

June 19, 1970 (OPINION)

Alfred G. Brose, Director

Radio Communications Department

Fraine Barracks

RE: State - State Radio - Responsibility for Contents of Broadcast

This is in reply to your letter which was received by this office on June 11, 1970. You have requested our opinion regarding the responsibility of the State Radio Communications Department for statewide broadcasts for the apprehension of criminals, where at the time of such broadcast a warrant or theft report has not been issued.

Section 54-23A-04 provides as follows:

BROADCASTING DISPATCHES - REPORTS REQUIRED. It shall be the duty of the board to broadcast all police dispatches and reports submitted, which in its opinion shall have a reasonable relation to or connection with, the apprehension of criminals, the prevention of crimes, or the maintenance of peace and order in the state, including civil defense. It shall also broadcast any other statement or report upon the request of any constitutional officer, or the head of any state department, providing such message relates to state business. Every sheriff, deputy sheriff, police officer, or other person securing a short wave length radio receiving and transmitting set under the provisions hereof, shall make a report to the board at such times and containing such information as said board shall by regulation require."

Pursuant to Section 54-21-06.1 of the North Dakota Century Code, the term "board" as it is used in the above statute to refer to the Board of Administration, now refers to the Director of Institutions.

Section 54-23A-04, as it pertains to the broadcast of dispatches for the apprehension of criminals, permits discretion by the Director of Institutions, through the Radio Communications Department, only in determining whether such dispatches have a "reasonable relation to or connection with" the apprehension of criminals, the prevention of crimes, or the maintenance of peace and order in the State. Therefore, the Radio Communications Department may determine whether a particular message concerns itself with these areas. Once a determination has been made that a particular message is related or concerned with one or more of these areas, the discretion of the Radio Communications Department terminates; and it is thereafter the duty of such Department to broadcast the message. There is no provision in the above quoted statute for the Radio Communications Department to determine the propriety of a particular message for broadcast.

It should be noted, however, that the Director of Institutions, through the Radio Communications Department, is responsible for

correctly and accurately relaying or broadcasting any message which is submitted to it for broadcast by means of the state radio network, and of this responsibility I am sure you are well aware.

It is, therefore, our opinion that, in the absence of an inaccurate transmittal of a message submitted for broadcast by means of the state radio system, the Radio Communications Department is not responsible for the content of messages, dispatches, or reports broadcast by it once a determination has been made by the Radio Communications Department that a particular message, report, or dispatch has a reasonable relation to, or connection with, the apprehension of criminals, the prevention of crimes, or the maintenance of peace and order in the state, since the propriety of such message, dispatch, or report is the responsibility of the sender.

HELGI JOHANNESON

Attorney General