

OPINION NO. 67-120

**Syllabus:**

Funds provided to a county sheriff under authority of Section 325.071 of the Revised Code may be used for any purpose, including purchasing of equipment, which is in furtherance of his responsibility to preserve justice.

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**To: Roger Cloud, Auditor of State, Columbus, Ohio**  
**By: William B. Saxbe, Attorney General, December 13, 1967**

Your request for my opinion reads as follows:

"(1) May the funds provided to the Sheriff of each county under authority of Senate Bill No. 52 (Sec. 325.071) be used for the purchase of listening devices, detection devices, polygraph machines or other law enforcement equipment;

"(2) May the funds provided to the Sheriff of each county, under authority of Senate Bill No. 52 (Sec. 325.071) be used for the purchase of equipment to be used in the control of riots."

In pertinent part subject legislation provides:

"Sec. 325.071. There shall be allowed annually to the county sheriff, in addition to all salary and allowances otherwise provided by law, an amount equal to one half of the official salary allowed under section 325.06 of the Revised Code; to provide for expenses which may be incurred by him in the performance of his official duties and in the furtherance of justice. Upon the order of the county sheriff, the county auditor shall draw his warrant on the county treasurer, payable to the county sheriff or such other person as the order designates, for such amount as the order requires; such amounts, not exceeding the amount provided by this section, to be paid out of the general fund of the county."

The Supreme Court of Ohio in State, ex rel. Attorney General v. Ganson, 58 Ohio St. 313 (320) stated:

"\* \* \* It is the duty of the sheriff, says Lord Coke: 'To preserve the peace in his bailiwick or county. To this end he is the first man within the county, and it is incident to his office that he apprehend and commit to prison all persons who break or attempt to break the peace. \* \* \*'"

The foregoing principle has been re-enunciated in the first sentence of Section 311.07 of the Revised Code of Ohio:

"Each sheriff shall preserve the public peace and cause all persons guilty of any breach of the peace, within his knowledge or view, to enter into recognizance with sureties to keep the peace and to appear at the succeeding term of the court of common pleas, and the sheriff shall commit such persons to jail in case they refuse to do so."

A sheriff is, therefore, charged to preserve the peace and within constitutional or other legal restrictions to do anything necessary to the accomplishment of that objective.

In its enactment of the new section of the code the legislature did not put any limitation on the expenses to be incurred other than that they should be "in the performance of his official duties and in the furtherance of justice."

Inasmuch as the requirements of the eighty-eight sheriffs of the State of Ohio undoubtedly vary from county to county and that the further imponderables are necessarily injected for the method of utilization of equipment and use of informa-

tion obtained, I believe that it would be unrealistic for me to deal with the purchase of particular devices.

It is, therefore, my opinion and you are hereby advised that:

Funds provided to a county sheriff under authority of Section 325.071 of the Revised Code may be used for any purpose, including purchasing of equipment, which is in furtherance of his responsibility to preserve justice.