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FILE NO. S-823

**OFFICERS:**

Exemption of Coroner from Prosecution  
for the Otherwise Unlawful Use of  
Weapons: Coroners as Peace Officers

Honorable Dick Leiken  
State's Attorney, Woodford County  
Court House  
Eureka, Illinois 61530

Dear Mr. Leiken:

In your letter you request my opinion upon the  
following question:

"Are coroners considered to be peace officers  
within the meaning of Chapter 38, Section 24-2  
exempting them from the unlawful use of weapons  
charges under Section 24-1."

Section 2-.5 of Article 2 of the Criminal Code of  
1961 (Ill. Rev. Stat. 1973, ch. 38, par. 2-.5) states that  
the definitions and descriptions contained in Article 2 are  
controlling throughout the Criminal Code "except when a

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particular context clearly requires a different meaning." Ill. Rev. Stat. 1973, ch. 38, par. 2-.5.

Section 2-13 of the Criminal Code defines "peace officer" as:

"\* \* \* [A]ny person who by virtue of his office or public employment is vested by law with a duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses."  
Ill. Rev. Stat. 1973, ch. 38, par. 2-13.

Section 107-4(2) of the Criminal Code (Ill. Rev. Stat. 1973, ch. 38, par. 107-4(2)), contains a broader definition of the term, including within its scope:

"\* \* \* [A]ny peace officer or member of any duly organized State, County, or Municipal peace unit or police force of another State."  
Ill. Rev. Stat. 1973, ch. 38, par. 107-4(2).

This definition expressly applies only to Article 107 of the Criminal Code, dealing with "arrest". Ill. Rev. Stat. 1973, ch. 38, pars. 107-1 et seq.

Section 2-18 of the Criminal Code (Ill. Rev. Stat. 1973, ch. 38, par. 2-18) defines "public officer" to mean:

"\* \* \* [A] person who is elected to office pursuant to statute, or who is appointed to an office which is established and the

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qualifications and duties of which are prescribed, by statute, to discharge a public duty for the State or any of its political subdivisions."

Ill. Rev. Stat. 1973, ch. 38, par. 2-18.

It is clear from "AN ACT to revise the law in relation to coroners" (Ill. Rev. Stat. 1973, ch. 31, par. 1-26(a)) and "AN ACT allowing coroners to appoint deputies and prescribe their duties" (Ill. Rev. Stat. 1973, ch. 31, par. 27-29), that they are "public officers" within the language quoted above.

Among the statutory duties and responsibilities of the coroner are the following:

"§ 6. Each coroner shall be conservator of the peace in his county, and, in the performance of his duties as such, shall have the same powers as the sheriff."

Ill. Rev. Stat. 1973, ch. 31, par. 6.

"Each sheriff shall be conservator of the peace in his county, and shall keep the same, suppress riots, routs, affrays, fighting, breaches of the peace, and prevent crime; and may arrest offenders on view, and cause them to be brought before the proper court for trial or examination."

Ill. Rev. Stat. 1973, ch. 125, par. 17.

"§ 7. When it appears from the papers in a case that the sheriff or his deputy is a party thereto, or from affidavit filed that he is interested therein, or is of kin, or partial to or prejudiced against either party, the summons, execution or other process may be

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directed to the coroner, who shall perform all the duties in relation thereto, and attend to the suit in like manner as if he were sheriff;  
\* \* \*

Ill. Rev. Stat. 1973, ch. 31, par. 7; Greenup v. Stoker, 12 Ill. 24, (1850), 52 Am. Dec. 474.

"§ 9. Where the office of the sheriff is vacant, the coroner of the county shall perform all the duties required by law to be performed by the sheriff, and have the same powers, and be liable to the same penalties and proceedings as if he were sheriff, until another sheriff is elected or appointed and qualified."

Ill. Rev. Stat. 1973, ch. 31, par. 9.

"§ 23. If a person implicated by the inquest as the unlawful slayer of the deceased or an accessory thereto is not in custody therefor, the coroner acting upon the signed verdict of his jury shall, in his capacity as conservator of the peace, apprehend such person and immediately bring him before a judge of the circuit court of his county to be dealt with according to law on a criminal charge preferred on the basis of such verdict."

Ill. Rev. Stat. 1973, ch. 31, par. 24.

"§ 3. Deputy coroners, duly appointed and qualified, may perform any and all the duties of the coroner in the name of the coroner, and the acts of such deputies shall be held to be acts of the coroner."

Ill. Rev. Stat. 1973, ch. 31, par. 29.

"§ 1. When the fact that a felony has been committed shall come to the knowledge of any sheriff or coroner, fresh pursuit shall be forthwith made after every person guilty thereof, by such sheriff, coroner, and all other persons who shall be by any

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one of them commanded or summoned for that purpose; every such officer who shall not do his duty in the premises shall be guilty of a Class B misdemeanor."

Ill. Rev. Stat. 1973, ch. 125, par. 81.

"§ 2. It shall be the duty of every sheriff, coroner, and every marshal, policeman, or other officer of any incorporated city, town or village, having the power of a sheriff, when any criminal offense or breach of the peace is committed or attempted in his presence, forthwith to apprehend the offender and bring him before some judge, to be dealt with according to law; to suppress all riots and unlawful assemblies, and to keep the peace, and without delay to serve and execute all warrants, writs, precepts and other process to him lawfully directed."

Ill. Rev. Stat. 1973, ch. 125, par. 82;

People v. Nellis, 294 Ill. 12 (1911), 94 N.E. 165.

Based upon these statutory duties, it is clear that a coroner or deputy coroner is a "peace officer" within the meaning of each of its definitions. (Ill. Rev. Stat. 1973, ch. 38, par. 2-13 and 107-4(2).) As such each is entitled only to the six express exemptions of section 24-2 of the Criminal Code (Ill. Rev. Stat. 1973, ch. 38, par. 24-2) from prosecution for the otherwise unlawful use of weapons as set forth in subsections (3), (4), (7), (8) and (10) of section 24-1(a), (Ill. Rev. Stat. 1973, ch. 38, pars. 24-1(a), sub-

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pars. (3), (4), (7), (8) and (10)) and, as limited in section 24-2(d), (Ill. Rev. Stat. 1973, ch. 38, par. 24-2(d)), from prosecution under section 24-1(a)(1). Ill. Rev. Stat. 1973, ch. 38, par. 24-1(a)(1).

Very truly yours,

A T T O R N E Y G E N E R A L