

**OPINION NO. 66-183**

**Syllabus:**

Township constables may be employed by other townships as police protection as a result of a mutual aid contract between the two townships pursuant to Section 505.441, Revised Code, and consequently, such constables are subject to the workmen's compensation provisions as provided in Section 505.441.

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**To: David F. McLain, Trumbull County Pros. Atty., Warren, Ohio**  
**By: William B. Saxbe, Attorney General, December 28, 1966**

Your request for my opinion reads as follows:

"Under the provisions of Section 505.441, Ohio Revised Code, township trustees are empowered to enter into contracts with other townships for employing police protection. The section embraces the township police departments and also provides that they will be fully covered under the provisions of Chapter 4123.01, et seq. for workmen's compensation.

"Do the provisions of Section 505.441 also contemplate the use of township constables under such a mutual aid contract, and would they also be covered by the workmen's compensation act."

Section 505.441, Revised Code, provides:

"In order to obtain police protection or to obtain additional police protection in times of emergency, any township may enter into a contract with one or more townships, municipal corporations, or county sheriffs upon such terms as are agreed to by them, for services of police departments or use of police equipment, or the interchange of the service of police departments or use of police equipment within the several territories of the contracting subdivisions, if such contract is first authorized by respective boards of township trustees or other legislative bodies.

"Section 701.02 of the Revised Code, so far as it is applicable to the operation of police departments, applies to the contracting political subdivisions and police department members when such members are rendering service outside their own subdivision pursuant to such contract.

"Police department members acting outside the subdivision in which they are employed may participate in any pension or indemnity fund established by their employer to the same extent as while acting within the employing subdivision, and are entitled to all the rights and benefits of sections 4123.01 to 4123.94, inclusive, of the Revised Code, to the same extent as while performing service within the subdivision.

"Such contract may provide for a fixed annual charge to be paid at the time agreed upon and stipulated in the contract."

The pertinent consideration in answering your inquiry is whether a "constable" comes within the definition of the term "police department" as employed in Section 505.441, *supra*. Section 505.49, Revised Code, deals directly with this problem. Enacted September 24, 1963, it provides in pertinent part:

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"\* \* \* The township trustees may include in the township police district and under the direction and control of the chief of police, any constable appointed pursuant to section 509.01 of the Revised Code, or designate the chief of police or any patrolman appointed by him as a constable, as provided for in section 509.01 of the Revised Code, for the township police district."

Thus Section 505.49, supra, undoubtedly seems to qualify a constable as a member of a township "police department" as the term is used in Section 505.441, supra. This is further substantiated by Opinion No. 1309, Opinions of the Attorney General for 1960, page 310, which views township police protection as an integrated function, recognizing that a "varying number of men and police equipment" may be needed to augment the protection afforded by constables. The opinion also sees Section 505.441, supra, as supplementing this end. Thus, I conclude that constables constitute a part of the township "police departments" and as such can be employed in the manner provided by Section 505.441, supra.

Being within the purview of such statute, a constable would also logically be subject to workmen's compensation provisions of Sections 4123.01 to 4123.94, Revised Code, as he would be if employed in his home county.

Therefore, it is my opinion and you are advised that township constables may be employed by other townships as police protection as a result of a mutual aid contract between the two townships pursuant to Section 505.441, Revised Code, and consequently, such constables are subject to the workmen's compensation provisions as provided in Section 505.441.