

OPINION NO. 2004-010**Syllabus:**

A county law library association is not entitled to receive funds under R.C. 3375.51 if there is no county court that has been established pursuant to R.C. 1907.01 in the county served by the law library.

To: Steven H. Eckstein, Fayette County Prosecuting Attorney, Washington Court House, Ohio

By: Jim Petro, Attorney General, March 19, 2004

You have asked whether the Fayette County Law Library Association is entitled to receive funds under R.C. 3375.51 since Fayette County has no county court. R.C. 3375.51 requires that fifty percent of the fines, penalties, and forfeited bail collected by a county court be paid to the county law library association.¹

Funding of County Law Library Associations

We will first examine the nature of a county law library association and the sources of its financial support. A county law library association is a private organization that may be formed as an association or a nonprofit corporation under R.C. 1713.28. 1995 Op. Att'y Gen. No. 95-029; 1986 Op. Att'y Gen. No. 86-102. As such, it may receive contributions, gifts, and dues from private sources. See *Van Wert County Law Library Association v. Stuckey*, 60 Ohio L. Abs. 1, 13-14, 94 N.E.2d 32 (C.P. Van Wert County 1949); 1996 Op. Att'y Gen. No. 96-013; 1988 Op. Att'y Gen. No. 88-104; 1986 Op. Att'y Gen. No. 86-102. A county law library association may also be entitled to receive public resources if it "furnishes to all of the members of the Ohio general assembly, the county officers and the judges of the several courts in the county admission to its library and the use of its books free of charge." R.C. 3375.48. See also R.C. 3375.55 ("[j]udges of the county court in the county and officers of the townships and municipal corporations therein shall have the same free use of the books of the law library receiving moneys under [R.C. 3375.50-.53], as the judges and county officers"). If an association meets this prerequisite, the compensation of the law librarian and up to two assistant law librarians is paid from the county treasury. R.C. 3375.48. Also, the board of county commissioners is required to provide, at county expense, rooms and bookcases for the use of the county law library, and to heat and light such rooms. R.C. 3375.49. See *State ex rel. Mahoning Law Library Association v. Board of Commissioners*, 53 Ohio St. 2d 56, 372 N.E.2d 349 (1978); *Akron Law Library Association v. Morgan*, 13 Ohio App. 3d 119, 468 N.E.2d 384 (Summit County 1983); 1996 Op. Att'y Gen. No. 96-013.

In addition to this assistance from the county, a county law library association is entitled to receive fines, penalties, and forfeited bail collected by municipal courts, R.C. 3375.50, the county court, R.C. 3375.51, and the probate and common pleas courts, R.C.

¹See R.C. 1907.012 ("a county court has jurisdiction over violations of township resolutions adopted pursuant to Chapter 504 of the Revised Code"); R.C. 1907.02 (a county court has jurisdiction of all misdemeanor cases, and any violation of a vehicle parking or standing ordinance, resolution, or regulation that is not a criminal offense and not required to be handled by a parking violations bureau); R.C. 2931.02 (setting forth other violations over which a county court has jurisdiction). See also R.C. 1907.20(C) (distribution of costs, fees, fines, penalties, bail and other moneys by the clerk of a county court generally).

3375.52;² also, fifty percent of the fines, penalties, and forfeited bail generated from prosecutions for state liquor and state traffic offenses in any court within the county must be paid to the association, R.C. 3375.53. The amounts that a law library association may receive from municipal courts, the common pleas and probate courts, and the moneys generated by prosecutions for state liquor law violations are each subject to a respective annual cap.³ See generally 1989 Op. Att’y Gen. No. 89-103 at 2-497 to 2-498, n.2; 1953 Op. Att’y Gen. No. 3039, p. 422. No cap, however, is placed on the amount that a law library association may receive from the county court.

Municipal Courts/County Courts

We turn now to the legislative schemes creating the municipal court and county court systems in Ohio. Municipal courts are creatures of statute, and the General Assembly has established a municipal court in the “City of Washington in Fayette county, to be known as Washington Court House.” R.C. 1901.01(A). As a general matter, a municipal court has jurisdiction only within the corporate limits of its municipal corporation, R.C. 1901.02(A), but the Washington Court House Municipal Court has jurisdiction within all of Fayette County. R.C. 1901.02 (B).

County courts, which are also creatures of statute, have been established by the General Assembly “in each county of the state, in which the territorial jurisdiction of a municipal court or municipal courts is not coextensive with the boundaries of the county.” R.C. 1907.01. Each county court has “jurisdiction throughout a county court district that shall consist of all territory within the county not subject to the territorial jurisdiction of any municipal court.” *Id.* Because the Washington Court House Municipal Court has territorial jurisdiction that is “coextensive with the boundaries of the county,” no county court has been established for Fayette County. See R.C. 1907.11 (setting forth the counties that have county courts, and the number of judges elected to each court; Fayette County is not among the counties listed).

²A municipal court must distribute to the county law library association all fines, penalties, and forfeited bail it collects “for offenses and misdemeanors brought for prosecution in the name of a municipal corporation under one of its penal ordinances, where there is in force a state statute under which the offense might be prosecuted, or brought for prosecution in the name of the state.” R.C. 3375.50. Fifty per cent of all fines, penalties, and forfeited bail collected by a county court is remitted to the association. R.C. 3375.51. And, “all fines and penalties collected by, and moneys arising from forfeited bail in the court of common pleas and the probate court of such county, for offenses and misdemeanors brought for prosecution in such courts in the name of the state” are paid to the association. R.C. 3375.52.

³The maximum amount that a law library association may receive from a municipal court depends upon the county’s population. R.C. 3375.50. According to the U.S. 2000 Decennial Census, Fayette County has a population of 28,433. Therefore, division (A) of R.C. 3375.50 prescribes that the amount paid to the Fayette County Law Library Association by the county’s municipal court (described more fully below) may not exceed four thousand dollars per calendar year. See 1962 Op. Att’y Gen. No. 3506, p. 1019. A court of common pleas and probate court may each distribute to the law library association no more than twelve hundred and fifty dollars per year, R.C. 3375.52, and moneys received by a law library association from a court for prosecutions of state liquor law violations may not exceed twelve hundred dollars per year, R.C. 3375.53.

It is apparent, therefore, that R.C. 3375.51 has no application to the Fayette County Law Library Association. Because Fayette County has no county court, there is no money to be collected and then distributed to the law library association pursuant to R.C. 3375.51. You have stated in your letter of request, however, that the clerk of the municipal court has indicated that the court is sending money to the law library pursuant to R.C. 3375.51, as well as R.C. 3375.50, because the court is "operating as a county court." This position, however, is simply not supported by the statutory scheme that provides for the funding of law libraries, nor those establishing municipal courts and county courts.

The fact that the Washington Court House Municipal Court may be exercising jurisdiction over the same types of cases that are heard in other counties by the county court, and collecting fines, penalties, and forfeited bail that accrue from these cases, does not mean that it is "operating" as a county court or governed by R.C. 3375.51.⁴ There is nothing in statute that would indicate that the term, "county court," as used in R.C. 3375.51, is to be interpreted as referring to any court other than one established pursuant to R.C. 1907.01, or that, in the absence of a county court, other courts within the county are somehow obligated to comply with R.C. 3375.51. *Cf. Greenville Law Library Association v. Village of Ansonia*, 33 Ohio St. 2d 3, 6, 292 N.E.2d 880 (1973) (mayor's courts have no obligation to make payments pursuant to R.C. 3375.50 by reason of the fact that there is no municipal court within the county; the phrase "municipal courts" as used in R.C. 3375.50 does not mean the "courts of a municipality," but "refers to statutory municipal courts, and does not include police courts or mayors' courts").⁵ The General Assembly could easily have made different provision for law library associations located in counties with no county court, but it has not done so.

In *State ex rel. Akron Law Library Association v. Weil*, 16 Ohio App. 2d 151, 242 N.E.2d 664 (Summit County 1968), the court at least indirectly opined on the matter before us. In framing the issues for determining how fines, penalties, and forfeited bail bonds should be distributed to the Akron Law Library Association, the court stated:

The state of Ohio, by legislation, provided a means of supporting county law libraries for the free use of such facilities by the judges and other public officials. To obtain that support, the following statutes were enacted for inclusion in the Ohio Revised Code, to wit: Sections 3375.50, 3375.51, 3375.52, 3375.53, 4513.35, and 5503.04.

The problem before us is to interpret these statutes and, from that interpretation, to determine what moneys should be paid for the use and

⁴A court of common pleas may also exercise jurisdiction over violations that may be heard by the county court (or a municipal court), *see* note 1, *supra*, except where exclusive jurisdiction over a "minor offense" is vested in a court inferior to the common pleas court. R.C. 2931.03. *See also Coss v. Hoddinott*, 16 Ohio St. 2d 163, 164, 243 N.E.2d 59 (1968) ("[i]n the absence of an express provision to the contrary, the Court of Common Pleas has jurisdiction over misdemeanors").

⁵The court went on in *Greenville Law Library Association v. Village of Ansonia*, 33 Ohio St. 2d 3, 6, 292 N.E.2d 880 (1973), to reject the association's contention that, if R.C. 3375.50 were not interpreted to require mayors' and police courts to remit moneys to the association if there were no statutory municipal court within the county, it would be a general law that did not have uniform operation throughout the state in violation of Ohio Const. art. II, § 26 and art. XVIII, § 2.

benefit of Library, and to direct that such moneys be paid to Library, if the several governmental agencies and courts have failed to do so.

There are no County Courts in Summit County, and we do not, therefore, consider the section herein dealing with such courts, to wit: Section 3375.51, Revised Code. (Emphasis added.)

Id., 16 Ohio App. 2d at 154. The court thus dismissed, out of hand, the possibility that the law library might be entitled to receive moneys, from a municipal court or any other source, pursuant to R.C. 3375.51, if there were no county court established for that county. *See also* 1962 Op. Att’y Gen. No. 3506, p. 1019 (syllabus, paragraph 2) (“[i]n a county of less than 50,000 population, and having one municipal court [with county-wide jurisdiction], the maximum amount that should be paid to the law library association in any one year is \$4,000,” without mention of R.C. 3375.51).

The Fayette County Law Library Association is limited to receiving four thousand dollars per year from the Washington Court House Municipal Court under R.C. 3375.50. After this amount is reached, the Association is entitled to receive no other funds from the municipal court, except as provided in R.C. 3375.53.⁶ The Association may not avoid the cap in R.C. 3375.50, and continue to receive fifty percent (or other portion) of the fines, penalties, and forfeited bail collected by the municipal court, on the premise that the municipal court is somehow operating as a county court under R.C. 3375.51. *See City of Parma Heights v. Schroeder*, 93 Ohio L. Abs. 247, 251, 196 N.E.2d 813 (C.P. Cuyahoga County 1963) (“[c]learly one cannot do indirectly what he cannot lawfully do directly”); 1958 Op. Att’y Gen. No. 2820, p. 597, 598 (“that which cannot be done directly cannot legally be effected by an indirect and circuitous means”). A county law library association is not entitled to receive funds under R.C. 3375.51 from any court other than a county court established pursuant to R.C. 1907.01.

Therefore, it is my opinion, and you are so advised that, a county law library association is not entitled to receive funds under R.C. 3375.51 if there is no county court that has been established pursuant to R.C. 1907.01 in the county served by the law library.

⁶*See State ex rel. Board of Trustees v. Vogel*, 169 Ohio St. 243, 159 N.E.2d 220 (1959) (the moneys received by a law library association pursuant to R.C. 3375.53 are in addition to those received under R.C. 3375.50, and are not subject to the maximum set forth in R.C. 3375.50).