

As we worked to develop the Uniform Sentencing Entry and the attendant method of disposition entries, the Ad Hoc Committee solicited feedback from stakeholders, both through its membership and through presentations to the judiciary and the public. Several questions have been asked frequently about both the entries and the proposed Felony Sentencing Data Platform, and we have documented those questions with our answers below.

THE UNIFORM SENTENCING/METHOD OF DISPOSITION ENTRIES

1. What brought on the development of the uniform entries? What problems are they trying to solve?

As Sentencing Commission Staff worked with partners to provide training and informational materials around Senate Bill 201 “The Reagan Tokes Law, the most repeated request was for template language to be used in plea colloquy’s and sentencing entries. Sentencing in Ohio has grown more and more complex since the enactment of Senate Bill 2 in 1996, and the need for clear, comprehensive guidance on needed language and practices is of the utmost importance.

Recognizing that no such statewide resource existed for any provisions of Title 29, the Commission was charged by it’s chairwoman, Chief Justice Maureen O’Connor, with the development of a uniform sentencing entry to provide a standardized template for court’s to use across the state, practitioners with resources and reference material to avoid so-called “unforced errors” in sentencing that often lead to avoidable appellate litigation, as well as providing uniformity in the criminal justice system and an opportunity to develop a data platform based off that standardization. As such, the Ad Hoc Committee on the Uniform Sentencing entry was formed.

As the Uniform Sentencing Entry was developed, it became clear to the Ad Hoc Committee that the creation of such a template also necessitated development of attendant entries based around the method of conviction and the disposition of the case, such as a uniform plea entry, and dispositional competency entries. We are hopeful that these documents prove to be a valuable resource to criminal justice practitioners, one that can and will be regularly updated to incorporate changes to statutes and developing Ohio Supreme Court case law, as well as providing a platform for much-needed aggregate, statewide data on criminal justice outcomes as discussed below.

2. I currently include all relevant info and data in a 4-page sentencing entry, yet the Uniform Entry is 21 pages. The forest gets lost in the trees.

As the provided examples show, in practice the uniform entry can be as short as 2-3 pages, depending on the needs of the individual case. The full Uniform Entry itself, along with its introduction and instructions, provides template language for every circumstance, much of which will not be needed in every case. And remember – the templates provide the minimum language necessary and courts will be able to supplement the language with any narrative they deem fit, and are encouraged to do so.

3. I think the suggested entry is very comprehensive. However, I prefer to have separate entries for sentencing to prison and sentencing to community control. As you know, DRC doesn’t keep track of the community control data and that was requested to be done by a rule adopted by the Supreme Court in either HB 86 or the budget bill after that which I do not recall. Having separate entries would make filling the form out accurately easier and I think would assist in data collection. Unless it is mandated to be done in one uniform entry, I am going to split the draft into separate entries.

We're hopeful that in its final format, whether by fillable PDF, web-based document wizard, or integration with case management systems, that the entry will make this distinction as easy as possible to implement.

4. **Would it be helpful if the nature of the plea was entered? NC vs. Guilty**

This field within the method of conviction chart (instruction number 5) should be filled out with an indication of how the defendant was convicted of each charge – be it by guilty plea, no contest plea, *Alford* plea, bench trial, or jury trial.

5. **In Rape cases, the choice is LWOP or 25 to life, or LWOP or 15 to life. Does this chart work for that? There are not specs on those rapes (less than 10-year-old victim with force, for example)?**

Yes, any life sentence imposed should be indicated in the sentence column of the prison-imposed chart as [TERM OF YEARS] – Life.

6. **The C/S sentence portion of the chart is quite complicated using the numbers 1-2 2-1 etc. Maybe use Ct.1-2, Ct.2-1 maybe clearer**

Consecutive sentences *on counts* are laid out in the “prison imposed” sentence chart and reserved prison term chart as [1, 2, 3, etc.]. Consecutive vs concurrent specifications are laid out in the specification chart a format with a dash, as a given count may have multiple specifications. For example, within the specification chart, Count 1 specification 1 is “1-1” and Count 1 specification 2 is “1-2.”

7. **The reserve sentencing chart raises an issue as to when the Court needs to determine whether, following revocation of community control, the subsequent prison sentences can be imposed concurrent or consecutive.**

8. **Also - If a consecutive sentence is being considered but community control is being imposed, what do we do with the factors for consecutive sentencing...include here? later?**

See the recent decision of the Supreme Court in *State v. Howard*, SLIP OPINION NO. 2020-OHIO-3195, decided June 9, 2020. The Court held the trial court need only to inform the defendant of the reserved consecutive terms when the defendant is placed on community control, and that the specific 2929.14(C)(4) consecutive sentence findings need only be made at the time the defendant’s community control is revoked and they are sentenced to prison. Language based on this was drafted for the instructions at the Ad Hoc Committee’s meeting immediately following the decision. This is an example of the type of ongoing monitoring and updates that the Sentencing Commission will provide as the Uniform Sentencing Entry is implemented and used throughout the state.

9. **Even where there is no merger, findings addressing merger with a finding that the counts do not merge need to be included. Does the document cover that?**

The merger language includes an option for a finding that merger does not apply.

10. **The Competency entries do not include an entry a template for when a defendant is found competent to stand trial. Is there a plan to generate this type of entry?**

At this time, the uniform entries are geared toward those which result in a finding of guilt or other type of disposition in the case. Other non-dispositional model entries are contemplated for development and distribution in the near future.

11. Is there any plan to provide any entry and collect information on judicial releases that are filed?

Language surrounding a grant of judicial release is contemplated as an addition to the Uniform Sentencing Entry, as a judicially-released defendant will be re-sentenced to a term of community control.

12. Have all of the court of appeals been contacted for their input on the uniform entry since they are not uniform in their decisions?

The entries have been circulated to both the Appellate Courts and to the Common Pleas Judges Association. Any feedback has been considered and is reflected in the documents.

13. Have you asked ODRC to comment on the proposed standardized SE entry?

ODRC's legal department reviewed the entry and their feedback was discussed and incorporated by the Ad Hoc Committee. In addition, a previous joint effort by the Ohio Judicial Conference and ODRC at developing a uniform entry was reviewed by the Ad Hoc Committee during development of the Uniform Sentencing Entry.

14. What is the enforcement mechanism for requiring judges to use the standardized entry? Is legislation required? Or can the Supreme Court adopt an administrative rule?

Justice Donnelly's opinion in *State v. Dangler*, Slip Opinion 2020-OHIO-2468, decided May 5, 2020, calls upon the Supreme Court to propagate standardized forms for use statewide. Once the Ad Hoc Committee has completed its report, it will be submitted to the Chief Justice who has expressed support for an amended Rule of Superintendence to be approved supporting use of the entries.

15. The forms could include data on race through a check-mark system that would allow that data availability.

Our plan in implementing the uniform entries is to include a list of data variables as separate sheet attached to the uniform entry which would include this type of demographic data on the defendant.

THE FELONY SENTENCING DATA PLATFORM

1. Why do we need a felony sentencing database?

Without robust, aggregate data on sentencing outcomes in our state, we are hamstrung in evaluating the effectiveness of efforts to reform the criminal justice process, to see which programs are working, or to see disparities that may be present in the system. In order to make informed decisions about criminal justice policy, we need a data-driven and evidence-based approach rather than shaping policy on what *might* work, or what seems to be working in one jurisdiction but might not be an ideal situation statewide.

Ohio is unable to provide comprehensive data statistics on adult felony sentencing, procedures and outcomes such as: disposition of each person who leaves court; those on community supervision; those sentenced for a specific felony offense and felony level; prevalence of plea bargaining; and evidence to determine if increased penalties are a deterrent for future crime.

The Ohio Sentencing Data Platform will give us the ability to tell the comprehensive story and illustrate the deep intricacies of felony sentencing. It is a solid foundation for movement toward a data-informed environment that allows for the thorough understanding and analysis of the criminal justice system by its own actors and those

making policy decisions and increases transparency to the public. It allows examination of sentencing patterns and trends - while realizing we are talking about case and people-specific fact patterns, weaving them together to inform and engage others in development of sound state policy, enhanced public safety, reduced recidivism, and equalized application of justice.

For more information on the state of criminal justice data in Ohio, see our [January 2019 Data Brief](#).

2. [Why is the Sentencing Commission the right organization to manage a sentencing database?](#)

The Commission occupies a unique position in state government – we are the only independent, bipartisan, and objective group that routinely brings together stakeholders from across the criminal justice spectrum to discuss policy. When data is siloed within one branch of government or agency, the information it provides is often subject to concerns of internal bias or self-interest. The Commission’s independence is important to providing neutral, accurate data to all interested parties.

3. [What is the role of the Sentencing Commission going forward?](#)

The Commission and the Chief Justice have proposed a modernization language to our enabling statutes that will rejuvenate and streamline our membership, ensuring all the necessary stakeholders have a role and voice in Commission policy recommendations. Recognizing that criminal justice policy needs to be approached holistically and not just through sentencing change, it rebrands us as the Ohio Criminal Justice Commission. That modernization language will also charge the Commission with the study and development of the felony sentencing data platform and with the responsibility of ongoing management of the project.

4. [The Uniform Entry is a solution in search of a problem. Data is already available... The Uniform Entry is capable of machine AI reading which may be helpful to someone...](#)

5. [Also - While I'm not opposed to a uniform entry, I'm not sure what problem this is attempting to fix. The ODRC already can provide information about to various sentences imposed around the State. Other than to help judges reduce sentencing errors, why are we moving towards a uniform entry? So, the Supreme Court can build a database?](#)

Respectfully, we disagree. As we saw during the debate around issue 1, reliable data *even about who goes to prison* isn’t readily available in Ohio – an issue highlighted by the Chief Justice in her September 2019 State of the Judiciary speech. Even less data exists about the vast majority of cases which do not result in a prison sentence. We simply cannot tell the story of what happens to defendants when they leave court.

As sentencing in Ohio grows increasingly complex, the Uniform Sentencing Entry provides trial courts with a reliable template for the necessary language in their entries and, along with development of a statewide sentencing database, is a substantial step in the direction of reliable, aggregate data at the state level.

6. [Will the data collected be available to analyze sentencing differences between counties and judges?](#)

We hope that the statewide sentencing database will be as robust as possible and provide reliable, aggregate data at both the state and local levels.

7. This may have already been covered, but what is the vision for who will collect this data? How will it interact with systems actors already collecting it as part of their case management process?
8. *Also*, how is the group grappling with the challenge that every county can choose their own case-management system (particularly courts and prosecutors), each having a different data model? Are you anticipating asking someone to do double-data-entry?

We have partnered with experts at The University of Cincinnati, The Drug Enforcement and Policy Center at the Ohio State University Moritz College of Law, and with Case Western Reserve University and are in the early stages of a pilot implementation project. That effort will greatly inform our ability to integrate existing case management systems and to ensure the impact on local court staff is minimal. The overarching goal is for the uniform entries and the sentencing data platform to be a resources for courts and other stakeholders, with little to no burden to their already busy staff.

9. Have you spoken with the Prosecutor's offices across the state about providing the sentencing information?? In Cuyahoga County, Justice Matters is the system used by the county prosecutor and prosecutors are REQUIRED to enter sentences into this database. Why not require the prosecutor to provide this information, from the database, at sentencing?? Why re-invent the wheel??

We're aware that prosecution's case management info often feeds into a court case management system, but as those programs vary greatly statewide, we think our approach utilizing the uniform entries will be the easiest to roll out and scale quickly.

10. What about existing local data repositories? What can be done to incorporate those resources and make them accessible to the public?

To the extent data is readily available within a jurisdiction, we will work to incorporate existing practice and technology in implementing the data platform statewide.

11. Will the database will include a person's charging history, including charges plead down, dismissed, or otherwise diverted?

The uniform entries, used together, will provide a history of the case from indictment through plea and/or trial, until disposition. The included charts will ease visualization and harvesting of this type of data, making it both easier to glean from glancing at an entry and easier to aggregate for data collection purposes.

12. Evaluating justice to all defendants starts with bail decisions, then pleas being offered by prosecutors long before sentences are imposed it seems to me.

The Commission recognizes the importance bail and pretrial decision have on the criminal justice process, and have long discussed the need for robust data on this topic. While it will not be initially captured in the felony sentencing platform, the Commission remains committed to ensuring this type of data be made available statewide in the future.

13. Is there any talk to include misdemeanors in the database, at least offenses of violence like domestic violence?

Currently the database is being developed based on uniform entries that will be used in Common Pleas Courts statewide. It includes language to incorporate misdemeanor charges that are handled in a Common Pleas cases,

typically attended to a felony charge. Development of uniform entries to be used in municipal and county courts is a larger undertaking contemplated as a future effort.

14. Will proposal seek past data or only future data?

Unfortunately, as data collection will be based on data harvested from the uniform entries, it will only contain data from the point of adoption forward. Past data not available, or is disparate and mismatched where it can be collected, making aggregation of past data nearly impossible given current resources.

15. Is there a vision for what role if any the database will play in appellate review of sentences?

16. Also, Are the advocates hoping the database would open doors for postconviction relief based on sentencing disparities?

We believe that the tenets of R.C. 2929.11(B) that a sentence be proportional are important, and that providing a reliable basis for comparing sentences within jurisdictions and statewide is a valuable tool at all stages of the criminal justice process, not just appellate review.

17. For those who do not want to wait for the entire state to collect and share data, can we do this county wide? If so, what counties are already doing this (well)?

If your county wishes to be involved in the roll-out of the uniform entries and data platform, please reach out to the Commission staff and let us know. While the project is initially slated for one pilot jurisdiction, we hope our professional partnerships will allow us to bring the platform to scale quickly.

18. What advice/suggestions can you give for the 'average' Ohio citizen for evaluating individuals on upcoming elections as to their proclivity to meaningfully support efforts toward said database?

19. Are the planned datapoints available so we know what data will be included?

We want the data captured from the uniform entries to be as robust as possible, and will continue to evaluate the data points that can be collected from the entries and demographic data attachments. While a final list is still in development, the [Sample Data Dictionary in Appendix J](#) of our Uniform Sentencing Entry Appendices Package illustrates some points we're looking to capture.

20. Please comment on how you see the effort of data collection to be funded.

We have initially sought grant funding through the federal government to begin our pilot project and development, in conjunction with previously budgeted Commission funds from the GRF. The pilot project includes cost estimates for development and ongoing maintenance. We believe that all branches of government recognize the need for this type of data and are willing to work to ensure it can be adequately funded going forward.

21. Have you considered or are you collaborating with Measures for Justice <https://measuresforjustice.org/>?

We have collaborated with Measures for Justice in the past and that work serves as the basis for the data variables we have developed for use in the data platform. We remain open to future collaboration as the project moves forward.