sary to operate. Secondly, since the state has custody of such patients for treatment, any approved medical treatment, which in your opinion is necessary for the patient’s best welfare in connection with mental treatment, may be administered under your approval and guidance and consent is unnecessary.

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OFFICIAL OPINION NO. 53


Col. Robt. Rossow,
Supt., Indiana State Police,
Indianapolis, Indiana.

Dear Col. Rossow:

Your letter of August 9, 1948, has been received in which you request an official opinion for a construction of that part of Section 4 of the Uniform Fire Arms Act of 1935, being Section 10-4737 Burns’ 1942 Replacement, to-wit:

“The provisions of the preceding section shall not apply to the regularly enrolled members of any organization duly authorized to purchase or receive such weapons from the United States or from this State, provided such members are at or are going to or from their place of assembly or target practice.”

Marshals, sheriffs, prison or jail wardens or their deputies, judicial officers, policemen or other law enforcement officers, or members of the army, navy or marine corps of the United States, the National Guard or organized reserves are not to be taken as being considered in this opinion as they are specifically named in the above statute as exempt from the provisions of Section 3 of the act.

Your question is for the purpose of ascertaining the status of regularly enrolled members of the National Rifle Association or affiliated gun clubs in carrying pistols to and from target practice, so that you may issue them courtesy cards.

Section 10-4736 Burns’ 1942 Replacement, same being Section 3 of Chapter 63 of the Acts of 1935, commonly known as the Uniform Fire Arms Act provides as follows:
"No person shall carry a pistol in any vehicle or on or about his person, except in his place of abode or fixed place of business, without a license therefor as hereinafter provided."

I fail to find any statutes in this State authorizing any regularly enrolled members of such organizations to purchase or receive such weapons from the State of Indiana.

It is, therefore, necessary to determine under what circumstances members of organizations are entitled to purchase or receive such weapons from the U. S. Government, and in this connection the following provisions from the Acts of Congress are considered applicable.

32 U. S. C. A., Section 181, provides:

"The Secretary of War shall, within the limits of appropriations made from time to time by Congress and in accordance with reasonable rules and regulations approved by him upon the recommendation of the National Board for the Promotion of Rifle Practice, authorize and provide for:

"(a) Construction, equipment, maintenance, and operation of indoor and outdoor rifle ranges and their accessories and appliances;

"(b) Instruction of able-bodied citizens of the United States in marksmanship, and in connection therewith, the employment of necessary instructors;

"(c) Promotion of practice in the use of rifled arms, the maintenance and management of matches or competitions in the use of such arms, and the issuance in connection therewith of the necessary arms, ammunition, targets, and other necessary supplies and appliances, and the award to competitors of trophies, prizes, badges, and other insignia;

"(d) Sale to members of the National Rifle Association, at cost to the Government, and issue to clubs organized, for practice with rifled arms, under the direction of the National Board for the Promotion of Rifle Practice, of arms, ammunition, targets, and other supplies and appliances necessary for target practices;"
“(e) Maintenance of the National Board for the Promotion of Rifle Practice, including provision for the necessary expenses thereof and of its members;

“(f) Procurement of necessary materials, supplies, appliances, trophies, prizes, badges, and other insignia, clerical and other services, and labor;

“(g) Transportation of employees, instructors, and civilians to give or undergo instruction or to assist or engage in practice in the use of rifled arms, and the transportation and subsistence or commutations in lieu of subsistence of members of teams especially authorized by the Secretary of the Army to participate in matches or competitions in the use of rifled arms.”

(June 7, 1924, c. 291, Title I, 43 Stat. 510.) (As finally amended by Act of July 26, 1947, c. 343, Title II, Section 205 (a), 61 Stat. 501.)

32 U. S. C. A., Section 182, further provides:

“The President is authorized, in his discretion, to appoint, as director of civilian marksmanship, under the direction of the Secretary of War, an officer of the Army or of the Marine Corps. (August 29, 1916, c. 418, Section 1, 39 Stat. 648.)”

32 U. S. C. A., Section 183, is as follows:

“The President may detail capable officers and non-commissioned officers of the Regular Army and National Guard to duty at such ranges as instructors for the purpose of training the citizenry in the use of the military arm. (June 3, 1916, c. 134, Section 113, 39 Stat. 211.)”

32 U. S. C. A., Section 184, also provides:

“The Secretary of War, in his discretion, and under such regulations as he may prescribe, may authorize the detail of enlisted men of the Army as temporary instructors in rifle practice to organized rifle clubs requesting such instruction. (May 12, 1917, c. 12, 40 Stat. 64.)”
32 U. S. C. A., Section 181 (a), 1947 Cumulative Annual Pocket Part, is as follows:

"* * * There shall be held an annual competition, known as the national matches, for the purpose of competing for a national trophy, medals, and other prizes to be provided, together with a small-arms firing school, which competition and school shall be held annually under such regulations as may be prescribed by the Secretary of the Army. Feb. 14, 1927, c. 130, 44 Stat. 1095, as amended May 28, 1928, c. 816, Section 1, 45 Stat. 786; July 26, 1947, c. 343, Title II, Section 205 (a), 61 Stat. 501."

32 U. S. C. A., Section 181 (b), 1947 Cumulative Annual Pocket Part, is as follows:

"Same; rifle and pistol matches open to Army, Navy, Marine Corps, Coast Guard, National Guard, Militia, civilians, etc.; expenses; appropriation.

"The national matches contemplated in section 181a of this title shall consist of rifle and pistol matches for the national trophy, medals, and other prizes mentioned in said section, to be open to the Army, Navy, Marine Corps, Coast Guard, National Guard or Organized Militia of the several States, Territories, and District of Columbia, the Reserve Officers' Training Corps, and the citizens' military training camps, rifle clubs, and civilians, together with a small-arms firing school to be connected therewith and competitions for which trophies and medals are provided by the National Rifle Association of America; and for the cost and expenditures required for and incident to the conduct of the same, including the personal expenses of the members of the National Board for the Promotion of Rifle Practice, the sum necessary for the above named purposes is hereby authorized to be appropriated annually as a part of the total sum appropriated for national defense: Provided, That no competitor shall be entitled to commutation of rations in excess of $1.50 per day, and when meals are furnished no greater expenses than that sum per man per day for the period the contest is in progress:
Provided further, That in lieu of traveling expense and commutation of rations while traveling the sum of 5 cents per mile may be paid to civilian competitors, and such travel pay for the return trip may be paid in advance of the performance of the travel. (May 28, 1928, c. 816, Section 2, 45 Stat. 786, as amended Apr. 11, 1936, c. 207, 49 Stat. 1202.)"

32 U. S. C. A., Section 181 (c) 1947 Cumulative Annual Pocket Part reads as follows:

"* * * For the incidental expenses of the National Board for the Promotion of Rifle Practice including books, pamphlets, badges, trophies, prizes, and medals to be expended for such purposes, the sum of not more than $7,500 is hereby authorized to be appropriated annually. (May 28, 1928, c. 816, Section 3, 45 Stat. 786.)"

Attention is also directed to 32 U. S. C. A. Section 186, 1947 Cumulative Annual Pocket Part same being an amendment of the National Defense Act of June 3, 1916, which provides:

"The Secretary of the Army shall annually submit to Congress recommendations and estimates for the establishment and maintenance of indoor and outdoor rifle ranges, under such a comprehensive plan as will ultimately result in providing adequate facilities for rifle practice in all sections of the country. And that all ranges so established and all ranges which have already been constructed, in whole or in part, with funds provided by Congress shall be open for use by those in any branch of the military or naval service of the United States and by all able-bodied males capable of bearing arms, under reasonable regulations to be prescribed by the controlling authorities and approved by the Secretary of the Army. June 3, 1916, c. 134, Sec. 113, 39 Stat. 211, amended July 26, 1947, c. 343, Title II, Section 205 (a), 61 Stat. 501.)"

From the foregoing acts of Congress it is clear that the Secretary of the Army of the United States is required to
administer the foregoing statutes; that he is specifically authorized to sell to the members of the National Rifle Association at cost to the Government and to issue to clubs organized, for practice with rifled arms under the direction of the National Board for the Promotion of Rifle Practice, such pistols covered by that section of the Indiana Uniform Fire Arms Act here in question, in accordance with reasonable rules and regulations approved by him and recommended by said National Board for the Promotion of Rifle Practice. The foregoing pistols so issued or sold pursuant to or under the direction of the Secretary of the Army, are exempt under Section 4 of said Act, as to persons carrying them from the provisions of Section 3 of said Uniform Fire Arms Act, supra, while such members are at or are going to and from their place of assembly or target practice.

From a practical standpoint it will therefore be necessary that you ascertain from the Secretary of the Army a list of those clubs which have been recognized by the Secretary of the Army as entitled to have issued or sold to its members pistols for the purpose of such target practice.

While I see no harm in your office issuing to members of such organizations as you ascertain are entitled to such exemption, courtesy cards for the purpose of identifying themselves to the Indiana State Police officers, I do not believe the failure of such members to receive a courtesy card from you or to have one on his person when questioned would in any way mitigate his right to carry such pistol at the times and under the conditions set forth in the above statute.

With the cooperation of the various clubs, I see no objection to a purely voluntary fingerprinting and courtesy card program but without a change in the law, it could not be required.

Rules and regulations of an administrative body, to be valid, must be reasonable and within the authority delegated by the statute, and if contrary thereto said rules and regulations are void.

Wallace v. Dobner (1929), 89 Ind. App. 416, 420, 1945;
Ind. OAG. 372, 376, Official Opinion No. 92.

In conclusion I am of the opinion members of the National Rifle Association and members of other clubs, recognized by the Secretary of Army under rules and regulations
adopted by him pursuant to 32 U. S. C. A. Section 181 etc., *supra*, as entitled to have sold or issued to them pistols, are exempt from the provisions of Section 3 of the Uniform Fire Arms Act of Indiana of 1935, while such members are going to or from their place of assembly or target practice.

Such exemption from the provisions of said Act of such members is not subject to any administrative regulation which would tend to diminish or lessen the value or effect of such exemption.

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OFFICIAL OPINION NO. 54
August 31, 1948.

Dr. L. E. Burney,  
State Board of Health,  
1098 West Michigan St.,  
Indianapolis, Indiana.

Dear Dr. Burney:

I have your letter of July 22, 1948, as follows:

"Both the Division of Vital Records and my own office for some time have been receiving letters and telephone calls from various newspapers and commercial establishments manufacturing baby foods and supplies which question the constitutionality of Section 12, Chapter 154, Acts 1945 (Burns' Supp., Sec. 35-141).

"Their contention is that (a) this section, if properly interpreted, does not prohibit inspection of vital statistics records by newspaper reporters and agents of commercial firms, and that (b) if this statute does in fact contain such a prohibition, it is in violation of that section of both the Federal and State Constitution which forbids the enactment of any law abridging the freedom of speech or of the press.

"It has been our understanding that the above section makes these records generally confidential and that neither we nor the local health officers are authorized to allow their inspection. However, in view of the increasing interest in the question, I desire to