

November 4, 2025

The Honorable Morris J. Murray
Defiance County Prosecuting Attorney
500 Court Street, Suite C
Defiance, OH 43512

SYLLABUS:

2025-023

1. The Adult Parole Authority may enter into a written agreement with a multi-jurisdictional drug unit to share information, personnel, and services for crime interdiction and fugitive apprehension.
2. If a parole officer is not also certified as a peace officer, designating the officer as a special deputy sheriff does not confer any additional authority upon the officer to make arrests, execute search warrants, or engage in the use of force.
3. Subject to the terms of agreement between the Adult Parole Authority and the multi-jurisdictional drug unit, a parole officer may assist with detecting, tracking, apprehending, or detaining an individual subject to arrest. However, that officer has limited authority to make arrests and remains subject to different standards for

executing searches or engaging in the use of force.

4. If a parole officer engages in law enforcement activities that the officer is not ordinarily empowered to engage in, that officer would risk incurring personal liability. Only a court may definitively determine whether the officer's actions qualify for civil immunity.



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November 4, 2025

OPINION NO. 2025-023

The Honorable Morris J. Murray
Defiance County Prosecuting Attorney
500 Court Street, Suite C
Defiance, Ohio 43512

Dear Prosecutor Murray:

You requested my opinion on behalf of the Defiance County Sheriff regarding the following questions:

1. May an Adult Parole Authority (APA) officer participate in a multi-jurisdictional drug unit as a special deputy sheriff and enforce laws in that capacity?
2. More specifically, may an APA parole officer participate with the drug unit in executing warrants, making arrests, and using deadly force, when necessary?
3. Would the APA parole officer risk personal liability in participating in those law enforcement activities if the officer is not certified by the Ohio

Peace Officer Training Commission as a peace officer?

I

Your questions revolve around a local APA parole officer's involvement in criminal drug investigations for the Multi-Area Narcotics Task Force (*a.k.a.* M.A.N. Unit). As background information, you shared a copy of the agreement in place between the APA, the M.A.N. Unit, and the Defiance County Sheriff's Office. In rendering this opinion, I lack "authority to pass upon issues of reasonableness of particular contracts or agreements." 1987 Ohio Atty.Gen.Ops. No. 87-051, at 2-328, fn. 1. Nonetheless, several aspects of the agreement are important to note.

According to the terms of the agreement, the APA parole officer may work overtime hours to support the M.A.N. Unit, and the M.A.N. unit will reimburse the APA for the cost of overtime incurred by the APA officer. The agreement states that the APA parole officer's duties include:

- Assisting the Sheriff and M.A.N. Unit in criminal drug trafficking and overdose related investigations;
- Adhering to the personnel manuals of Defiance County, the Defiance County Sheriff's

Office, and M.A.N. Unit as well as all local, state, and federal regulations; and

- Any other duties and responsibilities assigned by either the M.A.N. Unit and/or Sheriff within the contemplation of the scope of the Agreement.

The agreement also provides that, “in furtherance of [the] Agreement, the A.P.A. Officers will be appointed as a deputy sheriff with the SHERIFF’S OFFICE, but with no arrest powers.” This provision highlights the chief concern that prompted your request –whether the APA parole officer should be appointed as a deputy sheriff if that person lacks certification as a peace officer.

II

First, you asked whether an APA parole officer may participate in a multi-jurisdictional drug unit as a special deputy sheriff and enforce laws in that capacity. I conclude that an APA parole officer *may* participate in the unit to assist with crime interdiction and fugitive apprehension, but the officer should not be designated a special deputy sheriff for this purpose.

A

The APA and its officers are governed primarily by R.C. Chapter 5149 and Adm. Code 5120:1-1. The APA is a bureau within the Department of Rehabilitation

and Correction, which “consists of its chief, a field services section, and a parole board.” R.C. 5149.02. Your questions concern parole field officers who supervise “[p]ersons paroled, conditionally pardoned, or released to community supervision.” R.C. 5149.04; *see also* R.C. 2967.28(F)(1) (regarding post-release control supervision).

According to R.C. 5149.03, the APA and its officers may aid law enforcement agencies in “training, crime interdiction, fugitive apprehension, and community supervision.” The law requires a written agreement “to share information, personnel, and services” for any of those purposes, which “may permit the authority to act in concert with and provide assistance . . . in detecting, tracking, apprehending, or detaining an individual subject to arrest.” *Id.* The definition of “law enforcement agency” cross-referenced in the statute is broad enough to encompass a multi-jurisdictional drug unit, also known as a regional drug task force. *See* R.C. 109.573(A)(8) and 5101.26(E); *see also* R.C. 5502.68(F); Adm.Code 4501:6-3-01.

In light of R.C. 5149.03(A), it is not necessary to designate an APA parole officer as a special deputy sheriff for the purpose of assisting a drug task force. Furthermore, if the APA parole officer lacks training and certification as a peace officer, the special deputy designation does not confer any additional authority upon the

officer to make arrests, execute search warrants, or engage in the use of force.

The term “special deputy sheriff” does not appear in statute but is recognized by common law as a type of deputy sheriff appointed “on terms that are different from those on which a regular deputy sheriff serves.” 1998 Ohio Atty.Gen.Ops. No. 98-033, at 2-186; R.C. 311.04(B); *Neal v. Treglia*, 2019-Ohio-3609, ¶19 (3d Dist.), citing *State ex rel. Geyer v. Griffin*, 80 Ohio App. 447, 457-458 (3d Dist. 1946). The terms of an appointment as a special deputy sheriff may involve different duties, a temporary assignment, or an uncompensated volunteer position. See 1998 Ohio Atty.Gen.Ops. No. 98-033, at 2-186.

Depending on assigned duties and qualifications, the special deputy sheriff could serve as a peace officer, but that is not always the case. See R.C. 109.71(A)(1); *State v. Glenn*, 28 Ohio St.3d 451, 454 (1986); *Dektas v. Leis*, 64 Ohio App.3d 450 (1st Dist. 1989) (concluding that special deputies assigned as corrections officers were not appointed peace officers). “The term ‘special’ relates not to an individual’s qualification as a deputy but to the nature of his assignment as a deputy and to the fact that his commission and powers may be limited consistent with such assignment.” 1977 Ohio Atty.Gen.Ops. No. 77-027, at 2-102.

R.C. 109.71 provides a detailed definition of “peace officer,” which includes a “deputy sheriff . . . whose primary duties are to preserve the peace, to protect life and property, and to enforce the laws of this state.” R.C. 109.71(A)(1); *see also Dektas*, at 452 (describing the qualifications of a peace officer). APA parole officers are not included within that definition of “peace officer.” R.C. 109.71(A) and 2935.01(B). Furthermore, subject to limited exceptions, “no person shall receive an original appointment on a permanent basis as . . . [a] peace officer of any county” unless the person has been awarded certification from the Ohio Peace Officer Training Commission for successfully completing an approved peace officer basic training program. R.C. 109.77; *see also Adm.Code* 109:2-1-12.

A special deputy sheriff cannot be assigned law enforcement duties without proper training and certification. As one of my predecessors explained, “Special deputy sheriffs who are commissioned and employed by the sheriff on behalf of the county and whose primary duties are to preserve peace, protect life and property, and enforce laws are peace officers. As such, they are required to be trained and certified by the Ohio Peace Officer Training Council [now, Commission] as peace officers pursuant to R.C. 109.77.” 1989 Ohio Atty.Gen.Ops. No. 89-071, at first paragraph of the syllabus.

An APA parole officer who has not been trained and certified as a peace officer should not be designated as a special deputy sheriff with the responsibility “to preserve peace, protect life and property, and enforce laws.” *Id.* As I will discuss in Part III of the opinion, an APA parole officer has independent authority to execute arrests, search persons under supervision, and use force when necessary. But, if an APA parole officer is not certified as a peace officer, designation as a special deputy sheriff does not confer the additional peace-officer authority necessary to perform those duties upon the parole officer.

B

Consider also the potential for divided loyalties and conflicting duties, which could preclude an APA parole officer from serving as a deputy sheriff. As explained in a prior attorney general opinion, “a conflict of interest exists when a public servant is subject to divided loyalties and conflicting duties or exposed to the temptation of acting other than in the best interest of the public.” 1998 Ohio Atty.Gen.Ops. No. 98-033, at 2-188 to 2-189.

An APA parole officer must follow orders from the Adult Parole Authority, the chief of the division of parole and community services, and the governor. *See* R.C. 5149.04(D). A deputy sheriff, on the other hand, reports to the county sheriff. R.C. 311.04. If a person

serves simultaneously as APA parole officer and special deputy sheriff, the person could be subject to conflicting orders. There may also be confusion whether the officer reports to the sheriff or the APA while assisting the drug task force.

“For purposes of the Revised Code,” a law enforcement officer “is *always on duty*, regardless of whether the officer is, or is not, officially within work hours or officially on the clock.” (Emphasis added.) R.C. 9.69(B)(2). In this context, “law enforcement officer” includes deputy sheriffs and APA parole officers who are authorized to carry firearms. *See* R.C. 9.69(A) and 5149.05. Even before R.C. 9.69 was enacted, Ohio courts have consistently held that “[o]fficers are called upon to enforce the laws of the State of Ohio at all times.” *State v. Swann*, 2007-Ohio-3235, ¶12 (9th Dist.) (citing multiple cases in support). The round-the-clock nature of both duties would make the conflict between roles inevitable. *See* 1986 Ohio Atty.Gen.Ops. No. 86-007, at 2-33. For these reasons, an APA parole officer should not be designated as a special deputy sheriff in order to assist a regional drug task force.

III

I next address whether an APA parole officer may participate with the drug unit in executing warrants, making arrests, and using deadly force, when necessary. The short answer is yes—but only in limited

circumstances. If a parole officer engages in law enforcement activities that the officer is not ordinarily empowered to engage in, that officer could be exposed to personal liability – a point I will return to later in this opinion. To avoid such scenarios, it is critical for an APA parole officer and members of the drug task force to understand the differences outlined below.

A

Begin with the standards for arrest. An APA parole officer may arrest a person for violations of conditional pardon, parole, or other forms of authorized release when the officer has reasonable cause to believe that there has been a violation of a condition of release. R.C. 2967.15; *see, e.g., State v. Harrison*, 2022-Ohio-741, ¶18 (3d Dist.). An APA parole officer may also arrest anyone under a community control sanction (*i.e.*, probation) for a violation of its terms. R.C. 2951.08. The law does not require an APA parole officer to obtain a warrant for these categories of arrest. R.C. 2951.08 and 2967.15; *see also State v. Thompson*, 33 Ohio St.3d 1, 7 (1987).

In addition, “pursuant to R.C. 2935.04, [parole officers] possess the authority—along with any private person—to conduct a warrantless arrest when they have reasonable grounds to believe that a felony has been committed.” *State v. Barnes*, 1996 WL 501464, at *5 (2d Dist. Sep. 6, 1996). This could be significant for

APA parole officers aiding a regional drug task force because the targeted drug offenses are typically felonies. *See generally* R.C. Ch. 2925. Still, R.C. 2935.04 only allows for arrests in public places, and the person suspected of a felony may be detained only “until a warrant can be obtained.” R.C. 2935.04 and 2935.06; *see State v. Brown*, 2007-Ohio-4837, ¶66; *State v. Jordan*, 2021-Ohio-3922.

Now, compare APA parole officers’ limited arrest authority with that of law enforcement officers. Law enforcement officers listed in R.C. 2935.03 have more general authority to execute arrests, whether for misdemeanors or felonies. A law enforcement officer’s arrest must be supported by probable cause. U.S. Const., amend. IV; Ohio Const., art. I, §14; *Jordan* at ¶19. When a judge, magistrate, or clerk of court issues an arrest warrant, it is directed to a law enforcement officer authorized to execute it. *See* Ohio Crim.R. 4; R.C. 2935.10; 2006 Ohio Atty.Gen.Ops. No. 2006-017. The Ohio Rules of Criminal Procedure provide that “[w]arrants shall be executed and summons served by any officer authorized by law.” Crim.R. 4(D)(1); *see also* Crim.R. 2(J) (defining “law enforcement officer” for purposes of the rules of criminal procedure). An APA parole officer lacks the arrest authority necessary to qualify as a law enforcement officer, except “for the limited purpose of exercising their statutory authority to arrest parole violators.” *State v. Barnes*, 1996 WL 501464, *3 (2d Dist. Sept. 6, 1996).

B

Next, compare the authority of parole officers and that of peace officers to conduct a search of persons or property. An APA field officer “may search, with or without a warrant,” the person, residence, vehicle, or other property of a felon under supervision if the officer has “reasonable grounds to believe” the person “is not complying with the terms and conditions” of post-release control. R.C. 2967.131(C)(1); *see also* R.C. 2951.02(A); *State v. Harrison*, 2022-Ohio-741, ¶20-23 (3d Dist.). Parolees, probationers, and other releasees have limited Fourth Amendment rights. *See State v. Deener*, 64 Ohio St.2d 335, 337-338 (1980); *United States v. Loney*, 331 F.3d 516, 521 (6th Cir. 2003); *Griffin v. Wisconsin*, 483 U.S. 868, 878-879 (1987). In contrast, a peace officer generally must obtain a warrant supported by probable cause to conduct a search, absent consent or exigent circumstances. U.S. Const., amend. IV; Ohio Const., art. I, §14; *Steagald v. United States*, 451 U.S. 204, 211-212 (1981); R.C. 2933.21 to 2933.25.

Parole and law enforcement officers may cooperate in criminal investigations, searches, and arrests, especially when serving together on a drug task force. *See State v. Muhlenkamp*, 2017-Ohio-8269 ¶10-17 (3d Dist.); *State v. Braxton*, 102 Ohio App.3d 28, 37 (8th Dist. 1995). In doing so, the APA parole officer and law enforcement officers involved in the regional drug task force hold different powers and responsibilities. For

instance, law enforcement officers may not use a parole officer's search authority to evade a warrant requirement or as a pretext for "a fishing expedition" that goes beyond the parole officer's authority for conducting a search. *State v. Hendricks*, 2009-Ohio-5556, ¶20 (8th Dist.); *see also State v. Cowans*, 1999-Ohio-250, ¶44-52; *Muhlenkamp*, at ¶10-17; *but see United States v. Sweeney*, 891 F.3d 232, 236 (6th Cir. 2018) (narrowing the application of the so-called 'stalking-horse' theory).

C

You also asked about the use of deadly force when participating with the drug unit in executing warrants and arrests. As a matter of constitutional law, under the Fourth and Fourteenth Amendments of the U.S. Constitution, an officer's use of force must be objectively reasonable under the totality of the circumstances. *See Graham v. Connor*, 490 U.S. 386, 395 (1989). Factors in the typical analysis include the severity of the crime, immediate threat, active resistance, or attempt to evade arrest. *Graham*, at 396; *see also Barnes v. Felix*, 605 U.S. ___, 145 S.Ct. 1353 (2025); *Plumhoff v. Rickard*, 572 U.S. 765 (2014); *Scott v. Harris*, 550 U.S. 372 (2007). As for fleeing suspects, "[w]here the officer has probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or to others, it is not constitutionally unreasonable to prevent escape by using deadly force." *Tennessee v. Garner*, 471 U.S. 1, 11 (1985).

The Adult Parole Authority has adopted a rule that sets the APA parole officers' standard for use of force, including deadly force. Adm.Code 5120:1-1-39. According to that rule, "An officer is authorized to use force, other than deadly force, when and to the extent he or she reasonably believes that such force is necessary. There are five situations in which an officer may legally use force against a parolee, releasee, or community control offender."

- (1) Self-defense from an assault by a parolee, releasee, or community control offender;
- (2) Defense of third persons, such as other employees, individuals under supervision, or by-standers, from an assault by a parolee, releasee or community control offender;
- (3) Controlling or subduing a parolee, releasee, or community control offender who refuses to comply with a condition of supervision;
- (4) Prevention of a crime;
- (5) Prevention of an escape.

Adm.Code 5120:1-1-39(C).

“When force of any kind is exerted on a releasee or community control offender,” an APA parole officer must report the officer’s use of force to the APA chief within twenty-four hours. Adm.Code 5120:1-1-39(H).

The same APA administrative rule also addresses deadly force: “Generally, an [APA] officer acting within the scope of his or her duties, is authorized to use deadly force, when and to the extent he or she reasonably believes that such force is necessary to defend oneself or another person from serious physical injury or death.” Adm.Code 5120:1-1-39(E).

Law enforcement agencies are required by state accreditation standards to adopt their own use-of-force policies with detailed rules and guidance. *See* Office of Criminal Justice Services, *State of Ohio Standard for Use of Force*, <https://ocjs.ohio.gov/law-enforcement-services/ohio-collaborative-community-police-advisory-board/law-enforcement-accreditation/accreditation-standards/6-01-state-of-ohio-standard-for-use-of-force> (accessed Nov. 4, 2025) [<https://perma.cc/JP9V-58M3#>]; *See also*, *State of Ohio Standard for Use of Deadly Force*, <https://ocjs.ohio.gov/law-enforcement-services/ohio-collaborative-community-police-advisory-board/law-enforcement-accreditation/accreditation-standards/6-02-state-of-ohio-standard-for-use-of-deadly-force> (accessed Nov. 4, 2025) [<https://perma.cc/RQJ2-KY2P#>]. Thus, an APA parole officer’s standards to follow in the use of force will

likely differ from those followed by deputy sheriffs and other law enforcement officers involved in a regional drug task force.

Different standards also apply for the use of firearms. Law enforcement officers have broad authority to carry firearms both in the course of official duties and off-duty. *See, e.g.,* R.C. 2923.121(B)(1)(b), 2923.122(D)(1)(b), and 2923.126(E)(1). An APA parole officer may receive authorization to carry a firearm while on duty but only after completing a basic firearm training program and annual requalification approved by the Ohio Peace Officer Training Commission. R.C. 5149.05; *see also* 109.78 and 109.801; Adm.Code 5120:1-1-37. If an APA parole officer participates in a regional drug task force, the officer must clarify with the APA's supervising authorities whether he or she has permission to carry a firearm while assisting the drug task force.

IV

Your final question concerns whether the APA parole officer risks personal liability in participating in law enforcement activities if the officer is not certified by the Ohio Peace Officer Training Commission as a peace officer.

If a person is injured by the use of force or believes their arrest or search was without legal basis, that person

might claim a violation of constitutional rights under federal law. *See* 42 U.S.C. §1983. As I explained in a prior opinion, “government officials performing discretionary functions generally are shielded from civil liability if their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.” 2024 Ohio Atty.Gen.Ops. No. 2024-005, Slip Op. at 15-16; 2-37, citing *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982). The Sixth Circuit Court of Appeals has held that a parole officer, when involved in a search or seizure, is “functionally comparable to a police officer” for purposes of qualified immunity. *Wright v. Rockett*, 1987 WL 36395, at *1 (6th Cir. Feb. 17, 1987). That said, parolees and probationers have more limited Fourth Amendment rights than ordinary citizens. *See State v. Deener*, 64 Ohio St.2d 335, 337-338 (1980); *Samson v. California*, 547 U.S. 843, 853 (2006) (“this Court has repeatedly acknowledged that a State’s interests in reducing recidivism and thereby promoting reintegration and positive citizenship among probationers and parolees warrant privacy intrusions that would not otherwise be tolerated under the Fourth Amendment.”).

Under Ohio law, a public employee or officer of the state is generally immune from civil liability “for damage or injury caused in the performance of his duties, unless the officer’s or employee’s actions were manifestly outside the scope of his employment or official

responsibilities, or unless the officer or employee acted with malicious purpose, in bad faith, or in a wanton or reckless manner.” R.C. 9.86. Exceptions exist to this immunity rule for civil actions involving the operation of a motor vehicle and civil actions in which the state is the plaintiff. *Id.* The Adult Parole Authority’s officers are covered by R.C. 9.86 as employees of the state when acting within the scope of official duties. *See* R.C. 9.85, 109.36(A) and (B), and 5149.02; *see also Portentoso v. Kern*, 532 F.Supp.2d 920, 925 (N.D. Ohio 2008) (“The APA is unquestionably an arm of the state and not a political subdivision thereof.”).

As noted earlier in this opinion, the APA and its officers may aid law enforcement agencies in “training, crime interdiction, fugitive apprehension, and community supervision” pursuant to a written agreement “to share information, personnel, and services” for any of those purposes, which “may permit the authority to act in concert with and provide assistance . . . in detecting, tracking, apprehending, or detaining an individual subject to arrest.” R.C. 5149.03(A). If an APA parole officer assists a drug task force in this capacity, the officer would not be acting “outside the scope of his employment or official responsibilities.” R.C. 9.86.

In Part III of this opinion, I reviewed an APA parole officer’s authority to engage in arrests, searches, and the use of deadly force as compared to the authority of a peace officer. If an APA parole officer engages in law enforcement activities that the officer is not ordinarily

empowered to engage in, then that officer could be exposed to personal liability for any damage or injuries that result. *See* R.C. 9.86. Ordinarily, a state officer or employee is entitled to representation from my office in a civil action for damages. R.C. 109.361; *see also* R.C. 5149.08. However, the attorney general's office will not represent or defend an officer or employee whose actions were "manifestly outside the scope of his employment or official responsibilities." R.C. 109.362(A).

The question of liability "would depend on questions of fact unique to each case." 2024 Ohio Atty.Gen.Ops. No. 2024-005, Slip Op. at 19; 2-39; *see also* 2004 Ohio Atty.Gen.Ops. No. 2004-032, at 2-300 to 2-301. Such questions of fact are beyond the scope of an attorney general opinion. 2004 Ohio Atty.Gen.Ops. No. 2004-032, at 2-304.

I must emphasize that the standards of liability for state officers or employees and county officers or employees are similar but distinct. *Compare* R.C. 9.86, 2743.02, and 2744.03. "Regarding general placement of liability when a person holds two-public positions, the determination depends on which role the person assumes at the moment when the action that causes liability occurs." 2023 Ohio Atty.Gen.Ops. No. 2023-001, Slip Op. at 14; 2-9. Thus, any agreement between the APA and law enforcement agencies, such as a regional drug task force, should delineate clearly whether an APA parole officer acts under authority of

the APA or another law enforcement agency, such as the county sheriff's office. Such clarity would ensure that all parties know which policies govern the APA parole officer's conduct and who would be responsible to defend or indemnify the officer in a civil lawsuit. *See* R.C. 9.87, 109.361, and 2744.07; *see also* 1991 Ohio Atty.Gen.Ops. No. 91-063.

Conclusion

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

1. The Adult Parole Authority (APA) may enter into a written agreement with a multi-jurisdictional drug unit to share information, personnel, and services for crime interdiction and fugitive apprehension.
2. If an APA parole officer is not also certified as a peace officer, designating an APA parole officer as a special deputy sheriff does not confer any additional authority upon the APA parole officer to make arrests, execute search warrants, or engage in the use of force.
3. Subject to the terms of agreement between the APA and the multi-jurisdictional drug unit, an APA parole officer may assist with detecting, tracking, apprehending, or detaining an individual subject to arrest. However, the APA

parole officer has limited authority to make arrests and remains subject to different standards than a peace officer for executing searches or engaging in the use of force.

4. If an APA parole officer engages in law enforcement activities that the officer is not ordinarily empowered to engage in as an APA parole officer, that officer would risk incurring personal liability. Only a court may definitively determine whether the officer's actions qualify for civil immunity.

Respectfully,

A handwritten signature in blue ink that reads "Dave Yost". The signature is written in a cursive, flowing style with a large initial "D" and a long, sweeping tail on the "y".

DAVE YOST
Ohio Attorney General