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DEPARTMENT OF JUSTICE
CRIMINAL DIVISION
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OPINION 16-0039

The Honorable Scott M. Perrilloux
District Attorney, 21st Judicial District
Post Office Box 788
Amite, Louisiana 70422

The Honorable Robert H. Morrison, III
Chief Judge, 21st Judicial District Court
Post Office Box 788
Amite, Louisiana 70422

13 CORONERS - Compensation & Fees – General
La. R.S. 13:5711
La. R.S. 13:5706

A salaried coroner, deputy coroner, or assistant coroner is not entitled to the expert witness fee authorized by La. R.S. 13:5711 for testimony in connection with his or her official duties. Rather, the expert witness fee provided by La. R.S. 13:5711 entitles a coroner, deputy coroner, or assistant coroner to compensation for testimony which is unrelated to the coroner's, deputy coroner's, or assistant coroner's official duties, such as his or her respective field of expertise or private practice.

Dear Mr. Perrilloux and Judge Morrison,

Your request for an Attorney General's Opinion regarding coroner's expert witness fees has been assigned to me for research and reply. You have asked whether La. R.S. 13:5711 entitles a salaried coroner, deputy coroner, or assistant coroner to an expert witness fee for testimony in a criminal proceeding investigated by his or her office, or whether a coroner, deputy coroner, or assistant coroner may only demand an expert witness fee for court testimony in unrelated matters, such as civil cases related to the coroner's private practice.

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). *See also Carriere v. St. Landry Par. Police Jury*, 97-1914 (La. 03/04/98), 707 So.2d 979, 983-84 (Recognizing three different methods of compensating coroners: a salary, a salary plus fees, or fees alone. Coroners compensated in either of the latter two manners can collect the fees per service, but a coroner compensated exclusively with a salary is excluded from collecting fees for his or her services.) However, this office 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) and not to those set forth in other paragraphs or statutes, such as La. R.S. 13:5711. *See* La. Atty. Gen. Op. No. 95-111, 04-0134, and 05-0191.

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.

The official duties of coroners are set out primarily in La. R.S. 13:5701 *et seq.* 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.

Notably, La. R.S. 13:5711 distinguishes expert testimony given in an official capacity from expert testimony given in a professional capacity. 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. This is consistent with the general rule stated above, recognizing that salaried coroners are compensated for such services through the payment of a salary. 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 (i.e. unrelated to his or her official duties).

It is, therefore, the opinion of this office 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 testimony in connection with his or her official duties. Rather, the expert witness fee provided by La. R.S. 13:5711 entitles a coroner, deputy coroner, or assistant coroner to compensation for testimony which is unrelated to the coroner's official duties, such as his or her respective field of expertise or private practice.

You have also asked what governmental entity is responsible for payment of the expert witness fee for testimony in a criminal case in the coroner's, deputy coroner's, or assistant coroner's official capacity. Because we have concluded that a salaried coroner, deputy coroner, or assistant coroner is not entitled to an expert witness fee for expert testimony in connection with his or her official duties, it is not necessary to address this question. Any expert witness fee owed to the coroner, deputy coroner, or assistant coroner for testimony in his or her professional capacity would be paid pursuant to the contract by the party calling the coroner, deputy coroner, or assistant coroner as a witness.

We hope this sufficiently answers your inquiry; however, if we may be of further assistance, please do not hesitate to contact our office.

With best regards,

JEFF LANDRY
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