

April 20, 2005  
OPINION NUMBER 05-0014

Marshal Joey Alcede  
Ward 3, Calcasieu Parish  
P.O. Box 1785  
Lake Charles, Louisiana 70602

77 OFFICERS – Local & Municipal  
R.S. 33:1881, 33:1883  
Marshal may not use commissions paid to him  
pursuant to R.S. 1883 to supplement the salaries of  
deputy marshals.

Dear Marshal Alcede,

You have requested an Attorney General's opinion regarding the interpretation of La. R.S. 13:1881. You question whether you may, either pursuant to this statute or any other provision of law, use a portion of the commissions paid to you as part of your compensation to supplement the salaries of your deputy marshals.

R.S. 13:1881, which addresses the salaries of deputy marshals, provides in part:

B. The marshal may appoint one or more deputy marshals having the same powers and authority as the marshal, but the marshal shall be responsible for their actions. The compensation of the deputy marshals shall be fixed and paid by the governing authorities of the city or parish, or both, where the court is located. The city marshal may use funds available for expenses of his office, including proceeds from costs assessed in criminal matters pursuant to R.S. 13:1899, to pay an amount in excess of the fixed salary or to pay the amount fixed or any portion thereof to deputy marshals or to employ additional deputies. However, nothing herein shall authorize the city marshal to fix or supplement his own salary. In no event shall the salary of any deputy exceed that of his city marshal. (Emphasis added)

Therefore you may use the funds available from the fifteen dollar criminal court fee to supplement the salary of your deputy marshals, as these fees are funds available for expenses of your office. However, your commissions are paid to you, not your office. R.S. 13:1883 governs the compensation of the marshals and states in pertinent part:

D. The marshals of the city courts enumerated in Sub-sections A, B, and C of this section, except the marshals of the city courts of Lafayette and

Shreveport, shall also receive the same fees as are payable to constables of justice of the peace courts.

Because these fees are payable to you, as compensation, rather than your office, the fees may not be used by your office to supplement deputy marshals' salaries. Therefore, in our opinion you may not use your commissions to supplement the salaries of your deputies. You may choose to donate a portion of your commissions to your office, in which case the donated fees could be used to supplement deputy marshals' salaries. We understand that you would like a portion of the commissions to be paid to you and a portion used to supplement the salaries of your deputy marshals, rather than you receiving the commissions and donating funds back to your office. However, at this time that is the only way your commissions may be used to supplement your deputy marshals' salaries. Although you did not request that this office address the tax consequences of any proposed donation, we note that a donation of salary would not necessarily relieve you of your obligation to pay state and federal income taxes.

Trusting this adequately responds to your request, we remain

Yours very truly,

CHARLES C. FOTI, JR.  
Attorney General

BY: \_\_\_\_\_  
KENNETH L. ROCHE, III  
Assistant Attorney General

CCF, JR/KLR, III/mjb

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KENNETH L. ROCHE, III,  
ASSISTANT ATTORNEY GENERAL