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JUSTICE BUILDING, LITTLE ROCK 72201

(501) 371-2007

January 21, 1985

OPINION NO. 85-12

Mr. Randall Williams, Chairman
Arkansas Adult Probation Commission
2020 West Third Street
Little Rock, AR 72205

RE: Act 617 of 1983.

Dear Judge Williams:

You have requested our opinion regarding Act 617 of 1983. Your primary question is whether Act 617 of 1983 requires the training of probation officers to be done through the Arkansas Law Enforcement Training Academy (hereinafter referred to as ALETA) either solely or in part. You also identified some secondary questions which revolve around this issue, such as:

1. Does ALETA have any authority over the training of probation officers in this State.
2. Is certification of probation officers as probation officers possible outside the structure of ALETA;
3. If the Arkansas Adult Probation Commission decides to commit to our developed curriculum being conducted through the ALETA, what authority do we relinquish to them in the minimum standards qualification for personnel and future training conducted?

Act 617 of 1983 (compiled at Ark. Stat. Ann. §43-2332.1 (Supp. 1983)) states:

All probation officers appointed by a Court, whether circuit or municipal; [,] and all parole officers employed by the Arkansas Department of Correction, may execute, serve and return, all lawful warrants of arrest issued by the State of

Arkansas or any political subdivision thereof and are otherwise authorized to make lawful arrest as any law enforcement officer of the State of Arkansas. All such parole and probation officers are further authorized to carry firearms during all hours in which they are actively pursuing the obligations and duties of the office to which they are appointed or employed, provided, said officers have been duly certified under Act 526 of 1963 [§§42-701, 42-702, 42-703, 42-705], and subsequent amendments thereto.

The issue is whether this section requires probation officers to be trained and certified under Act 526 of 1963 in order to make arrests and carry firearms, or whether the Act merely requires training and certification if they intend to carry a firearm. The wording of the statute appears clear. The first sentence unequivocally grants probation and parole officers the authority to execute, serve and return all lawful warrants of arrest issued by the State of Arkansas or any of its political subdivisions and to make other authorized arrests as any law enforcement officer in the State of Arkansas would be authorized to make. The second sentence clearly states that in addition to the authority to make arrests, parole and probation officers may carry a firearm provided they have been duly certified under Act 526 of 1963.

Act 526 of 1963 complied at Ark. Stat. Ann. §42-701 et seq (Repl. 1977) was the beginning of the Arkansas Law Enforcement Training Academy. The powers and functions of the previous training academy now lie with the Arkansas Commission on Law Enforcement Standards and Training, see Act 45 of 1981 complied at Ark. Stat. Ann. §42-701.1 (Supp. 1983). One of the primary purposes of ALETA was to establish minimum standards for all law enforcement officers and to provide the training necessary for those officers to meet minimum standards. This served to upgrade law enforcement officers around the State of Arkansas. Act 617 of 1983 appears to be inconsistent with that goal, in that it appears to allow parole and probation officers to perform law enforcement functions, i.e., making arrests, without being trained. However, the Arkansas Legislature created ALETA and likewise has the authority to make statutory exceptions to their authority. Act 617 appears to be an exception to the requirement that people who perform law enforcement functions must have training from ALETA.

It is my opinion that Act 617 of 1983 allows parole and probation officers to serve warrants of arrest and to make lawful arrests as any other law enforcement officer in the State of Arkansas. Furthermore, Act 617 of 1983, authorizes

parole and probation officers to carry firearms. However, before they may carry firearms, they must be trained pursuant to Act 526 of 1963 as amended. The training required under Act 617, as well as the method, would be determined the Executive Commission of ALETA.

The foregoing opinion, which I hereby approve, was prepared by Assistant Attorney General Randel K. Miller.

Sincerely,



STEVE CLARK
ATTORNEY GENERAL

SC/RKM/ljm