OFFICERS:)   Officers whose residence is five or more miles
)   from point where he serves as a witness is entitled
)   to receive witness fees.

January 16, 1952

1-17-52

Honorable Arnold J. Willmann
Coroner
St. Louis County
601 Brentwood Boulevard
Clayton 5, Missouri

Dear Sir:

    Your request for an opinion of this office concern-
ing officers' witness fees at a coroner's inquest has
been received and is as follows:

        "Stanley Wallach, the Prosecuting
        Attorney in St. Louis County,
        recently advised me that he had
        received an opinion from you con-
        cerning the right of attorneys to
        cross examine witnesses at an
        inquest. Will you please forward
        a copy of that opinion to me.

        "A number of police officers
        attending inquests have requested
        payment of witness fees to them
        under Section 550.160, RS Mo. 1949.
        Those who have requested this fee
        live more than 5 miles from the
        place where the inquests are held.
        I have continued to refuse to pay
        these officers under the theory
        that the above section prohibits
        any police officer from receiving
        a witness fee when he testifies
        to matters concerning investiga-
        tions made in his routine duties
        as a police officer. Please
        advise me if I am correct in
        refusing to pay these officers

Honorable Arnold J. Willmann

> even though they live 5 miles
> from the place of the inquests."

We are enclosing herewith copy of opinion dated
October 8, 1951, given to Honorable Philip A. Grimes,
Prosecuting Attorney of Boone County, Missouri,
relating to cross examination of witnesses at coroner's
inquests in accord with your request. Our files
indicate that a copy of this opinion has heretofore
been sent you. However, I am at present unable to
verify this conclusion.

In reply to the second paragraph of your letter
relating to witness fees of police officers attending
coroner's inquests we refer you to Section 550.160,
RSMo 1949, which is as follows:

> "No officer, appointee or employee
> holding a state, county, township
> or municipal office, including
> police officers and policemen, either
> by election or appointment, shall
> claim, be allowed or receive any fee
> or compensation as a witness for
> testifying before a coroner's inquest,
> grand jury, or in any criminal cases.
> All officers, appointees and employees
> as aforesaid, shall be compelled to
> attend the trial of all criminal cases,
> coroner's inquests and grand juries,
> when legally subpoenaed; provided,
> that the provisions of this section
> shall not apply to any officer who is
> a witness in any case where the
> residence of such officer is five
> miles from the place where the trial
> or coroner's inquest is held, or where
> the grand jury is in session."

Honorable Arnold J. Willmann

The provisions of the above statute do not apply
to police officers and policemen, nor to other officers
serving as witnesses before a coroner's inquest, grand
jury, or in any criminal case if such officers reside
five miles or more from the place where the trial or
coroner's inquest is held or where the grand jury is in
session. If such officer's residence is five or more
miles from the place where he testifies before a coroner's
inquest, grand jury or any criminal case, he is unques-
tionably entitled to receive his statutory witness fees.

We are enclosing herewith an opinion of this office
given to Honorable Arkley Frieze, Prosecuting Attorney
of Dade County, Missouri, dated May 9, 1939, which deals
with the question as to whether or not a state highway
patrolman who resides five or more miles from the place
of trial is entitled to receive witness fees. We are of
the opinion that the same reasoning would apply to police
officers testifying at a coroner's inquest.

CONCLUSION

It is, therefore, the opinion of this office that a
police officer whose residence is five miles or more from
the point where he serves as a witness before a coroner's
inquest, grand jury, or in any criminal case, is entitled
to receive his statutory fees as such witness.

Respectfully submitted,

GROVER C. HUSTON
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

GCH/fh

Enclosures