

1984 WL 249828 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 14, 1984

*1 The Honorable Frank E. Barron, III
Richland County Coroner
Post Office Box 192
Columbia, South Carolina 29202

Dear Coroner Barron:

Following a search of our opinion files, I have located a prior opinion of this office, authored by former Deputy Attorney General J. C. Coleman, which I believe adequately addresses your inquiry of October 24, 1983; in your letter you asked about the power of the coroner in South Carolina to 'subpoena records, evidence, witnesses and investigating law enforcement officers to make sworn statements concerning their knowledge of a persons death.'

This office concluded in the prior opinion, referenced above, that we could find 'nothing in the statutes . . . 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.' [emphasis added]. The opinion further noted that coroners 'are limited to the powers set forth in applicable statutes and those powers necessarily incident thereto.' Id. It was also noted in the opinion, however, that [a]thorough research of the well known reference works does not disclose a single decided case on the question. . . ' and therefore, ultimately this 'is a question the courts must decide.' My subsequent research, likewise, reveals no cases or authorities precisely on the point which you raise.

In the absence of such authority, we cannot say that the earlier opinion is clearly erroneous, the standard by which this office reviews previously issued opinions. The opinion considered the statutes which you cite in your letter as authority for the power of the coroner to subpoena the records in question. Moreover, we note that since the opinion was issued, the General Assembly has not seen fit to substantially amend the law concerning coroners. The absence of any amendment following the issuance of the opinion suggests that the views expressed therein were consistent with the intent of the Legislature. [Scheff v. Township of Maple Shade](#), 149 N.J.Super. 448, 374 A.2d 43 (1977); cf., [Etiwan Fertilizer Co. v. S.C. Tax Commission](#), 217 S.C. 354, 60 S.E.2d 682 (1950).

Based upon the foregoing, we must conclude that the 1973 opinion remains the opinion of this office; until a court concludes otherwise, or until additional South Carolina case law on point is discovered, the opinion would stand. If we can be of further assistance to you, do not hesitate to contact us.

Sincerely,

Robert D. Cook
Executive Assistant for Opinions

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