



OHIO ETHICS COMMISSION

150 EAST BROAD STREET

COLUMBUS 43215

(614) 466-7090

Advisory Opinion

No. 74-002

October 4, 1974

Syllabus by the Ohio Ethics Commission:

Persons who are appointed to membership on the Ohio Organized Crime Prevention Council are not required by Section 102.02 (A) of the Revised Code, by reason of such membership, to file a financial disclosure statement with the Ohio Ethics Commission.

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In your request to the Ohio Ethics Commission for an advisory opinion you asked whether members of the Ohio Organized Crime Prevention Council "fall within the purview of the State's Financial Reporting Act because of their council membership." Because your letter requesting an Advisory Opinion was not clear in some respects, the Ohio Ethics Commission is presuming, for the purpose of this opinion, that you are questioning whether persons who are appointed to membership on the Ohio Organized Crime Prevention Council are required to file financial disclosure statements pursuant to Section 102.02 of the Revised Code. The Commission makes this presumption on the basis of a telephone conversation between you and the Executive Secretary of the Ethics Commission in which you confirmed that your request for an advisory opinion merely questions whether members of the Ohio Organized Crime Prevention Council are required to file financial disclosure statements. Thus, this advisory opinion is responsive to that narrow request. It is not intended to be responsive or apply to any other section of Chapter 102.

Section 102.02 (A) of the Revised Code enumerates those persons who are required to file financial disclosure statements:

Every person who is elected to or is a candidate for a state, county, or city office, or the office of member of the United States congress, and every person who is appointed to fill a vacancy for an unexpired term in such an elective office, and the director and deputy directors of any department or agency of the state, all members of the board of commissioners on grievances and discipline of the supreme court and of the ethics commission created under Section 102.05 of the Revised Code, and every other public official or employee who is designated by the ethics commission pursuant to division (B) of this section, excluding any presidential elector or delegate to a national convention shall file with the appropriate ethics commission on a form prescribed by the commission, a statement disclosing: . . .

Section 102.02 (A) of the Revised Code comprehends two classes of public officials who are required to file annual disclosure statements. The first class includes "every person who is elected to or is a candidate for a state, county, or city office, or the office of member of the United States congress, and every person who is appointed to fill a vacancy for an unexpired term in such an elective office . . ." Thus, persons who hold or are candidates for the elective offices specified in Section 102.02 (A) are required to file financial disclosure statements with the Ohio Ethics Commission.

The second classification of persons required to file financial disclosure statements are those persons who are the "director and deputy directors of any department or agency of the state, all members of the board of commissioners on grievances and discipline of the supreme court and of the ethics commission created under Section 102.05 of the Revised Code . . ."

The executive order, signed by Governor John J. Gilligan, on December 6, 1971, discusses the history, structure and duties of the Ohio Organized Crime Prevention Council. The executive order also specifies that "the Council shall consist of seven members, appointed by the Governor, who shall serve one-year terms . . ." Thus, it is clear that members of the Ohio Organized Crime Prevention Council are not included in the first class of public officials required to file financial disclosure statements pursuant to Section 102.02 (A) of the Revised Code. That is, they are not a "person who is elected to or is a candidate for a state, county, or city office, or the office of member of the United States congress" or a "person who is appointed to fill a vacancy for an unexpired term in such an elective office . . ." (Emphasis added.) Although a member of the Organized Crime Prevention Council is an appointed official, he is not appointed to an elective office.

Members of the Ohio Organized Crime Prevention Council are also not comprehended in the second class of persons required to file financial disclosure statements pursuant to Section 102.02 (A) of the Revised Code. The only "members" who are required to file financial disclosure statements are "members of the board of commissioners on grievances and discipline of the supreme court and of the ethics commission created under Section 102.05 of the Revised Code."

Further, a member of the Ohio Organized Crime Prevention Council is not the director or deputy director of a state department or agency. The director of a department or agency is the chief administrative officer or executive head of the agency. Boards, commissions and councils frequently retain directors to operate and administer, on a day-to-day basis the department or agency. Consequently, the terms "the director and deputy director" do not comprehend a member of the Ohio Organized Crime Prevention Council.

Thus, there is no requirement in Section 102.02 (A) of the Revised Code that members of the Ohio Organized Crime Prevention Council file annual financial disclosure statements with the Ohio Ethics Commission. You should be advised that the Ohio Ethics Commission is granted authority to extend, by use of the rule-making procedure set out in Chapter 119 of the Revised Code, the requirement to file financial disclosure statements to other classes of public officials or employees. Section 102.02 (B) reads as follows:

The ethics commission may, using the rule-making procedures of Chapter 119, of the Revised Code, require any class of public officials or employees whose positions involve a substantial and material exercise of administrative discretion in the formulation of public policy, expenditure of public funds, enforcement of laws, rules, and regulations of the state, county, or cities, or the execution of other public trusts, to file an annual statement on or before the fifteenth day of April under division (A) of this section. The commission shall send the officials or employees written notice of the requirement by the fifteenth day of February of each year the filing is required, unless the official or employee is appointed after such date, in which case the notice shall be sent within thirty days after appointment and the filing shall be made not later than ninety days after appointment.

As of the date of this Advisory Opinion, the Ohio Ethics Commission has not extended the filing requirement to members of the Ohio Organized Crime Prevention Council.

Nothing contained in this Advisory Opinion should be construed to relieve members of the Ohio Organized Crime Prevention Council, who also hold another public office or position, from a requirement that might arise by virtue of that office or position.

In specific answer to your question, it is the opinion of the Ohio Ethics Commission, and you are so advised, that persons who are appointed to membership on the Ohio Organized Crime Prevention Council are not required by Section 102.02 (A) of the Revised Code, by reason of such membership, to file financial disclosure statements with the Ohio Ethics Commission.



OHIO ETHICS COMMISSION
by (Mrs.) Barbara H. Rawson