

1976 S.C. Op. Atty. Gen. 342 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4483, 1976 WL 23100

Office of the Attorney General

State of South Carolina

Opinion No. 4483

October 7, 1976

**\*1 In Re: Coroner, Police, Authority in Violent Death Investigation**

Honorable Frank Powell

Sheriff

Richland County

1400 Huger Street

Post Office Box 143

Columbia, South Carolina 29202

Dear Sheriff Powell:

You have asked several specific questions relating to the authority of a coroner as opposed to that of a police officer in the investigation of a violent death.

I.

**DOES A CORONER HAVE THE AUTHORITY TO RETAIN EVIDENCE,  
SUCH AS A MURDER WEAPON, AT THE SCENE OF A CRIME?**

There is nothing in the law of this State that gives to either coroners or police officers authority to direct or supervise the other in such an investigation. Coroners are empowered by statute to conduct preliminary investigations into violent or unexplained deaths [§ 17–91, 1962 Code of Laws of South Carolina, as amended], and police officers under the common law are empowered to prosecute those found to be criminally responsible. The situation is akin to that in which SLED officers are conducting an investigation into a crime that is also under investigation by a county sheriff. Both have full authority to investigate, but not to the exclusion of the other. Neither does either have authority to direct the other as to methods of investigation.

Obviously, the ideal situation would be for there to be complete cooperation between the coroner and the police, and between police of different jurisdictions, involved in an investigation. Since the ideal is rarely attained in anything, however, conflicts often arise. Such conflicts create a problem that has been in existence for many years, but about which the General Assembly has not seen fit to enact remedial legislation.

With the growth of the number of police agencies in this State and the development of more sophisticated means of crime detection, the preservation of the coroner system by constitution and statute, and the relatively recent advent of the medical examiner system in South Carolina, there is an evident need for some kind of legislation delineating in more detail the duties and responsibilities of each with respect to the other. Otherwise, in too many instances, duly authorized investigating officials [coroners, police, and medical examiners] are working at cross purposes to the detriment of efficient crime solution.

In answer to the specific question which you ask, set forth above, I can say only that a coroner has authority to gather evidence at the scene of a crime and preserve it for presentation at an inquest or trial. This does not mean, however, that he may withhold it from investigating police officers who have need of it for examination or testing relating to solution of

the crime. If such a situation should develop, and it becomes apparent that reasonable cooperation cannot be attained, the only remedy I can think of at the moment is an application to the circuit court for an appropriate order.

II.

IS THE CORONER IN CHARGE OF THE INVESTIGATION OF A MURDER AT THE SCENE OF THE CRIME AND THEREAFTER? IF SO, DOES THE LAW ENFORCEMENT OFFICER FOLLOW THE CORONER'S ORDERS OR THOSE OF THE OFFICER'S SUPERIORS?

\*2 See answer to question I.

III.

DOES THE CORONER HAVE THE AUTHORITY TO DEMAND THAT HE BE PHYSICALLY PRESENT WHEN ANY WITNESS GIVES A STATEMENT TO INVESTIGATING OFFICERS?

Neither a coroner nor an investigating police officer has the right to be physically present when a witness gives a statement to the other.

Yours very truly

Joseph C. Coleman  
Deputy Attorney General

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