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FILE NO. S-1279

OFFICERS: Coroners
Crime Scene Investigation

Honorable Peter J. Woods
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Dear Mr. Woods:

I have your letter wherein you ask whether a coroner may stop a crime scene investigation by a local police agency in his county if he feels they are conducting the investigation incorrectly. It is my opinion that in general the coroner may stop a crime scene investigation only if the police are interfering with the coroner in his investigation to seek information and to obtain and secure evidence in cases on which there is reasonable ground to believe that a death was caused by other than natural means.

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Under common law, the powers and duties of the office of coroner were both judicial and ministerial. (18 Am. Jur. 516; United States Life Ins. Co. v. Vocke (1889), 129 Ill. 557, overruled on other grounds by Spiegel's Home Furnishing Co. v. Industrial Commission (1919), 288 Ill. 422.) The coroner's principal duty was to inquire into the manner in which persons came to their deaths where there was any reason to suppose that death may not have been due to natural means.

The general nature of the office of coroner is the same today, but his duties and authority are specifically defined by statute. It has been held that he can only act within the limit of his statutory authority and that the duties of the coroner are limited to those expressly given by statute (Peoria Cordage Co. v. Industrial Bd. (1918), 284 Ill. 90), and that under the laws of Illinois, a coroner has no judicial power (Spiegel's House Furnishing Co. v. Industrial Commission (1919), 288 Ill. 422).

Section 10 of "AN ACT to revise the law in relation to coroners" (Ill. Rev. Stat. 1975, ch. 31, par. 10)

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provides the coroner's authority in regard to his investigation of a death:

"Every coroner, whenever, as soon as he knows or is informed that the dead body of any person is found, or lying within his county, whose death is suspected of being:

(a) A sudden or violent death, whether apparently suicidal, homicidal or accidental, including but not limited to deaths apparently caused or contributed to by thermal, traumatic, chemical, electrical or radiational injury, or a complication of any of them, or by drowning or suffocation;

(b) A maternal or fetal death due to abortion, or any death due to a sex crime or a crime against nature;

(c) A death where the circumstances are suspicious, obscure or mysterious or where, in the written opinion of the attending physician, the cause of death is not determined;

(d) A death where addiction to alcohol or to any drug may have been a contributory cause; or

(e) A death where the decedent was not attended by a licensed physician;
shall go to the place where the dead body is, and take charge of the same and shall make a preliminary investigation into the circumstances of the death. * * * (Emphasis added.)

After proceeding to the scene and taking charge of the dead body, the coroner is to make a preliminary investigation into the circumstances of the death. A preservation of the scene of the death, from the time of death until the

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coroner arrives at the scene, would be of invaluable aid to the coroner in his effort to conduct an investigation of the death. However, he is given no statutory authority to stop the police from investigating the scene.

Section 5 of "AN ACT to revise the law in relation to coroners" (Ill. Rev. Stat. 1975, ch. 31, par. 10.5) reads as follows:

"No dead body which may be subject to the terms of this Act, or the personal property of such a deceased person, shall be handled, moved, disturbed, embalmed or removed from the place of death by any person, except with the permission of the coroner, unless the same shall be necessary to protect such body or property from damage or destruction, or unless necessary to protect life, safety, or health. Any person knowingly violating the provisions of this Section is guilty of a Class A misdemeanor."

I am of the opinion that the object of section 10.5 is to protect and preserve the dead body and the scene of the death. Thus, section 10.5 serves notice that anyone who, without proper authority, disturbs the dead body or the personal property at the place of death commits a misdemeanor. Section 10.5 grants the coroner the discretionary authority to take into his custody and control that property necessary

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for the proper resolution of the coroners' investigation. If the police at the scene of the investigation are interfering with the dead body in a way that is prohibited by section 10.5, then the coroner has authority to stop them. Or, if the police are proceeding in such a way as to indicate that evidence may be destroyed so that the coroner may have difficulty in rendering an opinion as to the cause of death, then the coroner has authority to stop the incorrect methods of handling the evidence and instruct the officers on how to proceed correctly.

However, his authority is limited to the investigation of the circumstances and cause of the death. His power and duties do not provide for control over the general police investigation of the scene of the crime. Thus, the coroner may not otherwise interfere with or control the police investigation of the crime scene.

Very truly yours,

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