



CORONER

POWERS, DUTIES AND COMPENSATION

I NTRODUCTION

La. Const. Art. V, §29

This white paper discusses the various laws regarding the powers, duties and compensation of coroners in the State of Louisiana.

A. Establishment of Office of Coroner

La. Const. Article V, §29 provides generally that each Parish shall have an elected coroner with a term of four years, and provides for the qualifications of such coroner.

Section 29. In each parish a coroner shall be elected for a term of four years. He shall be a licensed physician and possess the other qualifications and perform the duties provided by law. The requirement that he be a licensed physician shall be inapplicable in any parish in which no licensed physician will accept the office.

La. Const. Art. V, §29

The statutory provisions for coroners are found in La. R.S. 13:5701, *et seq.* Coroners are members of the judicial branch of government. In fact, Title 13 of the Revised Statutes is titled “Courts and Judicial Procedure.” However, coroners do not exercise any judicial powers. The Louisiana Supreme Court has held that coroners are state officials who perform state functions although their jurisdiction is limited to the parish in which they hold office. *Mullins v. State*, 387 So.2d 1151 (La.1980); *Carriere v. St. Landry Parish Police Jury*, 97–1914 (La.3/4/98), 707 So.2d 979.

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The Attorney General opines that Coroners occupy dual roles under Louisiana law. **AG Op. No. 24-0029**. Though they are constitutionally-created entities and serve some functions as state entities, statutory law classifies coroners as “political subdivisions” of the State. *Id.* The Local Government Budget Act also classifies coroners under the category of “political subdivisions” in La. R.S. 39:1302. *Id.* Accordingly, though constitutionally-created as part of the State judicial branch, the Attorney General concludes that coroner’s offices are political subdivisions under Louisiana law. *Id.* Therefore, coroner’s offices are authorized by law to issue bonds. *Id.*

B. Official Duties of Coroners

R.S. 13:5701, et seq.

The official duties of coroners are set out primarily in La. R.S. 13:5701 *et seq.*¹ and La. C.Cr.P. arts. 101 *et seq.* These duties include, but are not limited to, investigating the cause of many types of deaths, issuing death certificates, examining all victims of a sexually oriented criminal offense, performing or causing autopsies to be performed in deaths caused in violation of criminal statutes, and performing commitment investigations.

C. Compensation

In *Carriere* the Louisiana Supreme Court stated that the Legislature determines the duties of state officials such as coroners, and delegates some of the responsibility for funding the coroner's office to parish governing bodies. *Carriere*, 97–1914 p. 4, 707 So.2d at 983. In *Carriere*, the Court examined the statutory provision regarding compensation for coroners, La. R.S. 13:5706,² to conclude that the compensation scheme envisioned by the Legislature recognizes three different methods of compensation for coroners: a salary, a salary plus fees, or fees alone. The Court noted that when the Legislature places the burden of paying salaries or other expenses of a state official on parish governing authorities, those bodies are generally obliged to pay these mandated expenses. *Carriere*, pp. 4–5, 707 So.2d at 981 (citing *Reed v. Washington Parish Police Jury*, 518 So.2d 1044, 1049 (La.1988)). However, the Court held that the decision as to whether a coroner is compensated with a salary, a salary plus fees, or fees alone is purely within the discretion of the parish governing authority. *Carriere*, 97–1914 p. 7, 707 So.2d at 983. Coroners compensated with a salary plus fees or with fees alone can collect the fees per service, but a coroner compensated exclusively with a salary is excluded from collecting fees for his or her services. *Id.* Further, in **AG Op. No. 23-0125**, the Attorney General opines that a local ordinance that conflicts with State law regarding coroner pay is superseded by State law. In that opinion, the Attorney General notes that while local governing authorities are not without any authority regarding the funding process for coroners, they cannot set autopsy costs, as those are set by statute.

Compensation for services is not considered “public funds.” When a coroner is compensated on a salary basis, it is not difficult to distinguish the funds the coroner receives for services. However, questions may arise as to whether fees collected are public funds when a coroner is compensated on a salary plus fees or a fee basis. See generally, *Regions Bank v.*

¹ Previously La. R.S. 33:1551, *et seq.*, re-designated as R.S. 13:5701, *et seq.* by Act 248 of the 2011 Regular Session.

² In *Carriere* the statute at issue was La. R.S. 33:1556, which was re-designated as La. R.S. 13:5706 by Act 248 of the 2011 Regular Session.

Parish of Caddo, 42,920 (La. App. 2 Cir. 2/27/08), 978 So.2d 494. La. R.S. 13:5706(A) sets forth the fees for coroners compensated on a fee or salary plus fee basis.³ Fees for services that are used to run the coroner's office, rather than as compensation for the coroner's private use, would be considered public funds. *Regions Bank* 42,920 pp. 4-5, 978 So.2d at 497. This determination would require a fact-based inquiry on a case by case basis. Additionally, appropriations by the parish for the "necessary and unavoidable" operation expenses of the coroner's office, discussed more fully below, are public funds. *Id.*

Necessary and Unavoidable Expenses

In addition to providing a list of fees for coroner's service, La. R.S. 13:5706(B) also requires the parish governing authority to pay "[a]ll necessary or unavoidable expenses ... incident to the operation and functioning of the coroner's office ... when such expenses are certified by the coroner as being necessary or unavoidable."⁴ *Carriere*, 97–1914 p. 12, 707 So.2d at 985. As

³ La. R.S. 13:5706(A) provides:

(A)(1) The coroner shall receive:

(a) For every investigation, including issuing necessary papers and reports, fifty dollars.

(b) For viewing bodies, fifty dollars.

(c) For the performance of an autopsy, a fee of not less than two hundred fifty dollars nor more than three hundred dollars, at the discretion of the governing authority of the parish or municipality, and the cost of any laboratory tests actually incurred.

(d) For attendance or testimony in any case in court in matters arising from his official duties, seventy-five dollars per day per case.

(e) A fee of fifty dollars for papers issued in each interdiction case or commitment of mental or incompetent case.

(2) The attending or assisting physicians in interdiction or commitment cases shall also receive a fee of fifty dollars.

(3) The coroner shall receive a reasonable fee or compensation, as agreed to by the coroner and the governing authority of the parish or municipality, for any physical or mental examination or investigation when requested by the district attorney, any judge, sheriff, chief of police, or by any responsible citizen or resident when acting in good faith in an emergency and in the furtherance of the public good and safety.

(4) These amounts shall be in addition to any necessary expenses that may be incurred.

(5) The provisions of this Subsection shall only apply to coroners on a fee basis.

(6) Notwithstanding any provision of this Section to the contrary, the affirmative approval of the governing authority of the parish or municipality shall be required for the coroner to charge more than two hundred fifty dollars for the performance of an autopsy. In addition, the affirmative approval of the governing authority of the parish or municipality shall be required for the coroner to charge for any expense, tests, costs, or other fees, when the charge for such expenses, tests, costs, or other fees exceed the maximum charges established in the coroner's annual fee schedule. In such fee schedule, the coroner shall list all fees for which a charge of fifty dollars is authorized by law. Such schedule shall be filed with the governing authority of each affected parish or municipality not later than the last day of January of each year.

⁴ La. R.S. 33:5706(B) provides:

stated above, these appropriations by the parish governing authority to the coroner are public funds. *Regions Bank* 42,920 pp. 4-5, 978 So.2d at 497. In *Carriere*, the Court addressed the question as to which coroner's expenses must be paid by the parish governing authority as "necessary and unavoidable" pursuant to La. R.S. 33:1556(B)(1). In addressing the defendant parish's complaint that many of the items requested by the plaintiff/coroner either were not legitimate or were unreasonable in amount, the court found that the parish governing authority's duty to fund the coroner's expenses is limited by a standard of reasonableness. *Carriere*, 97–1914 p. 4, 707 So.2d at 981 (citing *Reed*, 518 So.2d at 1049). The court held that, to be payable by the parish governing authority, the coroner's expenses "must be (1) legitimately related to the function of his office, and (2) ... reasonable in amount." *Id.*

In applying this test to the coroner's proposed budget items in *Carriere*, the court deemed the following contested items to be "reasonable 'necessary or unavoidable' operational expenses" of the coroner's office: accounting charges, banking expenses, liability and malpractice insurance, communication expenses, as well as office, computer, and medical supplies. *Carriere*, 97–1914 p. 13, 707 So.2d at 985. The court also recognized that the coroner is entitled to funding for office space, office equipment, utilities, and janitorial services, as necessary or unavoidable operational expenses of his office, if the parish governing authority does not elect to provide quarters and essential supplies and equipment for the office or morgue. *Id.*, 97–1914 p. 13–14, 707 So.2d at 986 (citing La. R.S. 33:1556(B)(2)).

In *Perron v. Evangeline Parish Police Jury*, 2001-0603 (La. 10/16/01), 798 So.2d 67, the Louisiana Supreme Court applied both La. R.S. 33:1556(B)(1) and the *Carriere* test to determine whether a coroner's attorney fee expenses were reasonable "necessary or unavoidable expenses ... incident to the operation and functioning of the coroner's office." La. R.S. 13:5706(B)(1).⁵ In that case, the coroner brought a mandamus action against the police jury after its refusal to provide "reasonably adequate funding" to operate his office. The court found that, under the particular facts at issue, the statute's reference to "necessary or unavoidable expenses ... incident to the operation and functioning of the coroner's office" encompassed funding for the legal means of securing adequate funds with which to operate the coroner's office and keep it functioning. The court determined that such a mandamus action differed from a legal contest in which a successful plaintiff was seeking recovery from his opponent of legal costs and lawyers' fees for resorting to litigation to enforce given legal rights. Instead, the court found that it was a substantive claim to compel the governing authority, having an obligation to fund a state officer, to appropriate or provide funding for a legal contest that bears upon the officer's very right to perform his mission

B. (1) All necessary or unavoidable expenses, including supplies, incident to the operation and functioning of the coroner's office shall be paid by the parish when such expenses are certified by the coroner as being necessary or unavoidable.

⁵ In *Perron* the statute at issue was La. R.S. 33:1556, which was re-designated as La. R.S. 13:5706 by Act 248 of the 2011 Regular Session.

in a reasonably effective manner. Therefore, the court concluded that “the attorney fees in this case are legitimately related to the functioning of the coroner's office and reasonably fall within the scope of La. R.S. [13:5706](B)(1).”

In accord with the above statutory provisions and jurisprudence, the Attorney General (AG) opines that coroners, though dependent upon parochial and municipal funding sources, are constitutionally autonomous elected officials with exclusive control over the funding allocated to them. [AG Op. No. 20-0065](#). When such funding is insufficient to support a coroner's office's operating expenses, the parish with coterminous geographic boundaries to the coroner's jurisdiction must fund the operating expenses of the coroner's office pursuant to La. R.S. 13:5706(B). *Id.* The AG notes, however, that “some such funding is within the discretion of the parochial governing authority.” *Id.*

Expert Fees

As stated above, generally, a salaried coroner is not entitled to receive fees for services in addition to his or her salary. La. R.S. 13:5706(A)(5). However, the Attorney General has consistently opined that the restriction upon salaried coroners from charging fees only applies to the fees contained in La. R.S. 13:5706(A)⁶ and not to those set forth in other paragraphs or statutes, such as La. R.S. 13:5711. See La. Atty. Gen. Op. Nos. 95-111, 04-0134, 05-0191, 06-0039, and 16-0039. Specifically, La. R.S. 13:5711 provides:

No coroner, deputy coroner, or assistant coroner testifying in his official capacity shall be required to give expert opinion or testimony in any court, except in the line of duty as coroner. Any coroner, deputy coroner, or assistant coroner called as an expert witness in a professional capacity shall testify and shall be paid the expert fee not to exceed the accepted standard in his field of expertise.

La. R.S. 13:5711 distinguishes expert testimony given in an official capacity from expert testimony given in a professional capacity. The Attorney General opines that this distinction indicates that the Legislature did not intend a salaried coroner, deputy coroner, or assistant coroner to be compensated an expert witness fee above and beyond his or her salary for testimony given in connection with his or her official duties. However, the second sentence of La. R.S. 13:5711 permits a salaried coroner, deputy coroner, or assistant coroner to seek payment of fees in addition to his or her salary for testimony given in a professional capacity; that is, unrelated to his or her official duties. See [AG Op. No. 16-0039](#)

Therefore, the Attorney General concludes that a salaried coroner, deputy coroner, or assistant coroner is not entitled to the expert witness fee authorized by La. R.S. 13:5711 for

⁶ See n.2, *supra* for the fees listed in La. R.S. 13:5706(A).

testimony in connection with his or her official duties but is entitled to compensation for testimony that is unrelated to the coroner's official duties, such as his or her respective field of expertise or private practice.

Cremation Permits

The Attorney General in [AG Op. No. 23-0040](#), opined that no one other than a coroner, deputy coroner, or assistant coroner may issue a permit for cremation. The AG further opined that a coroner does not have authority to seek compensation from families or funeral homes for issuing a permit to cremate. The AG concluded that a permit for cremation constitutes necessary papers and reports, with the associated fees authorized under R.S. 13:5706(A) that should be borne by the governing authority of the parish or municipality.

D. Coroner's Operational Fund

R.S. 13:5722

R.S. 13:5722 establishes the Coroner's Operational Fund, which assists in defraying operational costs of coroners. The statute provides for fees to be assessed against defendants in criminal cases, including traffic violations, which are deposited into the fund. The amount of the fees varies by parish. This fund is subject to and incorporated with the regularly scheduled audit of the parish governing authority in accordance with R.S. 24:513.

E. Conclusion

Coroners hold a unique position in Louisiana. They are state officials who perform state functions yet their jurisdiction is limited to the parish in which they hold office. Further, the Legislature places the responsibility of compensating coroners for their services on the parish in which they hold office. The parish is responsible for determining whether the coroner is paid on a salary, a salary plus fees or a fees-only basis. For example, the coroners in Bossier, Caddo, East Baton Rouge, Jefferson, Livingston, and Orleans receive salaries for their services. However, the coroners in Calcasieu and Lafayette receive salary plus fees for their services and the coroner in Ouachita receives fees only. A determination of the compensation scheme for a coroner must be made on a parish by parish basis. In all cases, parishes are responsible for paying the necessary and unavoidable expenses for the operation of the coroner's office.