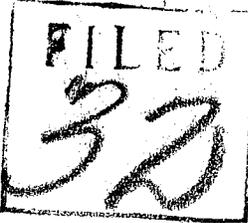


SEARCH WARRANTS: Search warrants may be directed to any peace officer.



December 20, 1955

Honorable Edward W. Garnholz
Prosecuting Attorney
St. Louis County
Clayton 5, Missouri

Attention of L. L. Bornschein
Assistant Prosecuting Attorney

Dear Sir:

In your recent request for an opinion you wrote:

"Prior to the St. Louis County Police Department's being, we directed all Search Warrants to the Sheriff, irrespective of whether same were to be executed in incorporated or unincorporated areas, this County.

"To whom should such be now directed? We receive applications therefor from various police departments of incorporated areas. Should such warrant in such cases be directed to such police chief, the Superintendent of the St. Louis County Police Department, or to any peace officer of St. Louis County."

For a good many years the statute, now Section 542.270, RSMo 1949, stated that the search warrants should be directed to the sheriff or constable. Now, of course, since the establishment of the St. Louis County Police Department, the superintendent of county police would be substituted for the sheriff. For many years, also, it has been the law of the state that the search warrants could be executed by a public officer. See Section 542.290.

The supreme court, presumably under its authority in Section 5, Article V, of the Constitution, provided in rule 33.01 of its rules of criminal procedure, that the warrant should be "directed to any peace officer."

Honorable Edward W. Garnholz

CONCLUSION

It is the opinion of this department that rule 33.01 supersedes Section 542.270, RSMo 1949, and that the rule is valid and controlling upon all courts of this state. It therefore follows that it is immaterial whether your search warrants are directed to the chief of police in one of the incorporated areas, the superintendent of the St. Louis County Police Department, or to any other peace officer in St. Louis County.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Russell S. Noblet.

Very truly yours

John M. Dalton
Attorney General

RSN:lc