

September 25, 1997

OPINION NO. 97-046

The Honorable Lynn Alan Grimshaw
Scioto County Prosecuting Attorney
Scioto County Court House, Room 310
Portsmouth, Ohio 45662

Dear Prosecutor Grimshaw:

You have requested an opinion on the following two questions:

1. After a threat has been made that a bomb is in a school building, does O.A.C. 1301:7-1-03(I) require that the fire chief, or his representative, be in charge of evacuating, searching and clearing of such building?
2. If O.A.C. 1301:7-1-03(I) does not require that the fire chief, or his representative, be in charge of such a situation, do you know of any statute or regulation that requires anyone to be in charge of evacuating, searching and clearing of buildings that are the subject of a bomb threat?

According to information you provided to us, there have been a number of bomb threats made with respect to various schools within Scioto County. You state that certain school officials question whether 3 Ohio Admin. Code 1301:7-1-03(I) imposes upon the fire chief or his assistant various duties to ensure the safety of the occupants of a school that is the object of a threat.

In order to answer your question, it is first necessary to examine the provisions of 3 Ohio Admin. Code 1301:7-1-03, which states in pertinent part:

(I) FM-102.7 Authority at fires and emergencies: The fire chief or his authorized representative shall be in charge at the scene of a fire or other emergency involving the protection of life and/or property, and shall remain in charge until authority is relinquished.

You state that certain school officials question whether the fire chief's authority under rule 1301:7-1-03(I) to take charge at the scene of a fire "or other emergency" imposes a duty upon the fire chief or

his authorized representative to evacuate, search, and clear a school building that has been the object of an anonymous bomb threat.

Concerning the application of rule 1301:7-1-03(I) to a bomb threat situation such as you describe, whether or not a bomb threat constitutes an "emergency" for purposes of rule 1301:7-1-03(I),¹ the rule simply designates the fire chief or his representative as the person "in charge" at the

¹ Examination of the state fire marshal's statutory authority to adopt the state fire code fails to clarify whether the General Assembly intended to include the handling of bomb threats within the scope of that code. As stated in 3 Ohio Admin. Code 1301:7-3-01(A), "[f]or the purpose of prescribing rules to safeguard life and property from the hazards of *fire and explosion* and pursuant to [R.C. 3701.82 (authorizing the fire marshal to adopt rules for safe use of certain types of heaters)], [R.C. 3731.02 (requiring the fire marshal to adopt standards for hotels and SRO facilities)], [R.C. 3737.82 (requiring the fire marshal to adopt state fire code "relating to all aspects of fire safety" which "shall be the minimum standards for safeguarding life and property from fire and explosion")], and [R.C. 3741.14(B) (requiring the fire marshal to adopt filling station rules as part of state fire code)], the fire marshal hereby adopts the BOCA National Fire Prevention Code/1993 promulgated by Building Officials and Code Administrators International, Inc." (Emphasis added.) *See generally* R.C. 3737.84 (listing matters that may not be included in the state fire code).

Rule 1301:7-3-01(A) notwithstanding, the state fire code appears to extend to matters beyond those listed in rule 1301:7-3-01(A). For example, 3 Ohio Admin. Code 1301:7-7-07(H), which addresses tornado drills and shelters for students, is part of the state fire code, yet appears to have been adopted under authority of R.C. 3737.73. Thus, while the state fire code appears to focus upon *conditions or practices* in buildings or upon premises that create fire or explosion hazards, *see* R.C. 3737.44(A), it is not clear that the fire marshal has statutory authority to include in the state fire code a provision unrelated to such conditions or practices and that places a fire official in charge of a bomb threat situation, absent a fire or explosion.

Whether or not there is statutory authority to include in the state fire code procedures governing the handling of bomb threats, it is clear that the state fire code was not intended to address all types of emergencies. In fact the General Assembly has given public entities other than fire officials specific authority over certain types of emergencies. For example, R.C. 5502.21-.51 provides for the system of emergency management within the state. Pursuant to R.C. 5502.25, "[t]he director of public safety, in accordance with Chapter 119. of the Revised Code, shall adopt, may amend or rescind, and shall enforce, rules with respect to the emergency management of the state for the purpose of providing protection for its people against any hazard." As used in R.C. 5502.21-.51, "[e]mergency" means any period during which the congress of the United States or a chief executive has declared or proclaimed that an emergency exists." R.C. 5502.21(F). *See also* R.C. 118.03 (concerning local fiscal emergencies); R.C. 3704.032 (authorizing the Director of Environmental Protection to adopt "an emergency action plan" for air pollution emergencies); R.C. 6109.05(A) (requiring the Director of Environmental Protection to adopt a plan for providing safe drinking water in the case of an "emergency," which, as used therein, means "an imminent and substantial danger to human health"). *See generally* R.C. 2917.13 (creating the crime of misconduct

scene of a fire or other emergency. The rule does not specify what actions are encompassed within the fire chief's being "in charge" at the scene of a fire or other emergency. Rather, the rule has left it to the discretion of the fire chief or his representative to take those actions the officer reasonably deems to be necessary under the circumstances.² *See generally State ex rel. Hunt v. Hildebrant*, 93

at an "emergency" and recognizing that various persons, including law enforcement officers, fire fighters, rescuers, medical personnel, and others, may have duties to perform at the scene of a "fire, accident, disaster, riot, or emergency of any kind"); 1994 Op. Att'y Gen. No. 94-076 at 2-385 (discussing the possible meanings of the term "other emergency," as used in 3 Ohio Admin. Code 1301:7-1-03(I)).

That the term "emergency," as used in rule 1301:7-1-03(I), does not encompass emergencies of every type is further supported by R.C. 3737.80, the language of which is remarkably similar to that used in rule 1301:7-1-03(I). R.C. 3737.80 states in pertinent part:

In any emergency situation relating to the prevention of an imminent release of a *hazardous material*, to the cleanup or disposal of a *hazardous material* that has been released, or to the related mitigation of the effects of a release of a *hazardous material*, the chief of the fire department in whose jurisdiction the emergency situation is occurring or his designee is responsible for primary coordination of the on-scene activities of all agencies of the state, the United States government, and political subdivisions that are responding to the emergency situation until the chief relinquishes that responsibility to a representative of one of the responding public agencies and so notifies that representative. (Emphasis added.)

R.C. 3737.80 thus grants the fire chief responsibility for primary coordination of all public agencies responding to the site of a hazardous materials emergency until such time as the fire chief relinquishes such authority. The General Assembly's specific grant of authority to the fire chief to coordinate activities at the scene of a hazardous materials emergency indicates that the General Assembly did not find such authority otherwise to exist. In fact, the state fire code itself recognizes that in certain types of emergencies both the local fire department and police department are to be notified. *See* 3 Ohio Admin. Code 1301:7-7-30(E)(16) (stating in pertinent part: "[i]n the event a vehicle transporting explosive materials breaks down, is involved in an accident or catches on fire, both the local fire and police departments shall be promptly notified to help safeguard such emergencies").

² *See, e.g.*, 1987 Op. Att'y Gen. No. 87-099 (finding that 3 Ohio Admin. Code 1301:7-1-03(I) grants the fire chief or his representative authority in the event of a hazardous materials accident or emergency to evacuate persons from the vicinity of the accident or to commandeer a vehicle for use at the site of, or in conjunction with, a hazardous materials accident or emergency). After the issuance of Op. No. 87-099, the General Assembly imposed upon the fire chief or his representative the statutory duty of coordinating on-scene activities of all federal, state, and local agencies responding to hazardous materials emergencies, R.C. 3737.80. *See* 1987-1988 Ohio Laws, Part II, 3714 (Am. Sub. H.B. 428, eff. Sept. 26, 1988) (enacting current R.C. 3737.80 as R.C. 3737.90));

Ohio St. 1, 12, 112 N.E. 138, 141 (1915), *aff'd sub nom. State ex rel. Davis v. Hildebrant*, 241 U.S. 565 (1916) (where no direction has been given, an officer "has implied authority to determine, in the exercise of a fair and impartial official discretion, the manner and method" of performing his duties). We must conclude, therefore, that, whether or not a bomb threat to a school building constitutes an "emergency" for purposes of 3 Ohio Admin. Code 1301:7-1-03(I), rule 1301:7-1-03(I) does not impose upon the fire chief or his representative the specific duty of evacuating, searching, or clearing a school building that is the object of a bomb threat.

You also ask whether any statute or administrative rule imposes upon any person or entity the duty to evacuate, search, and clear a school building that is the subject of a bomb threat. Nothing in either the Ohio Revised Code or in the Ohio Administrative Code prescribes a procedure for handling bomb threats to a public building of any kind. *Cf.* R.C. 3737.63(A) (imposing a duty upon the person in direct control of a building regulated by the Ohio building code to report an unfriendly fire to the fire department and also to notify building occupants).

Because there are no statutory requirements as to how bomb threats to public school buildings are to be handled, it is necessary to consider the possible duties of various public safety personnel, school boards, and school personnel in such situations. Turning first to an examination of the statutes addressing the duties of various law enforcement agencies, there appears to be no clear answer as to which entities, if any, are responsible for responding to a bomb threat. For example, the duties of the different types of law enforcement officers are stated only in general terms. As summarized in 1988 Op. Att'y Gen. No. 88-035 at 2-157:

In general, law enforcement officers are required to "preserve the peace." R.C. 311.07(A), which describes the powers and duties of the county sheriff, provides that "[e]ach 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." R.C. 509.05, which describes the powers and duties of township constables, provides that "constables ... shall apprehend and bring to justice felons and disturbers of the peace, suppress riots, and keep and preserve the peace within the county." R.C. 737.11, which describes the general duties of police departments, provides that "[t]he police force of a municipal corporation shall preserve the peace, protect persons and property, and obey and enforce all ordinances of the legislative authority of the municipal corporation, all criminal laws of the state and the United States, and all court orders issued and consent agreements approved pursuant to sections 2919.26 and 3113.31 of the Revised Code." Finally, R.C. 737.19(C), which describes the powers and duties of village marshals, provides that the marshal of a village "shall suppress all riots, disturbances, and breaches of the peace, and to that end may call

1989-1990 Ohio Laws, Part III, 5049 (Sub. H.B. 421, eff. July 11, 1989) (renumbering former R.C. 3737.90 as R.C. 3737.80)).

upon the citizens to aid him. He shall arrest all disorderly persons in the village and pursue and arrest any person fleeing from justice in any part of the state." Accomplishing these goals necessarily requires law enforcement officers to investigate crimes that occur within their jurisdiction.

Thus, while all law enforcement officers have authority to investigate crimes that occur within their jurisdiction as part of their broadly defined duties to preserve or keep the peace,³ no statute of which we are aware imposes specific duties upon law enforcement officials concerning the manner in which to respond to a school's receipt of a bomb threat.⁴ Rather, the manner in which law enforcement officials proceed in the performance of their statutory duties, *e.g.*, the prevention or investigation of crimes, is, in large part, a matter of discretion and varies from law enforcement unit to law enforcement unit. *See generally U.S. v. Laub Baking Co.*, 283 F. Supp. 217, 220 (N.D. Ohio 1968) ("[a]s a public officer charged with preserving the peace, the sheriff has additional implied powers under Ohio law. He possesses the authority to engage in activities which are reasonably necessary for the due and efficient exercise of the powers expressly granted to him").

³ The extent of criminal activity that may be involved is obviously unknown at the time a bomb threat is received. *See, e.g.* R.C. 2917.32(A)(1) and (2) (making it a misdemeanor of the first degree to "[i]nitiate or circulate a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing that the report or warning is false and likely to cause public inconvenience or alarm" or to "[k]nowingly cause a false alarm of fire or other emergency to be transmitted to or within any organization, public or private, for dealing with emergencies involving a risk of physical harm to persons or property"); R.C. 2917.31 (the crime of inducing panic, which may be caused by the making of a false bomb threat, constitutes a misdemeanor of the first degree, or, if there is resulting physical harm to any person, a felony of the fourth degree); R.C. 2909.02 and R.C. 2909.03 (concerning the crimes of arson and aggravated arson, ranging from misdemeanors of the first degree to felonies of the first degree). In addition, a school's receipt of a bomb threat always raises the possibility that, in the event of an actual explosion, the services of various types of public safety personnel, *e.g.*, emergency medical personnel, firefighters, and rescue workers, may be needed.

⁴ *See generally* 2 Ohio Admin. Code 109:2-1-16(J)(3) (included within the peace officer training basic program is three hours of instruction dealing with "bombs and explosives, bomb scene safety and searches, and terrorism," with the learning goal stated, in part, as follows: "The student will know the nature of the bomber and become familiar with recommended bomb searches and safety measures to be carried out at the scene of a suspected bombing"); 11 Ohio Admin. Code 4765-11-10 through 4765-11-12 and [1996-1997 Ohio Monthly Record] Ohio Admin. Code 4765-11-11 at 2599 (standards for volunteer, part-time, and full-time firefighter training programs make no specific reference to bombs or explosives); 11 Ohio Admin. Code 4765-11-13 (standards for fire safety inspector training programs require instruction dealing with explosives, including fireworks).

Turning now to the statutory duties of firefighters, our research indicates that fire protection varies widely throughout the state. For example, municipalities have been granted broad authority to:

establish all necessary regulations to guard against the occurrence of fires, protect the property and lives of its citizens against damage and accidents resulting therefrom, and for such purpose may establish and maintain a fire department, provide for the establishment and organization of fire engine and hose companies and rescue units....

R.C. 737.21. Similarly broad authority has been granted to townships by R.C. 505.37(A), which allows townships to:

establish all necessary rules 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.

Neither statute, however, specifies the particular types of services that municipalities or townships are to provide in order to protect their citizens against fire, damage, or accident. Rather, both municipalities and townships have authority to determine how best to provide for their citizens' needs.⁵ In fact, fire protection may be provided in certain instances by employees of private fire companies. *See* R.C. 9.60(A)(2). Consequently, the services provided by the various public and private firefighting entities will vary. In any event, no statute of which we are aware specifically identifies the duty, if any, firefighters may have to respond to a bomb threat to a school building, prior to the occurrence of a fire or explosion.⁶ *See generally* 1944 Op. Att'y Gen. No. 6682, p. 53,

⁵ *See, e.g.,* R.C. 9.60(C) (authorizing state agencies and instrumentalities and political subdivisions to obtain fire protection pursuant to contract, and defining "fire protection" as including "the provision of ambulance, emergency medical, and rescue service by the fire department of a firefighting agency or by a private fire company and the extension of the use of firefighting apparatus or firefighting equipment," R.C. 9.60(A)(4)); R.C. 505.37 (setting forth several methods by which townships may provide fire protection and other services to all or portions of such townships); R.C. 505.375 (allowing the creation of a joint fire and ambulance district for the delivery of both services); R.C. 505.38(B) (requiring a township that does not have a fire department to have a "fire prevention officer who shall exercise all of the duties of a fire chief except those involving the maintenance and operation of fire apparatus"); R.C. 737.11 (authorizing municipal police and fire departments to be assigned additional duties by ordinance); R.C. 737.22 (villages may, but need not, have fire departments and may appoint permanent full-time paid firefighters or volunteer firefighters).

⁶ *Cf.* R.C. 3737.22(A) (requiring the fire marshal to "[c]onduct investigations into the cause, origin, and circumstances of fires and explosions, and prosecute persons believed to be guilty of

56 ("school buildings are, of course, entitled to whatever protection from fire is provided for the subdivision in which they are located").

Because no case law or statutes have imposed upon the separate groups of public safety personnel specific responsibilities with respect to the handling of bomb threats to school buildings, and because of the lack of uniformity as to how public safety personnel are utilized from jurisdiction to jurisdiction throughout the state,⁷ there appears to be no specific course of action prescribed by law for the handling of bomb threats to public schools.⁸ This is not to say, however, that a board of education may not prepare for such an occurrence at its schools.⁹ *See generally Redd v. Springfield*

arson or a similar crime" and, among other things, to "[c]ompile statistics concerning loss due to fire and explosion as the fire marshal considers necessary"); R.C. 3737.32 ("[t]he fire marshal shall, upon the request of any sheriff or mayor, investigate any bombing and shall work with local law enforcement officials in the apprehension of any person participating in any bombing").

⁷ Concerning the availability of bomb disposal units, for example, we have learned that the city of Columbus has a bomb disposal unit that is part of the city's fire department. The Columbus bomb disposal unit, although part of city government, also provides service to other subdivisions that do not have such units. In another subdivision having a bomb disposal unit, however, that unit may be part of the police department. Thus, the public safety entity with expertise in the handling of bombs is not necessarily the same from subdivision to subdivision.

⁸ For example, R.C. 737.11 states in pertinent part:

The police force of a municipal corporation shall preserve the peace, protect persons and property, and obey and enforce all ordinances of the legislative authority of the municipal corporation, all criminal laws of the state and the United States, all court orders issued and consent agreements approved pursuant to sections 2919.26 and 3113.31 of the Revised Code, and all anti-stalking protection orders issued pursuant to section 2903.213 [2903.21.3] of the Revised Code. The fire department shall protect the lives and property of the people in case of fire. *Both the police and fire departments shall perform any other duties that are provided by ordinance.* (Emphasis added.)

Whether there may exist local regulations that prescribe methods for the handling of bomb threats by public safety personnel is a matter beyond the scope of an Attorney General opinion.

⁹ Unlike certain other entities, neither boards of education nor individual schools are required to adopt plans for dealing with bomb threats to schools. *Cf.* 15 Ohio Admin. Code 5123:2-1-02(K)(6) (requiring county boards of mental retardation and developmental disabilities to adopt action plans addressing various matters, and stating, "[t]he building emergency plans shall include provisions for dealing with *bomb threats*, medical emergencies, power failures, and natural disasters" (emphasis added)) and 16 Ohio Admin. Code 5139-37-10(A)(5) (requiring detention centers of a certain size to adopt standards, including "written plans that specify procedures to be

Twp. School Dist., 91 Ohio App. 3d 88, 91-92, 631 N.E.2d 1076, 1078 (Summit County 1993) ("there is no general duty upon school officials to watch over each child at all times. Therefore, unless school personnel assume a more specific obligation, they are bound only under the common-law duty to exercise that care necessary to avoid reasonably foreseeable injuries" (various citations omitted)).

In order to discuss the manner in which individual schools, school personnel, and boards of education may plan for bomb threats, it is necessary briefly to examine the manner in which the public schools of the state are administered. Pursuant to R.C. 3311.01, there are various types of school districts -- city school districts, local school districts, exempted village school districts, cooperative education school districts, and joint vocational or vocational school districts. A school district exists as an entity apart from the political subdivision or subdivisions in which it is located. *Cline v. Martin*, 94 Ohio St. 420, 115 N.E. 37 (1916).

Pursuant to R.C. 3313.47, each city, exempted village, and local board of education "shall have the management and control of all of the public schools of whatever name or character that it operates in its respective district." In order to carry out its duty to manage and control the schools within the school district, a board of education has broad authority and discretion. *See Ohio Assn. of Public School Employees v. Stark County Bd. of Education.*, 63 Ohio St. 3d 300, 304, 587 N.E.2d 293, 296 (1992) ("[u]nder the Ohio Constitution and the implementing statutes adopted by the General Assembly, boards of education, including county boards of education, have broad powers in matters under their control"); *State ex rel. Ohio High School Athletic Assn. v. Judges of the Court of Common Pleas*, 173 Ohio St. 239, 181 N.E.2d 261 (1962) (syllabus, paragraph two) ("[a] court has no authority to control the discretion vested in a board of education by the statutes of this state or to substitute its judgment for the judgement of such board, upon any question the board is authorized by law to determine"); *Sewell v. Bd. of Education*, 29 Ohio St. 89 (1876) (syllabus, paragraph one) ("[b]oards of education are authorized by law to adopt and enforce necessary rules and regulations for the government of the schools under their management and control").

Specific rule-making authority has been conferred upon boards of education by R.C. 3313.20, which states in pertinent part:

(A) The *board of education* of a school district or the governing board of an educational service center *shall make any rules that are necessary for its government and the government of its employees, pupils of its schools, and all other persons entering upon its school grounds or premises.* Rules regarding entry of persons other than students, staff, and faculty upon school grounds or premises shall be posted conspicuously at or near the entrance to the school grounds or premises, or near the perimeter of the school grounds or premises, if there are no formal entrances, and at the main entrance to each school building.

followed in emergency situations, e.g., fire, disturbance, taking of hostages, natural disasters, strikes, *bomb threats*, work stoppage or other job action" (emphasis added)).

(B)(1) *The board of education of each city, local, exempted village, or joint vocational school district may adopt a written policy that authorizes principals of public schools within the district or their designees to do one or both of the following:*

(a) Search any pupil's locker and the contents of the locker that is searched if the principal reasonably suspects that the locker or its contents contains evidence of a pupil's violation of a criminal statute or of a school rule;

(b) Search any pupil's locker and the contents of any pupil's locker at any time if the board of education posts in a conspicuous place in each school building that has lockers available for use by pupils a notice that the lockers are the property of the board of education and that the lockers and the contents of all the lockers are subject to random search at any time without regard to whether there is a reasonable suspicion that any locker or its contents contains evidence of a violation of a criminal statute or a school rule.

(2) A board of education's adoption of or failure to adopt a written policy pursuant to division (B)(1) of this section does not prevent the principal of any school from searching at any time the locker of any pupil and the contents of any locker of any pupil in the school *if an emergency situation exists or appears to exist that immediately threatens the health or safety of any person, or threatens to damage or destroy any property, under the control of the board of education* and if a search of lockers and the contents of the lockers is reasonably necessary to avert that threat or apparent threat. (Emphasis added.)

The language of R.C. 3313.20(A) thus recognizes the authority of a board of education to adopt rules specifically addressed to emergency situations within its schools. Accordingly, R.C. 3313.20(A) authorizes a board of education to adopt a rule governing procedures to be followed by the district's schools in the event of a bomb threat.¹⁰

In examining R.C. 3313.20, it is also interesting to note the provisions of division (B)(2), which refers to the inherent authority possessed by a school principal or his designee to search a student's locker and its contents "if an emergency situation exists or appears to exist that immediately threatens the health or safety of any person, or threatens to damage or destroy any property, under the control of the board of education and if a search of lockers and the contents of the lockers is reasonably necessary to avert that threat or apparent threat."¹¹ Thus, R.C. 3313.20(B)(2) acknowledges that school principals and their designees have certain inherent

¹⁰ While R.C. 3313.20(A) authorizes a board of education to determine the actions to be taken by school district personnel in the event of a bomb threat, it does not give the board authority to direct the manner in which public safety personnel not employed by the school district will respond to such situations.

¹¹ See generally *New Jersey v. T.L.O.*, 469 U.S. 325 (1985) (holding that the fourth amendment to the United States Constitution applies to searches conducted by school officials).

authority to act in response to an emergency situation that poses a potential threat to the safety of any persons or property under the control of the board of education.¹²

Because there are no statutory or administrative recommendations or procedures identifying the powers or duties of public safety personnel in the event of a bomb threat to a school building, the board of education of each school district, in accordance with its duty under R.C. 3313.47 to control and manage its schools and its rule-making powers granted by R.C. 3313.20, may determine what procedure the schools within its district should follow in the event of the receipt of a bomb threat. *See* 1966 Op. Att'y Gen. No. 66-030 (syllabus, paragraph two) ("[b]oards of education of city, exempted village, and local school districts are by statute vested with the duty to control and manage the schools in their districts, and such boards have the duty, in the exercise of their sound discretion, to make the initial determination that a condition constituting an other public calamity within the meaning of [former R.C. 3317.01] exists in the school district and that it is necessary to close the schools or a school in such district"). In the formulation of any such policy, it would, of course, be advisable to consult public safety personnel within the district to determine precisely what types of assistance may be available to its schools in the event of a bomb threat and to obtain advice concerning the formulation of the school district's bomb threat procedures.

Based on the foregoing, it is my opinion, and you are hereby advised that:

- 1.3 Ohio Admin. Code 1301:7-1-03(I) does not impose upon the fire chief or his representative the specific duty of evacuating, searching, or clearing a school building that is the object of a bomb threat.
2. In the absence of case law or statutes imposing upon the separate groups of public safety personnel specific responsibilities with respect to the handling of bomb threats to school buildings, no specific course of action is required by law for the handling of bomb threats to public schools.
3. In accordance with its duty under R.C. 3313.47 to control and manage its schools and its rule-making powers granted by R.C. 3313.20, a board of education may determine that it is necessary to prepare a plan for the handling of bomb

¹² It is also useful to note that specific duties have been imposed upon principals and other school personnel with respect to the safety of students. *See, e.g.*, R.C. 3737.73(A) (requiring principals or persons in charge of schools to instruct students by means of drills or rapid dismissals to evacuate the building in the event of a "sudden emergency"); R.C. 3737.73(B) (requiring principals or persons in charge of schools to "instruct pupils in safety precautions to be taken in case of a tornado alert or warning"); 3 Ohio Admin. Code 1301:7-7-07 (development of emergency plans and conduct of fire drills); *see also Baird v. Hosmer*, 46 Ohio St. 2d 273, 347 N.E.2d 533 (1976) (syllabus) ("[p]ublic school teachers are required to exercise reasonable care in the performance of their duties, and a complaint alleging that a student suffered personal injury as a direct and proximate result of a teacher's failure to use such care states a cause of action against the teacher").

threats to its schools and, bearing in mind the public safety and other resources that may be available to those schools in such situations, may adopt a procedure to be utilized by the schools within the district when a bomb threat is received.

Respectfully,

BETTY D. MONTGOMERY
Attorney General

September 25, 1997

The Honorable Lynn Alan Grimshaw
Scioto County Prosecuting Attorney
Scioto County Court House, Room 310
Portsmouth, Ohio 45662

SYLLABUS:

97-046

- 1.3 Ohio Admin. Code 1301:7-1-03(I) does not impose upon the fire chief or his representative the specific duty of evacuating, searching, or clearing a school building that is the object of a bomb threat.
2. In the absence of case law or statutes imposing upon the separate groups of public safety personnel specific responsibilities with respect to the handling of bomb threats to school buildings, no specific course of action is required by law for the handling of bomb threats to public schools.
3. In accordance with its duty under R.C. 3313.47 to control and manage its schools and its rule-making powers granted by R.C. 3313.20, a board of education may determine that it is necessary to prepare a plan for the handling of bomb threats to its schools and, bearing in mind the public safety and other resources that may be available to those schools in such situations, may adopt a procedure to be utilized by the schools within the district when a bomb threat is received.