

OPINION NO. 89-028

Syllabus:

A township, which provides an emergency rescue service throughout its territory, is required to furnish such rescue services to an institution of the Department of Rehabilitation and Correction located within the township territory.

To: Lynn Alan Grimshaw, Scioto County Prosecuting Attorney, Portsmouth, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, May 15, 1989

I have before me your request for my opinion as to whether a township, which provides an emergency rescue service throughout its territory, is required to furnish such rescue services to an institution of the Department of Rehabilitation

and Correction located within the township territory. The information provided does not indicate that the institution of the Department of Rehabilitation and Correction has contracted for such rescue services, *see generally* R.C. 9.60, or that the township is divided into township fire districts, *see* R.C. 505.37(C). Therefore, I will assume that you are concerned with a situation in which there is no contract and the township simply provides rescue services throughout its territory.

R.C. 505.37(A), which authorizes fire protection services, provides in pertinent part:

The board of township trustees may establish all necessary regulations to guard against the occurrence of fires and to protect the property and lives of the citizens against damage and accidents, and may, with the approval of the specifications by the prosecuting attorney, purchase or otherwise provide any fire apparatus, mechanical resuscitators, or other equipment, appliances, materials, fire hydrants, and water supply for fire-fighting purposes that seems advisable to the board.

Although the language of R.C. 505.37(A) does not explicitly state that townships may provide rescue services, it has been interpreted as granting to townships the authority to provide such rescue services. *See* 1962 Op. Att'y Gen. No. 3332, p. 793 (syllabus) ("[u]nder Sections 505.37 and 505.39, Revised Code, a board of township trustees may acquire and operate an ambulance for the purpose of protecting property and lives against damages and accidents"); 1953 Op. Att'y Gen. No. 2416, p. 114 (syllabus, paragraph one) ("[u]nder the provisions of Section 3298-54, [now R.C. 505.37] General Code, township trustees, in addition to being authorized to guard against the occurrence of fires, are further authorized to protect property and lives against damages and accidents; and under such authority may acquire and operate emergency vehicles or "rescue cars" for such purposes"). I conclude, therefore, that R.C. 505.37(A) grants townships the authority to provide rescue services if they so desire.

Further, it has been determined that if a township provides rescue services it must provide such rescue services to *all* the territory within the township. *See* 1988 Op. Att'y Gen. No. 88-042 at 2-201 ("as a general rule...if a township provides fire and rescue services without the creation of a taxing district with a limited territorial area, the township must provide such services to all territory within the township"); 1987 Op. Att'y Gen. No. 87-040; *see generally* 1985 Op. Att'y Gen. No. 85-059 at 2-218 ("when a board of county commissioners undertakes to provide ambulance and emergency medical services pursuant to R.C. 307.05, such services must be provided to the entire county"). More specifically it has been concluded that state facilities are entitled to such rescue services as are provided generally within the township territory in which they are situated. Op. No. 88-042 at 2-202 (institution of the Department of Youth Services is entitled to the same fire and rescue services as provided the rest of the township); *see also* Op. No. 87-040 at 2-269 to 2-270 ("state facilities, come within the general rule that they are entitled to such fire protection services as are provided generally within the area in which they are located"). Clearly, an institution of the Department of Rehabilitation and Correction is a state facility. *See* R.C. Chapter 5120. Therefore, it follows that an institution of the Department of Rehabilitation and Correction, a state facility, is entitled by virtue of its location within the township territory to such rescue services as are generally provided within the township territory.

Therefore, it is my opinion, and you are hereby advised that a township, which provides an emergency rescue service throughout its territory, is required to furnish such rescue services to an institution of the Department of Rehabilitation and Correction located within the township territory.