



Ohio Revised Code

Section 177.03 Powers and duties of organized crime task force.

Effective: January 1, 1999

Legislation: House Bill 2 - 122nd General Assembly

(A) An organized crime task force established under section 177.02 of the Revised Code to investigate organized criminal activity in a single county or in two or more counties shall investigate organized criminal activity within the county or counties in accordance with the scope and limits established by the organized crime investigations commission and the task force director. For purposes of the investigation, the task force director and investigatory staff shall have the powers of a peace officer throughout the county or counties in which the investigation is to be undertaken. However, the authority and powers granted to the director and investigatory staff under this section do not supplant or diminish the authority and power provided by the Revised Code to other law enforcement agencies or their officers or investigators.

An organized crime task force, in the conduct of its investigation, may issue subpoenas and subpoenas duces tecum. The task force may compel the attendance of witnesses and the production of records and papers of all kinds and description that are relevant to the investigation, including, but not limited to, any books, accounts, documents, and memoranda pertaining to the subject of the investigation. Upon the failure of any person to comply with any lawful order of the task force, the task force may apply to the court of common pleas of the proper county for a contempt order, as in the case of disobedience of the requirements of a subpoena issued from the court of common pleas, or a refusal to testify thereon.

(B) This section and section 177.02 of the Revised Code do not prevent an organized crime task force from cooperating with other law enforcement agencies of this state, a political subdivision of this state, another state, a political subdivision of another state, or the United States, or their officers or investigators in the investigation and prosecution of any offenses comprising organized criminal activity.

(C)(1) If an organized crime task force, either prior to the commencement of or during the course of its investigation of organized criminal activity in a single county or in two or more counties, has reason to believe that the investigation will require it to engage in substantial investigative activities



in a particular municipal corporation or township in the county or any of the counties, the task force director shall notify the commission chairperson of that belief and the reasons for that belief. The chairperson shall present that belief and those reasons to the commission, and, if the commission determines that there is a compelling reason to notify a local law enforcement agency that has jurisdiction within that municipal corporation or township that the task force will be engaging in investigative activities in the municipal corporation or township, the commission, subject to division (C)(2) of this section, shall provide written notice of that fact as follows:

(a) If the investigative activities will be engaged in in a township or in a municipal corporation that does not have a police department or similar law enforcement agency, the commission shall provide the notice to the sheriff of the county in which the township or municipal corporation is located.

(b) If the investigative activities will be engaged in in a municipal corporation that has a police department or similar law enforcement agency, the commission shall provide the notice to the chief law enforcement officer of the department or agency.

(2) The notice described in division (C)(1) of this section shall not be provided to a sheriff or chief law enforcement officer if it appears to the commission, based upon the complaint filed and any information relative to it or based upon any information that the commission may have received, that there is reason to believe that the office of that sheriff or chief law enforcement officer is implicated in the organized criminal activity being investigated.

(D)(1) If an organized crime task force determines, pursuant to its investigation of organized criminal activity in a single county or in two or more counties, that there is not reasonable cause to believe that organized criminal activity has occurred or is occurring in the county or in any of the counties, it shall report its determination to the commission, terminate its task force activities, and disband.

(2)(a) If a task force determines, pursuant to its investigation of organized criminal activity in a single county or in two or more counties, that there is reasonable cause to believe that organized criminal activity has occurred or is occurring in the county or in any of the counties, it shall report its determination to the commission and, except as provided in division (D)(3) of this section, shall refer a copy of all of the information gathered during the course of the investigation to the prosecuting



attorney who has jurisdiction over the matter and inform the prosecuting attorney that the prosecuting attorney has thirty days to decide whether the prosecuting attorney should present the information to a grand jury and that, if the prosecuting attorney intends to make a presentation of the information to the grand jury, the prosecuting attorney has to give the commission written notice of that intention. If the organized criminal activity occurred or is occurring in two or more counties, the referral of the information shall be to the prosecuting attorney of the county in which the most significant portion of the activity occurred or is occurring or, if it is not possible to determine that county, the county with the largest population.

If a prosecuting attorney who has been referred information under this division fails to notify the commission in writing, within thirty days after the referral, that the prosecuting attorney will present the information to the grand jury of the prosecuting attorney's county, the task force, except as provided in division (D)(2)(b) of this section, shall refer a copy of all of the information to the attorney general, who shall proceed according to division (B) of section 109.83 of the Revised Code. If the prosecuting attorney fails to notify the commission in writing within that time that the prosecuting attorney will present the information to the grand jury, the prosecuting attorney promptly shall return all of the information that the task force referred to the prosecuting attorney under this division.

If a prosecuting attorney who has been referred information under this division notifies the commission in writing, within thirty days after the referral, of the prosecuting attorney's intention to present the information referred to the prosecuting attorney to the grand jury of the prosecuting attorney's county, the prosecuting attorney shall proceed promptly to present the information as evidence to the grand jury and shall notify the commission of the grand jury's final actions, findings of indictments, or reports. The prosecuting attorney may disclose to the attorney general any matters occurring before the grand jury that are disclosed to the prosecuting attorney for use in the performance of the prosecuting attorney's duties. The prosecuting attorney shall present the information as evidence to the grand jury prior to the discharge of the next regular grand jury. If the prosecuting attorney fails to present the information as evidence within that time, the commission, except as provided in division (D)(2)(b) of this section, shall notify the attorney general, the task force shall refer a copy of all of the information to the attorney general, and the attorney general may proceed as if the prosecuting attorney had declined under this division to accept the matter. If the prosecuting attorney fails to present the information as evidence within that time, the prosecuting



attorney promptly shall return to the task force all of the information that the task force had referred to the prosecuting attorney under this division.

(b) If a prosecuting attorney who has been referred information under division (D)(2)(a) of this section fails to notify the commission in accordance with that division that the prosecuting attorney will present the information to the grand jury, and the task force that conducted the investigation determines, pursuant to its investigation, that the office of the attorney general is implicated in organized criminal activity, the task force shall not contact or refer any information to the attorney general but shall report its determinations and refer all of the information to the commission. If a prosecuting attorney who has been referred information under division (D)(2)(a) of this section notifies the commission in accordance with that division that the prosecuting attorney intends to present the information to the grand jury but fails to do so prior to the discharge of the next regular grand jury, and the task force that conducted the investigation determines, pursuant to the investigation, that the office of the attorney general is implicated in organized criminal activity, neither the commission nor the task force shall contact or refer any information to the attorney general. Instead, the task force shall report its determinations and refer all of the information gathered during the course of the investigation to the commission.

In either such case, the commission shall review the information, and, if a majority of the members of the commission determine that the office of the attorney general is implicated, the chairperson of the commission shall appear before the presiding judge of the court of common pleas or of the court of appeals for the county in which the prosecuting attorney who was referred the information serves and request the appointment of a special prosecutor to handle the matter. If the presiding judge finds that there is reasonable cause to believe that organized criminal activity has occurred or is occurring in the county or in any of the counties served by the task force and that the office of the attorney general is implicated, the judge shall appoint a special prosecutor to perform the functions of prosecuting attorney of the county in relation to the matter. The commission shall refer a copy of all of the information gathered during the course of the investigation to the special prosecutor. The special prosecutor shall review the information so referred and, upon a determination that there is cause to prosecute for the commission of a crime, the special prosecutor shall proceed promptly to present the information so referred to the grand jury and shall notify the commission of the grand jury's final actions, findings of indictments, or reports. A special prosecutor appointed under this division shall not inform the attorney general of the investigation or referral of information and shall



not cooperate with the attorney general on the matter.

(3) If a task force determines, pursuant to its investigation of organized criminal activity in a single county or in two or more counties, that there is reasonable cause to believe that organized criminal activity has occurred or is occurring in the county or in any of the counties, and that the office of a prosecuting attorney who normally would be referred the information gathered during the course of the investigation pursuant to division (D)(2) of this section is implicated by the information in organized criminal activity, the task force shall not contact or refer any information to the prosecuting attorney. Instead it shall report its determinations and refer all of the information gathered during the course of the investigation to the commission. The commission shall review the information, and if a majority of the members of the commission determine that the office of the prosecuting attorney is implicated in organized criminal activity, the chairperson of the commission shall appear before the presiding judge of the court of common pleas or of the court of appeals for the county in which that prosecuting attorney serves and request the appointment of a special prosecutor to handle the matter. If the presiding judge finds that there is reasonable cause to believe that organized criminal activity has occurred or is occurring in the county or in any of the counties served by the task force and that the office of the prosecuting attorney in question is implicated in organized criminal activity, the judge shall appoint a special prosecutor to perform the functions of prosecuting attorney of the county in relation to the matter, and the commission shall refer a copy of all of the information gathered during the course of the investigation to the special prosecutor. It shall inform the special prosecutor that the special prosecutor has thirty days to decide whether the special prosecutor should present the information to a grand jury and that if the special prosecutor intends to make a presentation of the information to the grand jury, the special prosecutor has to give the commission written notice of that intention. A special prosecutor appointed under this division shall not inform the implicated prosecuting attorney of the investigation or referral of information and shall not cooperate with the prosecutor on the matter.

If a special prosecutor who has been referred information under this division fails to notify the commission in writing, within thirty days after the referral, that the special prosecutor will present the information to the grand jury of the county, or if the presiding judge is requested pursuant to this division to appoint a special prosecutor but the judge does not do so, the commission shall refer a copy of all of the information to the attorney general, who shall proceed according to division (B) of section 109.83 of the Revised Code. Upon such a failure of a special prosecutor to notify the



commission, the special prosecutor promptly shall return to the commission all of the information that the commission had referred to the special prosecutor under this division.

If a special prosecutor who has been referred information under this division notifies the commission in writing, within thirty days after the referral, of the special prosecutor's intention to present the information referred to the special prosecutor to the grand jury of the county, the special prosecutor shall proceed promptly to present the information as evidence to the grand jury and shall notify the commission of the grand jury's final actions, findings of indictments, or reports. The special prosecutor may disclose to the attorney general any matters occurring before the grand jury that are disclosed to the special prosecutor for use in the performance of the special prosecutor's duties. The information shall be presented as evidence to the grand jury prior to the discharge of the next regular grand jury. If the special prosecutor fails to present the information as evidence within that time, the commission shall notify the attorney general and refer a copy of all of the information to the attorney general, the attorney general may proceed as if the special prosecutor had declined under this division to accept the matter, and the special prosecutor promptly shall return to the commission all of the information that the commission had referred to the special prosecutor under this division.

(4) The referral of information by a task force to a prosecuting attorney, to the attorney general, to the commission, or to a special prosecutor under this division, the content, scope, and subject of any information so referred, and the identity of any person who was investigated by the task force shall be kept confidential by the task force and its director, investigatory staff, and employees, by the commission and its director, employees, and consultants, by the prosecuting attorney and the prosecuting attorney's assistants and employees, by the special prosecutor and the special prosecutor's assistants and employees, and by the attorney general and the attorney general's assistants and employees until an indictment is returned or a criminal action or proceeding is initiated in a court of proper jurisdiction.

(5) Any information gathered by a task force during the course of its investigation that is in the possession of the task force, a prosecuting attorney, the attorney general, the commission, or a special prosecutor, and any record that pertains to any such information and that is maintained by the task force, a prosecuting attorney, the attorney general, the commission, or a special prosecutor is a confidential law enforcement investigatory record for purposes of section 149.43 of the Revised Code. However, no provision contained in this division or that section affects or limits or shall be



construed as affecting or limiting any right of discovery granted to any person under the Revised Code, the Rules of Criminal Procedure, or the Rules of Juvenile Procedure.

(6) In no case shall the commission, a task force, a prosecuting attorney, a special prosecutor, or the attorney general publicly issue a report or summary that identifies or enables the identification of any person who has been or is being investigated under sections 177.01 to 177.03 of the Revised Code unless an indictment is returned against the person or a criminal action or proceeding is initiated against the person in a court of proper jurisdiction.

(7) For purposes of divisions (C) and (D) of this section, the office of a prosecuting attorney, the attorney general, a sheriff, or a chief law enforcement officer shall be considered as being implicated in organized criminal activity only if the prosecuting attorney, attorney general, sheriff, or chief law enforcement officer, one or more of the assistants, deputies, or officers thereof, or one or more of the employees thereof has committed or attempted or conspired to commit, is committing or attempting or conspiring to commit, or has engaged in or is engaging in complicity in the commission of, organized criminal activity.

(8) For purposes of this section, notification by a prosecuting attorney or special prosecutor may be accomplished by certified mail or any other documentation that is agreed upon by the prosecuting attorney or special prosecutor and the commission or their representatives. Notice by certified mail is complete upon mailing.

(E) If an organized crime task force has probable cause to believe, pursuant to its investigation of organized criminal activity in a single county or in two or more counties, that a law of another state or the United States has been or is being violated, the task force director shall notify the commission chairperson of that belief and the reasons for that belief. The chairperson shall present that belief and those reasons to the commission and, if the commission determines that there is probable cause to believe that such a law has been or is being violated, the commission may refer the matter to the attorney general of the other state or to the appropriate United States attorney, whichever is applicable, and provide that attorney general or United States attorney with a copy of relevant information.