

OPINION NO. 90-025**Syllabus:**

Pursuant to R.C. 505.43, a township and a village may enter into a contract upon such terms as may be agreed to by them whereby the village provides police protection to the township. The township may permit village police personnel the use of the township's electronic dispatching network in conjunction with such police protection. The allocation of costs incurred by the township in permitting village police personnel the use of its electronic dispatching network may be negotiated as part of the contract for police protection upon such terms as may be agreed to by the township and the village.

To: Kevin J. Baxter, Erie County Prosecuting Attorney, Sandusky, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, April 11, 1990

You have requested my opinion regarding a contract for police protection that is to be entered into between a township and a village. According to your letter a township and a village are in the process of negotiating such a contract pursuant to the authority conferred by R.C. 505.43. The village has not detached itself from the township and, accordingly, contributes millage, both voted and unvoted, to the township general fund, *see* note one, *infra*, and the township fire equipment

fund, *see* R.C. 505.39; R.C. 5705.19(I); R.C. 5705.191. The township has a fire department that provides fire protection services throughout the entire township territory, including that situated within the village boundaries. The township also owns and operates an electronic dispatching network as an essential and integral component of those fire protection services, the cost of which is paid for out of the township fire equipment fund. The township does not have a police department, or constables hired pursuant to the provisions of R.C. Chapter 509. Rather, the county sheriff provides police protection to the township pursuant to R.C. 311.07. The village has a police department, but does not own or operate dispatching facilities in conjunction therewith.

The village and township wish to enter into a contract pursuant to R.C. 505.43 whereby the village will agree to furnish police protection to the township. The village and township also contemplate that the township's electronic dispatching network will be used by village police personnel to receive and respond to police calls from the township. You wish to know whether the costs incurred by the township in making its electronic dispatching network available to the village for such purpose may be offset against the sum of money that the township pays the village for the foregoing police protection. Alternatively, you have asked whether the township may require the village to reimburse the township for those costs. You state that the village takes the position that its police department is entitled to use the township's dispatching network at no cost to the village because the village has, as a practical matter, already paid for that service through the taxes it pays into the township general fund and the township fire equipment fund.

I am of the opinion that the allocation of costs incurred by the township in permitting village police personnel the use of the township's dispatching network is properly a matter that should be negotiated by the village and the township as a part of the contract for police protection that they enter into pursuant to R.C. 505.43. I find that such conclusion is reflected in the plain language of R.C. 505.43 itself. R.C. 505.43 reads, in pertinent part, as follows:

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 the contract is first authorized by respective boards of township trustees or other legislative bodies. The cost of the contract may be paid for from the township general fund or from funds received pursuant to the passage of a levy authorized pursuant to division (J) of section 5705.19 and section 5705.25 of the Revised Code.¹ (Footnote added.)

¹ R.C. 5705.03 states, in pertinent part, that, "[t]he taxing authority of each subdivision may levy taxes annually, subject to the limitations of sections 5705.01 to 5705.47, inclusive, of the Revised Code, on the real and personal property within the subdivision for the purpose of paying the current operating expenses of the subdivision and acquiring or constructing permanent improvements." R.C. 5705.05 states that, "[t]he purpose and intent of the general levy for current expenses is to provide one general operating fund derived from taxation from which any expenditures for current expenses of any kind may be made, and the taxing authority of a subdivision may include in such levy the amounts required for carrying into effect any of the general or special powers granted by law to such subdivision." *See* R.C. 5705.01(A) (as used in R.C. Chapter 5705, "[s]ubdivision" means, *inter alia*, any "township"); R.C. 5705.09(A) (each subdivision shall establish a general fund); R.C. 5705.10 (distribution of revenue derived from tax levies).

As pertains herein, R.C. 5705.19(J) states that the taxing authority of any township, at any time and in any year when the amount of taxes that

See generally 1989 Op. Att'y Gen. No. 89-059 at 2-249 and 2-250; 1984 Op. Att'y Gen. No. 84-062; 1977 Op. Att'y Gen. No. 77-097 at 2-322 (addressing former R.C. 505.441, now R.C. 505.43); 1976 Op. Att'y Gen. No. 76-027 at 2-84 and 2-85 (same).

In this instance the township wishes to contract with a village for police protection, and as a part of that agreement the township intends to permit the village police department the use of the township's dispatching network. Such an arrangement clearly constitutes an interchange of the use of police equipment within the township and village, R.C. 505.43, and as in the case of the actual police protection to be furnished by the village, the specific details thereof are to be negotiated by the township and village upon such terms as are agreed to by them, *id.* Certainly in that regard the costs incurred by the township in making its dispatching network available to the village police department is a matter that one may reasonably expect to be negotiated between the township and village. Accordingly, the allocation of those costs between the township and village, and the method by which such an allocation shall be determined, should be decided by the township and village upon such terms as are agreed to by them as a part of the contract for police protection under R.C. 505.43.²

It is, therefore, my opinion, and you are advised that pursuant to R.C. 505.43, a township and a village may enter into a contract upon such terms as may be agreed to by them whereby the village provides police protection to the township. The township may permit village police personnel the use of the township's electronic dispatching network in conjunction with such police protection. The allocation of costs incurred by the township in permitting village police personnel the use of its electronic dispatching network may be negotiated as part of the contract for police protection upon such terms as may be agreed to by the township and the village.

may be raised within the ten-mil limitation will be insufficient to provide for the necessary requirements of the subdivision, may seek a tax levy in excess of that limitation for the payment of costs incurred by the township as a result of contracts made with other political subdivisions in order to obtain police protection. R.C. 5705.25 sets forth the manner by which such a tax levy is to be presented to the township electors.

² My research has not disclosed any authority in support of either the village's proposition that the village is entitled to the use of the township's electronic dispatching network at no cost to the village, or the township's proposition that the township is entitled to require the village to pay or reimburse the township for those dispatching costs.