

ATTORNEY GENERAL

December 13, 1974

To: ALL COUNTY PROSECUTORS
State of New Jersey

FORMAL OPINION NO. 16-1974

Dear Prosecutors:

As you are aware, questions have been raised as to the propriety of organizations or associations of law enforcement officers soliciting funds by mail or otherwise for advertising, which is included in annual dinner dance program booklets and the jurisdictional limitations, if any, which are placed on such solicitations.

As a result of existing statewide variations in both the interpretation of the provisions of N.J.S. 2A:170-20, *et seq.* and the practices to be employed thereunder, the Attorney General has been asked to render a formal opinion as to the legality of such solicitation practices and to establish a uniform procedure for the enforcement of the provisions of 2A:170-20, *et seq.*

Fund raising practices by organizations or associations of policemen, sheriffs, undersheriffs, deputy sheriffs, court officers, court attendants, detectives, constables, magistrates, or other such law enforcement officers, or any organization or association composed of one or more of said groups, are regulated by the provisions of N.J.S. 2A:170-20, *et seq.* as amended in 1954.

For the purpose of analysis, the questions presented may be outlined as follows.

1. *Solicitations for Advertisements*

On March 22, 1954, the New Jersey Law Enforcement Council submitted its second and final report on law enforcement solicitations. That report provides the historical basis for amendments to N.J.S. 2A:170-20 *et seq.* effected during that year, which in part relate specifically to solicitations for advertising.

Pursuant to the provisions of N.J.S. 2A:170-20, as amended, it is “. . . unlawful for any person to solicit funds or a contribution of any fund, by mail, telephone or in person or by any means whatsoever, whether in payment for tickets, admission, books, tokens, advertising, honorary or other membership, . . .” except that certain active members of such associations “. . . may personally solicit such funds or contributions, but only in payment for tickets, books or tokens . . .”

In its Letter of Transmittal and Recommendations, the New Jersey Law Enforcement Council specifically and strongly recommended, at page 8:

“2. That solicitations of funds by associations or organizations composed of members or former members of law enforcement agencies through the sale of advertisements be prohibited.”

Subsequent thereto, N.J.S. 2A:170-20 was amended and now states, in part, that:

“it shall be unlawful for any person to solicit funds or contributions of any kind for or on behalf of any such organization or association *by any means whatsoever in payment for advertising of any kind.*” (Emphasis added).

Therefore, it is concluded that N.J.S. 2A:170-20 specifically prohibits the solic-

FORMAL OPINION

itation of funds by mail or otherwise for advertising of any kind, including, but not limited to, that which appears in annual dinner dance or other program booklets.

2. *Methods of Solicitation*

The method by which all other solicitations may be made is also delineated by the provisions of *N.J.S. 2A:170-20*. As noted above, only certain active members of law enforcement organizations or associations may personally solicit funds or contributions on behalf of such organizations.

No other persons are permitted to solicit funds, by any means whatsoever, on behalf of such organizations. Since the statutory exception specifically permits only personal solicitations, the use of that term necessarily limits all solicitations to face-to-face encounters between certain active members of such organizations or associations and potential contributors.

Therefore, it is concluded that telephone, mail or any other non face-to-face solicitation techniques are prohibited and unlawful.

In addition to the foregoing, the provisions of *N.J.S. 2A:170-20* impose specific jurisdictional limitations upon solicitation practices by providing that only "bona-fide active members of such organizations or associations may personally solicit such funds or contributions, . . . in the municipality where they are employed as law enforcement officers, or where retired as such, or in case of county or state organizations or associations throughout the county or state where they are employed as law enforcement officers or retired as such."

It is concluded, therefore, that members of such organizations or associations may solicit contributions only within the boundaries of the jurisdiction where they are or were employed as law enforcement officers.

3. *Uniform Enforcement*

In order to provide for the uniform enforcement of the provisions of *N.J.S. 2A:170-20 et seq.*, each county prosecutor should be cognizant of the following additional statutory requirements.

Each law enforcement organization or association must submit a notice of intention to solicit funds with the county prosecutor's office in each county within which such solicitation is to be made, pursuant to *N.J.S. 2A:170-20.2*. A suggested format for such Notice of Intention to solicit funds is annexed.

It should be noted that if the anticipated or actual proceeds of any solicitation campaign exceed \$10,000 then the provisions of the Charitable Fund Raising Act of 1971 (*N.J.S. 45:17A-1 et seq.*) must in addition to the provisions of *N.J.S. 2A:170-20 et seq.* be complied with.

Upon receipt of the Notice of Intention, the county prosecutor should review same and, if any prohibited means of solicitation are indicated, the filing organization or association may properly be notified and advised to not engage in such means of solicitation.

The proceeds of any program of solicitation conducted by a law enforcement agency must be deposited in a trust fund in accordance with *N.J.S. 2A:170-20.3* and withdrawals of said funds must be effected in compliance with the provisions of that statute.

Pursuant to the provisions of *2A:170-20.2*, at the close of a solicitation drive the organization or association must file a report and audit with each county prosecutor's office in which a Notice of Intention was filed and with the Attorney General's office if the soliciting organization or association is a state organization or association. A suggested format for such report and audit is annexed.

ATTORNEY GENERAL

4. Penalties

Any violation of the provisions of *N.J.S. 2A:170-20 et seq.* subjects the violator to prosecution as a disorderly person. (See *N.J.S. 2A:170-20, 20.1, 20.2, 20.3, 20.4* and 20.5).

CONCLUSION

Organizations or associations of law enforcement officers are prohibited, by the provisions of *N.J.S. 2A:170-20 et seq.* from soliciting funds by any means for advertising of any kind, including but not limited to advertising which is intended for inclusion in annual dinner dance program booklets.

In addition, members of such organizations or associations may only lawfully solicit certain types of contributions or funds, personally, and then only within the jurisdiction where each is employed or was retired as a law enforcement officer.

Very truly yours,
WILLIAM F. HYLAND
Attorney General

By: DENNIS L. BLISS
Deputy Attorney General

(NOTE: Any funds collected pursuant to solicitation campaign must be deposited in a trust fund in a bank licensed to do business in the State of New Jersey as provided by *N.J.S. 2A:170-20.3*. In addition to filing with the county prosecutor's office, a copy of this report must be filed with the Attorney General's office *if* the reporting agency is a state organization or association.)

REPORT OF COLLECTION
OF FUNDS

Dear Sir:

Pursuant to *N.J.S. 2A:170-20.2*, the _____
(full name of organization)

_____, located at _____,
(street address, city, state, zip code) submits this

REPORT concerning a solicitation conducted pursuant to a NOTICE OF INTENTION which this organization filed on _____.
(date) In accordance with

this law, his REPORT is filed within thirty (30) days (and in no event later than six (6) months) following the close of that solicitation. The NOTICE OF INTENTION can be found at _____.
(street address, city, state and zip code)

The solicitation was conducted from _____ to _____
(date) (date)

_____, and in the following manner:

From this solicitation a GROSS AMOUNT OF \$ _____ was received. After EXPENSES of \$ _____, itemized below, a NET AMOUNT of \$ _____ was realized. The itemized expenses were:

FORMAL OPINION

The name of the INDEPENDENT AUDITOR who made an AUDIT of the solicitation is _____, and he resides at _____
(name)

_____. This AUDIT is open to the public,
(street address, city, state, zip code)
and may be inspected at _____, at _____
(street address, city, state, and zip code)

(dates and hours)

The proceeds of this solicitation have been deposited in a trust fund entitled _____ in the _____
(name of trust fund) (name of bank and address.)

A copy of this AUDIT is annexed to this REPORT, which is

subscribed and sworn to by:

- 1. _____
- 2. _____

Who are officers of the Association duly authorized to so subscribe and swear by resolution of the Association.

Subscribed and Sworn to before me, a NOTARY PUBLIC OF NEW JERSEY, this _____ day of _____, 1974.

A Notary Public of New Jersey

(NOTE: This report must be filed with the county prosecutor's office of the county within which each organization intends to solicit. Said report must be filed no later than ten (10) days prior to the commencement of solicitation. Solicitation by telephone or by mail is prohibited. No funds may be solicited for advertisements or space in "Ad Books" or variations thereof.

NOTICE OF INTENTION TO SOLICIT FUNDS

Dear Sir:

Pursuant to N.J.S. 2A:170-20.2, the _____,
(full name of organization)

located at _____, submits this NOTICE
(street address, city, state, zip code)

OF INTENTION to solicit or collect funds. In accordance with the Provisions of N.J.S. 2A:170-20, et seq., this NOTICE is filed ten (10) or more days prior to the commencement of the desired solicitation. The solicitation will commence on _____ and will terminate on _____
(date) (date)

ATTORNEY GENERAL

The names and addresses of the officers of this Association are:

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____
- 6. _____

The name(s) of the member(s) of this Association who will be in charge of this solicitation is (are):

- 1. _____
- 2. _____
- 3. _____
- 4. _____

The form of this solicitation or collection will be: (describe means of solicitation or collection)

The net proceeds (gross proceeds less expenses) of this solicitation shall be used for the following purpose(s):

An AUDIT will made of the solicitation or collection by _____
(name of auditor)
_____, an Independent Auditor.

This AUDIT will be available for public inspection at the office of the Association, who address is _____
(street address, city, state, and zip code)

Very truly yours,
This notice is subscribed and sworn to by:
1. _____
2. _____

Who are officers of the Association duly authorized to so subscribe and swear by resolution of the Association.

Subscribed and Sworn to
by me, a NOTARY PUBLIC of
NEW JERSEY, this _____
day of _____, 1974.

A Notary Public of New Jersey