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1. LAW LIBRARY—PAYMENTS FOR ITS SUPPORT—ALL MONEYS COMING INTO HANDS OF CLERK OF MUNICIPAL COURT FROM BAIL BOND FORFEITURES SHALL BE PAID TO TREASURER OF MUNICIPALITY WHERE COURT ESTABLISHED—EXCEPTION WHERE STATUTE SPECIFICALLY DIRECTS DISTRIBUTION—SECTION 3375.50 RC.
2. ALL MONEYS FROM BAIL BOND FORFEITURES COMING INTO HANDS OF CLERK OF MUNICIPAL COURT—PROSECUTIONS UNDER TRAFFIC LAWS—ARRESTS MADE BY STATE HIGHWAY PATROLMEN—SHALL BE PAID AS PROVIDED BY SECTION 5503.04 RC.

## SYLLABUS:

1. Subject to the provisions of Section 3375.50, Revised Code, relative to payments for the support of the county law library, and except where otherwise specifically directed by statute, all moneys coming into the hands of the clerk of a municipal court from bail bond forfeitures shall be paid pursuant to Section 733.46, Revised Code, to the treasurer of the municipality in which such court is established. Opinion No. 1132, Opinions of the Attorney General for 1952, page 107, confirmed and followed.

2. Subject to the provisions of Section 3375.50 of the Revised Code, relative to the support of the county law library, all moneys from bail bond forfeitures coming into the hands of the clerk of a municipal court, arising from prosecutions held in said court under the traffic laws, where the arrests were made by state highway patrolmen, shall be paid as provided by Section 5503.04, Revised Code.

Columbus, Ohio, November 25, 1955

Bureau of Inspection and Supervision of Public Offices  
Columbus, Ohio

Gentlemen:

I have before me your request for my opinion, reading as follows:

“We find that throughout the State of Ohio, a certain amount of confusion exists in the various municipal courts of Ohio relative to the proper distribution of *bond forfeiture* moneys collected in what we call ordinary state cases. An ordinary state case is

one where prosecution is made for violation of state law and where no special provision is made by law for the distribution of fines and forfeitures collected thereunder.

“We also have questions arising from time to time about the proper distribution of *bond forfeiture* money arising as the result of prosecutions made for violations of Sections 4511.01 to 4511.78 inclusive, 4511.99, and 4513.01 to 4513.37, inclusive, of the Revised Code, commonly known as the ‘Uniform Traffic Law.’

“In this connection, we first wish to call your attention to the provisions of Section 1901.31 of the Revised Code, Subsection (F), which provides in part as follows:

‘The clerk of a municipal court shall receive and collect all costs, fees, fines, penalties, *bail* and other moneys payable to the office or to any officer of the court and issue receipts therefor, and shall each month disburse same to the proper persons or officers and take receipts therefor, provided that *fines* received for violation of municipal ordinances shall be paid into the treasury of the municipal corporation whose ordinance was violated, and to the county treasury *all fines* collected for violation of state laws, subject to Sections 3375.50 and 3375.53 of the Revised Code.’

(Emphasis added.)

“You will note that in providing for the distribution of moneys collected for violation of both ordinance and state cases, provision is made only for the distribution of *fines*. The word *forfeitures*, which applies to *bail bonds*, is *conspicuously absent* from these provisions of law relating to distribution of moneys collected in ordinance and state cases.

“We also wish to call attention to the provisions of Section 4513.35 of the Revised Code, which reads as follows:

‘All *fines* collected under Sections 4511.01 to 4511.78, inclusive, and 4511.99, and 4513.01 to 4513.37, inclusive, of the Revised Code, shall be paid into the county treasury, and, with the exception of that portion distributed under section 3375.53 of the Revised Code, shall be placed to the credit of the fund for the maintenance and repair of the highways within such county, provided that *fines* collected from, or moneys arising from *bonds forfeited* by persons apprehended or arrested by state highway patrolmen shall be distributed as provided in Section 5503.04 of the Revised Code.’ (See Amended House Bill No. 368, effective on October 5, 1955.)

(Emphasis added.)

“We also wish you to note that this section of the Revised Code uses only the word *fines* when referring to violations of the

Uniform Traffic Law, except that where arrests are made by Highway Patrolmen, it refers not only to fines collected, *but also to moneys collected from forfeited bonds.*

“In regard to Uniform Traffic cases, where the arrest is made by an officer other than a Highway Patrolman, only the *fines* collected are to be paid to the county treasury, where, with the exception of that amount due to the law library association under Section 3375.53 of the Revised Code, such moneys shall be placed to the credit of the fund for the maintenance and repair of highways within such county.

“It thus appears that under the provisions of Section 1901.31 of the Revised Code, Subsection (F) there is no provision for the distribution of *bond forfeiture* money in either ordinance or state cases, in a municipal court.

“Also, under the provisions of Section 4513.35 of the Revised Code, where the arrest is made by an officer other than a state highway patrolman, no provision is made for the distribution of money received from bond forfeitures in violations of the Uniform Traffic Laws.

“In this connection, I wish to call your attention to Syllabus No. 3 of your Opinion No. 1132, rendered on February 8, 1952, which reads as follows:

“In cases involving a violation of state law, to the extent that statutory provision is not otherwise made for the disposition of moneys coming into the custody of the clerk of a municipal court, including costs, fees, penalties, *bail* and other moneys payable to any officer of the court, the clerk should, under the provisions of Section 4300, General Code, pay such moneys into the treasury of the most populous city in the territory within which such court exercises jurisdiction.”

“The questions that arise in this connection, to which we would like to have specific answers, if possible, are as follows:

“(1) In a municipal court, are moneys received from *forfeited bonds in ordinary state cases* required by law to be deposited in the city treasury of the city in which the municipal court is located, this being the most populous city in the territory coming under the jurisdiction of the established municipal court, subject of course to the provisions of Section 3375.50 of the Revised Code?

“(2) In a municipal court, are moneys received from *forfeited bonds* received in cases where prosecutions are made under Section 4511.01 to 4511.78 and 4511.99, and 4513.01 to 4513.37, inclusive, of the Revised Code, where arrests are made by officers

other than State Highway Patrolmen, required by law to be deposited in the city treasury of the city in which such municipal court is located, this being the most populous city in the territory coming under the jurisdiction of the established municipal court, subject of course to the provisions of Section 3375.50 of the Revised Code?

“(3) If such forfeited bond moneys in ordinary state cases and in such traffic cases are not required to be deposited in such city treasury, subject to the provisions of Section 3375.50 of the Revised Code, to which treasury of which political subdivision are such forfeited bond moneys to be distributed, under the law?

“As stated before, there is much confusion throughout the municipal courts of the State as to the proper distribution of this forfeited bond money.

“We will deeply appreciate it if you will give us your opinion as to the proper distribution of this forfeited bond money, as previously set forth in this request.”

Your letter sets out a portion of Section 1901.31, Revised Code, 1610, G. C., and I will not repeat it. That section requires the clerk of a municipal court to collect “all costs, fees, fines, penalties, bail and other moneys,” but only refers to *fnes* in providing for their disbursement.

You also direct attention to Sections 4511.01 et seq. and 4513.01 et seq., of the Revised Code, which relate to violations of traffic laws. It is provided in Section 4513.35, which is quoted in your letter, that *fnes* collected for violating those statutes, subject to the deductions required by Section 3375.53 Revised Code, for the county law library, are to be paid into the county treasury, except that such *fnes, together with proceeds of forfeited bonds* growing out of arrests made by state highway patrolmen, are to be distributed as provided in Section 5503.04, Revised Code. This latter section, as amended, effective October 5, 1955, makes the following provision:

“All fines collected from or moneys arising from bonds forfeited by persons apprehended or arrested by state highway patrolmen shall be paid forty-five per cent into the state treasury and fifty-five per cent to the treasury of the municipal corporation where such case is prosecuted if in a mayor’s court. If such prosecution is in a trial court outside a municipal corporation or outside the territorial jurisdiction of a municipal court, such moneys shall be paid fifty-five per cent into the county treasury. Such moneys paid into the state treasury shall be credited to the state highway maintenance and repair fund. The moneys

paid into a county treasury, and the moneys paid into the treasury of a municipal corporation shall be deposited one-half to the same fund and expended in the same manner as is the revenue received from the registration of motor vehicles, and one-half to the general fund of such county or municipal corporation.

“If such prosecution is in a municipal court, forty-five per cent of such moneys shall be paid into the state treasury to be credited to the state highway maintenance and repair fund, ten per cent to the county treasury, and forty-five per cent to the municipal treasury to be credited to the general fund of such county or municipal corporation.” \* \* \*

Your question, therefore, narrows down to the matter of the disposition of proceeds of forfeited bail bonds, in cases prosecuted under state laws, where the statutes are silent. This question, it appears to me, was fully answered by my opinion No. 1132, Opinions of the Attorney General for 1952, from which you have quoted the third paragraph of the syllabus, relating to violations of state laws.

While “bond forfeitures” are not specifically mentioned in that opinion, it is certain that their proceeds were intended to be included in the phrase “moneys coming into the custody of the clerk of a municipal court.” You will note that the request to which the opinion was an answer, specifically raised the question as to “bond forfeitures.”

That opinion and particularly the portion of the syllabus quoted in your letter, should have a slight correction, by substituting for “the most populous city in the territory within which such court exercises jurisdiction,” the words “the city in which such court is established.” The error grew out of the assumption that all of the municipal courts are established in the most populous city in the county, which in very rare cases is not true.

Assuming, as was intended in that opinion, that the proceeds of forfeited bail bonds are to be included in the “moneys coming into the custody of the clerk of the municipal court,” I think you will have no difficulty in resolving your questions. It is necessary to keep in mind that Section 5503.04 supra, establishes a special rule as to the distribution of fines and forfeitures in cases arising from arrests made by state highway patrolmen. There by specific provision, a certain portion of such fines comes to the state in any case, and to the county treasury and the municipal treasury, respectively, in certain cases.

I find no reason to depart from the rule announced in my former opinion, to wit, that in the absence of a statute directing some other distribution, all moneys coming into the hands of the clerk of the municipal court (and this will include proceeds of bond forfeitures) shall be paid to the treasury of the city in which the municipal court is established.

Attention will of course be given to the provisions of Section 3375.50 of the Revised Code, giving a limited priority to the support of the county law library.

In specific answer to your questions, it is my opinion :

1. Subject to the provisions of Section 3375.50, Revised Code, relative to payments for the support of the county law library, and except where otherwise specifically directed by statute, all moneys coming into the hands of the clerk of a municipal court from bail bond forfeitures shall be paid pursuant to Section 733.46, Revised Code, to the treasurer of the municipality in which such court is established. Opinion No. 1132, Opinions of the Attorney General for 1952, page 107, confirmed and followed.

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Respectfully,  
C. WILLIAM O'NEILL  
Attorney General