

Note from the Attorney General's Office:

1989 Op. Att'y Gen. No. 89-086 was clarified
by 1998 Op. Att'y Gen. No. 98-021.

OPINION NO. 89-086**Syllabus:**

Expenses incurred by the county sheriff in serving summonses, warrants, citations, subpoenas, writs, and other papers issued by the juvenile court in connection with cases that are filed in the juvenile court shall, pursuant to R.C. 2151.19, be paid out of the monthly allowance that is made available therefor by the board of county commissioners under R.C. 325.07. Such expenses shall not be taxed and collected by the juvenile court as fees or costs under R.C. 2151.54.

To: James J. Mayer, Jr., Richland County Prosecuting Attorney, Mansfield, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, November 3, 1989

You have requested my opinion regarding the payment of expenses incurred by the county sheriff in serving summonses, warrants, citations, and other papers in connection with cases that are filed and pending in the juvenile court. According to your letter, the sheriff has been submitting statements for those expenses to the juvenile court and has requested that the court remit the corresponding payments to his office. The juvenile court has not made the requested payments, however, and has cited as support therefor R.C. 2151.54, which addresses the taxation and collection of fees and costs by the juvenile court. R.C. 2151.54 reads as follows:

The juvenile court shall tax and collect the same fees and costs as are allowed the clerk of the court of common pleas for similar services.¹ *No fees or costs shall be taxed in cases of delinquent, unruly, dependent, abused, or neglected children except as required by*

¹ The fees allowed the clerk of the court of common pleas, and the specific services to which those fees pertain, are enumerated in R.C. 2303.20, R.C. 2303.201, and R.C. 2303.21. Nowhere within those three statutory provisions is there specified a fee that shall be charged by the clerk of the court of common pleas for expenses incurred by the sheriff in serving summonses, warrants, citations, subpoenas, writs, and other papers in cases pending before the court.

section 2743.70 of the Revised Code² or *when specifically ordered by the court*. The expense of transportation of children to places to which they have been committed, and the transportation of children to and from another state by police or other officers, acting upon order of the court, shall be paid from the county treasury upon specifically itemized vouchers certified to by the judge. (Emphasis and footnotes added.)

You have informed me that it is the position of the juvenile court that, pursuant to the emphasized portion of R.C. 2151.54 quoted above, expenses incurred by the sheriff in serving papers that pertain to juvenile court cases shall not be taxed and collected as fees or costs in such cases unless specifically ordered by the court. The court has declined to order the taxation and collection of those expenses as fees or costs under R.C. 2151.54. Accordingly, you wish to know which fees, if any, may the sheriff collect from the juvenile court for the foregoing expenses.

R.C. 2151.19, to which you have also referred in your letter, specifically addresses the service of papers issued by the juvenile court, and the payment of expenses incurred by those public officers whose responsibility it is to effect such service. R.C. 2151.19 reads as follows:

The summons, warrants, citations, subpoenas, and other writs of the juvenile court may issue to a probation officer of any such court or to the sheriff of any county or any marshal, constable, or police officer, and the provisions of law relating to the subpoenaing of witnesses in other cases shall apply in so far as they are applicable.

When a summons, warrant, citation, subpoena, or other writ is issued to any such officer, other than a probation officer, *the expense in serving the same shall be paid by the county, township, or municipal corporation in the manner prescribed for the payment of sheriffs, deputies, assistants, and other employees.* (Emphasis added.)

Thus, under R.C. 2151.19, summonses, warrants, citations, subpoenas, and other writs of the juvenile court may be issued to the county sheriff for service. Thereafter, payment of the expenses incurred by the sheriff in serving those papers are to be paid by the county in the manner prescribed for the payment of the sheriff, his deputies, assistants, and other employees. *Id.*

The manner by which those particular expenses shall be paid by the county is further addressed by certain provisions in R.C. Chapter 325. R.C. Chapter 325 addresses the compensation that is to be paid to elected county officers and their deputies and other employees, and the manner in which such compensation is to be paid. With respect to the county sheriff, R.C. Chapter 325 also authorizes the board of county commissioners to make certain monetary allowances to the sheriff, in addition to the compensation provided him under R.C. 325.06, that are to be used for the payment of expenses incurred by the sheriff in performing several of the duties and responsibilities that are conferred upon him by statute. Those provisions appear at R.C. 325.07 and R.C. 325.071. R.C. 325.071 provides generally that there shall be allowed annually to the county sheriff an amount equal to one half of the official salary allowed him under R.C. 325.06 "to provide for expenses which may be incurred by him in the performance of his official duties and in the furtherance of justice."

² R.C. 2743.70, which is not applicable to this particular situation, provides, in pertinent part, that the juvenile court in which a child is found to be a delinquent child or a juvenile traffic offender for an act which, if committed by an adult, would be an offense other than a traffic offense that is not a moving violation, shall impose the sums thereafter enumerated as costs in the case in addition to any other court costs that the court is required or permitted by law to impose upon the delinquent child or juvenile traffic offender. R.C. 2743.70(A)(2).

R.C. 325.07, on the other hand, authorizes the board of county commissioners to make monthly allowances to the sheriff for the expenses he incurs in performing the specific duties therein enumerated. As pertains herein, R.C. 325.07 reads as follows:

The board shall allow the sheriff his actual transportation expense and telephone tolls expended in serving civil processes and subpoenaing witnesses in civil and criminal cases and before the grand jury, and it may allow any other necessary transportation expense for the proper administration of the duties of his office. Each sheriff shall file under oath a monthly report containing a full, accurate, and itemized account of all his actual and necessary expenses, including telephone tolls and any other transportation expense mentioned in this section, before the expense is allowed by the board. The statement shall show the number of the case, the court in which the service was rendered, and the point from which a transportation vehicle was used.

....

After the itemized monthly report provided for in this section has been filed by the sheriff and approved and allowed by the board, the board shall restore to the fund the amount expended and disbursed by the sheriff, as approved and allowed by the board.

Any unexpended balance of such fund remaining in the hands of the sheriff, at the end of each succeeding fiscal year, shall be returned and paid into the county treasury by the sheriff. (Emphasis added.)

Thus, under R.C. 325.07, the actual transportation expense, telephone tolls, and any other necessary transportation expense incurred by the sheriff in serving civil processes and subpoenaing witnesses in civil and criminal cases shall be paid from the allowance authorized therefor by the board of county commissioners.

It is a well-established principle of statutory construction that plain and unambiguous statutory provisions are to be applied, and not interpreted. *State ex rel. Celebrezze v. Board of County Commissioners of Allen County*, 32 Ohio St.3d 24, 27, 512 N.E.2d 332, 335 (1987) ("it is a cardinal rule of construction that where a statute is clear and unambiguous, there is 'no occasion to resort to [the] other means of interpretation,'" quoting from *Slingluff v. Weaver*, 66 Ohio St. 621, 64 N.E. 574 (1902) (syllabus, paragraph two)); *Sears v. Welmer*, 143 Ohio St. 312, 55 N.E.2d 413 (1944) (syllabus, paragraph five) ("[w]here the language of a statute is plain and unambiguous and conveys a clear and definite meaning there is no occasion for resorting to rules of statutory interpretation. An unambiguous statute is to be applied, not interpreted"). Applying that principle of statutory construction in this instance, I am of the opinion that expenses incurred by the county sheriff in serving summonses, warrants, citations, subpoenas, writs, and other papers in connection with cases that are filed in juvenile court shall, pursuant to R.C. 2151.19, be paid out of the monthly allowance made to the sheriff by the board of county commissioners under R.C. 325.07, and not taxed and collected by the juvenile court as fees or costs under R.C. 2151.54. R.C. 2151.19 states clearly and unambiguously that the expense incurred by the sheriff in serving summonses, warrants, citations, subpoenas, and other writs of the juvenile court shall be paid by the county "in the manner prescribed for the payment of sheriffs." In turn, R.C. 325.07 states that the board of county commissioners "shall allow the sheriff his actual transportation expense and telephone tolls expended in serving civil processes and subpoenaing witnesses in civil and criminal cases," and "may allow any other necessary transportation expense for the proper administration of the duties of [the sheriff's] office." R.C. 325.07 makes no exception to this directive for cases that are filed and pending in the juvenile court. It follows, therefore, that the expenses of the sheriff at issue here shall, pursuant to R.C. 2151.19, be paid out of the monthly allowance that is made available therefor by the board of county commissioners under R.C. 325.07. Such expenses shall not be taxed and collected by the juvenile court as fees or costs under R.C. 2151.54. See note one, *supra*.

It is, therefore, my opinion, and you are advised that expenses incurred by the county sheriff in serving summonses, warrants, citations, subpoenas, writs, and other papers issued by the juvenile court in connection with cases that are filed in the juvenile court shall, pursuant to R.C. 2151.19, be paid out of the monthly allowance that is made available therefor by the board of county commissioners

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under R.C. 325.07. Such expenses shall not be taxed and collected by the juvenile court as fees or costs under R.C. 2151.54.

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