

method of accounting may be adopted which results in State funds being used upon projects not on the State highway system.

Respectfully,

THOMAS J. HERBERT,  
*Attorney General.*

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COUNTY AND MUNICIPALITY—JOINT OWNERSHIP OF POLICE BROADCASTING SYSTEM—RIGHT TO CONTRACT MUST BE PROVIDED BY STATUTE—LEASE—COUNTY MAY CONTRACT WITH MUNICIPALITY FOR AGREED SUM TO RECEIVE INFORMATION FOR COUNTY SHERIFF OVER MUNICIPAL BROADCASTING SYSTEM.

*SYLLABUS:*

1. *A county and a municipality may not legally enter into a contract for joint ownership of a police broadcasting system unless such joint ownership is specifically provided for by statute.*

2. *A municipality may not lease to the county the use, either in whole or in part, of a municipal police broadcasting system in the absence of a showing that such broadcasting system is not needed for municipal purposes.*

3. *A municipality may, by contract with the county commissioners, furnish information for the county sheriff over the municipal broadcasting system for a sum to be agreed upon between the municipal authorities and the county commissioners.*

COLUMBUS, OHIO, May 18, 1939.

HON. LESTER S. REID, *Prosecuting Attorney, Chillicothe, Ohio.*

DEAR SIR: I am in receipt of your recent communication which reads as follows:

“The City of Chillicothe and the Board of County Commissioners of Ross County are desirous of some kind of an arrangement with reference to a broadcasting set to be purchased and set up in police department of the City of Chillicothe in order that there may be close co-ordination between the police of the City of Chillicothe, and the office of the Sheriff.

The questions which I desire to have answered on behalf of the Board of County Commissioners of this County are as follows:

Could the County and City legally enter into a contract for joint ownership of said broadcasting station,

thereby permitting the payment by the County Commissioners toward the purchase price of a broadcasting set under a joint ownership plan with the City?

OR

If the County Commissioners can not contribute to a joint ownership arrangement, then could said Board of County Commissioners contribute money towards the purchase of such set, the City to own the broadcasting set, but rendering a service to the Sheriff in the nature of co-operation by way of lease or contract form?"

I shall answer your inquiries in order as presented.

Section 2419, General Code, provides:

"A court house, jail, public comfort station, offices for county officers and an infirmary shall be provided by the commissioners when in their judgment they or any of them are needed. Such buildings and offices shall be of such style, dimensions and expense as the commissioners determine. They shall also provide all the equipment, stationery and postage, as the county commissioners may deem necessary for the proper and convenient conduct of such offices, and such facilities as will result in expeditious and economical administration of the said county offices. They shall provide all rooms, fire and burglar-proof vaults and safes and other means of security in the office of the county treasurer, necessary for the protection of public moneys and property therein."

This section enables county commissioners to provide a broadcasting system for the use of the county sheriff.

Section 3617, General Code, provides that a municipality has power:

"To organize and maintain police and fire departments, erect the necessary buildings and purchase and hold all implements and apparatus required therefor."

This section enables a municipality to provide a broadcasting system for the use of its police department.

It will be seen that either the county or the municipality may, for its own use, erect and maintain a broadcasting system for police purposes. However, the legislative provisions for the acquisition, construction or

equipping of county buildings by county officials are separate and distinct from those authorizing the acquisition, construction or equipping of municipal buildings by municipal officials, no provision having been made which would directly authorize a county to join with a municipality for the acquisition or equipping of a joint county and municipal broadcasting system as here contemplated. In Opinions of the Attorney General for 1929, Vol. 2, page 1069, the first paragraph of the syllabus reads:

“A county has no authority to join with a municipality for the purpose of constructing a joint county court house and city building either upon a site jointly acquired or upon land owned by the city or county.”

Similarly it would follow that the county and the municipality may not join in the constructing and equipping of a broadcasting system upon a site jointly acquired or upon land owned by the city or the county.

You further ask that if the county and the municipality may not jointly own a police broadcasting station, then could the county commissioners contribute money toward the purchase of such set, the city to own the broadcasting set, but render a service to the sheriff in the nature of co-operation, by way of lease or contract form.

Section 3698, General Code, provides:

“Municipal corporations shall have special power to sell or lease real estate or to sell personal property belonging to the corporation, when such real estate or personal property is not needed for any municipal purpose. Such power shall be exercised in the manner provided in this chapter.”

The Supreme Court of Ohio in the case of *State, ex rel. vs. Schriver*, 113 O. S. 171, construes this section as follows:

“This section authorizes municipal corporations to sell or lease real estate or personal property belonging to the corporation when not needed for any municipal purpose.”

In view of the above, it is apparent that no lease may be entered into for it can not be denied that the broadcasting station would be needed for municipal purposes.

However, modern law enforcement methods require close co-operation between municipal and county police officers if lives and property are to be efficiently protected. The advent of the automobile requires that the law enforcement bodies co-ordinate their activities to a degree approaching unity. To attain this relationship and efficiently perform their duties, modern means of communication are imperative. It could

well be that, from a standpoint of efficiency and economy, one broadcasting set to be used by both the municipality and the county would be preferable.

Section 2419, *supra*, stipulates, among other things, that the county commissioners may provide all equipment necessary for the proper and convenient conduct of county offices and such facilities as would result in the expeditious economic administration of the said county offices. Under this statute, if the commissioners deem it necessary, they may lawfully contract with the municipality for the use of the municipal broadcasting system. By so doing, they provide the facilities within the meaning of the Act.

Article XVIII, Section 3 of the Constitution of Ohio, provides :

“Municipalities shall have authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary and other similar regulations, as are not in conflict with general laws.”

This section enables a municipality to exercise all powers of local self-government, providing such exercise of power does not conflict with general laws. There is no provision in the law which would prohibit a municipality from broadcasting information for the benefit of the county sheriff or prohibit the municipality from receiving remuneration for such service as might be agreed upon by contract. It is evident that such information might benefit the municipality fully as much as the county in the apprehension of law violators.

I am, therefore, of the opinion that a contract may be entered into between a municipality and a county providing that the municipality is to broadcast information over its police broadcasting set to the county sheriff in return for a sum to be paid by the county for such service.

Respectfully,

THOMAS J. HERBERT,  
*Attorney General.*