

OPINION NO. 90-086**Syllabus:**

R.C. 737.041 does not require a township to accept police protection which a village attempts to impose upon it.

To: Gregory J. Brown, Ashtabula County Prosecuting Attorney, Jefferson, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, November 14, 1990

I have before me your opinion request in which you ask whether R.C. 737.041 requires a township to accept police protection which a village attempts to impose upon the township.¹ You have provided the information that the township in question does not want the village police department to undertake such police protection.

R.C. 737.041 provides, in relevant part, that

[t]he police department of any municipal corporation² may provide police protection to any county, municipal corporation, or township of this state or to a governmental entity of an adjoining state without a contract to provide police protection, upon the approval, by resolution, of the legislative authority of the municipal corporation in which the department is located and upon authorization by an officer or employee of the police department providing the police protection who is designated by title of office or position, pursuant to the resolution of the legislative authority of the municipal corporation, to give such authorization. (Footnote added.)

Thus, the statute grants the police department of a municipal corporation the authority to provide, without a contract, police protection to any county, municipal corporation, or township of this state or to a governmental entity of an adjoining state upon approval of the legislative authority of the municipal corporation in which

¹ With your concurrence, I have rephrased your question for purposes of analysis. Since your question concerned R.C. 737.041, I have limited my discussion to that statute. I note, however, that although the general rule is that a peace officer is authorized to exercise his authority within the territory of the political subdivision which has appointed, employed or elected him, *see, e.g., City of Fairborn v. Munkus*, 28 Ohio St. 2d 207, 277 N.E.2d 227 (1971), there are several statutes which extend such officer's authority beyond the territory of his political subdivision. *See* 1990 Op. Att'y Gen. No. 90-012, p.2-50 for an enumeration of many of these statutes.

² Pursuant to art. XVIII, §1 of the Ohio Constitution, municipal corporations are classified as cities and villages. *See also* R.C. 703.01.

the police department is located and upon authorization of the appropriate officer or employee of such department. The express provisions of R.C. 737.041 do not require the approval of the county, municipal corporation or township or the governmental entity of another state receiving such police protection. Thus, the question becomes whether the authority of the police department of a municipal corporation to provide police protection without a contract pursuant to R.C. 737.041 includes the authority to impose such police protection against the wishes of the recipient governmental entity.

The police department of a municipal corporation is a creature of statute³ and, as such, its authority is limited to that expressly provided by statute or necessarily implied therefrom. *State ex rel. Locher v. Menning*, 95 Ohio St. 97, 115 N.E. 571 (1916); *see also* 1973 Op. Att'y Gen. No. 73-057. R.C. 737.041 must be analyzed, therefore, to determine whether the authority granted by R.C. 737.041 to provide police protection without a contract necessarily implies the authority to impose such protection upon a governmental entity without the approval of such entity.

Since your question concerns the nature and extent of the authority to provide police protection pursuant to R.C. 737.041, the inquiry focuses on the meaning of the word "provide," which is not defined for purposes of the statute. In the absence of statutory definition, a word must be accorded its natural, literal, common or plain meaning. R.C. 1.42; *State v. Dorso*, 4 Ohio St. 3d 60, 446 N.E.2d 449 (1983). The dictionary defines "provide" as "1. [t]o furnish, supply.... 3. [t]o make available; afford...." *The American Heritage Dictionary* 997 (2d college ed. 1985). The meaning of the word "provide" cannot logically be expanded to include "impose," "force" or any similar term.⁴ Thus, pursuant to R.C. 737.041 the police department of a municipal corporation may furnish or make available police protection, but it may not force such protection upon a governmental entity.

R.C. 505.43 and R.C. 505.50 provide additional support for the construction of R.C. 737.041 which holds that the police department of a municipal corporation may not impose police protection upon any county, municipal corporation, or township of this state or a governmental entity of an adjoining state without approval of the recipient governmental entity. R.C. 505.43 states in pertinent part:

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...if the contract is first authorized by respective boards of township trustees or other legislative bodies.

Pursuant to R.C. 505.50,

[t]he board of trustees of any township may enter into a contract with one or more townships, a municipal corporation, or the county sheriff upon such terms as are mutually agreed upon for the provision of police protection services or additional police protection services either on a regular basis or for additional protection in times of emergency. Such contract shall be agreed to in each instance by the respective board or boards of township trustees, the county

³ R.C. 737.05 prescribes the composition of a city police department. R.C. 737.15 sets forth the procedure for appointing a village marshal (designated chief of police), and R.C. 737.16 describes the procedure for appointing deputy marshals, policemen, night watchmen and special policemen for a village.

⁴ "Impose" is defined by the dictionary in part as "[t]o establish or apply as compulsory.... To obtrude or force...upon another or others." *The American Heritage Dictionary* 646 (2d college ed. 1985). The definition of "force" includes "[t]o inflict or impose...." *Id.* at 522.

commissioners, or the legislative authority of the municipal corporation involved.

R.C. 505.43 and R.C. 505.50, like R.C. 737.041, authorize the provision of police protection to a township by another governmental entity. Since these statutes relate generally to the same subject matter and share a common purpose, to wit, the provision of police protection by one governmental entity for the benefit of another, they may be read *in pari materia*. *Bobb v. Marchant*, 14 Ohio St. 3d 1, 469 N.E.2d 847 (1984); *DeCourcy v. Public Library of Cincinnati and Hamilton County*, 47 Ohio App. 3d 83, 547 N.E.2d 369 (Hamilton County 1988). R.C. 505.43 and R.C. 505.50 clearly require the mutual assent of the governmental entity providing the police protection and the governmental entity receiving such protection. Pursuant to R.C. 505.43, the contract for police protection must be "authorized by respective boards of township trustees or other legislative bodies," and R.C. 505.50 requires that the contract "shall be agreed to...by the respective board or boards of township trustees, the county commissioners, or the legislative authority of the municipal corporation involved." Reading R.C. 737.041 in harmony with R.C. 505.43 and R.C. 505.50, I find that although no contract is required by R.C. 737.041, the assent of the township or other governmental entity receiving police protection is necessary.

I further note that R.C. 737.041 was enacted by Amended Senate Bill 98, 1979-1980 Ohio Laws, Part I, 328 (eff. October 6, 1980). This bill also enacted R.C. 505.431, which gives the police department of any township or township police district the authority to "provide police protection to any county, municipal corporation, or township of this state or to a governmental entity of an adjoining state without a contract to provide police protection" upon the approval of the board of township trustees and the authorization of the police department offering such protection. Thus, the legislature granted the police departments of municipal corporations, R.C. 737.041, and townships, R.C. 505.431, mutual authority to provide police protection without a contract. Since the construction of a statute should render it compatible with related enactments whenever possible, *see, e.g., Commonwealth Loan Co. v. Downtown Lincoln Mercury Co.*, 4 Ohio App. 2d 4, 211 N.E.2d 57 (Hamilton County 1964), it is reasonable to assume that the General Assembly enacted these statutes simultaneously to facilitate cooperation among police departments. Because an imposition of unwanted police protection obviously does not promote this purpose, I find that the General Assembly did not intend such a result.

Moreover, a construction of R.C. 737.041 which holds that the police department of a municipal corporation may not impose its police protection upon any county, municipal corporation, or township of this state or a governmental entity of an adjoining state without approval of the recipient governmental entity is supported by the basic tenet of statutory construction that a statute should be construed to avoid unreasonable or absurd consequences. *State ex rel. Dispatch Printing Co. v. Wells*, 18 Ohio St. 3d 382, 481 N.E.2d 632 (1985). A construction of R.C. 737.041 which grants the police department of a municipal corporation the authority to force police protection upon an unwilling governmental entity is clearly unreasonable. The consequence of such a construction is illustrated by the following example. A police department of a village that is permitted to impose police protection pursuant to R.C. 737.041 might choose to enforce, for example, the gambling laws of the state in a nearby township. If the township police department is involved in an undercover investigation of gambling within the township, the efforts of the village police department could easily interfere with or even render useless such undercover work. It may be argued that the efforts of separate police departments can cause confusion and interference with each other even in the absence of R.C. 737.041. However, it is unreasonable to assume that the General Assembly intended a construction of the statute that makes such confusion and interference a likely result.

In summary, I find that R.C. 737.041 permits the police department of a municipal corporation to make police protection available to any county, municipal corporation or township of this state or to a governmental entity of an adjoining state without a contract to provide such police protection upon the approval of the legislative authority of the municipal corporation in which the department is located and the authorization by the appropriate officer or employee of the police department, and upon the assent of the governmental entity receiving such police protection.

Accordingly, it is my opinion, and you are hereby advised that R.C. 737.041 does not require a township to accept police protection which a village attempts to impose upon it.