PEACE OFFICERS:
FIREARMS:
WEAPONS:
PROBATION AND PAROLE:

Probation and parole officers are exempt from the provisions of Sec. 564.610 RSMo Cum. Supp. 1965, relating to carrying concealed weapons.

OPINION NO. 288

June 28, 1966

Honorable Charles W. Kunderer
Assistant Circuit Attorney
City of St. Louis
Municipal Courts Building
St. Louis, Missouri

FILED
288

Dear Mr. Kunderer:

This is in answer to your request for an opinion of this office on the question whether probation and parole officers are exempted from the provisions of Sec. 564.610 RSMo Cum. Supp. 1965, relating to carrying concealed weapons.

Sec. 564.610 RSMo Cum. Supp. 1965 reads as follows:

> "If any person shall carry concealed upon or about his person a dangerous or deadly weapon of any kind or description, or shall go into any church or place where people have assembled for religious worship, or into any schoolroom or place where people are assembled for educational, political, literary or social purposes, or to any election precinct on any election day, or into any courtroom during the sitting of court, or into any other public assemblage of persons met for any lawful purpose other than for militia drill, or meetings called under militia law of this state, having upon or about his person, concealed or exposed, any kind of firearms, bowie knife, springback knife, razor, metal knucks, bill, sword cane, dirk, dagger, slung shot or other similar deadly weapons or shall, in the presence of one or more persons, exhibit any such weapons in a rude, angry or threatening manner, or shall have any such weapon in his possession when intoxicated, or, directly or indirectly, sell or deliver, loan or barter to any minor any such weapon, without the consent of

> the parent or guardian of such minor, he shall, upon conviction, be punished by imprisonment in the penitentiary not exceeding five years, or by fine of not less than one hundred nor more than one thousand dollars, or by imprisonment in the county jail not less than fifty days nor more than one year, or by both such fine and imprisonment; provided, that nothing contained in this section shall apply to legally qualified sheriffs, police officers and other persons whose bona fide duty is to execute process, civil or criminal, make arrests, or aid in conserving the public peace, nor to persons traveling in a continuous journey peaceably through this state." (Emphasis supplied)

Section 549.265 RSMo (Supp.1965) provides that, with regard to persons paroled from confinement in Missouri, "Any parole or probation officer may arrest such prisoner without a warrant or may deputize any other officer with power of arrest to do so by giving him a written statement setting forth that the prisoner has, in the judgment of the parole or probation officer, violated the conditions of his parole."

Subsection 4 of Sec. 549.265, supra, provides that in the case of a parolee from another jurisdiction, "Any parole or probation officer may arrest such parolee without a warrant, or may deputize any other officer with power to arrest to do so by giving him a written statement setting forth that the defendant has, in the judgment of the parole or probation officer, violated the conditions of his parole."

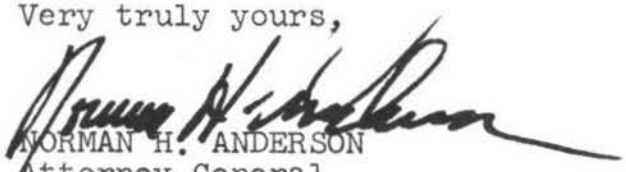
Thus, it is the duty of probation and parole officers to make arrests. This brings them within the proviso of Sec. 564.610, supra, and they are exempt from the prohibition against carrying concealed weapons.

CONCLUSION

It is the opinion of the Attorney General that probation and parole officers are exempt from the provisions of Sec. 564.610 RSMo Cum. Supp. 1965, relating to carrying concealed weapons.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Donald L. Randolph.

Very truly yours,



NORMAN H. ANDERSON
Attorney General