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Photo by Karen Elshout

Police officers from the city of Jennings are attempting to organize a union. Representing their fellow officers are from left to right: Sgt. Dennis Oglesby, Patrolman Tim Jones, Lt. Shawn Lane and Sgt. David Patrick.

Officers attempt unions in wake of court ruling

By Angela Riley
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Some Missouri Supreme Court decisions go by with little notice taken by the general public, but that is not the case with the decision handed down in May 2007 to allow public workers the right to bargain collectively.

Already over a year later, police officers in municipalities across the state are trying to unionize because of the court's decision.

The opinion in *Independence-National Education Association, et. al v. Independence School District* overturned a 1947 case, *City of Springfield v. Clouse*, and a subsequent case from 1982, *Sumpter v. City of Moberly*. With the new decision, all employees, public and private, have a constitutional right to bargain collectively through representatives of their own choosing, as set out in Article 1, Section 29 of the Missouri Constitution.

Although the case involved teachers associations, the effects are seen by all public-sector employees.

"Going into this case we had anticipated that the constitutional right would apply to all state employees," said Sally Barker, of Schuchat, Cook & Werner, who represented teachers associations. "We saw two principles arise from the case. The right of collective bargaining was given to public employees, and if the association and the employers reach a labor agreement, that agreement is enforceable like a contract."

Since the decision, if a police department wants to form a union, they must obtain signatures from its officers to determine that the majority wants representation. The Missouri Fraternal Order of Police has worked with many police municipalities to try and achieve the first step. It represents over 5,000 officers in the state.

"We want to see that a significant majority of officers want to be represented by the FOP," said Greg Kloepfel, an attorney for FOP Lodge 15 Eastern Coalition for Police. "Once that is established, we will send a letter to the municipality asking them to recognize Lodge 15 as

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the collective bargaining group for the officers and for them to establish a framework for collective bargaining with employees."

In the *Independence-NEA* case, the Supreme Court decided to not invalidate a 1965 labor law, commonly known as the Public Sector Law, which excluded some public employees, including teachers, firefighters, police officers, from collective bargaining. In the absence of a statute which covered the excluded employees, the court determined that the employers would set the framework for the collective bargaining process for employees.

"The court cited it was the employer's role to establish the framework for collective bargaining for these employees because there were no statutory rules governing them," said FOP Lodge 15 attorney Kevin Dolley.

According to Kloepfel, letters of intent to unionize have been sent so far to the municipalities of Chesterfield, Ferguson and St. Louis County. No response has been received from Chesterfield and Ferguson on how the cities want to proceed.

"We will comply with the law," said St. Louis County Police Chief Jerry Lee. "We're going to send [the FOP] a letter stating that we're willing to meet with them discuss the framework and how to achieve that."

On the other side of the state, Kansas City police officers are in the process of obtaining signatures to have the local FOP be their collective bargaining representatives. The Jackson County Sheriff's Department has sent a notice to its board that it wants to unionize, and

officers out of Springfield and Buchanan County are already working with their municipalities to establish a framework for collective bargaining, said Terry Carter, executive vice president of Kansas City FOP Lodge 99.

Some opposition to officers' intent to unionize has been seen in the city of Jennings, in suburban St. Louis. The FOP Lodge 15 filed suit in February St. Louis County Circuit Court on behalf of all 37 officers below the rank of major who wanted representation. The FOP asked Judge David Lee Vincent III to make a declaratory judgment ordering the city to recognize Lodge 15 as the exclusive bargaining representatives of the officers and for the city to establish a framework for collective bargaining.

"Obviously, we didn't want it to get to this point, but we had initially approached the city in October of 2007 and nothing was done," Dolley said. "We had to take action."

Calls to the city's attorneys, Lloyd Eaker and Jamis Kresyman, were left unreturned by press time.

According to Dolley, the city wanted the Missouri Department of Labor and Industrial Relations involved in the process, but the *Independence-NEA* decision had excluded police officers from the statutory structure.

"It essentially was a fool's errand," Dolley said. "They wanted to have the Missouri Department of Labor and Industrial Relations involved, but they aren't required to. Police were excluded from [the Public Sector Statute] which was governed by the department. The court had decided that the employers needed to establish the struc-

ture for collective bargaining, and that was what we had asked for."

On July 24, Judge Vincent ordered the city of Jennings to set up a framework for collective bargaining. Both sides were to submit a framework proposal to the judge to consider within 30 days.

The city has filed an appeal with the Missouri Court of Appeals Eastern District on the grounds that the order was arbitrary and the court ordered the appellant to engage in collective bargaining without community interest expressed from employees, Dolley said.

The lawsuit against the city of Jennings might be first involving the formation of public employee unions in Missouri, but it might not be the last.

"We're too early in the process to see if legal action will be required in other municipalities," Kloepfel said. "But with the recent ruling by Judge Vincent, it adds another incentive for cities to work with us. We just want to sit down and discuss the issues."

Barker hasn't seen any incidents of opposition involving teacher's unions.

"I was surprised that police encountered this problem," she said. "Most school districts are recognizing unions that are representing the majority of employees. Litigation has not been necessary, and teachers are in the same legal situation as police."

But the process for collective bargaining for public employees is fairly new in Missouri, and will take some work before it is problem free.

"Police officers haven't been allowed to collectively bargain for the last 60 years," said Sheldon Lineback, executive director of the Missouri Police Chiefs Association. "We're taking all the information and learning as we go. It's a movement that is happening all over the state, but it isn't being achieved overnight."

Officers group wants talks with Dooley

By Paul Hampel
ST. LOUIS POST-DISPATCH

CLAYTON • The St. Louis County Police Officers Association has threatened to take County Executive Charlie Dooley to court unless he meets with them to discuss salary issues.

The association delivered a letter to Dooley on Aug. 15 asking him to recognize the group as the collective bargaining representative for all county police officers and sergeants.

The letter cited a ruling last

month by St. Louis County Circuit Judge David Lee Vincent III ordering the city of Jennings to "meet and confer" with its police officers and Lodge 15 of the Fraternal Order of Police. (The county officers association is a chapter of that lodge.) Vincent had cited a Missouri Supreme Court ruling last year giving public employees a constitutional right to engage in collective bargaining.

"Through this correspondence, the County Association seeks to avoid a contentious le-

gal battle regarding recognition of the police officers for purposes of collective bargaining," the association's attorney, Greg Kloeppel, stated in the letter.

Dooley declined through a spokesman to comment on Wednesday, other than to say he was studying the matter.

Bob Frohne, a sergeant with the county police department and president of the officers association, said the letter was sent after Dooley rejected the association's request in early August for a 6 percent raise for

all officers and dispatchers.

"He refused to directly talk to us but told us through the (St. Louis) County Police Board that they couldn't afford to do anything," Frohne said.

Frohne said more than 60 percent of the county's 639 police officers and 85 sergeants signed cards to be represented by the Fraternal Order of Police.

Frohne said starting pay for a county officer is about \$42,000, with a sergeant's salary topping out at about \$75,000.

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