



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

## Sentencing Committee

May 14, 2015

### Meeting Notes

Attending:	Judge Spanagel	Derek Devine
	Lara Baker-Morrish	Lori Criss
	Brian Martin	William Stephenson
	Judge Selvaggio	David Roper
	Tim Young	Ryan Dolan
	Kort Gatterdam	Lusanne Green
	Paula Brown	Joanna Saul
	Kari Underwood	Josh Williams
	Cecelia Klingele	

### Staff Liaison: Sara Andrews

The meeting was called to order by staff liaison Sara Andrews. Introductions were made and following a brief discussion, Judge Spanagel was unanimously selected as Vice-Chair of the committee and agreed to, by default, Chair the committee.

The committee discussed additional members. The Committee agreed an additional representative with a behavioral health perspective will be helpful. Lori Criss indicated she will invite a colleague to join the group.

The committee noted there should be a method to share information across committees and among Commission members so that everyone can remain current on the respective work product. Sara will discuss the option of a members only page to share committee working materials and information. In the meantime, committee meeting notes will be shared with the full Commission and its Advisory Committee when complete.

The committee discussed the priorities and time-line.

1. The single immediate priority is extended sentence review and Jo Ellen Cline has agreed to work on draft language. There is a draft circulated by DRC from last year that will be helpful. The committee suggested the topic should be on the full Commission agenda for the August 2015 meeting.
2. The OVI law review and simplification is a short term priority and the committee noted the full Commission had not officially voted on the previous draft language. It was also noted that Senator Obhof is rumored to be close to introducing a bill, likely the same version the Commission discussed some time ago. Chair Judge Spanagel requested the OVI draft language document be distributed to committee members and also suggested the topic be slated for the full Commission meeting agenda in August.
3. As the committee moved into the discussion on ORC 2951.041(F) Intervention in Lieu of Conviction, Tim Young provided a brief update on the work of the Recodification Group and noted there will be crossover between that group and this committee, as well as the full Commission.

The committee had a lengthy discussion on the topic and potential revisions. It was noted there needs to be appreciation for relapse and balance that with the criminal enforcement. Additionally, the statute applies to more than drug crimes, i.e. domestic violence. The committee debated the way in which violations and hearings are handled, noting jurisdictional differences. Judge Selvaggio pointed out that there are instances in which ineligible offenders can still be considered as case law supports separating offenses. Further he suggested there may be value in providing guidance to Judges regarding violations and response – balancing public safety and relapse.

Chair Judge Spanagel asked for volunteers for two subcommittees:

**Intervention In Lieu subcommittee A** – to contemplate the balance of relapse and public safety and consider guidance for responding to violations.  
Lusanne Green, Lori Criss, Paula Brown and Judge Selvaggio.

**Intervention In Lieu subcommittee B** – to consider (capping) the overall time spent on supervision if an offender is placed on community control. Lara Baker-Morrish, Judge Spanagel and Kort Gatterdam.

Additionally, Chair Judge Spanagel asked the entire committee to review the Intervention In Lieu statutes and identify issues to address – such as eligibility, prosecutorial input, violations and/or overhaul of statute to be (more) responsive to addiction, treatment and public safety. Committee members are to send your replies on or before May 29, 2015 directly to Sara or reply to all following the email from Sara. It was also determined this recommendation should be moved to the long term 6-12 month category.

4. The committee discussed the priority of restoring the ORC presumption and appellate language from before the Foster decision. Upon further conversation, the committee determined this recommendation should be moved to the long term 6-12 month category. This recommendation was advanced by DRC and thus, Ryan Dolan agreed to draft a summary memo and proposed language for a small group review. Derek DeVine, Tim Young and Josh Williams, who will also consult with committees of the Judicial Conference, will provide input to Ryan.
5. Chair Judge Spanagel indicated that the Judicial Conference and Senator Seitz are working on a bill that will address the topic of revising or eliminating the sections in ORC that provide for license suspension as a sentence for drug conviction. Josh will provide the group a status update on the proposed language. This recommendation will also be moved to the short term 3-6 month category.
6. The group had a spirited and lengthy conversation on the topic of trace drug amounts – with an underlying theme that the topic is really a broader state policy issue and the difficulty in clarity of how ‘trace’ is defined across jurisdictions and among county prosecutors. Chair Judge Spanagel asked the committee to consider the topic of trace amounts and presume we are recommending change – what do you propose? Committee members are to send your replies on or before May 29, 2015 directly to Sara or reply to all following the email from Sara.
7. The committee recommended deferring the priority of mandatory drug sentences to the Recodification Group.
8. The final topic the committee discussed was the long term priority of increasing options for non-violent drug offenders. Chair Judge Spanagel asked for volunteers for a subcommittee to delve into the issues more fully and consider resource capacity/availability throughout their deliberation and eventual recommendations. Lusanne Green, Paula Brown, Joanna Saul, Brian Martin, Lori Criss.

The next meeting of the committee will be in person June 18, 2015 at 10:00a, room 281.