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WATCHMEN:
NIGHT WATCHMEN:
POLICE OFFICERS:
ARREST:
BOARD OF POLICE COMMISSIONERS:

It is the opinion of this office that a private watchman licensed by the Board of Police Commissioners of the City of St. Louis has authority limited by the terms of his license to serve and act

as a private watchman at certain designated premises within the City of St. Louis only. Such a watchman is not an officer of a municipality in a first class county having a charter form of government and accordingly is not within the provisions of Sections 66.200, RSMo Supp. 1967, or 66.250, RSMo Supp. 1967, relating respectively to the transmission of municipal records and requiring municipal police officers to take training courses. Further, such a watchman has no authority to make an arrest in St. Louis County for a misdemeanor not committed in his presence.

Opinion No. 209-1968

December 17, 1968

FILED
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Honorable Gene McNary
Prosecuting Attorney
St. Louis County Courthouse
Clayton, Missouri 63105

Dear Mr. McNary:

This is in response to your opinion request concerning whether or not a watchman licensed by the City of St. Louis is authorized to make a lawful arrest in St. Louis County; and if so, whether he must comply with the police training statute, Section 66.250, RSMo Supp. 1967, or the municipal records statute, Section 66.200, RSMo Supp. 1967. Your question finally asks whether or not such a watchman can make an arrest in St. Louis County for a misdemeanor not committed in his presence.

Under Section 84.340, RSMo 1959, the Board of Police Commissioners of the City of St. Louis is given the power to regulate and license private watchmen. Section 84.340 states:

"Board of police - power to regulate private detectives, etc. (St. Louis).- 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

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cities, and no 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." (Emphasis added)

You also inquire concerning the application of Section 84.330, RSMo 1959, which states:

"Police force members are officers of state (St. Louis).- The members of the police force of the cities covered by Sections 84.010 to 84.340, organized and appointed by the police commissioners of said cities, are hereby declared to be officers of the said cities, under the charter and ordinances thereof, and also to be officers of the state of Missouri, and shall be so deemed and taken in all courts having jurisdiction of offenses against the laws of this state or the ordinances of said cities."

We have examined the Manual for Licensed Watchmen of the City of St. Louis, the oath taken by private watchmen in St. Louis, the application for licensing for such watchmen and the license issued to such watchmen by the St. Louis Board of Police Commissioners. Our examination leads us to the same conclusion as that reached in Frank v. Wabash R. Co., Mo. 295 SW 2d 16 (1956) and the subsequent case of Manson v. Wabash Railroad Co., 338 SW 2d 54 (1960), that it is not necessary for us to rule on the application of Section 84.330. That is, in Frank and Manson the court held that a policeman is the legal equivalent of a watchman at common law who possessed the power of arrest and that since "police power" is not synonymous with "police force" a city may supplement the police protection which it provides by authorizing, under appropriate regulations, private persons to perform some of its police functions.

Our inspection of the license issued to private watchmen by the Board of Police Commissioners of the City of St. Louis makes it clear that the authority of the private watchman is limited to those premises within the City of St. Louis indicated in the license. This is also clear from the manual for licensed watchmen of the City of St. Louis provided by the Board of Police Commissioners wherein under Rule 5.003 licensed private watchmen have authority

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to arrest in the locations and during the times specified in their license. Further, the authority of the Board of Police Commissioners of the City of St. Louis to license private watchmen is specifically delineated by Section 84.340 and, as such, the territorial jurisdiction is within the City of St. Louis. Similarly, the duties of the Board of Police Commissioners are limited to the boundaries of the city by the express provisions of Section 84.090, RSMo 1959. Within the framework of these laws it cannot be said that private watchmen licensed by the Board of Police Commissioners of the City of St. Louis have any authority whatsoever beyond the boundaries of said city.

Such private watchmen are not police officers within the meaning of Sections 66.200 or 66.250 since both sections refer specifically only to law enforcement officials of municipalities in first class counties having a charter form of government. The City of St. Louis, of course, does not fall in this category.

It naturally follows in answer to your last question that such a watchman has no authority to make an arrest in St. Louis County for a misdemeanor not committed in his presence.

CONCLUSION

It is the opinion of this office that a private watchman licensed by the Board of Police Commissioners of the City of St. Louis has authority limited by the terms of his license to serve and act as a private watchman at certain designated premises within the City of St. Louis only. Such a watchman is not an officer of a municipality in a first class county having a charter form of government and accordingly is not within the provisions of Sections 66.200, RSMo Supp. 1967, or 66.250, RSMo Supp. 1967, relating respectively to the transmission of municipal records and requiring municipal police officers to take training courses.

Further, such a watchman has no authority to make an arrest in St. Louis County for a misdemeanor not committed in his presence.

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

Yours very truly,



NORMAN H. ANDERSON
Attorney General