

MISSOURI STATE HIGHWAY PATROL:
MUNICIPALITIES:
POLITICAL SUBDIVISIONS:
COOPERATION BETWEEN POLITICAL
SUBDIVISIONS:

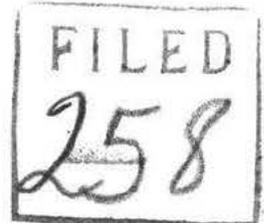
(1) Section 70.220, RSMo 1959, authorizes a municipality to enter into a contract with another municipality or political subdivision for common police protection in accordance with the provisions of Sections 70.210 through 70.325.

(2) Section 70.220 requires that a state agency be authorized to enter into such a contract and to date the Highway Patrol has not received such authorization from the Legislature.

November 4, 1963

Opinion No. 258

Honorable Omer H. Avery
Senator, Twenty-first District
103 Troy Building
Troy, Missouri



Dear Senator Avery:

This is in answer to your letter requesting an opinion from this office concerning the rights and liabilities of a city police officer acting without the limits of the city in conjunction with the Missouri State Highway Patrol, or some other police agency.

After reading the letter from Everett Van Matre, City Counselor of Mexico, Missouri, enclosed with your inquiry, we interpret your question to be whether a city policeman may act outside the limits of his city in cooperation with the Missouri State Highway Patrol, county sheriffs or policemen of other cities under a contract of cooperation authorized under Article VI, Section 16, Constitution of Missouri, 1945, and Section 70.220, RSMo 1959. Article VI, Section 16, of the Constitution of Missouri provides as follows:

"Co-operation by local governments with other governmental units.--Any municipality or political subdivision of this state may contract and cooperate with other municipalities or political subdivisions thereof, or with other states or their municipalities, or political subdivisions, or with the United States, for the planning, development, construction, acquisition or operation of any public improvement or facility, or for a common service, in the manner provided by law."

Section 70.220 reads as follows:

"Any municipality or political subdivision of this state, as herein defined, may contract and cooperate with any other municipality or political subdivision, or with an elective or appointive official thereof, or with a duly authorized agency of the United States, or of this state, or with other states or their municipalities or political subdivisions, or with any private person, firm, association or corporation, for the planning, development, construction, acquisition or operation of any public improvement or facility, or for a common service; provided, that the subject and purposes of any such contract or cooperative action made and entered into by such municipality or political subdivision shall be within the scope of the powers of such municipality or political subdivision. If such contract or cooperative action shall be entered into between a municipality or political subdivision and an elective or appointive official of another municipality or political subdivision, said contract or cooperative action must be approved by the governing body of the unit of government in which such elective or appointive official resides."

In an opinion of this office rendered May 15, 1963, to the Honorable E. J. Cantrell, State Representative, we held that a city could enter into a contract with another municipality for a system of common police protection. A copy of this opinion is enclosed herewith. Of course, each party to the contract must be authorized to enter into such a contract as provided by Section 70.230. Such a contract could provide for mutual cooperation between policemen of a municipality and county sheriffs or policemen of another municipality. However, such a contract could not give a police officer any greater authority than that possessed by a police officer of either of the parties to the contract.

Insofar as a state agency is concerned, Section 70.220 requires that before such a contract can be executed, the state agency must be "duly authorized" to so do.

Thus, the question to be resolved is whether the State Highway Patrol has been authorized to enter into such an agreement.

The authorization for and the powers and duties of the Missouri State Highway Patrol are set out in Chapter 43, RSMo 1959. Although Section 43.180 authorizes patrolmen to assist the policemen of any city, there is no authority allowing the Patrol to enter into a contract with a municipality that would extend the jurisdiction and powers of the policemen of such municipalities or of the members of the patrol. Such authority could only be given to the patrol by its governing body, the Legislature, and it has not been so given to date.

CONCLUSION

(1) Section 70.220, RSMo 1959, authorizes a municipality to enter into a contract with another municipality or political subdivision for common police protection in accordance with the provisions of Sections 70.210 through 70.325.

(2) Section 70.220 requires that a state agency be authorized to enter into such a contract and to date the Highway Patrol has not received such authorization from the Legislature.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, John H. Denman.

Yours very truly,

THOMAS F. EAGLETON
Attorney General

JHD:kd