

December 13, 1999

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Pete Onder
365 Sportsman Road
Portage, PA 15946

Dear Mr. Onder:

ISSUE: In your letter dated October 20, 1999, you inquired on behalf of Jamestown Rod and Gun Club as to whether an active member would be permitted on the club's licensed premises in light of the member's criminal record. According to your letter, the member was convicted of DUI involving the death of a police officer and is awaiting release from county jail.

OPINION: Section 493(14) of the Liquor Code makes it unlawful for a club licensee to permit persons of ill repute or known criminals to frequent its licensed premises. [47 P.S. Section 4-493(14)]. While there is no specific definition of which crimes or the number of crimes, if committed, would make a person a 'known criminal' for purposes of the Liquor Code, a 'known criminal' has been defined by the courts as a person who consistently has violated criminal laws of a serious nature over a period of time. Several courts have also ruled that a 'known criminal' is a person whose criminal behavior has been so notorious and of such a serious nature that the person is readily identifiable in the public mind as a persistent law violator or criminal. In this case, your club member was convicted of two serious crimes and may be a felon. Whether he is a known criminal is unclear.

Since this issue is ultimately one that will be decided by the Enforcement Bureau (i.e., Pennsylvania State Police, Bureau of Liquor Control Enforcement), it is suggested that you contact the Bureau to assist you in determining whether the member would be considered a 'known criminal.' You may also wish to contact local law enforcement authorities to determine the extent of the member's criminal history.

THIS OPINION APPLIES ONLY TO THE FACTUAL SITUATION DESCRIBED HEREIN AND DOES NOT INSULATE THE LICENSEE OR OTHERS FROM CONSEQUENCES OF CONDUCT OCCURRING PRIOR TO ITS ISSUANCE. THE PROPRIETY OF THE PROPOSED CONDUCT HAS BEEN ADDRESSED ONLY UNDER THE LIQUOR CODE AND REGULATIONS. THE LAWS AND POLICIES ON WHICH THIS OPINION IS BASED ARE SUBJECT TO CHANGE BY THE LEGISLATURE OR THE PENNSYLVANIA LIQUOR CONTROL BOARD.

Very truly yours,

FAITH S. DIEHL
Chief Counsel

c.c. Pennsylvania State Police
Bureau of Liquor Control Enforcement

LCB Advisory Opinion No. 99-388