

1153

1) COUNTY CORONER—MAY NOT RECEIVE PAYMENT OF EXTRA COMPENSATION FOR PERFORMANCE OF OFFICIAL AUTOPSY.

2) ASSISTANT CORONER—TO BE PAID SALARY *CANNOT BE PAID* ON BASIS OF OFFICIAL AUTOPSIES PERFORMED—
§§313.05, 325.15 R.C.

SYLLABUS:

1. Section 325.15, Revised Code, provides that the county coroner be paid an annual compensation and there is no authority for the payment of extra compensation to a coroner for the performance of an official autopsy.

2. Section 313.05, Revised Code, provides that each assistant coroner be paid a salary for the performance of his duties and payment of an assistant coroner on the basis of official autopsies performed by him is not authorized by law.

Columbus, Ohio, February 15, 1960

Hon. Robert L. Perdue, Prosecuting Attorney
Ross County, Chillicothe, Ohio

Dear Sir:

I have your request for my opinion reading as follows:

“Your answer to the following two questions would be deeply appreciated:

“1. May a county coroner be paid a reasonable sum over and above his regular statutory salary for services rendered to the county for each official autopsy actually performed by him for the county?”

“2. May a physician who is named assistant coroner of the county by the coroner, but who is paid no salary by the county, be paid a reasonable sum for his services rendered to the county for each autopsy actually performed by him for the county?”

Section 325.15, Revised Code, sets forth the salaries of county coroners under classifications according to population, such as:

“* * *

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* * *

“Class	Population Range	Annual Compensation
9	50,00 to 55,000	\$2,000
***	***	***”

Section 325.02, Revised Code, limits the salaries and compensation of certain county officers to the statutory designated salaries with an exception which does not have application here. Also, this section does not have application to county coroners.

Section 313.13, Revised Code reads as follows :

“The coroner or deputy coroner may go to the dead body and take charge of it. If, in the opinion of the coroner, or, in his absence, in the opinion of the deputy, an autopsy is necessary, such autopsy shall be performed by the *coroner, deputy coroner, or pathologists*. A detailed description of the observations written during the progress of such autopsy, or as soon after such autopsy as reasonably possible, and the conclusions drawn therefrom shall be filed in the office of the coroner.” (Emphasis added)

This section states that autopsies shall be performed by the coroner, deputy coroner or pathologists, and would infer that it is the duty of the coroner to perform an autopsy or to see that the same is performed, and no provision is made for additional compensation for so doing.

In former years, the statutes pertaining to compensation of coroners provided for a separate fee for the coroner for an autopsy authorized by a prosecuting attorney, but this provision was eliminated some years ago. (Provision deleted from Section 2856-3, General Code, in 121 Ohio Laws 591, at 596.)

Therefore, in answer to your first inquiry, I must conclude that there is no statutory provision to pay a coroner for an official autopsy performed by him for the county and that, hence, such payment may not be made.

As to your second question, I call your attention to Section 313.05, Revised Code, which reads :

“The coroner may appoint, in writing, assistant coroners who shall be licensed physicians of good standing in their profession, one of whom may be designated as the chief deputy coroner. Such coroner may also appoint pathologists as assistant coroners, *who shall assist in doing autopsies*, make pathological

and chemical examinations, and perform such other duties as are directed by the coroner or recommended by the prosecuting attorney. The coroner may appoint any necessary technicians.

“The coroner may appoint, in writing, a secretary and an official stenographer who shall record the testimony of witnesses in attendance upon the coroner’s inquest, preserve and file properly indexed records of all official reports, acts, and communications of the office, and perform such other services as are required by the coroner.

“In counties where a coroner’s office, laboratory, and a county morgue is maintained, the coroner may appoint clerks, stenographers, custodians, and investigators, and shall define their duties.

“Or the performance of their duties the deputy coroner, *assistant coroners*, pathologists, stenographers, secretary, clerks, custodians, and investigators *shall receive salaries fixed by the coroner* and payable from the county treasury upon the warrant of the county auditor. Such compensation shall not exceed, in the aggregate, for the coroner’s office, the amount fixed by the board of county commissioners for such office.” (Emphasis added)

You will note that assistant coroners, for the performance of their duties, are to be paid salaries fixed by the coroner. The use of the word “salary” generally implies a per annum compensation. “Salary” is defined in Webster’s New International Dictionary, Second Edition, page 2203, as:

“The recompense or consideration paid, or stipulated to be paid, to a person at regular intervals for services, especially to holders of official, executive, or clerical positions; fixed compensation regularly paid, as by the year, quarter, month, or week; * * *”

I am of the opinion that the payment of sums to an assistant coroner for each autopsy performed by him would be payment on a fee basis and not payment of a salary, and would not be authorized by law. Further, Section 313.05, *supra*, appears to require that an assistant coroner be paid a salary fixed by the coroner.

Accordingly, it is my opinion and you are advised:

1. Section 325.15, Revised Code, provides that the county coroner be paid an annual compensation and there is no authority for the payment of extra compensation to a coroner for the performance of an official autopsy.

2. Section 313.05, Revised Code, provides that each assistant coroner be paid a salary for the performance of his duties and payment of an assistant coroner on the basis of official autopsies performed by him is not authorized by law.

Respectfully,

MARK McELROY
Attorney General