Act, except that the limitation of the amount of such a loan, instead of being $1,000 as provided in the 1865 Act, is now $4,000 as provided in the 1901 Act.

Burns’ Indiana Statutes Ann. 1933, sec. 28-220.

Your question is answered in the affirmative.

WELFARE, DEPARTMENT OF PUBLIC: Right of Director of Division of Corrections to carry firearms. Parole Agents, right to carry firearms without permit—authority to retake parolees—use of firearms in making arrests.

February 25, 1938.

Hon. T. A. Gottschalk,
Administrator State Department of Public Welfare,
141 South Meridian Street,
Indianapolis, Indiana.

Dear Mr. Gottschalk:

We have your recent request for an official opinion, in which you ask the following questions:

"1. What authority does a parole agent have, as an employee of the Department of Public Welfare, in the making of arrests generally or in the taking, keeping or transporting of prisoners who have been released upon parole and who have not been discharged?

"2. Is it necessary for such parole agents to secure a permit to carry fire arms or other deadly weapons or may they carry such fire arms to assist them in the necessary discharge of their duties without receiving an official permit to do so?

"3. Under what circumstances does the law permit them to make use of fire arms or other deadly weapons in the necessary discharge of their duties? That is, with regard to the recapture or retaking of a parolee who has violated his parole or who refuses to submit to arrest or who flees from a parole agent to escape arrest.

"4. Does the director of the Division of Corrections and/or the supervisor of paroles have the same authority to carry fire arms as the parole agents who are under their supervision?"
It is our understanding that the duties of a parole agent comprise the finding of homes or sponsors for prisoners about to be paroled, to supervise such paroled prisoners while away from prison, to report any violations of the parole, and to return such prisoners for violations of a parole when directed to do so. A prisoner released on a parole before the termination of his sentence is in the legal custody and under the control of the parole agent and warden of the prison from which he is so paroled until the expiration of the maximum term specified in his sentence or until legally discharged.

Sec. 13-248 Burns' Ind. Stat. 1933;
Sec. 13-410 Burns' Ind. Stat. 1933.

While on parole, such prisoner, if an adult, is under the supervision of the State Department of Public Welfare.

Sec. 1, ch. 41, Acts 1937.

When any such inmate is released on parole the Department of Public Welfare shall designate the county or other place in the state in which such person so paroled shall reside during the time that such parole is effective. All parole agents shall be appointed by the State Department of Public Welfare.

Sec. 10, ch. 3, Acts 1936.

In 1935 the Legislature of this state passed what is known as the "Uniform Fire Arms Act" which provided that no person shall carry a pistol in any vehicle or about his person without a license therefor, but excepting from such provision marshals, sheriffs, prison or jail wardens or their deputies, judicial officers, policemen or other law enforcement officers.

Sec. 1, 3 and 4, ch. 63, Acts 1935.

Prior to the passage of this Act it was provided no person shall carry a pistol or revolver concealed in any vehicle or on his person without a permit therefor, but exempting from such provision, marshals, sheriffs, deputy sheriffs, policemen and any other duly appointed peace officers, etc.

Sec. 10-4719, 10-4720 Burns' Ind. Stat. 1933.

At the time of the passage of this Act of 1935 the agents in charge of parolees were deputies of the prison officials and as such were authorized to retake any parole violator when
directed to do so by the proper prison officials. As such deputies the law would not apply to them with regard to getting a permit to carry a pistol. While the appointment of parole agents and supervision of parolees is now under the State Department of Public Welfare, yet such agents may still be considered as within the same category and having the same duties as before the passage of The Welfare Act, for they are acting under the authority of the administrative officers of the state prison and reformatory in the retaking of a paroled prisoner, who, under the law, is in the custody of such state institution while out on parole, and whose conduct is such as to justify his being returned to the institution from which he was paroled. The prisoners who have been released on parole are persons who have been convicted of a felony and who may be, by reason of their environment, associations with other criminals or disrespect of the law, liable to again commit crime and resist an officer authorized to return them to prison. I have no doubt that some of them are dangerous criminals, actually or potentially, and it may be necessary to use force or threats of force to make an arrest, or for the officer to defend himself in case of resistance, and that such officer should be permitted to carry on his person such fire arms or other weapons which may be necessary to defend himself in the arrest of such parole violator. Such parole agent is unquestionably a peace officer of limited jurisdiction, dealing with the prisoners who have been released from the prison but who remain under the custody and control of the prison officials.

Your first question should be separated and is answered as follows: (a) A parole agent has no authority to make arrests generally except for offenses committed in his view. (b) In the taking of a prisoner who has violated his parole, a warrant should be issued for the retaking of such prisoner. (Sec. 13-249 Burns’ Ind. Stat. 1933.) When such warrant is issued for the retaking of said prisoner it may be served by any parole agent and if the proper officials have notice of law violation by a parolee, such officials may direct a parole officer to hold and detain the parolee until a warrant can be forwarded to such parole agent, and such authorization will be sufficient to justify a parole agent in such arrest and detention. The warrant is the authority for the transporting of the prisoner who has been arrested and held as a parole violator.
Your second question is answered in the negative. The parole agent, as a law enforcement officer, is authorized to carry such weapons as may be necessary to assist him in the necessary discharge of the duties of his office and to protect him from law or parole violators and a permit is not required for that purpose.

Your third question is answered as follows: An officer who is making an official arrest or has made such arrest is justified in using such force as is reasonably necessary to secure and detain the offender, overcome his resistance and prevent his escape, recapture him if he escapes and to protect himself from bodily harm. He is not justified at any time in using unnecessary force or treating his prisoner with wanton violence or in resorting to dangerous means when the arrest could be effected otherwise.

Your fourth question may be answered in the affirmative when such officials are performing the duties of parole agents. If, in the discharge of their duties, the director of the Division of Corrections or the supervisor of paroles find it necessary to personally retake parolees, then such officials are authorized to carry such weapons as may be reasonably necessary for such purpose or if such officials may be called upon from time to time to take quick measures for personally making such arrests and have to be in readiness to do so at any time, then such officials would be justified in carrying the necessary weapons to make such arrests and protect themselves from harm. Except for the purpose of keeping in readiness to assist in the performance of the duties of a parole agent and taking the place of such parole agent if necessary, the officials named would probably not be authorized to carry such weapons without a permit.