



**CONFIDENTIAL – ATTORNEY-CLIENT COMMUNICATION**

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RE: Cuyahoga County Executive's Authority to Internalize Sheriff's Fiscal Functions

DATED: December 2, 2025

UPDATED<sup>1</sup>: December 8, 2025

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**Question Presented**

Whether the Cuyahoga County Executive (the “County Executive” or “Executive”) may internalize the Cuyahoga County Sheriff’s Department’s fiscal functions by bringing them in-house to the Office of the County Fiscal Officer.

**Brief Answer**

A complete reading of the Ohio Revised Code (the “ORC” or “R.C.”) and the Cuyahoga County Code (the “County Code” or “Code”), with reference to the County’s “home rule” authority under the Cuyahoga County Charter (the “County Charter” or “Charter”), supports the position that the Executive possesses the power to take the Sheriff’s fiscal functions in-house. While the Sheriff possesses certain authority as “appointing authority” under the County Charter and retains the discretionary power to approve of the expenditure of appropriated and other funds in carrying out his duties and responsibilities, the ministerial function of accounting for such expenditures can rest with the Executive under the Charter.

**Background**

On November 3, 2009, the voters of Cuyahoga County overwhelmingly approved the

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<sup>1</sup> Update incorporates commentary in response to the opinion of the County Prosecutor’s Office received on December 5, 2025.

adoption of a charter form of government as authorized under Article X, Section 3, of the Ohio Constitution. The Charter, in effect since January 1, 2010, created the office of the County Executive and conferred legislative and taxing authority on the County Council (the “Council”). Within Charter Article III, Section 3.09(2), Council was explicitly granted the power “[t]o establish departments, and divisions and sections within departments, under the supervision of the County Executive, and such boards, agencies, commissions, and authorities, in addition to or as part of those provided for in this Charter, as the Council determines to be necessary for the efficient administration of the County.” Council referenced and employed this legislative power on July 30, 2013, in passing Ordinance O2013-0015, which enacted Section 202.07 of the County Code to establish the Sheriff’s Department “as its own appointing authority pursuant to the relevant provisions of the Cuyahoga County Charter.”<sup>2</sup> That Section reads in relevant part:

B. The Sheriff’s Department shall be under the direction of the County Sheriff. The Sheriff’s Department and its employees shall aid and assist the County Sheriff in carrying out the powers, duties and responsibilities that are assigned to the Sheriff by the general law, the County Charter, and by County law. With the approval of the County Executive, the Sheriff shall employ and supervise such number of deputies, assistants and employees as are reasonably necessary to carry out the Department’s functions. All employees assigned to the County Sheriff are hereby assigned to the Sheriff’s Department. Nothing in the Cuyahoga County Code is intended to limit the ability of the County Executive and the County Sheriff to abolish positions for the purpose of enhancing the efficiency of operations or for any other reason permitted by general law or County law.<sup>3</sup>

In 2019, the voters of the County approved a Charter amendment (the “Charter Amendment”) regarding the Cuyahoga County Sheriff, which “reflected the desire of the voters of Cuyahoga County to have a more independent Sheriff than had previously existed under the Cuyahoga County Charter.”<sup>4</sup> Prior to the Charter Amendment, the Sheriff’s Charter Article V, Section 5.08 read:

Powers, Duties and Qualifications. All powers and duties now or hereafter vested in or imposed upon county sheriffs by general law shall be carried out by the appointed Sheriff. The Sheriff shall possess and continue to maintain the qualifications provided by general law for the office of the county sheriff and in addition shall have had at least five years’ experience in law enforcement or in correctional facilities management.

As amended, the Sheriff’s Charter Article XVI, Section 16.01(1), currently reads:

Powers and Duties. All powers and duties now or hereafter vested in or imposed upon county sheriffs by general law shall be carried out by the appointed Sheriff. The Sheriff’s powers and duties shall include appointing authority in accordance with Article IX of this Charter. The Sheriff shall also have such powers and duties as shall be established by this Charter or by ordinance that are not inconsistent with those provided by general law.

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<sup>2</sup> Ordinance No. O2013-0015.

<sup>3</sup> County Code Section 202.07. No further updates or changes have been made to Code Section 202.07 post-enactment. Although proposed Ordinance No. O2023-0005 was to “clarify the *duties* of the County Sheriff’s Department and the County Sheriff” in light of the fact Council “did not update the language of the Cuyahoga County Code to reflect the amendments set forth in the 2019 Charter amendment”, the proposed 2023 Ordinance did not make it past referral to the Public Safety & Justice Affairs Committee on March 14, 2023.

<sup>4</sup> Proposed Ordinance No. O2023-0005 at 1.

## Analysis

### I. The Executive's Charter powers as further clarified by the County Code authorize his exercise of administrative discretion to internalize the Sheriff's fiscal functions.

Unlike most other states, the Ohio Constitution does not cover county sheriffs but leaves their governance to the state legislature and/or a county's charter.<sup>5</sup> R.C. 311.07, which enumerates the 'General powers and duties of [Ohio] sheriff[s]', does not set out any general administrative or fiscal powers or duties. The Charter is explicit that "the Sheriff shall also have such *powers and duties* as shall be established by this Charter or by ordinance that are not inconsistent with those provided by general law".<sup>6</sup> Council's ordinances, codified in the County Code, do not grant any additional powers to the Sheriff concerning fiscal, or even administrative, functions, and do not require Executive approval relating to the Sheriff's powers and duties. But under County Code Section 202.07(B), it is only "[w]ith the approval of the County Executive" that "the Sheriff shall employ *and supervise* such number of deputies, assistants and employees as are reasonably necessary to carry out the Department's *functions*." (Emphasis added.)

The approval authority of the County Executive in County Code Section 202.07(B) does not conflict with the Charter, but rather highlights the significance of the County Executive's own administrative powers and duties thereunder. "Municipal charters are to be so construed as to give effect to all separate provisions and to harmonize them with statutory provisions whenever possible."<sup>7</sup> Thus, in event of any perceived conflict between the Charter and the County Code, an attempt at harmonization must be made. County Code Section 202.07(B) specifically refers to "functions" of the office while the Charter specifically refers to "powers and duties" of the office. The two can be harmonized. "Functions" are of an administrative, ministerial nature (the Charter province of the County Executive), while "powers and duties" speak to discretionary, law-enforcement matters (the Charter province of the Sheriff).

The County Executive "shall have all the powers and duties of an administrative nature under [the] Charter and such powers and duties of an administrative nature, except as otherwise provided herein, as are vested in or imposed upon boards of commissioners by general law."<sup>8</sup> Under general law, boards of county commissioners "supervise the financial affairs of the Sheriff, [Ohio Rev. Code] §§ 305.19, 305.20".<sup>9</sup> In light of the relatively scant Ohio case law on the issue,

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<sup>5</sup> See Ohio Constitution, Article X, Section 3.

<sup>6</sup> Charter, Article XVI, Section 16.01(1) (emphasis added). In amending the Charter to specify that "[t]he Sheriff shall also have such powers and duties that shall be established by this Charter or by ordinance", the Sheriff's Charter powers and duties were augmented with the additional gloss contained within Section 202.07 of the County Code, which was then, and is now, the only such "ordinance" or County law speaking to the Sheriff's interrelation with the Executive.

<sup>7</sup> *State ex rel. Paluf v. Feneli*, 69 Ohio St.3d 138, 142, 630 N.E.2d 708 (1994).

<sup>8</sup> Charter, Article II, Section 2.03.

<sup>9</sup> *Doe v. McFaul*, 599 F. Supp. 1421, 1424 (D. Ohio 1984); see Charter, Article III, Section 3.09(2) (Council has the power "[t]o establish departments, and divisions and sections within departments, *under supervision of the County Executive*") (emphasis

we would note that other jurisdictions have also interpreted a county board's supervisory authority over a county sheriff as applying specifically to "fiscal supervision"—or supervision over those "charged with assessing, collecting, safekeeping, managing or disbursing the public revenues."<sup>10</sup> Indeed, *Sanchez* and *Dibbs*' emphasis on oversight over "public revenues" closely parallels the Ohio State Auditor's Sheriff's Manual's ("Sheriff's Manual") own instruction on page A4 that a number of the Sheriff's accounts are, under general law, "subject to the appropriation, budget, purchase order, certification, voucher, warrant or check writing and any other accounting controls which all other public money is subject to [under Chapter 5705]", and that such accounts are further "maintained by the County Auditor" (in the County's case, its Fiscal Officer).<sup>11</sup> Indeed, administration of the Cuyahoga County Sheriff's Department Commissary bank account has already been transferred from the Sheriff's Department based on a recommendation made in the Agency of Inspector General's ("AIG") Report of Investigation 21-0070-I.

We are in general agreement that the Executive cannot make hiring decisions for the Sheriff. Additionally, we would make clear that the Sheriff's discretionary authority to *expend* appropriated funds or funds collected by virtue of operation of his Department is statutory<sup>12</sup> and "the approval of the County Executive", or not, plays no part in the Sheriff's discretion to make expenditures with available funds so long as such decision is within legal limitations. However, where Code Section 202.07(B) specifies that it is only "[w]ith the approval of the County Executive" that the Sheriff shall "*supervise* such number of deputies, assistants, and employees as are reasonably necessary to carry out the Department's *functions*" (emphasis added), the necessity of Executive approval does not speak to nor limit the appointing authority of the Sheriff, as further detailed below.

The County Code and general law both support the proposition that fiscal recordkeeping and accounting of the Sheriff's expenditures are among "the Department's functions", as referenced in Code Section 202.07(B).<sup>13</sup> Further, Code Section 202.07(B)'s bipartite structure demonstrates clear legislative intent that the ongoing approval of the County Executive is necessary to sanction the Sheriff's supervision of his Department's fiscal administrative functions. In contrast, the Executive's approval of the Sheriff's supervision of his Department's "aid[ing]

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added), and O2013-0015, which created the Sheriff's Department and enacted Section 202.07 of the County Code, making explicit reference to the Charter, Article III, Section 3.09(2).

<sup>10</sup> *Sanchez v. Maricopa Cnty.*, 572 P.3d 101, 107, 2025 Ariz. LEXIS 222 (Ariz. 2025); *see also Dibb v. County of San Diego*, 8 Cal.4th 1200, 1210, 884 P.2d 1003 (1994) ("[t]he board of supervisors shall supervise the official conduct of all county officers, and officers of all districts and other subdivisions of the county, and *particularly insofar as the functions and duties of such county officers and officers of all districts and subdivisions of the county relate to the assessing, collecting, safekeeping, management, or disbursement of public funds.*"") (emphasis added).

<sup>11</sup> Dictionaries define the word "maintain" as both to keep physical possession, *see, e.g.*, *Black's Law Dictionary* (10th ed. 2014), and "to keep in a state of...efficiency or validity." *Webster's Third New International Dictionary* 1362 (1976). The Law Department does not necessarily dispute that R.C. 131.11 sanctions the Sheriff and/or Prosecutor's own deposit of Law Enforcement Trust Fund ("LETF") proceeds into interest-bearing accounts of either banks or other financial institutions.

<sup>12</sup> *See, e.g.*, R.C. 341.25 (Commissary Fund allowed expenditures), R.C. 325.071 (Furtherance of Justice Fund allowed expenditures), R.C. 2981.13 (LETF allowed expenditures), and R.C. 325.07 (Prisoner Return Fund allowed expenditures).

<sup>13</sup> *See, e.g.*, Section 202.16(B) of the County Code (referencing the directing of "budget, personnel, *fiscal*, supply and *other administrative functions* ...") (emphasis added), and R.C. 5119.24 (explicitly defining "administrative function" to include "fiscal administration").

and assist[ing]” in carrying out the Sheriff’s “powers, duties and responsibilities” is conspicuously absent in Code Section 202.07(B). The County Code does not require the Executive’s approval for the Department’s “aid[ing] and “assist[ing] the Sheriff in carrying out “the powers, duties and responsibilities that are assigned to the Sheriff” precisely because those activities lie under the umbrella of law enforcement—the Sheriff’s domain of expertise and not the Executive’s.<sup>14</sup> Indeed, Council’s specific requirement of Executive approval and specific bifurcation between “powers, duties, and responsibilities” and “functions” within Code Section 202.07(B) as compared to other sections within Chapter 202 in general<sup>15</sup> is representative of a textual intent that the former was intended to reference the general law duty-specific obligations of the Sheriff set out in Chapter 311 of the Revised Code, while the latter was intended to encompass general administrative activities conducted by the Sheriff, such as fiscal functions.<sup>16</sup> A distinction between the meaning of the terms “powers, duties, responsibilities” and “functions” is additionally supported by the context of the terms’ use throughout the Ohio Revised Code.<sup>17</sup>

Although neither the Charter nor the County Code define “supervise”, Webster’s Third New International Dictionary (2002) defines the term to mean “oversee with the powers of direction and decision the implementation of one’s own or another’s intentions.”<sup>18</sup> Although the Executive can and may have in the past delegated “powers of direction and decision” regarding certain administrative functions, including fiscal functions, to the Sheriff, the plain language of Code Section 202.07(B) grants the Executive the ultimate discretion as to who, between the Sheriff and Executive, supervises those functions. Thus, the “powers of direction and decision” conferred by the Executive’s general supervisory powers over Executive departments<sup>19</sup> empowers the Executive to coordinate and situate the Sheriff’s administrative fiscal functions within his own

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<sup>14</sup> Charter, Article XVI, Sections 16.01(2) and 16.01(3) reference general law qualifications and provide for additional County-specific qualifications and required certifications of the County Sheriff (e.g., “(a) Has at least five years of experience in law enforcement or in correctional facilities management.”) In none of these minimum requirements—state or county—lies any discussion of requisite fiscal experience of the Sheriff.

<sup>15</sup> See e.g., Code Section 202.10(D) (stating “[t]he Director of Health and Human Services is hereby authorized to employ and supervise directors, deputies, assistants, and employees as shall be conducive to the efficient performance of the duties of the Department of Health and Human Services”), and Code Section 202.05(6) (stating “[t]he Director of Law shall supervise and manage the Department of Law and may employ such number of deputies, assistants, and employees as s/he determines to be reasonably necessary to assist him/her in carrying out his/her powers and duties and as is consistent with approved budgetary parameters determined by Council”).

<sup>16</sup> See *Niz-Chavez v. Garland*, 593 U.S. 155, 160, 141 S. Ct. 1474, 209 L. Ed. 2d 433 (2021) (explaining that the Sixth Circuit Court of Appeals interprets statutes by first exhausting “all the textual and structural clues bearing on [its] meaning” and characterizing textual analysis as “the touchstone for modern day statutory interpretation” (citation modified)).

<sup>17</sup> See e.g., R.C. 1.62(A) (referencing the “exercise [of] the same powers or perform[ance of] the same acts, duties, or functions”), R.C. 124.04 (“the powers, duties, and functions of the department of administrative services...”), R.C. 307.847 (“the functions, powers, duties, and obligations of the county records commission...”), and R.C. 118.07 (“[the financial supervisor shall] have the following powers, duties, and functions...”). R.C. 321.37 references “fiscal duties” of the county treasurer and R.C. 319.26 the “fiscal duties” of the county auditor because that is the very nature of each of those offices.

<sup>18</sup> *Id.* at 2296; see also Supervision, Black’s Law Dictionary (10th ed. 2014) (defining it as “[t]he series of acts involved in managing, directing, or overseeing persons or projects”) (emphasis added).

<sup>19</sup> See *State ex rel. Lundein v. Synenberg*, 2024-Ohio-6201, para. 23 (8th Dist.) (“[i]n Cuyahoga County, the appointed sheriff’s office is part of the executive branch”).

Fiscal or Treasury Departments.<sup>20</sup> Indeed, it is not clear what meaning “[w]ith the approval of the County Executive” could possess in County Code Section 202.07(B) if not that it is only with the continued approval of the Executive that the Sheriff’s supervision of non-duty related Departmental functions, such as fiscal functions, can occur.<sup>21</sup>

With respect to the Charter Amendment, the legal effect of adding “duties...established by ordinance that are not inconsistent with those provided by general law” to the Sheriff’s provisions within the Charter, where none such duties existed before, was to make any duties enumerated in County Code Section 202.07 (as the only duties established by ordinance specific to the Sheriff) that are not inconsistent with general law the Charter duties of the Sheriff. Because—in accordance with the analysis in Section II below—the Sheriff’s status as an “appointing authority” does not speak to powers or duties of supervision over the Department’s fiscal functions under either general law or county law, one such additional duty is in fact the Sheriff’s ongoing duty to have retained the approval of the Executive in order to supervise “the Department’s functions.” This interpretation aligns with the fact the County Executive is the Sheriff’s own “appointing authority” under the County’s “home rule” government.<sup>22</sup>

Indeed, Charter Article III, Section 3.09(2), recognizes that County “departments and divisions and sections within departments, [are] under the supervision of the County Executive.” Charter Article II, Section 2.03, imposes upon the Executive the responsibility to conduct and pursue all duties of an administrative nature—including fiscal administrative duties. Thus, to the extent the Executive, as the chief executive officer of the County, exercises his ultimate discretion over the County’s administrative affairs to rescind approval of the Sheriff’s supervision of the Department’s fiscal functions under Code Section 202.07(B), in accordance with the plain meaning of the word “supervise”, discussed above, the Executive may direct the Sheriff to accord with his Charter duty to accede to the Executive’s own supervision of such functions.<sup>23</sup> Put differently, within the third sentence of Code Section 202.07(B), Council made an allowance for the Executive’s delegation of some portion of his general administrative duties under the Charter to the Sheriff as departmental functions. To the extent the Executive’s supervision were to reveal legal issues, risk, or noncompliance concerning the proper performance of those functions, the Executive is bound by his own Charter duties, in addition to the plain terms of Code Section 202.07, to exercise the discretion to take back that delegation of supervision in the interests of accountability and reduction of risk.<sup>24</sup> Indeed, this result—the Sheriff’s oversight of the Sheriff’s

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<sup>20</sup> Further support for this proposition beyond the plain meaning of “supervision” is discussed with respect to R.C. 305.19, below.

<sup>21</sup> *Bryan v. Hudson*, 77 Ohio St.3d 376, 380, 1997-Ohio-261, 674 N.E.2d 678 (1997) (“[w]hen a court interprets the meaning of a statute, the court must give effect to all of the statute’s words” so that none are rendered meaningless); *see also State ex rel. Cater v. City of N. Olmsted*, 69 Ohio St.3d 315, 324, 1994-Ohio-488.

<sup>22</sup> “Appointing authority”, while not defined in the Charter, is defined in the Ohio Revised Code as “the officer, commission, board, or body having the power of appointment to, or removal from, positions in any office, department, commission, board or institution.” R.C. 124.01(D) (emphasis added). This definition of “appointing authority” includes appointment alone and does not include fiscal functions nor supervision of those functions.

<sup>23</sup> To restate a recent example, see the movement of the Cuyahoga County Sheriff’s Department Commissary bank account under the County Treasurer’s Office based on a recommendation made in the AIG’s Report of Investigation 21-0070-I.

<sup>24</sup> *See* Preamble, Charter (framing the overarching purpose of the County’s “home rule” government as “a more representative and accountable form of governance”). *See also* AIG ROIs 24-001, 24-0025, 24-0026, and 24-0027, highlighting issues regarding

Department's non-duty related administrative functions being subject to the continual approval of the chief executive officer of the County—also makes good common sense from a perspective of taxpayer accountability. The County—not the Sheriff—bears ultimate responsibility and exposure to potential liability<sup>25</sup> in seeing that County functions—and particularly administrative fiscal functions—are properly performed.<sup>26</sup>

**II. The Executive is the appointing authority of the Sheriff. That the Sheriff is an “appointing authority” over his employees does not confer the necessity for nor power over departmental fiscal functions under general law or the Charter.**

Pursuant to ORC Chapter 311 *et seq.*, a duly elected sheriff for a county is vested with certain duties and responsibilities including protecting the peace, running the county jail, hiring deputy sheriffs, promulgating policies pertaining to deputy sheriffs, offering personnel training, and providing medical services. Although the Sheriff has no explicit nor exclusive Charter duty or power to perform fiscal functions or create a fiscal department, the Sheriff may possess a *power* to do so that is not in conflict with general law as conferred by ordinance under the Charter Amendment.<sup>27</sup> We respectfully disagree with the conclusion that “under R.C. Chapter 311, R.C. 325.17 and R.C. 305.23, the general law vests county sheriffs with appointing authority *which necessarily includes maintaining its own personnel and fiscal departments.*” (Emphasis added.) For the following reasons, we would submit that no such power has been conferred on the Sheriff by virtue of making the Sheriff an “appointing authority” under the general law or Charter under Article XVI, Section 16.01.

First, at first glance and in isolation, the phrase “may appoint and employ” may appear straightforward. The words of a statute, however, “shall be read and construed with their context.”<sup>28</sup> That the Sheriff under R.C. 325.17 “may appoint and employ the *necessary* deputies, assistants, clerks, bookkeepers, or other employees” (emphasis added) for his office is an important qualification. To the degree the Executive exercises his discretion under Code Section 202.07(B) to rescind approval of the Sheriff’s supervision of the Department’s administrative fiscal functions, employees within the Department who serve a fiscal function are no longer “absolutely needed” or “required” by the Department, and thus the Sheriff’s appointing authority under general law would no longer extend to the hiring of employees to fulfill a fiscal function.<sup>29</sup> Indeed, it is in

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fiscal functions located within the Sheriff’s Department.

<sup>25</sup> For instance, should the Sheriff face a finding for recovery for statutorily disallowed expenditures from a special revenue fund, the fact that the funds at issue were already spent could well result in the County’s general fund filling the hole.

<sup>26</sup> Charter, Article III, Section 3.09(2) (“...[t]o establish departments, and divisions and sections within departments, *under supervision of the County Executive*”) (emphasis added).

<sup>27</sup> In conditioning the Sheriff’s supervision of “Departmental functions” on the ongoing approval of the County Executive in existing County Code Section 202.07(B), Council in fact did the opposite.

<sup>28</sup> *Eastman v. State*, 131 Ohio St. 1, 1 N.E.2d 140 (1936), at para. 5 of the syllabus.

<sup>29</sup> Under principles of statutory interpretation, “[w]ords and phrases shall be read in context and construed according to the rules of grammar and common usage. Words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly.” R.C. 1.42. As “necessary” is not a technical word and is not legislatively defined, per R.C. 1.42, we turn to the dictionary meaning for common usage, which is “required.” Merriam-Webster’s Collegiate

context of the County’s “home rule” Charter form of government, which provides the Executive with broad and paramount powers and duties over matters of an administrative nature, including fiscal administration, that R.C. 325.17 must be read and understood.

Second, in citing R.C. Chapter 311, R.C. 325.17, and R.C. 305.23, it is not clear what is relied upon for the corresponding conclusion that “appointing authority...necessarily includes maintaining its own personnel and fiscal departments.” R.C. 305.23 does not relate to the appointing authority of an Executive officer but the legislative power of a board of county commissioners to “adopt a resolution...establishing a centralized service or services.”<sup>30</sup> To the extent we may credit it as evidence of the General Assembly’s intent, the fact that nowhere within the statute lies discussion, let alone prohibition, of the centralization of fiscal functions would seem to contradict the supposition that the appointing authority of an Ohio sheriff under general law “necessarily includes maintaining its own...fiscal department.” R.C. 325.17 is itself a general acknowledgement that the elected “officers mentioned in section 325.27 of the Revised Code may appoint and employ the necessary deputies, assistants, clerks, bookkeepers, or other employees for their respective offices.” R.C. 311.04 too acknowledges the permissive power of a general law sheriff to employ deputies but is inapposite to the instant question—the Sheriff’s general permissive power to employ deputies within the Sheriff’s department is not a matter in controversy.

None of the above-referenced statutes suggest that, under general law, the Sheriff as appointing authority necessarily includes the Sheriff’s Department maintaining its own fiscal department. Indeed, R.C. 305.19—cited by *McFaul* and which specifically applies to a county sheriff—is one provision of the general law in which a fiscal, administrative duty (to “take all necessary measures to rectify errors in...reports and to trace and correct discrepancies between them”) is conferred directly on the “board of county commissioners” (in the County’s case, the Executive). That the Executive is empowered to, upon receipt of the Sheriff’s reports, “take *all necessary measures*” (emphasis added) to correct errors and discrepancies in the Sheriff’s financial reporting under general law stands as further evidence that the Executive’s fiscal supervisory power over the Sheriff’s Department extends further than mere observation. Indeed, the power to *take all necessary measures*—especially in the case of any recurrent unreliability of records—might well include such measures as the Executive’s internalization of the Sheriff’s fiscal function. Through Charter Article II, Section 2.03 (granting the Executive “all powers and duties of an administrative nature...vested in or imposed upon the board of county commissioners by general law”) and Charter Article III, Section 3.09(2) (“under the supervision of the County Executive”), the Executive is granted broad and paramount duties of administration and supervision—which exercise in this case does not contradict nor conflict with the Sheriff’s “appointing authority.”

Finally, even assuming “appointing authority” under general law confers a right to internal personnel and fiscal departments, to the degree the Executive’s internalization of the Sheriff’s fiscal functions under the Charter were construed as conflicting, the exercise of such administrative discretion is squarely within the County’s “home rule” authority as a matter of local self-

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Dictionary (11th ed.).

<sup>30</sup> R.C. 305.23(A)(2).

government.<sup>31</sup> To be a matter of local self-government, under Ohio law, a piece of local legislation or a Charter adopted under the Ohio Constitution “must relate ‘solely to the government and administration of the internal affairs of the municipality.’”<sup>32</sup> “In general...matters of wholly internal interest not affecting citizens outside of the municipality, such as structure of government or *the definition of powers and duties of different departments*, and the method and manner of selecting public officials, are matters of local self-government.” (Emphasis added.)<sup>33</sup> Further, “[i]f the ordinance is one relating solely to matters of self-government, the [home rule] analysis stops, because the Constitution authorizes a municipality to exercise all powers of local self-government within its jurisdiction.”<sup>34</sup> There is clearly no statewide concern nor extraterritorial effect inherent in or precipitated by fiscal functions of the Sheriff being onboarded to the Office of the Fiscal Officer.<sup>35</sup> Thus, the County’s “home rule” Charter powers and provisions on this subject govern over any general law which is potentially in conflict.<sup>36</sup> Indeed, in the law enforcement employment context, the Ohio Fifth District Court of Appeals has concluded that a “home rule” charter’s assignment of duties regarding the “appointing, promoting, disciplining, transferring, demoting, and discharging employees” of a local police department to a “municipal administrator” who was “subject to the authority of the mayor” conflicted with—and therefore supplanted—application of R.C. Chapter 737 with respect to employment of a police officer.<sup>37</sup>

### **III. The Charter, County Code, and general law compel the conclusion that the Charter intended to vest in the County Executive broad powers spanning the County’s fiscal administrative affairs and functions. The Sheriff’s appointing authority cannot override the County Executive’s own Charter duty to ensure the administrative functions of the County are properly performed.**

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<sup>31</sup> See Ohio Att’y Gen. Op. No. 85-039, syll., para. 2.

<sup>32</sup> *Marich v. Bob Bennett Constr. Co.*, 116 Ohio St.3d 553, 2008-Ohio-92, 880 N.E.2d 906, ¶ 11, quoting *Beachwood v. Cuyahoga Cty. Bd. of Elections*, 167 Ohio St. 369, 148 N.E.2d 921 (1958).

<sup>33</sup> See Vaubel, *Municipal Corporations and the Police Power in Ohio*, at 31(1968) (emphasis added). Local government powers are those that “involve the exercise of the functions of government, and they are local in the sense that they relate to the municipal affairs of the particular municipality.” *Fitzgerald v. Cleveland* (1913), 88 Ohio St. 338, 344, 103 N.E. 512, 513-14.

<sup>34</sup> *Marich*, 2008 Ohio 92, at 880; see also *Ohio Assn. of Pub. School Emps., Chapter No. 471 v. Twinsburg*, 36 Ohio St.3d 180, 182, 522 N.E.2d 532 (1988) (“municipal charter and ordinance provisions enacted under the power of local self-government prevail over state statutes, and only municipal regulations enacted pursuant to a city’s police powers are subject to the general laws of the state”).

<sup>35</sup> *Am. Fin. Servs. Ass’n v. City of Cleveland*, 112 Ohio St. 3d 170, 2006-Ohio-6043, 858 N.E.2d 776, ¶ 29, quoting Vaubel, *Municipal Home Rule in Ohio*, at 1108 (1978). [T]he [statewide concern] doctrine is relevant only in ‘deciding, as a preliminary matter, whether a particular issue is “not a matter of merely local concern, but is of statewide concern, and therefore not included within the power of local self-government.”’; *State ex rel. Evans v. Moore*, 69 Ohio St.2d 88, 90, 431 N.E.2d 311 (1982) (holding even if the regulation is a matter of local concern, some courts have held the state may still invalidate the regulation if it has “significant” extraterritorial effects).

<sup>36</sup> See *State ex rel. Bindas v. Andrish*, 165 Ohio St. 441, 136 N.E.2d 43 (1956) (holding of Ohio Supreme Court concluding that that when a municipal charter includes language regarding a subject, it can be inferred that the charter provisions reflect the municipality’s intent to fully supplant statutes in conflict with charter that would otherwise apply).

<sup>37</sup> *Murphy v. Village of Powell*, 5th Dist. Delaware Nos. 95-CA-E-12-093, 95-CA-E-12-095, 1996 WL 488017, \* 2 (July 29, 1996).

The Ohio Supreme Court has held that “language used in a municipal charter should be construed according to its ordinary and common usage.”<sup>38</sup> That the County Executive is the “chief executive officer” under Article II of the Charter, in the term’s ordinary and common usage, means that the Executive is “the person highest in authority” with respect to all Executive departments and/or agencies.<sup>39</sup> As the Ohio Eighth District Court of Appeals (post-Charter Amendment) has affirmed, “[i]n Cuyahoga County, the appointed sheriff’s office is part of the executive branch” and is invested with “executive duties.”<sup>40</sup> Thus, in absence of the Charter providing otherwise, the County Executive is the person highest in authority with respect to the administrative functions of the Sheriff’s Department.

For each of the reasons enumerated below in this Section III and in accordance with the principles of charter interpretation laid out above, the administrative duties conferred on the Executive through Charter Article II, Section 2.03, fully encompass the fiscal functions of the Sheriff’s Department. Again, that Section reads:

The County Executive shall have all the powers and duties of an administrative nature under this Charter and such powers and duties of an administrative nature, except as otherwise provided herein, as are vested in or imposed upon boards of county commissioners by general law.

First, we would submit the lack of a County Code Section specifying the interrelation and/or supervisory authority of the Executive over the Fiscal Officer’s Office (as exists for the Sheriff, Director of Law, Director of Health and Human Services *and the departments of all other Executive-appointed officers* within Chapter 202 of the County Code) is strongly suggestive of the centrality and inseparability of fiscal administrative functions to the Executive’s Charter directive to perform the administrative duties of the County. Under Article V, Section 5.02, of the Charter, the County’s Fiscal Officer is appointed by the Executive and serves at his pleasure. It is through the Fiscal Office, and more specifically, the General Accounting and Financial Reporting Department (both under the control of the Executive-appointed Fiscal Officer) that the Executive carries out and oversees the County’s administrative fiscal functions. Among other daily recordkeeping, reconciliation and audit responsibilities, the Fiscal Officer and Fiscal Department assist the Executive in carrying out a responsibility that is ultimately his as the head overseer of the expenditure of budgeted funds: administering the County’s operating budget under Charter Article II, Section 2.03(9). With reference to the foregoing, it is clear that administrative fiscal functions are at the heart of the Executive’s “powers and duties of an administrative nature” under Charter Article II, Section 2.03.

Second, the word “administrative...connotes of or pertains to administration, especially management, as by managing or conducting, directing, or superintending, the execution, application or conduct of persons or things.”<sup>41</sup> Although the Charter does not specifically define

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<sup>38</sup> *State ex rel. Fattlar v. Boyle*, 83 Ohio St.3d 123, 127, 698 N.E.2d 987 (1998).

<sup>39</sup> “Chief” is defined as “the head or leader of an organized body of people; the person highest in authority.” See *Chief*, Dictionary.com, <https://www.dictionary.com/browse/chief> (last visited December 8, 2025).

<sup>40</sup> See *Lundeen*, 2024-Ohio-6201, at para. 23.

“administrative”, the common meaning of “duties...of an administrative nature” as set forth in Charter Article II, Section 2.03, has been interpreted to include the fiscal functions of local government (“[duties] that require specialized training and experience or intimate knowledge of the fiscal or other affairs of government to make a rational choice are properly characterized as administrative”<sup>42</sup>). In line with these cases, the Sixth Circuit Court of Appeals has itself characterized “[p]reparation and maintenance of all fiscal records necessary for the daily operation of [a municipal] office” as “administrative...in nature.”<sup>43</sup> In sum, the meaning of “administrative” in Charter Article II, Section 2.03’s directive that “[t]he County Executive shall have all the powers and duties of an administrative nature” clearly includes those “Departmental [fiscal] functions” such as those still presently within the Sheriff’s Department.<sup>44</sup>

Third, ORC Chapter 311 is consistent that any funds received by the Sheriff by virtue of operation of his office which are unused at the end of the fiscal year must legally be paid into the general fund of the County.<sup>45</sup> In our view, an argument that the Sheriff’s Department must retain fiscal functions and employees to pay collected, unused funds back into the general fund does not align with the circumstances at hand.<sup>46</sup> Similarly, that the County’s Credit Card Program Policy and Procedures necessitates appointing authorities’ (including the Sheriff’s) application to the Fiscal Office under R.C. 301.27(D) for approval to use a county credit card<sup>47</sup>—which use requires monthly disclosure of expenses to the Fiscal Office—cannot be demonstrative of a statutory intent that an applying department must retain internal fiscal employees “necessary” to perform recordkeeping of such expenses when the entirety of the underlying functions have been internalized by the Fiscal Office.

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<sup>41</sup> See Black’s Law Dictionary 45 (6th ed. 1990).

<sup>42</sup> See *McAlister v. City of Fairway*, 289 Kan. 391, 212 P.3d 184, 194 (Kan. 2009) (emphasis added); *see also Town of Whitehall v. Preece*, 1998 MT 53, 11 29, 35, 288 Mont. 55, 956 P.2d 743, 749-50.

<sup>43</sup> *Peterson v. Dean*, 777 F.3d 334, 338, 353 (6th Cir. 2015).

<sup>44</sup> For clarity, we in no way mean to imply by way of this analysis that the same logic would necessarily apply to County Offices which are not headed by Executive-appointed officials.

<sup>45</sup> See, e.g. R.C. 311.17(B)(5) (when a county sheriff collects a legal fee imposed pursuant to R.C. 311.17 he shall pay it into the general fund of the county), R.C. 325.071 (requiring a county sheriff to pay any unexpended furtherance of justice funds into the county treasury), R.C. 325.31 (a county sheriff “shall pay into the county treasury, to the credit of the general county fund, on the warrant of the county auditor, all fees, costs, penalties, percentages, allowances, and perquisites collected by his office”), and R.C. 341.15 (“[a]t the end of each quarter of each calendar year, a sheriff in this state shall account for and pay to the county treasurer all money received by the sheriff as provided by sections 341.13 and 341.14 of the Revised Code”).

<sup>46</sup> A January 9, 2023, Letter from the Sheriff’s Fiscal Department to the County’s Fiscal Office requests “funding for the Sheriff’s Transportation Account at Key Bank” in the amount of \$75,555.42, the equivalent of fifty percent of the Sheriff’s salary (\$80,631.20) *less the balance of \$5,075.78 remaining at the end of 2022.*” (emphasis added). R.C. 325.07, like the statutes cited in the footnote immediately above, is clear that “any unexpended balance of such fund remaining in the hands of the sheriff, at the end of each succeeding fiscal year, shall be returned and paid into the county treasury by the sheriff”—not retained and offset against future distributions.

<sup>47</sup> See R.C. 1.62(A) (discussed below); Cuyahoga County Credit Card Program Policy and Procedures at 3 (“The County requires Departments and elected officials to apply for participation in the program with the Fiscal Office and receive training for Cardholders and Agency Coordinators in the use of credit cards and related processes.”). We would note that the Sheriff’s Manual shares in this interpretation: “[a] Sheriff’s use of [a] credit card to pay for work-related expenses *must be in accordance* with the County’s credit card policy and R.C. 301.27.” (Emphasis added.) To use the Sheriff’s credit card, “[e]mployees of the Sheriff’s office may be authorized...*in accordance with R.C. 301.27(C).*” (Emphasis added.)

To reiterate Section II above, to the degree the Executive exercises his discretion under Code Section 202.07(B) to rescind approval of the Sheriff's supervision of the Department's administrative fiscal functions, employees within the Department who serve a fiscal function cannot be "absolutely needed" or "required" by the Department, and thus the Sheriff's appointing authority under general law would no longer extend to the hiring of any employees to fulfill a vacated fiscal function.<sup>48</sup> Indeed, that the Sheriff's "cashbook" in R.C. 311.11 is required to "be furnished by *the County*" (which must mean the Executive in case of Cuyahoga County because Council can only exercise its powers through legislation under Section 3.09 of the Charter) and that the cashbook under R.C. 311.12, is "open to search and inspection of all persons" seems demonstrative of the general law expectation of *County Fiscal's*<sup>49</sup> *exercise of fiscal supervision over the Sheriff's Department's accounting and recordkeeping of departmental funds*.<sup>50</sup> As compared to an elected county sheriff under general law who is accountable to his or her electing citizens, an elected Executive's discretion to decide delegation of fiscal oversight functions to his appointed Sheriff is in fact bolstered by the structural distinctions of the County's Charter form of government wherein the Sheriff retains accountability to the County Executive.

Finally, even if the Sheriff's status as an appointing authority did confer the innate power to maintain a fiscal department, such power cannot trump the basic hierarchy of the County's "home rule" government as set out in the Charter. Article II, Section 2.01, of the Charter is clear that the Executive "shall be *the chief executive officer of the County*." (Emphasis added.) The Sheriff's Department is not an island in the County's "home rule" governmental scheme, but rather one of many departments subject to executive supervision with an executive-appointed head. It is in the context of the Executive's expansive and fundamental administrative powers and duties that Charter Article XVI, Section 16.01's naming of the executive-appointed Sheriff as an "appointing authority" must be read. In other words, the Sheriff's status as "appointing authority" of his Department cannot be construed to override the Executive's own Charter duties and powers as chief executive officer of the County.

For instance, to the extent the Sheriff does not outfit his Department with personnel sufficient to adequately perform necessary administrative functions of the County, such as statutory fiscal recordkeeping functions (the Executive's Charter duty under Section 2.03) the Sheriff's discretion to hire and fire as an "appointing authority" could be superseded by an express directive from the Executive to hire sufficient personnel to perform those functions. By the same token, in the remote hypothetical that the Sheriff's fiscal personnel were to perform potential liability-generating actions in administration of the Department's fiscal functions, so too would

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<sup>48</sup> See fn. 29 *supra*.

<sup>49</sup> See Sheriff's Manual at H4 (noting under 'Record of Office' that "R.C. 2335.38 requires the Sheriff to keep a book showing in detail all the moneys paid by the Sheriff into the county treasury. The book must include proper references showing where each item may be found on the respective cashbooks...[t]he Sheriff must furnish a detailed statement of each item to the County Auditor.") (emphasis added).

<sup>50</sup> See also R.C. 305.19's imposition of a duty on the board of county commissioners to "compare the annual reports and statement made to it by...the sheriff...[and] take all necessary measures to rectify errors in such reports and to trace and correct any discrepancies between them" and provision that [a]ll such reports shall be recorded by the county auditor in a book kept specifically for that purpose."

the Executive be within his Article II Charter authority to direct the Sheriff to fire such employees if the Sheriff did not do so him/herself—despite the undeniable fact that the Sheriff is the “appointing authority” for his Department. It is exactly this kind of escape valve towards fulfillment of the Executive’s Charter duties that the powers conferred by County Code Section 202.07(B) provide.

To hold otherwise, should the Sheriff not adequately staff his fiscal department and omit to perform fiscal recordkeeping functions as to funds collected in operation of his Department, the fact that the Sheriff is an “appointing authority” would mean that there is no action the Executive could legally effect to ensure the proper performance of those functions as is his own Charter duty under Article II, Section 2.01. Considering the above examples taken to their logical extreme, such an expansive interpretation of “appointing authority” would allow executive-appointed County appointing authorities to compromise the efficient and effective operation of County governance by failing to acknowledge and implement the express dictates of the County’s chief executive officer. Proper interpretation of the Charter must align with the basic hierachal relationship between Executive-appointed officers and the Executive as set out in the Charter. As “chief executive officer of the County” and the Sheriff’s own appointing officer, the Executive must logically possess superior administrative authority to the Sheriff under the County’s Charter form of “home rule” government. The problematic results of a contrary interpretation as illustrated above demonstrate that the confines of the Sheriff’s “appointing authority” must be read in the context of the Charter and Revised Code as a whole.<sup>51</sup> Accepting that the County Executive is the chief officer of the Executive branch of the County’s Charter government (of which the Sheriff and his Department are a part<sup>52</sup>), we would submit that even in the absence of County Code Section 202.07, the chief executive officer of the County must have the practical ability to ensure that the County’s general administrative functions are properly carried out within the very Executive departments he is duty-bound by the Charter to supervise.<sup>53</sup>

## Summary

The Sheriff is an “appointing authority”, but that fact must be interpreted in the context of the Charter and general law applicable to mere administrative functions (and not Chapter 311 duties and responsibilities). This approach properly harmonizes the various provisions in play such that Section 202.07(B) of the Code is not in conflict with but is rather consistent with the Sheriff’s “appointing authority” powers—as well as the County Executive’s fundamental administrative duties—set forth in the Charter.

**\*\*\* ATTORNEY-CLIENT PRIVILEGED & CONFIDENTIAL \*\*\***

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<sup>51</sup> See *Cincinnati v. Ohio*, 1st Dist. No. C-110680, 2012 Ohio 3162, para 9.

<sup>52</sup> See *Lundeen*, 2024-Ohio-6201, at para. 23.

<sup>53</sup> Charter, Article III, Section 3.09(2) (“[t]o establish departments, and divisions and sections within departments, *under supervision of the County Executive...*”) (emphasis added).