

September 24, 2025

The Honorable David D. Hayes
Greene County Prosecuting Attorney
61 Greene Street, Second Floor, Suite 200
Xenia, Ohio 45385

SYLLABUS:

2025-020

1. When county commissioners from multiple counties form a joint board for the purpose of constructing and maintaining a multicounty facility for the training and treatment of juveniles, no county prosecutor from any participating county has a duty to serve as legal counsel to the joint board. (1983 Ohio Atty.Gen.Ops. No. 83-064 approved and followed).
2. The county prosecutor from a single county has no duty to provide legal counsel to the governing board of juvenile judges for a multicounty community corrections facility, nor does the county prosecutor have a duty to represent the juvenile judge from the prosecutor's county when the judge is acting as a member of the governing board.



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OPINION NO. 2025-020

The Honorable David D. Hayes
Greene County Prosecuting Attorney
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Dear Prosecutor Hayes:

You have requested my opinion on who is the proper legal counsel to either a joint board of county commissioners or the governing board of juvenile judges that oversees the Miami Valley Juvenile Rehabilitation Center. I have framed your questions as follows:

1. Does 1983 Ohio Atty.Gen.Ops. No. 83-064 still reflect the Attorney General's opinion regarding the representation of a joint board of county commissioners acting pursuant to R.C. 2151.65 (pertaining to joint-county facilities for training, treatment, and rehabilitation of juveniles)?
2. Does the legal analysis to the first question change when the question of representation pertains, instead, to a governing board of juvenile court judges

operating a community corrections facility for juveniles?

I

One of my predecessors concluded in 1983 Ohio Atty.Gen.Ops. No. 83-064 (“Opinion No. 83-064”) that county prosecutors of the participating counties had no duty to provide legal counsel to a joint board of county commissioners organized under R.C. 2151.65. You have asked me to revisit that opinion and analyze the prosecutor’s duties with respect to the governing authority of Miami Valley Juvenile Rehabilitation Center.

In your request, you explained that the Miami Valley Juvenile Rehabilitation Center is a multicounty, secure facility for juvenile offenders located in Xenia. It was formed as the result of a multicounty contract executed in 1996 by the boards of county commissioners from ten counties in southwest Ohio. The juvenile court judges from each county were also signatories to the contract.

The juvenile rehabilitation center is now overseen by a governing board composed of juvenile court judges from each participating county. This governing board exercises general supervisory authority over the facility, including approval of policies and procedures,

criteria for offender admission, and approval of the operating budget for the facility.

The Greene County Juvenile Court Judge exercises day-to-day operational supervision of the facility subject to the approval of the governing board. The facility is located completely within Greene County and in the same building as the Greene County Juvenile Court. The facility is funded entirely through an Ohio Department of Youth Services grant managed by the Greene County Board of Commissioners.

II

Although R.C. Chapter 309 defines the powers and duties of a county prosecutor, the relevant statute, R.C. 309.09, is silent about whether county prosecutors must represent the boards of multicounty juvenile facilities or the governing officers in their respective counties. Begin with what the statute *does* say about a county prosecutor's responsibilities. According to R.C. 309.09, the county prosecutor is the "legal adviser of the board of county commissioners, board of elections, all other county officers and boards, and all tax-supported public libraries." R.C. 309.09(A). The prosecutor is also legal counsel to "all township officers, boards, and commissions," except those that have adopted a limited home-rule form of government and opted not to have the prosecutor serve as township law director. R.C. 309.09(B)(1). In addition, the county

prosecutor may, “in the prosecuting attorney’s discretion and with the approval of the board of county commissioners,” serve as legal counsel by contract with other public entities specifically listed in statute. *See* R.C. 309.09(D) to (L).

R.C. 309.09 makes no reference to multicounty juvenile facilities or their governing boards. That means any obligation on county prosecutors to represent such boards must be housed either under the statutes authorizing multicounty juvenile facilities or their governing boards, *see* R.C. Chapters 2151 and 5139, or implied by R.C. 309.09(A)’s catchall language directing county prosecutors to represent “all other county officers and boards.” *Id.*

One of my predecessors already answered both questions in the negative for joint boards of county commissioners, concluding that county prosecutors have no obligation to represent them. 1983 Ohio Atty.Gen.Ops. No. 83-064. For reasons I discuss next, that opinion remains good law.

III

Turn now to Opinion No. 83-064. That opinion concluded that a county prosecutor has no legal duty to represent a joint board of county commissioners formed for the purpose of constructing and maintaining a multicounty juvenile facility. *Id.* at paragraph

one of the syllabus. And my predecessor opined that the joint board of county commissioners may employ its own legal counsel to assist with its duties. *Id.* at paragraph two of the syllabus. Next, I review its reasoning and its application to your circumstance.

A

First, the law authorizing the creation of multicounty juvenile rehabilitation facilities, R.C. 2151.65, does not direct county prosecutors to represent the joint board of county commissioners. To see why, begin with the statute and its context. As explained in Opinion No. 83-064, at 2-266, “R.C. 2151.34 and R.C. 2151.65 empower boards of commissioners of two or more adjoining counties, upon the advice and recommendation of the juvenile judges of such counties, to form themselves into a joint board and organize a district for the purpose of constructing and maintaining a facility for the detention, training, treatment, and rehabilitation of juveniles.” According to the information you provided me, ten counties in southwest Ohio agreed in 1996 to form a joint board of county commissioners for the purpose of constructing Miami Valley Juvenile Rehabilitation Center.

A joint board of county commissioners acting pursuant to R.C. 2151.65 has specific statutory powers and duties related to a juvenile rehabilitation facility. *See* R.C. 2151.65 to 2151.80. For example, the joint board

must appoint a board of trustees (R.C. 2151.68); select a location for the facility, either by choosing an established site or constructing new facilities (R.C. 2151.76); and levy taxes sufficient to cover facility expenses (R.C. 2151.66). The board may submit to the electors of the district the question whether to issue bonds “to pay the cost of acquiring, constructing, enlarging, or otherwise improving” the juvenile facility. R.C. 2151.655(B).

As noted in Opinion No. 83-064, these statutes “impose responsibilities upon the joint board as a whole, rather than upon individual county boards of commissioners.” *Id.* at 2-267. Although R.C. 309.09(A) requires the county prosecutor to be legal adviser to the board of county commissioners, it clearly refers “only to the board of county commissioners of the prosecuting attorney’s county.” *Id.* So, neither R.C. 2151.65 nor R.C. 309.09 expressly authorizes the prosecuting attorney to represent the joint board of county commissioners organized for purposes of R.C. 2151.65.

B

Because there is no obligation on county prosecutors to represent the joint board under R.C. 2151.65, the next question is whether the joint board qualifies as a “county board” and whether its members are “county officers” under the catchall provision of R.C. 309.09(A). For reasons explained below, it does not.

Many of my predecessors have issued opinions regarding a county prosecutor's duty to represent entities beyond those listed in statute. *See, e.g.*, 2010 Ohio Atty.Gen.Ops. No. 2010-025 (joint county ditch improvements); 2009 Ohio Atty.Gen.Ops. No. 2009-045 (multicounty courts of appeals); 1999 Ohio Atty.Gen.Ops. No. 99-028 (county tourism association); 1994 Ohio Atty.Gen.Ops. No. 94-082 (regional transit authority). These opinions use the following three factors to determine whether a public office, board, or other entity is a "county" office:

1. Whether the boundaries of the entity are coextensive with the boundaries of the county;
2. Whether the county is responsible for the organization, operation, or supervision of the entity; and
3. Whether the entity is funded by or through the county.

See 1999 Ohio Atty.Gen.Ops. No. 99-028, at 2-186. If the answer to each of these questions is "yes," the entity at issue can fairly be characterized as a county office for purposes of R.C. 309.09.

The first factor counsels against classifying joint boards of county commissioners as "county board[s]" for the purpose of R.C. 309.09(A). As explained in Opinion No. 83-064, when a board exercises authority

over an area beyond any one county, it cannot be considered a “county board.” *Id.* at 2-268, citing 1979 Ohio Atty.Gen.Ops. No. 79-019, at 2-69 (concluding that a multicounty felony bureau is not a “county board” entitled to the prosecutor’s legal representation); *see also* 2010 Ohio Atty.Gen.Ops. No. 2010-025 (finding no obligation or discretion for the prosecutor to represent a joint board of county commissioners organized to establish a joint ditch improvement). A county board is necessarily limited in its jurisdiction to an area “coextensive with or contained within” the boundaries of a county. 1999 Ohio Atty.Gen.Ops. No. 99-028, at 2-186.

A joint board of county commissioners organized under R.C. 2151.65 exists to establish a district for the multicounty juvenile facility. Thus, “[t]he district created by such a joint board is clearly an entity apart from the counties which participate in its establishment.” 1983 Ohio Atty.Gen.Ops. No. 83-064, at 2-267. Such a joint board of county commissioners constitutes an independent “taxing authority” and “bond issuing authority” under R.C. 5705.01(C). Opinion No. 83-064 concluded on this basis that the joint board cannot be considered a “county board” entitled to legal representation from the county prosecutor. *Id.* at 2-268. The law has not changed since the prior opinion was issued, and the analysis remains sound.

Although Opinion No. 83-064 stopped there, I will address the next two factors that have appeared in later

attorney general opinions: (1) whether a county is responsible for the organization, operation, or supervision of the entity; and (2) whether the entity is funded by or through the county. 1999 Ohio Atty.Gen.Ops. No. 99-028, at 2-186.

Again, you have advised me that Miami Valley Juvenile Rehabilitation Center is located in Greene County and the Juvenile Judge of the Greene County Court of Common Pleas helps supervise its operations. However, that facility is not organized by a single county, and no single county is responsible for its oversight. When a joint board of county commissioners organizes the district for the juvenile facility, it must appoint a board of trustees with members from each county in the district. R.C. 2151.68 and 2151.73. The board of trustees, in turn, appoints a superintendent for the facility, and the superintendent has “entire executive charge of such facility . . . under supervision of the board of trustees.” R.C. 2151.70. This governance structure reflects that a district juvenile facility serves multiple counties. Thus, neither the joint board of county commissioners nor the board of trustees overseeing the facility can be considered a “county board.”

The final factor to consider is whether the juvenile facility is funded by or through the county. According to R.C. 2151.77, the initial costs of establishing the facility are apportioned among the counties in proportion to each county’s taxable property. *See also* R.C.

2151.655 (authorizing a county or the joint board of county commissioners to issue bonds or enter alternative financing agreements to pay construction costs). A county may apply to the Department of Youth Services for financial assistance to defray its share of the costs. R.C. 2151.651. Each of the counties must pay the current expenses for maintaining the facility using one of the following methods approved by the joint board of county commissioners:

1. In proportion to the number of children admitted from the county to the juvenile facility;
2. Funded by levy submitted by the joint board under R.C. 5705.19(A) and approved by electors in the district;
3. In proportion to each county's taxable property; or
4. By any combination of these methods.

See R.C. 2151.77(A) to (D).

You provided documentation that Miami Valley Juvenile Rehabilitation Facility was constructed and initially funded by another method: as a capital facility paid for by state-issued bond obligations under R.C. 307.021 and R.C. Chapter 154. In 1996, a multicounty agreement authorized Greene County to serve as "lead county" in successfully applying for state funding to construct the facility and to enter a sublease with the

Department of Youth Services. Greene County did not bear the cost of construction. And, nothing in law requires the costs of constructing or operating a district juvenile facility to be shouldered by a single county. This further supports my conclusion that the joint board of county commissioners organized under R.C. 2151.65 is not a “county board” entitled to the prosecutor’s legal representation.

C

Before moving on, I note that a county prosecutor *may* advise the board of county commissioners from the prosecutor’s own county in several respects. As my predecessor noted, “[t]he prosecutor will, of course, retain the responsibility of advising the commissioners of his county with respect to any county functions they may have in relation to the activities of the joint board.” Opinion No. 83-064 at 2-268. For example, a board of county commissioners from any participating county may apply to the Department of Youth Services for financial assistance to defray its share of the district’s costs. R.C. 2151.651. A board of county commissioners may also decide to withdraw from the district “and dispose of its interest” in the juvenile facility. R.C. 2151.78.

III

Next, you ask whether the answer to the question about representation would change for a different board—a governing board of juvenile judges—overseeing a different kind of juvenile facility—here, a community corrections facility. The conclusions remain the same, except with respect to the county prosecutors’ *advisory* role. For the reasons that follow, I conclude that the facility’s governing board is not a county board, and the county prosecutor has no duty or authority to advise the board or facility. The prosecutor also has no duty to advise the juvenile judge from the prosecutor’s county when the judge is acting as a member of that governing board.

A

In examining the nature of a governing board of juvenile judges for a community corrections facility, I conclude that it cannot be characterized as a “county board” entitled to the county prosecutor’s representation under R.C. 309.09. To explain why, I will start with some relevant background. A community corrections facility is a “rehabilitation center for felony delinquents who have been committed to the department of youth services and diverted from care and custody in an institution and placed in the rehabilitation center pursuant to [R.C. 5139.36(E)].” R.C. 5139.01(A)(14). The principal statute governing community

corrections facilities is R.C. 5139.36, which authorizes the department to make grants for funding the facilities' operations. Youth placed in a community corrections facility "remain in the legal custody of the department of youth services." R.C. 5139.36(E)(2).

By administrative rule, the Department of Youth Services requires every community corrections facility to have a governing board. Adm.Code 5139-36-03. For a multicounty facility like Miami Valley Juvenile Rehabilitation Center, the governing body consists of the juvenile judges of each participating county. *Id.* This governing board is responsible for a variety of tasks, including appointing the facility director and other employees; annually reviewing and approving policies and procedures; reviewing and approving "the criteria used to admit youth to the facility"; deciding "appeals of participating counties as to 'refusal to admit' a youth to the facility"; approving the facility's operating budget; and applying for grant funds. *Id.*

B

With this background in mind, we again apply the three-factor test from prior opinions to resolve your question. *See* 1999 Ohio Atty.Gen.Ops. No. 99-028, at 2-186. First, consider the boundaries or jurisdiction of the community corrections facility at issue. The facility serves multiple counties, and the governing board consists of members from each participating county.

Adm.Code 5139-36-03(B)(1). Its decisions, such as determining criteria for admission to the facility, affect all of the participating counties. As a result, its jurisdiction extends beyond any single county.

Second, consider whether one or more counties is responsible for the facility's operations. Although the facility is in Greene County and its juvenile judge is most directly involved in day-to-day operations, nothing in statute or administrative rule requires one judge to serve in the role of a "lead county judge." Rather, by administrative rule, "[t]he director [of the facility], under the supervision of the governing board and subject to the Ohio department of youth services grant agreement and administrative rules, will control, manage, operate, and have general charge of the facility and program, and will have the custody of its property, files and records." The director is appointed by the governing board of juvenile judges. Adm.Code 5139-36-03(B)(2) and (3). Thus, no single county is responsible for the organization, operation, or supervision of the community corrections facility.

Third, consider whether the facility's operations are funded by a single county. You have informed us that the community corrections facility is funded entirely through grants from the Department of Youth Services. *See* R.C. 5139.36 and Adm.Code 5139-36-02 and 5139-36-03. Even if the juvenile facility were not entirely state funded, the remaining costs would be

allocated between the participating counties. *See* R.C. 2151.77 (prescribing methods of sharing costs of a district juvenile facility established under R.C. 2151.65). No single county is responsible for funding a multi-county community corrections facility.

In sum, a governing board of juvenile judges for a community corrections facility cannot be characterized as a “county board” entitled to the county prosecutor’s representation under R.C. 309.09, and there is no other provision in law for the county prosecutor to serve as its legal adviser.

C

The final issue to consider is whether the county prosecutor has a responsibility to advise the juvenile judge of the prosecutor’s own county regarding the judge’s duties as a member of the community correction facility’s governing board. He does not.

On the one hand, it is well-established that a juvenile judge is a county officer for purposes of R.C. 309.09(A). *See State ex rel. O’Diam v. Greene Cty. Bd. of Commrs.*, 2020-Ohio-3503, ¶20 (“R.C. 309.09(A) makes the prosecuting attorney the legal counselor for all county officials, including judges”); *see also* 1998 Ohio Atty.Gen.Ops. No. 98-005, at 2-31 (“A juvenile judge, as a judge of the court of common pleas, is considered to be a county officer for purposes of representation by

the county prosecutor or private counsel employed upon application to the court of common pleas pursuant to R.C. 305.14 and R.C. 309.09”). The Department of Youth Services provides in its administrative rule that “[t]he juvenile judges will perform their duties on the board in their official capacity.” Adm.Code 5139-36-03(B)(1).

On the other hand, the juvenile judge does not act as a “county officer” while performing duties in the role of a member of the governing board for a community corrections facility. The governing board decides on matters that affect the multicounty district as a whole and every county that participates in or otherwise admits youth to the facility. *See* Adm.Code 5139-36-03(B). That means, the juvenile judge’s service on the governing board is for the overall benefit of the facility and the youth admitted to it, rather than the judge’s particular county or court, even if the judge benefits from the availability of the facility and its services.

Therefore, I conclude that the county prosecutor has no legal duty to represent or advise the juvenile judge regarding duties on the governing board. *See* 2010 Atty.Gen.Ops. No. 2010-025 (concluding for similar reasons that individual county commissioners and other county officers are not entitled to the prosecutor’s legal representation when involved in constructing or maintaining a joint county ditch improvement).

Conclusion

Accordingly, it is my opinion, and you are hereby advised that:

1. When county commissioners from multiple counties form a joint board for the purpose of constructing and maintaining a multicounty facility for the training and treatment of juveniles, no county prosecutor from any participating county has a duty to serve as legal counsel to the joint board. (1983 Ohio Atty.Gen.Ops. No. 83-064 approved and followed).
2. The county prosecutor from a single county has no duty to provide legal counsel to the governing board of juvenile judges for a multicounty community corrections facility, nor does the county prosecutor have a duty to represent the juvenile judge from the prosecutor's county when the judge is acting as a member of the governing board.

Respectfully,



DAVE YOST
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