



**OFFICE OF THE ATTORNEY GENERAL**  
STATE OF ILLINOIS

March 5, 2002

**Jim Ryan**  
ATTORNEY GENERAL

FILE NO. 02-004

COUNTIES:

Indemnification of Sheriff for  
Injuries Arising out of Crime  
Prevention Programs

The Honorable Joseph E. Birkett  
State's Attorney, DuPage County  
505 North County Farm Road  
Wheaton, Illinois 60187

Dear Mr. Birkett:

I have your letter wherein you inquire whether, pursuant to the provisions of section 5-1002 of the Counties Code (55 ILCS 5/5-1002 (West 2000)), a sheriff is entitled to indemnification with respect to judgments for injuries suffered by third parties which arise out of crime prevention programs in which the sheriff may engage. For the reasons hereinafter stated, it is my opinion that the county is required to indemnify the sheriff with respect to such claims.

Section 5-1002 of the Counties Code provides, in pertinent part:

"Indemnity of sheriff or deputy. If any injury to the person or property of another is caused by a sheriff or any deputy sheriff, while the sheriff or deputy is engaged in the performance of his or her duties as such, and without the contributory negligence of the injured person or the owner of the injured property, or the agent or servant of the injured person or owner, the county shall indemnify the sheriff or deputy, as the case may be, for any judgment recovered against him or her as the result of that injury, except where the injury results from the wilful misconduct of the sheriff or deputy, as the case may be, to the extent of not to exceed \$500,000, including costs of action.  
\* \* \*"

Section 5-1002 clearly requires indemnification of the sheriff for judgments resulting from an injury caused to another while the sheriff is engaged in the performance of his or her duties. Consequently, the only issue necessary to the resolution of this question is whether the sheriff's duties include participation in crime prevention programs.

The sheriff's duties are set out in division 3-6 of the Counties Code (55 ILCS 5/3-6001 et seq. (West 2000)). It has been held that these statutory duties are largely declaratory of the common law. (People ex rel. Rexses v. Cermak (1925), 239 Ill. App. 195, 199.) Section 3-6021 of the Code (55 ILCS 5/3-6021 (West 2000)) provides:

"Conservator of the peace. Each sheriff shall be conservator of the peace in his or her county, and shall prevent crime and main-

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tain the safety and order of the citizens of that county; and may arrest offenders on view, and cause them to be brought before the proper court for trial or examination." (Emphasis added.)

Similarly, section 3-6022 of the Code (55 ILCS 5/3-6022 (West 2000)) provides:

"Posse comitatus. To keep the peace, prevent crime, or to execute any warrant, process, order or judgment [the sheriff] may call to his or her aid, when necessary, any person or the power of the county." (Emphasis added.)

With respect to these statutory powers, one of my predecessors has stated that "it [is] the duty of the sheriff to prevent crime in his county; the Law which imposes upon him such duty must necessarily carry with it the implied power to exercise whatever means may be necessary to enable him to perform such duty \* \* \* and the Law has undertaken to clothe such officers with ample power for that purpose." (Emphasis in original.) 1915 Ill. Att'y Gen. Op. 420, 422.

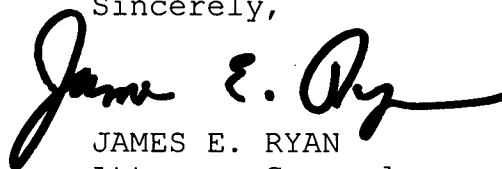
Clearly, therefore, because the duties of the sheriff include the prevention of crime, it is within the scope of his or her statutory authority to institute, conduct or otherwise participate in programs designed to prevent crime. You have specifically mentioned certain programs as examples of your sheriff's activities in this area, including community policing,

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DARE education programs at local schools, staffing of neighborhood resource centers and security surveys and assessments for schools and public facilities. Although there may be disagreement with respect to the effectiveness of any particular crime prevention program that the sheriff may choose to conduct, there can be no question but that involvement in such programs falls within the powers and duties of the office.

It is my opinion, therefore, that when the sheriff engages in crime prevention programs, he or she is acting within the scope of his or her duties, and is entitled to indemnification under section 5-1002 of the Counties Code with respect thereto.

Sincerely,

A handwritten signature in cursive script that reads "James E. Ryan". The signature is written in black ink and is positioned above the typed name and title.

JAMES E. RYAN  
Attorney General