



OFFICES OF THE

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

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OPINION LETTER NO. 31

Mr. George M. Camp, Director
Missouri Division of Corrections
911 Missouri Boulevard
Jefferson City, Missouri 65101

Dear Mr. Camp:

Your request for an official opinion reads as follows:

"May the Division of Corrections permit inmates to attend community functions, such as church or organizational meetings, or to participate in other activities approved by the Division, without resorting to the use of the furlough statutes, by authorizing volunteer persons who are not employees of the Division to have temporary custody and control of inmates outside of the institutions at such times?"

In this state, the control and supervision of state correctional institutions is strictly regulated by statute. The applicable section is Chapter 216 of the Revised Statutes of Missouri, 1969, entitled "State Correctional Institutions." In essence, what you are seeking is the conditional release of a prisoner, for a limited period of time, under the supervision of volunteer persons who are not employees of the Division of Corrections. There is no statutory provision authorizing such procedure. In the case of Wright v. Settle, 293 F.2d 317, 318 (8th Cir. 1961), the court stated that:

". . . Conditional releases and paroles do not have existence or incidents, except such as the statutes creating them provide. One who is given a conditional release or a parole takes it as a matter of law on the basis

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of the statutes. He cannot claim rights or privileges thereunder except such as can expressly or implicitly be found in the language of the statutes."

Similarly, in 72 C.J.S. Prisons §5 (1951), at page 852, it is stated that:

"The matter of the supervision of prisons is usually regulated by statutes. . . . These functions can be performed only by the officers, boards, or other authority to whom they have been intrusted by law."

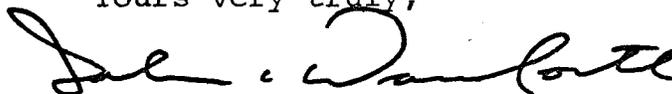
As previously stated, the regulation and control of the state correctional institutions is strictly governed by statute. Section 216.230, RSMo 1969, states that:

"1. The warden or superintendent of each institution shall, with the approval of the director of the division of administration and in conformance with the provisions of this and other laws, appoint assistants and other employees necessary to the proper conduct of the institution of which he or she is warden or superintendent." (Emphasis added)

This section requires the appointment of assistants or other employees to aid in a proper conduct of the institution. This would seem to preclude the use of nonemployees for such functions.

It is our view that the Division of Corrections does not have authority to permit inmates to attend community functions under the supervision of volunteer persons who are not employees of the Division.

Yours very truly,



JOHN C. DANFORTH
Attorney General