



CRIMINAL SENTENCING COMMISSION

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

Sentencing Committee

July 16, 2015

Meeting Notes

Attending:	Judge Spanagel	Judge McIntosh
	Lara Baker-Morrish	Kort Gatterdam
	Judge Selvaggio	Steve Van Dine
	Tim Young	Wendy Williams
	Lusanne Green	Steve Gray
	Paula Brown	Deb Herubin
	Kari Underwood	Ashon McKenzie
	Professor Doug Berman	David Roper
	Michael Randle	

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.

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 reported the addition of two additional behavioral health representatives - Wendy Williams present today from Southeast Treatment Center and David Forman from Twin Valley.
2. Sara also reported the members only page/internet access remains pending.
3. Judge Spanagel reported, and other members agreed, that the draft OVI legislation has not yet been introduced. He also noted that Representative Baker introduced legislation on the topic and there will be discussion of the issues at the summer meeting of the Municipal Judges Association later this month.

4. Tim Young reported on the outcome of the extended sentence review ad hoc committee meeting that had just concluded. Agreement was reached that juveniles convicted of homicide/life without parole offenses would be reviewed when the juvenile reached the age of 40. Non-homicide offenders would be reviewed after serving 15 years. It was also suggested that the process at the Parole Board be completely open with counsel and the victim present. The committee agreed to that suggestion.

Jo Ellen will draft the proposed changes regarding a juvenile extended sentence review based upon the committee's discussion. The ad hoc committee will next meet in conjunction with the full Commission meeting on August 20, 2015 to delve into the adult extended sentence review. The topic will be on the agenda for the full Commission meeting in November 19, 2015.

5. Chair Judge Spanagel noted that Senator Seitz's draft legislation regarding driver's license suspension and drug offenses is being circulated by OJC for comment. There has not been any change since our last meeting.
6. Judge Selvaggio reported that the Intervention In Lieu subcommittee A: public safety, guidelines has not met since the last meeting. The group then discussed the topic at length, noting it is an issue that will likely result in proposed legislation in the near future. Issues discussed include:
 - A. Further discuss and determine if we support expanding eligibility to Felony 4 drug trafficking offenses.
 - B. Adding guidance in the statute to promote consistency in presentation of evidence and provider assessment, the assessment should address eligibility factors. [paragraph A(1) - written assessment shall include....]
 - C. A requirement for the offender to provide name of treatment professional.
 - D. Require prosecutor to provide a copy of the discovery packet so that the treatment professional will have relevant, contextual, collateral information.
 - E. Address waiver of speedy trial by including language in paragraph A to require done in open court or on the record and journalized.
 - F. Correct a drafting error in A(2) reference to victim notification – change 2930.08 to correct citation of 2930.06.

- G. Address the broader issue of victim notification – notice v. opportunity to be heard. Consideration of harm caused is relevant because eligibility includes the consideration of demeaning the seriousness of the offense.
 - H. Address the statutory structure in its entirety to promote consistency, proportionality and accountability throughout the process; improve timeliness; allow offender to enter treatment sooner and contribute to clarity in the continuum of sentencing alternatives for drug offenders – i.e. specialized docket/drug court, prosecutorial diversion

[Montgomery, Franklin, Wayne, Delaware counties noted as possible model programs]
 - I. Strike language in paragraph A that allows the court to reject the offenders request without a hearing. Revise the language to state that [similar to the human trafficking statute] the request for ILC shall include how the offender meets the eligibility requirements and provides evidence to support the same.
 - J. Clarify eligibility for offenders with multiple cases, one of which is an offense of violence. Criminal Rule 5 applies only to bindovers.
 - K. Revise eligibility to allow ILC to be granted more than once; include some Felony 3 offenses – i.e. tampering with evidence.
 - L. Discuss and determine if we support separating 2925 offenses from others; abstinence and revocation language proposed in the subHB64.
 - M. Address potential collateral sanctions [noted at June meeting - legislation introduced by Representative Green – Maiden’s Law L_131_0557-1].
7. Chair Judge Spanagel reminded the group that the Intervention in Lieu of Conviction subcommittee B provided draft language at the last meeting – specific changes in paragraph (F). Following discussion among the committee members, with no revisions suggested, Tim Young moved to accept the changes. The motion was seconded by Kort Gatterdam and unanimously approved.
8. Steve Van Dine reported they have made progress on the profile of the offenders that are under the supervision of the adult parole authority. He expects to be able to present the information at the full Commission meeting on August 20, 2015.

9. The discussion on the Foster memo was tabled until the next meeting.
10. Trace Drug amounts – the committee comments and other state information obtained by Lara was shared with the 2925 working group of the Recodification Committee. Chair Judge Spanagel also noted OJC is also discussing the topic. Steve Van Dine also noted that in reviewing prison admission intake data approximately 15 years back to present shows very few prison admissions for trace drug amounts. At one time it was 2-3% of the population, but that has noticeably declined. He attributes the decline, in part, to prosecutorial practices and plea bargaining.
11. The Non-Violent Drug Offenses and Sentencing Options is slated for the agenda for the full Commission meeting August 20, 2015.

Chair Judge Spanagel noted a standing agenda item for each meeting will be an update from the Recodification Committee. Tim Young said the group has divided up into work groups and have been white boarding issues. He anticipates a great deal of work product to be generated in the next several months. The Committee will also be hiring two staff attorneys.

Chair Judge Spanagel also noted he'd like the group to be apprised of pending criminal legislative matters, likely in conjunction with the information shared through the Criminal Law and Procedure Committee of OJC.

Chair Judge Spanagel thanked members for their outstanding contributions and adjourned the meeting. The next meeting of the committee will be in person September 17, 2015 at 10:00a, room 281.