

OPINIONS
OF THE
ATTORNEY GENERAL
OF OHIO
1970

during the period
January 1, 1970 to December 31, 1970

1970 OPINIONS 70-001 to 70-172

PAUL W. BROWN
Attorney General

Opinions published quarterly
with tables and index

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PREFACE

This publication provides prompt dissemination of the formal Opinions of the Attorney General of Ohio. Loose-leaf advance sheets with tables and index are issued quarterly until year-end, when they are closed for the permanent annual volume. The service was inaugurated in 1964 by my predecessor, Hon. William B. Saxbe, and it will be continued during my term of office.

Publication of OHIO ATTORNEY GENERAL OPINIONS is a cooperative project of the publisher and the office of the Attorney General. Both parties invite constructive criticism of the service, to the end that the quality and workability may be improved.

PAUL W. BROWN
Attorney General of Ohio

April 1, 1970

ATTORNEYS GENERAL
of the
STATE OF OHIO

Note: The office of Attorney General was established as an elective office by the Constitution of 1851, and the term of office was two years. By an amendment made in 1954 the term of office is now four years.

Henry Stanberry	1846-1851
Joseph McCormick	1851-1852
George E. Pugh	1852-1854
George W. McCook	1854-1856
Francis D. Kimball	1856-
C.P. Wolcott (a)	1856-1861
James Murray	1861-1863
Lyman R. Critchfield	1863-1865
William P. Richardson	1865-
Chauncey N. Olds (b)	1865-1866
William H. West	1866-1868
Francis B. Pond	1868-1872
John Little	1872-1878
Isaiah Pillars	1878-1880
George K. Nash	1880-1883
D.A. Hollingsworth (c)	1883-1884
James Lawrence	1884-1886
Jacob A. Kohler	1886-1888
David K. Watson	1888-1892
John K. Richards	1892-1896
Frank S. Monnett	1896-1900
John W. Sheets	1900-1904
Wade H. Ellis (e)	1904-Nov., 1908(d)
Ulysses G. Denman (f)	Nov., 1908- 1911
Timothy S. Hogan	1911-1915
Edward C. Turner	1915-1917
Joseph McGee	1917-1919
John G. Price	1919-1923
C. C. Crabbe	1923-1927
Edward C. Turner	1927-1929
Gilbert Bettman	1929-1933
John W. Bricker	1933-1937
Herbert S. Duffy	1937-1939
Thomas J. Herbert	1939-1945
Hugh S. Jenkins	1945-1949
Herbert S. Duffy	1949-1951
C. William O'Neill	1951-1957
William B. Saxbe	1957-1959
Mark McElroy	1959-1963
William B. Saxbe	1963-1969
Paul W. Brown	1969-

Note:

(a) Appointed vice Francis D. Kimball, who resigned September, 1856.

(b) Appointed February 20, 1865, vice William P. Richardson, who was elected while a Colonel in command of Camp Chase, Columbus, Ohio, and resigned as Attorney General in February, 1865, and remained in the service.

(c) Appointed April 21, 1883, vice George K. Nash, who resigned to become a member of the Supreme Court Commission.

(d) Term extended to 1909 by constitutional amendment.

(e) Resigned November, 1908, to become Assistant United States Attorney General.

(f) Appointed November, 1908, for unexpired term ending January, 1909, vice Wade H. Ellis, resigned; then served the full term commencing January 11, 1909.

OHIO REVISED CODE

CHAPTER 109

ATTORNEY GENERAL

Amended to April 1, 1970

OJur 2d: 49, State of Ohio § 12

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ORGANIZATION, POWERS AND DUTIES

109.01 (331). Election; term.

The attorney general shall be elected quadrennially, and shall hold his office for a term of four years. The term of office of the attorney general shall commence on the second Monday of January next after his election. (129 v 582. Eff. 1-10-61)

Compensation of state officials, 141.01 et seq.
Official annual reports of state officials, 149.01.
OJur 2d: 6, Attorney General § 1

109.02 (333). Duties.

The attorney general is the chief law officer for the state and all its departments and shall be provided with adequate office space in Columbus. No state officer, board, or the head of a department or institution of the state shall employ, or be represented by, other counsel or attorneys at law. The attorney general shall appear for the state in the trial and argument of all civil and criminal causes in the supreme court in which the state is directly or indirectly interested. When required by the governor or the general assembly, he shall appear for the state in any court or tribunal in a cause in which the state is a party, or in which the state is directly interested. Upon the written request of the governor, he shall prosecute any person indicted for a crime.

(1969 S 43S. Eff. 11-17-69)

See Townsend Corporation Manual, Form 55.45
See Baldwin's Ohio School Law, Text 3.03

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To enforce performance of duties of college officers, 1713.31. See 4111.15 and note citing 1937 OAG 1393.

OJur 2d: 6, Attorney General § 1, 4, 9; 26, Governor § 4

109.03 (334). Appointment of assistant attorney general and chief counsel; duties.

The attorney general may appoint a first assistant attorney general, a chief counsel, and assistant attorneys general, each of whom shall be an attorney at law, to serve for the term for which the attorney general is elected, unless sooner discharged by him, and each shall perform such duties, not otherwise provided by law, as are assigned him by the attorney general.

OJur 2d: 6, Attorney General § 3

109.04 (335). Powers and duties of first assistant attorney general.

During the absence or disability of the attorney general, or when so directed by the attorney general, including all the rights, privileges, and powers conferred upon the attorney general by sections 2939.10, 2939.11, and 2939.17 of the Revised Code, the first assistant attorney general shall perform the duties of the attorney general.

OJur 2d: 6, Attorney General § 3

109.05 (337). Employees.

The attorney general may appoint such employees as are necessary.

OJur 2d: 6, Attorney General § 3

109.06 (332). Bond.

Before entering upon the discharge of the duties of his office, the attorney general shall give a bond to the state in the sum of five thousand dollars, with two or more sureties approved by the governor, conditioned for the faithful discharge of the duties of his office. Such bond, with the approval of the governor and the oath of office indorsed thereon, shall be deposited with the secretary of state and kept in his office.¹

The first assistant attorney general shall give a bond to the state in the sum of five thousand dollars, and such other employees as are designated by the attorney general shall give a bond to the state in such amounts as the attorney general determines. Such bonds shall be approved by the attorney general, conditioned for the faithful discharge of the duties of their offices, and shall be deposited with the secretary of state and kept in his office.²

Source: ¹GC § 332, ² § 335.

OJur 2d: 6, Attorney General § 1, 3; 26, Governor § 6

109.07 (336). Special counsel.

The attorney general may appoint special counsel to represent the state in civil actions, criminal prosecutions, or other proceedings in which the state is a party or directly interested. Such special counsel shall be paid for their services from funds appropriated by the general assembly for that purpose.

OJur 2d: 6, Attorney General § 3

109.08 (336-1). Special counsel to collect claims.

The attorney general may appoint special counsel to represent the state in connection with all claims of whatsoever nature which are certified to the attorney general for collection under any law or which the attorney general is authorized to collect.

Such special counsel shall be paid for their services from funds collected by them in an amount approved by the attorney general.

OJur 2d: 6, Attorney General § 3

109.09 (338). Action on official bonds.

When so directed, the attorney general shall bring an action on the official bond of a delinquent officer, and shall also prosecute any officer for an offense against the revenue laws of the state that come to his knowledge. Such action may be brought by him in the court of common pleas of Franklin county, or of any county in which one or more of the defendants reside, or can be summoned.

OJur 2d: 44, Public Officers § 99, 125, 127

109.10 (339). Proceedings in quo warranto.

The attorney general may prosecute a proceeding in quo warranto in the supreme court of the state, the court of appeals of Franklin county, or the court of appeals of any county wherein a defendant company has a place of business, or the officers or persons made defendants reside or may be found.

Quo warranto, 1331.11, 1331.12, 2733.03.

OJur 2d: 6, Attorney General § 13; 45, Quo Warranto § 3, 25

109.11 Canal land disputes; title.

The attorney general shall be the legal advisor of the department of public works and all other departments of the state in disputes concerning canals, canal basins, and canal lands; and shall examine and perfect title to all state canals, canal basins, and canal lands.

The attorney general may designate one or more of his assistant attorneys general or other personnel to perform such duties and, where necessary, may contract with surveyors, survey companies, title examiners, and title companies in furtherance of such duties. Such assistant attorneys general or other personnel shall receive such remuneration as may be fixed by the attorney general.

The attorney general shall submit quarterly reports to the natural resources commission, and the legislative service commission summarizing the activities of the office of the attorney general in connection herewith. (128 v 317. Eff. 9-17-59.)

Note: Former 109.11 (GC 340) was repealed by 125 v 351, eff. 10-14-53.

109.12 (341). Legal advice to state officers and board.

The attorney general, when so requested, shall give legal advice to a state officer, board, commission, the warden of the penitentiary, the superintendent, trustees, or directors of a benevolent or reformatory institution of the state, and the trustees of the Ohio state university, in all matters relating to their official duties.

Pardon and parole commission, 2965.06.

Printing and distribution of opinions, 125.69.

OJur 2d: 6, Attorney General § 4; 43, Prisons and Prisoners § 11; 54, Universities, etc § 40

109.121 Land title review and opinion.

Prior to the acquisition by the state of any right, title, or interest in real property, except highway rights-of-way, evidence of such right, title, or interest shall be submitted to the attorney general for his review and opinion. Such

evidence shall be that customarily and generally used in the community in which the real property is situated and may consist of, but not be limited to, attorneys' opinions of title, abstracts of title, title guarantees, or title insurance.

(1969 S 205. Eff. 11-12-69)

109.13 (342). General assembly may require written opinions.

When so required by resolution, the attorney general shall give his written opinion on questions of law to either house of the general assembly.

OJur 2d: 6, Attorney General § 4

109.14 (343). Attorney general shall advise prosecuting attorneys.

When requested by them, the attorney general shall advise the prosecuting attorneys of the several counties respecting their duties in all complaints, suits, and controversies in which the state is, or may be a party.

OJur 2d: 6, Attorney General § 4

109.15 (344). Forms of contracts.

The attorney general shall prepare suitable forms of contracts, obligations, and other like instruments of writing for the use of state officers, when requested by the governor, secretary of state, auditor of state, or treasurer of state.

OJur 2d: 6, Attorney General § 7; 26, Governor § 4; 45, Public Works and Contracts § 19

109.16 (345). Suits may be brought in Franklin county.

The attorney general may prosecute an action, information, or other proceeding in behalf of the state, or in which the state is interested, except prosecutions by indictment, in the proper court of Franklin county, or of any other county in which one or more of the defendants reside or may be found. No civil action, unless elsewhere specially provided, shall be commenced in Franklin county, if one or more of the defendants do not reside or cannot be found therein, unless the attorney general certifies on the writ that he believes the amount in controversy exceeds five hundred dollars.

See Baldwin's Civil Manual, Text 9(4)

Water pollution control, forfeiture for failure to obey orders; prima-facie evidence, 6111.30.

OJur 2d: 6, Attorney General § 10; 51, Taxation § 450; 55, Venue § 13, 18

109.17 (346). Writs in other counties.

In all cases instituted by the attorney general under sections 109.01 to 109.22, inclusive, of the Revised Code, the writ may be sent by mail to the sheriff of any county, and returned by him in like manner. For such service, the sheriff shall be allowed the same mileage and fees as if the writ had been issued from the court of common pleas or the court of appeals of his county, and made returnable thereto.

OJur 2d: 6, Attorney General § 11; 44, Process § 31; 49, Sheriff's, etc § 16

109.18 (347). Service by publication.

If a writ or mesne process in proceedings in quo warranto is returned "not found" by the sheriff of the county in which the company is authorized by law to have its place of business, the clerk of the court in which the information or other proceeding is filed shall issue a notice of the filing and substance thereof, and cause it to be published once a week for six consecutive weeks in a newspaper printed and of general circulation in the county wherein such company is authorized to have its place of business. An affidavit

of the publication together with a copy of the notice shall be filed in the office of the clerk. If the defendant company fails to answer or plead to such information or proceeding within thirty days from the filing of the affidavit and copy, judgment shall be given upon the default as if the writ or mesne process had been served and returned.

OJur 2d: 45, Quo Warranto § 39, 40, 54

109.19 (348). Security for costs and verification of pleadings.

No undertaking or security is required on behalf of the state or an officer thereof, in the prosecution or defense of any action, writ, or proceeding. In an action, writ, or proceeding it is not necessary to verify the pleadings on the part of the state or any officer thereof.

See Baldwin's Civil Manual, Text 13 (21)

OJur 2d: 3, Appellate Review §§ 334, 628; 6, Attorney General § 11; 14, Costs § 58, 90; 38, Municipal and County Courts § 77, 300; 43, Pleading § 43; 45, Quo Warranto § 40

109.20 (349). Actions to be taken out of their order.

Upon motion of the attorney general, embodying a statement that the public interests require it, a civil action, brought or prosecuted by him on behalf of the state, or an officer, board, or commission thereof, or an action in which the state is a party, shall be taken out of its order upon the docket and assigned for trial at as early a day as practicable.

OJur 2d: 6, Attorney General § 11

109.21 (350). Annual report.

The attorney general shall pay all moneys collected or received by him on behalf of the state into the state treasury to the credit of the general revenue fund. Each year he shall make a report to the governor of the moneys so received and the business of his office, together with an abstract of the statistics of crime returned to him by the prosecuting attorneys of the several counties.

Reports of state officers, 149.01.

OJur 2d: 6, Attorney General § 8; 26, Governor § 15

109.22 (351). Registers shall be kept.

The attorney general shall keep a register of all actions, demands, complaints, writs, informations, and other proceedings, prosecuted or defended by him, noting therein the proceedings under each, and a register of all official opinions in writing given by him. He shall deliver to his successor the registers, papers, documents, books, and other property belonging to his office.

OJur 2d: 6, Attorney General § 4, 9

CHARITABLE TRUSTS

109.23. Definition of charitable trust; application.

As used in sections 109.23 to 109.33, inclusive, of the Revised Code, "charitable trust" means any fiduciary relationship with respect to property arising as a result of a manifestation of intention to create it, and subjecting the partnership, corporation, person, or association of persons by whom the property is held to equitable duties to deal with the property for any charitable, religious or educational purpose. There are excluded from this definition and from the operation of such sections, trusts until such time as the charitable, religious or educational purpose expressed in such trust becomes vested in use or enjoyment. Such sections do not apply to charitable, religious and educational institutions holding funds in trust or otherwise exclusively for their own purposes nor to institutions created and operated as agencies of the state government or any political subdivision thereof. (125 v 351. Eff. 10-14-53.)

Note: In addition to those types of charitable trusts with registration requirements previously recognized, registration will be required of all charitable corporations operating in this state which have been or will be filing Forms 990A with the Internal Revenue Service. Interpretation of Att General, March 30, 1960, reported at 33 Ohio Bar 502.

See Merrick-Rippner Probate Manual, Text 3(1) to (3), 63(7)

OJur 2d: 6, Attorney General § 21

109.24. Enforcement.

The attorney general shall institute and prosecute a proper action to enforce the performance of any charitable trust, and to restrain the abuse thereof whenever he deems such action advisable or if directed to do so by the Governor, the supreme court, the general assembly, or either house thereof. Such action may be brought in his own name, on behalf of the state, or in the name of a beneficiary of the trust, in any court having jurisdiction in any county wherein the trust property or any part thereof is situated or invested, or where the trustee resides. No such action shall abate or discontinue by virtue of the discontinuance in office of the attorney general in whose name such actions may be brought but shall be prosecuted to final judgement * or mandate as if no change had occurred. (125 v 351. Eff. 10-14-53.)

* So in original.

OJur 2d: 6, Attorney General § 21; 9, Charities § 35

109.25 Service of process on charitable trust.

The attorney general is a necessary party to and shall be served with process or with summons by registered mail in all proceedings, the object of which is to:

(A) Terminate a charitable trust or distribute its assets to other than charitable donees;

(B) Depart from the objects or purposes of a charitable trust as the same are set forth in the instrument creating the trust, including any proceeding for the application of the doctrine of cy pres;

(C) Construe the provisions of an instrument with respect to a charitable trust.

A judgment rendered in such proceedings without service of process upon the attorney general is void, unenforceable, and shall be set aside upon the attorney general's motion seeking such relief. The attorney general shall intervene in any proceeding affecting a charitable trust when requested to do so by the court having jurisdiction of the proceeding, and may intervene in any proceeding affecting a charitable trust when he determines that the public interest should be protected in such proceeding. No compromise, settlement agreement, contract, or judgment agreed to by any or all parties having or claiming to have an interest in any charitable trust is valid if the compromise, settlement agreement, contract, or judgment modifies or terminates a charitable trust unless the attorney general was made a party to all such proceedings and joined in said compromise settlement agreement, contract, or judgment; provided, that the attorney general is expressly authorized to enter into such compromise, settlement agreements, contracts, or judgments as may be in the best interests of the public. (129 v 582. Eff. 1-10-61. 125 v 351)

See Merrick-Rippner Probate Manual, Text 3(1), 63(7)

Attorney general as representative for beneficiaries of charitable trust, 2109.34.

OJur 2d: 6, Attorney General § 21; 9, Charities § 35

109.26. Register of charitable trusts; duty of trustees.

In addition to all his common law and statutory powers, the attorney general shall prepare and maintain a register of all charitable trusts established or active in this state, and the trustees of said trusts shall register said trusts with the attorney general on forms prescribed by the attorney general for that purpose.

No trustee of a charitable trust shall willfully fail to register such charitable trust as required by this section (129 v 582. Eff. 1-10-61. 125 v 351)

Note: In addition to those types of charitable trusts with registration requirements previously recognized, registration will be required of all charitable corporations operating in this state which have been or will be filing Forms 990A with the Internal Revenue Service. Interpretation of Att General, March 30, 1960, reported at 33 Ohio Bar 502.

Penalty, 109.99(A).

OJur 2d: 6, Attorney General § 21; 9, Charities § 37

109.27. Rules and regulations concerning information for register.

The attorney general shall make such rules and regulations subject to the provisions of sections 119.01 to 119.13, inclusive, of the Revised Code, as he may deem necessary to secure records and other information for the operation of the register of charitable trusts. (125 v 351. Eff. 10-14-53.)

OJur 2d: 6, Attorney General § 21

109.28. Register open for inspection, when.

The register established by section 109.26 shall be open to the inspection of any person at such reasonable times and for such legitimate purposes as the attorney general may determine; provided, however, that any investigation of a charitable trust shall not be open to public inspection. (125 v 351. Eff. 10-14-53.)

OJur 2d: 6, Attorney General § 21

109.29. Probate and common pleas papers relating to charitable trusts.

Each probate and common pleas judge shall furnish copies of papers and such information as to the records and files of his office relating to charitable trusts as the attorney general may require. (125 v 351. Eff. 10-14-53.)

OJur 2d: 6, Attorney General § 21; 9, Charities § 33; 31, Judges § 41

109.30. Notice of will creating charitable trust.

Immediately after the probate of any will containing clauses creating or purporting to create a charitable trust as defined in section 109.23, the probate judge shall notify the attorney general thereof. (125 v 351. Eff. 10-14-53.)

OJur 2d: 6, Attorney General § 21; 9, Charities § 33; 55, Wills § 262

109.31. Biennial report by trustees.

Any trustee of a charitable trust shall biennially, unless otherwise directed by the attorney general, make to him a written report for the two preceding fiscal years of such trust showing the property so held and administered, the receipts and expenditures in connection therewith, and such other information as the attorney general may require; provided however, that if such trustee is required by law or court order to file with any court an account or report, the attorney general shall accept a certified copy thereof in lieu of the written report herein required. Refusal to file such a report shall constitute a breach of trust and the attorney general shall take such action as may be appropriate to compel compliance herewith. (125 v 351. Eff. 10-14-53.)

OJur 2d: 6, Attorney General § 21; 9, Charities § 37

109.32. Investigations and audits.

The auditor of state shall make any investigations and audits which the attorney general may request in enforcing sections 109.23 to 109.33, inclusive, of the

Revised Code. (125 v 351. Eff. 10-14-53.)

OJur 2d: 6, Attorney General § 21; 9, Charities § 33

109.33 Assistants, employees, experts; compensation.

The attorney general may appoint with salaries fixed pursuant to section 143.09 of the Revised Code, such assistants and may employ such stenographers and clerks as may be necessary to carry out sections 109.23 to 109.33, inclusive, of the Revised Code. The attorney general may also employ experts for assistance in any specific matter at a reasonable rate of compensation. (132 v H 93. Eff. 5-17-67. 125 v 351)

See Merrick-Rippner Probate Manual, Text 3(1) (2)

OJur 2d: 6, Attorney General §§ 3, 21

OBSCENCY LAWS

109.40 Compilation and distribution of statutes relative to obscenity laws.

The attorney general shall compile all statutes relative to obscenity in a convenient pamphlet or paper and may distribute this compilation, without charge, to such sheriffs, police chiefs, county prosecutors, city prosecutors, mayors, constables, judges of the courts of common pleas, county court judges, municipal judges, and other interested parties, as may request such distribution, and make available a reasonable number of such compilations to fill such requests.

The attorney general shall, from time to time, supplement and keep the compilation current and he may, upon request, distribute such supplemental material in the manner provided in this section. (128 v 554. Eff. 11-5-59.)

AGENT IN ESCHEAT

109.41 Agent in certain escheat matters.

Whenever any state begins procedure to escheat property of any person who is an Ohio citizen, corporation, firm, or resident, or whose last known address was in Ohio, on the ground that such property has been abandoned, or on any other grounds, the attorney general may, after making diligent effort to notify the owner of such property and failing in the same, act as attorney in fact for such Ohio owner to claim such property. Upon taking custody of such property, the attorney general shall deposit same in the general fund of Ohio, or if such property be in kind, the attorney general shall cause the same to be sold pursuant to section 2113.40 of the Revised Code, and deposit the proceeds of such sale in said general fund. Claims to such property shall thereafter be made in the manner provided for in section 127.11 of the Revised Code. (129 v 497. Eff. 10-12-61)

BUREAU OF CRIMINAL IDENTIFICATION AND INVESTIGATION

109.51 Creation of bureau of criminal identification and investigation.

There is hereby created in the office of the attorney general, a bureau of criminal identification and investigation to be located at the site of the London correctional institution. The attorney general shall appoint a superintendent of said bureau. The superintendent shall appoint, with the approval of the attorney general, such assistants as are necessary to carry out the functions and duties of the bureau as contained in sections 109.51 to 109.63, inclusive, of the Revised Code. (130 v H 263. Eff. 9-24-63)

Note: 130 v H 263, § 2, provides: On or before July 1, 1963, the director of the department of mental hygiene and correction shall order in writing the transfer forthwith of all build-

ings, facilities, and equipment of the bureau of criminal identification and investigation, located at the London correctional institution in Madison county, to the attorney general. The department of mental hygiene and correction shall continue to furnish utilities, maintenance and protection to the building so located.

All employees of the department of mental hygiene and correction in the classified civil service whose duties are transferred by this act to the office of the attorney general as determined by the department of state personnel shall be automatically transferred to the office of the attorney general with the same civil service rights, seniority, length of service, and compensation in effect at the time of such transfer.

OJur 2d: 15, Criminal Law § 50

109.52 Criminal analysis laboratory; investigators and technicians.

The bureau of criminal identification and investigation may operate and maintain a criminal analysis laboratory and mobile units thereof, create a staff of investigators and technicians skilled in the solution and control of crimes and criminal activity, keep statistics and other necessary data, assist in the prevention of crime, and engage in such other activities as will aid law enforcement officers in solving crimes and controlling criminal activity. (130 v H 263. Eff. 9-24-63)

109.53 Equipment and furnishings of the bureau.

The bureau of criminal identification and investigation shall be supplied with furniture, fixtures, apparatus, vehicles, and materials necessary to carry out the functions and duties of the bureau as contained in sections 109.51 to 109.63, inclusive, of the Revised Code. (130 v H 263. Eff. 9-24-63)

109.54 Intergovernmental cooperation.

The bureau of criminal identification and investigation may investigate any criminal activity in this state which is of statewide or intercounty concern when requested by local authorities and may aid federal authorities, when requested, in their investigation of any criminal activity in this state.

The bureau may provide such trained investigative personnel and specialized equipment as may be requested by any sheriff, chief of police, or other law officer to aid and assist such officer in the investigation and solution of any crime or the control of any criminal activity occurring within his jurisdiction. This assistance shall be furnished by the bureau without disturbing or impairing any of the existing law enforcement authority or the prerogatives of local law enforcement authorities or officers. (130 v H 263. Eff. 9-24-63)

109.55 Coordination of law enforcement activities.

The superintendent of the bureau of criminal identification and investigation shall recommend cooperative policies for the coordination of the law enforcement work and crime prevention activities of all state and local agencies and officials having law enforcement duties to promote cooperation between such agencies and officials, to secure effective and efficient law enforcement, to eliminate duplication of work, and to promote economy of operation in such agencies. (130 v H 263. Eff. 9-24-63)

109.56 Training local law enforcement authorities.

The bureau of criminal identification and investigation shall, where practicable, assist in training local law enforcement officers in crime prevention, detection, and solution when requested by local authorities, and, where practicable, furnish instruction to sheriffs, chiefs of police, and other law officers in the establishment of efficient local bureaus of identification in their districts. (130 v H 263. Eff. 9-24-63)

109.57 Filing of photographs, fingerprints, descriptions of persons convicted of felony and habitual criminals.

The superintendent of the bureau of criminal identification and investigation shall procure and file for record photographs, pictures, descriptions, fingerprints, measurements, and such other information as may be pertinent, of all persons who have been convicted of felony within the state, and of all well known and habitual criminals, from wherever procurable. The person in charge of any state correctional institution and the person in charge of any state institution having custody of a person suspected of having committed a felony shall furnish such material to the superintendent of the bureau upon request. The superintendent shall cooperate with and assist sheriffs, chiefs of police, and other law officers in the establishment of a complete system of criminal identification and in obtaining fingerprints and other means of identification of all persons arrested on charge of felony. He shall also file for record the fingerprint impressions of all persons confined in any workhouse, jail, reformatory, or penitentiary, for the violation of state laws, and such other information as he may receive from law enforcement officials of the state and its subdivisions.

The superintendent shall carry out sections 2950.01 to 2950.08, inclusive, of the Revised Code, in regard to the registration of habitual sex offenders. (130 v S 160. Eff. 10-4-63. 130 v H 263. Eff. 9-24-63)

109.58 Superintendent shall prepare a standard fingerprint impression sheet.

The superintendent of the bureau of criminal identification and investigation shall prepare standard impression sheets on which fingerprints may be made in accordance with the fingerprint system of identification. Such sheets may provide for other descriptive matter which the superintendent may prescribe. Such sheets shall be furnished to each sheriff, chief of police, and person in charge of every workhouse, reformatory, or penitentiary within the state. (130 v H 263. Eff. 9-24-63)

109.59 Fingerprint impression and descriptive measurement records.

The sheriff, chief of police, or other person in charge of each prison, workhouse, reformatory, or penitentiary shall send to the bureau of criminal identification and investigation, on forms furnished by the superintendent of such bureau, such fingerprint impressions and other descriptive measurements which the superintendent may require. Such information shall be filed, classified, and preserved by the bureau. (130 v H 263. Eff. 9-24-63)

109.60 Duty of sheriffs and chiefs of police to take fingerprints; report.

The sheriffs of the several counties and the chiefs of police of cities shall immediately upon the arrest of any person for any felony, on suspicion of any felony, take his fingerprints, or cause the same to be taken, according to the fingerprint system of identification on the forms furnished by the superintendent of the bureau of criminal identification and investigation, and forward the same, together with such other description as may be required and with the history of the offense committed, to the bureau to be classified and filed. Should any accused be found not guilty of the offense charged, then said fingerprints and description shall be given to the accused upon his request. The superintendent shall compare the descriptions received with those already on file in the bureau, and if he finds that the person arrested has a criminal record or is a fugitive from justice, he shall at once inform the arresting

officer of such fact. The names, under which each person whose identification is thus filed is known, shall be alphabetically indexed by the superintendent.

This section does not apply to a violator of a city ordinance or a person arrested for a misdemeanor, unless the officers have reason to believe that such person is a past offender, or unless it is advisable for the purpose of subsequent identification. This section does not apply to any child under eighteen years of age, except as provided in section 2151.31 of the Revised Code. (130 v H 263. Eff. 9-24-63)

109.61 Descriptions, fingerprints, and photographs sent to bureau by sheriffs and chiefs of police.

Each sheriff or chief of police shall furnish the bureau of criminal identification and investigation with descriptions, fingerprints, photographs, and measurements of:

(A) Persons arrested who in such police official's judgment are wanted for serious offenses, are fugitives from justice, or in whose possession at the time of arrest are found goods or property reasonably believed to have been stolen;

(B) All persons in whose possession are found burglar outfits, burglar tools, or burglar keys, or who have in their possession high power explosives reasonably believed to be intended to be used for unlawful purposes;

(C) Persons who are in possession of infernal machines or other contrivances in whole or in part and reasonably believed by said sheriffs or chiefs of police to be intended to be used for unlawful purposes;

(D) All persons carrying concealed firearms or other deadly weapons reasonably believed to be carried for unlawful purposes;

(E) All persons who have in their possession inks, dyes, paper, or other articles necessary in the making of counterfeit bank notes, or in the alteration of bank notes, or dies, molds, or other articles necessary in the making of counterfeit money and reasonably believed to be intended to be used by them for such unlawful purposes. (130 v H 263. Eff. 9-24-63)

109.62 Interstate, national, and international cooperation.

The superintendent of the bureau of criminal identification and investigation shall cooperate with bureaus in other states and with the federal bureau of investigation to develop and carry on a complete interstate, national, and international system of criminal identification and investigation. (130 v H 263. Eff. 9-24-63)

109.63 Superintendent and assistants may testify in court.

The superintendent of the bureau of criminal identification and investigation and his assistants employed in accordance with section 109.51 of the Revised Code may testify in any court in this state to the same extent as any law enforcement officer in this state. (130 v H 263. Eff. 9-24-63)

OHIO PEACE OFFICER TRAINING COUNCIL

109.71 Creation of Ohio peace officer training council; members; definition of "peace officer."

There is hereby created in the office of the attorney general the Ohio peace officer training council. Such council shall consist of nine members to be appointed by the governor with the advice and consent of the senate, selected as follows: one member representing the public; two members to be incumbent sheriffs; two members to be incumbent chiefs of police; one member from the bureau of criminal identification and investigation; one member from the state highway patrol; one member to be the spe-

cial agent in charge of a field office of the federal bureau of investigation in the state; one member from the state department of education, trade and industrial education services, law enforcement training.

As used in sections 109.71 to 109.77, inclusive, of the Revised Code, "peace officer" means a deputy sheriff, marshal, deputy marshal, member of the organized police department of a municipal corporation, or township constable, who is commissioned and employed as a peace officer by a political subdivision of this state, and whose primary duties are to preserve the peace, to protect life and property, and to enforce the laws of Ohio, ordinances of a municipal corporation, or regulations of a board of county commissioners or board of township trustees, or any such laws, ordinances, or regulations.

(1969 H 575. Eff. 11-21-69. 1969 H 111; 131 v H 363)

109.72 Membership; appointment; term; meetings; expenses.

Members of the Ohio peace officer training council shall be appointed for terms of three years, provided that the original appointments shall be made as follows: three for a term of one year; three for a term of two years; three for a term of three years. One chief of police and one sheriff shall be appointed for the first two year term and one chief of police and one sheriff shall be appointed for the first three year term. Thereafter, all appointments shall be for terms of three years. An interim chairman shall be appointed by the governor until such time as the council elects a permanent chairman.

Any member of the council appointed pursuant to section 109.71 of the Revised Code as an incumbent sheriff, incumbent chief of police, representative of the state highway patrol, state department of education, federal bureau of investigation, and bureau of criminal identification and investigation, shall immediately, upon termination of his holding such office, cease to be a member of the council, and a successor shall be appointed for the unexpired term.

The council shall meet at least four times each year. Special meetings may be called by the chairman and shall be called by him at the request of the attorney general or upon the written request of five members of the council. The council may establish its own requirements as to quorum and its own procedures with respect to the conduct of its meetings and other affairs; provided, that all recommendations by the council to the attorney general pursuant to section 109.74 of the Revised Code shall require the affirmative vote of five members of the council.

Membership on the council does not constitute the holding of an office, and members of the council shall not be required to take and file oaths of office before serving on the council. The council shall not exercise any portion of the sovereign power of the state.

The members of the council shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their duties.

No member of the council shall be disqualified from holding any public office or employment, nor shall he forfeit any such office or employment, by reason of his appointment to the council, notwithstanding any general, special, or local law, ordinance, or city charter to the contrary. (131 v H 363. Eff. 9-6-65)

109.73 Powers and duties.

(A) The Ohio peace officer training council may recommend to the attorney general rules and regulations with respect to:

(1) The approval, or revocation thereof, of peace officer training schools administered by state, county, and municipal corporations, public school districts, and technical institute districts;

(2) Minimum courses of study, attendance requirements, and equipment and facilities to be required at approved state, county, and municipal peace officer training schools;

(3) Minimum qualifications for instructors at approved state, county, and municipal peace officer training schools;

(4) The requirements of minimum basic training which peace officers appointed to probationary terms shall complete before being eligible for permanent appointment, and the time within which such basic training must be completed following such appointment to a probationary term;

(5) The requirements of minimum basic training which peace officers not appointed for probationary terms but appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment, and the time within which such basic training must be completed following such appointment on a non-permanent basis;

(6) Categories or classifications of advanced in-service training programs and minimum courses of study and attendance requirements with respect to such categories or classifications.

(B) The council shall appoint an executive director, with the approval of the attorney general, who shall hold office during the pleasure of the council. He shall perform such duties as may be assigned to him by the council. He shall receive a salary fixed pursuant to section 143.09 of the Revised Code, and reimbursement for the expenses within the amounts available by appropriation. The executive director may appoint such officers, employees, agents, and consultants as he may deem necessary, prescribe their duties, and provide for reimbursement of their expenses within the amounts available therefor by appropriation and with the approval of council.

(C) The council may, in addition:

(1) Recommend studies, surveys, and reports to be made by the executive director regarding the carrying out of the objectives and purposes of sections 109.71 to 109.77, inclusive, of the Revised Code;

(2) Visit and inspect any peace officer training school approved by the executive director or for which application for such approval has been made;

(3) Make recommendations, from time to time, to the executive director, attorney general and the general assembly, regarding the carrying out of the purposes of sections 109.71 to 109.77, inclusive, of the Revised Code;

(4) Report to the attorney general from time to time and to the governor and to the general assembly at least annually, concerning the activities of the council;

(5) Perform such other acts as may be necessary or appropriate to carry out the powers and duties of the council as set forth in sections 109.71 to 109.77, inclusive, of the Revised Code. (132 v H 93. Eff. 5-17-67. 131 v H 363)

109.74 Promulgation of rules and regulations by attorney general.

The attorney general, in his discretion, may in accordance with Chapter 119. of the Revised Code, adopt and promulgate any or all of the rules and regulations recommended by the Ohio peace officer training council to the attorney general pursuant to section 109.73 of the Revised Code. When the attorney general promulgates any rule or regulation recommended by the council, he shall transmit a certified copy thereof to the secretary of state. (131 v H 363. Eff. 9-6-65)

109.75 Executive director.

The executive director of the Ohio peace officer training council, on behalf of the council, shall have the following powers and duties, to be exercised with the gen-

eral advice of the council and, to be exercised only in accordance with rules and regulations promulgated by the attorney general pursuant to section 109.74 of the Revised Code:

(A) To approve peace officer training schools administered by state, county, and municipal corporations, to issue certificates of approval to such schools, and to revoke such approval or certificate;

(B) To certify, as qualified, instructors at approved peace officer training schools and to issue appropriate certificates to such instructors;

(C) To certify peace officers who have satisfactorily completed basic training programs and to issue appropriate certificates to such peace officers;

(D) To cause studies and surveys to be made relating to the establishment, operation, and approval of state, county, and municipal peace officers training schools;

(E) To consult and cooperate with state, county, and municipal peace officer training schools for the development of advanced in-service training programs for peace officers;

(F) To consult and cooperate with universities, colleges, and institutes for the development of specialized courses of study in the state for peace officers in police science and police administration;

(G) To consult and cooperate with other departments and agencies of the state and federal government concerned with peace officer training;

(H) To perform such other acts as may be necessary or appropriate to carry out his powers and duties as set forth in sections 109.71 to 109.77, inclusive, of the Revised Code;

(I) To report to the council at each regular meeting of the council and at such other times as may be required. (131 v H 363. Eff. 9-6-65)

109.76 Construction of act.

Nothing in sections 109.71 to 190.77, inclusive, of the Revised Code, shall be construed to except any peace officer, or other officer or employee from the provisions of Chapter 143. of the Revised Code. (131 v H 363. Eff. 9-6-65)

109.77 Certificate necessary for appointment; prohibition.

Notwithstanding any general, special, or local law or charter to the contrary, no person shall, after January 1, 1966, receive an original appointment on a permanent basis as a peace officer of any county, township, or municipal corporation unless such person has previously been awarded a certificate by the executive director of the Ohio peace officer training council, attesting to his satisfactory completion of an approved state, county, or municipal police basic training program; and every person who is appointed on a temporary basis or for a probationary term or on other than a permanent basis as a peace officer of any county, township, or municipal corporation, shall forfeit his position as such unless he previously has satisfactorily completed, or within the time prescribed by regulations promulgated by the attorney general pursuant to section 109.74 of the Revised Code, satisfactorily completes a state, county, or municipal peace officer basic training school for temporary or probationary officers and is awarded a certificate by such director attesting thereto. No peace officer shall have his employment terminated and then be reinstated with intent to circumvent this section. (1969 H 575. Eff. 11-21-69. 131 v H 363)

109.78 Certification as special policemen; payment of cost; special policeman for educational institution must have certificate.

(A) The executive director of the Ohio peace officer

training council, on behalf of the council and in accordance with rules promulgated by the attorney general, shall certify persons who have satisfactorily completed approved training programs designed to qualify persons for positions as special policemen, security guards, or persons otherwise privately employed in a police capacity and issue appropriate certificates to such persons. Such programs shall cover only duties and jurisdiction of such security guards and special policemen privately employed in a police capacity when such officers do not qualify for training under section 109.71 of the Revised Code. A person attending an approved basic training program administered by the state shall pay to the agency administering the program the cost of his participation in the program as determined by the agency. A person attending an approved basic training program administered by a county or municipal corporation shall pay the cost of his participation in the program, as determined by the administering subdivision, to the county or the municipal corporation. Such certificate shall satisfy the educational requirements for appointment or commission as a special policeman or special deputy of a political subdivision of this state.

(B) No public or private educational institution shall employ a person as a special policeman, security guard, or other position in which such person goes armed while on duty, who has not received a certificate of having satisfactorily completed an approved basic peace officer training program. A person employed in such a position in which he goes armed while on duty on the effective date of this act has one year from such effective date in which to satisfactorily complete the program.

(1969 H 575. Eff. 11-21-69)

ANTITRUST CASES

109.81 Attorney general to represent state or political subdivision in antitrust cases.

The attorney general shall act as the attorney at law for the state and may act, by agreement, as the attorney at law for any political subdivision of the state or governing body thereof in antitrust cases and do all things necessary to properly represent them in any such case under the laws of any state or the federal government. (132 v H 556. Eff. 12-14-67)

109.82 Antitrust section created; antitrust fund, use.

There is hereby created in the office of the attorney general a section of antitrust. Ten percent of all recoveries obtained by the attorney general pursuant to section 109.81 of the Revised Code by settlement, or by judgment in any court, shall be paid into the state treasury to the credit of the attorney general antitrust fund. The attorney general antitrust fund shall be used insofar as funds are available therein for the expenses of the antitrust section. The expenses of the antitrust section in excess of the funds available in the attorney general antitrust fund shall be paid out of the regular appropriation to the office of the attorney general. (132 v H 556. Eff. 12-14-67)

109.99. Penalty.

(A) Whoever violates section 109.26 of the Revised Code shall be fined not less than five hundred nor more than ten thousand dollars or be imprisoned not less than one month nor more than one year, or both. (125 v 351. Eff. 10-14-53.)

OJur 2d: 6, Attorney General § 21; 9, Charities § 37

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TABLE 1

Ohio Constitution Provisions Interpreted

<i>Const.</i>	<i>1970 Opinion</i>
II, §20	70-046
IV, §4	70-171
§6	70-046

TABLE 2

Ohio Revised Code Sections Interpreted

<i>Rev. Code</i>	<i>1970 Opinion</i>	<i>Rev. Code</i>	<i>1970 Opinion</i>
1.14	70-012	307.20	70-099
9.35	70-091	207.41	70-121
109.77	70-032	307.441	70-077
	70-073	307.84	70-091
121.22	70-165	307.86 et seq.	70-076
124.02	70-096	308.03	70-056
124.05	70-096	308.06	70-064
135.14	70-067	308.14	70-064
141.05	70-083	309.02	70-022
143.11	70-110		70-053
143.29	70-021	309.07	70-170
	70-071	311.31	70-117
	70-080	313.12	70-122
143.34	70-027	313.14	70-057
149.30	70-133	317.05	70-077
152.26	70-160	317.33	70-077
153.03	70-160	319.202	70-010
153.08	70-160		70-135
153.21	70-062	319.28	70-091
305.05	70-132	319.29	70-091
305.171	70-048	319.34	70-091
	70-051	319.36	70-118
307.01	70-004	319.54	70-010
307.02	70-062		70-033

<i>Rev. Code</i>	<i>1970 Opinion</i>	<i>Rev. Code</i>	<i>1970 Opinion</i>
319.54 <i>continued</i>	70-124	737.311	70-109
	70-126	737.32	70-117
	70-135	1111.02	70-055
323.11	70-091	1111.03	70-055
323.30	70-034	1151.20	70-052
325.03	70-083	1151.28	70-052
325.04	70-083	1501.11	70-086
325.06	70-083	1545.07	70-073
325.08	70-083	1545.13	70-073
325.09	70-083	1724.10	70-007
325.10	70-083	1901.11	70-046
325.11	70-083	1901.34	70-059
325.14	70-083	1907.081	70-047
325.15	70-083	1907.082	70-047
325.19	70-012		70-142
	70-072	1907.101	70-002
325.20	70-149	2151.19	70-130
325.31	70-091	2151.28	70-130
329.02	70-005	2151.29	70-130
339.03	70-018	2151.312	70-015
339.06	70-018	2151.34	70-015
	70-153	2151.355	70-143
339.20	70-153	2151.356	70-143
340.01	70-088	2151.357	70-166
	70-168	2303.02	70-077
340.02	70-168	2335.17	70-127
505.49	70-032	2703.10	70-009
513.12	70-114	2723.01	70-118
519.05	70-097	2917.44	70-122
519.17	70-097	2919.08	70-008
519.21	70-097	2919.09	70-008
705.11	70-029	2935.09	70-053
705.59	70-054	2937.22	70-036
711.05	70-074	2937.281	70-036
717.01	70-099	2937.46	70-119
729.52	70-043	2947.061	70-089
731.02	70-096	2949.14 et seq.	70-089
731.12	70-002	2967.01	70-068
	70-035	2967.19	70-068
	70-038	3115.05	70-050
731.43	70-157	3309.34	70-080
733.42	70-113	3309.39	70-080
733.48	70-059		70-103
733.49	70-059	3311.19	70-111
733.53	70-029		70-163
733.78	70-113	3313.11	70-060
735.28	70-070	3313.18	70-111
	70-113	3313.22	70-075
737.04	70-120	3313.33	70-008
737.05	70-044		70-107
	70-145	3313.35	70-081
737.10	70-120	3313.46	70-105
737.11	70-170	3313.81	70-084

<i>Rev. Code</i>	<i>1970 Opinion</i>	<i>Rev. Code</i>	<i>1970 Opinion</i>
3313.90	70-169	4511.39	70-037
3315.06	70-061	4511.61	70-094
3317.01	70-101	4511.762	70-158
3317.03	70-169	4511.764	70-158
3317.05	70-169	4511.77	70-158
3319.08	70-042	4513.17	70-158
	70-129	4513.19	70-063
3319.082	70-041	4513.39	70-063
3319.087	70-006	4517.18	70-115
3319.10	70-042	4749.01	70-145
	70-129	4749.08	70-044
3327.08	70-105	4751.01	70-164
3327.10	70-103	Chapter 5104	70-172
3331.01	70-026	5104.01	70-116
3343.05	70-131	5104.03	70-116
3345.021	70-140	5105.05	70-098
3345.22	70-154	5105.15	70-098
3345.23	70-147	5105.16	70-098
	70-154	5113.15	70-098
3351.05	70-147	5121.11	70-098
3351.08	70-147	5126.03	70-062
3375.33	70-162	5126.04	70-005
3501.141	70-048		70-121
3501.17	70-048	5127.01	70-121
3513.041	70-011	5143.02	70-068
3513.14	70-011	5153.16	70-090
3709.20 et seq.	70-100	5155.22	70-138
3709.22	70-004	5155.28	70-138
3721.05	70-164	5503.02	70-066
3732.01	70-082	5507.01	70-156
3905.42	70-155	5507.02	70-156
3941.02	70-134	5521.01	70-043
4109.01	70-026	5523.08	70-043
4109.41	70-028	5523.15	70-043
4112.02	70-108	5523.31	70-094
4112.07	70-108	5553.042	70-151
4112.11	70-108	5555.71	70-076
4112.99	70-108	5589.21	70-009
4115.02	70-021	5701.02	70-135
4115.04	70-086	5705.19	70-062
4141.01	70-088		70-121
4141.11	70-159	5705.25	70-020
4301.32	70-023	5709.07	70-148
4303.29	70-095	5709.107	70-148
4501.01	70-013	5719.02	70-034
4503.07	70-158	5739.01	70-092
4504.02	70-065	5739.021	70-014
4504.03	70-065		70-092
4509.02	70-161	5741.021	70-014
4509.37	70-161		70-092
4511.11	70-094	5901.02	70-001
4511.18	70-112	5901.08	70-001
4511.181	70-112		70-039
4511.21	70-063	5901.09	70-001

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<i>Rev. Code</i>	<i>1970 Opinion</i>	<i>Rev. Code</i>	<i>1970 Opinion</i>
5923.05	70-123	6115.48	70-106
6101.12	70-137	6115.49	70-106
6115.04	70-106	6131.04	70-093
6115.46	70-106	6131.07	70-093

TABLE 3

Prior Ohio Attorney General Opinions Affected

<i>Former Opinion</i>		<i>1970 Opinion</i>
2887, 1931	Followed by	70-003
3170, 1931	Overruled by	70-076
1619, 1939	Distinguished by	70-066
3950, 1954	Overruled by	70-021
707, 1957	Followed by	70-039
3197, 1962	Overruled by	70-153
455, 1963	Overruled by	70-084
66-103	Overruled by	70-007
66-179	Followed by	70-044
68-120	Followed by	70-042
70-019	Followed by	70-062
70-046	Followed by	70-047

TABLE 4

Compatible and Incompatible Offices

Note: The following table, in two parts, lists Compatible Offices and Incompatible Offices, as determined in Opinions of the Attorney General issued during the year 1970.

Offices and positions are considered incompatible when one is subordinate to the other or is a check upon the other. Also, positions may be deemed incompatible when it is physically impossible for one person to discharge the duties of both offices (State, ex rel Attorney General v Gebert, 12 CC(NS) 274).

There are several constitutional and statutory provisions affecting the compatibility of offices, as follows:

<i>Ohio Constitution</i>	<i>Ohio Revised Code</i>		
Art. II, §4	3.11	315.02	2919.08
Art. III, §14	143.41	319.07	2919.09
	309.02	705.02	2919.10
	311.04	731.12	3501.02

In some instances, court decisions have ruled upon the compatibility of offices. Such court decisions are not covered in this table.

Compatible Offices

<i>Office</i>	<i>Compatible With</i>	<i>1970 Opinion</i>
Conservancy district secretary	Township trustee	70-137
Councilman, city	Urban affairs specialist	70-096
Councilman, village	Deputy sheriff, special	70-035
	Postal employee, federal classified service	70-038
Girl's school director	Mental health and retardation board	70-168
Mental health and retardation board	Girl's school director	70-168
	Private agency member	70-168
	State hospital superintendent	70-168
Mental retardation board, executive secretary or administrator	County department welfare director	70-005
Policeman	Prosecuting attorney's secret service officer	70-170
Postal employee, federal classified service	Village councilman	70-038
Private agency member	Mental health and retardation board	70-168
Prosecuting attorney's secret service officer	Policeman	70-170
Sheriff, special deputy	Village council member	70-035
State hospital superintendent	Mental health and retardation board	70-168
Township trustee	Conservancy district secretary	70-137
Urban affairs specialist	Councilman, city	70-096
Welfare, county director	County board of mental retardation, executive secretary or administrator	70-005

Incompatible Offices

<i>Office</i>	<i>Incompatible With</i>	<i>1970 Opinion</i>
Board of trustees of public affairs, clerk	Treasurer, village	70-113
City manager	Health district, combined, board member	70-004, 70-054
Clerk of courts, county court	Village council member	70-002
Councilman, village	Clerk of courts, county court	70-002
County commissioner	City health district, part time health commissioner	70-004
Health district, city, part time health commissioner	County commissioner	70-004
Health district, combined, board member	City manager	70-054
Mayor, municipality	Assistant prosecuting attorney	70-022, 70-053
Prosecuting attorney, assistant	Mayor, municipality	70-022, 70-053
Treasurer, village	Board of trustees of public affairs, clerk	70-113

TABLE 5**Informal Opinions**

Note: Informal Opinions (also referred to as "Limited Circulation" Opinions) by the nature of the isolated factual situations involved are not of general interest, and therefore they are not published. Under the new numbering system Informal Opinions listed in the following Table 5 account for all numbers for which there is no formal opinion reproduced in this Service.

70-016	70-040	70-085	70-139
70-017	70-045	70-087	70-141
70-019	70-049	70-102	70-144
70-024	70-058	70-104	70-146
70-025	70-069	70-125	70-150
70-030	70-078	70-128	70-167
70-031	70-079	70-136	