

May 19, 1964



Honorable Daniel V. O'Brien
Prosecuting Attorney
St. Louis County
Court House
Clayton, Missouri 63105

Dear Mr. O'Brien:

This office is in receipt of your request for a legal opinion. You advise that at various times the Coroner of St. Louis County has possession of guns used as the instruments of the deaths of persons, and which deaths have been investigated by the coroner. Subsequent to said investigations, the coroner has released the guns to relatives of the deceased, and the specific inquiry for which an opinion has been requested, reads as follows:

"The Coroner is desirous of learning whether or not he is acting in a proper manner in turning the guns over to other than the former legal owners in spite of the Missouri Statutes regulating the giving away or transferring of weapons only after obtaining a permit to do so."

In an opinion of this office written for Honorable Jasper M. Brancato, on August 23, 1963, Question No. 3 was: "Who is responsible for property found on or near dead bodies?"

That opinion pointed out that the sheriff or police, as the case may be, have the duty to protect the property of a deceased person during the interim period between the discovery of the deceased and take over of personal property by the deceased's personal representatives, subject to the exception in Section 548.490 RSMo 1959. Said section provides that within thirty days after

May 19, 1964

an inquest, the coroner shall turn over possession of money or other property found upon a dead body, unless claimed in the meantime by the personal representatives of the deceased, to the county or city treasurer.

It is believed that the conclusion reached on the third inquiry of the above-mentioned opinion answers that part of your inquiry as to what persons the coroner should turn over possession of guns of the deceased.

In view of the reference made in the latter portion of your inquiry relating to Missouri statutory requirements that transferees of small firearms must obtain a permit authorizing them to acquire same, we find it necessary to discuss this portion of the inquiry.

This reference is to Section 564.630, RSMo 1959, which provides:

"No person ... shall directly or indirectly buy, sell, borrow, loan, give away, trade, barter, deliver or receive, in this state, any pistol, revolver or other firearm of a size which may be concealed upon the person, unless the buyer, borrower or person receiving such weapon shall first obtain and deliver to, and the same be demanded and received by, the seller, loaner, or person delivering such weapon, within thirty days after the issuance thereof, a permit authorizing such person to acquire such weapon."

The transfer of possession of a firearm of the type referred to in the statute from the sheriff, police, or coroner to an executor or administrator does not require a permit because such executor or administrator does not own such firearm but is a legal trustee and conduit for the purpose of distributing the estate of the decedent.

Honorable Daniel V. O'Brien

-3-

May 19, 1964

If, however, the proposed transfer of the firearm is to be made to some relative of the decedent as an individual and not as an executor or administrator, then the permit required by Section 564.630 RSMo 1959, should be complied with.

Yours very truly,

THOMAS F. EAGLETON
Attorney General

Enclosure