

Whether or not it is a part of the secondary system, the county system of highways, of course, depends upon whether it had been so designated under the provisions of the so-called Green Law, Sections 6965 to 6972, inclusive, of the General Code. Section 7467, General Code, provides:

"The state, county and township shall each maintain their respective roads as designated in the classification hereinabove set forth; provided, however, that either the county or township may, by agreement between the county commissioners and township trustees, contribute to the repair and maintenance of the roads under the control of the other. The state, county or township or any two or more of them may by agreement expend any funds available for road construction, improvement or repair upon roads inside of a village or a village may expend any funds available for street impovement (improvement) upon roads outside of the village and leading thereto."

It follows that if the road under consideration has never become a part of the state highway system or has never been designated as a part of the county system of highways, it must necessarily be a township road, and if so, it would be the duty of the township trustees to maintain it. In connection with your inquiry, information has been obtained from the department of highways to the effect that the road about which you inquire has not been designated as a part of the state system. However, from the description given, the highway department was unable to definitely determine whether or not the same has been designated as a part of the county system.

In view of the foregoing, it is my opinion that:

(1) In determining the status of a road as to whether it is a state, county or township road, the provisions of the law creating the state system of highways and the county system of highways, as set forth in Section 7464 of the General Code, superseded other classifications made by earlier legislative enactments.

(2) Inter-county highways were first authorized by the 79th General Assembly in 102 O. L. 333, and main market roads were first authorized by the 80th General Assembly, 103 O. L. 155. Under Section 1189 of the General Code, unless a highway has heretofore been designated as an inter-county highway or a main market road or has been designated as a part of the highway system by the director of highways, it is not a part of the state highway system.

(3) A road which is not a part of the state highway system and has not been designated as a part of the county system of highways under Sections 6965, et seq., of the General Code, is a township road.

(4) Under the provisions of Section 7464 of the General Code and its related sections, it is the duty of the state, county and township to maintain their respective roads, as designated by Section 7464 of the General Code.

Respectfully,
GILBERT BETTMAN,
Attorney General.

508.

PROBATION OFFICERS—JUVENILE COURT—RIGHT TO GO ARMED
WHEN BOND PROVIDED UNDER TERMS OF SECTION 12819, GEN-
ERAL CODE.

SYLLABUS:

Probation officers appointed by a judge of the juvenile court authorized to appoint

probation officers, may go armed, upon giving a bond as provided by Section 12819, of the General Code.

COLUMBUS, OHIO, June 11, 1929.

HON. LEE D. ANDREWS, *Prosecuting Attorney, Ironton, Ohio.*

DEAR SIR:—I am in receipt of your letter of May 24, 1929, which is as follows:

“Is a probation officer appointed by the judge of a juvenile court, authorized to carry a concealed weapon, to-wit: a revolver, after having first given bond?”

Section 12819, of the General Code, provides as follows:

“Whoever carries a pistol, bowieknife, dirk, or other dangerous weapon concealed on or about his person shall be fined not to exceed 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 year nor more than three years. Provided, however, that this act (G. C. 12819) shall not affect the right of sheriffs, regularly appointed police officers of incorporated cities and villages, regularly elected constables, and special officers as provided by Sections 2833, 4373, 10070, 10108 and 12857 of the General Code to go armed when on duty. Provided further, that it shall be lawful for deputy sheriffs and specially appointed police officers, except as are appointed or called into service by virtue of the authority of said Sections 2833, 4373, 10070, 10108 and 12857 of the General Code to go armed if they first give bond to the State of Ohio, 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; and any person injured by such improper use may have recourse on said bond.”

You will note from a reading of this section that sheriffs, regularly appointed police officers of incorporated cities and villages, regularly elected constables and special officers as provided in Sections 2833, 4373, 10070, 10108 and 12857, of the General Code, may be armed when on duty. Probation officers are not included in any of the classes of officers enumerated in the above sections.

Section 12819, General Code, provides further that it shall be lawful for deputy sheriffs and specially appointed police officers, except as are appointed or called into service by virtue of the authority of Sections 2833, 4373, 10070, 10108 and 12857, of the General Code, to go armed if they first give bond to the State of Ohio, 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. Any authority that a probation officer of the juvenile court may have to go armed must be found in Section 12819, of the General Code, and from a reading of this section he may have such authority only if he is a specially appointed police officer.

Section 1663, of the General Code, provides in part as follows:

“When a complaint is made or filed against a minor, the probation officer shall inquire into and make examination and investigation.

* * * * *

He shall serve the warrants and other process of the court within or

without the county, and in that respect is hereby clothed with the powers and authority of sheriffs. He may make arrests without warrant upon reasonable information or upon view of the violation of any of the provisions of this chapter, detain the person so arrested pending the issuance of a warrant, and perform such other duties, incident to their offices, as the judge directs. All sheriffs, deputy sheriffs, constables, marshals and police officers shall render assistance to probation officers, in the performance of their duties, when requested so to do."

Under Section 1663, of the General Code, probation officers appointed by the judge of the juvenile court are special officers, having powers similar to sheriffs and police officers. They have the right to serve warrants and other processes of the court, make arrests without a warrant upon reasonable information or upon view of a violation of the chapter relating to juvenile courts, and may call upon sheriffs, deputy sheriffs, police officers and other officers to give them assistance.

I believe by virtue of their appointment and their duties as outlined above, that probation officers come within the meaning of "specially appointed police officers" as used in Section 12819, of the General Code. A similar question was presented to the Attorney General in 1913. The then attorney general held that under the provisions of Section 12819, General Code, probation officers are specially appointed officers of the juvenile court, and when they give the bond required by law they may carry concealed weapons in the discharge of their duties. This opinion is published in the Opinions of the Attorney General, 1913, page 1067.

I fully agree with the discussion and the conclusion reached by my predecessor, and in specific answer to your question I am of the opinion that probation officers appointed by a judge of the juvenile court authorized to appoint probation officers, may go armed, upon giving a bond as provided by Section 12819, of the General Code.

Respectfully,

GILBERT BETTMAN,
Attorney General.

509.

APPROVAL, BOND FOR THE FAITHFUL PERFORMANCE OF HIS DUTIES AS EXAMINER—STERRY J. STORER.

COLUMBUS, OHIO, June 11, 1929.

HON. JOHN W. PRUGH, *Superintendent of Building and Loan Associations, Columbus, Ohio.*

DEAR SIR:—You have submitted a bond to cover the faithful performance of the duties of Sterry J. Storer as examiner in the division of building and loan associations.

Said appointment is made and bond executed in pursuance of the provisions of Section 667 of the General Code.

Finding said bond in proper legal form, I have endorsed thereon my approval as to form and return the same herewith.

Respectfully,

GILBERT BETTMAN,
Attorney General.