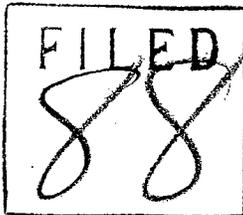


CORONERS:

- (1) Coroner in City of St. Louis as such has no authority to order the arrest or detention of persons suspected of complicity in crime causing death by violence or of a material witness thereto, prior to the holding of inquest.



January 28, 1954

Honorable Patrick E. Taylor
Coroner, City of St. Louis
1300 Clark Avenue
St. Louis, Missouri

Dear Sir:

Reference is made to your request for an official opinion of this department reading as follows:

"Customarily in the past years in our relationship with the Police Department it has been the practice that the Police Department would hold a supposed defendant in custody or permit them to make bond with our O.K. pending the outcome of the Coroner's Inquest.

"Secondly, material witnesses would be held for us or only given a bond on the Coroner's approval pending a Coroner's Inquest.

* * *

"I might remark at this time that due to the fact that we handled over 2600 cases in 1952 and 2514 cases in 1953, it is sometimes impossible for us to have our inquests immediately. It sometimes takes two or three days before we are able to hold the inquest.

Honorable Patrick E. Taylor

"Hoping that you or your office are able to give us an opinion on this in the very near future, I remain * * ."

The first two paragraphs of your letter of inquiry indicate that in the past the coroner for the City of St. Louis has notified the police department of that city of persons suspected of complicity in crimes of violence and thereupon the police department would detain such person or persons or admit them to bail upon the approval of the coroner. It further appears that material witnesses would also be detained by such police department or would be released only upon giving a bond, subject to the approval of the coroner.

It further appears that such procedure would be followed prior to the holding of the formal inquest by the coroner.

We have carefully examined the provisions of Chapter 58, RSMo 1949, and we do not find that such authorization has been granted to the coroner of the City of St. Louis. Power has been granted to that officer to issue subpoenas for persons to attend inquests to be held to inquire into deaths thought to have occurred from violence. This authorization appears in Section 58.330, RSMo 1949. Coroners are further authorized under Section 58.350 to require material witnesses to enter into recognizance for their appearance before the Court having criminal jurisdiction of the county wherein the felony appears to have been committed. Coroner has further power under Section 58.380 to issue a writ of attachment for the bringing in of any witness, who shall have failed without just cause to attend an inquest after having been duly subpoenaed, if it appears that the testimony of such witness is material.

One further duty has been imposed upon the coroner under the provisions of Section 58.370, which reads as follows:

"The coroner, upon an inquisition found before him of the death of any person by the felony of another, shall speedily inform one or more magistrates of the proper county, or some judge or justice of some court of record, and it shall be the duty of such officer forthwith to issue his process for the apprehension and securing for trial of such person."

Honorable Patrick E. Taylor

From the foregoing it appears that the duty of making arrests of persons suspected of complicity in felonies relating to deaths by violence remains with those enforcement officials who customarily are chargeable with the discharge of such duties. It also appears that it is only after the materiality of a particular witness' testimony appears at a formal inquest that any authorization has been granted to any coroner to require such witness to enter into a recognizance for his further appearance at criminal proceedings arising out of the death by violence. In the absence of statutory duties with respect to these matters having been enjoined upon the coroner for the City of St. Louis it is our belief that no such duty devolves upon that officer and that in ordering the arrest and detention of persons suspected of complicity in death thought to have occurred by violence or the arrest and detention of a witness whose testimony is thought to be material to an inquest into such death to be held subsequently, the coroner for the City of St. Louis exceeds his authority.

Of course, it is not meant to infer in this opinion that the proper officers are required to delay the arrest and detention of persons suspected of complicity in such crimes. However, such arrests may be made only in accordance with the legal standards prescribed therefor.

CONCLUSION

In the premises, we are of the opinion that the coroner of the City of St. Louis does not have the authority to order the arrest and detention, pending an inquest, of persons suspected of complicity in a death thought to have occurred by violence, nor of witnesses whose testimony is thought to be material to such inquest.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Will F. Berry, Jr.

Yours very truly,

JOHN M. DALTON
Attorney General

WFB:vlw