



**WILLIAM J. SCOTT**

ATTORNEY GENERAL  
STATE OF ILLINOIS  
500 SOUTH SECOND STREET  
SPRINGFIELD  
62706

November 4, 1975

FILE NO. S-992

CRIMINAL LAW:  
Violation of Civil Rights

Honorable Kelly D. Long  
State's Attorney  
Montgomery County  
Courthouse  
Hillsboro, Illinois 62049

Dear Mr. Long:

I have your letter in which you make the following  
two inquiries:

"Is it a violation of the Civil Rights Act  
(Ch. 38, Sec. 13-1 et seq., Ill. Rev. Stat.)  
for a municipal police officer to order two  
adult males who are not violating any criminal  
statute nor creating disturbance to leave a  
public sidewalk. \* \* \*

Further, is a public sidewalk a public place  
of accommodation?"

The elements of the offense of violation of civil  
rights are set forth in section 13-2 of the Criminal Code of  
1961. (Ill. Rev. Stat. 1973, ch. 38, par. 13-2.) Subsections

Honorable Kelly D. Long - 2.

(a) and (d) of that section, which are the only ones that could possibly have been violated in the situation you described, provide:

"§13-2. Elements of the Offense.] A person commits a violation of civil rights when:

(a) He denies to another the full and equal enjoyment of the facilities and services of any public place of accommodation or amusement because of race, religion, color, national ancestry, or physical or mental handicap;

\* \* \*

(d) He, as an official, denies or refuses to any person the full and equal enjoyment of the accommodations, advantages, facilities or privileges of his office or services or of any property under his care because of race, religion, color, national ancestry, or physical or mental handicap."

Under subsections (a) and (d), and under each of the other subsections of section 13-2 as well, it is clear that to constitute a violation the action must be taken "because of race, religion, color, national ancestry, or physical or mental handicap". You have indicated that in the situation about which you have inquired none of these motives was the basis for the action taken.

Honorable Kelly D. Long - 3.

It is a well known rule of construction that where the language of a statute is plain and unambiguous there may be no construction of it (Dept. of Public Works & Bldgs. v. Schon, 42 Ill. 2d 537; People v. Touhy, 361 Ill. 332), and it has also been held that the plain meaning of an unambiguous statute can be neither restricted nor enlarged. (Bovinette v. City of Mascoutah, 55 Ill. 2d 129.) The language of this statute is plain and unambiguous that there is a violation of civil rights only when the action is based on "race, religion, color, national ancestry, or physical or mental handicap." There is no prohibition in this statute against discriminatory actions based on other motives, and following the case law cited there can be no enlarging of the statute to include them in the prohibition. Therefore, since section 13-2(a) and (d) are clear that the denial of full and equal enjoyment must be "because of" one of the listed reasons and since the denial in this case was not because of one of those reasons, it is my opinion that the situation you have described did not constitute a violation of section 13-2 of the Criminal Code of 1961.

Honorable Kelly D. Long - 4.

Since there is clearly no violation of section 13-2 in this case even assuming, but not deciding, that a public sidewalk is a "public place of accommodation", I find it unnecessary to answer your second question.

This opinion addresses only the question of whether the police officer's action constituted a violation of section 13-2 of the Criminal Code of 1961 and is not to be construed as a comment on whether the police officer's actions were otherwise lawful.

Very truly yours,

A T T O R N E Y   G E N E R A L