



**TYRONE C. FAHNER**  
ATTORNEY GENERAL  
STATE OF ILLINOIS  
SPRINGFIELD

December 12, 1980

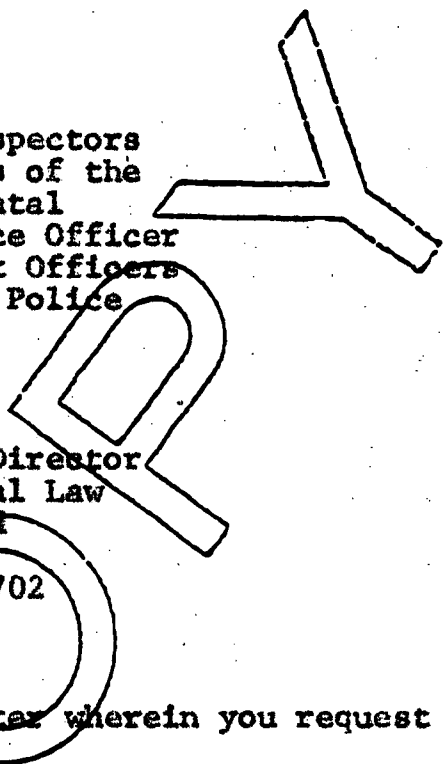
FILE NUMBER 80-042

**MUNICIPALITIES:  
Fire Investigators and Inspectors  
Designated as Conservators of the  
Peace by a Local Governmental  
Agency and Possessing Peace Officer  
Status Are Law Enforcement Officers  
Within the Meaning of the Police  
Training Act**

Albert A. Apa, Executive Director  
Illinois Local Governmental Law  
Enforcement Training Board  
301 North Second Street  
Springfield, Illinois 62702

Dear Mr. Apa:

I have your letter wherein you request an opinion of the Attorney General concerning whether fire inspectors and fire investigators employed by the city of Bloomington are "law enforcement officers" as defined in subsection 2f of the Illinois Police Training Act (Ill. Rev. Stat. 1979, ch. 85, par. 502f) so as to be eligible for training under that Act. According to your letter, the city of Bloomington contends that, under its home rule powers, it can appoint fire investigators and give them peace officer status. For the reasons hereinafter stated, it is my opinion that such persons qualify



Albert A. Apa - 2.

as "law enforcement officers" within the meaning of the Illinois Police Training Act.

On April 28, 1980, the Bloomington City Council adopted "An Ordinance Designating Fire Inspectors as Conservators of the Peace and Conferring Police Powers Upon Them" (Ordinance No. 1980-26), which provides, in pertinent part, as follows:

" \* \* \*

**SEC. 43 ESTABLISHMENT; DUTIES OF CHIEF, ETC.**

A Bureau of Fire Prevention in the Fire Department of the City is hereby established which shall be operated under the supervision of the Chief of the Department. The Chief of the Fire Department shall designate an officer of the Fire Department as Chief of the Bureau of Fire Prevention who shall hold this office at the pleasure of the Chief of the Fire Department and who shall be known as the Fire Marshal.

**SEC. 44 DUTIES OF FIRE PREVENTION BUREAU.**

**(a) Fire Inspectors.**

(1) It shall be the duty of all members of the Bureau of Fire Prevention to enforce all laws and ordinances of the Fire Prevention Code so adopted or written by the City of Bloomington.

(2) The Fire Marshal and his assistants shall enforce this Code and the fire laws and regulations of the City and the State of Illinois in the manner provided in this Chapter.

(3) They shall have such other powers and perform such other duties as are set forth in other sections of this Chapter and other provisions of the Code of the City as may be conferred and imposed from time to time by law.

**(b) Fire Investigator.**

(1) It shall be the duty of the Fire Marshall or such other member of the Fire Prevention Bureau assigned as a Fire Investigator to determine the cause, origin, and circumstances of all fires of suspicious nature, fires where arson (incendiary

nature) is suspected, fires where death(s) occurred, fires where the cause(s) cannot be readily determined, and to other fires or fire related incidents as required.

(2) The Fire Marshal and all designated Fire Inspectors and Fire Investigators shall be and the same are hereby designated Conservators of the Peace pursuant to Section 3-9-4 of the Illinois Municipal Code (Ill. Rev. Stat. ch. 24, § 3-9-4) to the extent authorized in this Chapter. When acting in the scope of their investigative duties as provided in this Chapter, they shall be possessed of all powers of peace officers referred to in said Section 3-9-4 including powers of arrest, search and seizure and possession and use of firearms necessary to carry out the duties of their office.

(3) They shall have such other powers and perform such other duties as are set forth in other sections of this Chapter and other provisions of the Code of the City as may be conferred and imposed from time to time by law.

\* \* \*

(Emphasis added.)

Section 3-9-4 of the Illinois Municipal Code (Ill.

Rev. Stat. 1979, ch. 24, par. 3-9-4) provides that:

"The mayor, alderman, president, trustees, marshal, deputy marshals, policemen, and watchmen, in municipalities, shall be conservators of the peace. All persons specified in this Section, or authorized by any ordinance, shall have power (1) to arrest or cause to be arrested, with or without process, all persons who break the peace, or are found violating any municipal ordinance or any criminal law of the State; (2) to commit arrested persons for examination; (3) if necessary, to detain arrested persons in custody over night or Sunday in any safe place, or until they can be brought before the proper court; and (4) to exercise all other powers as conservators of the peace that the corporate authorities may prescribe.

All warrants for the violation of municipal ordinances, or the State criminal law, to whomsoever directed, may be served and executed within the limits of a municipality by any policeman or marshal thereof. For this purpose policemen and marshals have all the common law and statutory power of sheriffs." (Emphasis added.)

By enacting section 3-9-4, the General Assembly has expressly given municipalities the power to authorize persons to act as conservators of the peace with the power to make arrests for municipal ordinance violations or for violations of any criminal laws. (Village of Cherry Valley v. Schuelke (1977), 46 Ill. App. 3d 91, 94-95.) Moreover, the fire investigators and inspectors duly designated as conservators of the peace under section 3-9-4, and having the powers specified therein, as well as the additional powers prescribed by the ordinance, possess the status of "peace officers" as defined in section 2-13 of the Criminal Code of 1961 (Ill. Rev. Stat. 1979, ch. 38, par. 2-13). Section 2-13 of that Code defines a "peace officer" as:

" \* \* \* any person who by virtue of his office or public employment is vested by law with a duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses."

Because it appears that the action taken by the city of Bloomington is explicitly authorized by section 3-9-4 of the Illinois Municipal Code, it is not necessary to address the issue of the authority of the city to so act under its home rule powers.

The Illinois Police Training Act (Ill. Rev. Stat. 1979, ch. 85, par. 501 et seq.), by its own terms, requires pertinent local governmental units to participate, and encourages the voluntary participation of other local governmental units, in

Albert A. Apa - 5.

the programs established under the Act. (Ill. Rev. Stat. 1979, ch. 85, par. 501.) The city of Bloomington, as a municipal corporation, is clearly a "local governmental agency" as defined by section 2b of the Act. (Ill. Rev. Stat. 1979, ch. 85, par. 502b.) Although, as provided in section 8 of the Act (Ill. Rev. Stat. 1979, ch. 85, par. 508), all home rule local government units are exempted from the mandatory provisions of the Act, they may elect, by resolution or ordinance, to participate under the Illinois Police Training Act. The city of Bloomington, by Resolution No. 1975-62, adopted December 22, 1975, has elected to participate in the program provided for in the Illinois Police Training Act. Consequently, if the individuals in question are "law enforcement officers" within the meaning of subsection 2f, they may qualify for training under the Act. Subsection 2f defines "law enforcement officer" as:

" \* \* \* any full-time employee of a local governmental agency who is primarily responsible for prevention or detection of crime and the enforcement of the criminal code, traffic, or highway laws of this State or any political subdivision thereof."

It is my understanding that the fire investigators and inspectors are employed in such capacity by the city of Bloomington on a full-time basis. As full-time conservators of the peace and peace officers, their primary duties include the detection of crime, the enforcement of the Criminal Code,

Albert A. Apa - 6.

as well as the duty to keep the peace and arrest offenders. The language of subsection 2f does not, by its own terms, require that a "law enforcement officer" have the power to detect all types of crimes and offenses or enforce all the provisions of the Criminal Code. The Bloomington investigators and inspectors, when carrying out functions assigned under the ordinance, have the duty of enforcing the city fire prevention code and regulations thereunder, the State fire laws and regulations, as well as the duty to conduct fire-related investigations. When acting in such capacity, the individuals exercise substantially the same powers possessed by policemen. Moreover, the training of Bloomington fire inspectors and investigators appears to serve the stated purpose of the Act, which is, in part, to encourage and aid municipalities in raising the "level of local law enforcement by upgrading and maintaining a high level of training for law enforcement officers". (Ill. Rev. Stat. 1979, ch. 85, par. 501.) Therefore, I am of the opinion that the officers in question qualify as "law enforcement officers" within the meaning of the Illinois Police Training Act.

Very truly yours,

A T T O R N E Y   G E N E R A L