

OPINION NO. 90-045**Syllabus:**

Pursuant to R.C. 955.21 and R.C. 955.01, dogs used for law enforcement purposes are subject to the registration and fee requirements of R.C. Chapter 955.

To: James J. Mayer, Jr. Richland County Prosecuting Attorney, Mansfield, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, July 13, 1990

I have before me your request for my opinion, in which you ask whether dogs used for law enforcement purposes must be registered and whether the registration fee pursuant to Ohio Revised Code Chapter 955 must be paid.

R.C. 955.21 states that "[n]o owner, keeper, or harborer of a dog more than three months of age, nor owner of a dog kennel, shall fail to file the application for registration required by section 955.01 of the Revised Code, nor shall he fail to pay the legal fee therefor." R.C. 955.01 states, in pertinent part:

(A)(1) *Except as otherwise provided in this section or sections 955.011 and 955.16 of the Revised Code, every person who owns, keeps, or harbors a dog more than three months of age, shall, on or after the first day of the preceding December but before the twentieth day of January of each year,¹ file in the office of the county auditor of the county in which the dog is kept or harbored, an application for registration for the following year... A registration fee of two dollars for each dog shall accompany the application unless a greater fee has been established under division (A)(2) of this section or under section 955.14 of the Revised Code.² (Emphasis and footnote added.)*

As the plain language of these statutes conveys, unless one of the exceptions applies, the registration and fee requirements apply to every dog kennel owner³ and every person who owns, keeps or harbors any dog. Accordingly, I must examine whether any of the exceptions apply to dogs used for law enforcement purposes.

Review of the statutory sections named in R.C. 955.01 as express exceptions reveals that none are applicable to your inquiry. R.C. 955.01 itself does not mention dogs used for law enforcement purposes. R.C. 955.011 provides free permanent registration for guide, leader, hearing, and support dogs. R.C. 955.16(A) and (B) provide that no registration is required for impounded dogs which are donated to

¹ Provisions for registration of a dog during the year are found at R.C. 955.05 and R.C. 955.06.

² R.C. 955.01(A)(2) allows the county commissioners to set higher fees for certain dogs which have not been spayed or neutered. R.C. 955.14 authorizes additional increases in registration fees.

³ R.C. 955.02 defines a "kennel owner" as "a person, partnership, firm, company, or corporation professionally engaged in the business of breeding dogs for hunting or for sale." Although a kennel owner must apply for registration in the manner provided for by R.C. 955.01, the effect of and fees for such registration are different than that for individual dogs. See 1984 Op. Att'y Gen. No. 84-022 at 2-70; 1927 Op. Att'y Gen. No. 967, vol. III, p. 1689 (when a kennel owner obtains registration, the kennel is registered and not the particular dogs kept or bred there). The specific requirements and fees for kennel registration are found at R.C. 955.04, R.C. 955.05 and R.C. 955.14. Pursuant to the definition of "kennel owner" at R.C. 955.02, however, these provisions have no application to dogs used for law enforcement purposes.

agencies which train guide, leader, hearing and support dogs or for impounded dogs which are sold to qualified teaching or research facilities. I am aware of no other sections of the Revised Code which purport to exempt dogs used for law enforcement purposes from the registration requirements of R.C. 955.01 and R.C. 955.05. Accordingly, it does not appear that such dogs are exempt from the registration and fee requirements of R.C. Chapter 955 solely by virtue of their use for law enforcement purposes.

I note further, that R.C. 955.11, which under some circumstances exempts dogs used for law enforcement purposes from some of the ownership transfer requirements, appears to assume that such dogs will have been registered. R.C. 955.11 provides, *inter alia*, that when ownership of a dog is transferred, the seller must provide an ownership certificate containing the dog's registration number, R.C. 955.11(B), and provide additional notices and information, including the registration number, if the dog is known to be dangerous or vicious, R.C. 955.11(D). Generally speaking, dangerous or vicious dogs are dogs that have attacked, attempted to bite or injured a person or have killed another dog. R.C. 955.11(A)(1)(a) (dangerous dog); R.C. 955.11(A)(4)(a) (vicious dog). Additionally, R.C. 955.11(B) provides that the county auditor, who maintains the registration system pursuant to R.C. 955.07, must record ownership transfers upon presentation of the ownership certification and payment of a fee. R.C. 955.11(A)(1)(a), however, excludes police dogs from the definition of "dangerous dog" when the dogs attack or attempt to bite a person in the course of assisting a law enforcement officer. R.C. 955.11(A)(4)(a) creates a similar exclusion in the definition of "vicious dog." A "police dog" is defined at R.C. 955.11(A)(3) as a "dog that has been trained, and may be used, to assist one or more law enforcement officers in the performance of their official duties." Thus, when transferring ownership of a dog used for law enforcement purposes, the owner is exempted from reporting certain behaviors that would categorize other dogs as dangerous or vicious. By creating this exception, R.C. 955.11 clearly contemplates that the owners of dogs used for law enforcement purposes are subject to the transfer provisions and also assumes that such dogs will have been registered prior to the transfer.

As a final matter, I note that although R.C. 955.21 requires that "no owner, keeper, or harbinger of a dog" shall fail to register the dog or to pay the required fee, R.C. 955.01(A)(1) refers to "every *person* who owns, keeps, or harbors a dog." (Emphasis added.) I am aware, that as a general rule, the word "person" when used in a statute does not include governmental entities.⁴ See generally 1979 Op. Att'y Gen. No. 79-062 at 2-209; 1974 Op. Att'y Gen. No. 74-058 at 2-242 through 2-245; 1962 Op. Att'y Gen. No. 2781, p. 70, 73-77. These opinions and the authorities cited therein also recognize, however, that this rule is subject to the caveat that the purpose, language, or context of a statute may indicate legislative intent to include governmental entities within the scope of the word "person." The legislature, in drafting R.C. 955.11, must certainly have been aware that dogs used for law enforcement purposes are at least as likely to be owned, kept, or harbored by governmental entities as by private entities. Since dogs used for law enforcement purposes are only exempted partially from the transfer requirements, it is logical to assume that the remaining requirements, including that of providing the registration number, apply to all dogs used for law enforcement purposes, regardless of whether they are owned publicly or privately. Cf. 1954 Op. Att'y Gen. No. 3700, p. 181 (statute reducing fee for government institutions indicated legislative intent that the

⁴ The term "person" is not defined in R.C. 955.01 or elsewhere in R.C. Chapter 955. R.C. 1.59 states that "[a]s used in any statute, unless another definition is provided in such statute or a related statute:...(C) 'Person' includes an individual, corporation, business trust, estate, trust, partnership, and association." This definition is clearly expansive enough to apply to any type of private entity which might own, keep, or harbor a dog used for law enforcement purposes. The definition does not, however, in and of itself, either clearly include or exclude governmental bodies. *City of Dayton v. McPherson*, 57 Ohio Op. 2d 361, 280 N.E.2d 106 (C.P. Montgomery County 1969) (construing a similar definition of "person" which was at that time codified at R.C. 1.02(B)); 1979 Op. Att'y Gen. No. 79-062 at 2-209.

state be otherwise subject to the regulation of food service operations under R.C. Chapter 3732). Accordingly, I find that the legislature did not intend, by use of the word "person" in R.C. 955.01, to exclude governmental entities which might own dogs used for law enforcement purposes from the registration and fee requirements.

It is therefore my opinion, and you are hereby advised that pursuant to R.C. 955.21 and R.C. 955.01, dogs used for law enforcement purposes are subject to the registration and fee requirements of R.C. Chapter 955.