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Honorable Bill Harris
Lee County Coroner
Post Office Drawer 2770
Opelika, Alabama 36803

Coroners – Law Enforcement – Investigations – Autopsy

Law enforcement should notify the coroner as soon as possible of a death, but there is no mandatory time in which the coroner must be notified.

The coroner may request that law enforcement investigating a crime scene not move or disturb the body, but the coroner's authority is secondary to that of law enforcement.

Coroners in counties with local constitutional amendments authorizing elected officials to participate in the Employees' Retirement System are entitled to participate if they qualify under the terms of the amendments.

Dear Mr. Harris:

This opinion of the Attorney General is issued in response to your request.

QUESTIONS

(1) Should the coroner be notified of a death as soon as possible to provide an accurate investigation and good working relationship with all agencies involved?

(2) Should law enforcement move or disturb the body without the coroner's consent?

(3) Is the coroner's office a law enforcement agency entitled to participate in the Employees' Retirement System?

FACTS AND ANALYSIS

"Nothing in the law specifies a mandatory time in which a coroner must be notified by law enforcement officials who are investigating a death." Opinion to Honorable William O. Bragg, Etowah County Coroner, dated January 5, 1993, A.G. No. 93-00080, at 3. The relationship of the coroner and law enforcement at a crime scene has been explained as follows:

> ***[W]hile the coroner must work closely in conjunction and in cooperation with other law enforcement officials who are investigating the crime scene, his authority is secondary*** to that of the district attorney and the law enforcement officials who are investigating the crime for the district attorney. The coroner must defer to the requests or orders of the district attorney and those law enforcement officials who are investigating the crime scene. The coroner may not move the body or otherwise disturb the crime scene until the district attorney or his law enforcement officials have indicated to him that to do so would not disrupt their investigation. To rule otherwise would create the possibility that the movement of the body would destroy evidence, prevent accurate investigation, or compromise the crime scene.

Id. (emphasis added); opinion to Honorable Jimmy S. Calton, Attorney, City of Eufaula, dated November 26, 1991, A.G. No. 92-00070, at 3 (emphasis added). *See also*, opinion to Honorable Greg Randolph, Lawrence County Coroner, dated March 9, 2001, A.G. No. 2001-112.

Despite the coroner's secondary authority, this Office has consistently emphasized that all parties with coextensive authority at the crime scene should cooperate with one another. *Bragg*; *Calton*; opinion to Honorable R. W. Head, Coroner, Autauga County, dated June 10, 1988, A.G. No. 88-00316. Therefore, law enforcement should notify the coroner as soon as possible of a death. Moreover, law enforcement should comply with reasonable requests of the coroner not to move or disturb the body that do not interfere with the investigation, but the coroner must defer to law enforcement if those requests are denied.

This Office has opined as follows regarding participation by employees, rather than elected officials, in the Employees' Retirement System:

> The fundamental purpose of the Employees' Retirement System of Alabama is to provide retirement benefits for employees – not officers; i.e., most elected officials are not employees as that term is used in the Employees' Retirement System.
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> . . .
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> Section 98 of the 1901 Constitution of Alabama provides:
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> > "The Legislature shall not retire any officer on pay, or part pay, or make any grant to such retiring officer. (Emphasis supplied.)
>
> . . .
>
> Service as an elected official cannot be membership service because of the provisions of Section 98 of the Constitution of 1901. Elected officials who are "officers" as that term is used in Section 98 are simply not employees.

Opinion to Honorable Louis E. Price, Mayor, City of Scottsboro, dated March 29, 1995, A.G. No. 95-00168, at 2-6. *See also*, opinions to Honorable Bobby E. Denton, Member, Alabama Senate, dated March 26, 1996, A.G. No. 96-00161; Honorable Richard J. Laird, Member, House of Representatives, dated March 13, 1987, A.G. No. 87-00107.

Many local constitutional amendments have been enacted in response to section 98. This Office stated the Employees' Retirement System's interpretation of these amendments in an opinion to Honorable Elwyn Thomas, Member, House of Representatives, dated June 4, 2003, A.G. No. 2003-158. That opinion observed that there are "fifty similar local constitutional amendments intended to abolish supernumerary programs in specific counties and to replace county officials' participation in supernumerary programs with their participation in the Employees' Retirement System of Alabama. There are three or four basic versions of this constitutional amendment." *Id.* at 2. "Section 36-27-6.1 of the Code of Alabama permits any public official authorized by local constitutional amendment to participate in the Employees' Retirement System of Alabama."

Opinion to Honorable Marilyn M. Garner, Attorney, Perry County Commission, dated May 2, 2003, A.G. No. 2003-135, at 3.

In addressing such an amendment for Lawrence County, this Office concluded that the coroner is entitled to participate in the Employees' Retirement System if the coroner qualifies for retirement under the terms of the amendment. Opinion to Honorable Greg Randolph, Lawrence County Coroner, dated March 9, 2001, A.G. No. 2001-112 (construing section 2 of the Local Amendments for Lawrence County of the Recompiled Constitution of Alabama).

CONCLUSION

Law enforcement should notify the coroner as soon as possible of a death, but there is no mandatory time in which the coroner must be notified.

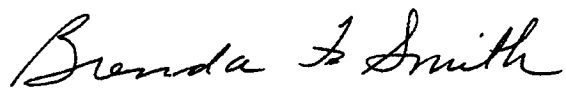
The coroner may request that law enforcement investigating a crime scene not move or disturb the body, but the coroner's authority is secondary to that of law enforcement.

Coroners in counties with local constitutional amendments authorizing elected officials to participate in the Employees' Retirement System are entitled to participate if they qualify under the terms of the amendments.

I hope this opinion answers your questions. If this Office can be of further assistance, please contact Ward Beeson of my staff.

Sincerely,

TROY KING
Attorney General
By:



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