

DEPARTMENT OF JUSTICE
ODAG EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: SULLIVAN, EDWARD T., COMMONWEALTH OF MASSACHUSETTS
To: AG.
Date Received: 12-09-85 Date Due: 12-24-85 Control #: 5120915573
Subject & Date
12-03-85 LETTER CONCERNING A CASE WHERE THE AMERICAN FLAG
IS BEING USED IN A LOGO FOR THE SPRINGFIELD, MA, BASKETBALL
HALL OF FAME. SEVERAL ALTERATIONS TO THE FLAG HAVE BEEN
MADE, AND MR. SULLIVAN WOULD LIKE TO KNOW IF THIS IS
PERMISSIBLE AND LEGAL UNDER THE APPROPRIATE LAWS GOVERNING
OUR NATION'S FLAG.

	Referred To:	Date:	Referred To:	Date:	
(1)	OLC; COOPER	12-09-85	(5)		FILE:
(2)			(6)		
(3)			(7)		PRTY
(4)			(8)		1Z
	INTERIM BY:		DATE:		OPR:
	Sig. For: OLC		Date Released: 12-24-85		CYN

Remarks

(1) RETURN FORM W/COPY OF RESPONSE TO EX. SEC., ROOM 4400A.
12-24-85. OLC REPLIED BY LETTER WHICH WAS DATED 12-20-85.
WM 12-24-85

Other Remarks:

FILE: S



U.S. Department of Justice

Office of Legal Counsel

Office of the
Deputy Assistant Attorney General

Washington, D.C. 20530

DEC 20 1985

Edward T. Sullivan
172 Chestnut Street
Room 224
Springfield, Mass. 01103

Dear Mr. Sullivan:

This responds to your letter to the Attorney General of December 3, 1985 concerning the use of the American flag in the logo of the Basketball Hall of Fame. You are concerned that this use of the flag may violate the law.

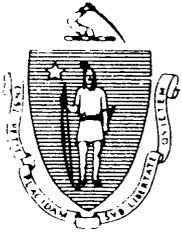
We are not able to provide you with legal advice on this matter, as we are authorized by statute to give legal opinions only to the President and heads of executive departments and agencies. We are pleased, however, to provide you with some general information that may be of assistance.

The Flag Code, 36 U.S.C. §§ 171-182 (copy enclosed), articulates what are deemed to be the customary and acceptable practices governing use of the flag. However, the Code is purely hortatory and is not legally enforceable. Thus there is no basis for federal intervention unless the activity complained of falls within 18 U.S.C. § 700. That section defines the crime of "knowingly" casting contempt upon a United States flag by publicly mutilating, defacing, defiling, burning or trampling upon it. Unless using a modified version of the American flag were held to fall within the purview of 18 U.S.C. § 700, it would not violate our criminal law.

Sincerely,

Samuel A. Alito, Jr.
Deputy Assistant Attorney General
Office of Legal Counsel

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Accession #060-89-372 Box: 27 (Alpha Name Files)
Folder: "S" December 1985



The Commonwealth of Massachusetts

Department of Education

MCD Area #4, Belchertown State School

Belchertown, Mass. 01007

EDWARD T. SULLIVAN

SPRINGFIELD TEL.
(413) 734-6374

*172 Chestnut St. Springfield, Mass. 01103

BELCHERTOWN TEL.
(413) 323-6306

3rd December, 1985.

Mr. Edwin Meese
Attorney General of the United States
Nations Capitol
Washington, D.C.

Dear Sir: (Confidential-Please)

I always thought it was impermissible and illegal to utilize the American flag in an altered manner?

Here we have a case where the flag is being used in a logo for the Springfield, Massachusetts, Basketball Hall of Fame. Although I am a great supporter of basketball and the new hall of fame, the centralized planners may have exceeded the proper legal limits with the flags use here?

Springfield, Mass. a few years ago went ahead without permission and used the TIME Magazine format and logo for a downtown Springfield promotional brochure. Springfield Central Inc. the downtown revitalization group did so without contacting TIME Magazine in New York City and found themselves to be breaking the copyright and trademark laws, and had to refrain from further distribution of the Springfield brochure.

In this instance, involving the American flag, several alterations to the flag have been made, and I simply want to know if this is permissible and legal under the appropriate laws covering our nation's flag? Thank you sir.

Yours sincerely,

Edward T. Sullivan
172 Chestnut Street , Room 224
Springfield, MA. 01103

P.S. the enclosed newspaper clipping is from the Springfield Daily News, December 2, 1985. It shows the new logo as the Basketball Hall of Fame people intend to use it.

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New Hall of Fame Logo Touts 'American Game'

Basketball was born in the U.S.A., and the Naismith Memorial Basketball Hall of Fame's new logo emphasizes those origins, according to hall President Lawrence F. O'Brien.

The logo made its official debut today at the West Columbus Avenue museum in the form of an 18-by-28-inch poster.

"In keeping with the fact that basketball is known as 'The American Game,' since it is the only major sport founded in America, the hall's directors and executive committee approved the new logo, one that dramatically depicts the game's origin — America," O'Brien said.

To differentiate it from the American flag, the logo is vertical in design, has 59 stars instead of 50, and the star field is to the right rather than the left.

Bars hanging lengthwise appear braided at the ends, giving the effect of a basketball net.

"The globe symbolizes that basketball is played throughout the world, in more than 160 nations,"

said Joe O'Brien, executive director of the Hall of Fame.

Designed by Jean Fuller of Design and Advertising Associates, Springfield, a similar version of the logo was first used in March 1982 to mark the opening of the new Shops at Baystate West.

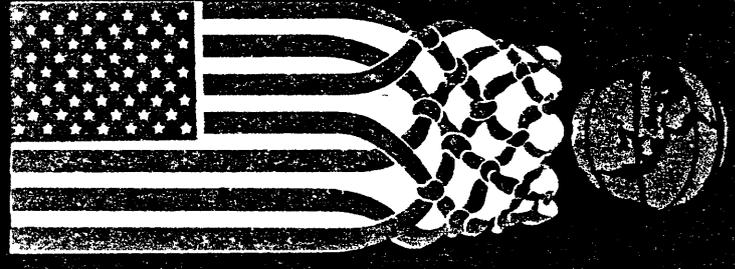
But the original design, which was used at the opening and dedication of the new museum last summer, contained a basketball rather than a globe.

A limited number of posters with the new logo, signed by the artist, are available at the museum's gift shop.

All stationery and publications of the museum will use the new logo, and it will be made available for advertising purposes by area and national firms, Joe O'Brien said.

It has already appeared on CBS-TV and Superstation WTBS, and is shown in a new promotional video produced by the National Basketball Association.

Its first showing was Oct. 21 during WTBS's live coverage of



Basketball Hall of Fame

SPRINGFIELD, MASSACHUSETTS

the Los Angeles-Indiana game at the Springfield Civic Center.

It is also on display at more than 700 Friendly Ice Cream shops throughout the Midwest,

Mid-Atlantic and Northeast as part of a dual celebration of Friendly's 50th anniversary and the opening of the new Basketball Hall of Fame.

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