



Ohio Prosecuting Attorneys Association



2021 OPAA Annual Meeting

Hilton Columbus at Easton

December 16th and 17th, 2021

The 2021 OPAA Annual Meeting will include both civil and criminal prosecutor training tracks along with complete professional conduct hours to satisfy the full reporting requirements. On the criminal side, we have Aequitas back to talk about witness intimidation and forfeiture by wrongdoing; evidence collection strategies for phone technology, location apps, social media; an OSC and SCOTUS cases of interest to Ohio prosecutors; managing stress; and a look at SANE nurse's training and daily work, along with a case study. The civil side will explore sunshine and open meeting law; how SB52 changed wind and solar energy; township law and ARPA; agricultural law update; labor and employment issues; and cyber security in the county offices. **Please note: We will not be having a sit-down dinner this year but will have a selection of heavy appetizers at the reception Thursday night.**

We will see you there!

Thursday, December 16th

Criminal Track

8:00 - 9:00

Registration and Continental Breakfast

9:00 - 10:00

Ohio Supreme Court and SCOTUS Update

This presentation will discuss criminal cases and other developments affecting prosecutors occurring over the past year at the Ohio Supreme Court and during the United States Supreme Court's October 2020 Term.

Seth Gilbert, Chief Counsel

Criminal Division - Appellate Unit

Franklin County

10:00 - 10:15

Break

10:15 - 11:15

Improving the Justice System Response to Witness Intimidation

Witness intimidation is "behavior which strikes at the heart of the justice system itself." *United States v. Mastrangelo*, 693 F.2d 269, 273 (2d Cir. 1982).

When intimidation is permitted to occur, and when it is not effectively addressed by the justice system, victims and witnesses suffer additional harm, defendants escape accountability for their actions, and the public becomes cynical and loses confidence in law enforcement. Effectively addressing the problem of witness intimidation requires the participation of law enforcement, prosecutors, judges, advocates, probation or parole officers, and healthcare, social services, and corrections professionals - all of whom may come into contact with victims or witnesses who are vulnerable to intimidation, or with defendants who intimidate. This presentation will discuss the ways in which batterers intimidate and control victims, how victim behaviors are attempts to cope with their battering, effective investigation and documentation of both intimidation and intimidation crimes, charging and trying the intimidator, and strategies to hold these offenders accountable.

*Jane Anderson, Attorney Advisor and
John Wilkinson, Attorney Advisor
Both with Aequitas*

11:15 - 12:15

Forfeiture by Wrongdoing: A High-Level Trial Strategy to Combat Witness Intimidation

Forfeiture by wrongdoing - a long-recognized but under-utilized tool - can, when supported by a thorough investigation, effectively blunt the impact of witness intimidation. When successfully asserted, forfeiture by wrongdoing operates as a hearsay exception for the out-of-court statements of an absent witness, but many judges have limited or no experience with the doctrine. As such, it is critical for prosecutors to familiarize themselves with every aspect of the doctrine so that they can educate the court and effectively repel defense challenges to its use. Building on the previous session, this presentation will take a deep-dive into the doctrine beyond the basic elements necessary to establish forfeiture, by exploring the details that will allow the prosecutor to make maximum use of this valuable tool. The presenter will discuss timing and content of motions, the evidence admissible in a hearing, determining which witnesses to call, and establishing unavailability of the witness and the defendant's responsibility therefor (including situations in which the witness has colluded with the defendant to be unavailable). The presenter will also discuss the importance of planning for alternative arguments to admit the witness's out-of-court statements. This presentation will also examine the latest tactics being used to intimidate witnesses.

*Jane Anderson, Attorney Advisor and
John Wilkinson, Attorney Advisor
Both with Aequitas*

12:15 - 1:45

Awards Luncheon

1:45 - 2:45

The Weaponization of Technology in Court Cases

As our dependency and use of technology increases, we rely on electronic devices to complete many daily activities. Unfortunately, these same

technologies are being seen more and more in legal cases where offenders have identified ways to exploit them in order to facilitate harm towards their victims. In this interactive workshop, Steven Bradley will explore the risks and benefits of technology, not only for those the prosecutors serve, but also for you in your personal and professional lives. Attendees will learn safety planning and evidence collection strategies for phone technology, location apps, social media, and more. Non-technical language will be used throughout the presentation and how to safely navigate the world of technology.

*Steven Bradley, Safety and Technology Specialist
OurFamilyWizard®*

2:45 - 3:00

Break

3:00 - 4:00

The Weaponization of Technology in Court Cases continues...

5:00 - 7:00

Reception

Civil Track

8:00 - 9:00

Registration and Continental Breakfast

9:00 - 10:00

Sunshine Law Update: Recent Issues in Ohio's Public Records and Open Meetings Act.

This session will provide an overview of Ohio's Public Records and Open Meetings Act. It will cover recent court cases and issues such as text messages as public records, the use of personal email for public business, and virtual and round robin meetings.

*Bridget C. Coontz, Section Chief
Constitutional Offices Section
Office of Ohio Attorney General Dave Yost*

10:00 - 10:15

Break

10:15 - 11:15

What County Prosecutors Need to Know About the New Law for "Wind Farms" and "Solar Farms" in Ohio

This seminar will review the changes enacted by the Ohio General Assembly earlier this year in Sub. S.B. No. 52, which governs "large wind farms" and "large solar facilities" including what rights are given to a board of county commissioners to designate part of unincorporated areas as "restricted" areas, to "fix boundaries" and a county's obligation to notify school districts, municipal corporations, township trustees within the proposed restricted area. We will also cover what rights citizens have to petition a county board of commissioners to submit a resolution for approval or rejection at the next primary or general election on the designation or referendum on the restricted area and what rights the utility has to pursue approval before the

Ohio Power Siting Board including the duty of “ad hoc” members and their powers to review application certificates for a wind or solar facility.

Frank J. Reed, Jr.

Frost Brown Todd LLC

11:15 - 12:15

Township Law Update 2021 and American Rescue Plan Act (ARPA)

Survey of changes in township law in 2020, including an overview of case law, opinions of the Ohio Attorney General and passed and pending legislation. Outline of COVID-19 federal stimulus response and overview of American Rescue Plan Act’s four buckets of eligible uses by counties and townships.

Rebecca C. Princehorn, Partner and

Jeffry D. Harris, Of Counsel

Both with Bricker and Eckler, LLP

Columbus, Ohio

12:15 - 1:45

Awards Luncheon

1:45 - 2:45

Zoning and Agriculture

This program will explore the agricultural exemptions in the Ohio Revised Code from county and township zoning authority. The program will further explore the growing agritourism industry and the considerations for local government officials.

Peggy Kirk Hall, Associate Professor and Director

OSU Agricultural & Resource Law Program and

Amy M. Milam, Director

Ohio Farm Bureau Federation

2:45 - 3:00

Break

3:00 - 4:00

Agricultural Law Updates - Drainage Improvement Petitions, Noxious Weeds, and Line Fences

This program will provide an update on recent revisions to the county drainage improvement petition laws, as well as a refresher on township trustee duties relative to noxious weeds complaints and line fence disputes.

Peggy Kirk Hall, Associate Professor and Director

OSU Agricultural & Resource Law Program and

Amy M. Milam, Director

Ohio Farm Bureau Federation

5:00 - 7:00

Reception

Friday, December 17th

Combined Sessions

8:00 - 9:00

Registration and Continental Breakfast

9:00 - 10:30

Disorder in the Court: A Prosecutor's Guide to Judicial Misconduct - 2021 Edition (Professional Conduct)

The Rules of Professional Conduct indicates that an attorney who possesses unprivileged information that a judge has violated the Rules of Judicial Conduct shall inform the appropriate authority and that that it is professional misconduct for a lawyer to knowingly assist a judge in conduct that is a violation of applicable rules of judicial conduct. Therefore, it is incumbent for every attorney to be familiar with the rules of Judicial Conduct and the type of conduct that is to be expected from the Bench. In this interactive presentation attorneys will gain a working knowledge of the Rules of Judicial Conduct and we will review recent ethical decisions where judges were disciplined for ethical misconduct. Further, attorneys will learn how to respond to judicial misconduct. Finally, we will also review video clips of unethical conduct by the bench and review the disciplinary procedures used to sanction a judge.

Philip Bogdanoff
Retired Career Prosecutor

10:30 - 10:45

Break

10:45 - 11:45

Ethics for Prosecutors: Avoiding the Pitfalls (Professional Conduct)

The Ohio Disciplinary Counsel will discuss the Ohio Rules of Professional Conduct and disciplinary cases of interest to Ohio prosecutors.

Joseph M. Caligiuri, Disciplinary Counsel
Supreme Court of Ohio

11:45 - 1:15

Lunch and Business Meeting

Criminal Track

1:15 - 2:15

Using Mental & Physical Techniques to Manage Stress and Achieve Resiliency

This presentation will begin by defining stress, the stress response and resiliency. Next, empirically based research on stress management and resiliency will be reviewed. After the discussion of the research, specific mental and physical techniques will be presented with an opportunity to practice some of the techniques during the presentation. Finally, participants will be encouraged to think through how to incorporate, into each day, a stress management protocol.

Dr. Cecile Brennan, Ph.D., LPCC-S
Moore Counseling & Mediation Services, Inc.

2:15 - 2:30

Break

2:30 - 3:30

Medical Forensic Examiners

We'll look into a "day in the life" of a forensic nurse dealing with human trafficking, domestic violence, and sexual assault at a central Ohio hospital emergency room. This session will cover the training required, an overview of things they do, and what goes into a State of Ohio exam. Then a real case study will review the medical forensic examination and State of Ohio Evidence Collection Kit, paperwork, and court room experience.

Leslie B. Potterton, RN, SANE-A
OhioHealth

Civil Track

1:15 - 2:15

Labor and Employment issues – Employee Rights in Investigations and Discipline

Public employees have Constitutional procedural rights which are strictly enforced by Courts, Arbitrators, and in civil service appeals. This session will examine which employees are subject to the standards, the multiple standards, and provide the legal basis for each including the *Loudermill* and *Garrity* standards. Investigation techniques and potential conflict between administrative and criminal investigations and discipline in union and civil service environments will be addressed. Practical applications will be presented, and sample forms and outlines will be provided.

Jonathan J. Downes
Zashin & Rich
Columbus, Ohio

2:15 - 2:30

Break

2:30 - 3:30

Minimizing Cybersecurity Threats and Protecting County Information

Counties possess significant personal and confidential information. As a result, counties often make attractive targets for a cyber-criminal. Unfortunately, COVID-19, remote work, social media, and overall reliance upon technology has only increased the risk of a cyber-attack. Because cyber-attacks are on the rise, it is not "if" your county will be subject to an attack, but rather "when." Successful cybersecurity attacks will not only result in significant costs to the county, but also could result in a loss of productivity and credibility. This session will cover reducing county risks and legal, as well as practical considerations for county employees.

Benjamin A. Albrecht, Partner
Fishel, Downey, Albrecht & Riepenhoff, LLP
New Albany, Ohio

We have requested approval of 9.5 total CLE hours which includes 7 general hours and 2.5 professional conduct hours from the Supreme Court of Ohio Commission on Continuing Legal Education.

Room rates at the Hilton Columbus at Easton are \$196.00 (single and double). To avoid paying tax, accommodations must be paid for with either an office check or office credit card. Personal payment, even though it will be reimbursed by the office, is not tax exempt by state law. To make reservations, call 614-414-5000. Identify yourself as being with OPAA (use Group Code OPA) to obtain our special rate. Our contract with the hotel specifies that all attendees at this meeting will pay the negotiated room rate. It violates the spirit of our agreement for attendees at this meeting to reserve a room at a lower government rate! The cut-off date for our block of rooms is Monday, November 15th. Check-in time is 4:00 p.m., and check-out time is 12:00 noon. Early check-in and late check-out based on availability. Cancellations must be made by 4:00 p.m. 24 hours prior to scheduled check-in time in order to receive a refund. Early Departure Policy: stated departure date can be changed at the time of check in without penalty. After check in any guest who checks out before their stated departure date will be charged a \$100.00 fee. Parking rates: valet parking is available at \$24.00 per day, no charge for self-parking.

The registration fee for OPAA member counties is \$375.00 for both days, and \$200.00 if attending one day only. This covers all handout materials, continental breakfasts, breaks, and lunches for PAs and APAs on both days, and the reception and awards banquet for both registrant and guest. Fees for non-members are \$750.00 for two days and \$400.00 for one day. Cancellation of registrations made after Thursday, December 9th will be assessed a penalty of \$200.00 if attending both days, and \$125.00 if attending one day only. This is necessary to help defray the cost of food guarantees which must be made by that time. Please send registrations to OPAA (mail, fax, email) so that they arrive no later than Thursday, December 9th.

NOTE: If any registrant, or guest, has special dietary needs, please contact Delores or Diana at 614-221-1266, so that advance arrangements can be made with the venue. OPAA will accommodate requests as long as they can be supplied by the venue without additional cost. Any additional cost must be borne by the registrant and they will be notified in advance.



Ohio Prosecuting Attorneys Association



REGISTRATION FORM

2021 OPAA ANNUAL MEETING

Return this form or forward the information so that it reaches OPAA by December 9th to: delores@ohiopa.org or diana@ohiopa.org, fax 614-221-0753, or via mail to Ohio Prosecuting Attorneys Association, 196 East State Street, Suite 200, Columbus, OH 43215.

Please register the following persons to attend the 2021 OPAA Annual Meeting at the Hilton Columbus Easton on Thursday, December 16th and Friday, December 17th, 2021:

NAME	TITLE	EMAIL ADDRESS	THU &FRI	THU ONLY	FRI ONLY
_____	_____	_____	___	___	___
_____	_____	_____	___	___	___
_____	_____	_____	___	___	___
_____	_____	_____	___	___	___

NUMBER OF THE ABOVE THAT WILL BE ATTENDING THE THURSDAY RECEPTION INCLUDING THEIR GUEST _____

The registration fee for members is \$375 for both days, \$200 for a single day. Non-member pricing is \$750 for both days, \$400 for a single day.

Check number _____ for \$ _____ is enclosed or will be sent.

County

Prosecuting Attorney Signature

NOTE: If any registrant has special dietary needs, please contact Delores or Diana at 614-221-1266, so that advance arrangements can be made with the venue. OPAA will accommodate requests if they can be supplied by the venue without additional cost. **Any additional cost must be borne by the registrant, and they will be notified in advance.**