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December 18, 1974

FILE NO. S-851

**CITIES AND VILLAGES:
Qualifications, Powers and
Duties of 20 Year Old Police
Officers**

Honorable Loren S. Golden
State's Attorney, Carroll County
County Courthouse
Mt. Carroll, Illinois 61053

Dear Mr. Golden:

This responds to your request for my opinion as to whether 20 year olds can be municipal police officers. Section 10-2.1-6 of the Illinois Municipal Code (Ill. Rev. Stat. 1973, ch. 24, par. 10-2.1-6), which lists the qualifications for becoming a municipal police officer, provides in part:

"All applicants for a position in either the fire or police department of the municipality shall be under 35 years of age, shall be subject to an examination which shall be public, competitive, and free to all applicants, unless

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the council or board of trustees by ordinance limit applicants to electors of the municipality, county, state or nation, and shall be subject to reasonable limitations as to residence, health, habits and moral character. * * *

Applicants who are 20 years of age and who have successfully completed 2 years of law enforcement studies at an accredited college or university may be considered for appointment to active duty with the police department. Any such applicant who is appointed to active duty shall not have power of arrest, nor shall he be permitted to carry firearms, until he reaches 21 years of age. The council or board of trustees may by ordinance provide that persons residing outside the municipality are eligible to take the examination. The examinations shall be practical in character and relate to those matters which will fairly test the capacity of the persons examined to discharge the duties of the positions to which they seek appointment. No person shall be appointed to the police department if he does not possess a high school diploma or an equivalent high school education. The examinations shall include tests of physical qualifications and health. No person shall be appointed to the police department if he has suffered the amputation of any limb unless the applicant's duties will be only clerical or as a radio operator. * * * *

(Emphasis added.)

Since there is no rule of construction that permits a court (or the Attorney General) to say that the legislature does not mean

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what the plain language of a statute imports (United Air Lines, Inc. v. Mahin, 49 Ill. 2d 45), it is my considered opinion that 20 year olds may be members of municipal police departments only if they have successfully completed two years of law enforcement studies at an accredited college or university.

You also express concern regarding the powers of a 20 year old municipal police officer. The only express limitations on his powers are those contained within the above quoted statute -- until reaching the age of 21 he cannot carry firearms or make arrests. While the legislative language itself affords the best means of exposition of legislative intent (Droste v. Kerner, 34 Ill. 2d 495), it is necessary to look to the purpose to be attained by the statute and the evils sought to be remedied. (Cherin v. R. & C. Co., 11 Ill. 2d 447.) A statute should not, however, be construed to result in absurd, inconvenient or unjust consequences. (Reynolds v. The City of Tuscola, 48 Ill. 2d 339.) Rather, a practical and common sense construction, and one which permits a reasonable operation of the statute should be given. Carrigan v. Illinois Liquor Control Comm., 19 Ill. App. 2d 275.

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The Illinois Code of Criminal Procedure of 1963 grants the power of arrest to private persons in limited circumstances.

"Any person may arrest another when he has reasonable grounds to believe that an offense other than an ordinance violation is being committed." (Ill. Rev. Stat. 1973, ch. 38, par. 107-3.)

This differs greatly from the power granted to police and other peace officers by the Code.

"A peace officer may arrest a person when:

(a) He has a warrant commanding that such person be arrested; or

(b) He has reasonable grounds to believe that a warrant for the person's arrest has been issued in this State or in another jurisdiction; or

(c) He has reasonable grounds to believe that the person is committing or has committed an offense." (Ill. Rev. Stat. 1973, ch. 38, par. 107-2.)

It is inconceivable that the legislature by limiting the powers of 20 year old municipal police officers, intended to deny them the power to make arrests in situations where a 20 year old private citizen could make an arrest. It is my conclusion, therefore, that the legislature has merely limited the right of a 20 year old municipal police officer to make arrests to those

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circumstances in which private citizens could do so to prevent presumably inexperienced policemen from becoming entangled in an area of continuing constitutional development and concern. It should be noted that in such circumstances the 20 year old police officer may use only such force as could be used by a private citizen. Ill. Rev. Stat. 1973, ch. 38, par. 7-6.

It should also be pointed out that section 107-8 of the Code of Criminal Procedure of 1963 (Ill. Rev. Stat. 1973, ch. 38, par. 107-8), provides that:

"(a) A peace officer making a lawful arrest may command the aid of male persons over the age of 18.

(b) A person commanded to aid a peace officer shall have the same authority to arrest as that peace officer.

* * * "

This permits 20 year old municipal police officers to exercise the same authority of arrest as any police officer when commanded to do so by such an officer. Section 7-5(a) of the Illinois Criminal Code of 1961 (Ill. Rev. Stat. 1973, ch. 38, par. 7-5(a)) provides that any person who is called upon by a policeman to assist him in an arrest, may use the same force in making the arrest as the policeman. This clearly permits 20 year old

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municipal police officers to exercise the same authority of arrest and use the same force in making the arrest as any police officer, when commanded to do so by such an officer. See also Ill. Rev. Stat. 1973, ch. 38, par. 7-6(b).

It is therefore my opinion that a 20 year old who has successfully completed two years of law enforcement studies at an accredited college or university may be appointed a municipal police officer and operate as such subject only to limitations on his power to make arrests, use certain force in so doing and carry firearms.

Very truly yours,

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