

THE OHIO PROSECUTOR

April 2021

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From your President...



Daniel R. Lutz
Wayne County

My Fellow Prosecutors,

Spring has sprung and we certainly had a successful spring training April 15 – 16. It was very apparent that prosecutors enjoyed meeting in person for the first OPAA quarterly training since the pandemic restrictions were put in place. I am always amazed at the quality of presenters at OPAA trainings and, after hearing Steve Taylor's presentation regarding merger, I was again thankful that Steve was hired on as full-time staff at the OPAA. I know my office is not alone in greatly benefiting from Steve's well-researched and well-written memoranda that he is regularly sending out to the membership. Thank you Steve! You are a most welcome asset to an already marvelous team.

I encourage the membership to regularly express our gratitude to not only Steve Taylor, but also Lou, Steve Hall, Delores, and Diana for all they do to make the OPAA the best state-wide, non-profit "trade" organization in Ohio.

Dan

From your Executive Director...



Louis Tobin

Dear OPAA –

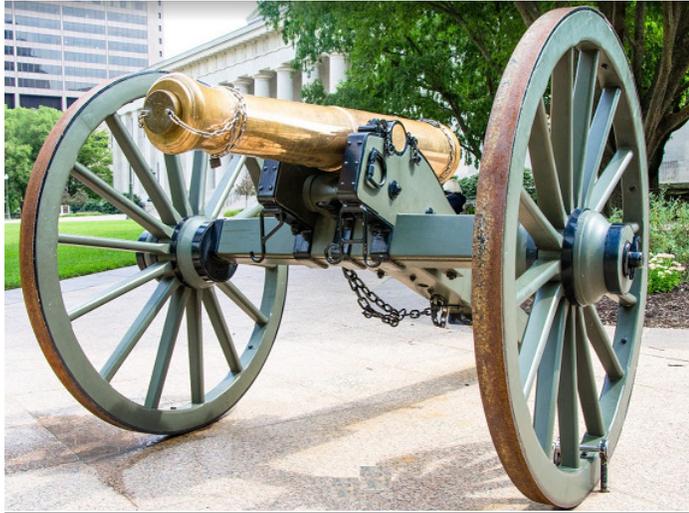
The 134th General Assembly is now well underway and, as always, budget talks have taken up most of their time. The Governor's version of the budget included some things OPAA liked and some things that we did not. Changes to community control sentencing that would have shortened the length of community control depending on the level of the offense were removed from the bill by the House. Unfortunately, provisions that we supported that would have increased penalties for certain weapons offenses, including gun specifications, were also removed. Maybe even more unfortunately, a budget amendment added by the House would make TCAP mandatory for every county in the State. Efforts are now under way to get the Senate to remove mandatory TCAP.

Other hot topics in the legislature are discussions about a legislative response to last summer's riots. Three bills, Senate Bill 16, House Bill 22, and House Bill 109 would increase the penalties for offenses related to riot activity. The future of the death penalty in Ohio continues to be a topic of discussion. Bills to repeal the death penalty (Senate Bill 103 and House Bill 183) have been introduced in each chamber and for the first time have bipartisan support. I expect debate on the issue to pick up in the Fall. Legislation will be introduced soon to change how peace officers in Ohio are certified, to create a Peace Officer Professionalism and Standards Board modeled on the Board of Professional Conduct that oversees lawyer discipline, and to change how some police shootings are investigated and reviewed.

Finally, it was good to get back to an in-person training for our Spring Conference and we hope to see some of you at Cedar Point in June. Registration materials will be sent soon.

Lou

At the Statehouse



Below is the legislation we consider to be “priority.” For a full list of bills that we are tracking visit www.ohiopa.org. If you have any questions about the work of the legislature or the status of any legislation, please let us know!

HB3 Aisha's Law Regarding Domestic Violence (BOYD J, CARRUTHERS S) To make changes to civil and criminal law regarding domestic violence, to address State Highway Patrol arrest authority, to name the act Aisha's Law, and to make an appropriation.

Current 2/25/2021 - House Criminal Justice,
Status: (First Hearing)

Position: Support

State Bill <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-3>

HB8 Revise Electronic Recording Of Custodial Interrogations (West T, Plummer P) To revise the law governing the electronic recording of custodial interrogations and to make changes to the prohibition against the restraint of a pregnant woman or child who is charged or has been convicted of an offense.

Current 4/27/2021 - Senate Judiciary, (First
Status: Hearing)

Position: Amend

State Bill <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-8>

HB22 Expand Offense Of Obstructing Justice (Lare J, Wilkin S) To expand the offense of obstructing justice to include failure to follow a lawful order from a law enforcement officer or diverting a law enforcement officer's attention.

Current 4/22/2021 - **SUBSTITUTE BILL**
Status: **ACCEPTED & AMENDED**, House Criminal Justice, (Fourth Hearing)

Position: Support

State Bill <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-22>

HB44 Increase Penalties - Assault (Roemer B) To increase the penalties for assault if the victim is acting as a sports official or the assault is committed in retaliation for the victim's actions as a sports official.

Current 4/22/2021 - House Criminal Justice,
Status: (Third Hearing)

Position: Oppose

State Bill <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-44>

HB89 Revise Concealed Handgun Law (Wiggam S) To modify the requirement that a concealed handgun licensee must notify a law enforcement officer that the licensee is authorized to carry a concealed handgun and is carrying a concealed handgun when stopped.

Current 3/9/2021 - **REPORTED OUT**, House
Status: State and Local Government, (Third Hearing)

Position: Support

State Bill <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-89>

HB109 Increase Penalties - Riot Offenses (Abrams C, Carruthers S) To increase penalties for certain assault, vandalism, and riot offenses, to allow peace officers to bring civil suits against persons participating in a riot, and to prohibit bias motivated intimidation of first responders.

Current 4/22/2021 - House Criminal Justice,
Status: (Second Hearing)

Position: Support

State Bill <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-109>

HB110 Operating Budget (Oelslager S) To make operating appropriations for the biennium beginning July 1, 2021, and ending June 30, 2023, to levy taxes, and to provide authorization and conditions for the operation of state programs.

Current 4/29/2021 - Senate Health, (Sixth
Status: Hearing)

Position: Amend

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-110>

HB116 Ohio Computer Crimes Act (Baldrige B) To enact the Ohio Computer Crimes Act and to amend the version of section 109.572 of the Revised Code that is scheduled to take effect October 9, 2021, to continue the provisions of this act on and after that date.

Current Status: 2/17/2021 - Referred to Committee House Criminal Justice

Position: Support

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-116>

HB121 Eliminate Spousal Exceptions For Sexual Offenses (Lanese L, Boggs K) To eliminate the spousal exceptions for the offenses of rape, sexual battery, unlawful sexual conduct with a minor, gross sexual imposition, sexual imposition, and importuning and to permit a person to testify against the person's spouse in a prosecution for any of those offenses.

Current Status: 3/17/2021 - House Criminal Justice, (First Hearing)

Position: Support

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-121>

HB150 Ohio Public Defender State Loan Repayment Program (Hillyer B, Leland D) To establish the Ohio Public Defender State Loan Repayment Program, to establish a task force to study Ohio's indigent defense system, and to make an appropriation.

Current Status: 4/22/2021 - Re-Referred to Committee

Position: Amend

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-150>

HB166 Regards Criminal Sentencing, Corrections (Boggs K, Carfagna R) To modify the Criminal Sentencing Law with respect to non-life felony indefinite sentencing, to modify the process for felony appeals as a matter of right, to modify the Corrections Law regarding a Department of Rehabilitation and Correction reentry program for certain offenders, maximum workload and caseload standards for parole and field officers, GPS monitoring of offenders released from prison, and entry into LEADS of specified information about GPS-monitored offenders, and to require the Ohio Criminal Sentencing Commission to appoint an Offender Supervision Study Committee.

Current Status: 4/15/2021 - House Criminal Justice, (First Hearing)

Position: Support

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-166>

HB183 Abolish Death Penalty (Schmidt J) To abolish the death penalty and to modify the number of jurors that may be challenged in cases where a defendant may be sentenced to life imprisonment.

Current Status: 4/15/2021 - Re-Referred to Committee

Position: Oppose

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-183>

HB205 Enact Collin's Law (Ghanbari H, Sheehy M) To enact Collin's Law: The "Ohio Anti-Bullying and Hazing Act" with regard to school discipline and bullying and hazing policies at schools and colleges.

Current Status: 4/13/2021 - House Primary and Secondary Education, (First Hearing)

Position: Amend

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-205>

HB211 State Property Protection, Prosecution Act (Lare J, Plummer P) To provide in specified circumstances for the Attorney General's prosecution of criminal activity committed at, or on, certain specified state facilities, buildings, premises, or property and to name the act the State Property Protection and Prosecution Act.

Current Status: 3/17/2021 - Referred to Committee House Criminal Justice

Position: Amend

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-211>

HB227 Regarding Concealed Weapons (Brinkman T, Jordan K) To rename a concealed handgun license as a concealed weapons license, to allow a concealed weapons licensee to carry concealed all deadly weapons not otherwise prohibited by law, to expand state preemption of firearms regulation to include all deadly weapons, to repeal a notice requirement for licensees stopped for law enforcement purposes, to authorize expungement of related convictions, and to allow a person age 21 or older to carry a concealed deadly weapon without a license.

Current 4/15/2021 - House Government
Status: Oversight, (First Hearing)
State Bill <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-227>
Page:

HB241 Revise Tax Foreclosures Law (Patton T) To make changes to the law relating to tax foreclosures and county land reutilization corporations.

Current 4/14/2021 - Referred to Committee
Status: House State and Local Government
Position: Support
State Bill <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-241>
Page:

HB276 Prohibit Prostitution Proceeds (Powell J, Schmidt J) To prohibit a person from receiving proceeds of prostitution.

Current 4/27/2021 - Introduced
Status:
State Bill <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-276>
Page:

SB16 EMS Responders-Civil Action (Schaffer T) Regarding a civil action for an emergency service responder based on a civil rights abridgement or false complaint, and certain crimes regarding conduct directed at an actual or perceived emergency service responder, public servant, family member, co-worker, or BCII investigator or at a public emergency.

Current 4/27/2021 - **SUBSTITUTE BILL**
Status: **ACCEPTED**, Senate Judiciary, (Third Hearing)
Position: Support
State Bill <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-16>
Page:

SB25 Prohibit Defrauding Drug Tests (Gavarone T) To enhance penalties for certain drug trafficking offenses committed in the vicinity of a substance addiction services provider, to prohibit defrauding an alcohol, drug, or urine screening test, and to name the act's provisions the Relapse Reduction Act.

Current 2/9/2021 - Senate Judiciary, (Second Hearing)
Status:
Position: Support
State Bill <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-25>
Page:

SB36 Crime Victims - Reparations Standards (Manning N, Huffman S) To revise the eligibility standards and procedure for awarding reparations to crime victims.

Current 3/9/2021 - Referred to Committee
Status: House Criminal Justice
Position: Monitor
State Bill <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-36>
Page:

SB90 Domestic Violence-Strangulation (Kunze S, Antonio N) To expand the offense of domestic violence to also prohibit a person from knowingly impeding the normal breathing or circulation of the blood of a family or household member by applying pressure to the family or household member's throat or neck or blocking the family or household member's nose or mouth.

Current 3/31/2021 - Senate Judiciary, (First Hearing)
Status:
Position: Support
State Bill <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-90>
Page:

SB103 Abolish Death Penalty (Antonio N, Huffman S) To abolish the death penalty and to modify the number of jurors that may be challenged in cases where a defendant may be sentenced to life imprisonment.

Current 3/31/2021 - Senate Judiciary, (First Hearing)
Status:
Position: Oppose
State Bill <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-103>
Page:

SB112 Tax Foreclosures, Land Reutilization (Dolan M) To make changes to the law relating to tax foreclosures and county land reutilization corporations.

Current 3/31/2021 - Senate Local Government and Elections, (Second Hearing)
Status:
Position: Support
State Bill <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-112>
Page:

SB126 Anti-Hazing (Kunze S, Gavarone T) To enact Collin's Law: The Ohio Anti-Hazing Act with regard to hazing policies at colleges and criminal prohibitions against hazing.

Current 3/31/2021 - Senate Workforce and Higher Education, (Second Hearing)
Status:
Position: Support

State Bill <https://www.legislature.ohio.gov/legislation-summary?id=GA134-SB-126>
Page:

Legislative information provided by actionTRACK - Hannah News Service, Inc.

For a list of all bills that the OPAA is tracking, please visit <http://www.ohiopa.org/legislation1.html>

Join us at the Statehouse!

Whether you are in town to testify on a bill for yourself or the Association, or just spending time away from your county, let us show you around the Statehouse. Call Lou or Steve at the office and we will work out the details.



New and Noteworthy

Ohio Attorney General Opinions

provided by the Ohio Attorney General's website at <https://www.ohioattorneygeneral.gov/Files/Legal/Opinions>

2021-006

Requested by: Trumbull County Prosecuting Attorney

Prevailing-wage law does not attach to enterprise-zone agreements under R.C. 5709.631, or community-reinvestment-area agreements under R.C. 3735.671, because neither constitutes a public authority undertaking or contracting for a public improvement pursuant to R.C. 4115.03, et seq.

2021-005

Requested by: Ottawa County Prosecuting Attorney

One who is not a candidate for office may serve simultaneously as village mayor and as deputy director of the board of elections within the same county, provided that he/she abstains from activities relating to ballot issues for the village in which the village mayor serves.

2021-004

Requested by: Guernsey County Prosecuting Attorney

A county recorder and a county auditor must accept valid deeds for recording or transfer that are presented to their respective offices by shipment through the United States Postal Service.

2021-003

Requested by: Delaware County Prosecuting Attorney

A county-run EMS organization can provide previously scheduled services that require ventilation, oxygenation, cardiac monitoring, and the administration of medications (or other services described in 4765.37, 4765.38, and 4765.39) so long as the service is performed by an EMT. A county-run EMS organization located in a county with a population greater than 40,000 may not provide patient transport services that do not require services described in R.C. 4765.35, 4765.37, 4765.38, and 4765.39.

2021-002

Requested by: Licking County Prosecuting Attorney

Due to an impermissible conflict of interest, a person may not serve simultaneously as a county treasurer and as a member of a municipal civil service commission when the two positions are within the same county.

2021-001

Requested by: Erie County Prosecuting Attorney

An examination of the responsibilities of a county auditor relative to a line item appropriation amount for county employee salaries, and particularly whether any potential liability may arise for issuing a warrant in violation of R.C. 5705.45 and R.C. 319.16

Supreme Court Update

Recently Accepted

21-124 St. v. G.K. If a criminal case is not eligible for sealing, whether individual dismissed counts within that case can be sealed. (State's appeal; Cuyahoga County)

21-113 St. v. Biggs Whether the lower courts erred in denying the defendant access to tissue slides where other counties' Coroner's Offices release slides upon official request in violation of the Constitutional Right to Due Process and Equal Protection. (Stark County)

21-51 St. v. Smith Whether a conviction for rape based on insertion must be supported by evidence that the person accused inserted a body part or object into another. (Highland County)

21-26 St. v. Kidd Whether a court of appeals should grant leave to file a delayed appeal pursuant to App.R. 5(A) if a trial court has sentenced a person to a criminal sentence outside the range set by the General Assembly and a previously available remedy as to

“void” sentences has been eliminated. (Cuyahoga County)

21-19 St. v. Hansard If the defense presents evidence of a testifying officer’s racial bias in a suppression hearing, whether the trial court must consider it when assessing the credibility of that officer’s testimony and whether the testimony establishes probable cause for an initial traffic stop. (Gallia County)

20-1583 St v. Scott Whether a trial court should consider the possibility that a DNA profile developed from crime scene evidence could match a profile contained within the CODIS database when assessing outcome determination in relation to requested DNA testing. (Butler County)

20-1505 St. v. Brunson (1) Whether a trial court violates a defendant’s right to remain silent, in violation of both the Ohio Constitution and the U.S. Constitution, when it relies upon that silence as part of the basis for imposing a sentence of life without the possibility of parole. (2) Whether a witness waives attorney-client privilege with respect to a subject when he or she offers testimony on the same subject. (3) Whether the attorney-client privilege of a State’s witness must yield to a defendant’s right to present a full defense and confront his accuser when the information that is purportedly the subject of that privilege is *Brady* material in the possession of the State. (Cuyahoga County)

20-1503 St. v. Towns Whether R.C. 102.03(B) permits complaints subject to chapter 102 of the Revised Code to proceed as a criminal complaint without a review of the Ohio Ethics Commission. (City of Bryan)

20-1429 St. v. Nicholas Whether a discretionary bindover decision must depend on affirmative clear and convincing proof of unamenability and whether a finding of unamenability must consider all dispositional options in juvenile court, including possible SYO disposition. (Champaign County)

20-1392 St. v. Yerkey Whether victims are constitutionally entitled to restitution for losses incurred throughout the prosecution of the criminal offense, including lost wages from attending hearings. (State’s appeal; Columbiana County)

20-1111 St. v. Hudson Whether the provision in R.C. 2152.02(C)(3), which allows bypass of juvenile court when the defendant is not taken into custody or apprehended until after age 21, applies when the defendant committed the offenses at age 17, was arrested under a first indictment for those offenses at age 20, but the first indictment was dismissed and the defendant was then prosecuted on a reindictment that was filed at age 22. (Mahoning County)

20-1304 St. v. Burroughs Whether law enforcement officers seeking to search a lawfully seized backpack, purse, or similar item in a person’s home must first obtain a search warrant issued by a neutral, detached magistrate, if officer-safety concerns or exigent circumstances are not present. (Marion County)

Set for Oral Argument

20-508 St. v. Metz Whether the court of appeals violated the deferential standard of review for consecutive sentences by substituting its judgment for that of the trial court. *Oral Argument set for May 11, 2021* (State’s appeal; Cuyahoga County)

20-797 St. v. Crawford Whether the crime of having weapon under disability can serve as the predicate offense to involuntary manslaughter. *Oral Argument set for May 11, 2021* (Cuyahoga County)

20-859 St. v. O'Malley Whether the OVI vehicle forfeiture order under R.C. 4511.19 (G)(1)(c)(v), as applied to the defendant, was an excessive fine in violation of the Eighth Amendment and/or was violative of equal protection. *Oral Argument set for May 12, 2021* (City of Brunswick)

20-866 St. v. Foreman Whether the mere presence of drug metabolites in a defendant’s body, without more, suffices to establish venue in the charging county for the crime of drug possession. *Oral Argument set for May 12, 2021* (Seneca County)

19-926 St. v. McAlpin Death Penalty case. *Oral Argument set for June 15, 2021* (Cuyahoga County)

20-721 St. v. Wilson In determining operation of a vehicle under a suspension, whether the definition of "operate" is governed by R.C. 4511.01(HHH) or the interpretation of that term as set forth in *State v. Cleary*. *Oral Argument set for June 16, 2021* (prosecution appeal by City of Cincinnati)

20-1117 St v. Harrison Whether an unsigned arrest warrant is insufficient under Crim.R. 4 and whether the good-faith exception applies to an arrest based thereon when the issuing judge in fact had found probable cause. *Oral Argument set for June 29, 2021* (Logan County)

20-1266 St. v. Maddox Whether the constitutionality of Reagan Tokes Act is ripe for review on direct appeal from sentencing, or only after the defendant has served the minimum term and been subject to extension by ODRC. *Oral Argument set for June 29, 2021* (Lucas County)

20-676/683 O'Neal v. State of Ohio et al. Whether ODRC’s execution protocol 01-COM-11 is subject to the rule-making requirements of R.C. 111.15. *Oral Argument set for June 30, 2021* (AG’s Office)

20-978 St. v. West Whether the defendant’s due process rights were violated by the trial court’s questioning of the defendant and whether such error was structural and subject to automatic reversal. *Oral Argument set for June 30, 2021* (Franklin County)

Argued and Awaiting Decision

18-757 St. v. Worley Death penalty case. *Argued on Jan. 12, 2021* (Fulton County)

20-143 St. v. Azeen Whether *State v. Carpenter*, 68 Ohio St.3d 59 (1993), applies retroactively to a unnegotiated plea entered before it was decided. *Argued on Jan. 27, 2021* (State's appeal; Cuyahoga County)

20-312 St. v. Montgomery Whether the defendant was denied his right to a fair trial when the trial court permitted the victim to be introduced to the jury during voir dire as representing the State of Ohio and permitted the victim to sit with the prosecutor at counsel table throughout the trial. *Argued on Jan. 27, 2021* (Stark County)

19-487 St. v. Lawson Death penalty case. *Argued on Mar. 2, 2021* (Lawrence County)

20-255 St. v. Bates Whether the failure to include a sentence of post-release control when imposing a prison sentence must be corrected on direct appeal and whether failure to do so precludes supervision on PRC at the end of the prison sentence. *Argued on Mar. 3, 2021* (Cuyahoga County)

20-337 St. v. LaRosa Whether the warrantless and non-consensual seizure of personal items from a hospital room violates the Fourth Amendment. *Argued on Mar. 3, 2021* (Trumbull County)

19-303 St. v. Brinkman Death penalty case. *Argued on Mar. 4, 2021* (Cuyahoga County)

20-290 St. v. Tidwell Whether simple face-to-face contact between an unnamed citizen and a police officer may be enough to remove the citizen from the category of "anonymous" and consider him a "citizen informant," whose tip merits a high degree of credibility and value for Fourth Amendment purposes. *Argued on Mar. 30, 2021* (State's appeal; Hamilton County)

20-415 St. v. Bond Whether the trial court violated the defendant's Sixth Amendment right to a public trial by partially limiting access to the courtroom after an altercation disrupted court proceedings. *Oral Argued on Mar. 30, 2021* (State's appeal; Richland County)

20-368 St. v. Jones Whether the court of appeals misapplied the sufficiency-of-evidence standard in finding the evidence insufficient on prior calculation and design. *Argued on Mar. 31, 2021* (State's appeal; Hamilton County)

20-495 St. v. Jordan Whether a warrantless public arrest based on probable cause was invalid because police had time to obtain an arrest warrant first. *Argued on Mar. 31, 2021* (Hamilton County)

19-1813 St. v. Smith Whether, for discretionary bindovers, a juvenile court can hold an amenability hearing on charges upon which a finding of no probable cause was made, and whether, for both mandatory and discretionary bindovers, R.C. 2152.12(I) does not allow the transfer of charges where a no-probable-cause

finding was made, regardless of whether there was an amenability hearing. *Argued on Mar. 31, 2021* (Cuyahoga County)

20-338 St. v. Glenn Whether an order requiring the creation and disclosure of summaries of conversations a criminal defendant's attorney has had with potential witnesses in the course of the attorney's investigation and preparation for trial is a final appealable order pursuant to R.C. 2505.02(B)(4). *Argued on Apr. 13, 2021* (Montgomery County)

20-658/991 St. v. Williams Whether the trial court has a duty to inquire into the possible conflict of interest created by an attorney's dual or multiple representation of co-defendants. *Argued Apr. 13, 2021* (Cuyahoga County)

20-544/625 St. v. Hubbard (Butler County)

20-549 St. v. Jarvis (State's appeal; Muskingum County) Whether retroactive application of the violent offender database statutes in R.C. 2903.41 et seq. violates Article II, Section 28 of the Ohio Constitution. *Argued on Apr. 14, 2021.*

20-599 St. v. Bryant Whether the trial court erred when it imposed an additional six years on the defendant's sentence after his outburst in court. *Argued on Apr. 14, 2021* (Lake County)

20-485/826 St. v. Jones Whether a trial court imposing community control must reserve at that time the ability to impose the possible prison sentence as a consecutive sentence if the defendant violates community control in the future. *Argued on Apr. 27, 2021* (Harrison County)

20-700 St. v. P.J.F. When the offender was terminated as unsuccessful from his community control because of his failure to make child-support-arrearage payments as ordered under community control, whether the waiting period for seeking sealing begins upon the termination of community control or upon fully paying off the arrearage. *Argued on Apr. 28, 2021* (Franklin County)

20-819 St. v. Leyh Whether the court of appeals should have granted reopening in light of colorable issues and the appellate counsel's failure to ensure a complete record on appeal. *Argued on Apr. 28, 2021* (Summit County)



Membership Services

Community Outreach

Taking on community roles outside the courtroom, county prosecutors are connecting with residents in ways they rarely have before

(Originally published in the September 17, 2019 Columbus Dispatch)

Melissa Schiffel, Delaware County's new prosecutor, is beginning a "Moments With Melissa" segment on Facebook to discuss social issues, such as teen vaping and drug abuse.

In Knox County, those in the prosecutor's office talk to a variety of community groups with the aim of reducing crime and court dockets.

And Licking County Prosecutor Bill Hayes, elected two years ago, has assembled a team of religious leaders to assist victims and police.

The Chaplain Services Division of his office hopes to have 11 clergy members — currently there are eight — to ride along with officers, assist victims and be available for crises.

Hayes said he was drawn to the idea when he took office in 2017.

"The real goal was to have a small force of chaplains in the event of a major crisis," Hayes said, recognizing the value of clergy following the May 2017 shooting deaths of three people at a nursing home, including the Kirkersville police chief.

The idea is to have at least one clergy member for each township or city police agency and for the team to converge when necessary.

A steady flow of victims seeking justice, and comfort, within the prosecutor's office and courthouse also will be served, Hayes said.

"We deal with victims for months while their cases are pending," he said. "Having these extra people to sit with and talk to is helpful."

Knox County Prosecutor Chip McConville often speaks on the local "Legal Eagle" radio show about criminal cases, the drug epidemic and nuisance issues.

He hopes his message filters down to even a few.

"If the landlords do the right thing ... I don't have to go the route of nuisance litigation and boarding up houses," he said.

The outreach approach appears to be a trend, said Schiffel, beginning her first term in Delaware County.

"Yes, we prosecute crime and do other legal work, but we're also a community partner, and there's a lot we can do with education and

prevention," Schiffel said. "The branding of prosecutors has always been to put people in prison. But that's not all that we're capable of doing."

The work can help prosecutors, who are elected officials and politicians, define themselves differently, said Louis Tobin, executive director of the Ohio Prosecuting Attorneys Association, which represents Ohio's 88 county prosecutors.

"Community outreach outweighs some of the negative press that prosecutors receive," said Tobin. "It's an important side of prosecutors that people don't think about."

Prosecutors speak to church, school, advocacy and Rotary groups. At the same time, they oversee multimillion-dollar budgets, large staffs and sometimes complex cases.

The extra work "has become part of the job description," for good reason, Schiffel said.

"If I can prevent one person from entering the criminal justice system, I will take that any time I can," she said.

McConville said, "helping people get productive and back into the workforce is part of the mission."

And, he added: "It's fun to do, and a good way to find out what's on your community's mind."

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New OPAA databases launched

After a long time in the making, the newest benefits OPAA is bringing to its members is a database of expert witnesses as well as a new brief bank. The expert database allows members to not only find experts for their cases, but to preview defense experts, request more information about individual experts, and to populate more experts to the list. In the database, members can also find excerpts of some experts' previous testimony, resumes, CVs, and other helpful information. Currently populated with expert requests from emails collected over the past year, we encourage members to explore the database, to add new experts, and to contribute additional information about individual experts, such as:

- CVs and resumes;
- Depositions;
- Transcripts of prior testimony;
- Publications by the expert;
- The expert's current fee structure; and
- Any other information or documents that shed light on the expert, his/her expertise, and his/her potential bias.

Much like the expert database, your new brief bank has been a long time in the making. Many of you may remember our database from 1999 (yes, we were cutting edge back in the day) that actually housed 936 Ohio based briefs from 16 counties. It was clunky

and caused us a lot of work to add files but it worked. While this new offering is still in its infancy as far as content, it will be much simpler to add your county's briefs, as well as being easier to search. Also included in the database will be our very own expert Steve Taylor's criminal prosecution memos!

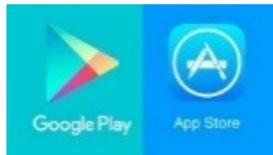
We believe you will find these new databases useful and easy to navigate. For credentials email steve@ohiopa.org

OPAA App

Don't forget to download the free OPAA app! It offers similar content to the OPAA website, but with a few key added benefits:

- Push notifications: We believe the ability to send push notifications of upcoming events and newly available content is key for the Association. We intend to use push notifications through the app as an additional means of communicating important information.
- Contacts integration: the app allows users to add prosecutors and expert assistants to their personal Contacts (using the plus sign beside each contact). This feature is unique to the mobile application. Also, much like the website, while on the roster page you can touch on the name to pull up a picture of the prosecutor.
- OPAA Alerts: An app only feature is the ability to share updates and announcements through the "Alerts" feature. The alerts inside the app, combined with "Push" notifications, give us the ability to communicate with members in a new, more efficient manner.

The app is available to iOS users from the App Store, and to Android users via the Google Play store. Search "OPAA"



At the Office

The major announcement is that all 5 employees are vaccinated and back in the office after a staggered return from working from home. It has been a long, educational experience. *It's good to have the band back together.*

We are still awaiting the HVAC final inspection which we hope will be any day now. It has been a long journey!

Gonzo and Gypsy stopped by to visit and create a few minutes of much needed distraction from the legislature.



OPAA Training

2021 Spring Training

We had 151 attendees from 30 counties for our in-person Spring Training April 15th and 16th. Reviews show it was well received. It was great to see everyone and we thank them for joining us.

Join us on May 20th for our self-defense/stand your ground webinar

This presentation will begin by addressing the common-law elements of self-defense and then will address where things stand now in light of the 2008, 2019, and 2021 statutory changes. Areas to be discussed will also include whether the 2019 and 2021 changes apply to crimes committed before their effective date and whether self-defense now can be raised as a basis to grant a Crim.R. 29 motion. Contact steve@ohiopa.org for registration information.

2021 OPAA Training dates:

Summer Workshop
June 25th and 26th
Breakers Cedar Point

Fall Training
September 23 and 24
Crowne Plaza Cleveland at Playhouse Square

Juvenile Prosecutor Training
October 14
Sheraton Columbus Hotel at Capitol Square

Annual Meeting
December 16 and 17
Hilton Columbus at Easton

OPAA On-demand Webinars

The OPAA will also be continuing our webinars throughout 2021. These 1 hour, CLE approved trainings feature multiple speakers presenting on a variety of topics, typically during the lunch hour and of course, via our on-demand offerings. Current pre-recorded topics include:



- Sentencing Under the Regan Tokes Act - Steve Taylor (1.0 general credit hours)
- Small Stories, Big Impact! - Drew Wood (1.0 general credit hours)
- Seeking Justice, What Prosecutors Can Learn From Exonerations – Phil Bogdanoff (1.0 general credit hours)
- I Confess! What Every Prosecutor Must Know About Confessions – Phil Bogdanoff (1.0 general credit hours)
- Everyday Evidence: A Practical Approach – Impeachment – Charles Rose, III (1.5 general credit hours)
- Crisis Communications for Prosecutor's Offices: Media During & After the Pandemic – Mark Weaver (1.5 general credit hours)
- Successful Dogfighting Prosecutions: Key Evidence & Common Defenses – Janette Reeve (1.5 general credit hours)
- Domestic Violence & Animal Cruelty: How Prosecuting Animal Abuse Can Save Lives – Erin Aiello (1.0 general credit hours)
- Disorder in the Court: An Attorney's Guide to Judicial Misconduct – Phil Bogdanoff (1.0 hours Professional Conduct)
- Speedy Trial Ins and Outs – Steve Taylor (1.0 general credit hours)
- Myths, Gender Norms, and Implicit Bias: Silent Killers of Sexual Assault Juries – Mickey Valdez (1.0 hours Professional Conduct)
- Expert Testimony and Forensic Evidence for Prosecutors – Phil Bogdanoff (1.0 general credit hours)
- Winning Strategies to Prevent Evidence from Being Suppressed – Phil Bogdanoff (1.0 general credit hours)
- Persuasive Brief Writing – Phil Bogdanoff (1.0 general credit hours)
- Evidentiary Rules for Admitting Evidence – Phil Bogdanoff (1.0 general credit hours)

OPAA will report member attendance to the Ohio Supreme Court CLE commission within 30 days of the webinar provided you have met the requirements set forth by the CLE commission. Those being: the OPAA certifies that each Attorney or Judge requesting credit has submitted the mandatory evaluation, has obtained the minimum competency, and has actually participated in the activity. (Reg. 409.1(I)). We satisfy these requirements with webinar polling

and the post-training evaluation so please make sure you complete those items.

Self-Study Recorded viewing: The OPAA is required to inform the Attorney purchasing the self-study program of the twelve hour limitation on self-study (Regulation 409.1(L)). NOTE: Per 10/16/2020 Administrative Actions, 2020-Ohio-4946, the self-study limitations are waived for judges, magistrates, and attorneys with last names beginning with A through L for the 2020-2021 compliance period ending December 31, 2021.

All pre-recorded webinars are approved for CLE through December 31, 2021.

Your 2021 OPAA Officers



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Wayne County
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