

October 21, 2025

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

SYLLABUS:

2025-022

1. The Domestic-Relations Division and Juvenile Division of the Greene County Court of Common Pleas qualify as courts of competent jurisdiction to issue warrants for stored electronic communications under 18 U.S.C. §2703.
2. The Probate Division of the Greene County Court of Common Pleas lacks general criminal jurisdiction. Consequently, the probate division is not a court of competent jurisdiction to issue warrants under 18 U.S.C. §2703, although the probate judge may issue search warrants under state law.
3. If the business of the court requires it, Rule 3.01(B) of the Rules of Superintendence for the Courts of Ohio allows the presiding judge of the Greene County Court of Common Pleas to temporarily assign the probate judge to the general division in order to issue a warrant under 18 U.S.C. §2703.



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OPINION NO. 2025-022

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

Dear Prosecutor Hayes:

You have requested my opinion on the authority of judges of the Greene County Court of Common Pleas to issue warrants for electronically stored communications. More specifically, you have posed the following questions:

1. Are the juvenile, domestic relations, and probate divisions considered courts of general criminal jurisdiction authorized by Ohio law to issue search warrants, and thus courts of competent jurisdiction as defined in 18 U.S.C. §2711(3)(B)?
2. If the juvenile, domestic relations, and probate divisions are not courts of general criminal jurisdiction authorized by Ohio law to issue search warrants, can they become such courts

by a delegation of authority under either R.C. 2301.03(O)(3) or Superintendence Rule 3.01(B)?

Your questions relate to the Federal Stored Communications Act (18 U.S.C. §§2701 to 2713), which regulates access to electronic communications stored by third-party service providers. I will begin with a general overview of that law before turning to your questions.

I. Background on SCA Warrants

The Stored Communications Act (“SCA”) generally prohibits a “provider of remote computing service or electronic communication service” from divulging the content of communications from subscribers or customers held in electronic storage. 18 U.S.C. §2702(a)(3). Such communication may include text messages, voice mail, email, and other online messages. *See, e.g., Quon v. Arch Wireless Operating Co.*, 529 F.3d 892, 900-903 (9th Cir. 2008), *rev’d on other grounds sub. nom. City of Ontario v. Quon*, 560 U.S. 746 (2010); *United States v. Warshak*, 631 F.3d 266, 283-288 (6th Cir. 2010). The SCA also protects subscriber and account information stored by the service provider, such as IP address logs and cell-site location information. *See* 18 U.S.C. §§2510, 2703(c)(1) and (2), and 2711; *see also Carpenter v. United States*, 585 U.S. 296, 317 (2018); *State v. Diaw*, 2024-Ohio-2237, ¶41-44 (10th Dist.), *aff’d*, 2025-Ohio-2323.

18 U.S.C. §2703 establishes the procedures that a governmental entity, such as a law enforcement or investigative agency, must follow to obtain access to an individual's stored electronic communications. If the content has been held in storage with an "electronic communications system" for 180 days or less, the government must obtain a warrant from a court of competent jurisdiction to compel the service provider to release the records. 18 U.S.C. §2703(a). If the content has been held for more than 180 days or if the content is stored with a remote computing service, the SCA requires the government to obtain a warrant to compel disclosure or, with prior notice to the service provider's subscriber or customer, use an administrative subpoena or court order under §2703(d). 18 U.S.C. §2703(a), (b)(1), and (c). Notwithstanding the administrative subpoena procedure in 18 U.S.C. §2703(b), courts have held that the Fourth Amendment of the U.S. Constitution requires a warrant prior to third-party disclosure of certain electronic records. *See Carpenter*, 585 U.S. at 317 (regarding historical cell-site records); *Warshak*, 631 F.3d 266, 288 (electronic mail).

Only a court of competent jurisdiction, as defined in 18 U.S.C. §2711, may issue a warrant for stored electronic communications (known as an "SCA warrant"). *See* 18 U.S.C. §2703(a), (b)(1)(A), and (c)(1)(A). The definition of a "court of competent jurisdiction" includes certain federal courts, court martials, and any "court of general criminal jurisdiction of a State authorized by the law

of that State to issue search warrants.” 18 U.S.C. §2711(3)(B). With this definition in mind, you have asked whether a probate, juvenile, or domestic-relations division of a court of common pleas qualifies as a court of competent jurisdiction to issue SCA warrants.

II. Courts of Common Pleas and Divisions Thereof

To answer your first question, begin by examining the origin of separate divisions within a common pleas court. According to Article IV, Section 1 of the Ohio Constitution, “The judicial power of the state is vested in a supreme court, courts of appeals, courts of common pleas and divisions thereof, and such other courts inferior to the Supreme Court as may from time to time be established by law.” Every county has a court of common pleas “and such divisions thereof as may be established by law.” Ohio Const., art. IV, § 4(A). “Unless otherwise provided by law,” the constitution prescribes that “there shall be a probate division and such other divisions of the courts of common pleas as may be provided by law. Judges shall be elected specifically to such probate division and to such other divisions.” Ohio Const., art. IV, § 4(C). Judges of the court of common pleas have “such power and jurisdiction . . . as may be directed by law.” Ohio Const., art. IV, § 18. Based on these constitutional provisions, “the General Assembly is empowered to establish the divisions of the courts of common pleas and their respective

jurisdictions.” 2005 Ohio Atty.Gen.Ops. No. 2005-003, at 2-22, fn. 1, citing *Walters v. Johnson*, 2002-Ohio-2855, ¶13.

The organizational structure of the courts of common pleas varies by county. *See generally* R.C. 2301.02 and 2301.03; *see also Walters* at ¶17 (“the Ohio General Assembly was not consistent in its enabling language and tailored the jurisdictions of the domestic relations and juvenile courts to the needs and/or desires of the specific county”); 1995 Ohio Atty.Gen.Ops. No. 95-026, at 2-129 (“Each county in Ohio has a court that exercises the jurisdiction of a juvenile court. The courts of the various counties, however, are organized in different manners”). Particularly in less populous counties, a single judge may preside over multiple divisions. *See* Ohio Const., art. IV, §23; *see also* R.C. 2301.02(C), last paragraph (specifying the counties in which judgeships are combined).

R.C. 2101.01 provides that “[a] probate division of a court of common pleas shall be held at the county seat in each county.” The probate division is also referred to as the “probate court” in parts of the Revised Code. *See* R.C. 2101.01(B)(1). This reflects that “[p]rior to May 7, 1968, the probate court was an entity separate from the court of common pleas. . . . Effective May 7, 1968, the Ohio Constitution was amended so that, under Ohio Const., art. IV, § 4, the probate court became a division of the court of common pleas. *See* 1967-1968

Ohio Laws, Part II-III, 2878, 2881 (Am. Sub. H.J. Res. 42).” 1995 Ohio Atty.Gen.Ops. No. 95-013, at 2-66. R.C. 2301.02 makes clear that “[j]udges of the probate division of the court of common pleas are judges of the court of common pleas.”

As explained in a prior opinion, “[t]he juvenile court is a court of record within the court of common pleas.” 2005 Ohio Atty.Gen.Ops. No. 2005-003, at 2-26, citing R.C. 2151.011(A) and 2151.07; *see also State ex rel. Cincinnati Enquirer v. Bloom*, 2024-Ohio-5029, ¶44. In each county, a juvenile court may be a division of the court of common pleas designated as the juvenile division or combined with other divisions, such as the probate or domestic-relations division, or a separately created court in the case of Cuyahoga and Hamilton Counties. R.C. 2151.011(A) and 2301.03. R.C. 2151.23 lists matters in which the juvenile court has exclusive original jurisdiction, including cases involving any child who is alleged by complaint, indictment, or information to be a juvenile traffic offender or a delinquent, unruly, abused, neglected, or dependent child. R.C. 2151.23(A)(1). The same statute lists other matters in which the juvenile court has original, but not exclusive jurisdiction, including “all cases of misdemeanors charging adults with any act or omission with respect to any child, which act or omission is a violation of any state law or any municipal ordinance.” R.C. 2151.23(B)(1).

Because of the variation in how courts of common pleas are organized, the scope of this analysis will be limited to the Greene County Court of Common Pleas. In Greene County, the court has three divisions in addition to its general division: the domestic-relations division, juvenile division, and probate court. R.C. 2101.02, 2301.02(A), and 2301.03(O)(1) and (2). Two judges are elected to the general division, and one judge is elected specifically to each of the other divisions. *Id.* The domestic-relations judge is “assigned all divorce, dissolution of marriage, legal separation, annulment, uniform reciprocal support enforcement, and domestic violence cases and all other cases related to domestic relations, except cases that for some special reason are assigned to some other judge of the court of common pleas.” R.C. 2301.03(O)(1). The juvenile judge has jurisdiction over cases governed by R.C. Chapters 2151 and 2152. R.C. 2301.03(O)(2). The probate judge has jurisdiction over wills, estates, guardianships, and other matters listed in R.C. 2101.24.

III. General Criminal Jurisdiction

A

The Stored Communications Act defines a “court of competent jurisdiction,” with respect to state courts, as “a court of general criminal jurisdiction of a State authorized by the law of that State to issue search warrants.” 18 U.S.C. §2711(3)(B). Based on this

definition, federal and state courts have consistently relied on state law to determine whether a state court has general criminal jurisdiction and authority to issue search warrants. *See, e.g., United States v. Cater*, 2021 WL 150018, *4 (W.D.Ky. Jan. 14, 2021); *United States v. Gardner*, 2016 WL 2597530, *6 (E.D.N.C. April 1, 2016); *In re Application for a Court Order Authorizing AT&T to Provide Historical Cell Tower Records*, 55 V.I. 127, 133 (2011). It is necessary, then, to determine whether each division of the Greene County Court of Common Pleas has general criminal jurisdiction and authority to issue search warrants under Ohio law. I will begin with “general criminal jurisdiction.”

The phrase “general criminal jurisdiction” is not defined by statute. However, Black’s Law Dictionary defines “criminal jurisdiction” as “[a] court’s power to hear criminal cases,” and “general jurisdiction” as “[a] court’s authority to hear a wide range of cases, civil or criminal, that arise within its geographic area.” (12th Ed. 2024). Thus, “general criminal jurisdiction” could be simply defined as a court’s authority to hear most criminal cases within a court’s territory.

When it comes to subject-matter jurisdiction—that is, the “power of a court to adjudicate a particular class or type of case,” *see Corder v. Ohio Edison Co.*, 2020-Ohio-5220, ¶14—the Ohio Supreme Court has frequently stated that “the court of common pleas is a court of general jurisdiction, with subject-matter jurisdiction that

extends to ‘all matters at law and in equity that are not denied to it.’” *Bank of Am., N.A. v. Kuchta*, 2014-Ohio-4275, ¶20, quoting *Saxton v. Seiberling*, 48 Ohio St. 554, 558-559 (1891); accord *State ex rel. Peterson v. Miday*, 2024-Ohio-2693, ¶16. Under R.C. 2931.03, “[t]he court of common pleas has original jurisdiction of *all crimes and offenses*, except in cases of minor offenses the exclusive jurisdiction of which is vested in courts inferior to the court of common pleas.” (Emphasis added.) The statute grants the court expansive authority to preside over criminal cases – in other words, general criminal jurisdiction. “Therefore, it qualifies as a ‘court of competent jurisdiction’ under 18 U.S.C. 2703 to issue an SCA warrant.” *State v. Worthan*, 2024-Ohio-21, ¶20 (2d Dist.).

On the other hand, municipal and county courts have more limited criminal jurisdiction, primarily over misdemeanor cases and preliminary hearings for felony cases. See R.C. 1901.20 and 1907.02; 2012 Ohio Atty.Gen.Ops. No. 2012-042, at 2-366. The Second District Court of Appeals concluded that a municipal court is not a court of competent jurisdiction for purposes of issuing an SCA warrant. *State v. Worthan*, 2024-Ohio-21, ¶20 (2d Dist.). The court reasoned that “[a]lthough an Ohio municipal court is authorized by Ohio law to issue search warrants, it is a court of limited criminal jurisdiction, not general criminal jurisdiction . . . Therefore, 18 U.S.C. §2703 does not enable an Ohio municipal court to issue an SCA warrant.” *Id.*

B

Having established that a court of common pleas, as a whole, qualifies as a court of general criminal jurisdiction, I turn to assessing each division's jurisdiction.

R.C. 2301.03(O) states that the judges of the domestic-relations division and juvenile division of the Greene County Court of Common Pleas “shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas.” R.C. 2301.03(O)(1) and (2). This is in addition to the specific subject matter assigned to the domestic relations and juvenile divisions. *Id.* The Ohio Supreme Court has interpreted similar language relating to domestic relations courts in R.C. 2301.03(L)(1) as “not a limiting provision, but rather a specific grant of authority.” *Pula v. Pula-Branch*, 2011-Ohio-2896, ¶6; *see also State v. Powell*, 2024-Ohio-4923, ¶23 (2d Dist.). A majority of provisions of R.C. 2301.03 use the same language with respect to other counties' domestic relations or juvenile division, thereby granting those divisions concurrent jurisdiction with the general division of the common pleas court. *See* R.C. 2301.03; *Pula* at ¶6; *see also* 1960 Ohio Atty.Gen.Ops. No. 1922, p. 741, 743.

Based on similar language in R.C. 2301.03(Z), the Third District Court of Appeals concluded that “[t]his authority necessarily includes the power and

jurisdiction to hear evidence and issue search warrants in criminal matters.” *State v. Gervin*, 2016-Ohio-5670, ¶17 (3d Dist.). Without question, the general division of a court of common pleas has general jurisdiction over criminal matters. *See* R.C. 2931.03; *Worthan* at ¶20; *see also Kolle v. Kyle*, 2021 WL 3485868, *3 (S.D. Ohio Aug. 9, 2021). Thus, by extension, I must conclude that the domestic relations and juvenile divisions also qualify as courts of general criminal jurisdiction.

A probate judge, on the other hand, has more limited jurisdiction. Probate courts may “exercise only the authority granted to them by statute and by the Ohio Constitution.” *In re Guardianship of Hollins*, 2007-Ohio-4555, ¶11. The probate division’s subject matter jurisdiction is specifically prescribed by R.C. 2101.24. There are matters in which the probate court “has concurrent jurisdiction with . . . the general division of the court of common pleas,” but the subject matter is limited to categories of cases expressly listed or “construed by judicial decision to be concurrent.” R.C. 2101.24(B)(1). Several courts of appeals have concluded that the probate division lacks criminal jurisdiction in most cases. *See State v. Dilley*, 2018-Ohio-1504, ¶¶19-20 (8th Dist.), citing R.C. 2931.01 and *State v. Reed*, 1997 WL 545344, *3 (7th Dist. Aug. 18, 1997). There is no broad grant of authority akin to the language in R.C. 2301.03(O), which grants the Greene County domestic-relations judge and juvenile judge “the same powers and jurisdiction . . . as other judges

of the court of common pleas.” *See State ex rel. Reynolds v. Kirby*, 2023-Ohio-782, ¶17 (concluding that a probate-juvenile court in Warren County lacked jurisdiction to grant witness immunity under R.C. 2945.44 because “[t]he General Assembly has not conferred the general powers of the common pleas court on the probate-juvenile court”). Thus, the Probate Division of the Greene County Court of Common Pleas cannot be considered a court of general criminal jurisdiction.

IV. Authority to Issue Search Warrants

Having concluded that the domestic-relations and juvenile divisions are courts of general criminal jurisdiction, I next consider whether they satisfy the second element of the Stored Communications Act’s definition of a “court of competent jurisdiction”: the court must have authority under state law to issue search warrants. As recognized by the U.S. Court of Appeals for the Sixth Circuit, “A state is allowed to determine when a person is authorized to approve warrants, where that person has the authority to approve warrants, and what type of warrants that person is allowed to approve.” *United States v. Master*, 614 F.3d 236, 241 (6th Cir. 2010).

As a general rule, any judge may issue a search warrant in a criminal matter. *See* R.C. 2931.01 and 2933.21 to 2933.33; Crim.R. 41 (“A search warrant authorized by this rule may be issued by a judge of a court

of record to search and seize property located within the court's territorial jurisdiction"). The Rules of Criminal Procedure define a "judge" as "judge of the court of common pleas, juvenile court, municipal court, or county court, or the mayor or mayor's court magistrate of a municipal corporation having a mayor's court." Crim.R. 2(E). Thus, the juvenile court is expressly authorized to issue search warrants under the Rules of Criminal Procedure. *Id.* Neither the Rules nor the Revised Code excludes a judge of any other division of the court of common pleas from issuing search warrants.

There is one notable exception to the rule. For purposes of R.C. 2933.51 to 2933.66, which is the law governing wiretaps and interception warrants, a "judge of a court of common pleas" is defined as "a judge of that court who is elected or appointed as a judge of general jurisdiction or as a judge who exercises both general jurisdiction and probate, domestic relations, or juvenile jurisdiction." R.C. 2933.51(W). It does not include "a judge of that court who is elected or appointed specifically as a probate, domestic relations, or juvenile judge." *Id.* However, search warrants issued to compel disclosure of stored electronic communications, pursuant to 18 U.S.C. §2703, are not the same as wiretap or interception warrants. *See* R.C. 2933.51(F) (defining an "interception warrant" as "a court order that authorizes the interception of . . . electronic communications and that is issued pursuant to sections 2933.53 to

2933.56 of the Revised Code”); *State v. Poling*, 2010-Ohio-5429 (Hocking M.C.) (explaining differences between warrants issued under the Wiretap Act and SCA); *see also State v. Bell*, 2007-Ohio-2629, ¶19 (Clermont C.P.) (concluding that intercept warrants apply to the seizure of “real time” electronic communication). Due to these distinctions, we look to the general provisions for issuing a search warrant under Ohio law, rather than the special provisions for issuing interception warrants. The exclusion in R.C. 2933.51(W) shows that the General Assembly knows how to limit authority to issue search warrants to the general division of a court of common pleas when it intends to exclude other divisions.

Based on the general provisions authorizing search warrants in R.C. 2933.21 to 2933.33 and Crim.R. 41, I conclude that the domestic-relations judge and the juvenile judge of the Greene County Court of Common Pleas have authority under state law to issue search warrants; those divisions also qualify as courts of general criminal jurisdiction. Therefore, it follows that both divisions qualify as courts of competent jurisdiction with authority to issue an SCA warrant under 18 U.S.C. §2703. *See* 18 U.S.C. §2711(3)(B).

One last point. I have already concluded that the probate division does not satisfy the first requirement—that it be a court of general criminal jurisdiction—so it cannot be a “court of competent jurisdiction” under the

SCA. Nevertheless, it does satisfy the second element. The probate division's authority to issue warrants has a distinct basis. In 2015, the Ohio Supreme Court held that "unless appointed by the chief justice pursuant to Article IV, Section 5(A)(3) of the Ohio Constitution, a probate judge does not have the authority to issue search warrants in criminal matters." *State v. Brown*, 2015-Ohio-486, ¶10. However, the Court's reasoning was based on a statutory definition of "judge" in R.C. 2931.01 that specifically excluded the probate judge for purposes of R.C. Chapters 2931 to 2953. Soon after, the General Assembly amended the law to enable a probate judge to issue search warrants. 2015 S.B. No. 161 (eff. March 23, 2016), amending R.C. 2931.01; see *State v. Newman*, 2017-Ohio-4047, ¶19 (5th Dist.) ("We find the General Assembly thereby intended to remove the restriction against probate judges issuing search warrants under R.C. 2933.21"). Thus, a probate judge may now issue a search warrant in a criminal matter. Again, the probate division still lacks general criminal jurisdiction. See, e.g., *State v. Dilley*, 2018-Ohio-1504 (8th Dist.). So the probate division is not a court of competent jurisdiction for purposes of the Stored Communications Act.

This leads me to your next and final question: Can the probate judge be temporarily assigned to the general division of the court of common pleas, a court with general criminal jurisdiction, in order to issue an SCA warrant?

V. Temporary Assignment by the Presiding Judge

The Chief Justice of the Ohio Supreme Court has constitutional authority to “assign any judge of a court of common pleas or a division thereof temporarily to sit or hold court on any other court of common pleas or division thereof or any court of appeals.” Ohio Const., art. IV, § 5(A)(3). In other words, a judge of the probate, juvenile, or domestic-relations division may be assigned to sit on a court of common pleas, including its general division, in any other county. Your question, however, relates to the presiding judge’s authority to temporarily assign judges across divisions within the court of common pleas of the same county.

The Ohio Supreme Court has held that “only the Chief Justice, Acting Chief Justice of this court, or the presiding judge of a court of common pleas can assign a judge from one division of the same court to another division.” *See State ex rel. Lomaz v. Court of Common Pleas*, 36 Ohio St.3d 209, 210 (1988), quoting *Schucker v. Metcalf*, 22 Ohio St.3d 33, 37 (1986); *see also Wright v. Money*, 82 Ohio St.3d 424, 424 (1998). R.C. 2301.03(O)(3) authorizes the judges of the Greene County domestic-relations division and juvenile division to perform the duties of a general division judge “[i]f one of the judges of the court of common pleas, general division, is sick, absent, or unable to perform that

judge's judicial duties or the volume of cases pending in the general division necessitates it."

Superintendence Rule 3.01, on the other hand, applies to all courts in Ohio. It permits the presiding judge to "[a]ssign judges of the court on a temporary basis to serve in another division of the court as required by the business of the court." The Supreme Court's "rules governing practice and procedure in all courts of the state" generally supersede conflicting state laws unless they affect a substantive right. *See* Ohio Const., art. IV, § 5(B); *see also* Ohio Const., art. IV, § 4 ("the presiding judge shall have such duties and exercise such powers as are prescribed by rule of the Supreme Court"). Rule 3.01(B) does not affect substantive rights. To the extent that R.C. 2301.03(O)(3) is narrower in scope or conflicts with the rule, the more general authority for temporary assignments in Rule 3.01 controls.

I have already concluded that the Domestic-Relations Division and the Juvenile Division of the Greene County Court of Common Pleas qualify as "courts of competent jurisdiction" authorized to issue search warrants under 18 U.S.C. §2703. It is not necessary for the presiding judge to assign the domestic relations or juvenile judge to the general division for this purpose. However, the probate division does not qualify as a court of competent jurisdiction under the SCA due to its lack of general criminal jurisdiction.

Superintendence Rule 3.01 presents a solution to the problem. If “the business of the court” requires it, the presiding judge may temporarily assign the probate judge to serve the general division and issue an SCA search warrant under 18 U.S.C. §2703.

Conclusion

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

1. The Domestic-Relations Division and Juvenile Division of the Greene County Court of Common Pleas qualify as courts of competent jurisdiction to issue warrants for stored electronic communications under 18 U.S.C. §2703.
2. The Probate Division of the Greene County Court of Common Pleas lacks general criminal jurisdiction. Consequently, the probate division is not a court of competent jurisdiction to issue warrants under 18 U.S.C. §2703, although the probate judge may issue search warrants under state law.
3. If the business of the court requires it, Rule 3.01(B) of the Rules of Superintendence for the Courts of Ohio allows the presiding judge of the Greene County Court of Common Pleas to temporarily assign the probate judge to the general

division in order to issue a warrant under 18
U.S.C. §2703.

Respectfully,

A handwritten signature in blue ink that reads "Dave Yost". The signature is fluid and cursive, with the first name "Dave" and last name "Yost" clearly legible.

DAVE YOST
Ohio Attorney General