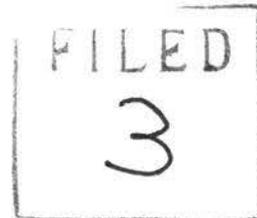


March 11, 1975

OPINION LETTER NO. 3

Honorable Phillip H. Snowden
Representative, District 20
Room 313, Capitol Building
Jefferson City, Missouri 65101



Dear Representative Snowden:

This letter is in response to your opinion request stated as follows:

"1. Can the County Coroner receive funds from another person firm or agency for work done in conjunction with his elective office and use this additional money to pay his secretarial help or transfer said monies to the general fund of the County?

"2. Is the County Coroner required by law to release information to insurance companies or other persons requesting information about autopsies under any circumstances? If so, under what circumstances."

Additionally, you state:

"The County Coroner of Clay County, has been authorized by LEA to receive \$25.00 per month for a study he is to perform in connection with his coroner's office. He would also like to charge insurance companies who request information about autopsy reports a fee, and use these funds to pay personnel in his office or give the money to the Clay County Court.

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"Also, insurance companies are making requests on his office to release information dealing with autopsies and the reports and he does not want to divulge information unless this is proper."

Chapter 58, RSMo 1969, provides the duties and responsibilities of county coroners. From your description of the study proposed to be performed by the coroner, it is apparent that such a study does not constitute a part of his official duties, nor is it incompatible with his statutory duties. This office ruled in an opinion dated November 25, 1946, to the Honorable Michael W. O'Hearn, Prosecuting Attorney of Jackson County, that the Coroner of Jackson County, Missouri, and his employees are entitled to charge and retain a fee for rendering unofficial duties not incompatible with their statutory duties. It is apparent that the study referred to in your request falls within and is governed by that opinion and it is our opinion that the coroner may perform and personally receive and retain such fees or make such use of them as he deems appropriate.

Section 58.451, RSMo 1969, provides as follows:

"1. When any person in any city of seven hundred thousand or more inhabitants, or in any county of the first or second class, dies and there is reasonable ground to believe that such person died by criminal violence or following abortion, it shall be the duty of any person having knowledge of the death immediately to notify the coroner of the known facts concerning the time, place, manner, circumstances and cause of the death. Immediately upon receipt of the notification, the coroner shall go to the dead body and take charge of the body. Upon taking charge of the dead body and before moving the body the coroner shall notify the police department of any city in which the dead body is found, or if the dead body is found in the unincorporated area of a county governed by the provisions of sections 58.451 to 58.457, the coroner shall notify the county sheriff and county highway patrol

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and cause the body to remain unmoved until the police department, sheriff or county highway patrol has inspected the body and the surrounding circumstances and carefully notes the appearance, the condition and position of the body and records every fact and circumstance tending to show the cause and manner of death, with the names and addresses of all known witnesses, and shall subscribe the same and make such record a part of his report.

"2. If on view of the dead body and after personal inquiry into the cause and manner of death, the coroner and police officials have reasonable ground to believe that the death was caused by criminal agency and that a further examination is necessary in the public interest, the coroner on his own authority may make or cause to be made an autopsy on the body. The coroner may on his own authority employ the services of a pathologist, chemist, or other expert to aid in the examination of the body or of substances supposed to have caused or contributed to death, and if the pathologist, chemist, or other expert is not already employed by the city or county for the discharge of such services he shall, upon written authorization of the coroner, be allowed reasonable compensation, payable by the city or county, in the manner provided in section 58.530. The coroner shall, at the time of the autopsy, record or cause to be recorded each fact and circumstance tending to show the condition of the body and the cause and manner of death.

"3. If on view of the dead body and after personal inquiry into the cause and manner of death, the coroner considers a further inquiry and examination necessary in the public interest, he shall make out his warrant directed to the sheriff of the city or county requiring him forthwith to

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summon six good and lawful citizens of the county to appear before the coroner, at the time and place expressed in the warrant, and to inquire how and by whom the deceased came to his death."

Section 109.180, RSMo 1969, provides as follows:

"Except as otherwise provided by law, all state, county and municipal records kept pursuant to statute or ordinance shall at all reasonable times be open for a personal inspection by any citizen of Missouri, and those in charge of the records shall not refuse the privilege to any citizen. Any official who violates the provisions of this section shall be subject to removal or impeachment and in addition shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding one hundred dollars, or by confinement in the county jail not exceeding ninety days, or by both the fine and the confinement."

Section 109.190, RSMo 1969, provides as follows:

"In all cases where the public or any person interested has a right to inspect or take extracts or make copies from any public records, instruments or documents, any person has the right of access to the records, documents or instruments for the purpose of making photographs of them while in the possession, custody and control of the lawful custodian thereof or his authorized deputy. The work shall be done under the supervision of the lawful custodian of the records who may adopt and enforce reasonable rules governing the work. The work shall, where possible, be done in the room where the records, documents or instruments are by law kept, but if that is impossible or impracticable, the work shall be done in another room or place as nearly adjacent to the place of custody as

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possible to be determined by the custodian of the records. While the work authorized herein is in progress, the lawful custodian of the records may charge the person desiring to make the photographs a reasonable rate for his services or for the services of a deputy to supervise the work and for the use of the room or place where the work is done."

Section 58.451 requires that the coroner must record or cause to be recorded the facts learned from the autopsy.

It is therefore our opinion that Sections 109.180 and 109.190 are applicable to the records of coroners of class one counties and that they must be made available as provided in those sections for inspection and copying under the conditions and restrictions therein provided as we find no statutory provision to the contrary.

It is our view that the county coroner can receive funds from another person, firm or agency for work performed not required by his official duties but which is not incompatible with his official duties and may retain such money for his personal purposes and make whatever disposition of the same as he deems appropriate.

It is further our view that the county coroner in class one counties is required by the provisions of Section 109.180 and Section 109.190 to make the records compiled and maintained in his office, pursuant to Section 58.451, available for inspection and copying by any citizen of the State of Missouri under the conditions and restrictions provided for in Sections 109.180 and 109.190.

Very truly yours,

JOHN C. DANFORTH
Attorney General