



THE OHIO PROSECUTOR

July 2021

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From your President...



Daniel R. Lutz
Wayne County

My Fellow Prosecutors,

As most of you probably now know, we recently lost a wonderful friend and ally of Ohio prosecuting attorneys. John Murphy passed away on July 8, 2021, at eighty years of age.

He oversaw our association as its executive director for several decades, a position he dearly loved up until the day of his retirement just several years ago.

My relationship with John during the time our work with the OPAA overlapped was personally and professionally rewarding for me and, I'm sure, for many of you as well. John had outstanding character and was a role model for leadership excellence. John's passion for justice, his impeccable integrity, and his outstanding legal judgment has left an enduring legacy in the State of Ohio.

His impact on Ohio's criminal justice system through his decades-long influence upon many Ohio legislators and the OPAA cannot be overestimated.

Godspeed to you John Murphy.

Dan

From your Executive Director...



Louis Tobin
OPAA Executive
Director

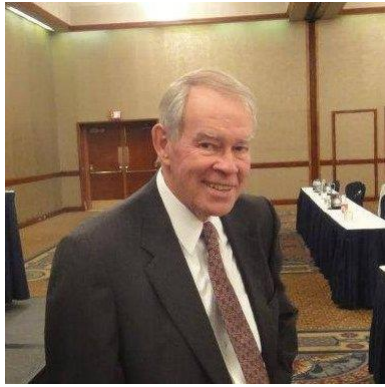
Dear OPAA –

At our most recent Executive Committee meeting someone asked whether the remarkable rise in violence over the last 18 months is being noticed by the General Assembly. Personally, I think it is impossible to ignore when practically every morning the news coverage is about the most recent homicide or shooting. I do think the mood at the Statehouse is starting to shift there. Unfortunately, that still leaves us with big criminal justice reform battles on issues like abolishing the death penalty and, most recently, bipartisan bail reform legislation.

I met recently with a legislator to talk to him about our concerns with the bail reform bills. He told me in no uncertain terms that Senate Bill 3 was defeated last year because legislators were getting calls from their prosecutors, sheriffs, and judges and then going to legislative leadership to tell them they didn't want to go against their local officials. I can't stress enough how important a similar grassroots effort will be on both bail reform and the death penalty. The great advantage that we have over the army of lobbyists advocating for these bills and the disinformation they circulate are your local connections. Please consider contacting your own legislators to express concerns about these bills and remind them that the groups promoting them have no responsibility to your community or for public safety in Ohio.

Finally, a note about John Murphy. I have been around capitol square in a variety of roles for the past 15 years, most of that time working on justice system issues. I had the opportunity to work on many of the same issues that John was working on and always knew what a great lobbyist he was for the OPAA. What I couldn't comprehend until I replaced him is just how gifted he was as a lawyer and how tough he was as an advocate. He had a legal mind that was second to none, a sharp wit, and was a consummate professional. The state of Ohio is a better place because of him and he will be missed.

Lou



John Edward Murphy, whose legal career representing the interests of Ohio's prosecutors spanned more than four decades, passed away peacefully on Thursday, July 8. He was 80. Born March 7, 1941, in Olney, MD, to John Edward, Sr. and Ethna Register Murphy, John was later raised in Parkersburg,

W.Va. He graduated from Parkersburg High School in Parkersburg W.Va., in 1959. John then went on to West Virginia University, where he graduated in 1963 with a bachelor's degree in economics. John entered the U.S. Army, serving honorably for four years. He earned the rank of Captain with postings at Fort Sill, Oklahoma; Karlsruhe, Germany; and Fort Benning, Georgia. Following his service, he entered and graduated with a law degree from Capital University Law School in Columbus, Ohio in 1972.

John began his legal career in the Franklin County (OH) Prosecuting Attorney's office. But the majority of his professional career was spent as executive director of the Ohio Prosecuting Attorneys Association. The organization was founded in 1937 to represent the interests of and provide professional development to Ohio's 88 elected county prosecutors. John had a passion for the law and the responsibilities of prosecutors. He spoke of these public servants "who are truly on a quest in the pursuit of justice for all of our citizens." "Prosecuting attorneys serve as 'ministers of justice' — indeed, they are justice-driven," he once wrote. "This applies to putting criminals behind bars and making sure the punishment fits the crime. But their work also entails making sure that people innocently accused of committing a crime are not ultimately charged or convicted."

John spent 37 years representing the prosecuting group's law-and-order positions before legislators as they crafted state laws. When he retired in September 2017, the Columbus Dispatch called him a "statehouse fixture" and he was feted in a celebration in the Ohio Statehouse Atrium.

In his retirement, John never strayed too far from his beloved Columbus, enjoying golf games with buddies and frequent trips to the Tremont Library in Upper Arlington.

John is survived by a daughter, Catherine Murphy (John Nagy) of West End, N.C.; and sister, Mary Ann Shaw (Jerry) of Parkersburg, W.Va.

He was preceded in death by his parents, a sister Joan Marks (Walter), and his son Michael Sean Murphy, formerly of Pinehurst.

The family offers appreciation to the staff of Ohio Health Hospice and Riverside Methodist Hospital, who all provided compassionate care. In lieu of flowers, donations may be made to

St. Rita School for the Deaf in Cincinnati, Ohio, or the Salvation Army Central Ohio Area. Arrangements entrusted to SCHOEDINGER NORTHWEST. To share memories or condolences, please visit www.schoedinger.com.



At the Statehouse

Below is a current list of priority legislation along with the OPAA's position. For a full list of bills that we are tracking visit www.ohiopa.org. **Please contact Lou if you have any questions about a piece of legislation or the reason for our position.** Also, 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 Status: 5/20/2021 - House Criminal Justice, (Second Hearing)

Position: Support

State Bill Page:

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

HB4 REGARDS CHILD ABUSE, NEGLECT REPORTING (PLUMMER P, MANCHESTER S) Regarding county child abuse and neglect memorandums of understanding, cross-reporting of child abuse and neglect reports by public children services agencies to law enforcement agencies, notification of reporter rights, home

assessor eligibility, and creation of the children service ombudsman office.

Current Status: 6/22/2021 - Senate Judiciary, (First Hearing)

State Bill Page:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-4>

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 Status: 5/17/2021 - SIGNED BY GOVERNOR; eff. Immediately

State Bill Page:

<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, diverting a law enforcement officer's attention, and throwing an object at a law enforcement officer.

Current Status: 6/25/2021 - PASSED BY HOUSE; Vote 61-33

Position: Support

State Bill Page:

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

HB44 INCREASE PENALTIES - ASSAULT (ROEMER B, MILLER J)
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 Status: 6/25/2021 - PASSED BY HOUSE; Vote 83-10

Position: Oppose

State Bill Page:

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

HB83 REVISE CHILD SUPPORT LAWS (RUSSO A, MANCHESTER S)
To make changes to child support laws with regard to caretakers.

Current Status: 6/25/2021 - PASSED BY HOUSE; Vote 91-0

Position: Support

State Bill Page:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-83>

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

Position: Support

State Bill Page:

<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 Status: 6/24/2021 - BILL AMENDED, House Criminal Justice, (Third Hearing)

Position: Support

State Bill Page:

<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 Status: 7/1/2021 - SIGNED BY GOVERNOR; effective 7/1/21

State Bill Page:

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

HB116 OHIO COMPUTER CRIMES ACT (BALDRIDGE 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: 5/6/2021 - House Criminal Justice, (First Hearing)

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: 5/26/2021 - House Criminal Justice, (Second 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: 5/4/2021 - Re-Referred to Committee

<p>Position: Amend State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-150</p> <p>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</p> <p>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: 5/26/2021 - House Criminal Justice, (First Hearing) Position: Oppose State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-183</p> <p>HB206 PERMIT TOWNSHIP POLICE ENFORCE CERTAIN OFFENSES ON INTERSTATE (GHANBARI H, O'BRIEN M) To permit a township police officer who serves a population between 5,000 and 50,000 to enforce specified traffic offenses on interstate highways within the township if authorized by that township's board of trustees. Current Status: 6/2/2021 - Senate Government Oversight and Reform, (First Hearing) Position: Support State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-206</p> <p>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</p>	<p>State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-211</p> <p>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 Status: 6/17/2021 - House Government Oversight, (Third Hearing) Position: Amend State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-227</p> <p>HB241 REVISE TAX FORECLOSURES LAW (PATTON T) To make changes to the law relating to tax foreclosures and county land reutilization corporations. Current Status: 4/14/2021 - Referred to Committee House State and Local Government Position: Support State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-241</p> <p>HB276 PROHIBIT PROSTITUTION PROCEEDS (POWELL J, SCHMIDT J) To prohibit a person from receiving proceeds of prostitution. Current Status: 6/24/2021 - BILL AMENDED, House Criminal Justice, (First Hearing) Position: Support State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-276</p> <p>HB283 EXPAND DISTRACTED DRIVING LAWS (ABRAMS C, LAMPTON B) To expand the texting while driving prohibition to a general prohibition against using an electronic wireless communications device while driving, with certain exceptions, and to create data collection requirements based on associated violations of the distracted driving laws. Current Status: 6/10/2021 - SUBSTITUTE BILL ACCEPTED, House Criminal Justice, (Second Hearing) Position: Amend State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-283</p> <p>HB286 AGENCY ORDER APPEAL - LOCAL COURT OF COMMON PLEAS (SEITZ B) To change the venue in which</p>
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appeal from an agency order is proper to the local court of common pleas.
Current Status: 6/22/2021 - REPORTED OUT, House Civil Justice, (Fifth Hearing)
Position: Oppose
State Bill Page:
<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-286>

HB315 REGARDING BAIL (LELAND D, HILLYER B) To make changes regarding bail.
Current Status: 6/10/2021 - House Criminal Justice, (Second Hearing)
Position: Oppose
State Bill Page:
<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-315>

HB319 EXPANDING HUMAN TRAFFICKING JUSTICE ACT (GALONSKI T, RICHARDSON T) To allow a victim of human trafficking to expunge certain criminal records and to name this act the Expanding Human Trafficking Justice Act.
Current Status: 5/25/2021 - Referred to Committee House Criminal Justice
Position: Amend
State Bill Page:
<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-319>

HB343 RIGHTS OF CRIME VICTIMS (WHITE A) To make changes relative to the rights of crime victims.
Current Status: 6/10/2021 - Referred to Committee House Criminal Justice
Position: Amend
State Bill Page:
<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-343>

SB2 COMPETENCY EVALUATIONS-CRIMINAL CASES (GAVARONE T) To make changes to the requirements for competency evaluations and mental health treatment in criminal cases, to eliminate a provision authorizing the hospitalization, on an emergency basis, of a person found after a hearing to meet the criteria for involuntary substance abuse treatment, and to enter into the Psychology Interjurisdictional Compact (PSYPACT).
Current Status: 4/27/2021 - SIGNED BY GOVERNOR; eff. 8/3/21
State Bill Page:
<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-2>

SB16 EMS RESPONDERS-CIVIL ACTION (SCHAFER 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 Status: 6/10/2021 - Referred to Committee House Criminal Justice
Position: Support
State Bill Page:
<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-16>

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 Status: 6/16/2021 - REPORTED OUT, Senate Judiciary, (Fourth Hearing)
Status: 3/31/2021 - Senate Local Government and Elections, (Second Hearing)
Position: Support
State Bill Page:
<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-25>

SB36 CRIME VICTIMS - REPARATIONS STANDARDS (MANNING N, HUFFMAN S) To revise the eligibility standards and procedure for awarding reparations to crime victims.
Current Status: 5/26/2021 - House Criminal Justice, (Second Hearing)
Position: Monitor
State Bill Page:
<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-36>

SB54 TELECOMMUNICATIONS FRAUD (GAVARONE T) To include within the offense of telecommunications fraud providing misleading or inaccurate caller identification information, allow the Attorney General to prosecute offenses of unauthorized use of property and telecommunications fraud, and prohibit any person, entity, or merchant from violating the federal Telemarketing and Consumer Fraud and Abuse Prevention Act.
Current Status: 6/10/2021 - Referred to Committee House Criminal Justice
Position: Neutral
State Bill Page:
<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-54>

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 Status: 6/22/2021 - BILL AMENDED, Senate Judiciary, (Second Hearing)
Position: Support

State Bill Page:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-90>

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 Status: 6/16/2021 - Senate Judiciary, (Second Hearing)

Position: Oppose

State Bill Page:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-103>

SB112 TAX FORECLOSURES, LAND REUTILIZATION (DOLAN M) To make changes to the law relating to tax foreclosures and county land reutilization corporations.

Current Status: 3/31/2021 – Senate Local Government and Elections, (Second Hearing)

Position: Support

State Bill Page:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-112>

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 Status: 7/6/2021 - SIGNED BY GOVERNOR; eff. 90 days

Position: Support

State Bill Page:

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

SB164 ANIMAL CRUELTY (HOTTINGER J, YUKO K) To revise the law and penalties associated with companion animal cruelty and to prohibit the destruction of a domestic animal by the use of a gas chamber.

Current Status: 5/25/2021 - Senate Agriculture and Natural Resources, (Second Hearing)

Position: Support

State Bill Page:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-164>

SB182 BAIL REFORM (MCCOLLEY R, HUFFMAN S) To make changes regarding bail.

Current Status: 6/16/2021 - Senate Judiciary, (Second Hearing)

Position: Oppose

State Bill Page:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-182>

SB183 EXPUNGE CRIMINAL RECORDS-TRAFFICKING VICTIMS (FEDOR T, KUNZE S) To allow a victim of human trafficking to expunge certain criminal records and to name this act the Expanding Human Trafficking Justice Act.

Current Status: 6/22/2021 - Senate Judiciary, (First Hearing)

Position: Amend

State Bill Page:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-183>

SB203 OPERATING A VEHICLE UNDER THE INFLUENCE-MARIHUANA (MANNING N) To change the laws pertaining to operating a vehicle or watercraft while under the influence of marihuana and the admissibility of evidence regarding the testing of a person's whole blood, blood serum or plasma, urine, breath, or other bodily substance for purposes of OVI statutes.

Position: Undetermined

State Bill Page:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-203>

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 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

Merit Decisions of Interest Since 5/1/21

St. v. Azeen, ___ Ohio St.3d ___, 2021-Ohio-1735. In the absence of a negotiated plea agreement showing an express or implied reservation by the state of the right to file additional charges and that a defendant had been induced into offering a guilty plea, the state may pursue additional charges when a victim of a crime later dies of the injuries sustained in the crime – State was entitled to file aggravated-murder charges when victim later died of injuries suffered years earlier – No plea agreement was entered on the record when defendant was initially charged with attempted murder – Inference of a plea agreement was not supported by facts in evidence. (Decided May 25, 2021) (State’s Appeal; Cuyahoga County)

St. v. Tidwell, ___ Ohio St.3d ___, 2021-Ohio-2072. The in-person tip from an unidentified informant – “Hey, you need to stop that vehicle. That lady is drunk.” – had some indicia of reliability and was sufficient to support reasonable suspicion to allow a *Terry* stop to investigate the possible OVI offense when combined with the officer’s personal observation of very slow driving and a blank stare. (Decided June 24, 2021) (State’s appeal; Hamilton County)

St. v. Worley, ___ Ohio St.3d ___, 2021-Ohio-2207. Death sentence upheld in a case involving the extended kidnapping and asphyxiation killing of 20-year-old female victim. (Decided July 1, 2021) (Fulton County)

State v. Brinkman, ___ Ohio St.3d ___, 2021-Ohio-2473. Guilty pleas and death sentences reversed in triple-homicide case because of plea-advisement error in failing to give oral advisements on right to confrontation and right to proof beyond a reasonable doubt. (Decided July 21, 2021) (Cuyahoga County)

Gabbard v. Madison Local School Dist. Bd. of Edn., ___ Ohio St.3d ___, 2021-Ohio-2067. School employees – R.C. 109.78(D) – R.C. 2923.122(D)(1)(a) – Authorization to carry a deadly weapon or dangerous ordnance on school grounds – R.C. 109.78(D) prohibits a school from employing a person who goes armed while on duty in his or her job unless the employee has satisfactorily completed an approved basic peace-officer-training program or has 20 years of experience as a peace officer. (Decided June 23, 2021)

Newly-Accepted Criminal Law Cases Since 5/1/21

21-670 St. v. Barnes Whether a defendant has a reasonable and legitimate basis to withdraw a guilty plea before sentencing upon learning of evidence that: (1) was previously withheld from the defendant; and (2) would have changed the defendant’s decision to plead guilty. (Cuyahoga County)

21-579 St. v. Bunch (1) Whether trial courts should deny a hearing on a post-conviction petition based on a blanket rule that it is automatically a reasonable strategic decision to rely on cross-examination alone instead of consulting with and calling an expert witness; (2) whether the defendant was transferred to adult court without a finding that the defendant was not amenable to treatment in juvenile court; (3) when making a sexual predator finding, whether it is reversible error for the trial court to fail to state that it is holding the hearing pursuant to R.C. 2950.09(B); (4) whether the trial court erred when it sentenced the defendant because the findings supporting consecutive sentences are clearly and convincingly not supported by the record and the sentence is contrary to law. (Mahoning County)

21-483 St. v. Belville (1) whether supplemental discovery, which the State is obligated to turn over to the defense, tolls speedy-trial time for constitutional speedy-trial purposes; (2) whether a defendant’s inaction in providing discovery to the State, even when not requested, tolls speedy-trial time indefinitely without violating constitutional and statutory speedy-trial rights. (Lawrence County)

21-481 St. v. Bellamy When a conviction is overturned on appeal due to the late disclosure of an expert witness, whether Crim.R. 16(K) requires that testimony from said expert witness must be excluded at a new trial on remand. (State’s Appeal; Delaware County)

21-452 St. v. Jackson (1) whether an officer’s act of opening a driver’s door and ordering the driver to step outside the vehicle constitutes a search under the Fourth Amendment and Article I, Section 14 of the Ohio Constitution; (2) whether a Mimms order provides a lawful right of access to search a vehicle’s interior and whether, after a driver is asked to step out of the vehicle, the responding officer must have an independent justification to search the interior of the vehicle in order for an item to be properly observed in plain view. (Hamilton County)

21-428 St. v. Stutler Whether a trial court has discretion to deny a level of change requested by an institutionalized NGRI-murder defendant in regard to the conditions of his commitment in the absence of clear and convincing evidence that the level change should not be granted. (Stark County)

21-392 St. v. Brown Whether the public policy underlying the civil immunity relied upon by the First District supports a similar application of criminal immunity. (State’s Appeal; Hamilton County)

21-382 St. v. Yontz Whether a person subject to conditions of supervision is required to violate those conditions in order to challenge their illegality. (Guernsey County)

21-266 St. v. Moore When the defendant commits the crime of retaliation, this offense occurs in two venues, the place where the defendant makes the threats and the place where the victim filed charges against the defendant. (State’s appeal; Erie County)

Coming Up for Oral Argument

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) (Argument Set for 9/22/21)

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) (Argument Set for 10/27/21)

20-1242 St. v. Toles Whether the standard of review of *State v. Marcum* for sentencing appeals still applies. (Madison County) (Argument Set for 9/22/21)

20-1189/1250 St. v. Brooks Whether the shift in the burden of proof enacted by H.B. 228 eff. 3-28-19 applies to all subsequent trials regardless of when the offense was committed. (Richland County) (Argument Set for 9/21/21)

20-1187 St. v. Campbell Whether the warrantless search of the probationer based on the consent-to-search condition of community control was constitutional, whether the remedy of exclusion applies to a mere statutory issue, and whether the good-faith exception applies. (State's appeal; Fairfield County) (Argument Set for 10/26/21)

20-1126 St. v. Burns Whether sufficient evidence of probable cause was presented to allow bindover. (Cuyahoga County) (Argument Set for 9/21/21)

20-1018 St. v. Eatmon Whether and when the court must issue a material-witness warrant on behalf of the State to compel the attendance of material witnesses. (State's appeal; Cuyahoga County) (Argument Set for 10/27/21)

20-726 St. v. Leegrand Whether the void-sentence doctrine requires that a sentence precisely track the statutory language set forth by statute. (State's appeal; Cuyahoga County) (Argument Set for 10/5/21)

20-648 St. v. Bethel Whether the defense provided sufficient evidentiary documentation indicating a *Brady* violation and whether the "unavoidable prevention" standard applicable to untimely post-conviction petitions and delayed motions for new trial is constitutional as applied to *Brady* claims. (Franklin County) (Argument Set for 9/8/21)

19-1482 St. v. Whitaker Death Penalty Case (Cuyahoga County) (Argument Set for 10/5/21)

19-1298 St. v. Bourn Whether the defendant can establish actual prejudice for purposes of preindictment delay in a sexual-assault case when he is pursuing a consent defense and provides no reliable indication that any non-speculative evidence related to consent existed or was lost due to the delay. (State's Appeal; Cuyahoga County) (Argument Set for 10/26/21)

19-1215 St. v. Philpotts Whether R.C. 2923.13(A)'s blanket ban on continued possession of firearms by indictees violates the Second Amendment or violates procedural due process. (Cuyahoga County) (Argument Set for 10/27/21)

Briefed and Awaiting Oral Argument

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)

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. (State of Ohio/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)

20-1111 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 reindictment that was filed at age 22. (Mahoning County)

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. (State's appeal; Cuyahoga County)

19-1642 St. v. Brinkman Death Penalty Case (Stark County)

19-1381 St. v. Garrett Death Penalty Case (Franklin County)

19-912 St. v. Grevious Whether R.C. 2953.08(D)(3) is unconstitutional to the extent it bars appeals from sentences for aggravated murder or murder. (Butler County)

Keep an Eye Out for These Cases Awaiting Decision

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. (Lucas County)

20-797 St. v. Crawford Whether the crime of having weapon under disability can serve as the predicate offense to involuntary manslaughter. (Cuyahoga County)

20-683 O'Neal v. State of Ohio et al. Whether ODRC's execution protocol 01-COM11 is subject to the rule-making requirements of R.C. 111.15. (AG's Office)

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. violate Article II, Section 28 of the Ohio Constitution.

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. (Lake 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. (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. (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. (State's appeal; Hamilton 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. (Stark County)

19-926 St. v. McAlpin Death Penalty Case (Cuyahoga County)

19-487 St. v. Lawson Death Penalty Case (Lawrence County)

Ohio Attorney General Opinions

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

2021-018

Requested by: Williams County Prosecuting Attorney

There is an impermissible conflict of interest when one holds the position of Williams County Commissioner while simultaneously being a member of the Northwest Ohio Court Appointed Special Advocates.

2021-017

Requested by: Preble County Prosecuting Attorney

R.C. 1901.12 does not permit municipal-court judges to rollover unused vacation days to future years.

2021-016

Requested by: Symmes Township Law Director

A township road is an established public road if it satisfies the requirements of R.C. 5535.01(C).

2021-015

Requested by: Cuyahoga County Prosecuting Attorney

Cuyahoga County lacks the authority to establish an electric utility when consent of the municipalities has not been given.

2021-014

Requested by: Richland County Prosecuting Attorney

A county satisfies its duty, pursuant to R.C. 1901.111 and 1901.312, to pay a two-fifths share of the "costs, premiums or charges" for the group health care coverage by paying two-fifths of the employer share of premiums or funding levels established by the city.

2021-013

Requested by: Geauga County Prosecuting Attorney

If a township's town hall is located in the same building as office space, and if the township proposes to renovate both the office space and the town meeting hall, R.C. 505.26 prevails over R.C. 511.01 whenever the majority of the cost of the work will be allocated to renovating office space.

2021-012

Requested by: Allen County Prosecuting Attorney

When a county treasurer-elect resigns prior to the start of the elected term, the person appointed to fill the vacancy will hold office until a successor is elected at the next general election for state and county officers.

2021-011

Requested by: Ottawa County Prosecuting Attorney

A deputy sheriff may not simultaneously serve as a township trustee in a township that contracts with the county sheriff for law enforcement services.

2021-010

Requested by: Miami Township Law Director

Due to an impermissible conflict of interest, an appointed part-time city prosecutor may not simultaneously maintain a private practice in which he represents criminal defendants for violations of state law in the surrounding jurisdictions of the served municipal corporation.

2021-009

Requested by: Erie County Prosecuting Attorney

A board of county commissioners has the final-say authority over the recommended road repair/improvement projects prepared by a county engineer.

2021-008

Requested by: Clermont County Prosecuting Attorney

The clerk of a county municipal court is not required to accept possession and control of records of mayor's courts relating to inactive cases of a village upon the dissolution of that village.

2021-007

Requested by: Portage County Prosecuting Attorney

The transfer of money from the county general fund to an "elections revenue fund" is not authorized unless it is approved by a county board of commissioners' resolution.

OPAA Member Benefits

Expert Witness Database

After a long time in the making, the newest benefit OPAA is bringing to its members is a database of expert witnesses. It 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.

Brief Bank

The OPAA is happy to announce yet another new member benefit! Much like the expert database, our 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. This new offering is still in its infancy, but it will be much simpler to add your county's briefs, as well as easier searching. Also included in the database will be our very own expert Steve Taylor's criminal practice memos!

We believe you will find these new databases useful and easy to navigate. As always, this benefit is offered to you as OPAA members, please do not share the credentials outside of your office. Any questions or requests for credentials should be directed to Steve Hall at the OPAA office. (steve@ohiopa.org)

OPAA app

Be sure to download the free OPAA app! While the app offers similar content to the OPAA website, there are 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 from both the Apple Store and Google Play. We hope you will find the OPAA app useful. Please share this information with everyone in your office. We encourage all feedback.

Membership Services

Community Outreach

Summit County Prosecutor's Office Diversity Calender

Last summer the Summit County Prosecutor's Office started a new committee in their Office called The Ambassadors of Equity and Social Justice. Prosecutor Walsh selected a diverse group of 14 individuals. The committee members are diverse by race, gender, sexual orientation, age and job position. We started this committee after hearing about a similar committee in King County, Washington. One of many things done by the committee is a monthly calendar that is sent out and they encourage everyone to read. They also do a Friday raffle each week with various questions for employees to get to know each other better or as a way to recognize positive things being done by our employees. Once a month, Prosecutor Walsh includes a question about our diversity calendar such as, "please share with everyone one thing you learned from our calendar this month", or "what you enjoyed most on the calendar this month." For anyone who is interested in learning more about the committee, how it is run, what they discuss and their goals, please feel free to contact Tania Nemer, The Summit County Community Outreach Prosecutor who Chairs the committee. Tania will be happy to provide you with additional information. In the meantime, check out their July Calendar!

July 2021						
SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
				1	2	3
			July is Minority Mental Health Awareness Month highlighting mental health resources and treatment for minority communities.	Canada Day! A day commemorating the independence and establishment of Canada as a single Nation.	Celebrate Thurgood Marshall's birthday, Civil Rights Activist and First Black American to serve on the Supreme Court	Diversity five Ways to Make the Outdoors More Inclusive
4	5	6	7	8	9	10
The Fourth of July. Cookouts, fireworks and family. Celebrate the United States Independence!	Check out these 50 books to help teach children about Diversity.	"I always entertain the notion that I am wrong, or that I'll have to revise my opinion." -Antoine Bourlouis	Challenge: Find a friend or co-worker and refer them to an ethnic restaurant to enjoy visiting.	Diversity at Desk is back at the Akron Art Museum. Live music will be playing each Thursday night!	The New Hollywood Diversity shows that audiences are showing up in higher numbers for films with more diverse casting.	Try out this famous Panini from Cookout for National Pina Colada Day.
11	12	13	14	15	16	17
Visit your favorite Peace site and try some Italian picnic recipes for dinner.	On this day in 1984, Geraldine Ferraro became the first female Vice President candidate of a major political party after being selected by Walter Mondale.	"I raise up my voice not so that I can shout, but so that those without a voice can be heard. We cannot all succeed when half of us are held back." -Mable Tynes	Check out "Totally Radical: Art and Politics in the 1980's" exhibit at the Akron Art Museum which explores the AIDS crisis, feminism, and racial justice.	Visit your local library and check out one of these 50 titles which help us shed light on understanding diversity, inclusion and systematic racism.	Ready to binge? Catch up on these shows which are breaking boundaries of Representation on TV.	Dedication of John Lewis Memorial Bridge. The City of Steubenville will be dedicating the John Lewis Memorial Bridge with a march beginning at 10:00am.
18	19	20	21	22	23	24
A day to celebrate Nelson Mandela, an international Dedication. Click here to learn more.	"Different roads sometimes lead to the same castle." -George R.R. Martin	Podcast Listener! Tune in and listen to these leading podcasts on diversity and inclusion.	Register for The Ohio State University Zoom Event: The Intersectionality of Transgender People	Check out the "New History, New Futures" which is currently on exhibit at the Cleveland Art Museum.	The opening ceremonies for the Tokyo Olympics begin today!	Fire up the grill with this Middle Eastern Inspired Chicken Kababs
25	26	27	28	29	30	31
Watch this video as a reminder to what others are faced with and how it affects privilege.	"The Americans Disabilities Act was established this day in 1990. Click here to learn more.	"There is no greater disability in society than the inability to see a person as more." -Robert Heinal	Today is Buffalo Soldiers Day. Click here to learn more.	Northeast Ohio Regional Library System is hosting Book Month Patrons and Professionals which is currently on exhibit at the Cleveland Art Museum.	Take some time today and look at the 50 Books for the 2021 Census . It is truly amazing to see the diversity of our country and respect for those of the world.	"I think... if it is true that there are as many minds as there are heads, then there are as many kinds of love as there are hearts." -Leo Tolstoy

(click for Word document)

Thank you to Summit County for providing this information. If your county would like a community outreach program featured please email the information to Steve or Lou.

At the Office



Gallia County prosecutor Jason Holdren and his daughter Rose were in town back in April and toured the Statehouse with District 93 Representative Jason Stephens. The tour included a trip to the purported haunted Statehouse rotunda!

OPAA Training



Summer Workshop - The OPAA membership was on-site at the Breakers Hotel for the 2021 Summer Workshop! Weather was mostly good and the training received good reviews. We had 174 attendees from 45 counties and the AG's office. Thanks to all that made the trip! It was nice to see everyone! Pictures are posted on our Twitter account @ohprosecutors

OPAA free webinar – Firearm Specifications and Related Issues by Steve Taylor will take place Thursday, August 19 from 12:00-1:00. 1 hour of CLE will be available.

Fall Training - The Fall Training agenda has been set and sent to the Supreme Court for approval. It should be on the website by August 1 and printed copies sent out as soon as they are back

from the printer. We'll once again be in Cleveland at the Crowne Plaza Cleveland at Playhouse Square, September 23rd and 24th.

Juvenile Prosecutor Training – We have the topics lined up for the Juvenile Prosecutor Training to be held Thursday, October 14th at the Sheraton Columbus at Capitol Square. That agenda will be posted to the website late August.

Your 2021 OPAA Officers



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Wayne County
President



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