

PRIVATE WATCHMEN:  
POLICE:  
ST. LOUIS CITY:

Employees of Brink's, Inc. who act as armed guards within the City of St. Louis, must be licensed by the Board of Police Commissioners of the City of St. Louis.

OPINION NO. 282

July 1, 1970

Mr. Richard M. Miller  
Acting Secretary  
Board of Police Commissioners  
1200 Clark Avenue  
St. Louis, Missouri 63103



Dear Mr. Miller:

This opinion is in response to your request concerning the following questions with respect to Brink's Inc.

"1. Are employees of Brink's, Incorporated, who act as armed guards for the transportation of money receipts and other valuables from local business to bank depositories, Private Watchmen or Private Policemen within the meaning of the statutory language used in Section 84.340, R.S.Mo., 1959?

"2. By virtue of Section 84.340, R.S.Mo., 1959, does the Board of Police Commissioners have authority to require that armed guards employed by Brink's who work in the City of St. Louis engaged in both inter and intra state commerce be licensed as private watchmen?"

Section 84.340, RSMo 1959, states in full as follows:

"The police commissioner of the said cities shall have power to regulate and license all private watchmen, private detectives and private policemen, serving or acting as such in said cities, and no

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person shall act as such private watchman, private detective or private policeman in said cities without first having obtained the written license of the president or acting president of said police commissioners of the said cities, under pain of being guilty of a misdemeanor."

We view Section 84.340 as a direct grant of powers and not as a limitation upon the board's authority to perform its duties. Obviously, this section prohibits such a person from acting as a private watchman, private detective, or private policeman in the City of St. Louis without first having obtained a written license.

Under this section, Brink's itself is not regulated as a corporation. However, individuals who intend to or do act in such capacities must comply with the licensing requirements. The terms "private watchmen" or "private policemen" have no technical or peculiar meaning and can be taken in their plain or ordinary and usual sense. The term "watchman" is said to be a common law equivalent of what is now known as "policeman". Balentine's Law Dictionary, 4th Edition, p. 1761, Frank v. Wabash Railroad Co., 295 S.W.2d 16 (Mo.Sup. 1956).

In view of the fact that Section 84.340 was enacted for the public protection, it is our view that such terms must be broadly construed even though that section also imposes a criminal penalty for violation. It is also our view that persons who fall within these definitions are not excluded because they perform a private guard, watch, or police function for a private corporation. Any other construction would do violence to the intent of the legislature in enacting Section 84.340. We, therefore, conclude that persons who work as private watchmen or private policemen for Brink's, Inc., within the City of St. Louis are within the meaning of the section and are required to be licensed by the board of police commissioners of the City of St. Louis.

Your second question asks whether the board has the authority to require that armed guards employed by Brinks who work in the City of St. Louis and who are engaged in both inter and intra state commerce be licensed as private watchmen. In this respect, we are additionally informed that Brinks, Inc., contends that such licensing would constitute an undue burden on their activities in interstate commerce. We have no information concerning in what respect Brink's claims such activities would unconstitutionally interfere with their activities in commerce, and do not wish to indulge in speculation. In this respect, we see no reason why

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such armed guards should be exempted from the requirements or the penalty of Section 84.340. It was hardly intended by the legislature to exempt such persons merely by reason of the fact that their activities might carry them beyond the boundaries of the City of St. Louis or beyond the boundaries of the state lines. Meyers v. Matthews, 270 Wis. 453, 71 N.W.2d. 368 (Wis.Sup. 1955) appears to dispose of this question.

We conclude in answer to your second question, that such armed guards who perform such duties within the City of St. Louis are subject to the provisions of Section 84.340.

CONCLUSION

It is the opinion of this office that employees of Brink's, Inc. who act as armed guards within the City of St. Louis, must be licensed by the Board of Police Commissioners of the City of St. Louis.

The foregoing opinion, which I hereby approve, was prepared by my assistant, John C. Klaffenbach.

Very truly yours,

A handwritten signature in cursive script, appearing to read "John C. Danforth".

JOHN C. DANFORTH  
Attorney General