful judicial discretion
- Distinguish the most efficient and effective use of correctional resources
- Provide a meaningful array of sentencing options.

Mission

To Ensure Fair Sentencing
in the State of Ohio

The Criminal Sentencing Commission will achieve its mission by:

- Analyzing current adult and juvenile criminal statutes and law in Ohio and other states
- Studying sentencing patterns and outcomes and balancing the needs of criminal sentencing and available correctional resources
- Researching and recommending evidence based approaches to reducing recidivism
- Recommending reasonable and specific criminal justice reforms.

Executive Committee

The Executive Committee comprises the Criminal Sentencing Commission director and vice chair and the chair of each subject-matter committee. The commission chair serves as an ex officio member and others may be added if recommended. The Executive Committee's primary purpose is to provide guidance and generally assist the commission in legislative matters and other public interests.

2015 Executive Committee Members

Sara Andrews, ex officio
Director, Criminal Sentencing
Commission

Hearcel Craig
State Representative, District 26

Paul Dobson
Wood County Prosecutor
Chair, Juvenile Justice Committee

Hon. Gary Dumm
Circleville Municipal Court
Chair, Data Collection
& Sharing Committee

John Eklund
State Senator, District 18

Hon. Thomas Marcelain
Licking County Court
of Common Pleas
Vice Chair, Criminal Sentencing
Commission

Dorothy Pelanda
State Representative, District 86

Mark Schweikert
Executive Director
Ohio Judicial Conference

Hon. Kenneth Spanagel
Parma Municipal Court
Chair, Sentencing Committee

Cecil Thomas
State Senator, District 9

Gary Yates
Court Administrator
Butler County
Chair, Criminal Justice Committee

Tim Young
State Public Defender

Juvenile Justice Committee

The Juvenile Justice committee was formed after the Criminal Sentencing Commission identified several priority matters specific to juvenile sentencing policy. Juvenile Justice Committee priorities include reviewing criminal penalties and sentencing statutes and patterns in Ohio and recommending strategies to combat juvenile delinquency and recidivism. The short-term priorities identified by the Commission included: juvenile extended sentence review, mandatory bindovers and sentences (specifications), juvenile court costs, and clarification of confinement credit.

The Juvenile Justice Committee subsequently added other issues for consideration, including: juvenile sex offender registration, mandatory shackling, sexting, truancy, probation (length of time), and post-dispositional detention time. The committee met six times during 2015 to work on its priority list.

The committee presented proposed revisions to R.C. 2152.20 regarding costs and fines in juvenile court to the full Criminal Sentencing Commission in August 2015. The proposed changes allow a court to assess court costs against a parent of a child and require the court to hold a hearing on the child or parent's ability to pay. The committee continues to work on proposed revisions to the restitution language in R.C. 2152.20.

In November 2015, the committee presented a proposal regarding confinement credit that was subsequently approved by the full Commission. The proposed changes to R.C. 2152.18 eliminate current language that would not apply in the juvenile world and state that a juvenile is credited for any time they are confined, a term defined in division (F) of the proposal. Second, the proposal allows the juvenile court continuing jurisdiction to consider confinement credit disputes.

Finally, a separate ad hoc committee was formed with members from both the Juvenile Justice Committee and the Sentencing Committee to consider the review of extended

sentences in both the juvenile and adult systems. That ad hoc committee ultimately approved recommended statutory language that establishes a mechanism for juvenile offenders to seek review of their sentences in certain circumstances. It allows a prisoner who was under 18 at the time of their offense to seek review after serving 15 years if their stated prison term totals at least 15 years. In addition, if the offender has a sentence that permits parole only after 15 or more years, the prisoner is eligible to apply for review after serving 15 years. Finally, a prisoner who is serving life without parole is eligible for review upon turning age 40.

Looking forward, the committee began work on R.C. 2152.20 regarding restitution for juvenile offenders and has done preliminary research and work on mandatory bindovers. The committee plans to focus on these two topics in early 2016. In addition, the committee will consider if any changes need to be made to juvenile sex offender registration and notification statutes. It is the committee's intention to complete work on that issue early enough to inform the Criminal Justice Recodification Committee of its thoughts. Despite that committee's focus on the adult criminal code, the Juvenile Justice Committee believes its work on juvenile sex offender registration would be useful to inform the Recodification Committee's work.

2015 Juvenile Justice Committee Members

Paul Dobson, Chair Wood County Prosecutor	Hearcel Craig State Representative, District 26	Aaron Montz Mayor, City of Tiffin
Erin Davies, Vice-Chair Ohio Juvenile Policy Center	Hon. Robert DeLamatre Erie County Juvenile Court	Dorothy Pelanda State Representative, District 86
Jo Ellen Cline, Staff Liaison Criminal Justice Counsel	Hon. Robert Fragale Marion County Family Court	Kyle Petty Legislative Liaison Department of Youth Services
Sara Andrews Director, Criminal Sentencing Commission	Kathleen Hamm Public Defender, Wood County	Bob Proud Commissioner Clermont County
Jill Beeler-Andrews State Public Defender's Office	Hon. Terri Jamison Franklin County Juvenile Court	Harvey Reed Director, Department of Youth Services
Ron Burkitt Juvenile Police Officer City of Hilliard	Linda Janes Assistant Director Department of Youth Services	Cecil Thomas State Senator, District 9
Dustin Calhoun Legal Counsel Department of Youth Services	Teresa Lampl The Ohio Council of Behavioral & Family Service Providers	
Jim Cole Court Administrator Montgomery County Juvenile Court	Ashon McKenzie Legal Counsel Senate Minority Caucus	

Sentencing and Criminal Justice Committee

In December 2015, the Sentencing and Criminal Justice committees combined to create the Sentencing and Criminal Justice Committee. The Sentencing and Criminal Justice Committee priorities include studying criminal penalties and sentencing statutes and patterns in Ohio, recommending statutory change, and reviewing national developments and trends on matters of sentencing. The committee also is poised to respond and make recommendations regarding more broad areas, including probation, risk assessment, release programs, specialized dockets, community corrections, and improving as well as building relationships and coordinating the work of the commission with other justice partners — both state and federal.

² Section 729.10 of the Ohio Revised Code was enacted as a part of Am. Sub. H.B. 483 of the 130th General Assembly and created the Criminal Justice Recodification Committee.

The Sentencing Committee priorities for 2015 included the continued commitment to assisting in the advancement of two significant topics for statutory revision — Operating a Vehicle While Impaired and the pursuit of discretionary driver’s license suspension. Both areas remain pending in the legislature. The Sentencing Committee also focused on the area of Intervention in Lieu of Conviction (ILC) and trace drug amounts. An ad hoc committee was created to further delve into the ILC subject matter. That ad hoc committee produced a draft statutory revision of ILC, a corresponding position paper, and compiled data on the subject and trace drug amounts which was forwarded to the Recodification Committee.²

Priorities for the Criminal Justice Committee in 2015 notably began with the identification of the commission’s mission and vision, voted on at the August 2015 full Commission meeting. Other accomplishments include the advancement of a letter of support, during the budget process, to remove halfway houses as a sentencing service facility in R.C. 1.05. The Criminal Justice Committee also spent time discussing the Department of Rehabilitation and Correction’s (DRC) incentive grants and outcomes, a new provision in the Ohio Revised Code to allow DRC to ‘transfer’ eligible prisoners to the community³ and the Transitional Control Program.

The Criminal Justice Committee established two ad hoc committees: one to focus on the rights restoration through record sealing, expungement, and executive clemency, and the other to examine what began as a look at the financial sanctions in criminal justice, but is now more aptly focused on bail reform. These areas, as well as revisiting the implications and impact of the *Foster* decision, will drive the future work for the committee.

2015 Sentencing and Criminal Justice Committee Members

Hon. Kenneth Spanagel, Chair
Parma Municipal Court

Gary Yates, Chair
Court Administrator
Butler County

Sara Andrews, Staff Liaison
Director, Criminal Sentencing
Commission

Lara Baker-Morrish
Chief Prosecutor
City of Columbus

Douglas Berman
Professor, Moritz College of Law
The Ohio State University

Kari Bloom
Legislative Liaison
Office of the Ohio Public Defender

Paula Brown
Ohio State Bar Association

Lori Criss
Associate Director
The Ohio Council of Behavioral
& Family Service Providers

Derek DeVine
Seneca County Prosecutor

Paul Dobson
Wood County Prosecutor

Dave Forman
Managing Member, Assessments
& Interventions, LLC

Eugene Gallo
CORJUS

Kort Gatterdam
Criminal Defense
Lawyers Association

Steve Gray
Chief Counsel
Department of Rehabilitation
& Correction

Kathleen Hamm
Public Defender, Wood County

James Lawrence
Ohio Community Corrections
Association

Hon. Thomas Marcelain
Licking County
Court of Common Pleas

Brian Martin
Assistant Chief, Research
Department of Rehabilitation
& Correction

Cynthia Mausser
Managing Director
Department of Rehabilitation
& Correction

Hon. Stephen McIntosh
Franklin County
Court of Common Pleas

Ashon McKenzie
Legal Counsel
Senate Minority Caucus

Michele Miller
Warden
Belmont Correctional Institution

Gary Mohr
Director, Department
of Rehabilitation & Correction

³ Community Substance Use Disorder Treatment Program, Ohio Revised Code section 5120.035, enacted as a part of Am. Sub. H.B. 483 of the 130th General Assembly.

Aaron Montz
Mayor, City of Tiffin

Christopher Nicastro
Deputy Director, Ohio
Department Mental Health &
Addiction Services

Carol O'Brien
Delaware County Prosecutor

Chrystal Pounds-Alexander
Victim's Representative

Joanna Saul
Executive Director, Correctional
Institution Inspection Committee

Hon. Nick Selvaggio
Champaign County
Court of Common Pleas

Cecil Thomas
State Senator, District 9

Gregory Trout
Chief Counsel
Bureau of Criminal Investigation

Jennifer Turnes
Senior VP & COO
Behavioral Healthcare Partners
of Central Ohio, Inc.

Wendy Williams
Chief Compliance Officer
Southeast Inc.

Tim Young
State Public Defender

Data Collection and Sharing Committee

The Data Collection and Sharing Committee's primary goals are to develop, coordinate, and identify ways to collect and promote methods for sharing appropriate data and information with justice system partners. Consistent with its core values, in 2015, the Criminal Sentencing Commission provided relevant and useful informational summaries and reports for subject matter including criminal justice reform, traffic, and sentencing as listed below:

- *Parole and Probation Structures: Distinguishing Between Bifurcated and Non-Bifurcated (October 2015)*
- *Death Penalty and Life Without the Possibility of Parole (Oct. 21, 2015)*
- *History of Marijuana Laws in Ohio and Supplemental Interesting Reports (Oct. 19, 2015)*
- *Crimes Reduced to Misdemeanors - a Look Back to 1990 (Oct. 19, 2015)*
- *Crime List by Felony Level (Oct. 19, 2015)*
- *Rape Penalty Sentencing Chart (Oct. 19, 2015)*
- *50 State Sentencing Summary (Oct. 19, 2015)*
- *25 Year Review of Sentencing for Certain Felony Offenses (May 5, 2015)*
- *Appellate Review - Grounds for Appeal of Criminal Sentence (April 2015)*
- *Felony Sentencing Quick Reference Guide (April 2015)*
- *Drug Offense Quick Reference Guide (April 2015)*
- *Interstate Compact & Municipal Courts (April 2015)*

Additionally, among the larger issues the committee is tackling is an Ohio-specific data primer report identifying statewide data collection, its use, and accessibility. The Data Collection and Sharing Committee also has an ad hoc committee on sex offender registration that is thoroughly reviewing the subject for potential realistic, public safety-focused reform.

2015 Data Collection & Sharing Committee

Hon. Gary Dumm, Chair
Circleville Municipal Court

Douglas Berman
Professor
Moritz College of Law
The Ohio State University

Brian Farrington
Statistics Analyst
Supreme Court of Ohio

Dave Landefeld
Ohio Justice Alliance for
Community Corrections

Brian Martin
Assistant Chief, Research
Department of Rehabilitation
& Correction

Edward Mejia
Staff Lieutenant
Ohio State Highway Patrol
Department of Public Safety

Robert 'Dave' Picken
Ohio Attorney General's Office

Mark Schweikert
Executive Director
Ohio Judicial Conference

Erin Waltz
Library Public Services Manager
Supreme Court of Ohio
Staff Liaison

Gary Yates
Court Administrator
Butler County

Special Thanks

The Ohio Criminal Sentencing Commission could not have performed its work in 2015 without the amazing, generous, and exceptional diligence of:

**Ohio Criminal Sentencing
Commission Members**

**Ohio Criminal Sentencing Advisory
Committee Members**

The Ohio Judicial Conference

**The Supreme Court of Ohio
Law Library**

**The Supreme Court of Ohio
Office of Public Information**

Jo Ellen Cline
Criminal Justice Counsel
Criminal Sentencing Commission

Ms. Marie Coleman, Intern
The Ohio State University
Moritz College of Law
JD Candidate 2016

Ms. Sienna Haslup, Intern
University of South Carolina 2017

Hon. Thomas Marcelain
Licking County
Court of Common Pleas

Hon. Nick Selvaggio
Champaign County
Court of Common Pleas

Acknowledgments

2015 was a year of transition and rejuvenation for the Ohio Criminal Sentencing Commission, yet that transformation began in recognizing and honoring the history and tradition established by a few very special people:

David Diroll
Executive Director (retired)
Ohio Criminal Sentencing Commission

Hon. David Gormley
Delaware Municipal Court
Past Vice-Chair, Ohio Criminal
Sentencing Commission

Cynthia Ward
Administrative Assistant
Administrative Director's Office
Supreme Court of Ohio

2016 Preview

Looking ahead, in addition to our ongoing committee work, continuing to build our day-to-day operation, and responding to information and training requests, the Criminal Sentencing Commission has focused its attention on collecting information and illustrating the availability of and eligibility for sentencing options, information gathering and discussion of prosecutorial diversion programs, delivering a state and local resource profile — dollars, services, crime patterns and other notable criminal justice indicators — and continuing our new series, *The Legislative and Judicial Brief*, summarizing recent court cases, legislation and Commission activity.

The Criminal Sentencing Commission also is an active partner in collaboration with the Recodification Committee and stands ready to be of service in providing input, consult, and recommendations in criminal justice and public safety reform.

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

APPENDICES

APPENDIX I - Commission & Advisory Committee Roster

THE SUPREME COURT OF OHIO CRIMINAL SENTENCING COMMISSION MEMBERS

CHAIR

Hon. Maureen O'Connor

Chief Justice, Supreme Court of Ohio

Sara Andrews, Director, Criminal Sentencing Commission

Paula Brown, Ohio State Bar Association

Ronald Burkitt, Juvenile Police Officer

Hearcel Craig, State Representative

Hon. Robert DeLamatre, Juvenile Court Judge

Derek DeVine, Prosecuting Attorney

Paul Dobson, County Prosecutor

Hon. Gary Dumm, Municipal Court Judge

John Eklund, State Senator

Hon. Robert Fragale, Juvenile Court Judge

Kort Gatterdam, Defense Attorney

Kathleen Hamm, Public Defender

Hon. Frederick "Fritz" Hany II, Municipal Court Judge

Hon. Sylvia Sieve Hendon, Appellate Court Judge

Hon. Terri Jamison, Juvenile Court Judge

VICE CHAIR

Hon. Thomas Marcelain

Licking County Court of Common Pleas

Hon. Steve McIntosh, Common Pleas Court Judge

Gary Mohr, Director, Department of Rehabilitation and Correction

Aaron Montz, Mayor, City of Tiffin

Jason Pappas, Fraternal Order of Police

Dorothy Pelanda, State Representative

Chrystal Pounds-Alexander, Victim Representative

Col. Paul Pride, Ohio State Highway Patrol

Bob Proud, County Commissioner

Harvey Reed, Director, Department of Youth Services

A.J. "Tim" Rodenberg, Sheriff

Hon. Nick Selvaggio, Common Pleas Court Judge

Hon. Kenneth Spanagel, Municipal Court Judge

Cecil Thomas, State Senator

Tim Young, State Public Defender

CRIMINAL SENTENCING ADVISORY COMMITTEE

Lara Baker-Morrish

Chief Prosecutor
City Attorney's Office

Jill Beeler-Andrews

Ohio Public Defender's Office

Douglas Berman

Professor
The Ohio State University

Kari Bloom

Ohio Public Defender's Office

Dustin Calhoun

Chief Counsel, Youth Services

James Cole

Montgomery County Juvenile Court

Lori Criss

Ohio Council

Erin Davies

Juvenile Justice Coalition

Eugene Gallo

CORJUS

Steve Gray

Chief Counsel
Department of Rehabilitation and Correction

James Lawrence

Ohio Community Corrections Association

Brian Martin

Bureau of Research
Department of Rehabilitation and Correction

Cynthia Mausser

Managing Director
Department of Rehabilitation and Correction

Michele Miller

Warden
Belmont Correctional Institution

Chris Nicastro

Department of Mental Health and Addiction Services

Kyle Petty

Department of Youth Services

David Picken

Attorney General's Office

Joanna Saul

Correction Institution Inspection Committee

Mark Schweikert

Executive Director
Ohio Judicial Conference

Hon. Keith Spaeth

Common Pleas Judge & Ohio Justice Alliance
Community Corrections

Gary Yates

Court Administrator
Chief Probation Officer's Association

APPENDIX II - Criminal Sentencing Commission Member Profiles

Chief Justice Maureen O'Connor (*chair*) is the 10th chief justice and the first woman in Ohio history to lead the Ohio judicial branch. She has served as a justice, prosecuting attorney, judge, magistrate, and attorney. Chief Justice O'Connor earned her Bachelor of Arts at Seton Hill College before going on to earn her law degree from Cleveland-Marshall College of Law.

Judge **Thomas M. Marcelain** (*vice chair*) received his undergraduate degree from Ashland College and his Juris Doctorate from Temple University School of Law. Judge Marcelain served on the municipal court bench before becoming a common pleas court judge.

Sara Andrews, director of the Ohio Criminal Sentencing Commission, attended the University of Northern Colorado for her undergraduate degree before earning her master's from the University of Dayton. Andrews previously worked at the Ohio Department of Rehabilitation and Correction.

Paula Brown, of Kravitz, Brown and Dortch, LLC, serves as the Ohio State Bar Association representative. Brown earned her undergraduate degree from Youngstown State University before obtaining a departmental honors degree from Otterbein College and a Juris Doctorate degree from Capital University Law School.

Ron Burkitt is a veteran of the Hilliard Police Department and currently works as a school resource officer and is president of the Ohio School Resource Officer's Association. He is attending Franklin University seeking a bachelor's degree in public safety management, and looks to graduate in spring of 2016.

Criminal Justice Counsel **Jo Ellen Cline** earned her Bachelor of Arts in political science from Stetson University, and her Juris Doctorate degree from Capital University Law School. Prior to working at the Ohio Supreme Court, Cline worked as an assistant state public defender.

State Rep. **Hearcel Craig** of the 26th District graduated from Central Michigan University before serving in the U.S. Army. Craig previously worked as a legislative liaison and Columbus city councilman, and he was named the 2011 Public Servant of the Year by Community Shares of Mid-Ohio.

Domestic Relations and Juvenile Divisions, Erie County Common Pleas Judge **Robert C. DeLamatre** attended Ohio Northern University for his bachelor's degree and University of Toledo for his Juris Doctorate degree. Before becoming a judge he worked as a private practice attorney.

Seneca County Prosecuting Attorney **Derek W. DeVine** attended the University of Evansville then the Ohio Northern University College of Law. Prior to becoming a prosecutor, DeVine worked as a private-practice attorney.

Paul Dobson is the Wood County prosecuting attorney. He received his Bachelor of Education and law degree from the University of Toledo.

Circleville Municipal Court Judge **Gary Dumm** earned his bachelors degree from Ohio University then his law degree from Capital University Law School. Judge Dumm previously worked as an attorney.

State Sen. **John Eklund** is holding his first term in the 18th District of Ohio. Eklund earned a bachelor's degree from Union College and a law degree from the Washington and Lee University School of Law. Eklund is listed in *The Best Lawyers in America* for antitrust law.

Marion County Court of Common Pleas Juvenile Court Judge **Robert D. Fragale** earned his Bachelor of Science from Slippery Rock University before attending Capital University Law School. Judge Fragale previously worked as an attorney and magistrate.

Kort W. Gatterdam, is a white collar/criminal defense attorney from Carpenter Lipps & Leland LLP. Gatterdam earned his undergraduate degree from Ohio University before graduating from the University of Florida Law School.

Kathleen M. Hamm, Wood County public defender, attended the University of Notre Dame and the University of Toledo Law School.

Ottawa County Municipal Court Judge **Frederick "Fritz" C. Hany II** received his Bachelor of Arts from the University of Michigan and Juris Doctorate degree from the University of Toledo College of Law. Prior to taking the bench, Judge Hany worked as an attorney.

APPENDIX II - Criminal Sentencing Commission Member Profiles

First District Court of Appeals Judge **Sylvia Sieve Hendon** has served as presiding judge in all three levels of court in Hamilton County. She earned her undergraduate degree from Edgecliff College (Xavier University) before receiving her Juris Doctorate degree from Salmon P. Chase College of Law.

Franklin County Court of Common Pleas Juvenile Court Judge **Terri Jamison** received her undergraduate degree from Franklin University and Juris Doctorate degree from Capital University Law School. She is a former public defender and was president of Jamison Law Offices.

Judge **Stephen A. McIntosh** serves on the Franklin County Court of Common Pleas bench. Before serving as a common pleas court judge, McIntosh was chief prosecutor in the Columbus City Attorney's Office. He earned his undergraduate degree from South Carolina State University and his law degree from The Ohio State University Moritz College of Law.

Director **Gary Mohr** of the Ohio Department of Rehabilitation and Correction (DRC), was a deputy director and superintendent of the Ohio Department of Youth Services and warden at the Ross Correctional Institution before becoming the DRC director.

Tiffin Mayor **Aaron Montz** received his Bachelor of Arts in history and political science from Heidelberg University. Montz served on Tiffin City Council before becoming mayor.

Jason Pappas is a 24-year veteran of the Columbus Division of Police and the president of the Fraternal Order of Police, Capital City Lodge. He is enrolled in Franklin University's Public Safety Management program and is scheduled to graduate in 2017.

Dorothy Pelanda is in her second term in the Ohio House of Representatives, where she represents the 86th District and serves as assistant majority whip. Pelanda received her undergraduate degree from Miami University, then attended University of Akron's School of Law. Prior to becoming a state representative, Pelanda practiced law for 30 years.

Chrystal Pounds-Alexander received her undergraduate degree from The Ohio State University and a master's in criminal justice from Tiffin University. She is the former program director of the Ohio Family Violence Prevention Center and currently serves as administrator for the Office of Victim Services in the Ohio Department of Rehabilitation and Correction.

Ohio State Highway Patrol Superintendent Col. **Paul Pride** attended Ohio University and the Northwestern University School of Police Staff and Command program. Prior to joining the police force, Col. Pride served for seven years in the U.S. Marine Corps.

Bob Proud is in his seventh term as Clermont County commissioner. He has served as president of the Ohio Community Corrections Association and the Ohio Department of Corrections Community Corrections Advisory Board. Proud attended Cumberland College, where he earned degrees in religion and psychology.

Harvey Reed, director of the Ohio Department of Youth Services, received his criminal justice degree from the University of Cincinnati. Reed previously was the superintendent of the Hamilton County Juvenile Court Youth Center.

A.J. "Tim" Rodenberg has been Clermont County sheriff since 1997. Prior to that he was an assistant prosecutor in Clermont County and in the private practice of law. Sheriff Rodenberg has degrees in police science, criminal justice, and law from the University of Cincinnati, and he served on active duty with the U.S. Marines for five years.

Champaign County Court of Common Pleas Judge **Nick A. Selvaggio** earned his Bachelor of Arts in public administration from Miami University and his Juris Doctorate degree from Cleveland-Marshall College of Law. He was the elected Champaign County prosecutor for 16 years prior to becoming judge.

Parma Municipal Court Judge **Kenneth Spanagel** attended Northwestern University and Case Western Reserve Law School where he earned his Juris Doctorate degree. Previously, Judge Spanagel was a lawyer and helped teach continuing legal education.

State Senator **Cecil Thomas**, of Ohio's 9th congressional district, attended the University of Cincinnati before joining the Cincinnati police. Thomas worked in human relations prior to being elected to Cincinnati City Council.

Ohio Public Defender **Timothy Young** received his Bachelor of Arts and Juris Doctorate degrees from the University of Dayton. Before becoming the state public defender in 2008, he worked as a county public defender.

Appendix III:

Legislation Recommended and Advanced by the Commission

2152.18 No designation of institution of commitment.

(A) When a juvenile court commits a delinquent child to the custody of the department of youth services pursuant to this chapter, the court shall not designate the specific institution in which the department is to place the child but instead shall specify that the child is to be institutionalized in a secure facility.

(B) When a juvenile court commits a delinquent child to the custody of the department of youth services pursuant to this chapter, the court shall state in the order of commitment the total number of days that the child has been confined in connection with the delinquent child complaint upon which the order of commitment is based. The court shall not only include days that the child has been under electronic monitoring or house arrest or days that the child has been confined in a halfway house. The department shall reduce the minimum period of institutionalization that was ordered by both the total number of days that the child has been so confined as stated by the court in the order of commitment and the total number of any additional days that the child has been confined subsequent to the order of commitment but prior to the transfer of physical custody of the child to the department.

The juvenile court retains continuing jurisdiction to correct any error not previously raised at disposition in making a determination under this division. The delinquent child may, at any time after disposition, file a motion in the juvenile court to correct any error made in making a determination under this division and the court may in its discretion grant or deny that motion. If the court changes the number of days in its determination or redetermination, the court shall cause the entry granting that change to be delivered to the department of youth services without delay.

An inaccurate determination under this division is not grounds for setting aside the offender's adjudication or disposition and does not otherwise render the disposition void or voidable.

(C) (1) When a juvenile court commits a delinquent child to the custody of the department of youth services pursuant to this chapter, the court shall provide the department with the child's medical records, a copy of the report of any mental examination of the child ordered by the court, the Revised Code section or sections the child violated and the degree of each violation, the warrant to convey the child to the department, a copy of the court's journal entry ordering the commitment of the child to the legal custody of the department, a copy of the arrest record pertaining to the act for which the child was adjudicated a delinquent child, a copy of any victim impact statement pertaining to the act, and any other information concerning the child that the department reasonably requests. The court also shall complete the form for the standard predisposition investigation report that the department furnishes pursuant to section 5139.04 of the Revised Code and provide the department with the completed form.

The department may refuse to accept physical custody of a delinquent child who is committed to the legal custody of the department until the court provides to the department the documents specified in this division. No officer or employee of the department who refuses to accept physical custody of a delinquent child who is committed to the legal custody of the department shall be subject to prosecution or contempt of court for the refusal if the court fails to provide the documents specified in this division at the time the court transfers the physical custody of the child to the department.

(2) Within twenty working days after the department of youth services receives physical custody of a delinquent child from a juvenile court, the court shall provide the department with a certified copy of the child's birth certificate and the child's social security number or, if the court made all reasonable efforts to obtain the information but was unsuccessful, with documentation of the efforts it made to obtain the information.

Appendix III:

Legislation Recommended and Advanced by the Commission

(3) If an officer is preparing pursuant to section 2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2 a presentence investigation report pertaining to a person, the department shall make available to the officer, for use in preparing the report, any records or reports it possesses regarding that person that it received from a juvenile court pursuant to division (C)(1) of this section or that pertain to the treatment of that person after the person was committed to the custody of the department as a delinquent child.

(D) (1) Within ten days after an adjudication that a child is a delinquent child, the court shall give written notice of the adjudication to the superintendent of a city, local, exempted village, or joint vocational school district, and to the principal of the school the child attends, if the basis of the adjudication was the commission of an act that would be a criminal offense if committed by an adult, if the act was committed by the delinquent child when the child was fourteen years of age or older, and if the act is any of the following:

(a) An act that would be a felony or an offense of violence if committed by an adult, an act in the commission of which the child used or brandished a firearm, or an act that is a violation of section 2907.06, 2907.07, 2907.08, 2907.09, 2907.24, or 2907.241 of the Revised Code and that would be a misdemeanor if committed by an adult;

(b) A violation of section 2923.12 of the Revised Code or of a substantially similar municipal ordinance that would be a misdemeanor if committed by an adult and that was committed on property owned or controlled by, or at an activity held under the auspices of, the board of education of that school district;

(c) A violation of division (A) of section 2925.03 or 2925.11 of the Revised Code that would be a misdemeanor if committed by an adult, that was committed on property owned or controlled by, or at an activity held under the auspices of, the board of education of that school district, and that is not a minor drug possession offense;

(d) An act that would be a criminal offense if committed by an adult and that results in serious physical harm to persons or serious physical harm to property while the child is at school, on any other property owned or controlled by the board, or at an interscholastic competition, an extracurricular event, or any other school program or activity;

(e) Complicity in any violation described in division (D)(1)(a), (b), (c), or (d) of this section that was alleged to have been committed in the manner described in division (D)(1)(a), (b), (c), or (d) of this section, regardless of whether the act of complicity was committed on property owned or controlled by, or at an activity held under the auspices of, the board of education of that school district.

(2) The notice given pursuant to division (D)(1) of this section shall include the name of the child who was adjudicated to be a delinquent child, the child's age at the time the child committed the act that was the basis of the adjudication, and identification of the violation of the law or ordinance that was the basis of the adjudication.

(3) Within fourteen days after committing a delinquent child to the custody of the department of youth services, the court shall give notice to the school attended by the child of the child's commitment by sending to that school a copy of the court's journal entry ordering the commitment. As soon as possible after receipt of the notice described in this division, the school shall provide the department with the child's school transcript. However, the department shall not refuse to accept a child committed to it, and a child committed to it shall not be held in a county or district detention facility, because of a school's failure to provide the school transcript that it is required to provide under this division.

(4) Within fourteen days after discharging or releasing a child from an institution under its control, the department of youth services shall provide the court and the superintendent of the school district in which the child is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code with the following:

- (a) An updated copy of the child's school transcript;
- (b) A report outlining the child's behavior in school while in the custody of the department;
- (c) The child's current individualized education program, as defined in section 3323.01 of the Revised Code, if such a program has been developed for the child;
- (d) A summary of the institutional record of the child's behavior.

The department also shall provide the court with a copy of any portion of the child's institutional record that the court specifically requests, within five working days of the request.

(E) At any hearing at which a child is adjudicated a delinquent child or as soon as possible after the hearing, the court shall notify all victims of the delinquent act who may be entitled to a recovery under any of the following sections of the right of the victims to recover, pursuant to section 3109.09 of the Revised Code, compensatory damages from the child's parents; of the right of the victims to recover, pursuant to section 3109.10 of the Revised Code, compensatory damages from the child's parents for willful and malicious assaults committed by the child; and of the right of the victims to recover an award of reparations pursuant to sections 2743.51 to 2743.72 of the Revised Code.

(F) As used in this section:

(1) "Confined" means the placement of a child in a locked and secure facility, either adult or juvenile, or a locked and secure section of any facility, or any community correction facility as defined in 5139.01(A)(14) of the Revised Code.

(2) "Secure facility" has the same meaning as in section 5139.01(15) of the Revised Code. Amended by 129th General Assembly File No. 131, SB 337, §1, eff. 9/28/2012.

Effective Date: 07-05-2002; 09-16-2004

2967.13(B) Review of Extended Sentences of Prisoners Convicted for Offenses Committed while Under the Age of Eighteen

(1) **Scope & Application** The provisions of this division apply to any prisoner serving a prison sentence as described by this division for an offense or offenses which occurred prior to the prisoner turning eighteen. Regardless of whether the prisoner's stated prison term includes mandatory time, the provisions of this division apply automatically and cannot be limited by the sentencing court.

(2) **Eligibility and Timing** Notwithstanding any provision of the Revised Code to the contrary, and regardless of when the offense or offenses were committed, a prisoner who was under the age of eighteen at the time of the offense for which he or she is serving a prison sentence is eligible for parole as follows:

(a) If the prisoner's stated prison term totals at least fifteen years, the prisoner is eligible for parole after serving fifteen years;

Appendix III: Legislation Recommended and Advanced by the Commission

(b) If the prisoner has a sentence that permits parole only after fifteen or more years, the prisoner is eligible for parole after serving fifteen years;

(c) If the prisoner is serving a sentence of life without parole, the prisoner is eligible for parole upon turning age forty.

(3) **Release Review.** Once a prisoner is eligible for parole pursuant to division (B) of this section, the parole board shall, within a reasonable time after the prisoner becomes eligible, conduct a hearing to consider the prisoner's release onto parole supervision. The hearing shall be conducted in accordance with Chapters 2930., 2967., and 5149. of the Revised Code, and in accordance with policies and procedures established by the parole board, provided that such policies and procedures shall permit the prisoner's privately retained counsel or the Ohio Public Defender to appear at the prisoner's hearing to make a statement in support of the prisoner's release.

The parole board shall ensure that the prisoner is provided a meaningful opportunity to obtain release. In addition to the factors in OAC 5120:1-1-07, the board shall also take into consideration as mitigation the age of the offender at the time of the offense; the diminished culpability of youth; the hallmark features of youth, including immaturity and the failure to appreciate risks and consequences; the family and home environment of the offender at the time of the offense; and any subsequent growth and increased maturity of the prisoner during incarceration.

(4) **Conditions of parole.** The parole board shall in accordance with section 2967.131 of the Revised Code, impose appropriate terms and conditions of release upon each prisoner granted a parole under this division.

(5) **Subsequent Review.** If the parole board denies release pursuant to this division, the board shall conduct a subsequent release review pursuant to this division no more than ten years after release was denied.

(6) **Notice to Ohio Public Defender** In addition to any notice to any other person required by rule or statute, the parole board shall notify the Ohio Public Defender of a prisoner's eligibility for review under this division at least sixty days before the board begins any review or proceedings of that prisoner under this division.

Sec. 5149.101 Full board hearings.

(A) (1) A board hearing officer, a board member, or the office of victims' services may petition the board for a full board hearing that relates to the proposed parole or re-parole of a prisoner, including, but not limited to, any prisoner described in division (B) of section 2967.13 of the Revised Code. At a meeting of the board at which a majority of board members are present, the majority of those present shall determine whether a full board hearing shall be held.

Uncodified Law

R.C. 2967.13(B) is intended to implement the decisions of the Supreme Court of the United States in *Miller v. Alabama*, U.S. , 132 S.Ct. 2455, 183 L.Ed.2d 407 (2012) and *Graham v. Florida*, 560 U.S. 48, 48, 130 S.Ct. 2011, 176 L.Ed.2d 825 (2010). R.C. 2967.13(B) shall apply retroactively.



[Volume 1, Issue 1]
January 6, 2016



Legislative & Judicial Brief

A Message from Sara Andrews, Director



The Ohio Criminal Sentencing Commission is pleased to unveil our first edition of The Legislative & Judicial Brief, a publication we trust you will find useful, relevant and informational. The Ohio Criminal Sentencing Commission routinely brings together judges, prosecuting and defense attorneys, behavioral health professionals, academics, corrections officials, law enforcement, victims' advocates, community corrections experts, and others with a direct interest in criminal sentencing and, therefore, is well-positioned to bridge the information gap among criminal justice system partners. We seek bipartisan, meaningful, forward thinking, informed processes and outcomes through creative solutions – beyond simplification and modernizing the Revised Code – our work is to enhance justice and ensure fair sentencing in the State of Ohio.

The Legislative & Judicial Brief is designed to share information, spark conversation, enlighten minds and move ideas to solutions that advance public safety, realize fairness in sentencing, preserve judicial discretion, provide a meaningful array of sentencing options and distinguish the most efficient and effective use of correctional resources.

-Sara Andrews

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Member Profile



Special thanks to the Honorable **Thomas M. Marcelain**, Licking County Court of Common Pleas for his leadership during calendar year 2015, serving as Vice Chair of the Ohio Criminal Sentencing Commission.

Judge Marcelain received his undergraduate degree from Ashland College, then his Juris Doctorate Degree from Temple University School of Law. Marcelain previously was a Municipal Court Judge before becoming a Common Pleas Court Judge.

Through his steady, gracious and reverent direction the Commission identified and achieved a number of priorities, revived its membership and created a solid foundation for future relevant contributions to criminal justice and public safety reform.

We are grateful he will continue to serve the Commission as a Member and give him our best regards for success as he begins his term of President of the Common Pleas Judges' Association.

Legislation Impacting Sentencing

HB 410 – Truancy

The bill makes several changes to truancy laws in an effort to keep kids in school. First, the habitual truant calculation will use school hours, rather than days (based on a six hour school day). Once the habitual truant threshold is met, within ten days of the qualifying absence, the student is assigned an “absence intervention team” at the school level. This team must prepare a plan to address attendance, which could include a court diversion program. If the student refuses to participate or fails to complete the program on the school level, a complaint is filed with the court. The complaint is then held in abeyance pending participation in a “diversion program.” Within 30 days of the filing of the complaint, the court develops a diversion program for the child which must include specific goals and timelines. If the child completes the program to the court's satisfaction, the court dismisses the complaint. If the child fails to make progress toward completion of the program to the court's satisfaction, the court can modify the program or consider the complaint.

Other changes include: prohibiting suspensions and expulsions for truancy; and including chronic truancy as a trigger for either contributing or failure to send.

SB 184 – SORN

The bill specifies that the information provided by registrants must be accurate and that any changes need to be registered within seven days of the change. Information that must be updated includes registered addresses, notice of intent to reside, registered vehicle, email, Internet identifiers and telephone information. A failure to register accurate information or to provide an update within seven days of any change would be considered a failure to register under the bill.

HB 388 – Ignition Interlock Devices (IIDs)

This bill was first advocated by the Coalition of Ignition Interlock Manufacturers and M.A.D.D. and has been previously introduced as 127 HB 279 (Reps. Letson and Seitz), 128 HB 78 (Reps. Hottinger and Weddington), and 130 HB 469 (Rep. Johnson). Under HB 388, for a first-time OVI offender, the court can either (1) give no driving privileges, (2) give limited driving privileges (as under current law), or (3) give unlimited privileges (at petition of offender), with use of an IID.

SB 204 and HB 307 – Discretionary Driving Suspensions

This bill started as part of the effort to limit collateral sanctions under 2013 SB 337, but mandatory driving suspensions for drug charges were not changed because of a federal mandate. The federal law that mandates the driving suspension also provides an opt-out and in the 130th GA, SCR 27 and HCR 55, were approved by their respective chambers and the Governor issued a certificate officially opting out of the federal mandate that all drug charges must result in driving suspensions. In convictions under R.C. 2925, under SB 204 and HB 307, a judge will have the discretion to decide whether to suspend an offender's driving license or not. Additionally, if a person has had his license mandatorily suspended prior to the passage of the bill, that person can petition the court to lift the suspension and the judge may choose to either lift or keep the suspension.

HB 300 – Lifetime and Multiyear Driving Suspensions

This bill was proposed to legislators by a constituent whose mother had been killed by a repeat drunk driver. The bill clarifies that a Class I suspension for vehicular manslaughter begins upon release from prison (not upon conviction). HB 300 provides that, in order for OVI offenders to terminate their license suspensions with the Bureau of Motor Vehicles, they must provide documentation that the entirety of their license suspensions were served outside of prison. If an offender would like to petition to modify or terminate a lifetime suspension or a suspension of more than 15 years, that offender is eligible after 15 years if the underlying offense was a felony and after 5 years if it was a misdemeanor.

Court Decisions Regarding Sentencing

State v. Blankenship, Slip Opinion No. 2015-Ohio-4624

The Court found that the sex offender registration and notification mandates for Tier 2 sex offenders do not amount to cruel and unusual punishment. The Supreme Court of Ohio had previously held that the requirements of SORN are punitive, not remedial, in nature. In this case, the Court determined that the mandates of registration would not be considered “shocking to any reasonable person”.

State v. Earley, Slip Opinion No. 2015-Ohio-4615

The Supreme Court of Ohio held that a trial court may impose separate sentences on a defendant convicted of aggravated vehicular assault and operating a vehicle under the influence (OVI) when the OVI is the underlying conduct that led to the vehicular assault.

State v. Beeler 2015-Ohio-668

The Fourth Appellate District Court of Ohio held that, under R.C. 2951.022, multiple municipal courts can each retain their individual authority to supervise an offender who is a concurrent supervision offender in separate courts and separate counties.

State v. Ruff 2015-Ohio-995

The Supreme Court held that three factors determine whether multiple offenses were “were offenses of similar import” as defined in R.C. 2941.25: conduct, animus, and import. If the defendant’s conduct is composed of offenses involving separate victims or if the resulting harm is separate and identifiable, then two or more offenses of dissimilar import exist. A defendant can be convicted of multiple offenses if the conduct involves offenses of dissimilar import, or the offenses were committed separately, or the offenses were committed with separate animus.

Relevant Rule Amendments

Sup.R. 8 – Court Appointments

The Supreme Court has published proposed amendments to the Rules of Superintendence for the Courts of Ohio to guide local courts in making court-appointments of lawyers for indigent persons. The rule currently requires courts to make sure there’s an “equitable distribution” when it comes to appointing a lawyer. The proposed amendment clarifies and defines equitable to include a system that would “widely” and “fairly” distribute appointments from a list of pre-qualified lawyers. The court accepted public comments until December 24, 2015 and those comments are now being reviewed by a subcommittee of the Advisory Committee on Case Management. Final action on the amendments can be expected in spring 2016.

Sup.R. 5.01 – Use of Restraints in Juvenile Court

The Supreme Court of Ohio has published proposed amendments to the Rules of Superintendence for the Courts of Ohio that would, if adopted, require local courts to adopt a local rule on the use of restraints on juvenile offenders. The local rule would be required to create a presumption against shackling. However, local courts could restrain juveniles on a case-by-case basis if a judge finds on the record it is necessary because the juvenile’s behavior is a threat or the juvenile is at risk of fleeing. The judge must also find that restraint is necessary because no less restrictive alternatives exist. The public comment period on the proposed amendments ended on January 7, 2015 and those comments are being reviewed by the Advisory Committee on Children & Families. Final action on the proposed amendment is expected in spring 2016.

Crim.R. 11 – Pleas; Negotiated Pleas in Felony Cases

The Supreme Court has published proposed amendments to the Ohio Rules of Criminal Procedure that would require a determination by the court, on the record, that a factual basis supporting the charges exists—prior to accepting a plea agreement. The proposed amendment only applies to felony matters. The Court has reviewed public comments submitted on the proposed amendment and will file the proposed amendments with the General Assembly by January 15, 2016 pursuant to Art. IV, Sect. 5(b) of the Ohio Constitution. The Court will then publish the proposed amendment for another public comment period. Any revisions the Court makes to the proposed amendment must be filed with the General Assembly prior to May 1, 2016 and the amendment would become effective July 1, 2016.

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Legislation Recommended and Advanced by the Commission

On November 19, 2015 the full membership of the Ohio Criminal Sentencing Commission convened and favorably voted to advance two legislative proposals drafted by the Juvenile Justice Committee.

Specifically, the Commission approved amendments to ORC 2152.18 [confinement credit] to clarify the application of the statute and thereby, reduce and/or eliminate confinement credit entries brought by the Office of the Ohio Public Defender to Department of Youth Services facilities.

The second legislative proposal recommends amending 2967.13(B) [Juvenile Life Without Parole – LWOP] which was initiated in response to recent U.S. Supreme Court cases and successful legislative efforts in California and West Virginia on the topic. The Commission is awaiting bill sponsor(s) and is hopeful for introduction in Spring 2016.

For more information on these proposals contact us at sara.andrews@sc.ohio.gov or visit

<http://www.supremecourt.ohio.gov/Boards/Sentencing/default.asp>

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Ohio Criminal Sentencing Commission Members

CHAIR

Maureen O'Connor, *Chief Justice*

VICE-CHAIR

Nick Selvaggio, *Common Pleas Court Judge*

John Eklund, *State Senator*

Cecil Thomas, *State Senator*

Dorothy Pelanda, *State Representative*

Hearcel Craig, *State Representative*

Thomas Marcelain,
Common Pleas Court Judge

Robert DeLamatre, *Juvenile Court Judge*

Gary Dumm, *Municipal Court Judge*

Frederick “Fritz” Hany II,
Municipal Court Judge

Sylvia Sieve Hendon, *Appellate Court Judge*

Kenneth Spanagel, *Municipal Court Judge*

Steve McIntosh, *Common Pleas Court Judge*

Terri Jamison, *Juvenile Court Judge*

Robert Fragale, *Juvenile Court Judge*

Derek DeVine, *Prosecuting Attorney*

Paul Dobson, *County Prosecutor*

Bob Proud, *County Commissioner*

Albert Rodenberg, *Sheriff*

Aaron Montz, *Mayor*

Col. Paul Pride, *Ohio State Highway Patrol*

Harvey Reed,
Director, Department of Youth Services

Tim Young, *State Public Defender*

Gary Mohr, *Director, Department of Rehabilitation and Correction*

Chrystal Pounds-Alexander,
Victim Representative

Paula Brown,
Ohio State Bar Association Representative

Ronald Burkitt, *Juvenile Police Officer*

Kort Gatterdam, *Defense Attorney*

Kathleen Hamm, *Public Defender*

Jason Pappas, *Fraternal Order of Police*

*the Commission is assisted by its Advisory Committee, for a complete list contact sara.andrews@sc.ohio.gov

Working Committees of the Commission

Sentencing & Criminal Justice Committee priorities include the study criminal penalties and sentencing statutes and patterns in Ohio, recommend statutory change and review national developments and trends on matters of sentencing. The committee is also poised to respond and make recommendations regarding more broad areas including probation, risk assessment, release programs, specialized dockets, community corrections and improving as well as building relationships and coordinating the work of the Commission with other justice partners – both state and federal.

Juvenile Justice Committee priorities include the review of criminal penalties and sentencing statutes and patterns in Ohio and recommending strategies to combat juvenile delinquency and recidivism.

Data Collection and Sharing Committee primary goals are to develop, coordinate and identify ways to collect and promote methods for sharing appropriate data and information with justice system partners.

Each committee consists of a chair, a vice chair and individual members. The committee chairs are Commission Members or an Advisory Committee member. Committee membership may include individuals outside of the Sentencing Commission and its Advisory Committee that have a vested interest in the Commission’s work.

All committees generally meet the third Thursday of each month. For a full list of members, work to date and future meeting information, please visit <http://www.supremecourt.ohio.gov/Boards/Sentencing/default.asp> or email Sara Andrews at sara.andrews@sc.ohio.gov.

2016 Full Commission Meeting Dates

All meetings are held beginning at 10:00 a.m. at the Thomas J. Moyer Ohio Judicial Center, 65 South Front Street, Columbus, Ohio 43215.

Thursday, **March 17, 2016**, Room 101

Thursday, **June 23, 2016**, Room 101

Thursday, **Sept. 15, 2016**, Room 101

Thursday, **Dec. 15, 2016**, Room 101

Contact Us:

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Columbus, Ohio 43215-3431

www.supremecourt.ohio.gov/Boards/Sentencing

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Marta Mudri, Esq., *Legislative Counsel, Ohio Judicial Conference*

Questions, Comments, Suggestions? Contact: sara.andrews@sc.ohio.gov



This publication was produced in collaboration with the Ohio Judicial Conference.

PART III: NATIONAL OVERVIEW OF SENTENCING COMMISSIONS⁴

OVERVIEW OF SENTENCING COMMISSIONS

There are 24 active sentencing commissions (including the District of Columbia) in the United States. Sentencing commissions vary in terms of their structure, membership, duties and relationship with state government. (*For your reference, a catalog of sentencing commission structures and funding mechanisms can be found on page 23 of this document*). In addition to variations in structure, the impetus for creating sentencing commissions has changed over time. Since sentencing commissions were first established three decades ago, three notable trends have emerged. First, the earliest sentencing commissions, established in the late 1970s, were charged primarily with promulgating sentencing guidelines.

Second, while commissions became more widespread in the late 1980s and 1990s, the impetus for their creation shifted. These shifts were mainly due to the enactment of the Federal Crime Bill of 1994, also known as the Violent Crime Control and Law Enforcement Act, and the allocation of federal VOI/TIS money (Violent Offender Incarceration and Truth-in-Sentencing). Moreover, states were moving from indeterminate to determinate sentencing in an effort to implement truth-in-sentencing policies. As a result, these commissions were dealing with prison overcrowding crises caused by “get tough” sentencing policies of previous years and the shift to truth-in-sentencing.

Most recently, states have been creating commissions to examine criminal sentencing policies in broader terms. These commissions are not specifically focused on developing sentencing guidelines, but rather on issues of prison overcrowding, community sentencing alternatives and reentry strategies. Of the states that have established commissions in the past ten years, none have been charged with implementing sentencing guidelines.⁵

For example, Colorado established its Commission to address mounting concerns about the rapidly increasing prison population, high recidivism rates and soaring prison expenditures. In 2007, the year the Commission was established; state correctional facilities housed 23,000 inmates and maintained supervision of over 10,000 parolees. One of every two released prisoners returned to prison within three years. The Colorado Department of Corrections’ budget had increased from \$57 million in 1985 to \$702 million in 2007, and the state’s prison population grew 400 percent — from 4,000 in 1985 to 20,000 in 2005. Official projections suggested that the prison population would increase by nearly 25 percent by 2013. The pressure to curtail prison spending and reduce the prison population spawned the passage of the Commission’s enacting legislation.⁶

The Commission in New York was established to evaluate the efficacy of the state’s mandatory minimum laws for drug offenders. In Illinois, the Sentencing Commission was charged with ensuring that evidence-based practices are used in policy decisions and within the elements of the criminal justice system. To perform this function, the Commission is responsible for collecting and analyzing data, conducting correctional population projections based on simulation models, and producing fiscal impact statements for the legislature.

4 State of Connecticut Sentencing Commission 2014 Annual Report

5 The New York State Sentencing Commission on Reform was a temporary Commission which recommended in its final report on January 30, 2009 the creation of a permanent Sentencing Commission.

6 “Commission” refers to the Colorado Commission on Criminal and Juvenile Justice. The work of the Colorado Comprehensive Sentencing Task Force concluded on September 3rd, 2014. Sentencing issues are now addressed by the Colorado Commission on Criminal and Juvenile Justice.

Appendix V: National Sentencing Commission Information

SENTENCING COMMISSION STRUCTURES AND FUNDING MECHANISMS

State	Year Created	Affiliation	Members	Staff	Budget YR	Budget	Funding Source
Alabama	2000	Judicial	21	4	FY2013	311,299	General Fund
Alaska	1959	Judicial/Independent	7	8	FY2014	1,106,500	General Fund
Arkansas	1993	Independent	11	5	FY 2014	470,190	General Revenue /Other Funds
Colorado	2007	Executive	27	10			
Delaware	1984	Executive	11	1	FY 2014	51,900	General Fund and Federal Grants
Illinois	2009	Executive	18	3	FY 2014	668,000	General Fund
Iowa*	1974	Human Rights Department	23		FY 2014	1,260,105	General Fund
Kansas	1989	Hybrid/Independent	17	12	FY 2014	7,576,753	General Fund
Louisiana	1987	Executive	20	1			No Funding or External Financial Support
Maryland	1996	Executive	19	5	FY 2014	447,197	General Fund
Massachusetts	1994	Judicial	15	4	FY 2009	232,000	Federal Grant
Minnesota	1978	Executive	11	6	FY 2014	886,000	General Fund
Missouri	1994	Independent	11	1	FY 2013	47,192	General Revenue
New Mexico	2001	Executive	23	2	FY 2014	529,800	General Fund
New York	2010	Executive	20	3			
North Carolina	1990	Independent (Housed in Judicial)	28	10	FY 2009	900,000	
Ohio	1990	Judicial	31	1	FY 2011	206,766	General Fund
Oregon*	1995	Independent	9	8	FY 2012-2016	2,389,346	Federal Grant
Pennsylvania	1978	Legislative	14	17	FY 2013	2,371,024	General Fund and Federal Grants
Utah	1993	Executive	27	1	FY 2011	127,200	Crime Victim Reparations Fund
Virginia	1995	Judicial	17	9	FY 2014	1,050,457	General Fund
District of Columbia	2003	Independent	20	10	FY 2013	1,388,813	General Fund
United States	1984	Independent	7	100	FY 2013	15,637,000	Federal Funding

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OHIO

CRIMINAL SENTENCING COMMISSION

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