

Drugs on the Docket Podcast

Season 1 Episode 3 – A Special Conversation with former Supreme Court of Ohio Chief Justice Maureen O'Connor

TRANSCRIPT:

Hannah Miller: Schoolchildren learn about the three branches of the federal government: judicial, executive and legislative. But often it isn't until we come a voting age that we start to understand the realities of state governance, especially once we get a chance to vote for state legislators, the governor and state judges. And while Justices of the Supreme Court of the United States get a lot of media attention, state Supreme Court Justices often also make landmark decisions that contribute, importantly, to American law and culture.

In Ohio, the highest court consists of six Supreme Court Justices and one Chief Justice, all of whom are elected by Ohio voters. From 2011 to 2022, Maureen O'Connor served as Chief Justice. Prior to her retirement at the end of 2022, we sat down with Chief Justice O'Connor to chat about her career and a range of issues that have helped define her tenure as Chief Justice: the evolution of specialized dockets and coordinated efforts to combat the opioid crisis, the importance of criminal justice data, and the importance of criminal record relief. While this episode does not delve into any specific state Supreme Court case, the discussion provides invaluable insight about Ohio's judicial system and key issues that may have a significant impact on Ohio courts and stakeholders.

From the Drug Enforcement and Policy Center at The Ohio State University, this is Drugs on the Docket. Each episode will tell the story of how U.S. court decisions impact drug law and policy and continue to shape the War on Drugs. I'm your host, Hannah Miller. Today, we're sharing a special conversation with former Supreme Court of Ohio Chief Justice Maureen O'Connor.

If you like what you hear in today's episode, visit go.osu.edu/drugsonthedocket to follow the series.

For today's episode, I'm joined by co-host Doug Berman, a professor at The Ohio State University, Moritz College of Law and executive director of the Drug Enforcement and Policy Center. Doug, will you do us the honor of introducing our esteemed guest?

Douglas Berman: Absolutely, Hannah. I'm honored to be able to do so. And I say that in part because there are so many honorable things to say about her honor, Chief Justice Maureen O'Connor. Her accomplishments could fill up the next hour, and we wouldn't have time to hear from her. And so I'm going to give kind of the oversimplified bio to get us started. And among other aspects, it just highlights why, when we talk to the chief, we know we're getting such rich insights into a range of perspectives that she's had through her years serving the State of Ohio. She is a Cleveland Marshall School of Law graduate and she's now finishing up her term as the 10th Chief Justice of the Supreme Court of Ohio.

She's the first woman to lead the state judicial branch of government. And before serving on the Ohio Supreme Court, Chief Justice O'Connor was a magistrate, a judge, an administrative judge, a prosecuting attorney in Summit County, and was actually also elected alongside Governor Bob Taft as Lieutenant Governor. Since 2003, Chief Justice O'Connor has served on the Ohio Supreme Court, elected and reelected in 2010 and 2016, and she will be finishing up her current term and moving off the court. I'm sad about that. But with this incredible career of public service spanning three decades, she actually is the longest serving statewide elected woman in Ohio history. Thank you to joining us today on on this podcast.

Maureen O'Connor: Well, thank you for the invitation, and I'm really looking forward to our conversation.

Douglas Berman: Wonderful. Well, you've served in so many roles throughout your career here in Ohio. And of course, the main topic for this podcast is drug policy and drug reform. And I wonder if you have any sort of general thoughts about sort of the challenges that drug use and abuse has for those, whether it's working in the judiciary as prosecutors, in other elected offices throughout the state? My guess would be you've seen and I know you've been a

leader on a lot of these issues in a variety of roles. But just as you kind of look back and reflect on the way in which drug use and abuse impacted your work, that would be great.

Maureen O'Connor: Well, that's a great question and we could probably take the whole hour up, you know, talking about it. And I'll just start by saying when I first was in a position, I was a common pleas court judge and this was back in '93. There wasn't the attitude back then that we're dealing with a disease and we need to treat the whole continuum here, and we can do that probably better outside of an institution than inside. That just wasn't on the radar back in the nineties. It was, you know, just say no and we're going to punish our way out of this. And there was no insight as to societal causes. Heck, there wasn't even, you know, opioids weren't on the scene and there was no connection between the physiology of addiction and the person standing in front of you in court.

So, I was as uninitiated as every other judge at that point. And you followed the the pattern of, you know, listening to the defense attorney, listening to the prosecutor, taking a look at what the record taking a look what the case was involved in, and chances are you were dealing with somebody who had committed an offense because they had a drug addiction and those people were either put into local incarceration or they were put into state incarceration. And then, you know, you fast forward and the physiology of it, and I think that became really developed and wide known with the opioid crisis. And I don't think up until that point people cared about how heroin affected the brain. I don't think they cared about meth or cocaine or you know crack or any of that. Then doctors and treatment specialists took a look at the whole experience and the repercussions on the development of the human brain, especially when someone starts out young.

So it was like, wait a second, the method we have in place, the criminal justice system that we have in place, is ill suited for what's happening. And I was fortunate enough to start, you know, learning about that as a justice. People started looking at this and making sense of it and, you know, listening to physicians, etc., addiction specialist. And I did the same thing. I got one on one conversations with people and it was like, okay, we've got to change the way we think. And nationally, there was so much movement. We've got to change the way we do this because we're not getting anywhere with this. You know, we can get into the whole pharmaceutical industry and etc., but I want to focus in on the awakening and I hate to use that term. I caution myself using that term because people are going to transition to, oh, she's so woke. And there's a big difference between an awakening an epiphany and, you know, a learning and that's what had to take place before the criminal justice system, and by that I mean from the point of contact with a defendant through the court system, you know, with the prosecutors approach to it, defense attorneys have had to learn and judges had to learn. And that's great that we all had this learning process and this awakening. But then you had to develop the resources.

Douglas Berman: It's such an interesting set of comments. I'm thinking about where we are in legal education because realistically, even though the Drug Enforcement Policy Center here at The Ohio State University Moritz College of Law is an effort to raise awareness and educate folks on a range of drug policy related issues. But the basic reality is we don't teach in law school these issues. We're still teaching first year criminal law the way we've always taught it.

Maureen O'Connor: Exactly, yeah.

Douglas Berman: Even though, as you know well, mental health issues and substance abuse issues that drive so much criminal justice involvement. I'm curious, you know, is your sense that there's even a learning curve for defense attorneys, prosecutors, judges, or is it is it really spotty? And that that's something that that we ought to be working on collectively at the law school level for very early lawyers, but, you know, through through the entire range of, you know, whether it's CLE or other things, to to continue to to raise awareness levels on these these sets of issues, because I share your sense that I think we're becoming more informed, but I still think there's a long way to go.

Maureen O'Connor: Oh, absolutely. And it's not, you know, one and done. You're a judge. You take a course in new judges school. Absolutely not. We have, if you look at the curriculum for judicial college, you'll see any number of courses available for judges to, you know, take the course, take it again, listen again, because there's a lot to absorb there. The same thing, you know, criminal defense attorneys have to be constantly aware of developments in the science and prosecutors as well. There has to be partnering, which is kind of a unique concept because as a judge, the culture is I'm running my courtroom and I'm going to be the final, you know, say in this. I'm sitting on my bench. I listen to the prosecutor, I'm listening to defense attorney, and I'll listen to what they have to say.

Well, no, the judge has to be educated so they know what they're listening to so they can ask questions. They can understand best policies and practices and question the treatment community and develop partnering with that treatment community. So, the role of a judge is very different than it was 12 years or so ago in in this area. There needs to be education at every step. Law school. I think that there should be a component when you're teaching criminal law about the policy behind criminal law, not just the mechanics of criminal law and criminal procedure, but the policy behind criminal law. I mean, that would be a great thing for first year or even second year students to take. Then judges, as I say, constant reinforcement. And we're constantly getting new judges, as yesterday's election will, you know, demonstrate. And those men and women have to be exposed and reinforced and then prosecutors change. And it's not just the elected prosecutor, it's the assistant prosecutors and the prosecuting attorney's association. And then we have other organizations, treatment community, more than willing to partner.

And, you know, there's a whole other element of the new doctors. New physicians have to be exposed. I just spoke to a second-year students up in Case a couple of weeks ago all about drug treatment. Ohio has about 264 specialized dockets. We're kind of a leader in in the country when it comes to specialized dockets: mental health, substance abuse, juvenile family, veterans. You know, I could go on and on about, you know, the focus of these individual courts and they are geared at one thing, to keep people out of the institution and into treatment and then establish themselves or reestablish themselves as functioning members of society.

Hannah Miller: On the topic of specialized dockets, now that you've you've led us into this so beautifully because you've been talking about the environment that we needed to create, the culture shift that needed to happen, the education that's been happening over decades, in understanding opioids, how they impact an individual, how that might impact their decision making, and then also taking into consideration the individual's circumstances as well.

Just a messy pot for, you know, all these all these factors to to mingle. And then unfortunately, people make decisions that land them in front of, in front of a judge or in front of law enforcement. I wanted to ask you specifically about the specialized courts and do you consider the developments in the court system in Ohio, the fact that we have specialized dockets, that we're we're essentially leading the way on how we are treating individuals with drug and mental health issues. Do you consider that a big part of your legacy?

Maureen O'Connor: You know, I didn't invent specialized dockets. Please, let's not go that far here. They were a concept. We were starting with specialized dockets here in the state of Ohio, you know, through the courts before I became chief justice. What we did was, I want to say, kind of professionalize specialized dockets by certifying them. So we have some continuity. We had some unity. There was, when you said specialized docket, everybody knew what you're talking about. And then that allowed for the growth of specialized dockets. The more we had, the more success that was being demonstrated, the more was created. We have a great group of judges in Ohio that are dedicated to specialized dockets because they believe in specialized dockets.

I don't want anybody though to think that specialized dockets is the cure all. Everybody can go into a specialized dockets and they walk out able to handle their disease. That's not true at all. The graduation rate in a specialized docket is relatively low, if you look at the big picture. But every person who graduates is a life, is a family, is an employee, a son, daughter, parent, sibling.

So, the effect of someone who successfully completes a specialized docket is so much more effective and transformative than someone who's just goes and does six months in the county jail because they got caught with a you know, substance. So, yes, I think the specialized dockets are a great tool, and it's done two things. It's helped the culture change in criminal justice here in Ohio and across the country. The more the culture changes, the more receptive the criminal justice system is to more specialized dockets and a variety of specialized dockets. I find that to be encouraging. I think it will continue. And I think that everybody, no matter who is in the courts, believe in the value of these specialty dockets.

Hannah Miller: What other kinds of specialized dockets do you see coming up or being created to deal with very specific problems?

Maureen O'Connor: You know, you always hear about the veterans, the homelessness and all of the other things that plague veterans and oftentimes undiagnosed PTSD as a result of their experiences in the military. And they become involved with law enforcement, whether it's simple possession or whether they're involved criminal activity with a drug component to it. So those I think we need more of and there's a high rate of success. And I'll tell you why, because it is the perfect confluence of support, veterans supporting veterans. And that is such a strong alliance. And

that's why I think specialized dockets for veterans can be so successful. Ideally, you've got a judge who's been a veteran or is a veteran. You've got, you know, the support system, veterans supporting other veterans. They come in to the court with them. They are there throughout the whole process. It's a it's a great dynamic. So, you know, I think expansion on the veterans is important. I think that family treatment courts are important. This type of culture of drug use. It can permeate. And what is happening to mom or dad, while the children might become victims of it and are removed, etc., oftentimes you're reading the history of someone who's before you for a violent crime and they've got substance abuse issues, and the history tells you the parents had substance abuse issues. So it is becoming generational and we have to break that cycle.

Douglas Berman: And you mentioned briefly, you know, how the opioid epidemic has heightened awareness and understanding about a lot of these issues. And I think we've certainly seen those generational stories as well. And I wonder if, you know, maybe particularly you could speak to the role that you have had as the head of Ohio's judiciary and thinking about particularly the interplay of state courts and state actors and the federal government and sort of the national story here, because obviously the opioid epidemic is a national problem, doesn't stop at state borders.

And yet, you know, so much of criminal justice and drug policy ends up being a state-by-state issue. And so you would very much love to hear your own view on how Ohio's responded. And my understanding is you've coordinated with other state leaders around the country. And then particularly if you think since we're looking toward always sort of federal help on topics, at least for the resources, if not for direct policy guidance, your own sense of kind of the relationship between the role states play and the federal government plays on on, you know, so many of these drug policy issues which are, which are necessarily national, often even kind of international challenges.

Maureen O'Connor: You're absolutely right. There is no respect for borders or state lines or anything like that when it comes to our drug disease problems. In 2016, we put together a regional judicial opioid initiative, and that was an effort, and it was successful, where we brought together eight states in Cincinnati and then it grew from there. And the initiative was prompted by the realization that we need to do a better job of communicating with one another about things that are going on in our individual states that are mirrored in other states.

What the, you know, how we're working on those solutions, how we can work together, sharing of information. That was huge. You know, the sharing of information, it usually stopped at the border and there wasn't a whole lot of communication between law enforcement. And people certainly go over the border, Kentucky, vice versa, Indiana, wherever, secure drugs and maybe get arrested and that sort of thing.

So there had to be some coordination and the breaking down of what they call the silos. And one of the examples I'll give is the ability to determine if someone's doctor shopping for drugs. That is a crime. If you're going to go around into various doctors and try and score some opioids and doctors had no way of really knowing that sort of thing or pharmacists. The pharmaceutical board here in Ohio, part of our task force, the regional judicial opioid initiative. And they came up with monitoring and reporting. And so doctor shopping decreased by 70% because the light went on. The solution was discovered. And it was implemented. It's prescription drug monitoring. That's the term. And that was employed across state lines.

Again, I said there's no borders when it comes to drug addiction. That's absolutely true. That's just one example of how we partner. And the meetings, the regional meetings that take place and the information sharing and the gathering of all of the actors, so we're listening to the same voices educating us about it. Here we are in Michigan. Here's what's working in Michigan. Here's how we access some federal dollars and here's what we use those federal dollars for. The sharing of information that did not take place before is what is the secret sauce, so to speak, of the success here. And it wasn't because people were unwilling to do that. It's just nobody coordinated it and said, here's how we can do it. And I will credit technology. We don't have to come together in the same room and we're all hearing the same message. And that's a beautiful thing. We did this here in Ohio with our seven partner states and then it was duplicated. You know, other states have come together on the national level through the National Center for State Courts. They've used this as an example.

So the bottom line is the message is let's change the dynamics. Let's be willing to work together. And we're not in competition and let's educate one another about best practices. Let's educate, you know, about developments in the science. Let's educate about treatment initiatives, program initiatives that work, and let's see how we can partner with our federal counterparts, in particular the funding sources. And that's crucial to any state's success to access these grants, first of all, to know about them and maximize their their effectiveness and report back so that like every federal

program, if you have success, you're going to get more funding and the program is going to continue. You got to be in that position.

Douglas Berman: And if you had the ear of the president or the attorney general or congressional leaders, maybe even Chief Justice John Roberts, would it mostly be just just keep the money flowing because we can figure this out, you know, on the local level better if we have the resources we need or is it is there more you think that federal officials can do to help with the coordination or otherwise send the right sets of messages about the obvious frontline roles that states and state actors have?

Maureen O'Connor: Well, I don't know that Chief Justice Roberts has an active role here in this sort of thing, not for funding, but, yes, keep the funding flowing. There is the pot of money that is anticipated from, you know, the opioid settlements and all that. That's one pot of money. But then there's other money from the federal government, a lot of it linked into the COVID expenditures.

There's a lot of money in the federal government to be dispersed. And the challenge is to know it's there, to work with the agencies in Washington to be able to access it, and be wise in the ways of Washington and how that works. That's where your elected officials, certainly your senators, can be very helpful, their staffing. We have the National Center for State Courts, which I can never say enough about, and their expertise. They have government connections. They have people who are their government experts, and they're up on the Hill all the time, you know, talking about what the state courts need. We have that resource and it's a very valuable one. So it's incumbent upon leaders of the courts in each state, the chief justices of each state, to be aware of what resources are out there, how they can work with partners, how they can go to their national center for state courts and then, you know, derive the benefit from there. You know, they don't have to reinvent the wheel all the time. There's a lot more probably unknown to those that aren't initiated. You can come up to speed rather quickly because there's a willingness to share that information. It's pretty centrally located for the benefit of leaders in the judiciary. And where does that money go? It can go to your mental health agencies within the states. We have, you know, drug and alcohol addiction and mental health. They get a tremendous amount of money and then the courts can access the money through that agency, that state department. It doesn't necessarily have to go straight to the courts. Very rarely does it go straight to the courts. And that's the path, that's the geography of how you access the resources.

Hannah Miller: In addition to the state agencies that you mentioned, and most of these being government agencies or government actors, what other stakeholders were part of this multi-state, coordinating effort to identify problem areas and then coming up with a solutions to implement? I imagine that getting information about those who are shopping around for opioids, it couldn't just come from state agencies or mental health agencies. I'm sure that there had to be some partnering with privatized health care. Could you speak a little bit more about the stakeholders that you worked with?

Maureen O'Connor: Yes, absolutely. The pharmacies and pharmacy board here in Ohio, they're the ones that put that in place because they have the relationships with their counterparts in other states, etc. I don't, never would, dictate to them, here's what you need to do. I mean, we need to bring experts like that to the table and partner with them. And let's not forget about the legislature. The legislature holds the purse strings and having the legislature involved in drug policy is essential. A lot of the legislators pick out an area that they're particularly interested in and they want to make a difference in, and they develop the relationships. And so those are the legislators that you go to or they will come to you to talk about pieces of legislation that are going to dramatically change how we operate in some of the aspects of criminal justice here in the state.

And those are important relationships, because once they establish credibility within the legislature, they can speak with authority. And then if there's resources to be requested for the budget, those resources can be put in the budget and hopefully approved in the budget. When I talk about the resources for the court itself, our court, my budget is 2/10 of 1% of the state budget. That's not a whole lot of money. But then there's other funding streams that go to other groups that are partners with the criminal justice initiative. The Criminal Sentencing Commission is a perfect example of an entity. It's got its feet in both worlds, both the legislature and the judiciary, and it gets funding from the legislature. And the legislature has been very generous, and I commend them for their perspective on the value of the Criminal Justice Sentencing Commission. And a large part of that has to do with the efforts of Sara Andrews, who does a bang up job along with her staff, over there. I've got to plug Sara. But you can get the dollars and the policy through the state legislature, and that's extremely important. You don't make any headway unless you do that. But you know, there are institutions within the federal government, for example, the Bureau of Justice Assistance, BJA. They

oversee state and federal grants. You know, we're very fortunate, Carleton Moore, who used to be here in Ohio working for the executive branch, is now the director of the Bureau of Justice Assistance, and I've met with Carlton. He's very receptive and a really good friend for criminal justice policy. Those are relationships that have to be developed, and it's important as a chief justice to develop those relationships no matter what state you're in, so that you can have the big picture, coordinate with the people who are also part of that big picture, and then do as much as you can to upgrade, initiate, change the culture. I mean, these are all things that I think are the responsibility of the courts.

Hannah Miller: You mentioned that you have a small budget compared to the legislature, and so it's a very important group to get on your side if you want to tackle a specific issue. But I would say that even with that small budget, you've made resources available to bolster local court connectivity, both with each other and with the residents of their respective jurisdictions.

I'm a major fan girl of the Ohio Courts Network and I'm not a lawyer, I just work in this space. I think it's a fantastic resource for service providers who are not necessarily working within state agencies or the court, and I'm excited about its evolution. But I wanted to ask you how do you think the Ohio Courts Network is going to change the way our judicial system, and even the legal support environment, legal aid organizations, how we serve our residents?

Maureen O'Connor: Technology has advanced, how we deliver services, how we can discern trends, how we can unite, and how we can disseminate information and resources, not just keep track, but how we can share that information. And that's the beauty of technology and that's the beauty of what we are blessed with in Ohio, but we've got to grow and we've got to expand and we've got to continue to build on that information that is collected, that is shared, and that allows no matter who you are, if you're in the criminal justice system, if you're in the treatment community, if you're in education, if you're in policy, you need all that information. But we don't have just one repository. That's the problem that we have in this state and so many other states in the country, even nationally. And that's where the Criminal Sentencing Commission and their data collection comes in, because that is the beginning of a complete data collection picture that is going to allow, when it is finally in place, academics, policy makers, courts, members of the bar, you name it, the public, they're going to be able to access information and be able to come up with some pretty revealing and I think, helpful, very useful information about how our criminal justice system works in this state.

Douglas Berman: I want to jump in and make sure we rightly give you a chance to talk about yet another part of what your legacy is going to be, because I know since I've been here in Ohio, which is going on a quarter century now, there was there was chatter and talk about the need for the kind of sentencing database that's now kind of on the verge of becoming a reality. And I not only want to kind of highlight that I share your sense that academics and a range of policymakers and practitioners are going to benefit enormously from having this resource put together. But I wonder if you want to maybe talk a little bit about how challenging that's been, you know, in a state like Ohio, where the data has been so scattered and, you know, can perhaps help our listeners understand why even if there was a will, there wasn't always a way until you and others took leadership and championed the importance of going from a good idea to actually getting this done.

Maureen O'Connor: Yeah. You know, I think that a concept of good government that has been kind of lost along the way is transparency. You know, for a variety of reasons. And that's a whole other podcast to talk about, you know, why we don't have the transparency that we should have both in Ohio and in other states. But we need transparency and we need to know how our institutions work and we need to know are they successful in what their mission is and are the processes in place? Are they working? And why do we need to know that? Well, because we spend an awful lot of money trying to keep these afloat. And that money comes from the legislature through the budget, as I mentioned. And the legislature needs to have data to figure out are they putting money in the right basket to make sure that the taxpayer dollars are maximizing? And are we getting the results that we think we should be getting or that we've been sold on? And so that's where all this data comes in and we don't have it right now. And so the initiative that the Criminal Justice Commission has come up with and that is in place now, is to collect sentencing data and collect, you know, just a tremendous amount of information, demographic information, and then make that pot searchable.

We're at the very beginnings of that process. It's been talked about since maybe 1999. Back then, in 1999, the rationale was we believe there's racial disparities in our criminal justice system and we need data to show what exactly is going on. We have not solved that. We haven't, we don't have the data to say whether that's true or not. But

there's so much more that we need data for in addition to defining and determining whether there's racial inequities within our criminal justice system. When I say racial inequities, I mean from the first encounter that, you know, a citizen has with a police officer to what they're arrested for, what the prosecutor charges are preferred, what happens pretrial as far as bail or detention, what happens within the whole court case, what happens at disposition of it. Nobody has the data on this stuff. You'd think we would, you know, but we don't. And so how do we know about the systems? How do we know diversion programs?

I'll give you an example. A diversion program, obviously, you're you're arrested for something. The court has a you know, maybe a treatment in lieu diversion program and you finish it. Where are you five years from now? Did it solve the problem? Do they remain drug free? Do they remain employed? Any other problems? I don't know. And I don't know that anybody knows. If there is a problem five years down the road, what could we have done back in diversion that could have maybe avoided that? These are the kind of questions to which we have no answer at this point. And we do need an answer. This whole continuum of data collection, I think, is the future. That's where we need to be. I don't have enough time left on my career to effectuate it, but I'm hoping that the legislature will continue to see the value in the Sentencing Commission and continue to fund this and support it because they need it. The court system needs it, the criminal justice system needs it, and society in Ohio needs it.

Hannah Miller: I know that there's this constant struggle in the state of Ohio with the way that our legal system is set up. Autonomy versus standardization. What would you say to an opponent of this type of data collection? How have you gotten people around to the idea that this data collection is important? How do you get influential elected members of the judiciary in courts across the state to come on board with this idea?

Maureen O'Connor: Well, there is an initiative with the Sentencing Commission and the University of Cincinnati, and they literally talk one-on-one with judges in their offices, in their courtrooms to answer questions and to talk about its application and to tamp down the misinformation and the fear that goes along with any kind of a change. And so that's been very, very effective. We started out in Allen County with Judge Reed as being the initial judge that was willing to step up and do this as a pilot. And what these pilot judges are doing informs not only themselves and they're learning more, but it informs the people who are developing it. Like I said, the University of Cincinnati and the Sentencing Commission, it's perfecting what the outcome will be for just the sentencing, the collection of the sentencing data. And as I said earlier, there's so much more data to collect, but they're starting with the sentencing data, and that will be a repository information that, as I said, will be searchable and it will allow for the sharing of information.

And since then, there are maybe 40 some counties that have stepped up and want to learn more about this. And Hazem Said, who is the professor, the brains behind the operation from the University of Cincinnati, is not a lawyer, not trained in the law, and yet he's been able to go to these individual courts and sit down with the judges and see how they're operating, answer their questions and impart information to them in a very trustworthy way. And they walk away and they're saying, okay, well, that's not what I thought it was.

This doesn't sound threatening. And yeah, I'm willing to be a pilot. I'm willing to be involved in it and give you my feedback and learn more about it. I'm encouraged and I think that that's going to continue to go forward. As I said, it's going to require the backing of the legislature to continue with this. And I have faith in the legislature that they realize the value of this, not just for the courts, but for them as well.

Douglas Berman: I'm tempted to suggest that the fact that Hazem's not a lawyer might be helping the cause. That's where, again, you're mentioning sort of about trust and information and all of that, I think sometimes valuable for especially us in the legal profession to appreciate that other people can have important perspectives and bring some fresh insights and thinking. On that front to actually sort of, you know, get us back to where we started a little bit in terms of what we've learned and new perspectives as we've kind of understood the criminal justice system better.

I think the issue of record sealing and expungement and the kind of the impact that criminal justice involvement and having any kind of record has on the ability for individuals to get back to a law abiding life. We've been very lucky at the Drug Enforcement and Policy Center to be working with Governor DeWine to help with pardons. We actually saw a notable initiative by President Biden on doing some some blanket pardons. And I know you've been involved in these issues. The one that comes up for us and that we're working on at the center is this what's often called the uptake challenge, that there may be lots and lots of people eligible, whether it's record sealing, expungement or some other record relief remedy, but they don't know about it or they can't access it for whatever reason, whether it's the cost or the uncertainty about their eligibility. And I wonder if you have sort of a perspective on both what the judiciary

can do writ large, but whether, you know, you see this as another issue, that continued education can hopefully help us continue to move forward on.

Maureen O'Connor: I think that it is information that has to be shared with the defendant. I think it needs to be shared at sentencing with that defendant. I think it is incumbent upon both the court and certainly the defense attorney. I think that the defendant should receive something in writing. And if they are institutionalized, that when they leave the institution, they receive something in writing that describes what the current policy is for sealing the record or expungement. And there's a lot of confusion. What convictions are eligible to be sealed, what ones aren't, under what circumstances, is there a hearing, is a simple paper transaction, etc. I mean, those are all things that we should be upfront with and we should inform the people who are most affected by it. And if you go into a courthouse, there should be an information center where there's a whole bunch of information, you know, and besides just how to get around the courthouse. But here's an information sheet frequently asked questions about post-conviction expungements or sealing. Why not?

And now I know there's legislation out there and it has not been passed, I should say, that are looking to expand the number of convictions that are eligible and shorten the amount of time between disposition, final disposition, and the expungement experience. And why is that? Because we all know how difficult it is to get a job when you've got a felony on your record. And if you can get that sealed and you are not re-offending, in other words, you don't have pending cases, etc., you're in a better position for housing and jobs and maybe educational opportunities, etc. So, it doesn't do anybody any good to continue to have a felony conviction looming over their head forever. How does that help society? How does that help society? It doesn't.

Hannah Miller: Besides all of these different actors taking it upon themselves to maybe mine their own data and be proactive about educating individuals so that they know that they're eligible for sealing, do you foresee any type of centralization or standardization in the way individuals apply for sealing?

Maureen O'Connor: Oh, you mean to a central repository as opposed to the individual courts?

Hannah Miller: Correct. The certificate of qualification for employment, the way that that program is set up is that there is a central point for individuals to access information and there's also a central point from which information about CQE is dispensed to trial courts and all of these different actors in the legal system. Do you think that that's something that Ohio could work towards considering we'll have the repository, the OCN, at our disposal over the years to come?

Maureen O'Connor: Yeah, I think that that's kind of a low hanging fruit to do exactly that. Then they have to take that information and go to the individual courts, process their paperwork for their request. Are people eligible to do this themselves without a lawyer? Absolutely. Are people able to do this themselves without a lawyer? I don't think so. For the most part. I don't think so. And I think this is an initiative for law school clinics to really take the lead on. Have expungement clinics, sealing, record sealing clinics, have students that are interested in in this, you know, helping out and making it happen for people free of charge. I can't dictate on whether it should cost someone to get their records sealed. It's kind of a vicious circle if you don't have a job because you have a record and you know you want your record sealed and you don't have the resources to hire somebody or filing fee or, do you know, Doug, whether they allow for filing and having this done if you're indigent? I'm not sure.

Douglas Berman: I think Hannah knows all about this. In fact.

Hannah Miller: You can submit a waiver, a fee waiver or an affidavit of indigency.

Maureen O'Connor: Okay.

Hannah Miller: The interesting thing is there are courts that charge to file an affidavit of indigency.

Maureen O'Connor: No kidding. I know. I know. Just like, yeah there's a fee to get an attorney to represent you when you're indigent. There's a \$25 filing fee to get appointed counsel because you're indigent.

Douglas Berman: Rather than linger on some of that illogic, I'm eager as we're at the end of our hour together and again, we're incredibly grateful that you took the time with us to talk about these important issues. I wonder if you just want I want to talk about either your vision of the future for the state of Ohio on a lot of these fronts, or maybe your own plans.

I think by the time this will be available for broadcast, you may already be in your next role, whatever that's going to be. But we would love to sort of get your closing thoughts, not quite a setting for culminating an incredible career in public service, but definitely eager to hear your take on where you think now, not just you, but others who aren't in elected office can continue contribute to moving these these issues forward effectively?

Maureen O'Connor: I don't know. You know, as far as a prediction goes on, what initiatives the newly elected Chief Justice Sharon Kennedy prevailed. I'm not sure where she will go with policies and what will be on her initiative agenda, but I know that there's a value in what we've just talked about and the value of transparency and the value of this information being utilized by a host of government institutions, not the least of which is the executive and the legislative branches. Just OCN is a valuable resource from the jails to the collecting motor vehicle records and coordinating all this. And those are going to be the silos that are going to be mined, the demographics for individuals, for the data collection project will access. So, transparency going forward, getting this information out there where it needs to be, having it available. You know that transparency comes with academia and other institutions wanting to put the information together and write law review articles about it, and informing both the profession and the public. And that, I hope, goes forward. And I hope that that is something that really continues, because I think that is extremely important in policy development. To me, that's the most important thing I want to see happen.

I'm sure that the specialized dockets will continue and grow, and I would like to see the reforms that are being banded about in the legislature right now transpire, you know, take hold. I think that's important. But there's other things now that have nothing really to do with the criminal justice system that I'm very much interested in and going forward. You may have heard about the struggle with the redistricting commission that has occupied much of my last year here in office. And I really think that we as Ohioans need to revise the makeup of the redistricting commission. Right now, it's all elected officials who, one could argue, have a self-preservation interest in how those districts are drawn. And that's wrong. That shouldn't be, the way those districts are configured. People of Ohio deserve better, and other states have done it with impartial, non-elected officials who we can do the same in Ohio. And I'd like to see a constitutional amendment that fixes that in our Constitution. And I think that there's other things, it's going to depend on what other initiatives might have to be addressed constitutionally, depending on what happens with our legislature and, you know, where they go in the future. And it's fluid. It truly is fluid. What my role is going to be? I do plan on working on redistricting improvements, and I do plan also, I don't know when this is supposed to air, I may still be on vacation.

Douglas Berman: Good for you and well-earned and well-deserved. And with that, we again are grateful for, you know, having had an hour with you to talk about these important issues. You are, of course, always welcome. We could always use a podcast guest host as well. And so if you want to hang out with us, we'd be incredibly honored and grateful for for more of your time, once you get off the beach or wherever you plan to vacation. But with that, again, just a very hearty thanks. You know, Hannah, you want to add to that as well?

Hannah Miller: Well, I just hope, you know, Chief Justice, I will always be a fangirl of the Ohio Courts Network. So that work will continue because I will make sure that people know the value of it.

Maureen O'Connor: That's the tip of the iceberg. The Ohio Courts Network. This is what I'm talking about. We we can do so much better. Bigger and better.

Hannah Miller: Fantastic. Thank you so much.

Douglas Berman: We are grateful for your vision and your contributions. So so with that, thank you so much for the time and we'll look forward to hopefully having a chance to talk with you again soon.

Maureen O'Connor: Okay. Thank you all.

Hannah Miller: Drugs on the docket is a production of the Moritz College of Law Drug Enforcement and Policy Center. This episode is produced by me, Hannah Miller and Holly Griffin. Doug Berman is our editorial advisor. The music is composed by Joe DeWitt.