

## OPINION NO. 71-092

## Syllabus:

1. A board of county commissioners may not enter into a contract for services in analyzing, appraising, and making recommendations as to future needs of the county unless there is specific statutory authority for such a contract.

2. Under Section 307.85, Revised Code, a board of county commissioners may enter into a contract for a survey analysis to evaluate their local law enforcement program so long as such analysis is reasonably related to the establishment and operation of the program proposed by the Omnibus Crime Control and Safe Streets Act of 1968 (P. L. 90-351, 82 Stat. 197).

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To: Bruce L. Newman, Director, Dept. of Urban Affairs, Columbus, Ohio  
By: William J. Brown, Attorney General, December 29, 1971

I am in receipt of a request from your Department asking my opinion as to whether a board of county commissioners has authority "to enter into contracts for services in analyzing, appraising, and making recommendations as to future needs of the county." Your letter states that you are particularly interested in Section 307.85, Revised Code, which gives the board of county commissioners power to cooperate with other agencies in federal programs. Since the question you present involves a survey analysis of a county law enforcement system under the provisions of the Omnibus Crime Control and Safe Streets Act of 1968 (P. L. 90-351, 82 Stat. 197), the scope of this opinion will be limited to that program.

As you are aware, a board of county commissioners may not enter into a contract for services in analyzing, appraising, and making recommendations as to future needs of the county where there is no statutory authority for such a contract. Opinion No. 70-003, Opinions of the Attorney General for 1970; Opinion No. 2887, Opinions of the Attorney General for 1931; Gorman v. Heuck, 41 Ohio App. 453 (1931). The board of county commissioners are invested with limited powers and may commit the county only to such transactions as are expressly authorized by statute. Board of County Commissioners v. Gates, 83 Ohio St. 19 (1910); State v. Manning, 95 Ohio St. 97 (1916). As stated by one of my predecessors in Opinion No. 2887, supra:

"The county commissioners are not analogous to a City Council or the state General Assembly, - they do not have general legislative powers - and their administrative functions are, as previously set forth, such only as are conferred by statute together with those necessarily implied as incident thereto.

"Though this survey [for new systems and layout of county offices] by experts may be for a most laudable purpose, the question remains, whether or not the commissioners have the power to effectuate such purpose. It is a legal purpose, not a laudable purpose, that justifies an expenditure of the taxpayers' money."

In order to determine the power of the board of county commissioners, therefore, close examination and strict adherence must be given to the particular statutory grant. One such grant appears in Section 307.85, supra, to which your letter refers. That Section reads as follows:

"The board of county commissioners of any county may participate in, give financial assistance to, and cooperate with other agencies or organizations, either private or governmental, in establishing and operating any federal program enacted prior to or after August 23, 1965 by the congress of the United States, and for such purpose may adopt any procedures and take any action not prohibited by the constitution of Ohio nor in conflict with the law of this state."

From this section the board of county commissioners derive the authority "to participate in, give financial assistance to, and cooperate with" private organizations in establishing and operating a Federal program.

The Federal program included here, the "Omnibus Crime Control and Safe Streets Act of 1968" (P. L. 90-351, 82 Stat. 197), was enacted by Congress:

"[t]o assist state and local governments in reducing the incidence of crime, to increase the effectiveness, fairness, and coordination of law enforcement and criminal justice systems at all levels of government, and for other purposes."

Section 201 of the Act describes the purpose of the Federal grants as follows:

"It is the purpose of this part to encourage States and units of general local government to prepare and adopt comprehensive law enforcement plans based on their evaluation of State and local problems of law enforcement." (Emphasis added.)

Sections 202 through 205 and 301 through 303 provide for the establishment of state planning agencies, for the preparation of comprehensive state plans for law enforcement, and for the award of Federal grants upon approval of such plans. Section 304 provides that the states may disburse such funds to local governmental units in accordance with the purposes of the Act, and Section 305 provides that, if a state fails to set up a plan in accordance with the Act, local governmental units within the state may obtain grants directly from the Federal government. Such a planning agency has, of course, been set up in Ohio as a branch of your Department.

In the light of the general purpose and the specific provisions of the Federal Act, I think it clear that a study to determine the future needs of a county in the area of law enforcement is vital to the operation of the Federal program. Consequently, Section 307.85, supra, must be interpreted as allowing the county commissioners to enter into contracts providing for an evaluation of their local law enforcement requirements. See Opinion No. 68-038, Opinions of the Attorney General for 1968.

In specific answer to your question it is my opinion, and you are so advised, that:

1. A board of county commissioners may not enter into a contract for services in analyzing, appraising, and making recommendations as to

future needs of the county unless there is specific statutory authority for such a contract.

2. Under Section 307.85, Revised Code, a board of county commissioners may enter into a contract for a survey analysis to evaluate their local law enforcement program so long as such analysis is reasonably related to the establishment and operation of the program proposed by the Omnibus Crime Control and Safe Streets Act of 1968 (P. L. 90-351, 82 Stat. 197).