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[www.ohiopa.org](http://www.ohiopa.org)



# THE OHIO PROSECUTOR

## From your President...



Greetings Fellow Prosecutors!

Welcome to a New Year and one full of challenges and high expectations for Ohio's prosecuting attorneys. It is with both great pride and humility I address you as the 2018 OPAA President. It is truly an honor and privilege to serve this organization. As we move in to the new year, it is worthwhile to reflect on 2017, a year that saw perhaps the most significant transition in the history of the OPAA. Under the guidance of President Paul Dobson and the Executive Committee, we celebrated and honored an Ohio icon in John Murphy who served OPAA for over 40 years. We also accomplished the appointment of a carefully selected and highly qualified new OPAA Executive Director in Lou Tobin. Clearly these changes will pose challenges, as change always does, but they will also lead us to new opportunities and the introduction of some innovative new strategies in OPAA efforts to positively influence the justice system in Ohio. There are many issues on the table impacting prosecutors: the continuing issues surrounding the illegal drug culture; tragic deaths related to opioids; proposed criminal justice reforms; the competing interests of public safety and costs of imprisonment; and many other emerging topics. Please know that the OPAA is here to serve all of Ohio's prosecutors and it is my sincere hope that working together we will accomplish positive things in 2018.

Morris J. Murray  
OPAA President

## From your Executive Director...



Dear OPAA Members –  
I would like to take this opportunity to reintroduce The Ohio Prosecutor, a publication that the OPAA last had in the late 1980's/early 1990's. Obviously, technology has changed substantially since that time. Information about the work of the Ohio General Assembly and of your fellow prosecutors is much more readily available on a daily basis. Electronic communication is universally replacing the printed word. The new and revised Ohio Prosecutor will be published on a quarterly basis in an electronic format. I truly hope that you will find the information in it useful and informative. While the format may vary from quarter-to-quarter the newsletter will always have information on OPAA legislative priorities, information about upcoming trainings, and other membership services activities. Your ownership of the newsletter is important. I encourage you all to consider submitting an article about programs in your office that might be useful to other prosecutors, to talk to us about additional items that the newsletter should include, and to ask about our legislative efforts and how you can help. I hope you enjoy The Ohio Prosecutor.

Lou

## New and Noteworthy

### 2017 OPAA Dues are Due!

If you haven't received your dues notice yet, please contact [Diana](#) or [Delores](#) at the OPAA offices.

### First Quarter Reports

The prosecutor's office is required to submit a few reports during January. OPAA sent out the list in December. As a reminder, here is what is due in the first quarter:

#### JANUARY

- File or update an FOJ bond with the county treasurer.
- File with the county auditor an itemized statement of expenditures for the FOJ account and pay the remainder to the county treasury.

## JANUARY REPORTS continued...

- File with the clerk of the board of county commissioners and the county auditor an inventory of all materials, machinery, tools, and other county supplies under the prosecuting attorney's jurisdiction.
- Report to the administrative office of the United States Courts and the Ohio Attorney General information required to be reported by 18 USC 2519, ORC 2933.60(B) (wire tap)

## PRIOR TO MARCH

- LETF annual report, mandatory drug fine annual report, general fund forfeiture annual report, LETF annual seizure report, and the general fund annual seizure report.
- To the AG, an accumulative annual report of reverse stings.

## 2018 OPAA Officers Elected at the OPAA Annual Meeting



Carol O'Brien  
Delaware County  
President Elect



Juergen A. Waldick  
Allen County  
Vice President



Daniel R. Lutz  
Wayne County  
Treasurer



D. Andrew Wilson  
Clark County  
Secretary

## New Executive Director



As most of you have heard, John Murphy, our Executive Director for the past 37 years has resigned. We owe a deep debt of gratitude to John. For years he has been our voice, our rudder, and often our conscience. Many laws, rules and procedures would be substantially less favorable to prosecutors had it not been for the steady and diplomatic intervention of John. We wish all the best to him in his new adventures!



Our new Executive Director is Louis Tobin. Louis comes to us from the Ohio Judicial Conference where he worked for eight years and served most recently as Deputy Director. Please introduce yourself to Lou at the next training!

## New Award Announced

For those of you not attending the 2017 Annual Meeting in Columbus, we christened a new award in outgoing Executive Director Murphy's name. The **John E. Murphy Leadership Award** will be given to an individual that upholds the OPAA mission statement of the *pursuit of truth, justice, and promotion of public safety*. We will also make a contribution to St. Rita's School for the Deaf in Cincinnati, one of John's chosen charities, in the recipient's name.

## Legislative

2017 proved to be a busy year for the OPAA at the Statehouse. Here is some information on recently enacted legislation and priority legislation for 2018. For a full list of bills that we are tracking visit [www.ohiopa.org](http://www.ohiopa.org). If you have any questions about the work of the legislature or the status of any legislation please let us know!

## Enacted

HB 69 TIF/TAX LAW UPDATE (Cupp, R.)

To require reimbursement of certain township fire and emergency medical service levy revenue forgone because of the creation of a municipal tax increment financing district, to authorize subdivisions to remove territory from existing joint economic development zones (JEDZs), to authorize townships to enter into enterprise zone agreements with retail businesses with the approval of the affected school district, to allow a county or transit authority to levy sales tax in increments of 0.25%, to modify the procedures by which resolutions proposing the levy of property taxes are submitted to electors,

and to increase the appropriation for the Medicaid Local Sales Tax Transition Fund.  
*Effective March 22, 2018.*

**HB 118 PROPERTY TAX COMPLAINTS (Merrin, D.)**  
To expressly prohibit the dismissal of a property tax complaint for failure to correctly identify the property owner.  
*Effective March 22, 2018.*

**HB 214 DOWN SYNDROME ABORTION BAN (LATOURETTE S, MERRIN D)** To prohibit a person from performing, inducing, or attempting to perform or induce an abortion on a pregnant woman who is seeking the abortion because an unborn child has or may have Down syndrome.  
*Effective March 22, 2018.*

**SB 33 LEADS DISCLOSURE (EKLUND J)** To allow disclosure of information from the law enforcement automated data system (LEADS) to a defendant in a traffic or criminal case. The bill also authorizes a court to continue an offender on ILC and places no limit on the number of times a court may do so. *Effective March 22, 2018.*

**SB 8 SCHOOL INFRASTRUCTURE AND TECHNOLOGY (Gardner, Terhar) –** Among other things, this bill included a change to address Ohio Attorney General opinion 2017-030 that stated that there is no authority on the part of a county court or municipal court to contract with a county sheriff for prisoner transport. The bill makes every deputy sheriff an ex officio deputy bailiff and permits municipal and county courts to contract with county sheriffs for transportation services. *Effective March 22, 2018.*

### **Pending Priority Bills**

**HB 56 EXPUNGEMENT-HUMAN TRAFFICKING (DEVER J, GAVARONE T)** To permit a person who is found not guilty or is the defendant in a dismissed case to apply for an expungement of the person's records in the case if the complaint, indictment, or finding of not guilty resulted from the applicant having been a victim of human trafficking, to permit a person convicted of certain prostitution-related offenses to apply for the expungement of any record of conviction of an offense, with certain exceptions, if the person's participation in the offense was a result of having been a victim of human trafficking, and to authorize intervention in lieu of conviction for persons charged with committing an offense while a victim of compelling prostitution.  
OPAA Position: Support.

**HB 64 EXPUNGEMENT-MISTAKEN IDENTITY (SCHURING K, REECE A)** To provide for the expungement of official records related to the apprehension, arrest, criminal charging, or trial of a person based on mistaken identity. Amended to require the redaction of identifying information rather than the expungement of records.  
OPAA Position: Amend definitions section. Possible *Brady* issue.

**HB 81 DEATH SENTENCE-MENTAL ILLNESS (SEITZ B, ANTONIO N)** To provide that a person convicted of aggravated murder who shows that the person had a serious mental illness at the time of committing the offense cannot be sentenced to death for the offense and to provide a mechanism for resentencing to a life sentence a person previously sentenced to death who proves that the person had a serious mental illness at the time of committing the offense.  
OPAA Position: Opposed.

**HB 141 INVOLUNTARY MANSLAUGHTER-CONTROLLED SUBSTANCE (DEVER J, WIGGAM S)** To provide that causing or contributing to the death of another person as a result of the offender's sale, distribution, dispensation, or administration of a controlled substance or controlled substance analog is a violation of the offense of involuntary manslaughter and to make this offense a strict liability offense.  
OPAA Position: Support concept. Amend penalties section.

**HB 228 USE OF FORCE IN SELF-DEFENSE (JOHNSON T, LATOURETTE S)** To assign to the prosecution the burden of disproving a self-defense or related claim, to expand the locations at which a person has no duty to retreat before using force under both civil and criminal law, and to modify the Concealed Handgun Licensing Law regarding a licensee's duty to keep the licensee's hands in plain sight, the penalties for illegally carrying a concealed firearm or improperly handling firearms in a motor vehicle, and the posting of warning signs regarding the possession of weapons on specified premises.  
OPAA Position: Opposed.

**HB 296 DRUG CRIME NEAR ADDICTION SERVICES (GAVARONE T)** To enhance penalties for certain drug offenses committed in the vicinity of a community addiction services provider.  
OPAA Position: Support.

**HB 365 REAGAN TOKES LAW (HUGHES J, BOGGS K)** To provide for indefinite prison terms for first or second degree felonies and specified third degree felonies, with presumptive release of offenders sentenced to such a term at the end of the minimum term; to generally allow the Department of Rehabilitation and Correction to reduce the minimum term for exceptional conduct or adjustment to incarceration; to allow the Department to rebut the release presumption and keep the

offender in prison up to the maximum term if it makes specified findings; to require the Department to establish a reentry program for all offenders released from prison who it intends to have reside in a halfway house or similar facility but who are not accepted by any such facility; to require the Adult Parole Authority to establish maximum work-load and case-load standards for its parole and field officers and have enough trained officers to comply with the standards; to require that GPS monitoring used for offenders released from prison under such monitoring specify restrictions, including inclusionary zones and necessary exclusionary zones; to require the Department to establish system requirements for GPS monitoring of such offenders by the Department or third-party contract administrators; to require the Department to operate a statewide database for law enforcement use containing specified information about such offenders; to require that third-party administrators for GPS monitoring under a new contract with the Department provide and use a law enforcement-accessible crime scene correlation program; and to name the act's provisions the Reagan Tokes Act. OPAA Position: Support concept. Opposed to "good time" provisions. Increase maximum sentence.

**HB 394 MANDATORY JUVENILE BINDOVERS (REZABEK J)** To eliminate mandatory and reverse bindovers, and modify the procedures for discretionary bindovers, of an alleged juvenile offender from a juvenile court to a criminal court; to revise the procedures for determining the delinquent child confinement credit; to revise certain delinquent child financial sanction dispositions and procedures and establish a separate restitution disposition; and to provide special parole eligibility dates for persons with an indefinite or life sentence imposed for an offense other than aggravated murder or another crime involving the purposeful killing of multiple persons committed when the person was under age 18 and special Parole Board procedures in those cases. OPAA Position: Opposed.

**HB 411 WRONGFUL IMPRISONMENT LAW (SEITZ B, SYKES E)** To modify the state's wrongful imprisonment law. OPAA Position: Monitor.

**HB 413 OPERS COLA ADJUSTMENT (SCHERER G)** Regarding Public Employees Retirement System (PERS) annual cost-of-living adjustments granted to allowance and benefit recipients and PERS service credit for services as a nonteaching school employee of a county board of developmental disabilities. OPAA Position: Under Review.

**HB 439 RISK ASSESSMENT-BAIL SETTING (DEVER J, GINTER T)** To require courts to use the results of a validated risk assessment tool in bail determinations; to allow nonmonetary bail to be set; to require courts to collect certain data on bail, pretrial release, and sentencing; and to require the state Criminal Sentencing Commission to create a list of validated risk assessment tools and monitor the policies and procedures of courts in setting bail and utilizing pretrial supervision services. OPAA Position: Under Review.

**SB 1 DRUG LAWS (LAROSE F)** To increase penalties for drug trafficking violations, drug possession violations, and aggravated funding of drug trafficking when the drug involved in the offense is a fentanyl-related compound, to revise the manner of determining sentence for certain violations of the offense of permitting drug abuse, and to add lisdexamphetamine to the list of schedule II controlled substances. OPAA Position: Support.

**SB 4 RECORDS EXPUNGEMENT (KUNZE S, OELSLAGER S)** To allow a person who is found not guilty of an offense or who is the defendant named in a dismissed criminal charge to apply for a court order to expunge the person's official records in the case if the charge or not guilty finding was the result of the applicant having been a human trafficking victim, to allow a person convicted of certain prostitution-related offenses to apply for the expungement of the conviction record of any offense, other than a specified disqualifying offense, the person's participation in which was a result of having been a human trafficking victim, and to allow intervention in lieu of conviction for persons charged with committing an offense while a victim of compelling prostitution. OPAA Position: Amend to, at a minimum, exclude first and second degree felonies, and delay when the application may be filed.

**SB 32 CRIMINAL TRIAL PROCESS (EKLUND J)** To provide a prosecutor an additional fourteen days to commence a trial after a person charged with a felony has been discharged because the person has not been brought to trial within the required amount of time and to authorize the court to release the person from detention in connection with those charges pending trial. OPAA Position: Support.

**SB 40 DEATH PENALTY SENTENCING (EKLUND J, WILLIAMS S)** To provide that a person convicted of aggravated murder who shows that the person had a serious mental illness at the time of committing the offense cannot be sentenced to death for the offense and to provide a mechanism for resentencing to a life sentence a person previously sentenced to death who proves that the person had a serious mental illness

at the time of committing the offense.  
OPAA Position: Opposed.

**SB 41 QUALIFIED ADVOCATE PRIVILEGES (EKLUND J)** To provide generally a testimonial privilege for communications between a qualified advocate rendering advocacy services and a victim of sexual violence, menacing by stalking, or domestic violence, to exempt the nondisclosure of that privileged communication from the offense of failure to report a crime, to require a qualified advocate to report knowledge or reasonable suspicion of child abuse or neglect of the victim except for privileged communications, and to specify circumstances in which the victim is considered to have waived the privilege.  
OPAA Position: Opposed.

**SB 64 JUVENILE MANDATORY BINDOVERS (THOMAS C)** To eliminate mandatory bindovers and reverse bindovers, and modify the rules and procedures regarding a discretionary bindover, of an alleged juvenile offender from a juvenile court to a criminal court.  
OPAA Position: Opposed.

**SB 66 SENTENCING MODIFICATION-REHABILITATION (EKLUND J, TAVARES C)** To modify criminal sentencing and corrections law by including rehabilitation as a purpose of felony sentencing, removing the one-year minimum for presumptive fourth or fifth degree felony community control sanctions, modifying sanctions for a violation of a community control condition, modifying the manner of calculating confinement credits, modifying eligibility criteria and procedures for granting intervention in lieu of conviction, making offenders convicted of certain multiple fourth or fifth degree felonies eligible for conviction record sealing, revising procedures for the Adult Parole Authority to grant a final release or terminate post-release control, and modifying the criteria for considering a prison term sanction for a post-release control violation.  
OPAA Position: Amend to remove rehabilitation from the purposes of felony sentencing, remove changes regarding ILC, remove changes regarding sealing.

**SB 180 FIREARM RELATED LAWS-CHANGES (UECKER J, HOTTINGER J)** To assign to the prosecution the burden of disproving a self-defense or related claim, to expand the locations at which a person has no duty to retreat before using force under both civil and criminal law, and to modify the Concealed Handgun Licensing Law regarding a licensee's duty to keep the licensee's hands in plain sight, the penalties for illegally carrying a concealed firearm or improperly handling firearms in a motor vehicle, and the posting of warning signs regarding the possession of weapons on specified premises.  
OPAA Position: Opposed.

**SB 201 REAGAN TOKES LAW-INCARCERATION (BACON K, O'BRIEN S)** To provide for indefinite prison terms for first or second degree felonies and specified third degree felonies, with presumptive release of offenders sentenced to such a term at the end of the minimum term; to generally allow the Department of Rehabilitation and Correction to reduce the minimum term for exceptional conduct or adjustment to incarceration; to allow the department to rebut the release presumption and keep the offender in prison up to the maximum term if it makes specified findings; and to name the act's provisions the Reagan Tokes Law.  
OPAA Position: Support concept. Opposed to "good time" provisions. Increase maximum sentence.

**SB 202 REAGAN TOKES LAW-MONITORING (BACON K, O'BRIEN S)** To require the Department of Rehabilitation and Correction to establish a reentry program for all offenders released from prison who it intends to have reside in a halfway house or similar facility but who are not accepted by any such facility; to require the Adult Parole Authority to establish maximum work-load and case-load standards for its parole and field officers and have enough trained officers to comply with the standards; to require the GPS monitoring used for offenders released from prison under such monitoring specify restrictions, including inclusionary zones and necessary exclusionary zones; to require the department to establish system requirements for GPS monitoring of such offenders by the department or third-party contract administrators; to require the department to operate a statewide database for law enforcement use containing specified information about such offenders; to require that third-party administrators for GPS monitoring under a new contract with the department provide and use a law enforcement-accessible crime scene correlation program; and to name the act's provisions the Reagan Tokes Law.  
OPAA Position: Support.

*Bill information courtesy of Hannah News Service, Inc.*

## Join us at the Statehouse!

If you are ever in Columbus on a Tuesday or Wednesday, let us show you around the Statehouse, take you to a committee meeting, or introduce you to some of the decision makers on capitol square.

## Membership Services

### Community Outreach

The Cuyahoga County Prosecutor's Office established the Crime Strategies Unit (CSU) and modeled it after similar successful departments in other major metropolitan areas to further the office's commitment to making our communities safer. The Unit is managed by Assistant Prosecuting Attorney (APA) Eleina Thomas and includes APAs Ryan Bokoch and Andy Rogalski, crime analysts Mike Hilliard and Kyle Hagen, and paralegal Naida Gonzalez. The Unit analyzes and produces

data to identify crime trends and works with local, state, and federal law enforcement officers daily to make connections between crimes committed throughout Northeast Ohio. Together, these efforts result in more comprehensive indictments, so a Judge or Jury understands a person's or groups of persons' effect on the community. To accomplish its objectives, CSU reviews and summarizes police reports daily involving violent offenses and weapons violations to identify patterns and common offenders. The Unit shares this information with law enforcement throughout the county to ensure they have an understanding of the crimes occurring around the county and to analyze whether there are any similarities to crimes being committed in their jurisdictions. The Unit also holds monthly detective meetings so law enforcement can share cases files and solve crimes together that span multiple jurisdictions. As a result of these meetings, CSU has secured multiple indictments exceeding 50 counts. In addition to the monthly detective meetings, the CSU works regularly with a number of task forces established to combat violent crime throughout Northeast Ohio. The Federal Bureau of Investigation's Violent Crimes Task Force and the Cleveland Police Department's Gang Impact Unit established a Gang Task Force that meets monthly to discuss gang violence and related shootings. The Task Force is comprised of numerous local, state, and federal agencies. For instance, local law enforcement from the inner-ring suburbs to Cleveland are present because the violence from Cleveland spills into their cities. Members of the Adult Parole Authority are present and advise on release dates for known gang members and gang related incidents in the prisons that could result in an increase in violence on the streets. The Unit's APAs and crime analysts provide updates on current prosecutions and crime trends or patterns discovered. As a whole, the Task Force identifies crime drivers (a small number of people that are committing a majority of the crime) and develops strategies to get them off the streets and reduce violence throughout the area. These efforts have resulted in numerous indictments charging individuals with Participating in a Criminal Gang. Furthermore, the CSU meets every two weeks with members of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) to discuss recent gun violence and link incidents with the assistance of the ATF's National Integrated Ballistic Information Network (NIBIN). With the assistance of NIBIN, law enforcement and CSU are able to link incidents together and ascertain whether a series of shootings is possibly related. This information is passed on to local, state, and federal law enforcement to assist in investigations and prosecutions. Additionally, the Unit has assisted on a number of investigations that resulted in the closing of an after-hours club plaguing the Fourth District and the indictment of individuals responsible for stealing approximately 100 guns from a gun store with the intent sell them on the streets. Finally, the CSU is creating an inventory of surveillance cameras in Cuyahoga County.

The goal is to create a database of information that law enforcement can easily reference in order to find out where surveillance cameras are located, who the contact person is for a particular retail establishment or residence, and how long the camera system retains video. Surveillance video is a key tool to successful prosecution and this effort allows law enforcement to more efficiently and effectively do their job by essentially being able to virtually canvass an area for video.



Above: Cleveland Division of Police Detective Aaron Reese, Parma Police Department Detective John Porec, and CSU APA Ryan Bokoch worked tirelessly to take down two separate crews terrorizing businesses owners throughout five counties throughout 2015 and 2017 by crashing vehicles into businesses and stole ATMs on more than 70 instances. As a result, the Office secured two separate indictments for 18 adults and 5 juveniles. The adult crimes drivers are serving prison sentences ranging from 8 to 18 years and only a handful of ATM Smash and Grabs have occurred throughout Northeast Ohio since June of 2017 when the last of the offenders was arrested. *(A special thank you to the Cuyahoga County Prosecutors Office and APA Eleina K. Thomas for this article)*

If you or someone on your staff would like to submit an article for the next issue of The Ohio Prosecutor, please contact the OPAA.

## 2018 Training Dates

Please join us in 2018 for our CLE training programs.

2018 Spring Training, April 19th and 20th,  
Sheraton Columbus at Capitol Square

2018 Summer Workshop, June 22nd and 23rd  
Cedar Point, Sandusky Ohio

2018 Fall Training  
TBD

2018 OPAA Annual Meeting, November 29th and 30th  
Hilton Columbus Downtown