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Mr. Michael McCreery  
United Counties Council of Illinois  
217 East Adams Street, Suite 101  
Springfield, IL 62701

RE: The Intergovernmental Cooperation Act

Dear Mike:

We received an inquiry regarding the following situation:

A mayor of a town with no police force made an agreement with the sheriff of their county whereby the sheriff would provide police service to the town at no charge. When the county board questioned the sheriff on why his budget had been depleted so quickly, the sheriff revealed the fact that his office was providing this police service to this town. The county board then initiated a charge of \$150 per call for police services. The county board is asking what recourse it has if the town challenges this new cost.

Units of local government, including counties and municipalities, are free to enter into agreements with other units of government for various purposes. The Illinois Constitution specifically authorizes units of local government "to contract or otherwise associate amongst themselves, with the State, with other states and their units of local government and school districts, and with the United States ... in any manner not prohibited by law or by ordinance."<sup>1</sup> The Intergovernmental Cooperation Act (the "Act") authorizes any one or more "public agencies" to contract with one or more other public agencies to perform, combine or transfer governmental powers or functions.<sup>2</sup> The Illinois Constitution and the Act clearly authorize a county to enter into an agreement with a town to provide police services to that town.<sup>3</sup> However, there are provisions requiring how these agreements are reached. Section 5 of

<sup>1</sup> Il. Cons. Art. VII, Section 10

<sup>2</sup> 5 ILCS 220/5

<sup>3</sup> Ill. Atty. Gen. Op. No. S-1485, April 14, 1980

the Act requires that these contracts between “public agencies...be approved by the governing bodies of each party to the contract.”<sup>4</sup>

Under the Act, a public agency includes units of local government, school districts, public community colleges, public building commissions, the State, any agency of the State, another state or the United States, any political subdivision of another state, or any combination of the above pursuant to an intergovernmental agreement that includes provisions for a governing body of the agency created by the agreement.<sup>5</sup> The Illinois Attorney General has opined that, although a county is a public agency, a sheriff is not and thus has no authority to enter into an agreement with another public agency. An agreement involving a sheriff must be approved by the county board of the respective county.<sup>6</sup> “The county board would be the contracting party in any agreement to provide police protection to municipalities or villages.”<sup>7</sup>

In the case at hand, there was no written agreement. The sheriff made the agreement with the mayor of the town. There was no resolution or ordinance adopted by the county board. The county board did not approve this agreement, in violation of the clear language of the Intergovernmental Cooperation Act. As such, there is no valid agreement between the sheriff and the town. Please note that the mayor of the town would also need approval of the town’s governing authority to comply with the Intergovernmental Cooperation Act.

It would be in the county’s best interest to have the county board execute a contract with the governing body of the town for the provision of police services, which contract should set out the fee for such services.

Should you have additional questions regarding this matter, please contact us.

Sincerely,

GIFFIN, WINNING, COHEN & BODEWES, P.C.



Herman G. Bodewes



Kerri A. Doll

HGB/KAD/mlm

**Disclaimer:** This opinion was prepared by Giffin, Winning, Cohen & Bodewes, P.C. at the request of UCCI and is to be used solely by UCCI and its members. The State’s Attorney is the attorney for the County. Legal advice, if requested, should be sought from the State’s Attorney.

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<sup>4</sup> 5 ILCS 220/5

<sup>5</sup> 5 ILCS 220/2

<sup>6</sup> Ill. Atty. Gen. Op. No. 99-003, March 3, 1999

<sup>7</sup> Ill. Atty. Gen. Op. No. S-1485, April 14, 1980