

OPINION NO. 66-184

Syllabus:

A probation officer of the Court of Common Pleas may, when acting within the scope of his official duties, carry concealed firearms.

To: Richard J. Wessel, Butler County Pros. Atty., Hamilton, Ohio
By: William B. Saxbe, Attorney General, December 28, 1966

I am in receipt of your letter of October 19, 1966, which reads in part as follows:

"May an Adult Probation Officer of the Common Pleas Court carry concealed firearms?"

Section 2923.01, Ohio Revised Code, provides as follows:

"No person shall carry a pistol, bowie knife, dirk, or other dangerous weapon concealed on or about his person. This section does not affect the rights of sheriffs, regularly appointed police officers of municipal corporations, regularly elected constables, and special officers as provided by sections 311.07, 737.10, 1717.06, 1731.14 and 2917.32 of the Revised Code, to go armed when on duty. Deputy sheriffs and specially appointed

police officers, except as are appointed or called into service under said sections may go armed if they first give bond to this state, to be approved by the clerk of the court of common pleas, in the sum of one thousand dollars, conditioned to save the public harmless by reason of any unlawful use of such weapons carried by them. Persons injured by such improper use may have recourse on said bond.

"Whoever violates this section shall be fined not more than five hundred dollars, or imprisoned in the county jail or workhouse not less than thirty days nor more than six months; or imprisoned in the penitentiary not less than one nor more than three years."

If probation officers have the authority to carry concealed weapons, this authority must be found in the above section, for neither the statute creating their office nor any other specific statute gives them this authority.

A similar request was considered by this office in Informal Opinion No. 95, Informal Opinions of the Attorney General for 1963, in which it was held that enforcement agents of liquor department were "special policemen" and were authorized to carry arms. The rationale of such Opinion applies with equal force to your request herein.

Section 2301.27, Ohio Revised Code, provides for a department of probation. In Section 2301.31 of the Ohio Revised Code, it is clearly stated:

"For violation of the conditions of parole, as defined by section 2967.01 of the Revised Code, or of the rules and regulations governing persons on parole, any county probation officer may arrest a person on parole in the custody of the county department of probation provided for in section 2301.27 of the Revised Code with which such officer is connected. Upon the written order of the chief probation officer of the county department having custody of a person on parole violating such conditions, rules, and regulations, any probation officer, or any sheriff, constable, or police officer shall arrest such person. * * *"

It is thus apparent that the General Assembly intended that probation officers should be regarded as specially appointed police officers under Section 2923.01 of the Ohio Revised Code, and therefore should be permitted to go armed while on duty.

It is, therefore, my opinion and you are hereby advised that a probation officer of the Court of Common Pleas may,

when acting within the scope of his official duties, carry
concealed firearms.