

**OPINION NO. 84-062****Syllabus:**

A township which has entered into a contract with a village pursuant to R.C. 505.43 for police protection is entitled under R.C. 4513.35 to one-half of all fines collected from, and one-half of all moneys arising from bonds forfeited by, persons apprehended or arrested in the township by village police officers acting pursuant to such contract.

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**To: William F. Schenck, Greene County Prosecuting Attorney, Xenia, Ohio**  
**By: Anthony J. Celebrezze, Jr., Attorney General, October 18, 1984**

I have before me your request for an opinion regarding the distribution of fines and forfeitures resulting from the arrests or apprehensions made in a township by village police officers acting pursuant to a contract for police protection entered into by that township and the village in accordance with R.C. 505.43.

R.C. 505.43 authorizes a township to contract with other townships, municipal corporations, or county sheriffs in order to obtain police protection. It is

my understanding from your letter that in accordance with this provision, Spring Valley Township has contracted with the Village of Spring Valley to provide police protection for the township.

You state in your letter that the Xenia Municipal Court, which has jurisdiction over the Village of Spring Valley and Spring Valley Township, has refused to distribute to Spring Valley Township, pursuant to R.C. 4513.35, any moneys obtained through fines or forfeitures resulting from arrests or apprehensions for traffic offenses made in the township by Spring Valley Village police officers. The municipal court has taken the position that in order for the township to be entitled to such moneys under R.C. 4513.35, arrests within the township must be made by township constables or township police officers, not by village police officers making arrests or apprehensions in a township pursuant to R.C. 505.43.

R.C. 4513.35 provides as follows:

All fines collected under sections 4511.01 to 4511.78, inclusive, 4511.99, and 4513.01 to 4513.37, inclusive, of the Revised Code shall be paid into the county treasury and, with the exception of that portion distributed under section 3375.53 of the Revised Code, shall be placed to the credit of the fund for the maintenance and repair of the highways within such county, provided that all fines collected from, or moneys arising from bonds forfeited by, persons apprehended or arrested by state highway patrolmen shall be distributed as provided in section 5503.04 of the Revised Code and provided that one-half of all fines collected from, and one-half of all moneys arising from bonds forfeited by, persons apprehended or arrested by a township constable or other township police officer shall be paid to the township treasury to be placed to the credit of the general fund. (Emphasis added.)

See R.C. 1901.31(F); R.C. 2937.36.

Since village police officers who provide protection to a township do not fall within the description of a township constable, see R.C. 509.01, the answer to your question whether Spring Valley Township is entitled to the distribution of moneys specified in R.C. 4513.35 depends upon whether Spring Valley Village police officers are considered "other township police officer[s]," as that phrase is used in R.C. 4513.35.

One of my predecessors concluded that deputy sheriffs who provide police protection to a township pursuant to a contract are to be considered "other township police officer[s]" for purposes of R.C. 4513.35. 1968 Op. Att'y Gen. No. 68-021. The opinion noted that "the assigned deputy [sheriff is placed] in the same position as if he were a township police officer with the same power and duties thereof." *Id.* at 2-21. Op. No. 68-021 then concluded that since deputy sheriffs providing police protection to a township pursuant to contract are "other township police officer[s]" for purposes of R.C. 4513.35, the township is entitled to distribution under R.C. 4513.35 for a portion of the fines collected from and moneys arising from bonds forfeited by persons arrested by such deputies within the township. Similarly, village police officers who are providing police protection under R.C. 505.43 have the same powers and duties as township police officers. While it is true that R.C. 311.29 indicates that a sheriff may hire or assign deputies to perform "in behalf of" the contracting township—language which is not present in R.C. 505.43 or elsewhere with regard to police protection provided to a township by a village—the fact remains that village police officers who provide police protection to a township pursuant to contract act as police officers for that township.

Opinion No. 68-021 also considered the potential financial hardship which would befall a township which contracted for police protection, in order to meet its responsibilities, if it were not entitled to the proceeds specified in R.C. 4513.35. R.C. 505.43 provides townships with an alternative to equipping and staffing its

own police department. See R.C. 505.48; R.C. 505.49; R.C. Chapter 509. Provided with this alternative, a township may allocate its money for police services in the most cost efficient manner. R.C. 505.43, however, does not eliminate the need for funds to pay for these services. The distribution of fines and forfeitures pursuant to R.C. 4513.35 is designed to aid townships financially in providing police protection. See R.C. 505.43; R.C. 5705.19(J). The manner in which a township provides this police protection is irrelevant for purposes of distributing moneys under R.C. 4513.35. Therefore, based on the above analysis, village police officers, acting pursuant to R.C. 505.43, should be considered "other township police officer[s]" as that phrase is used in R.C. 4513.35.

In conclusion, it is my opinion, and you are advised, that a township which has entered into a contract with a village pursuant to R.C. 505.43 for police protection is entitled under R.C. 4513.35 to one-half of all fines collected from, and one-half of all moneys arising from bonds forfeited by, persons apprehended or arrested in the township by village police officers acting pursuant to such contract.