

CONSTABLE:

Jurisdiction in an adjoining township.

February 8, 1938

2-17

Mr. Emory C. Medlin,  
Prosecuting Attorney,  
Barry County,  
Cassville, Missouri.



Dear Sir:

This will acknowledge receipt of your letter of February 5, 1938, requesting an official opinion, which request reads as follows:

"I would like to have your opinion on a matter which is a little embarrassing to write to you about, and it is regrettable that I need the kind of services that I am asking you about.

I would like to have your opinion to know whether or not the Constable in Purdy Township, which is an adjoining township to Monett, would have the authority to serve search warrants for me. I am disgusted with issuing so many search warrants and nothing being accomplished."

Section 11756 R.S. Mo. 1929 reads as follows:

"Constable may serve warrants, writs of attachments, subpoenas and all other process, both civil and criminal, and exercise all other authority conferred upon them by law throughout their respective counties."

In the case of Putnam v. Coates, 283 S.W. 717, the court held:

"To our minds the evidence in this case fully justified the trial court in dissolving the temporary injunction. As to defendant W.L. Coates, the injunction was properly dissolved, if for no other

reason, because at the time of trial he was a duly commissioned deputy constable of the township in which the park was located, and, under our statute, had the power as such officer to serve warrants, process, etc., throughout the whole county. Section 2151, R.S. Mo. 1919."

In issuing a search warrant as described in this request, you must comply with Section 3783 R.S. Mo. 1929, which specifically sets out that the process shall issue in the name of the constable who is to execute the writ or process. Section 3783 reads as follows:

"Upon complaint being made, on oath, in writing, to any officer authorized to issue process for the apprehension of offenders, that any of the property or articles hereinafter named are kept within the county of such officer, if he shall be satisfied that there is reasonable ground for such complaint, shall issue a warrant to the sheriff or any constable of the county, directing him to search for and seize any of the following property or articles:

First--Any gaming table or gambling device prohibited by law.

Second--Any of the following articles, kept for the purpose of being sold, published, exhibited, given away or otherwise distributed or circulated, viz.: obscene, lewd, licentious, indecent or lascivious books, pamphlets, ballads, papers, drawings, lithographs, engravings, pictures, models, casts, prints or other articles or publications of an indecent, immoral or scandalous character, or any letters, handbills, cards, circulars, books, pamphlets or advertisements or notices of any kind giving information, directly or indirectly, when, where, how or of whom any of such things can be obtained.

Third--Any of the following articles, kept for the purpose of being sold, given away or otherwise distributed or circulated, contrary to law, viz.: pills, powders, medicines, drugs or nostrums, or instruments or other articles or devices for preventing conception, producing or procuring abortion or miscarriage, or other indecent or immoral use, or any letters, handbills, cards, circulars, books, pamphlets, advertisements or notices of any kind describing or purporting to describe any of such articles, or giving information, directly or indirectly, when, where, how, or of whom any of such things can be obtained.

Fourth--All articles or raw materials found in the possession of any person or persons intending to manufacture the same into any articles or things heretofore in this section described, and also all tools, machinery, implements and personal property where such article are found and seized and used or intended to be used in the manufacture of such articles and things."

CONCLUSION

Under the above statute and authority, it is the opinion of this office that a constable can exercise authority conferred upon them by law throughout the whole county and is not limited to the township where he is elected.

Respectfully submitted,

W. J. BURKE  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
(Acting) Attorney General

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