



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

### **Sentencing Committee**

September 17, 2015

#### Meeting Notes

Attending:	Judge Spanagel	Judge McIntosh
	Lara Baker-Morrish	Kathleen Hamm
	Judge Selvaggio	Judge Marcelain
	Carol O'Brien	Derek DeVine
	Tim Young	Wendy Williams
	Dave Forman	Ryan Dolan
	Paula Brown	Deb Herubin
	Kari Underwood	Ashon McKenzie
	Professor Doug Berman	David Roper
	Marie Coleman	Brian Martin
	Marta Mudri	Josh Williams
	Gloria Hampton	RoEllen Sinkewich
	Christie Bunch	

#### **Staff Liaison: Sara Andrews**

The meeting was called to order by Chair Judge Spanagel. The notes from the last meeting were approved and introductions were made. Judge Spanagel also recognized Judge Selvaggio's recent award from the Ohio State Bar Association for Innovative Court Practices. Chair Spanagel also noted recent George Will publications commending DRC Director Gary Mohr.

The committee then discussed the status of assignments and work chart. (notes are in order of the workchart, not necessarily as discussed during the meeting)

1. Sara also reported the members only page/internet access remains pending.
2. Judge Spanagel reported no change in status on the draft OVI legislation.

3. The Ad Hoc committee just met this morning and as previously noted agreed on language pertaining to juvenile offenders with draft language under review. The group noted a review of other state's statutes revealed no similar scheme to the one being contemplated other than a review of misdemeanor sentences in North Carolina. In addition, Ms. Cline distributed data gathered by Steve Vandine at the ODRC regarding current inmates convicted of F4s and F5s serving extended sentences. It was repeatedly mentioned by members of the ad hoc committee that review of the sentence did not mean release of the offender. Members agreed that a draft statutory scheme should be created with parameters. The draft will be circulated and the group next meets October 15, 2015 at 9:00a.
4. Chair Judge Spanagel noted that Senator Seitz's legislation regarding driver's license suspension and drug offenses has been introduced, SB204.
5. Judge Selvaggio reported that the Intervention In Lieu (ILC) subcommittee A: public safety, guidelines has met several times and been working from a draft revision of the statute and the subcommittee work chart. The main goal of the group has been to improve the administrative ease of the statute so that it is not so cumbersome for practitioners, noting that today's drug offender and the statutory framework are incongruent. Judge Selvaggio provided background on the draft the group has been working from and specified their focus has not been eligibility since that is more consistent with the Recodification Committee function.

The group then discussed several options on how to proceed – 1. Address the immediate concerns with the current statute; 2. Modify the ILC statute with ideas presented or 3. Propose something entirely different. Judge Marcelain suggested the subcommittee work be submitted to the Recodification Committee for their consideration. Tim Young provided comment regarding the Recodification Committee perspective, noting that the legislature does not want to revise this statute twice and that the Recodification Committee is considering a rewrite of all statutes and consequently, the state's drug policy. Several members suggested the subcommittee work be submitted to the Recodification Committee, emphasizing the merit of mutual work product. As the group discussed the individual work chart items to arrive at conceptual support, the final decision was made that Judge Selvaggio, Judge Spanagel and Sara will prepare a draft position paper on ILC for presentation to the full Commission in November and if approved, that paper will be forwarded to the Recodification Committee.

6. The discussion on the Foster memo resulted in the decision to rely on the prior memo authored by David Diroll and the topic will be discussed at the October 15, 2015 meeting. <http://www.supremecourt.ohio.gov/Boards/Sentencing/resources/Publications/MonitoringReport2011.pdf>. Foster topic begins on page 10.
7. Trace Drug amounts status remains unchanged and referred to the Recodification Committee.
8. Joanna Saul reported the subcommittee on the Non-Violent Drug Offenses and Sentencing Options has been convened and interested in committee feedback on a work product. She noted the broad, complex nature of the issue and has focused on the mentally ill. Judge Spanagel suggest the subcommittee refocus a bit to the non-violent drug offenders, separate from the mentally ill. It was also suggested that work of the Recodification Committee will be relevant.

Chair Judge Spanagel thanked members for their outstanding contributions and adjourned the meeting. The next meeting of the committee will be in person October 15, 2015 at 10:00a, room 281.