

March 6, 1970

LETTER OPINION NO. 144

Honorable Leon M. Jordan
Representative - District 11
2548 Prospect Avenue
Kansas City, Missouri 64108



Dear Representative Jordan:

This letter answers your inquiry asking what conduct and actions are lawful for a "Social, Benevolent or Fraternal" Association of police and you refer to lobbying; discussing working conditions with the employer and forming committees to improve their lot.

The pertinent statute is Section 105.510, Senate Bill No. 36, 75th General Assembly and reads as follows:

"Employees, except police, deputy sheriffs, Missouri state highway patrolmen, Missouri national guard, all teachers of all Missouri schools, colleges and universities, of any public body shall have the right to form and join labor organizations and to present proposals to any public body relative to salaries and other conditions of employment through the representative of their own choosing. No such employee shall be discharged or discriminated against because of his exercise of such right, nor shall any person or group of persons, directly or indirectly, by intimidation or coercion, compel or attempt to compel any such employee to join or refrain from joining a labor organization, except that the above excepted employees have the right to

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form benevolent, social, or fraternal associations. Membership in such associations may not be restricted on the basis of race, creed, color, religion or ancestry."

We note that the statute as amended remained the same in substance except that portion (which we have underscored) was added by the recent amendment.

We think it is plain that the excepted employees (among other things) are given the right to form and belong to a benevolent, social or fraternal association. A similar question on representation by an association of employees vis-a-vis the employer was submitted on the original statute involving national guard which is also an excepted class like the police. There were no changes in that portion of the statute (Section 105.510, V.A.M.S.) on an "associations" power to represent a member of an excepted class and/or bargain for them. This exception has been held constitutional. See State ex rel. Missey v. City of Cabool, (Mo.) 441 S.W.2d 35, 43. Our Opinion No. 285, dated December 10, 1968, addressed to Major General Adams, Jr., on the national guard is attached. We held there that an association could not bargain for the national guardsmen. It is our view that the force and effect of our opinion (supra) is not changed by the amendment. We conclude, therefore, that a social, benevolent, or fraternal association of police has no authority to enter into any written proposals with the representative of the city which must be presented to the city for action under Section 105.520, V.A.M.S.

You asked if the association could lobby. We see no objections providing they comply with the pertinent laws on lobbying such as registration of its agent, etc. In this case, we equate the term, to "lobby," to be the equivalent of the right of petition and presenting their views to a public officer or legislative body as provided in Missouri Constitution of 1945, Article I., Sections 8, 9, 29, and United States Constitution, Amendment I. The Missouri Supreme Court in City of Springfield v. Clouse, (Mo.) 206 S.W.2d 539, 542, dealt extensively with this right and approved this action.

On the subject of "forming committees to improve our common lot," we view this as being akin to the constitutional right of petition that this state has always recognized as a constitutional prerogative of its citizens. The Missouri Supreme Court recognized this in City of Springfield v. Clouse, (Mo.) 206 S.W.2d 539, 542, where the subject is fully discussed. Thus, we see no objections to the forming of committees to improve the common lot of

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the police subject to the limitation that such committees may not present proposals to the employer "relative to salaries and other conditions of employment of the employees," i.e., the police, which proposals must be acted on as provided in Section 105.520, V.A.M.S.

We trust this responds to your inquiry and if you have further problems in this area, please feel free to submit them to me.

Yours very truly,

JOHN C. DANFORTH
Attorney General

Enclosure:

Op.No. 285, Major General Adams, Jr., 12-10-68