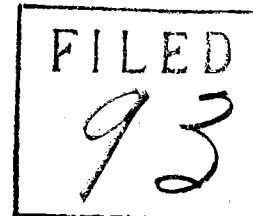


OFFICERS: Peace officers have jurisdiction only in districts for which they were appointed or elected.

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Honorable Stanley Wallach
Prosecuting Attorney
St. Louis County
Clayton, Missouri

Dear Sir:

We are in receipt of your request for an opinion, as follows:

"The streets and highways of St. Louis County cross the limits of incorporated municipalities and the limits of the City of St. Louis at very many points, giving rise to the following questions in the apprehension of law violators:

"1. Where a police officer, deputy sheriff or State patrolman sees an offense committed, whether traffic violation or other offense, to what extent can the officer follow the offender into another jurisdiction, incorporated city or county to apprehend him?

"2. Assuming that the officer has the authority to follow the offender into another jurisdiction to make the arrest, can the officer then bring the offender back into the jurisdiction where the offense was committed to make bond, or must he be turned over to the police in the jurisdiction where arrested?

"For the assistance and advice of the various law enforcement officers in this County, I would deeply appreciate the opinion of your office on these points."

Ordinarily, the authority of any peace officer to make an arrest is confined within the limits of the geographical or political subdivision for which he is elected or appointed. The general rule is set out in 5 C. J., page 422, Sec. 57, as follows:

"When acting within the state as a peace officer without a warrant, or when acting under a warrant directed to him by description of his office, or directed generally to the class of officers to which he belongs, a peace officer may arrest in his official capacity only within the limits of the geographical or political subdivision of the state of which he is an officer, except as otherwise provided by statute."

The above rule has been followed in this state. In *Rodgers v. Schroeder*, 220 Mo. App. 575, we find the following, l. c. 580:

"It is generally held, in the absence of any statute conferring the power, that municipal officers, such as marshals and policemen, have no official power to apprehend offenders beyond the boundaries of their municipalities. * * * The power of such officers to arrest without process for mere quasi-criminal offenses arising from the violation of ordinances is liable to serious abuses, and ought not to be enlarged by judicial construction beyond what is expressly granted or necessarily implied in the statute."

Bearing the above rule in mind, we will consider the powers of the Missouri State Highway Patrol, sheriffs, and police officers, in that order.

A special statute has been enacted to permit members of the State Highway Patrol to pursue offenders against our criminal laws throughout the state. Section 8359, R. S. Mo. 1939, provides:

" * * * When a member of the patrol is in pursuit of a violator or suspected violator and is unable to arrest such violator or

suspected violator within the limits of the district or territory over which the jurisdiction of such member of the patrol extends, he shall be and is hereby authorized to continue in pursuit of such violator or suspected violator into whatever part of this state may be reasonably necessary to effect the apprehension and arrest of the same and to arrest such violator or suspected violator wherever he may be overtaken."

By the enactment of this statute, the Legislature clearly recognized the rule first above stated, limiting the powers of a peace officer to his own geographical or political subdivision.

Section 15136, R. S. Mo. 1939, defines the duties of the various sheriffs in the state, in the following language:

"Every sheriff shall be a conservator of the peace within his county, and shall cause all offenders against law, in his view, to enter into recognizance, with security, to keep the peace and to appear at the next term of the circuit court of the county, and to commit to jail in case of failure to give such recognizance. In any emergency the sheriff shall appoint sworn deputies, who shall be residents of the county, possessing all the qualifications of sheriff. Such deputies shall serve not exceeding thirty days, and shall possess all the powers and perform all the duties of deputy sheriffs, with like responsibilities, and for their services shall receive two dollars per day, to be paid out of the county treasury. (Emphasis ours.)

There is also a special provision concerning the sheriff of the city of St. Louis, which is found in Section 15665, R. S. Mo. 1939, as follows:

"The sheriff of the city of St. Louis shall do and perform all acts and duties prescribed by general and special laws applicable to the sheriff of St. Louis county, which were in

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force at the time of the adoption of the scheme and charter, except in such cases as are inconsistent with some provisions of said scheme and charter."

Your question concerns deputy sheriffs, and they would naturally have the same powers as a sheriff, under Section 13134, R. S. Mo. 1939, which is as follows:

"Every deputy sheriff shall possess all the powers and may perform any of the duties prescribed by law to be performed by the sheriff."

Your question concerning police officers requires a discussion of the powers of such officers in the various classes of cities in the state.

The powers of the police in the city of St. Louis are discussed at length in State ex rel. v. Stobie, 194 Mo. 14. Among the powers granted at that time was the following:

" * * * In case they shall have reason to believe that any person within said city intends to commit any breach of the peace, or violation of law or order beyond the city limits, any person charged with the commission of crime in the city of St. Louis, and against whom criminal process shall have issued, may be arrested upon the same in any part of this State by the police force created or authorized by this act."

The question arose in this case as to whether the police were empowered to arrest offenders against state laws in St. Louis county, and the Supreme Court, in limiting their powers to the city of St. Louis proper, stated, l. c. 61:

"While the metropolitan police system was created by the State through its General Assembly, it was created for the city. The city and county of St. Louis, by the express provisions of the Scheme and Charter, were made separate, distinct and independent municipalities, and unless we are to absolutely ignore all the principles of local self-government, which has ever been the pride of this great Commonwealth, it must be held under the

law now in force, that as police officers, relators were without authority to arrest offenders in St. Louis county for offenses committed in such county."

The general powers of police officers in cities of over 500,000 inhabitants are to be found in Section 7691, R. S. Mo. 1939. Their power to arrest without process, and their jurisdiction, is confined to the city.

Police officers in cities of the first class derive their powers from Section 6495, R. S. Mo. 1939, which is as follows:

"The members of the police force of such city, organized and appointed by the police commissioners of said city under this article, are hereby declared to be officers of such city, under the charter and ordinances of such city, and also to be officers of the state of Missouri, and shall be so deemed and taken in all courts having jurisdiction of offenses against the laws of this state or the ordinances of said city."

While the above section designates policeman in cities of the first class to be state officers, this was obviously done in order that said policemen might make arrests in proper cases for violation of state laws within the city. This is clearly true because of Section 6497, R. S. Mo. 1939, which specifically empowers the police in cities of the first class to enforce ordinances of the city within public parks or grounds belonging to the city but located outside the city limits.

Police in cities of the second class derive their powers from Section 6664, R. S. Mo. 1939, which relates to the powers of the chief of police. That section provides, in part, as follows:

" * * * He shall have like power with the sheriff of the county to execute the writ of search warrant. He shall be active in quieting riots, disorders and disturbances of the peace within the limits of the city, and shall take into custody all persons so offending against the peace of the city, * * *; and in

the prosecution and suppression of crime and arrest of offenders he shall have, possess and exercise like power, authority and jurisdiction as the sheriff of the county, under the laws of the state. * * *

While the latter part of this section may be ambiguous, the phrase "within the limits of the city" and the further phrase "against the peace of the city" clearly indicate an intention to limit the powers of the police to the limits of the city itself.

The powers and duties of police officers in cities of the third class are derived from Sections 6898 and 6902, R. S. Mo. 1939, but their authority is limited to the city within which they serve. See *Rodgers v. Schroeder*, supra.

The same is true of the police and marshals in cities of the fourth class, who derive their powers from Section 7125, R. S. Mo. 1939.

The constable or marshal of a town or village, appointed under Section 7253, R. S. Mo. 1939, is granted the same powers as the constable of his township. Section 7253 is as follows:

"The constable or marshal appointed by the trustees of the inhabitants of such towns, giving bond and ample security for the performance of his duties, is hereby authorized to execute orders and process, arising under the ordinances of said town, and who, within the corporate limits of said town, shall have concurrent power with the constable of the municipal township in which said town is situated to execute all orders, notices, writs and other process and duties that may be executed by the constable of said township, with like effect, and shall receive the same fees therefor."

All of the foregoing questions have been discussed from the view that the officer concerned was not in possession of a warrant of any kind for the arrest of the offender, as your request clearly does not include such a case. We have not discussed the rights of private citizens to arrest for offenses, since your question concerns only officers in their official capacities.

With regard to your second question, it is obvious that only members of the State Highway Patrol may follow an offender

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into another jurisdiction, and Section 8360, R. S. Mo. 1939, plainly discusses the disposition of the offender in such a case. That section is as follows:

"Any person arrested by a member of the patrol shall forthwith be taken by such member before the court or magistrate having jurisdiction of the crime whereof such person so arrested is charged there to be dealt with according to law."

CONCLUSION

It is our conclusion, therefore, that except for members of the State Highway Patrol, who are specially authorized by statute to pursue criminals throughout the state, peace officers generally are limited in their official powers to the geographical or political subdivisions for which they were appointed or elected, where they are not acting under legal process.

Respectfully submitted,

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APPROVED:

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