

OPINION NO. 69-036**Syllabus:**

A coroner in his investigation of a death coming within his jurisdiction does not have the authority to apply law to the facts and determine what, if any, statute has been violated, and the legal responsibility of the persons involved.

To: James V. Barbuto, Summit County Pros. Atty., Akron, Ohio

By: Paul W. Brown, Attorney General, April 18, 1969

I have before me your request for my opinion concerning the following question:

"Is a coroner in his investigation of a death coming within his jurisdiction limited in his authority to determine the facts of the death, or does his authority extend to applying the law to the facts and determining what, if any, statute has been violated, and the legal responsibility of the persons involved?"

Section 313.06, Revised Code, states the following:

"The coroner, his deputy, and assistants shall be available at all times for the performance of their duties as set forth in sections 313.01 to 313.22, inclusive, of the Revised Code."

Section 313.02, Revised Code, states the qualifications for coroner:

"No person shall be eligible to the office of coroner except a physician who has been licensed to practice as a physician in this state for a period of at least two years immediately preceding his election or appointment as a coroner, and who is in good standing in his profession, or is a person who was serving as coroner on October 12, 1945."

Section 313.15, Revised Code, reads as follows:

"All dead bodies in the custody of the coroner shall be held until such time as the coroner, after consultation with the prosecuting attorney, or with the police department of a municipal corporation, if the death occurred in a municipal corporation, or with the sheriff, has decided that it is no longer necessary to hold such body to enable

him to decide on a diagnosis giving a reasonable and true cause of death, or to decide that such body is no longer necessary to assist any of such officials in his duties."

From a reading of the above statutes, it will be noted that the county coroner is a physician who determines the cause of death of all dead bodies which have come into his custody. The coroner works in conjunction with the prosecuting attorney, who is the chief legal officer of the county.

Section 309.08, Revised Code, states the powers and duties of the prosecuting attorney to be as follows:

"The prosecuting attorney may inquire into the commission of crimes within the county and shall prosecute, on behalf of the state, all complaints, suits, and controversies in which the state is a party, and such other suits, matters, and controversies as he is required to prosecute within or outside the county, in the probate court, court of common pleas, and court of appeals. In conjunction with the attorney general, such prosecuting attorney shall prosecute cases arising in his county in the supreme court. In every case of conviction, he shall forthwith cause execution to be issued for the fine and costs, or costs only, as the case may be, and he shall faithfully urge the collection until it is effected or found to be impracticable to collect, and shall forthwith pay to the county treasurer all moneys belonging to the state or county which come into his possession."

Section 309.09, Revised Code, provides as follows:

"The prosecuting attorney shall be the legal adviser of the board of county commissioners, board of elections, and all other county officers and boards, including all tax supported public libraries except those organized as a part of a city school district or of a municipal corporation, and any of them may require written opinions or instructions from him in matters connected with their official duties. He shall prosecute and defend all suits and actions which any such officer or board directs or to which it is a party, and no county officer may employ any other counsel or attorney at the expense of the county, except as provided in section 305.14 of the Revised Code.

"Such prosecuting attorney shall be the legal adviser for all township offi-

cers, and no such officer may employ other counsel or attorney, except on the order of the board of township trustees, duly entered upon its journal, in which the compensation to be paid for such legal services shall be fixed. Such compensation shall be paid from the township fund."

The above section points out that the prosecuting attorney is the legal adviser to all county officers. Since the coroner is a county officer, it is the duty of the prosecuting attorney to advise him on all legal questions and interpretations.

It is the duty of the prosecuting attorney to institute and prosecute actions in the enforcement of the laws of Ohio. Therefore, it is the prosecuting attorney's duty to apply the law to the facts and to determine what, if any, statute has been violated. The coroner, as a physician, is not qualified to make legal determinations.

Therefore, it is my opinion, and you are advised that a coroner in his investigation of a death coming within his jurisdiction does not have the authority to apply law to the facts and determine what, if any, statute has been violated, and the legal responsibility of the persons involved.