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DEPARTMENT OF JUSTICE
CIVIL DIVISION
P.O. BOX 94005
BATON ROUGE
70804-9005

January 5, 2024
OPINION 23-0125

Honorable Archie Chaisson, III
Lafourche Parish President
402 Green Street
Thibodaux, LA 70301

13 CORONERS

La. Const. art. V, sec. 29
La. Const. art. VI, sec. 5
La. R.S. 13:5701, *et seq.*

La. R.S. 13:5706
La. R.S. 13:5710
La. C.C. art. 3494

The passage of a local ordinance that conflicts with State law regarding coroner pay is superseded by State law.

Dear President Chaisson:

You have requested an opinion from this office regarding certain matters related to the pay authorized by law for coroners and their staff. Specifically, you have presented the following fact pattern:

According to your request, the Lafourche Parish Coroner ("Coroner") has submitted various invoices to Lafourche Parish ("the Parish") that you believe to be inconsistent with a series of Parish ordinances passed between the years 1989 and 2011. You also inform us that similar invoices from the Coroner were paid by the Parish for many years, with only an increase in autopsy fees by the Coroner from \$400 to \$500 in late 2022 raising red flags about previous payments by the Parish. With this factual scenario in mind, you ask the following specific questions:

1. Are the coroner, assistant coroners, or others that performed autopsies or sanity hearings for Lafourche Parish required to reimburse fees collected since 2011 to the Parish considering the removal of autopsy fees by Ordinance No. 4943, adopted in May 10, 2011?
2. Does a Budget Ordinance, properly ratified by the governing body in April 13, 2011, allow the coroner to be paid greater than what is documented in the previously adopted Ordinance 4943, or should Ordinance 4943 be amended to reflect the increased salary?

Before answering your questions, it is imperative to understand the basic funding of coroners under Louisiana law. Only with that understanding in mind can any opinion regarding reimbursements be rendered.

In the recent past, this office has opined that:

Coroners are constitutionally-created offices. In the past, both this office and the Louisiana Supreme Court have opined on coroners' independent

nature—one that is distinct from the parish with coterminous geographic boundaries. Based upon these prior analyses, it is our opinion that, though coroners are often wholly or partially funded by a parish government, they are independent constitutional offices that are distinct from the governmental structure of their funding sources.¹

In the matter of *Carriere v. St. Landry Parish Police Jury*,² the Louisiana Supreme Court noted that:

though there are statutory limitations on certain expenditures by coroners, if coroners cannot accomplish their constitutional duties within those statutory limits, then, the parochial or municipal governing authority (as applicable) must fund the “necessary and unavoidable” operating expenses of the coroner’s office.³

In a broad sense, as the Supreme Court and this office have observed in the past, coroners, functioning as autonomous constitutionally-created State officials, are funded pursuant to State law, though the funding itself derives from the relevant political subdivision as noted above. The law pertaining to that funding may be found in La. R.S. 13:5706.

These local governing authorities are not without some authority in the basic funding processes for coroners.⁴ In this regard, La. R.S. 13:5706(A)(1)(c), which sets some limitations on autopsy costs, contains the following proviso: “at the discretion of the governing authority of the parish or municipality, and the cost of any laboratory tests actually incurred.” However, this proviso does not authorize the relevant local government to set the autopsy costs; these costs are set by statute. For autopsies, the current statutory range for coroner-conducted autopsies is not less than \$250 and not more than \$300, exclusive of any laboratory tests involved. Moreover, additional amounts authorized by La. R.S. 13:5706(A)(1) may drive the cost of a basic autopsy, without including laboratory test costs, to and above \$400. In addition, La. R.S. 13:5710 authorizes coroners to contract with outside experts for the performance of autopsies up to the amount of \$500. Finally, while the relevant local governing authority may inquire into perceived overages, as we have opined in the past, the relevant local governing authority may not implement limitations on the functionality of the coroner’s office that would stifle the constitutionally-mandated functioning of that office.⁵

With this basic recitation of constitutional, statutory, and jurisprudential mandates, holdings, and observations regarding the nature of coroners’ funding, we now answer each of your specific questions in order.

¹ La. Atty. Gen. Op. No. 20-0065 (citing La. Const. art. V, sec. 29, La. Atty. Gen. Op. No. 90-247, and *Mullins v. State*, 387 So.2d 1151 (La. 1980)).

² 97-C-1914, 97-C-1937 (La. 3/4/98), 707 So.2d 979.

³ La. Atty. Gen. Op. No. 20-0065.

⁴ See La. Atty. Gen. Op. No. 12-0102.

⁵ See e.g., La. Atty. Gen. Op. No. 20-0035.

1. Are the coroner, assistant coroners, or others that performed autopsies or sanity hearings for Lafourche required to reimburse fees collected since 2011 considering the removal of autopsy fees in Ordinance No. 4943?

This question, though seeking guidance regarding the possible reimbursement of funds, actually must begin with an analysis of the validity of the ordinance itself in light of seemingly conflicting State law on this topic. By way of Ordinance No. 4943, the Parish sought, in 2011, to limit autopsy fees. Contrarily, though La. R.S. 13:5706 and La. R.S. 13:5710 contain parameters within which autopsy costs should be kept, as discussed above. Those State laws also contemplate the possibility that autopsies will cost more than the statutorily-prescribed amount and provide mechanisms for the coroner to seek and the parish governing authority to approve such overages. While La. R.S. 13:5706(A)(1)(c) places some discretion with the relevant governing authority in setting maximum autopsy fees, the Louisiana Supreme Court and this office have consistently opined that relevant governing authorities cannot withhold such funds when they are necessary for the conduct of the business of the coroner's office, as such withholdings would represent an infringement on the constitutional charge to coroners embodied in La. Const. art. V, sec. 29.⁶

Louisiana Constitution article VI, section 5(G) provides that, "[n]o home rule charter or plan of government shall contain any provision affecting...the office[] of...coroner." Thus, though the Parish is a Home Rule Charter body pursuant to the Louisiana Constitution, it is constitutionally prohibited from enacting laws that would affect the functionality of the Coroner. Accordingly, any Parish ordinance must comply with and cannot constrict State law regarding coroners (La. R.S. 13:5701, *et seq.*). To be sure, Parish ordinances may be used to provide for budgetary allocations of funds for the Coroner, but they cannot be used to limit the authority of the Coroner.

The Parish has enacted several ordinances over the years that relate to the Coroner. You have provided us with Ordinance Nos. 1867 (passed in 1989), 4720 (passed in 2010), and 4943 (passed in 2011). These ordinances have purported to implement funding mechanisms and limitations on the Coroner. It is our opinion that, to the extent that these ordinances limit the Coroner's constitutional mandate to discharge his duties or otherwise impinge on the Coroner's statutory authorizations, they are invalid.⁷ Not all of these ordinances, however, appear to be invalid. For example, Ordinance No. 1867, sets an annual salary for the Coroner and several of his employees. Because Louisiana law does not prohibit the provision of such a salary, Ordinance No. 1867 in this regard is not prohibited. However, Ordinance No. 4943 amends Ordinance No. 1867 to remove the statutorily-authorized autopsy fee. Because this Ordinance "affect[s]...the office[] of...coroner," that provision is ineffective.

⁶ See e.g., La. Atty. Gen. Op. No. 14-0029.

⁷ Accord, *Mellor v. Parish of Jefferson*, 2021-0858 (La. 3/25/22), 338 So.3d 1138.

According to the plain language of Ordinance No. 1867, Lafourche Parish opted to implement a salary plus fee basis for the payment of its Coroner in 1987. As we observed in an earlier opinion, the *Carriere* case, *supra*, holds that Louisiana law, “recognizes three different methods of compensating coroners: a salary, a salary plus fees, or fees alone...and only when it is contemplated that a coroner will be compensated exclusively with a salary is he excluded from application of”⁸ La. R.S. 13:5706. Thus, that the Coroner is paid a salary, under existing Lafourche Parish ordinances, is of no moment to the propriety of the Coroner also receiving authorized fees. Pursuant to Ordinance No. 1867, the Parish was a “salary plus fees” jurisdiction under the *Carriere* case from 1989 through 2011 and thus the Coroner is entitled to both. In 2011, the Parish, with Ordinance No. 4943, switched to being a salary only jurisdiction for the Coroner. Based on our review of Ordinance No. 4943, none of the pay mechanisms for employees of the Coroner were impacted by the passage of this law.⁹

With regard to the question of whether the coroner or his employees must reimburse the parish past amounts, we have previously opined that such action is not necessary.¹⁰ In 2004, we opined that when such payments are, “...made through a mistake of the both [parties], and was for work earned,”¹¹ reimbursements were not required. Clearly, according to your request, the now complained-of payments were billed by the Coroner and paid by the Parish, “[f]or reasons that are not clear.”¹² This appears to be a classic example of a “mistake made by both” parties. Although we cannot opine here regarding the factual question of whether the past amounts were for “work earned,” based upon the above analysis of the Coroner’s duties and accounting for reasonable inflation over the years, it is not unreasonable to think that the Parish can make such a factual determination. On a factual finding by the Parish that the past amounts were for “work earned,” it is our opinion that no reimbursement is due.

Should the Parish seek reimbursement for some of these funds upon a finding that they were not paid for “work earned,” please be aware that reimbursement is not available for an infinite amount of time. In *Grabert v. Iberia Parish School Board*,¹³ the Louisiana Supreme Court held that a claim for reimbursement of improperly paid wages is subject to the three-year prescriptive period of La. C.C. art. 3494. Thus, should efforts to seek reimbursement be pursued by the Parish, only the payments for the three years prior to filing an action for reimbursement are even available for possible recoupment.¹⁴ Additionally, as a housekeeping matter, upon a finding that such past amounts were for “work earned,” we recommend that a single resolution be passed ratifying those past payments.

⁸ La. Atty. Gen. Op. No. 08-0185 (quoting *Carriere*, 707 So.2d at 983).

⁹ Indeed, Ordinance No. 1867, Section 2, contains the only mention of the Coroner’s employees and then only “Assistant Coroners.” This provision is carried through the subsequent ordinances without change and with no mention of any other employees.

¹⁰ See e.g., La. Atty. Gen. Op. No. 04-0255; La. Atty. Gen. Op. No. 90-136.

¹¹ La. Atty. Gen. Op. No. 04-0255.

¹² Opinion request letter at 1.

¹³ 93-2715 (La. 7/5/94), 638 So.2d 645.

¹⁴ La. Atty. Gen. Op. No. 18-0008.

Based upon your opinion request, it is clear that the Parish is now holding certain invoices from the Coroner due to the above-discussed discrepancies. At this point, the Parish has seemingly become aware of the ordinances that purported to limit certain payments to the Coroner. However, as discussed above, these ordinances are inapplicable to the extent that they conflict with State law. Because La. R.S. 13:5706(A)(1)(c) provides the amounts, exclusive of “the cost of any laboratory tests actually incurred,” that are permissible to pay a coroner for an autopsy, it is this law that must control the payment of these held invoices. As noted above, La. R.S. 13:5706(A)(1)(c) provides some discretion to the governing authority to allow for autopsy costs that exceed \$250.00. Moreover, a reading of *Mullins, supra*, and *Carriere, supra*, instruct that, should additional funds be required for a coroner to undertake his constitutional duties, with reasonable explanation, such funds should be paid by the relevant governing authority. Accordingly, while we believe that it is appropriate to hold the current invoices for further support or explanation from the Coroner, refusal to pay those invoices for “necessary expenses” is not permissible.

2. Does a Budget Ordinance, properly ratified by the governing body, allow the coroner to be paid greater than what is documented in Ordinance 4943 or should Ordinance 4943 be amended to reflect the increased salary?

Under the basic rules of statutory construction, whose application is appropriate here as ordinances are the equivalent of statutes at the parochial or municipal level, a subsequent pronouncement of the relevant governing body typically supersedes prior pronouncements.¹⁵ Accordingly, because the budget ordinance to which you refer, Ordinance No. 5047, was enacted in December 2011—several months after Ordinance 4943 (enacted in April 2011)—the later enactment (5047) should control. The later enactment (5047), though a general law, contains a provision that specifically changes the content of the earlier enactment (4943), thus satisfying the other basic rule of statutory construction that a specific law takes precedence over a general law.¹⁶ In this case, the general law (5047) contains a specific provision regarding the Coroner’s compensation, thus ousting the preceding legislative statement on that topic (4943). Accordingly, it is our opinion that the budget ordinance (5047) effectively replaced the Coroner’s compensation set forth in Ordinance 4943. Based on conversations with your staff, it is clear that the substance of Ordinance 5047 as it relates to the coroner has remained unchanged since 2011 and thus is the final word from Lafourche Parish on the Coroner’s salary.

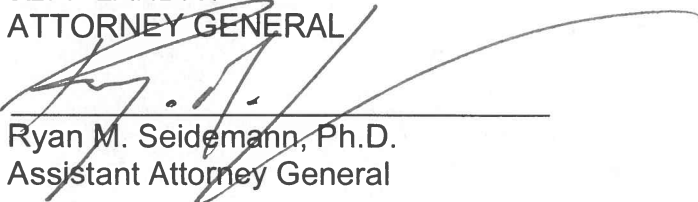
¹⁵ *State v. St. Julian*, 61 So.2d 464, 466 (La. 1952).

¹⁶ *City of Pineville v. American Federation of State, County, and Municipal Employees*, 00-1983 (La.6/29/01), 791 So.2d 609, 613 (noting that the specific controls over the general in statutory interpretation).

We hope that this opinion has adequately addressed the legal issues you have raised. If our office can be of further assistance, please do not hesitate to contact us.
With best regards, I am,

Very truly yours,

JEFF LANDRY
ATTORNEY GENERAL

By: 

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JL/RMS/cw