

1973 WL 26657 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 13, 1973

***1 In re: Inquests**

Honorable Kenneth Chue
Coroner
2 Court House Square
Charleston, South Carolina

Dear Coroner Chue:

You have inquired generally as to your right as Coroner of Charleston County to require that you be given copies of statements and other official reports in the hands of police officers in homicide cases within Charleston County.

One of the problems in furnishing a meaningful opinion as to the jurisdictional authorities of a coroner, on the one hand, and a police agency, on the other, is that the law itself does not set forth clearly any line of demarcation. Factually, both the coroner and investigating police agencies have concurrent jurisdiction in the investigation of homicides—insofar as statutory law is concerned.

Coroners are authorized under provisions of Section 17-96, 1962 Code of Laws, as amended, to hold inquests and, under Section 17-107, to summon witnesses. I see nothing in the statutes, however, empowering coroners to require that statements taken by police officers and reports made by police officers to their superiors or to other agencies be turned over to them

The common law power, authority, and duties of a coroner are no longer controlling, since those things are now set forth by statute in most states, including South Carolina. Am. Jur. 2d, Coroners and Medical Examiners, Sections 1 and 2. Coroners, therefore, are limited to the powers set forth in applicable statutes and those powers necessarily incident thereto.

Whether or not the authority of a coroner to require statements of witnesses taken by police officers and reports of investigations made by police officers be turned over to him is necessarily incident to his statutory authority to hold inquests is a question the courts must decide. A thorough research of the well-known reference works does not disclose a single decided case on the question.

The answer would be easier to reach if the relative positions of the coroner and the police agencies in homicide cases were set forth in our State laws. In the absence of such statutory direction, this Office can only consider generally some of the problems that might arise with reference to the situation.

You are well aware, I am sure, of the rulings of the United States Supreme Court relating to undue pre-trial publicity given to the facts in a criminal prosecution, and to the instructions issued by the South Carolina Supreme Court on the same subject. Ref.: [Sheppard v. Maxwell](#), 384 U.S. 333. Much concern has been expressed about confessions being placed in evidence at inquests and preliminary hearings. It is arguable, at the least, that a defendant whose confession has been given publicity by the news media cannot thereafter receive a fair trial in the area—particularly in the event the confession is determined to be inadmissible by the trial judge. What effect the due process factor will have on future relationships between coroners and investigating police agencies is impossible to say at this time.

*2 In view of the foregoing, the extent to which this office can reasonably go in answer to your question at this time is that coroners are empowered to conduct preliminary examinations (Section 17-91), summon witnesses (Section 17-107), and held formal inquests (Section 17-96).

Yours very truly,

Joseph C. Coleman
Deputy Attorney General

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