

CORONERS: Coroner should file report of findings or inquest with county clerk and also with circuit clerk when required by Section 58.350, RSMo 1949.



February 3, 1955

Honorable W. G. Whitlow
Prosecuting Attorney
Callaway County
Fulton, Missouri

Dear Sir:

We have received your request for an opinion of this office, which request is as follows:

"Will you please advise me regarding the correct procedure to be followed by the Coroner after he has made a finding by his own observation or by coroner's jury.

"I had advised the Coroner that he should file his findings, or a transcription of the proceedings at the coroner's inquest, together with the findings of the jury, in the County Clerk's office. I find, however, in years past that some coroners have filed their findings in the Circuit Clerk's office.

"The statutes do not spell out exactly what procedure should be followed and I would appreciate your advice."

The only statutory provisions which we find dealing with the disposition of the transcript of the coroner's inquest are Sections 58.350 and 58.470, RSMo 1949. Section 58.350 provides as follows:

"The evidence of such witnesses shall be taken down in writing and subscribed by them, and if it relate to the trial of any person concerned in the death, then the coroner shall bind such witnesses, by recognizance, in a reasonable

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sum for their appearance before the court having criminal jurisdiction of the county where the felony appears to have been committed, at the next term thereof, there to give evidence; and he shall return to the same court the inquisition, written evidence and recognizance by him taken."

Section 58.470, RSMo 1949, provides as follows:

"Whenever an inquest shall be held, and the coroner shall have good reason to believe that the deceased came to his death by poison administered by the hand of some person other than the deceased, he may, at the request of the jury, cause chemical analysis and microscopical examination of the body of the deceased, or any part of it, to be made; and the testimony of medical and chemical experts may be introduced for the purpose of showing how and in what manner the deceased came to his death, and the coroner shall certify to the county court of his county the fact of such analysis or examination, and testimony of such medical or chemical experts, and that the same was, in his opinion, necessary to an examination into the cause of the death of the deceased; and the court shall allow such fees or compensation for such analysis, examination or medical or chemical testimony of experts as shall be deemed by said court to be just and reasonable."

We find no statutory provisions relating to the coroner's filing of his findings or transcript of the inquest proceedings in situations other than those described in the two above statutes. These two statutes obviously do not cover all situations.

In the absence of any other statutory provision, we feel that the coroner is not required to deposit his findings or a transcript of the proceedings at the inquest with any particular officer. It does appear, however, that, in order to enable the county court properly to pass upon the payment of costs in connection with coroner's inquests, a copy of the finding or transcript of the inquest should be deposited with the county clerk

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in all situations. Insofar as the circuit clerk is concerned, there would appear to be no reason for depositing a copy thereof with that officer other than in the situation covered by Section 58.350, quoted above.

CONCLUSION

Therefore, it is the opinion of this office that the coroner should file his findings or a transcript of the proceedings at a coroner's inquest, together with the findings of the jury, in the county clerk's office on all occasions and should also, when the evidence of witnesses relates to the trial of any person concerned in the death and the coroner binds such witnesses by recognizance, deposit a copy of the evidence with the clerk of the circuit court.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Robert R. Welborn.

Yours very truly,

JOHN M. DALTON
Attorney General

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