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FILE NO. S-1485

INTERGOVERNMENTAL COOPERATION:
Power of a County to Provide
Contractual Police Services to
a City or Village

Honorable James R. Fritze
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Court House
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Dear Mr. Fritze:

I have your letter in which you ask the following questions:

1. Does a county have the power to enter into a contract to provide specified police service within the corporate limits of a city or village?
2. Is the sheriff required to provide the services including number of officers and cars called for by a contract entered into by the county board despite the sheriff's opposition?

In response to your first question, it is my opinion that a county does have the power to enter into such a contract.

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Section 10 of article VII of the Illinois Constitution of 1970 states:

"(a) Units of local government and school districts may contract or otherwise associate among themselves, with the State, with other states and their units of local government and school districts, and with the United States to obtain or share services and to exercise, combine, or transfer any power or function, in any manner not prohibited by law or by ordinance. Units of local government and school districts may contract and otherwise associate with individuals, associations, and corporations in any manner not prohibited by law or by ordinance. Participating units of government may use their credit, revenues, and other resources to pay costs and to service debt related to intergovernmental activities.

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See, also, the Intergovernmental Cooperation Act (Ill. Rev. Stat. 1977, ch. 127, par. 741 et seq.).

The Illinois Constitution should be construed according to the same general principles that control the construction of statutes. (Johnson v. State Electoral Board (1972), 53 Ill. 2d 256; Peabody v. Russell (1922), 301 Ill. 439.) The primary object of construction of the Constitution is to ascertain and give effect to the intention of the drafters. (People v. Turner (1964), 31 Ill. 2d 197, cause transferred to 60 Ill. App. 2d 388.) Intention should be sought primarily from the language used. If the legislative intent can be ascertained therefrom, it must prevail

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and be given effect without resort to other aids for construction. Western National Bank of Cicero v. Village of Kildeer (1960), 19 Ill. 2d 342.

It is clear from the language of section 10 that the framers intended units of local government to have broad powers to associate and contract to obtain government services. These broad powers include the ability to combine or transfer functions of government, such as police protection. See, 1974 Ill. Atty Gen. Op. 60.

As you point out in your letter, county boards have existing statutory power to contract with townships to furnish police protection to unincorporated areas within the county (Ill. Rev. Stat. 1977, ch. 34, par. 3601), and with school boards, hospitals, shopping centers and apartment complexes to regulate traffic in their parking areas outside of municipalities. (Ill. Rev. Stat. 1977, ch. 34, par. 421.1.) This authority is not a limitation on the power of county boards to provide police protection to other entities on a contractual basis.

The framers of the 1970 Constitution specifically intended that units of local government have the power to initiate and carry out intergovernmental activities at the local level without having to first seek statutory enactment.

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See, 7 Record of Proceedings, Sixth Illinois Constitutional Convention 1748 (hereinafter cited as Proceedings). An activity which is not specifically prohibited by law or ordinance involving a function or power which the "supplying" unit has the general power to exercise may be the subject of an intergovernmental agreement or contract. See, section 3 of the Intergovernmental Cooperation Act (Ill. Rev. Stat. 1977, ch. 127, par. 743), and Illinois Attorney General Opinion No. S-1161 (1976 Ill. Att'y Gen. Op. 303). Counties have the general statutory power to provide police protection through the office of the county sheriff. I know of no statute or ordinance which specifically prohibits your county board from contracting with municipalities or villages within the county to provide them with police protection. It is therefore my opinion that the Iroquois County Board may so contract.

With regard to your second question, I am of the opinion that the sheriff is required to provide the services called for by a contract entered into by the county board. It, of course, follows that the county board must provide the necessary funds and authorize the necessary number of deputies to enable the sheriff to fulfill the responsibilities set forth in the contract.

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Section 5 of the Intergovernmental Cooperation Act (Ill. Rev. Stat. 1977, ch. 127, par. 745) provides that:

"Any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity or undertaking which any of the public agencies entering into the contract is authorized by law to perform, provided that such contract shall be authorized by the governing body of each party to the contract. Such contract shall set forth fully the purposes, powers, rights, objectives and responsibilities of the contracting parties."

The county board would be the contracting party in any agreement to provide police protection to municipalities or villages. The sheriff has no power to prevent the execution or implementation of such a contract. Furthermore, the imposition on the sheriff by the county board of the additional duties entailed in providing such protection is authorized by section 4(d) of the Illinois Constitution of 1970 and by section 25.34 of "AN ACT to revise the law in relation to counties" (Ill. Rev. Stat. 1977, ch. 34, par. 429.18), which provides as follows:

"No county board may alter the duties, powers and functions of county officers that are specifically imposed by law. A county board may alter any other duties, powers or functions or impose additional duties, powers and functions upon county officers. In the event of a conflict State law prevails over county ordinance."

Very truly yours,

A T T O R N E Y G E N E R A L