

OPINION NO. 91-037**Syllabus:**

1. A county sheriff is authorized, pursuant to the common law powers vested in him by R.C. 311.08(A), to commission county narcotics agents as "special deputy sheriffs" with limited law enforcement powers.
2. Individuals employed by a county as undercover narcotics agents for the purpose of investigating and gathering information pertaining to persons suspected of violating R.C. Chapters 2935 and 3719, are not authorized by R.C. 2935.03(A) to make warrantless arrests of persons found violating a law of this state.
3. A board of county commissioners may enter into an agreement with a municipal corporation or township located within that county, under R.C. 307.15, to grant county narcotics agents the same police powers exercised by the peace officers of the contracting municipal corporation or township.
4. A board of county commissioners is not authorized by either R.C. 505.50 or R.C. 737.04 to enter into a contract which vests county narcotics agents with arrest and general police powers.
5. Neither R.C. 505.431 nor R.C. 737.041 authorizes a board of county commissioners to confer arrest or general police powers upon county narcotics agents.

To: Steven C. LaTourette, Lake County Prosecuting Attorney, Painesville, Ohio
By: Lee Fisher, Attorney General, September 4, 1991

I have before me your request for my opinion concerning the deputation of county narcotics agents by the county sheriff and the arrest powers of county narcotics agents. Information provided indicates that the county narcotics agents are employed by the county and are not subject to the control and supervision of the county sheriff. Further, the county sheriff neither fixes nor provides the compensation of the county narcotics agents. In light of these facts, you ask that I address the following:¹

1. Does a county sheriff possess the authority to commission narcotics agents as deputy sheriffs with general or limited law enforcement powers without at the same time retaining direct supervision and control over their daily activities?
2. Does R.C. 2935.03(A) authorize undercover narcotics agents employed by a county narcotics agency to make arrests for violations of state law?
3. May a board of county commissioners enter into mutual aid agreements with the townships and municipal corporations located within its county pursuant to R.C. 307.15 to grant narcotics agents the same police powers the various participating political subdivisions possess?
4. Does a board of county commissioners have the authority to enter into mutual aid contracts or agreements with other political subdivisions within the county to provide for expanded

¹ Pursuant to telephone conversations between members of our respective staffs, I have reworded your specific questions for ease of analysis.

jurisdictional powers of municipal police departments or township police departments, in order to invest narcotics agents with arrest and general police powers?

Deputizing County Narcotics Agents

The answer to your first question depends upon the authority of the county sheriff to deputize individuals as deputy sheriffs. In Ohio, a public officer generally has only those powers which are prescribed by statute or necessarily implied therefrom. *United States v. Laub Baking Co.*, 283 F. Supp. 217, 220 (N.D. Ohio 1968); 1989 Op. Att'y Gen. No. 89-074 at 2-339; *see also* R.C. 311.08(A). R.C. 311.08(A) greatly expands the scope of a county sheriff's statutory powers, however, by expressly authorizing the county sheriff to "exercise the powers conferred...upon him...by the common law." *See United States v. Laub Baking Co.*, 283 F. Supp. at 220.

Pursuant to R.C. 311.04, a county sheriff is empowered to "appoint, in writing, one or more deputies." *See also* R.C. 325.17 ("[t]he officers mentioned in section 325.27 of the Revised Code² may appoint and employ the necessary deputies...for their respective offices, fix the compensation of such employees and discharge them, and shall file certificates of such action with the county auditor" (footnote added)). In addition to the express power to appoint deputies granted in R.C. 311.04, the county sheriff also possesses the common law power to appoint "special deputy sheriffs." *See State ex rel. Geyer v. Griffin*, 80 Ohio App. 447, 76 N.E.2d 794 (Allen County 1946); 1977 Op. Att'y Gen. No. 77-027; 1965 Op. Att'y Gen. No. 65-177; *see also State v. McDaniel*, 44 Ohio App. 2d 163, 337 N.E.2d 173 (Franklin County 1975); 1989 Op. Att'y Gen. No. 89-071; Note, *Special Police: A Benefit or a Threat?*, 47 Ohio St. L.J. 261 (1986). A county sheriff, therefore, has the authority to appoint both "regular deputy sheriffs" and "special deputy sheriffs."

"Regular deputy sheriffs," generally, are those deputy sheriffs assigned to full-time duty under the supervision and control of the county sheriff and paid compensation from the county by the sheriff. *State ex rel. Geyer v. Griffin*, 80 Ohio App. at 448-49, 76 N.E.2d at 296; Note, *Special Police: A Benefit or a Threat?*, 47 Ohio St. L.J. at 264. Since your information indicates that the county narcotics agents in question will not be compensated by, or under the immediate supervision and control of, the county sheriff, the sheriff may not deputize these agents as "regular deputy sheriffs."

"Special deputy sheriffs," in contrast, are those deputies authorized to perform only some of the duties of the county sheriff, or appointed by the sheriff without being immediately assigned to perform any of his duties, but subject to duty from time to time as the sheriff in his discretion may determine. *State ex rel. Geyer v. Griffin*, 80 Ohio App. at 457, 76 N.E.2d at 300; Op. No. 89-071 at 2-326 and 2-327; *see* Op. No. 77-027 at 2-102 ("[t]he 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"); 1968 Op. Att'y Gen. No. 68-112 at 2-160 and 2-161 ("it is established that the sheriff may appoint individuals to carry out whatever duties he may see fit to assign them, for whatever length of time he deems such employment necessary, and such persons may be designated 'special deputy sheriffs'"); Note, *Special Police: A Benefit or a Threat?*, 47 Ohio St. L.J. at 264 ("[a] special deputy either serves outside the sheriff's department under the direction and supervision of another, such as a merchant, or serves the sheriff's department from time to time as needed"). County sheriffs may even appoint "special deputy sheriffs" "for the sole purpose of keeping peace and protecting the properties and enterprises of...industrial, manufacturing and other establishments[;]...such deputy sheriffs to be paid by the...establishments and to receive no compensation from the county by the sheriff of which they were so appointed." *State ex rel. Geyer v. Griffin*, 80 Ohio App. at 448, 76 N.E.2d at 296; *see also* 1985 Op. Att'y Gen. No. 85-056 at 2-207; *see, e.g., Ayers v. Woodard*, 166 Ohio St. 138, 140 N.E.2d 401 (1957); *State v. McDaniel; Duff v. Corn*, 84 Ohio App. 403, 87 N.E.2d 731 (Lawrence County 1947);

² The county sheriff is one of the officers mentioned in R.C. 325.27.

Garman v. O'Neil, 31 Ohio Law Abs. 650 (Ct. App. Summit County 1939). A "special deputy sheriff" so appointed does not serve under the immediate supervision and control of the county sheriff, but rather under the charge of the establishment providing such deputy sheriff's compensation. See, e.g., *Ayers v. Woodard*; *State v. McDaniel*; *Duff v. Corn*. A county sheriff, thus, has the authority to appoint "special deputy sheriffs" who are not subject to his immediate control and supervision.

Application of these principles of law to your specific question indicates that a county sheriff does possess the authority to commission county narcotics agents as "special deputy sheriffs," without at the same time retaining direct supervision and control over their daily activities.³ County narcotics agents so deputized may only perform the duties of the county sheriff for which they are "specially" commissioned. The county sheriff may, thus, limit the authority of county narcotics agents to the enforcement of statutes concerning illegal drug trafficking. See generally R.C. Chapter 2925 (drug offenses); R.C. Chapter 3719 (controlled substances). I find, therefore, that a county sheriff is authorized, pursuant to the common law powers vested in him by R.C. 311.08(A), to commission county narcotics agents as "special deputy sheriffs" with limited law enforcement powers.

Although a county sheriff possesses the power to commission as "special deputy sheriffs" individuals that are employed by a county as narcotics agents, the sheriff may only deputize such agents if he reasonably determines such deputization is necessary for the sheriff to discharge his statutory duties effectively. See *State ex rel. Kahle v. Rupert*, 99 Ohio St. 17, 19, 122 N.E. 39, 40 (1918) ("[e]very officer of this state or any subdivision thereof not only has the authority but is required to exercise an intelligent discretion in the performance of his official duty"). And the exercise of this discretion may not be delegated. See generally *State ex rel. Gilder v. Industrial Comm.*, 100 Ohio St. 500, 127 N.E. 595 (1919); *Brannon v. Board of Educ.*, 99 Ohio St. 369, 124 N.E. 235 (1919). In exercising this discretion, the county sheriff may consider any relevant factors, including, but not limited to, his potential liability for acts committed by such "special deputy sheriffs." See, e.g., R.C. 3.06(A) ("[t]he principal is answerable for the neglect or misconduct in office of his deputy"); R.C. 311.05 ("[t]he sheriff shall only be responsible for the neglect of duty or misconduct in office of any of his deputies if he orders, has prior knowledge of, participates in, acts in reckless disregard of, or ratifies the neglect of duty or misconduct in office of the deputy").

Authority to Make Arrests Pursuant to R.C. 2935.03(A)

Your second question asks whether R.C. 2935.03(A) authorizes undercover narcotics agents employed by a county to make arrests for violations of state law. According to information provided, an "undercover narcotics agent" is an individual who generally does not wear a uniform in the performance of his duties and is employed by the county, but not by the county sheriff, for the purpose of investigating and gathering information pertaining to persons suspected of violating

³ I note that it may appear at first glance that a county narcotics agent, upon being deputized as a "special deputy sheriff," holds two law enforcement positions. Prior opinions of the Attorney General which have considered the propriety of an individual holding two law enforcement positions have concluded that the simultaneous holding of two law enforcement positions is prohibited. See, e.g., 1989 Op. Att'y Gen. No. 89-044; 1987 Op. Att'y Gen. No. 87-002; 1986 Op. Att'y Gen. No. 86-007; 1985 Op. Att'y Gen. No. 85-021. The appointment of a county narcotics agent as a "special deputy sheriff" in the situation presented in your request letter, however, does not constitute the simultaneous holding of two law enforcement positions. Rather, the individuals in question only hold the position of county narcotics agent and are commissioned as "special deputy sheriffs" for the sole purpose of conferring limited law enforcement powers on the narcotics agents in order to enable them to discharge their duties more effectively. Cf. R.C. 5577.13 ("[t]he patrolmen of the county highways may be deputized by the sheriffs of the counties in which they are employed, as deputy sheriffs, but shall receive no extra compensation").

R.C. Chapters 2925 and 3719. *See generally* R.C. 109.79(B)(2) (defining "undercover drug agent" for purposes of R.C. 109.79).

R.C. 2935.03(A), which authorizes warrantless arrests by certain peace officers, provides:

A sheriff, deputy sheriff, marshal, deputy marshal, police officer, member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code, state university law enforcement officer appointed under section 3345.04 of the Revised Code, or Ohio veterans' home policeman appointed under section 5907.02 of the Revised Code shall arrest and detain, until a warrant can be obtained, a person found violating, within the limits of the political subdivision, metropolitan housing authority housing project, college, university, or Ohio veterans' home in which the peace officer is appointed, employed, or elected, a law of this state or an ordinance of a municipal corporation.

The express listing of the particular peace officers authorized to make warrantless arrests in R.C. 2935.03(A) implies that the General Assembly intended to limit such power to those officers so enumerated. *See Craftsman Type Inc. v. Lindley*, 6 Ohio St. 3d 82, 82, 451 N.E.2d 768, 769 (1983) (applying the principle of *expressio unius est exclusio alterius*, the "expression of one thing implies exclusion of another"). Division (A) of R.C. 2935.03 does not expressly include undercover narcotics agents within the list of peace officers authorized to make warrantless arrests. Thus, the question becomes whether an undercover narcotics agent is impliedly included within one of the positions expressly set forth in R.C. 2935.03(A). *See, e.g.*, 1961 Op. Att'y Gen. No. 2214, p. 261 (a state highway patrolman is a police officer for purposes of R.C. 2935.03).

Clearly, an undercover narcotics agent, as you have described such agent, is not a sheriff, deputy sheriff, marshal, deputy marshal, member of a police force employed by a metropolitan housing authority, state university law enforcement officer, or Ohio veterans' home policeman.⁴ Hence, the inquiry narrows to whether the term "police officer" encompasses an undercover narcotics agent. I note that the term "police officer" is not defined for purposes of R.C. Chapter 2935. It is commonly understood, however, that "police officers" are those individuals charged with the enforcement of the laws of this state and the preservation of the peace and safety of the political subdivision that has appointed or employed them. *See Black's Law Dictionary* 1156 (6th ed. 1990) (defining "police officer" as "[o]ne of the staff of persons employed in cities and towns to enforce the municipal laws and ordinances for preserving the peace, safety, and good order of the community"). *See generally* R.C. 1.42 (setting forth the rule of statutory construction that "[w]ords and phrases shall be read in context and construed according to the rules of grammar and common usage"). "Police officers," are conferred by statute, ordinance, or charter provision responsibility for enforcing the laws of this state. *See, e.g.*, R.C. 737.18 ("[t]he marshal, and the deputy marshals, policemen, or night watchmen under him shall have the powers conferred by law upon police officers in all villages of the state, and such other powers, not inconsistent with the nature of their offices, as are conferred by ordinance"); R.C. 5503.09 ("[t]he superintendent of the state highway patrol may, with the approval of the director of highway safety, designate one or more persons to be special police officers to preserve the peace and enforce the laws of this state"); *New York, Chicago & St. Louis R.R. Co. v. Fieback*, 87 Ohio St. 254, 264-65, 100 N.E. 889, 891 (1912) ("[p]olice officers, by whomever appointed or elected are generally regarded as public or state officers deriving their authority from the sovereignty, for the purpose of enforcing the observance of the law"); *Neapolitan v. United States Steel Corp.*, 77 Ohio Law Abs. 376, 149 N.E.2d 589 (Ct. App. Mahoning County 1956) (special policemen appointed and commissioned under the provisions of a city charter derive their authority directly from the sovereign); *City of Cleveland v. Kufrin*, 3 Ohio

⁴ A member of your staff has informed a member of my staff that the undercover narcotics agents in question have not been deputized as either deputy sheriffs or deputy marshals.

Misc. 2d 18, 446 N.E.2d 230 (Cleveland Mun. Ct. 1982) (a private police officer, holding a commission from the director of public safety as an "armed security guard" is authorized, under state statute [R.C. 737.05] and municipal charter, as well as municipal ordinance, to make a warrantless arrest for a misdemeanor committed in his presence); *cf.* R.C. 311.07(A) ("[e]ach sheriff shall preserve the public peace and cause all persons guilty of any breach of the peace, within his knowledge or view, to enter into recognizance with sureties to keep the peace and to appear at the succeeding term of the court of common pleas, and the sheriff shall commit such persons to jail in case they refuse to do so"); R.C. 509.05 (township constables "shall apprehend and bring to justice felons and disturbers of the peace, suppress riots, and keep and preserve the peace within the county"). *Compare* R.C. 2935.04 ("[w]hen a felony has been committed, or there is reasonable ground to believe that a felony has been committed, *any person without a warrant may arrest* another whom he has reasonable cause to believe is guilty of the offense, and detain him until a warrant can be obtained" (emphasis added)).

As stated above, the undercover narcotics agents in question are employed by the county to investigate and gather information pertaining to persons suspected of violating R.C. Chapters 2925 and 3719. My research has not disclosed a statutory provision which expressly confers a duty upon undercover narcotics agents to preserve the peace or to enforce the laws of this state within the county employing them.⁵ Additionally, there is no statute like R.C. 737.05, which permits cities to appoint private policemen, authorizing a board of county commissioners to appoint special policemen. Further, you have not indicated that a charter provision requires the undercover narcotics agents in question to conserve the peace or to enforce the laws of this state. Since no statute or charter provision expressly authorizes the undercover narcotics agents in question to conserve the peace or to enforce the laws

⁵ I note that in your request letter you have indicated that the undercover narcotics agents in question may be considered "law enforcement officers" for purposes of the Revised Code. The phrase "law enforcement officer" is defined for purposes of the Revised Code in R.C. 2901.01(K). More specifically, you cite subsections (2) and (4) of R.C. 2901.01(K) as possibly including within the breadth of their language undercover narcotics agents.

R.C. 2901.01(K)(2) provides that a law enforcement officer means

[a]n officer, agent, or employee of the state or any of its...political subdivisions, *upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred*, within the limits of such statutory duty and authority.... (Emphasis added.)

Clearly, the language of R.C. 2901.01(K)(2) does not encompass the undercover narcotics agents in question. Such agents are not statutorily conferred a duty to conserve the peace or to enforce all or certain laws. Further, I am not aware of a statute which authorizes the undercover narcotics agents in question to arrest persons found violating the laws of this state. *See generally* R.C. Chapter 2935 (setting forth provisions concerning the arrest of individuals). Instead, the duties of the undercover narcotics agents in question are limited to investigating and gathering of information pertaining to persons suspected of violating R.C. Chapters 2925 and 3719. *See* R.C. 109.79(B)(2).

R.C. 2901.01(K)(4), the other subsection about which you ask, provides that a law enforcement officer includes "[a] member of an auxiliary police force organized by county, township, or municipal law enforcement authorities, within the scope of such member's appointment or commission." Information provided indicates that the undercover narcotics agents in question do not operate in an agency organized by the county sheriff. Since the county sheriff is the county law enforcement authority, *see In re Sulzmann*, 125 Ohio St. 594, 597, 183 N.E. 531, 532 (1932) (per curiam); *State v. Rouse*, 53 Ohio App. 3d 48, 52, 557 N.E.2d 1227, 1231 (Franklin County 1988); *see also* R.C. Chapter 311, the undercover narcotics agents in question can not be considered as members of an auxiliary police force

of this state, such agents may not be considered to be included within the term "police officer."

Accordingly, I conclude that individuals employed by a county as undercover narcotics agents for the purpose of investigating and gathering information pertaining to persons suspected of violating R.C. Chapters 2925 and 3719, are not authorized by R.C. 2935.03(A) to make warrantless arrests of persons found violating a law of this state.

Agreements Pursuant to R.C. 307.15

Your third question asks whether a board of county commissioners may enter into "mutual aid agreements" with townships and municipal corporations⁶ located within its county pursuant to R.C. 307.15 to grant county narcotics agents the same police powers the various participating political subdivisions possess.⁷

R.C. 307.15, in part, provides:

The board of county commissioners may enter into an agreement with the legislative authority of any municipal corporation, township...and such legislative authorities may enter into agreements with the board, *whereby such board undertakes, and is authorized by the contracting subdivision, to exercise any power, perform any function, or render any service, in behalf of the contracting subdivision or its legislative authority, which such subdivision or legislative authority may exercise, perform, or render...* (Emphasis added.)

Accordingly, if the legislative authority⁸ of a municipal corporation or a township is empowered to perform a function or render a service, then a board of county commissioners may, pursuant to R.C. 307.15, enter into an agreement with that legislative authority to perform that function or render that service. *See, e.g.*, 1984 Op. Att'y Gen. No. 84-034 (syllabus, paragraph two) ("[u]nder R.C. 307.15 a county and a municipality may contract to have the county dog warden enforce municipal animal control ordinances within the municipality"); 1976 Op. Att'y Gen. No. 76-042 (syllabus) ("[a] county may, pursuant to R.C. 307.15 and R.C. 307.38, enter a contract to enforce building regulations throughout the corporate limits of a village which lies only partially within the county"). *See generally* 1958 Op. Att'y

organized by the county law enforcement authority. Hence, the undercover narcotics agents in question are not law enforcement officers as defined by R.C. 2901.01(K)(2) and (4).

In addition to the foregoing, you also state that the undercover narcotics agents in question are peace officers for purposes of R.C. 109.71-77, the peace officer training statutes. *See* R.C. 109.71; R.C. 109.79(B)(2). The fact that such agents are considered peace officers for purposes of R.C. 109.71-77, however, is not a substantive grant of police power. Consequently, I am unable to find that the fact that the undercover narcotics agents in question are peace officers for purposes of the peace officer training statutes, *see* R.C. 109.71-77, confers upon such agents a duty to preserve the peace or to enforce the laws of this state.

⁶ Pursuant to Ohio Const. art. XVIII, §1, municipal corporations are classified into cities and villages. *See* R.C. 703.01.

⁷ Based upon the information provided, the county narcotics agents in question will not provide all the police protection for the political subdivisions which enter into an agreement with the county. Rather, these agents will supplement the police protection services furnished by the law enforcement agencies primarily charged with the duty of providing police protection to individual political subdivisions. Consequently, I will address only the situation in which the county narcotics agents supplement the police protection already provided to a particular political subdivision by the county sheriff and the law enforcement agency of the subdivision.

⁸ For purposes of R.C. 307.15, "[l]egislative authority' means the board of county commissioners, board of township trustees, or the board, council, or commission of a contracting subdivision." R.C. 307.14(A).

Gen. No. 2292, p. 390 at 391 ("[c]ounty commissioners are authorized by Section 307.15, Revised Code, to enter into a contract with anyone of the public subdivisions named, relative to the performance by the county commissioners of part or all of the powers of such subdivision").

Municipal corporations and townships are authorized by statute to provide police protection to their inhabitants. *See* R.C. 505.48(A) (a township may form a township police district); R.C. 505.51 ("[t]he board of trustees of a township police district may levy a tax upon all of the taxable property in the township police district pursuant to sections 5705.19 and 5705.25 of the Revised Code to defray all or a portion of expenses of the district in providing police protection"); R.C. 509.01 (a township may appoint constables to preserve the township peace); R.C. 737.05 (providing police departments in cities); R.C. 737.051 ("[t]he legislative authority of a city may establish, by ordinance, an auxiliary police unit within the police department of the city"); R.C. 737.16 ("[t]he mayor shall, when provided for by the legislative authority of a village, and subject to its confirmation, appoint all deputy marshals, policemen, night watchmen, and special policemen"); R.C. 737.161 ("[t]he legislative authority of a village may establish, by ordinance, an auxiliary police unit within the police department of the village, and provide for the regulation of auxiliary police officers"). *See generally* 1960 Op. Att'y Gen. No. 1309, p. 310 at 311 ("[t]he legislature has assigned to political townships a specific responsibility for law enforcement"). The inhabitants of a township are furnished police protection by persons appointed or employed as township police officers or constables. *See* R.C. 505.48(A); R.C. 509.01. Similarly, the residents of a municipal corporation are provided police protection by individuals appointed or employed as marshals, deputy marshals, or policemen. *See* R.C. 737.05; R.C. 737.16. Since municipal corporations and townships have the power to confer police powers upon individuals, a board of county commissioners may enter into an agreement with the legislative authority of any municipal corporation or township, pursuant to R.C. 307.15, to exercise that power on its behalf. *See* 1958 Op. No. 2292 (syllabus) ("[u]nder the provisions of Section 307.15, Revised Code, a board of township trustees has authority to enter into an agreement with the board of county commissioners, whereby such board will furnish to the township such police protection as the township is authorized by law to furnish for itself"); *see also* R.C. 145.01(CC) ("'[d]rug agent' means any person who is...employed full-time as a narcotics agent by a county narcotics agency created pursuant to section 307.15 of the Revised Code" (emphasis added)). It follows, therefore, that a board of county commissioners may enter into an agreement with a municipal corporation or township located within that county, under R.C. 307.15, to grant narcotics agents the same police powers exercised by the peace officers of the contracting municipal corporation or township.

Authority to Invest Narcotics Agents with Arrest Power Through Mutual Aid Agreements

Your final question asks whether the sections of the Ohio Revised Code authorizing a municipal corporation or township to enter into a contract or agreement whereby its peace officers exercise police powers outside the territorial boundaries of the municipal corporation or township may be utilized in order to confer arrest and general police powers upon county narcotics agents.

Several Revised Code sections authorize the exercise of interjurisdictional police power by the peace officers of townships and municipal corporations, either pursuant to contract, *see, e.g.*, R.C. 505.43; R.C. 505.50; R.C. 737.04, or without a contract, *see, e.g.*, R.C. 505.431; R.C. 737.041.⁹ R.C. 505.50 authorizes boards of township trustees to "enter into a contract *with one or more townships, a*

⁹ I note that there are other statutory provisions which also authorize the peace officers of a municipal corporation or a township to exercise their police powers beyond the territorial boundaries of the political subdivision that has appointed, employed, or elected them. *See, e.g.*, R.C. 177.03(A) (interjurisdictional powers of members of an organized crime task force); R.C. 311.07(B) (authorizing a county sheriff to call upon the appropriate official of a municipal corporation or township to furnish law enforcement assistance in the event of riot, insurrection, or invasion); R.C. 509.05

municipal corporation, or the county sheriff...for the provision of police protection services." (Emphasis added.) See 1989 Op. Att'y Gen. No. 89-059 (syllabus) ("[p]ursuant to R.C. 505.50, a board of township trustees of a township, which has formed a township police district, may contract with a village whereby the township police district provides full police protection to the village"); see also R.C. 505.43 ("[i]n 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"). Similarly, R.C. 737.04 authorizes the legislative authority of any municipal corporation to "enter into contracts with one or more municipal corporations in this state" in order to obtain police protection. (Emphasis added.)

It is clear from a reading of R.C. 505.50 and R.C. 737.04 that townships may enter into contracts to provide police protection to townships, municipal corporations, or the county sheriff, and that municipal corporations may enter into such contracts with municipal corporations and townships. Neither R.C. 505.50 nor R.C. 737.04, however, authorizes a contract for police protection between a board of county commissioners and a township or municipal corporation. I find, accordingly, that a board of county commissioners is not authorized by either R.C. 505.50 or R.C. 737.04 to enter into a contract which vests county narcotics agents with arrest and general police powers. *But see* R.C. 307.15 (discussed above).

I turn now to the provision of police protection services to various political subdivisions of this state by townships and municipal corporations without a contract. Pursuant to statutory provisions, townships and municipal corporations are empowered to provide, without a contract, police protection to other political subdivisions. Under R.C. 505.431 a "township or township police district may provide police protection to any county, municipal corporation, or township of this state...without a contract...upon the approval, by resolution, of the board of township trustees...and upon authorization by an officer or employee of the police department." Similarly, R.C. 737.041 authorizes a municipal corporation to "provide police protection to any county, municipal corporation, or township of this state...without a contract...upon the approval, by resolution, of the legislative authority of the municipal corporation...and upon authorization by an officer or employee of the police department." Neither statute, however, addresses the authority of a board of county commissioners to provide, without a contract, police protection to a municipal corporation or township. I conclude, therefore, that neither R.C. 505.431 nor R.C. 737.041 can be construed to authorize a board of county commissioners to confer arrest or general police powers upon county narcotics agents. As discussed above, that authority must be found elsewhere.

Based upon the foregoing, it is my opinion and you are hereby advised that:

1. A county sheriff is authorized, pursuant to the common law powers vested in him by R.C. 311.08(A), to commission county narcotic agents as "special deputy sheriffs" with limited law enforcement powers.
2. Individuals employed by a county as undercover narcotics agents for the purpose of investigating and gathering information pertaining to persons suspected of violating R.C. Chapters 2935

(authorizing township police constables to "apprehend and bring to justice felons and disturbers of the peace, suppress riots, and keep and preserve the peace within the county"); R.C. 737.10 (authorizing a mayor to call upon the appropriate official of a municipal corporation or township to furnish law enforcement assistance in the event of riot); R.C. 737.19(C) (authorizing village marshals to "arrest any person fleeing from justice in any part of the state"); R.C. 2935.02 (authorizing an officer holding a warrant for the arrest of an individual to pursue and arrest such individual in any county in this state); R.C. 2935.03(D) (authorizing a peace officer to pursue, arrest, and detain a person, until a warrant can be obtained, outside the limits of the political subdivision that has appointed, employed, or elected him, when certain conditions are met). These sections, however, are not relevant to a discussion of the question which you have posed.

and 3719, are not authorized by R.C. 2935.03(A) to make warrantless arrests of persons found violating a law of this state.

3. A board of county commissioners may enter into an agreement with a municipal corporation or township located within that county, under R.C. 307.15, to grant county narcotics agents the same police powers exercised by the peace officers of the contracting municipal corporation or township.
4. A board of county commissioners is not authorized by either R.C. 505.50 or R.C. 737.04 to enter into a contract which vests county narcotics agents with arrest and general police powers.
5. Neither R.C. 505.431 nor R.C. 737.041 authorizes a board of county commissioners to confer arrest or general police powers upon county narcotics agents.