of the governing board of the Northeast Ohio Areawide Coordinating Agency by virtue of being an officer of such township in any civil action or proceeding to recover damages for injury, death, or loss to persons or property caused by an act or omission of that board member in connection with a governmental or proprietary function of the Agency.

6. Pursuant to its authority under R.C. 713.21, the Northeast Ohio Areawide Coordinating Agency may, in its discretion, reimburse members of its governing board fees incurred and paid by those board members in retaining legal counsel to represent them as defendants in a criminal prosecution related to their actions as members of that board, provided that the Agency determines that a reasonable and sound basis exists from which to conclude that the actions of those board members occurred as part of a good faith, well-intended attempt to perform or fulfill official duties or responsibilities for or on behalf of the Agency, as set forth in R.C. 713.21 or R.C. 713.23.

OPINION NO. 93-002

Syllabus:

1. A county may not, pursuant to its authority under R.C. 307.37(A), adopt or enforce regulations which impose any standard regarding construction or safety of a "manufactured home," as defined at 42 U.S.C. §5402(6) and identified by the certification label required by 24 C.F.R. §3280.8, which is not identical to the federal construction and safety standards applicable to the same aspect of performance.

2. A county may not, pursuant to its authority under R.C. 307.37(A), adopt or enforce higher or different standards than those standards imposed by the Ohio building code on an "industrialized unit," as defined in R.C. 3781.10, which has been approved for use in Ohio pursuant to R.C. 3781.12 as evidenced by the insignia and letter of certification issued by the Ohio Board of Building Standards.

To: Rebecca J. Ferguson, Preble County Prosecuting Attorney, Eaton, Ohio
By: Lee Fisher, Attorney General, January 8, 1993

You have asked whether a county, through its building code and building and electrical inspector, can adopt and enforce standards relating to "manufactured homes" that require more than required by the federal regulations pertaining to manufactured homes and, if so, how can it be accomplished?

I. County Building Code Authority

The authority of a county to establish a building code is set forth in R.C. 307.37(A)(1), which states, in pertinent part:

> The board of county commissioners, in addition to its other powers, may adopt, amend, rescind, administer, and enforce regulations pertaining to the erection, construction, repair, alteration, redevelopment, and maintenance of single-family, two-family, and

> three–family dwellings within the unincorporated territory of the county....

Regulations adopted under R.C. 307.37(A)(1) may govern the installation, maintenance and repair of electrical wiring and equipment. *See* 1958 Op. Att'y Gen. No. 2516, p. 498. A county may appoint a county building inspector to administer and enforce its building regulations. R.C. 307.38. Thus, as a general proposition, a county may adopt a building code, enforceable by its building and electrical inspector, governing single–family, two–family, and three–family dwellings. The principle issue raised by your request, therefore, is whether a "manufactured home" is subject to regulation under R.C. 307.37 when it is used as a single–family, two–family, or three family dwelling, or whether the federal regulatory scheme governing manufactured homes preempts such county regulatory authority.

II. Federal Regulation Of Manufactured Homes

A. General Regulatory Scheme

The federal definition of "manufactured home" is set out at 42 U.S.C. §5402(6), which states:

> "manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and *designed to be used as a dwelling* with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary and complies with the standards established under this chapter.... (Emphasis added.)

This definition was enacted as part of the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended. 42 U.S.C. §5401 *et seq.* The Act required the Secretary of Housing and Urban Development (HUD) to establish federal manufactured home construction and safety standards, 42 U.S.C. §5403(a), and further authorized the Secretary to promulgate rules and regulations necessary for administration of the Act, 42 U.S.C. §5424. Procedural and enforcement regulations under this latter authority are codified at 24 C.F.R. pt. 3282. The construction and safety standards are codified at 24 C.F.R. pt. 3280.

The construction and safety standards set out specific requirements governing "all equipment and installations in the design, construction, fire safety, plumbing, heat–producing and electrical systems of manufactured homes which are designed to be used as dwelling units." 24 C.F.R. §3280.1(a). HUD enforces the standards by requiring prior approval of manufactured home designs, and by oversight of the manufacturing process and of distribution and sales. *See* 24 C.F.R. §§3280.3, 3282.201–3282.256, 3282.351–3282.366. Conformity with the standards is evidenced by a certification label affixed to each transportable section of a manufactured home. 24 C.F.R. §3280.8; 24 C.F.R. §3282.7(s); 24 C.F.R. §3282.205; 24 C.F.R. §3282.362(c)(2).

B. Federal Preemption Of Local Authority

The federal regulations governing manufactured homes used as dwelling units cover many, if not all, of the aspects of construction and safety commonly addressed

in county building codes governing single-family to three-family dwellings under R.C. 307.37(A)(1). However, "federal law enacted to regulate a subject regulated by state law is not, *ipso facto*, deemed to be preemptive of the state law." *Jones Metal Products Co. v. Walker*, 29 Ohio St. 2d 173, 281 N.E.2d 1 (1972) (syllabus, paragraph one). There are three tests for federal preemption:

> Congress may expressly preempt state authority in a given area. *Jones v. Rath Packing Co.* (1977), 430 U.S. 519. Absent express preemption, where state law conflicts with or frustrates federal law or its objectives, federal law may supersede state law. *Florida Lime & Avocado Growers, Inc. v. Paul* (1963), 373 U.S. 132. Additionally, if a scheme of federal regulations is so pervasive as to leave no room for the states to supplement it, federal preemption may be found. *Rice v. Santa Fe Elevator Corp.* (1947), 331 U.S. 218.

State ex rel. Miller v. Industrial Comm'n, 26 Ohio St. 3d 110, 111, 497 N.E.2d 76, 77 (1986), *aff'd sub nom. Goodyear Atomic Corp. v. Miller*, 486 U.S. 174 (1988); *see also Michigan Canners and Freezers Ass'n v. Agricultural Mktg. and Bargaining Bd.*, 467 U.S. 461 (1984).

With respect to the regulation of manufactured homes, Congress has expressly preempted state and local authority by the provisions of 42 U.S.C. §5403(d), which states:

> Whenever a Federal manufactured home construction and safety standard established under this Chapter is in effect, *no State or political subdivision of a State shall have any authority either to establish, or to continue in effect*, with respect to any manufactured home covered, *any standard regarding construction or safety applicable to the same aspect of performance* of such manufactured home *which is not identical* to the Federal manufactured home construction and safety standard. (Emphasis added).

See also 24 C.F.R. §3282.11(a)-(b).

In the case of *Scurlock v. City of Lynn Haven*, 858 F.2d 1521 (11th Cir. 1988), the court directly considered the issue of preemption of local law under 24 U.S.C. §5403(d).[1] *Scurlock* involved a municipal zoning ordinance that prohibited homes on residentially zoned sites that did not conform to state building code standards and the municipal electrical code. The city, in enforcing this ordinance, had refused to allow placement of a mobile home on a residentially zoned site, even though the mobile home met all the requirements of 24 U.S.C. §§5401-5426 and the regulations adopted thereunder. *Id.* at 1522-23. The court

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1 Several federal court opinions, in the course of describing the scope of the Act generally, have recognized the general preemptive effect of 24 U.S.C. §5403(d), although preemption was not an issue. *See, e.g., Indiana Manufactured Hous. Assoc. v. Pierce*, No. S86-698, 1988 U.S. Dist. LEXIS 17499, at * 1 (N.D. Ind. July 8, 1988) ("[w]here applicable [the Act] preempts state and local building regulations"); *Association for Regulatory Reform v. Pierce*, 670 F. Supp. 1041, 1043 (D.D.C. 1987) ("[t]he incentive offered by the Act is exemption from the myriad state and local regulations across the country which loosely track HUD's regulations") *modified on other grounds*, 849 F.2d 649 (1988); *Gatlin v. Countryside Indus., Inc.*, 564 F. Supp. 1490, 1492 (N.D. Texas 1983) ("[t]he National Act required the Secretary of HUD to establish safety standards which would supersede existing state standards that were not identical to the federal standards").

held that enforcement of the ordinance against such a mobile home was expressly preempted by the terms of 24 U.S.C. 5403(d), reasoning as follows:

> The language of the statute clearly precludes states and municipalities from imposing *construction and safety* standards upon mobile homes that differ in any respect from those developed by HUD.
>
> ....
>
> Since the City ordinance has greater safety requirements for a mobile home than the Federal Act, the ordinance must give way to the Act.... The City cannot attempt land use and planning through the guise of a safety provision in an ordinance when that safety requirement is preempted by federal law.

Id. at 1524-25 (footnote omitted). *See also Shorter v. Champion Home Builders, Co.*, 776 F. Supp. 333, 337-38 (N.D. Ohio 1991) (holding that, pursuant to 42 U.S.C. §4509(c), state law tort claims regarding mobile housing are not preempted, even though, pursuant to 42 U.S.C. §5403(d), "Ohio may not institute its own safety standards").

A recent Ohio case has similarly recognized the supremacy of federal manufactured home regulations over local regulations governing safety and construction. In the case of *Village of Moscow v. Skeene*, 65 Ohio App. 3d 785, 585 N.E.2d 493 (Clermont County 1989), the court stated:

> It is the opinion of this court that Section 5403(d) of the Mobile Home Act preempts state and local regulation of mobile or manufactured homes concerning safety and construction. See consent decree in *Ohio Manufactured Hous. Assn. v. Celebrezze* (Feb. 11, 1987), S.D. Ohio, Case No. C2-85-1814, (unreported).
>
> ....
>
> Under the Mobile Home Act, Congress intended to establish federal standards fur mobile or manufactured homes. *United States v. Anaconda Co.* (D.C.1977), 445 F. Supp. 486. Accordingly, the Mobile Home Act preempts the field of mobile home construction safety, leaving the land use or zoning aspects to the state and/or local governments. *Brookside Village v. Comeau* (Tex.1982), 633 S.W. 2d 790.

Id. at 789-90, 585 N.E.2d at 495-96.

Skeene involved a municipal zoning ordinance that allowed single family dwellings in certain zoned districts. The definition of dwelling excluded house trailers. The provisions of both the village zoning code and R.C. 4501.01(L) in effect at the time defined "house trailer" as a non-self propelled vehicle designed for human habitation "whether resting on wheels, jacks, or other temporary *foundation and used* or so *constructed as to permit its being conveyed* upon the public streets or highways." *Id.* at 788, 585 N.E.2d at 495 (emphasis altered). Based on these definitions, the village denied the defendant a permit to place his "house trailer" on a permanent foundation in a district zoned for single family dwellings. The "house trailer" in question bore a certification label certifying that it was in compliance with the federal manufactured home standards. Affirming the findings of the lower court, the court of appeals reasoned that when placed on a permanent foundation, the trailer lost its statutory status as a "house trailer" as defined by the village zoning code. *Id* at 789, 585 N.E.2d at 495. The trailer retained its status as a manufactured home as defined by federal law, however, because the federal definition was not limited to structures on temporary foundations. Thus, pursuant to 42 U.S.C. §5403(d), the village could not impose different construction and safety standards than imposed by the federal regulations.

Although neither *Scurlock* nor *Skeene* involved county building codes, 42 U.S.C. §5403(d) applies to both the state and political subdivisions of the state, including counties. Additionally, unlike municipalities, which exercise their police powers under direct constitutional grant in Ohio, *see* Ohio Const. art. XVIII, §3, counties in Ohio can exercise only such powers as are expressly delegated to them by the General Assembly. *State ex rel. Shriver v. Board of County Comm'rs*, 148 Ohio St. 277, 74 N.E.2d 248 (1947) (syllabus, paragraph two). It follows that the authority of a county to enact building regulations pursuant to R.C. 307.37(A)(1) cannot exceed the authority of the state itself. Accordingly, 42 U.S.C. §5403(d) preempts the authority of a county to adopt and enforce, through its building code, any standards relating to the construction and safety of manufactured homes that differ from federal standards applicable to the same aspect of performance.[2]

C. Scope Of Federal Preemption

Notwithstanding the general federal preemption of state and county regulatory authority over manufactured homes, certain exceptions exist. The standards promulgated by the Secretary of HUD to date govern only "manufactured homes which are designed to be used as *dwelling units*." 24 C.F.R. §3280.1(a) (emphasis added). Dwelling unit is defined at 24 C.F.R. §3280.2(a)(7) as "one or more habitable rooms which are designed to be occupied *by* one *family* with facilities for living, sleeping, cooking and eating." (Emphasis added.) *See also* 24 C.F.R. §3282.8(l) ("*Multifamily homes*. Mobile homes designed and manufactured with more than one separate living unit are not covered by the standards and these regulations"). Thus, there are no federal standards applicable to manufactured homes designed for use as two- or three-family dwellings. Accordingly, 42 U.S.C. §5403(d) does not operate to preempt state or local regulation of manufactured homes designed as multi-family dwellings.

In addition, 42 U.S.C. §5403(h) expressly excludes any structure from the coverage of the Act when the manufacturer certifies that the home is:

> (1) designed only for erection or installation on a site-built permanent foundation;
> (2) not designed to be moved once so erected or installed;
> (3) designed and manufactured to comply with a nationally recognized model building code or an equivalent local code, or with a State or local modular building code recognized as generally equivalent to building codes for site-built housing...; and
> (4) to the manufacturer's knowledge is not intended to be used other than on site-built permanent foundation.

As explained and implemented by 24 C.F.R. §3282.12, 42 U.S.C. §5403(h) allows modular housing which would otherwise meet the federal definition of "manufactured home" to be excluded from the coverage of the Act, if the manufacturer elects to subject the structure to appropriate state or local codes governing modular housing in lieu of the federal manufactured home standards.

Thus, there is no federal preemption of state or local regulatory authority of structures which fall within the federal definition of manufactured homes, 24 U.S.C. §5402(6), when 1) such structures are designed as multifamily dwellings or 2) the structures are single-family dwellings, but the manufacturer has elected under 42

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2 A county cannot avoid the preemptive effect of 43 U.S.C. §5403(d) by labelling construction and safety standards zoning legislation. Both *Scurlock* and *Skeene* recognize, however, that the federal legislation does not preempt local zoning authority with respect to land use and planning.

U.S.C. §5403(h) to certify the structure in accord with state or local regulations applicable to modular housing. In order to determine the extent to which a county may regulate these types of manufactured homes, however, it is necessary to examine whether local regulation is precluded under state law.

III. State Regulation Of Industrialized Units

A. General Regulatory Scheme

Manufactured homes, as defined in federal law, are structures which also fall within the state law definition of "industrialized units" set forth in the final paragraph of R.C. 3781.10. An "industrialized unit," as defined in R.C. 3781.10, is "an assembly of materials or products comprising all or part of a total structure which, when constructed, is self-sufficient or substantially self-sufficient, and when installed constitutes the structure or part of a structure, except for preparations for its placement." Id. Additionally, 6 Ohio Admin. Code 4101:2-1-55(B) provides that, "[t]he inherent concept of industrialized units involves substantial completion or fabrication of a unit or assembly of closed construction at a location remote from the site of intended use and requires transportation to a building site for its subsequent use as regulated by this code [the Ohio Building Code, R.C. Chapters 3781 and 3791 and regulations promulgated thereunder by the Board of Building Standards]." *See generally Ryan Homes, Inc. v. Ohio Dept. of Indus. Relations*, 30 Ohio App. 3d 68, 506 N.E.2d 293 (Franklin County 1986) (holding the regulatory definition of industrialized unit valid and not in conflict with R.C. 3781.10).

The Board of Building Standards is responsible for the establishment of rules governing "the erection, construction, repair, alteration, and maintenance of all buildings or classes of buildings specified in section 3781.06 of the Revised Code, including...the construction of industrialized units, the installation of equipment, and the standards or requirements for materials to be used in connection therewith." R.C. 3781.10(A). R.C. 3781.06 can be characterized broadly as requiring all buildings to comply with the state building code except non-commercial agricultural structures and small residential buildings. Although, the regulation of single-family, two-family and three-family dwellings is generally left to local authorities, these family dwellings become subject to the state building code, when constructed or erected as industrialized units. R.C. 3781.06 states:

> sections 3781.06 to 3781.18 and 3791.04 of the Revised Code, shall be considered as model provisions with no force and effect when applied to single-family, two-family, and three-family dwelling houses which have not been constructed or erected as industrialized one-family, two-family, or three-family units or structures within the meaning of the term "industrialized unit" as provided in section 3781.10 of the Revised Code....

The substantive construction and safety standards applicable to industrialized units are governed by the Ohio Basic Building Code. 6 Ohio Admin. Code Chapters 4101:2-1 to 4101:2-54.[3] The Board of Building Standards enforces these standards by requiring prior approval of the manufacturer's plans for particular industrial unit models, oversight of the manufacturing process and quality control procedures, and inspection of individual units. *See* R.C. 3781.12; R.C. 3791.04; 6

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3 The Ohio Basic Building Code recognizes the federal preemption of state regulatory authority over the types of industrialized units that fall within the federal definition of manufactured homes. 6 Ohio Admin. Code 4101:2-6-20(A), ("[m]anufactured homes constructed under 24 C.F.R. Part 3280, 'Manufactured Home Construction and Safety Standards' used for single-family dwellings...are not regulated by this code").

Ohio Admin. Code 4101:2-1-55 through 4101:2-1-71. Each unit authorized for use in Ohio by the above process is then issued an insignia, to be attached to the unit, and a letter of certification or conditional approval: *See* 6 Ohio Admin. Code 4101:2-1-59(B)(3); 6 Ohio Admin. Code 4101:2-1-60(E); 6 Ohio Admin. Code 4101:2-1-62.

B. Local Regulation of Industrialized Units May Not Conflict with State Regulation

R.C. 3781.12 specifically states that "[t]he issuance of the authorization for the use of the materials or assemblages described in the petition [for approval of an industrialized unit model] shall constitute approval for their use *anywhere in Ohio*." (Emphasis added). *See also* 6 Ohio Admin. Code 4101:2-1-70. R.C. 3791.04 additionally provides that when the plans for on-site construction or erection of a building are submitted for approval to a certified municipal, township, or county building department, "no further approval shall be required" for any portions of such plans that have been approved pursuant to R.C. 3781.12.

Construing the above statutes in the context of R.C. Chapters 3781 and 3791, the court in *City of Eastlake v. Ohio Bd. of Building Standards*, 66 Ohio St. 2d 363, 422 N.E.2d 598 (1981) stated:

> Although R.C. Chapter 3781 in several sections provides that the standards therein are the lawful minimum for public buildings and industrialized units, the thrust of these sections dealing with industrialized units is to encourage their use throughout the state. To that end, the relevant statutes, in R.C. Chapters 3781 and 3791, establish a one-step approval process for industrialized units, through the board, which constitutes "approval for their use anywhere in Ohio." See R.C. 3781.12. To allow local authorities to impose higher or different standards on these units would defeat the avowed purpose of the state building code to encourage standardization of construction "methods employed to produce industrialized units." See R.C. 3781.11(D). Standardization of industrialized units, as described in R.C. Chapter 3781, necessarily precludes imposition of local requirements which conflict with the practices approved for statewide use.

Id. at 367, 422 N.E.2d at 601. *Eastlake* involved a municipal building ordinance prohibiting a type of electrical wiring used in industrialized units that had been approved pursuant to R.C. 3781.12. On the basis of the municipal ordinance, the municipal building department, which was certified under R.C. 3781.10(E) as the local enforcement authority of the Ohio building code, refused to issue a building permit for erection of the state-approved industrialized units within the municipality. The court held that "Eastlake's action in imposing more restrictive standards of construction on the industrialized units by ordinance than those mandated by the Ohio Building Code is in conflict with the general laws, and gave the board [of building standards] just cause for revoking its certification as local enforcement authority of the state code." *Id.* at 368; 422 N.E.2d at 601. Thus, technically, the holding in *Eastlake* was limited to the proposition that a certified local building department may not enforce local building code regulations that are in conflict with the state law governing industrialized units. "However, a fair reading of *Eastlake* also yields the conclusion that the enactment of a substantive local ordinance by a municipality with a non-certified building department would nevertheless exceed its home-rule authority where the ordinance attempts to prescribe standards inconsistent with state law governing industrialized units." *City of Springdale v. Ohio Bd. of Bldg. Standards*, 59 Ohio St. 3d, 56, 59 n.2, 570

N.E.2d 268, 271 n.2 (1991).[4] If a municipality, in the exercise of its constitutional home rule authority, cannot impose stricter building code regulations on an approved industrialized unit than are imposed by the Ohio building code, it is clear that a county is similarly restricted. Thus, when an industrialized unit has been approved for use in Ohio by the board of building standards, a county may not through its building code adopt and enforce higher standards than those imposed by the state building code.

Conclusion

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

1. A county may not, pursuant to its authority under R.C. 307.37(A), adopt or enforce regulations which impose any standard regarding construction or safety of a "manufactured home," as defined at 42 U.S.C. §5402(6) and identified by the certification label required by 24 C.F.R. §3280.8, which is not identical to the federal construction and safety standards applicable to the same aspect of performance.

2. A county may not, pursuant to its authority under R.C. 307.37(A), adopt or enforce higher or different standards than those standards imposed by the Ohio building code on an "industrialized unit," as defined in R.C. 3781.10, which has been approved for use in Ohio pursuant to R.C. 3781.12 as evidenced by the insignia and letter of certification issued by the Ohio Board of Building Standards.

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[4] In the case of *City of Middleburg Heights v. Ohio Bd. of Bldg. Standards*, No. 91-1985, 1992 Ohio LEXIS 3181 (Sup. Ct. Dec. 16, 1992), the Ohio Supreme Court noted that local standards conflict with state rules only when the standards prohibit that which the state allows or require that which the state prohibits. *Id.*, at *11. Thus, if a statute or state rule expressly guarantees approval of building plans and specifications throughout the state, a local standard which imposes a higher standard conflicts with the general law of the state. *Id.*, at *10-11. Accordingly, where the Ohio building code permits or licenses any construction in the state meeting its standards, a subdivision of this state cannot impose stricter building code regulations than are imposed by the Ohio building code.

OPINION NO. 93-003

Syllabus:

A county sheriff has no duty to transport from a city police station located within his county to the county jail, individuals arrested by a city police officer without a warrant or pursuant to a warrant issued by a state or federal court, or the Governor of Ohio.

To: Frank Pierce, Belmont County Prosecuting Attorney, St. Clairsville, Ohio
By: Lee Fisher, Attorney General, February 26, 1993

You have requested an opinion regarding the transportation of individuals who a arrested by city police officers and taken to the city police station. Your concern is t transportation of these individuals from the city police station to the county jail. Specificall your opinion request states:

> 1. A city police officer arrests a person "on sight" or in the act of committing a violation of the Ohio Revised Code. The state code criminat charge will be filed in the applicable county court division during the next business day. He takes the arrestee to the police station. The circumstances do not merit recognizance and the person cannot post bond. As between the county Sheriff and the city police department, who transports this arrestee to the county jail?
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> 2. A city police officer stops a person on a traffic violation (or any other charge) which would normally result in only a citation, but finds out the defendant has a warrant for his arrest issued by a county court judge on an unrelated charge. He takes the defendant into custody at the station based on said warrant. Who transports the prisoner to the county jail, the city or the county? Does it make any difference if the warrant is issued by (a) the Common Pleas Court or (b) a Court of another county[,] state or a federal court, or (c) the Governor?

Transportation of Individuals Arrested Witbout a Warrant

No statutory provision expressly confers upon either the county sheriff or a city polic officer a duty to transport from a city police station to tbe county jail an individual arrested b a city police officer without a warrant for a violation of a statute of the Ohio Revised Code Therefore, an examination of the provisions of law providing for the custody of individual arrested by peace officers is required in order to detetmine whether the General Assembl intended to delegate this duty to county sheriffs.[1] *See generally Henry v. Central Nat'l Bank* 16 Ohio St. 2d 16, 242 N.E.2d 342 (1968) (syllabus, paragraph two) ("[t]he primary purpos

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[1] The Attorney General is only authorized to give legal advice to state officers an boards, R.C. 109.12; R.C. 109.13, and county prosecuting attorneys, R.C. 109.14, concernin matters relating to their official duties. Since a county prosecuting attorney has no duty t advise municipal corporations or their officials, *see* R.C. 309.09(A); R.C. 3313.35; *see als* R.C. 733.51 (the city director of law shall serve the city directors and officers as legal counse and attorney), the Attorney General is not authorized to determine the responsibilities of cit police officers with respect to the transportation from a city police station to the county jail o