

OPEN MEETINGS ADVISORY OPINION NO. 2001-01

Issued On February 1, 2001 By The

WEST VIRGINIA ETHICS COMMISSION
COMMITTEE ON OPEN GOVERNMENTAL MEETINGS

COPY

OPINION SOUGHT

Kathy Kennedy, a member of the Board of Officers of the Mercer County Humane Society (MCHS), asks if the Open Governmental Proceedings Act (Open Meetings Act) applies to MCHS meetings.

FACTS RELIED UPON BY THE COMMITTEE

MCHS, a nonprofit organization, has established an animal shelter in Mercer County. MCHS is primarily funded by private donations, animal adoptions and fund-raising activities conducted by the organization. These funds are spent to employ individuals who care for the animals, clean and maintain the shelter building and grounds, and otherwise operate the facility.

The animal shelter is currently operated under a contract between MCHS and the Mercer County Commission, whereby the Commission controls the shelter, and employs a director to oversee daily operations, including supervision of the MCHS employees who work at the shelter. In addition, as authorized by W. Va. Code § 19-20-6, the Commission employs an animal control officer to enforce those provisions relating to the control and registration of dogs contained in W. Va. Code §§ 19-20-1, *et seq.*

CODE PROVISIONS RELIED UPON BY THE COMMITTEE

The Open Meetings Act applies to “public agencies” defined as:

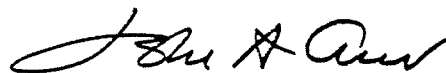
any administrative or legislative unit of state, county or municipal government, including any department, division, bureau, office, commission, authority, board, public corporation, section, committee, subcommittee or any other agency or subunit of the foregoing authorized by law to exercise some portion of executive or legislative power.

W. Va. Code § 6-9A-2(6).

ADVISORY OPINION

The Open Meetings Act applies only to public agencies. In Open Meetings Advisory Opinion 99-13, this Committee determined that the Humane Society of Morgan County was not a public agency subject to the provisions of the Act. The facts regarding MCHS are substantially similar to the Morgan County situation. However, under § 6-9A-11(a) of the Act, advisory opinions issued by the Committee on Open Governmental Meetings are only binding on the parties requesting the opinion.

Based upon the facts provided, MCHS has no authority to carry out any governmental function. Therefore, the Committee finds that MCHS is not a public agency subject to the Open Meetings Act, and MCHS need not comply with its provisions.



Chairman