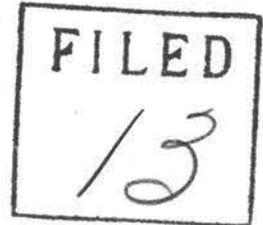


PROBATION AND PAROLE OFFICERS: Exempted from "concealed weapon" statute.

October 27, 1942.

Mr. Donald W. Bunker, Director  
Board of Probation and Parole  
Jefferson City, Missouri



Dear Sir:

The Attorney-General wishes to acknowledge receipt of your letter of October 26, 1942, in which you request an opinion of this Department. Your request, omitting caption and signature, is as follows:

"The Board of Probation and Parole would greatly appreciate a ruling from you in regard to the following question: Does a State Probation and Parole Officer have the right to carry a gun in his car or on his person?"

"This question has arisen several times in this Department, and reference has been made to Section No. 9162 of the Revised Statutes of Missouri 1939, in which the following provision is set forth:

"The Board of Probation and Parole Officers appointed under this article shall have jurisdiction co-extensive with the boundaries of this State, and may make arrests anywhere in the State in the course of their duties under this article."

"The State Probation and Parole Officers must necessarily expose themselves to the same dangers as police officers in making arrests of parolees whose paroles have been revoked by the Board of Probation and Parole, and in returning

parolees to the State penal institutions following the revocation of their paroles."

The general statute prohibiting the carrying of concealed weapons is Section 4423, R. S. Mo. 1939. Said section provides 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 school room 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 court room 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, spring-back knife, razor, metal knucks, billy, sword cane, dirk, dagger, slungshot 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 two years, or by a 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."

It will be noticed that such section provides that no person shall carry concealed weapons upon or about his person, but at the end of such section there is a proviso setting out that nothing contained in such 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, \* \* \*"

That brings us to the question of whether or not parole officers come within the provisions of Section 4423, supra, which exempts certain officers from the provisions of the statute preventing the carrying of concealed weapons. Under Section 9162, R. S. Mo. 1939, the status of these parole officers is set forth. Such section of the statutes prescribes the following:

"The parole officers and other employees of the Board shall perform such duties as may be prescribed by said Board. The Board and the parole and probation officers appointed under this article shall have jurisdiction co-extensive with the boundaries of this state, and may make arrests anywhere in the state in the course of their duties under this article. Upon request of the Board or any parole or probation officer, all peace officers of this state are authorized and required to make arrests and to hold a person so arrested subject to the order of the Board or any parole or probation officer."

It will be seen, after reading the section of the statute quoted above, that the parole and probation officers appointed under Article 8 of Chapter 48, R. S. Mo., 1939, "may make arrests anywhere in the State in the course of their duties under this article." This being the power of the parole and

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probation officers, they then come directly under the provisions exempting certain officers from the regulations as set out in Section 4423, in that they have the power to make arrests.

Conclusion

Therefore, it is the opinion of this department that State Probation and Parole Officers come within the exemption of Section 4423, R. S. Mo. 1939, in that they are empowered under Section 9162, R. S. Mo. 1939, to make arrests anywhere in the State of Missouri. Therefore, they are not prevented from carrying guns for their protection by the provisions of Section 4423, R. S. Mo. 1939.

Respectfully submitted,

JOHN S. PHILLIPS  
Assistant Attorney-General

APPROVED:

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ROY MCKITTRICK  
Attorney-General

JSP:EG