

# OHIO

## CRIMINAL SENTENCING COMMISSION

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

### Juvenile Justice Committee

February 16, 2017

#### Agenda

**I. Call to Order**

**II. Approval of Meeting Notes of January 19, 2017 meeting**

**III. Serious Youthful Offender Grant (DRC) – Cynthia Mausser**

*Ms. Mausser will discuss a new grant DRC has received regarding serious youthful offenders.*

**IV. Juvenile Probation - Eric Shafer and Committee Members**

*Eric Shafer will attend from the Montgomery County Juvenile Court to discuss the JDAI experience and the committee will engage in a discussion of best practices in probation.*

**V. Juvenile Sentencing Structure – Justice Sharon Kennedy**

*Justice Kennedy will discuss her thoughts on a review of Ohio's juvenile sentencing structure and engage in a conversation with the committee on next steps.*

**VI. Legislative Feedback – All**

*The committee was asked for feedback on two legislative proposals by Sen. Cecil Thomas.*

**VII. Next Steps**

*The committee will begin consideration of recommendations regarding juvenile probation practices and procedures. In addition, juvenile justice data will be on the committee's agenda.*

**VIII. Adjourn**

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### Upcoming Meetings

**Ohio Criminal Sentencing Commission      March 16, 2017**

**Juvenile Justice Committee                      April 20, 2017**

### Ohio Criminal Sentencing Commission Juvenile Justice Committee

#### Meeting Notes January 19, 2017

- I. **Call to Order.** Chair Dobson called the meeting to order at 10:02 a.m.
- II. **Approval of Notes.** The meeting notes of the October 20, 2016 meeting of the committee were approved as submitted.
- III. **Introductions.** Each committee member and guest briefly introduced themselves.
- IV. **Committee Leadership.** Chair Dobson's term expired at the end of 2016 and Vice-Chair Davies, under new Commission rules, is ineligible to serve. Mr. Dobson asked for nominations from the floor and Judge Fragale nominated Mr. Dobson to serve another term as Chair. The nomination was seconded by Mr. Cole and Rep. Craig. Mr. Dobson nominated Ms. Beeler as Vice-Chair. Ms. Beeler accepted the nomination with the caveat that she may be stepping off the committee in the future as she is now working with the Appellate Division. When that event occurs she will resign her position on the committee and a new Vice-Chair will be elected. Jo Ellen will send an e-mail to committee members to ensure everyone wants to remain on the committee's roster and asking those who are not currently serving as members if they would like to be appointed to the committee.
- V. **Juvenile Records – Greg Trout and Belinda Davis (BCI).** Vice Chair Beeler re-introduced the topic of juvenile record sealing and expungement to the group to refresh recollections. A problem has been arising where courts are ordering the sealing of juvenile records but not sending the orders to BCI and then the record is not fully sealed and would appear on criminal background checks. This also occurs when courts declassify juvenile sex offenders and when adjudications are overturned.

Greg Trout and Belinda Davis from BCI addressed the committee regarding processes surrounding record sealing and expungement – what works and what hinders the process. BCI now offers courts the ability to submit sealing information via e-mail but continues to accept information via fax and mail. The

form provided by the Attorney General is not specific to juveniles and that may be a recommendation of the committee in the future.

Once BCI gets the order from the court, they look for the BCI case and then it is expunged/sealed. The problem is that there is often not enough information on the order to find the record that is being sealed or expunged at BCI. If the information is incomplete, BCI has to send it back or call the court and get the information they need. In expungement cases particularly, there are some courts have already gotten rid of the record, or in sealing situations the court won't give out the information without a judge's signature. It does happen where additional information is never sent to BCI and the result would be that the record is not sealed.

Committee members asked if there are situations where in an automatic sealing situation the 'process' could be streamlined so not waiting for the court to provide a form; however, BCI needs something, either the form or an order to pinpoint the record to be sealed or expunged. For courts, it was noted, nothing points the court to BCI as a central processing point.

It was noted that, in juvenile world, expungement means "destroyed". One hole in system experienced by committee members is in the police department records. As law enforcement entity once file in court, it is out of law enforcement hands – but there is still a record they were involved with law enforcement – under the statute the sealing order should go to police, sheriff, etc. and they are supposed to destroy or seal the records.

When a child is adjudicated then fingerprints, DNA, etc. goes to BCI. The BCI system links to the federal database, which then contains the juvenile adjudication records. If BCI does not receive the sealing order from the juvenile court, the records stay not only with BCI, but in the federal database as well, and are subject to release. If BCI receives the sealing order, the records will also automatically be removed from the federal database. This becomes important in military applications where the enlisting branch pulls information from the federal database.

How can we help with this process? Getting the order to BCI with the information that BCI needs. For sealing statute does now require court to serve order on BCI, but does not specify the information that BCI needs. Could it be required in the judgment entry? Information might be lost in verbiage of entry.

#### **VI. Probation Data – Committee Members and Regina Lurry (JDAI)**

Jo Ellen is compiling a master list of data elements the committee would like to have regarding probation, specifically, and criminal justice or juvenile justice generally. Once compiled it will be determined what of that “wish list” is already collected, by whom, and where it is housed and what on the “wish list” is not collected and where the information might be found.

Ryan Gies and Regina Lurry from DYS addressed the committee regarding statistics collected by DYS. Mr. Gies noted that if DYS touches the juvenile in any way (funding stream, OYAS scores) then DYS collects data, sometimes even in an individualized way. The most basic information that is collected is in the detention arena where the majority is just self-reporting. DYS recently entered a contract with the University of Cincinnati to pull and condense all information in all DYS systems on an individual.

Ms. Lurry spoke about JDAI giving the committee background information. The point is to reduce the numbers at the front-end of system of those going into detention; promote system wide reform. There are 8 JDAI sites in Ohio and Ms. Lurry specified the data they get in JDAI counties. She also briefly discussed Deep End, a program just started in 3 jurisdictions – Franklin, Summit, Lucas - which has more probation data.

The goal is to have replication of JDAI throughout the state. Mr. Gies noted that the challenge is that it is not a windfall of dollars but a change in philosophy. The goal is to change the system so the “right” kids are in detention. Judge Fragale and Mr. Cole discussed their experiences in JDAI counties. JDAI steering committee locally is all-inclusive. One need identified is resources for alternatives for detention in local communities.

The committee held a brief discussion of what might be done to encourage other Ohio counties to replicate JDAI.

### **VII. Probation Officer Training – Kristopher Steele (Supreme Court of Ohio)**

Kristopher Steele, Ohio Judicial College, addressed the committee regarding juvenile probation officer training. He noted that DYS had a curriculum for training since 2003 and in 2008 the Supreme Court worked with juvenile chief probation officers on updates to that earlier curriculum. In 2011 DRC was tasked with developing adult probation officer training standards for adult probation officers in HB 86. Subsequently training standards with three categories of training have been developed. The adult training has two parts - one for new officers and one for continuing education and courses are offered online and in person. In 2012 HB 337 told DYS to develop standards for juvenile probation

officer training. What DYS created is similar to the adult model in that it has training for new officers and continuing education but the standards are not prescriptive about courses. The juvenile officer training just requires every new juvenile probation officer to get 40 hours in certain areas.

Mr. Steele noted that the adult courses are available to both adult and juvenile officers but because adult officers are required to get specific courses accomplished they have priority, therefore juvenile officers getting shut out. The committee wondered if there any authority to say what is a proper course. According to Mr. Steele, there is no oversight on whether or not standards are being met nor any consequences if the standards are not met although there is local oversight with the officer's direct supervisory. Probation officers not licensed by state of Ohio so there is no legal implications re: performance of duties if they don't get the training. Mr. Steele did note that the Judicial College of the Supreme Court is able to track if an adult probation officer has started the training and what courses they have completed. The Court provides a transcript to the officer once all the required courses are completed.

The committee will consider if is a concern that there is no oversight authority in either the adult or juvenile system and if there should be similar tracking of completion of training for both adult and juvenile probation officers. Jo Ellen will have an intern research information regarding best practices in juvenile probation for the committee In addition, Mr. Cole will invite his court's Chief Probation Officer to discuss work in a JDAI county.

- VII. New Business.** Committee member Senator Cecil Thomas provided the committee with two draft pieces of legislation regarding juvenile collateral sanctions and release of juveniles adjudicated delinquent of non-violent, non-sexual misdemeanors. The committee is to review the draft legislation and provide feedback by February's meeting.
- VIII. Adjourn.** There being no further business to come before the committee, the committee adjourned at 12:20 p.m.

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**Next Meeting: February 16, 2017**

To: Jo Ellen Cline  
From: Katie Plumer  
Re: What is the maximum age in each jurisdiction that an individual can be subject to juvenile court supervision?

**Extended Age Boundary:** <sup>1</sup>

Statutory provisions that indicate the oldest age a juvenile court can retain or resume jurisdiction over an individual whose conduct occurred before the end of the upper age boundary.

18: 2	22: 1	FT: 3
19: 4	23: 1	<i>Full term disposition</i>
20: 35	24: 4	
21: 1	25: 0	

**Upper Age Boundary:**

The upper age boundary refers to the oldest age at which an individual's alleged conduct can be considered delinquent under original court jurisdiction.

15: 2
16: 7
17: 42

**Lower Age Boundary:**

The lower age boundary refers to the lowest age boundary that a juvenile court can have jurisdiction.

6: 1
7: 5
8: 1
10: 11

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<sup>1</sup> <http://www.ncji.org/Publication/U.S.-Age-Boundaries-of-Delinquency-2015.aspx>  
Information was updated and added to the chart as of April 2016

**U.S. Age Boundaries of Delinquency in State Juvenile Statutes, 2015**

State	Upper Age	Lower Age	Extended Age*
Alabama	17	NS	20
Alaska	17	NS	19
Arizona	17	8	20
Arkansas	17	10	20
California	17	NS	24
Colorado	17	10	FT
Connecticut	17	7	19
Delaware	17	NS	20
District of Columbia	17	NS	20
Florida	17	NS	20
Georgia	16	NS	20
Hawaii	17	NS	FT
Idaho	17	NS	20
Illinois	17	NS	20
Indiana	17	NS	20
Iowa	17	NS	20
Kansas	17	10	22
Kentucky	17	NS	20
Louisiana	16	10	20
Maine	17	NS	20
Maryland	17	7	20
Massachusetts	17	7	20
Michigan	16	NS	20
Minnesota	17	10	20
Mississippi	17	10	19
Missouri	16	NS	20
Montana	17	NS	24
Nebraska	17	NS	20
Nevada	17	NS	20
New Hampshire	17	NS	20
New Jersey	17	NS	FT
New Mexico	17	NS	20
New York	15	7	20
North Carolina	15	6	20
North Dakota	17	7	19
Ohio	17	NS	20
Oklahoma	17	NS	18
Oregon	17	NS	24
Pennsylvania	17	10	20
Rhode Island	17	NS	20
South Carolina	16	NS	20
South Dakota	17	10	20
Tennessee	17	NS	20
Texas	16	10	18
Utah	17	NS	20
Vermont	17	10	21
Virginia	17	NS	20
Washington	17	NS	20
West Virginia	17	NS	20
Wisconsin	16	10	24
Wyoming	17	NS	20

**JUVENILE JUSTICE COMMITTEE WORK CHART**

<u>Category</u>	<u>Issue</u>	<u>Last Action</u>	<u>Project Status</u>	<u>Responsible Person</u>	<u>Next Action</u>
6-12 Month	<b>Probation (Length of time)</b>	Discussion at 01/19/17 Meeting	Pending		Montgomery Co. and best practices @ 02/16/17 meeting
6-12 Month	<b>Post-Dispositional Detention Time</b>	Discussion	Pending	Kathleen Hamm	
6-12 month	<b>Sexting</b>	Discussion	Pending	Members	Wait on Ohio Criminal Justice Recodification Committee proposals
6-12 Month	<b>Juvenile Records - sealing, expungement</b>	BCI attended 01/19/17 meeting	Pending		
	<b>Juvenile Sentencing Structure</b>		Pending		Justice Kennedy attending 2/16/17 meeting
	<b>Raise age of majority/extend juvenile jurisdiction</b>		Pending		

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<u>Category</u>	<u>Issue</u>	<u>Last Action</u>	<u>Project Status</u>	<u>Responsible Person</u>	<u>Next Action</u>
	<b>Decriminalizing status offenders</b>		Pending		

<u>Category</u>	<u>Issue</u>	<u>Last Action</u>	<u>Project Status</u>	<u>Responsible Person</u>	<u>Next Action</u>
COMPLETED	<b>Address juvenile court costs – assessment &amp; collection</b>	Restitution language approved.	<b>COMPLETED</b>	Jo Ellen	
COMPLETED	<b>Extended sentence review (Juvenile)</b>	SB 272 introduced in February 2016	<b>COMPLETED</b>	Jo Ellen Jill Beeler-Andrews	
COMPLETED	<b>Juvenile confinement credit</b>	Language approved by committee	<b>COMPLETED</b>	Jo Ellen Director Reed	
COMPLETED	<b>JSORN</b>	Committee decided not to make any recommendations to Recodification Committee	<b>COMPLETED</b>	Jo Ellen	

<u>Category</u>	<u>Issue</u>	<u>Last Action</u>	<u>Project Status</u>	<u>Responsible Person</u>	<u>Next Action</u>
COMPLETED	<b>Mandatory shackling</b>	Comment on proposed Sup.R. 5.01 re: juvenile restraints submitted	<b>COMPLETED</b>	Members	Sup.R. 5.01 adopted by Supreme Court (Eff. 7/1/16)
COMPLETED	<b>Mandatory bindovers – eliminate or limit</b>	Language approved by Commission	<b>COMPLETED</b>	Jo Ellen Erin Davies	
COMPLETED	<b>Mandatory sentences</b>	Committee determined to not make any recommendations on mandatory sentences	<b>COMPLETED</b>	Jo Ellen Erin Davies	
COMPLETED	<b>Truancy</b>	HB 410 was enacted on December 8, 2016	<b>COMPLETED</b>	Jo Ellen Scott Lundregan	