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DEPARTMENT OF JUSTICE
CIVIL DIVISION
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October 27, 2023
OPINION 23-0040A

Hon. Gerry Cvitanovich, M.D.
Coroner, Jefferson Parish
2018 8th Street
Harvey, LA 70058

13 CORONERS

La. Const. art. V, sec. 29 La. R.S. 13:5713
La. R.S. 8:1 La. R.S. 13:5716
La. R.S. 13:5701, *et seq.* La. R.S. 37:877
La. R.S. 13:5706

Hon. Charles A. Preston, M.D.
Coroner, St. Tammany Parish
65278 Highway 434
Lacombe, LA 70445

Because disposition of human remains (*i.e.*, cremation) is not part of a coroner's investigation, the costs incurred by coroners for authorizing cremations is not part of the costs of a coroner's investigation. The costs of cremation permits are operational expenses of coroners' offices for which relevant local governments are responsible.

Dear Drs. Cvitanovich and Preston:

We are in receipt of your individual requests for clarification of La. Atty. Gen. Op. No. 23-0040. In that opinion, we concluded that coroners could not charge families or funeral homes for the cost of a cremation permit. The law is clear on this point and we do not hereby repudiate or rescind the substance of that conclusion. However, as is demonstrated by your request letters, more nuanced issues have arisen as a result of La. Atty. Gen. Op. No. 23-0040. Accordingly, we provide the following analysis of your subsequent questions to that original opinion by way of an amendment to the conclusions contained therein.

1. Does La. Atty. Gen. Op. No. 23-0040 allow a parish or municipal governing authority to avoid the payment of cremation permits by classifying them as a "necessary paper and report" incident to an "investigation" under La. R.S. 13:5706?
2. If the answer to question one is in the negative, are cremation permit funding requests from coroners to a local government limited by the statutory fee of \$50 in La. R.S. 13:5706(A)(1)(a)?
3. Does the specific coroner's compensation structure, whether it is a "fee," "fee plus salary," or "salary only," affect the coroner's ability to collect funds from local governments?

We answer each of these questions in the order presented above.

Does La. Atty. Gen. Op. No. 23-0040 allow a local governing authority to avoid the payment of cremation permits by classifying them as a “necessary paper or report” incident to an “investigation” under La. R.S. 13:5706?

The answer to this question is “no.” Louisiana Attorney General Opinion Number 23-0040 contains no language or analysis that leads to a conclusion—either directly or by inference—that coroners cannot be compensated for the costs of cremation permit paperwork and issuance. All that the opinion concludes is that the costs of this work and these documents cannot be taxed to families or funeral homes.

However, the above observation does not answer the question of whether a local government may avoid paying coroners through an argument that cremation permits are “necessary papers and reports” incident to an “investigation” for which the coroner has already been paid the statutory \$50 fee contemplated by La. R.S. 13:5706 (A)(1)(a). A basic review of the language of La. R.S. 13:5706 reveals that such an argument is without merit.

Cremation permits are among the mechanisms to provide for the disposition of human remains pursuant to La. R.S. 37:877. Coroners are required to issue or deny cremation authorizations under La. R.S. 13:5716 and, based on the plain language of that statute, such authorizations occur “after the necessary investigation,”¹ thus meaning that the issuance of cremation permits is not a part of the investigation for which La. R.S. 13:5706(A)(1)(a) provides a statutory remuneration of \$50 for coroners. This conclusion is also supported by the terminology used by the Legislature in the relevant laws. “Disposition” (*i.e.*, cremation) is not the same as an “investigation.” “Disposition” is defined by La. R.S. 8:1(22) as “the interment, burial, cremation, or anatomical donation of a deceased person...,” whereas “investigation” is defined by Black’s Law Dictionary as “[t]he activity of trying to find out the truth about something...”² Accordingly, it is the opinion of this office that, in addition to the legal source requiring cremation permits not deriving from within coroners’ jurisdictional or duties and powers laws (*i.e.*, La. R.S. 13:5701, *et seq.*),³ because disposition is not part of an investigation, the statutory fee for investigations in La. R.S. 13:5706 does not apply to such permits.

If the answer to question one is in the negative, are cremation permit funding requests from coroners to a local government limited by the \$50 statutory fee in La. R.S. 13:5706(A)(1)(a)?

Under La. R.S. 13:5706(A)(1)(a), coroners on a fee basis are authorized to recover \$50 from local governments for undertaking their legally mandated investigations into the types of deaths outlined in La. R.S. 13:5713. However, because we opine above that

¹ La. R.S. 13:5716(B).

² Bryan Garner (ed.), “Investigation,” BLACK’S LAW DICTIONARY (West 2019). Importantly, we here resort to a legal dictionary for a definition of “investigation” as that term is not defined in the portion of the Revised Statutes that apply to coroners (*i.e.*, La. R.S. 13:5701, *et seq.*).

³ While coroners have the power to issue cremation authorizations, the need for these documents derives from La. R.S. 37:877.

authorizing the “disposition” of human remains is not the equivalent of an “investigation,” we further opine that the \$50 statutory reimbursement under La. R.S. 13:5706 is inapplicable to such permits and the necessary work to accomplish and complete these documents.

Additionally, although, La. R.S. 13:5706(A)(1)(a) contemplates a statutory fee it does not operate as a prohibition on the governing authority paying additional operational expenses.⁴ Louisiana Revised Statute 13:5706(A)(4) specifically contemplates the fees in La. R.S. 13:5706 “shall be in addition to any necessary expenses that may be incurred” by the coroner. The statute is clear that “all necessary or unavoidable expenses incident to the operation and functioning of the coroner’s office shall be paid by the parish when the expenses are certified by the coroner as being necessary or unavoidable.” La. R.S. 13:5706(B)(1). As we observed in La. Atty. Gen. Op. No. 11-0023A, the issuance or denial of a cremation permit is a mandatory duty of the coroner’s office required by La. R.S. 13:5716(B). Finally, La. R.S. 13:5706(F) makes clear that La. R.S. 13:5706(A) does not prohibit the payment of necessary or unavoidable expenses.⁵

As we and the Louisiana Supreme Court have long opined, such operational expenses are not provided for expressly by statute (nor are they prohibited), but rather they are costs required by the coroner to undertake his or her constitutional mandate under La. Const. art. V, sec. 29 and La. R.S. 13:5716. *Carriere v. St. Landry Parish Police Jury*, 97-C-1914 (La. 3/4/98), 707 So.2d 979, 985.⁶ For this reason, it is our opinion that, while La. Atty. Gen. Op. No. 23-0040 is correct in that these costs are not taxable to families or funeral homes, they are properly paid by the appropriate local government as “operational expenses” from which the other costs related to a particular coroner’s case would otherwise derive.

Does the specific coroner’s compensation structure, whether it is a “fee,” “fee plus salary,” or “salary only,” affect the coroner’s ability to collect funds from local governments?

The tripartite classification of coroners derives from *Carriere*, in which the Louisiana Supreme Court observed that coroners are either “fee,” “salary plus fee,” or “salary only” governmental positions.⁷ *Carriere* also hints at a fourth category of coroners in Louisiana in dicta when it observes that the coroner in that case put a “tax proposition that would have provided for the coroner’s office” on the ballot.⁸ Though this measure failed in St. Landry Parish (the situs of the *Carriere* case), other parishes in Louisiana have passed such measures, resulting in what are often referred to as “millage coroners.” We note the

⁴ The \$50 fee in La. R.S. 13:5706 has remained static for over 35 years and it is not unreasonable to conclude that a coroner could incur additional operational expenses in performing his or her mandatory duties. See, 1985 La. Acts. No. 241.

⁵ “Nothing herein shall be construed as prohibiting the payment by the parish or municipality of all necessary or unavoidable expenses certified by the coroner.” La. R.S. 33:5706(F).

⁶ E.g., La. Atty. Gen. Op. No. 20-0065.

⁷ *Carriere*, 707 So.2d 982-983.

⁸ *Id.* at 980.

genesis of these categories of coroners is to help ensure clarity in the interpretation of this opinion.

It is our opinion that the classification of any particular coroner is irrelevant to the inquiry regarding costs associated with cremation permits. Simply, these costs are not explicitly contemplated by La. R.S. 13:5706(A)(1). However, they are certainly operational expenses that are part-and-parcel of the operation of a coroner's office under the *Carriere* decision. For this reason, the appropriate local government otherwise responsible for covering the costs of particular coroner's case must reimburse the costs of cremation permits and any work required to accomplish the issuance or denial of those permits upon the proper certification of the coroner. La. R.S. 13:5706(B)(1) and La. R.S. 13:5706(F).

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

cc: Hon. Philip Padgett, M.D., Coroner, West Baton Rouge Parish
Hon. Mark Holder, M.D., Coroner, Sabine Parish