



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

Criminal Justice Committee

June 18, 2015

Meeting Notes

Attending:	Judge Spanagel	Gary Yates
	Lara Baker-Morrish	Gary Mohr
	Brian Martin	Jim Lawrence
	Tim Young	Paul Dobson
	Marta Mudri	Lusanne Green
	Paula Brown	Brian Martin
	Kari Underwood	Josh Williams
	Lusanne Green	Gregory Trout
	Judge Selvaggio	Judge Marcelain
	Joanna Saul	Professor Berman
	Jo Ellen Cline	Cynthia Mausser
	Lauren Chalupa	

Staff Liaisons: Sara Andrews

The meeting was called to order by Chair Yates. The notes from the last meeting were approved and introductions were made, including guest Judge Fred Peple as Chair of the Recodification Committee.

Judge Peple provided an overview of the Recodification Committee and its work thus far. There are workgroups assigned to sections of the Revised Code 2901 thru 2929 – the entire 29 section will probably not be addressed, however 2950 and 2971 will be addressed as well as the 'shall nots'. Judge Peple also noted his Committee will focus on proportionality and address overcriminalization/penalization. It was noted there are seven mutual members of the Recodification Committee and Sentencing Commission. Those seven members and select others will form the 2929 workgroup. A list of the workgroups and members will be distributed and the overview of the approach to the redrafting will also be shared with the group.

Vice-Chair of the Recodification Committee and member of the Sentencing Commission, Tim Young explained the Recodification Committee is a finite group whereas the Sentencing Commission is a permanent sitting body that will be relied upon for guidance when the Recodification Committee ends. He indicated the two groups will be working together and at some point, there may be a conversation regarding the placement of the Sentencing Commission in the General Assembly versus the Supreme Court of Ohio.

The committee began by reviewing the active assignments on its work chart.

1. Clarify role & function of OCSC – Sara provided the group with the Chief Justice’s memo shortly after the last meeting. Sara inquired the intent of the committee regarding the mission statement and how best to incorporate current statutory authority and the Chief’s future vision of the Commission. The group suggested using current statutory authority as the basis with the understanding there will be an evolution (and probably statutory change) over time and will likely coincide with the conclusion of the Recodification Committee.

Judge Marcelain, Judge Spanagel and Paul Dobson agreed to assist in the review of draft mission statements in preparation for the full Commission meeting in August.

2. Expungement/Sealing of Records – Sara noted that comments were sparse between meetings about the topic. Although, Lara indicated she will have information available from her office in the near future. The committee also welcomed Gregory Trout from the Attorney General’s Office to the group. Greg mentioned the status of Representative Pelanda’s pending legislation on the topic. Members discussed the goal for our review and Director Mohr stated we must be serious about changes and the changes should only enhance judicial discretion. Professor Berman noted as the law currently stands it is an effective remedy. He wondered about the availability of data on the topic. Judge Pepple suggested the Certificate of Qualification for Employment should also be included in the revision, suggesting the function be transferred from the Department of Rehabilitation and Correction to Job and Family Services. Lara pointed out the number of issues with the current provision including the requests are often granted without notice to the prosecutor’s office, complications when there are multiple cases involved for one person and the volume of cases.

Professor Berman agreed to chair a subcommittee focused on rights restoration and will be joined by Paul Dobson, Lara, Greg, Paula, Jim Lawrence and Cyndi. The group will have an actionable item for the full commission at the November meeting.

3. Probation violations for fines & restitution (decriminalizing non-payment of fines and costs). Sara contacted the originator of the suggestion for clarification and sent 'The Debt Penalty' article to members. The committee then discussed that the issue is larger than initially identified. Tim Young opined on the topic indicating that generally Ohio law is good and better for adults than juveniles – the juvenile justice committee chaired by Paul Dobson is actively working on this issue. Tim went on to say the ability to pay needs to be defined. Judge Selvaggio pointed out that restitution provides a range of sanctions for payment; court costs are not meant to be revenue generating, but instead provide an act of recognition and duty to pay – nonpayment versus good faith effort; and questioned the value of using fines as a penalty. Conversation then turned to the enforcement without violation of rights. Kari stated there should be some input from victims as to their expectation and if the imposition is effective – including the civil collection remedy. Paul asserted the absolute value to the public and victim – the contribution as the responsible person. The group contemplated whether the penalty/punishment needs redefined – i.e. child support; community service.

Jo Ellen reminded the group she has been tasked with creating bench cards on restitution and juvenile fines & cost and the committee will have the opportunity to review the final draft of the restitution bench card.

Kari will chair a subcommittee on the issue and joining her will be Judge Spanagel, Chrystal and Paul.

4. Transitional Control – Cyndi Mausser provided an update from the subcommittee indicating the Department has several internal projects underway including a pilot imposing Post Release Control for discretionary cases – ie. does the threat of post release control incentivize inmates to successfully complete transitional control; beginning July 1 for female inmates the Department will no longer allow inmates to waive participation in transitional control – all eligible offenders will be considered for the program. Presently, 12% of female inmates at ORW decline to participate and 23% at DCI decline to participate compared to the statewide 2014 average of 6.5%. Director Mohr stated the Department is also reconsidering its orientation delivery so that the message to inmates doesn't get overlooked. Brian Martin provided the committee with statistics indicating that the increase in the number of inmates participating in the program since SB143 became effective has not resulted in increased violations or program failures. The increase in numbers since SB143 is 2900 inmates in 2013 to presently 3500 inmates/year.

The group will have an actionable item for the full commission at the November meeting.

5. Commitments to DRC and allow DRC to “sort them out” –Sara reported the SCO law library researched the topic to determine if there are any other states that have this structure. Results found that Section 18 U.S.C. § 3621(b), provides the Bureau of Prisons authority to choose the place of imprisonment for federal inmates. According to this source <http://famm.org/wp-content/uploads/2013/08/FAQ-Halfway-House-4.24.pdf>, the entire sentence can be served in an alternative setting such as a halfway house. Additionally, at the state level there is a very specific program in California, providing the department of rehabilitation and correction the authority to run alternative custody programs for certain female inmates who have less than 24 months to serve and who meet eligibility criteria. The information for both programs was distributed and Sara will electronically send the articles to committee members for further review.

The committee will reevaluate the topic at the July 16, 2015 meeting.

The meeting adjourned noting the next meeting of the committee will be in person July 16, 2015 at 12:30p, room 281.