

December 4, 1979

OPINION LETTER NO. 201
(Answer by Letter - Klaffenbach)

The Honorable James C. Kirkpatrick
Secretary of State
State Capitol Building
Jefferson City, Missouri 65101



Dear Mr. Kirkpatrick:

This letter is in response to your request for an opinion asking:

Is the Kansas City Board of Police Commissioners a state agency under Section 536.010 (5) RSMo? Should the Board submit, and this office publish in the Missouri Register, proposed rules and orders of rule-making under Section 536.021 RSMo?

You further state that your question concerns rules promulgated pursuant to Section 84.720, RSMo, under which the Board of Police Commissioners has the power to license and regulate private watchmen, private detectives, and private policemen.

Inasmuch as your question requires an expedited decision from this office, we will omit unnecessary detail.

A "state agency" is defined in Section 536.010(5), RSMo, thusly:

'State Agency' means each board, commission, department, officer or other administrative office or unit

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of the state other than the general assembly, the courts, the governor, or a political subdivision of the state, existing under the constitution or statute, and authorized by the constitution or statute to make rules or to adjudicate contested cases.

It is our view that the Kansas City Board of Police Commissioners is a state agency generally, because the Missouri Supreme Court concluded in ABC Security Service, Inc. v. Miller, 514 S.W.2d 521, 526 (Mo. 1974), that the St. Louis Board of Police Commissioners is a state agency. It is clear that this holding would apply to the Kansas City Board of Police Commissioners, as well as the St. Louis Board of Police Commissioners. Further, it is a "state agency" because it is authorized to make rules as defined in Section 536.010(4), RSMo. It is clear, of course, that some of the rules promulgated by the Board do not come within the definition of "rule" under Section 536.010(4). McCallister v. Priest, 422 S.W.2d 650, 659 (Mo. 1968). However, rules respecting the licensing of private watchmen, private detectives, and private policemen under Section 84.720 come within the definition of "rule" under Section 536.010(4).

Very truly yours,

JOHN ASHCROFT
Attorney General