George A. Everett, Superintendent  
Indiana State Police  
301 State Office Building  
Indianapolis, Indiana

Dear Superintendent Everett:

This is in answer to your letter of November 10, 1964, wherein you request an Official Opinion from me pertaining to the service of warrants. Your specific questions are stated in your letter and these read as follows:

"1. Is the language of the Indiana State Police Act sufficiently broad to authorize the Indiana State Police officers, as a matter of privilege under the law of arrest, to serve warrants directed only to the sheriff or to a constable?

"2. If the answer to the question above is in the negative is the judge or clerk authorized under Burns §§ 9-703, 9-1002 and 9-1003 to issue warrants directed to either 'any constable or peace officer of __________ county' or 'to the sheriff of __________ county or any peace officer?'"

The relevant part of the act creating the Indiana State Police Department as last amended is the Acts of 1945, Ch. 344, Sec. 10, as found in Burns’ (1952 Repl.), Section 47-885, the pertinent part of which reads as follows:

"* * * It shall also be the duty of police employees of the department to prevent and detect crime, to apprehend criminals, to enforce the criminal and traffic laws of the state, and to perform such other related duties as may be imposed upon them by the laws of the state, and to this end, police employees of the department shall be peace officers and shall have in any part of the state the same powers with respect to criminal matters and the enforcement of the laws relating thereto as sheriffs, constables and police officers have in their respective jurisdictions, and shall have power
and authority to act as agents for the state of Indiana on return of parolees, fugitives from justice and persons extradited to Indiana for crime. Any warrant of arrest or search warrant issued by proper authority of the state may be executed by any police employee of the department in any part of the state, according to the tenor thereof, without indorsement * * *.”

Prior to the formation of the Indiana State Police, all warrants issued by circuit court judges were served by the sheriff of the county. Under the present law of Indiana, the sheriff still has the primary responsibility in executing warrants issued by such a court. By like token the primary responsibility for the service of any warrant issued by a justice of the peace falls upon the constable under the jurisdiction of said justice. The statute providing for the issuance of search warrants, the same being the Acts of 1905, Ch. 169, Sec. 58, as last amended by the Acts of 1941, Ch. 160, Sec. 3, as found in Burns’ (1956 Repl.), Section 9-603 is directed to all judges and magistrates generally and specifically places the duty of service upon the respective officers. The Indiana State Police statute, as above quoted, permits the Indiana State Police to serve any warrant of arrest or search warrant issued by the proper authority in any part of the State according to the tenor thereof without indorsement. In so acting, the Indiana State Police have the same powers as the sheriff, constable or other peace officer to whom the warrant was issued and the same immunity appertaining to such officers.

In answer to your first question it should be borne in mind that the primary responsibility for the service of any warrant lies with the officer who is an arm of the particular court and to whom the warrant is directed. However, the Indiana State Police under statutory authority, as above set out, may in their discretion serve any such warrants coming into their hands although directed solely to a sheriff, constable or other specifically named peace officer.

Inasmuch as the answer to your first question is in the affirmative, it is therefore unnecessary to answer your second question.