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OHIO CRIMINAL SENTENCING COMMISSION MEETING

May 16, 2024, 10am-12pm

Ohio Judicial Center, Law Library Reading Room

MEMBERS PRESENT

Sharon L. Kennedy, Chief Justice, Chair
Nick Selvaggio, Judge, Common Pleas Court, Vice-Chair
Amy Ast, Director, Department of Youth Services
Annette Chambers-Smith, Director, Department of Rehabilitation and Corrections
Charles Chandler, Peace Officer
Robert DeLamatre, Judge, Juvenile Court
Julia Dorrian, Judge, 10th District Court of Appeals
Timothy France, Judge, Municipal Court
Marianne Hemmeter, Judge Municipal Court
Gwen Howe-Gebbers, County Prosecutor, Juvenile
Latyna Humphrey, House of Representatives
Kristen Johnson, Judge, Probate and Juvenile Court
Charles Jones, Colonel, State Highway Patrol
Robert Krapenc, Attorney, Criminal Defense
Teri LaJeunesse, Victim Representative
Nathan Manning, Ohio Senate
Charles McConville, County Prosecutor
Stephen McIntosh, Judge, Common Pleas Court
Elizabeth Miller, Ohio Public Defender
Jennifer Muench-McElfresh, Judge, Common Pleas Court
Darren Shulman, Municipal Prosecutor
Larry Sims, Sheriff
Vernon Sykes, Ohio Senate
Helen Wallace, Judge, Juvenile Court
Josh Williams, House of Representatives
Donnie Willis, County Commissioner
Tyrone Yates, Judge, Municipal Court

MEMBERS ABSENT

Brooke Burns, Ohio Public Defender, Juvenile Department

STAFF PRESENT

Melissa Knopp, Executive Director
Michael Crofford, Research Specialist
Will Davies, Criminal Justice Counsel
Todd Ives, Research Specialist
Alex Jones, Criminal Justice Counsel



Call to order and Roll Call

1. Chief Justice Kennedy called the meeting to order at 10:00 AM. Director Melissa Knopp took roll call, and a quorum was present.

Approval of minutes from November 16, 2023 & February 15, 2024

2. Chief Justice Kennedy asked if there were any changes needed for the November 16th, 2023, meeting minutes. None were noted. Sheriff Sims moved to accept the November minutes. Judge Selvaggio seconded and the motion passed unanimously. The chief justice then asked if any changes were needed for the February 15th, 2024, minutes. Again, none were noted, and Prosecutor Howe-Gebbers made a motion to accept the minutes. This was seconded by Judge Yates and the motion passed unanimously.

Committee Reports

Personnel Committee

3. Chief Justice Kennedy then reported on the work of the Personnel Committee. She stated that the committee is asking the Commission to accept the resignation of Niki Hotchkiss which was on the previous meeting's agenda. Chief Chandler made a motion to accept the resignation and Judge Selvaggio seconded. The motion passes unanimously.
4. The chief justice then discussed the Commission organizational charts and the request to change the Assistant Director position to a Program Coordinator who would be responsible for supporting the Executive Director and Commission staff. Prosecutor Shulman motioned to reclassify the Assistant Director position into a Program Coordinator position and to post the position. Director Ast seconded the motion, and it was passed unanimously.
5. Chief Justice Kennedy then discussed allowing the Personnel Committee to accept resignations, post new positions, and select candidates for hiring purposes so there is not a months long lag time. She motioned to allow the Personnel Committee to accept resignations and to post for open positions. Judge Yates seconded and the motion passed unanimously.

Adult Criminal Justice Committee

6. Director Chambers-Smith the discussed the work of the Adult Criminal Justice Committee. She shared some of the topics of discussion at the past several meetings including, hearing Representative Jerralls speak about his anticipated bill and opened up avenues for providing him with feedback, commission staff Criminal Justice Counsel Will



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Davies continuing to work on an appeals tracker which could potentially lead to suggested legislative or policy changes, Reagan Tokes issues that have been raised by judges, ODRC's Steven Gray and Marta Mudri from OJC reviewing these issues and working with Mr. Davies to compare them with the appeals tracking work, etc. Several judges have also expressed interest in updated felony sentencing bench guides which the committee has begun working on. One of these, the NGRI reference guide included with the meeting materials, has been finalized pending Commission approval but the entirety of the bench guide will take longer. Director Chambers-Smith went on to discuss the work the committee has done related to unconstitutional code sections and the request to form a subcommittee in conjunction with the Juvenile Justice Committee to address confinement credit. Chief Justice Kennedy then motioned to form the Confinement Credit Subcommittee. Public Defender Miller seconded, and the motion passed unanimously. The subcommittee will plan to have their first meeting on Thursday June 13th, 2024.

7. Chief Justice Kennedy then moved to forward the Unconstitutional Code memo/letter to the General Assembly with a cover letter written by Director Knopp. Director Ast seconded, and the motion passed unanimously.
8. There was a brief discussion as to how the NGRI guide would be distributed. It was stated that it would be posted publicly on the Commission's website as well as physically printed for judges. Representative Williams motioned to publish and distribute electronically and hard copies of the Not Guilty by Reason of Insanity (NGRI) guide. Victim Representative LaJeunesse seconded, and the motion passed unanimously.

Juvenile Justice Committee

9. Judge Wallace then presented on the work of the Juvenile Justice Committee. She shared that their committee had also been discussing confinement credit and had discussed possible options. She then discussed the unconstitutional code memo that had been drafted by Criminal Justice Counsel Jones and asked for approval to send to the legislature. There was a discussion about whether there were any additional unconstitutional codes that needed addressed. Mr. Davies stated that he had worked with the Law Library to identify any additional codes that needed addressed and will continue to track this. Both the adult and juvenile committees will continue to discuss this topic as needed and will report out any issues as they arise. Chief Justice Kennedy then made a motion to forward the Unconstitutional Code memo/letter regarding juvenile code sections to the General Assembly with a cover letter written by Director Knopp. Public Defender Miller seconded the motion and it passed unanimously.
10. Judge Wallace then discussed that the committee reviewed the old language of R.C. 181.21 and made some edits to the old language. However, it was kept mostly the same



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and they are requesting to reinstate statutory authority language for the Juvenile Justice Committee. Sheriff Simms moved to ask the General Assembly to reenact R.C.181.21 as drafted by the Juvenile Justice Committee. The motion was seconded by Public Defender Miller and passed unanimously.

11. There was then a discussion of the edits made to R.C. 181.26 regarding proposed language for the Commission's duties regarding juvenile justice. It was asked if there was consideration for consulting with various entities that work with juvenile justice and whether certain entities or content experts should be required members of the committee or whether it should be left to the Chief Justice's discretion. It was suggested to provide a list of entities to include, and that more participation is welcomed without making it mandatory per the statute. R.C. 181.21 allows any person the chief or chair of the committee recommends to be added to the roster. Chief Justice Kennedy made a motion to ask the General Assembly to reenact R.C. 181.26 as drafted by the Juvenile Justice Committee which was seconded by Director Chambers-Smith. The motion passed unanimously.
12. Judge Wallace then shared some of the upcoming topics for the juvenile committee including Representative Williams bill on juvenile transfers. There was then a discussion on the process for a committee referring items to the legislature. It was stated that the director would draft a letter to the Speaker of the House, Senate President, the appropriate subcommittee heads, as well as the legislative members of the Commission. The legislative members would then find someone to carry forth the legislation. Senator Manning stated he is planning on adopting current proposed legislation next week and Representative Williams said that moving forward his office will ask for language from the Commission on proposed legislation.

Data Committee

13. Chief Justice Kennedy then presented on the work of the Data Committee. She stated that they have been meeting frequently to hear from various criminal justice partners on what data elements are available and what is still needed. She shared that commission staff is currently working on collecting data from prosecutors' offices and that OCN is currently working with Step Mobile on developing methods to collect probation/community control data.
14. She then shared the discussions that had been had about the USE template and the current contract with the University of Cincinnati (UC). She stated that only a handful of judges were regularly using the template. She then stated that the Commission needed to vote on whether to renew the contract with UC which would otherwise expire on June 30th, 2024. There was then a discussion of what could be done with the USE template if the contract was not renewed. It was stated that the Data Committee had



met with Robert Stuart from the court's IT services to discuss whether the template could be moved to OCN. Chief Justice Kennedy proposed that Commission staff would work with the court's IT services to update the entry based upon legislative changes and Supreme Court decisions and that this would make the template still available to those that wanted to use it without the full platform that was being provided by UC. There was then a discussion about the reallocation of funding for the project if the contract was not renewed. It was stated that it was not believed that additional funds would be necessary, and that the money would go back to the GA. It was then discussed that Matrix currently has ORC charge code tables it has been developing and the Data Committee was asked to explore what it would cost to provide this to all courts. That could then be something funds could be requested for. Another discussion was then had about how the data collection piece of the project had already been terminated by Commission vote previously but that there was a question of who owned the platform itself. It was stated that the most recent contract had been modified so that ownership lies with the Commission but that it was unclear if this was just the USE template or the full platform. However, this was in the process of being reviewed. Prosecutor McConville then motioned to not renew the contract with the University of Cincinnati and Prosecutor Shulman seconded. The motion passed unanimously.

15. Chief Justice Kennedy then stated that this will not be the end of the data conversation. She stated that she believes the Confinement Credit subcommittee will be able to produce some sentencing data, that it should be possible to instill a standardized and common charge code through the GA, and that the information gathered by OCN through the court will help to fill in gaps in data related to community control. She also reiterated that the Data Committee will speak with Matrix about the availability of their ORC code program. Senator Sykes then thanked the Chief Justice for answering his questions on data from his previous letter and he is hopeful that we will be able to find information where it is available within different agencies.

Legislative Update

16. Criminal Justice Counsel Jones then discussed the legislative update. He stated that June 12th and 26th were the upcoming legislative meetings and reminded the Commission that he actively monitors any legislation that would impact the Commission's work. He asked for any suggestions or feedback on how members would like this information to be presented and shared that he has started to add major proponents and opponents to his breakdown. He ended by saying that since the legislature was meeting that week, he would have more updates following the meeting and would send those out to members the following week.



Old Business

17. Chief Justice Kennedy then asked if there were any changes needed or concerns about the completed Monitoring Report. None were noted. Prosecutor Howe-Gebers motioned to adopt and forward to the General Assembly and the Governor the Monitoring Report. Judge Johnson seconded, and the motion passed unanimously. Director Knopp was instructed to include a cover letter to address the deadline of the report to the appropriate parties.

New Business

November Commission Meeting Date

18. There was a brief discussion, and it was decided that the November full Commission meeting date would remain on Thursday November 21st, 2024.

Council of State Governments (CSG) Justice Center Juvenile Justice Summit

19. CSG will be coming in on Tuesday May 21st to try to schedule a meeting on juvenile justice issues. Judge Wallace will be the official representative from the Commission, but others are welcome to participate either in person or virtually. Director Knopp will also attend. Ohio was one of three states selected for this. This will be focused on discussing technology systems that will focus on the front end of the juvenile justice system and asking for listening sessions to brief policymakers on trends and research. CSG will compile what is discussed and provide a report to the Governor on suggestions on what Ohio can invest in.

Resources

20. There was a short discussion reiterating what information about the Reagan Tokes Act Memo had been discussed as part of the Adult Committee's report. This is regarding those judges that have expressed issues with Reagan Tokes and combing those issues with the appeals tracking that is being done. The question was posed whether this would be a future topic that would require additional legislation and/or training.
21. Criminal Justice Counsel Davies then presented the outline for the Commission history project. Pulling from current and past physical and digital documents, Mr. Davies, with assistance from the other Commission staff will be looking at a history of statutes and how they have changed over the years, Commission staff patterns, Commission members and Chairs, statutory duties of the past, work from the Commission that met those duties, as well as regular work that went into various bills. Mr. Davies will be spearheading a comprehensive report to capture everything that the Commission has done up to this point. This will also be updated as time goes on. Mr. Davies asked that if members had any specific areas or legislation of interest, to reach out to Commission



staff. The Chief Justice added that this could create a conversation among the GA and staff about what the Commission could and should do and how the past could guide what is worked on in the future.

Adjourn

22. Chief Justice Kennedy then thanked the new members for agreeing to be part of the Commission and thanked everyone for their attendance. The next full Commission meeting will be on September 12th at 10:00 AM. Chief Chandler then moved to adjourn the meeting. Sheriff Simms seconded and shared that this may be his last meeting and thanked the Commission. The Chief Justice thanked Sheriff Simms for his service and the motion to adjourn was approved unanimously. The meeting was adjourned at 11:09 AM.

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