



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

Sentencing Committee

June 18, 2015

Meeting Notes

Attending:	Judge Spanagel	Derek Devine
	Lara Baker-Morrish	Lori Criss
	Brian Martin	Lauren Chalupa
	Judge Selvaggio	Jason Pappas
	Tim Young	Mark Schweikert
	Lusanne Green	David Forman
	Paula Brown	Joanna Saul
	Kari Underwood	Josh Williams
	Hannah Ritter	Jim Lawrence
	Professor Doug Berman	Joanna Saul
	Judge Marcelain	Marta Mudri
	Jo Ellen Cline	Ron O'Brien
	Judge Fredrick Pepple	

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, including guests Judge Fred Pepple and Ron O'Brien as members of the Recodification Committee.

Judge Pepple 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 Pepple 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. Ron O'Brien also added that the goals and consensus was well-stated and the Recodification Committee will need to coordinate with the Sentencing Commission.

Lara Baker-Morrish asked if there is Municipal Court representation on the Recodification Committee and there is not.

The topic was concluded by Judge Pepple requesting members to send comments on specific sections or issues directly to the various workgroups of the Recodification Committee or through Sara to get to them.

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

1. Sara reported the addition of an additional behavioral health representative is pending but we are hopeful to have that person on board in the near future.
2. Sara also reported the members only page/internet access is pending as well.
3. Judge Spanagel reported (and it was confirmed by Josh, Marta and others) that the draft OVI legislation has not yet been introduced. He also noted that Representative Baker has asked for our input on a draft which will be distributed to members for input.
4. Jo Ellen reported on the extended sentence review draft distributed with the meeting materials. It is language that David prepared and is a starting point for conversation and input. There was conversation and clarification that Life Without Parole cases should be ineligible. Judge Marcelain moved that the topic be referred to the Recodification Committee, but there was not a second. Chair Judge Spanagel noted the topic will be slated for the full Commission agenda and meeting in August 2015. In the meantime, input should be forwarded to Jo Ellen for consideration.

5. Chari Judge Spanagel also noted that Senator Seitz's draft legislation regarding driver's license suspension and drug offenses is being circulated by OJC for comment.
6. Judge Selvaggio reported that the Intervention In Lieu subcommittee A: public safety, guidelines had a recent telephone conference. He went on to say that the group felt the statute is overly broad and is interested in pursuing a practical, public safety approach to its application. In fact, a similar theme to the recent senate budget amendment (subHB64) separating 2925, abstinence and revocation.

Tim Young pointed out it is time to rethink the approach to low level, low risk drug offenders. Judge Selvaggio opined there is a difference between possession and distribution and we should not 'give coupons to relapse'. Furthermore, drug dependency is no longer a class issue considering that addiction is now prevalent among those with illness, injury etc. Ultimately, two pathways ought to be identified in 2951 – one specific to 2925 and one for all others. A lengthy discussion ensued regarding discretion versus exclusion and whether or not drug trafficking offenses should be eligible. Four points were made on this subject as reasons for exclusion: 1. Traffickers facilitate others to commit crimes; 2. Political realities and public relations on weight amounts, proximity to school and felony level; 3. The presumption traffickers are selling to support habit is often faulty and 4. Risk to confidential informants.

Additional points made on the topic included potential collateral sanctions, legislation introduced by Representative Green – Maiden's Law L_131_0557-1 and whether there is data and information regarding program efficacy for Intervention In Lieu of Conviction. Brian Martin said he will prepare a profile of the offenders that are under the supervision of the adult parole authority.

7. Chair Judge Spanagel reported the Intervention in Lieu of Conviction subcommittee B focused on time on supervision met and provided the draft language – specific changes in paragraph (F) in the meeting materials. Following discussion among the committee members, the subcommittee will reevaluate and consider if changes to paragraphs (D) and (E) are also necessary.
8. The group was reminded that general comments regarding Intervention in Lieu of Conviction were solicited and those received were compiled. Sara will forward to the group.

9. The discussion on the Foster memo was tabled until the next meeting.
10. Trace Drug amounts – the committee was asked to submit comments on the topic, which will be distributed. Additionally, Lara asked one of her staff to research other state laws on the topic and that report is attached.
11. Joanna Saul reported she's agreed to facilitate the group focused on Non-Violent Drug Offenses and Sentencing Options. She suggested the topic is so broad she'd like full commission input. She's also focused on the mental health component and capacity of programs. As such, she has solicited membership for the subcommittee from the behavioral health community and is open to additional suggestions.

Judge Selvaggio noted that the additional amendment to the budget bill (subHB64) pertaining to a substance use disorder treatment program is of concern if the intent is to prioritize inmate placement in those programs before those on community control because those inmates are likely persons that have already been afforded an opportunity for treatment and failed or otherwise violated community control supervision.

Jo Ellen commented that the Commission on Criminal Rule Procedure and Practice is currently discussing Criminal Rule 11 and 'truth in plea'. Final recommendations from the group are expected in the near future. Lara noted they began doing so several years ago and it has had good result.

Chair Judge Spanagel adjourned the meeting at 12:07p. The next meeting of the committee will be in person July 16, 2015 at 10:00a, room 281.