

May 26, 2005
OPINION 05-0234

Honorable Terry R. Reeves
District Attorney
Post Office Drawer 1374
109 Jones Street
Winnfield, Louisiana 71483

R.S. 42:64; R.S. 42:61, et seq.; R. S. 33:1555

13 Coroners - Compensation & Fees

A police juror may not hold employment with the coroner's office as same constitutes the holding of incompatible offices prohibited by state law.

Dear Mr. Reeves:

You have asked this office to advise whether a Winn Parish police juror may also hold employment with the Winn Parish coroner's office. For the following reasons, we respond in the negative.

R.S. 42:64 of our state's Dual Officeholding and Dual Employment Law, R.S. 42:61, et seq., is applicable and provides in pertinent part:

§ 64. Incompatible offices

A. In addition to the prohibitions otherwise provided in this Part, no other offices or employments shall be held by the same person in combination if any of the following conditions are found to pertain and these prohibitions shall exist whether or not the person affected by the prohibition exercises power in conjunction with other officers:

(4) The incumbent of one office, whether or not in conjunction with fellow officers, or employment is required by law to execute orders and follow directions given by the incumbent of the other office or employment.

(5) One office, whether or not in conjunction with fellow officers, or employment is charged with auditing the accounts of or approving the budget of the other position.

(6) Funds received by one office or employment are deposited with or turned over to the other office or position.

A member of the parish governing authority may not also be employed by the coroner's office as these two positions would constitute incompatible offices under subsections A (4), (5), and (6) quoted above. A coroner's employee is paid by funds received by the coroner's office from the police jury, whether the coroner is paid by fees, or if he is paid by salary. R. S. 33:1555 states:

§ 1555. Deputy coroners, assistant coroners, secretaries, stenographers, clerks, investigators, technicians, official photographer and other helpers; compensation

B. The coroner may appoint any necessary secretaries, stenographers, clerks, technicians, investigators, official photographers, or other helpers. ***The salaries of these employees shall be paid by the coroner out of his fees or by arrangement with the parish governing authority if the coroner is on a salary basis.*** (Emphasis added).

See also R.S. 33:1555, providing for fees paid by the police jury to the coroner's office where the coroner is paid by fees.¹

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.

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.

(2) When quarters for the coroner's office or a morgue are established by the parish, the parish shall furnish essential supplies and equipment for the office or morgue.

(3) The parish shall pay the fees for all mental or physical examinations or investigations, commitments, interdictions, court attendance, or testimony and a just fee or remuneration for attending parish prisoners.

C. (1) When a death occurs and the death appears to have been due to natural causes, the coroner of the parish of domicile of the deceased shall be responsible for any investigation into the cause and manner of death and for any examination of the body or autopsy.

(2) When a death occurs and a crime or accident is suspected, the coroner of the parish where the crime or accident occurred shall be responsible for any investigation into the cause and manner of death and for any examination of the body or autopsy.

(3) It shall be the duty of the coroner who makes the final investigation to release the body for burial.

D. (1) The parish or municipality in which the deceased was domiciled, in the case of a death due to natural causes, or the parish or municipality in which the accident or crime occurred, in the case of a death due to other than natural causes, shall pay the coroner's fees and any necessary fees for the investigation and the cost of any autopsy including the cost of transporting the body. However,

Because the offices are incompatible, the individual in question must relinquish one of the positions.

We hope the foregoing is helpful to you. Should you have other questions in which we may provide assistance, please contact this office.

Very truly yours,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

BY:

KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL

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if the coroner of the parish in which the death occurred initially viewed the body or investigated the death, the fees for such viewing or investigation shall be paid to him by the parish or municipality in which the death occurred.

(2) When a natural death occurs outside the parish of domicile, the coroner of the parish where the death occurs shall forward all information from the initial investigation to the coroner of the parish where the decedent was domiciled. The coroner of the parish of domicile shall complete all the necessary documents, including the death certificate.

(3) Notwithstanding any provision to the contrary, when a death occurs at any state operated health care or treatment facility, any fee paid by the parish governing authority for the viewing and investigation of a body shall be reimbursed by the state. However, this shall not relieve the parish governing authority of the obligation to promptly pay the fee upon being billed therefor.

E. When a death occurs and the death was due to natural causes, the coroner's fees and expenses, including the cost of transporting the body, shall be paid by the municipality in which the deceased was domiciled or by the parish if the deceased was domiciled in the parish outside of a municipality. When a death occurs and the death was due to other than natural causes, the coroner's fees and expenses including the cost of transporting the body shall be paid by the municipality in which the crime or accident occurred or by the parish if the crime or accident occurred in the parish outside of a municipality.

F. Nothing herein shall be construed as prohibiting the payment by the parish or municipality of all necessary or unavoidable expenses certified by the coroner.

G. Payment of fees for coroners' services related to admittance or commitment of patients or residents to any state-operated health care or treatment facility shall be made by a parish immediately upon such admittance or commitment at the option of the coroner rendering such services.

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Date Received:
Date Released: May 26, 2005

KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL