

May 16, 2000
OPINION 00-148

Ms. Madaline C. Gibbs
Assistant District Attorney
4001 Carter Street, Suite 9
Vidalia, LA 71373

15 COURTS
47 FINES, FORFEITURES AND PENALTIES
R.S. 13:1898(A); R.S. 16:3; R.S. 16:4; R.S. 16:10; R.S. 16:191
The proceeds from the fines from the prosecution for a violation of a city ordinance are to be paid into the city treasury. If the prosecution is on behalf of the state or parish, i.e. the prosecution results from a violation of a state statute or a parish ordinance, then the proceeds from the fines are to be deposited with the parish.

Dear Ms. Gibbs:

You state that the District Attorney of the Seventh Judicial District handles criminal prosecutions in city and mayoral courts in both Concordia Parish and Catahoula Parish. You ask whether the District Attorney may collect fees from the city court prosecutions.

Your inquiry necessitates a review of R.S. 13:1898(A), providing pertinently:

§ 1898. Collection and disposition of fines, forfeitures, penalties, and costs in city court.

- A. Except as otherwise provided by special law and in Subsection B thereof, the clerk of the city court or the marshal, as designated by the judge, shall collect all fines, forfeitures, penalties, and costs, and all funds so collected by them, excluding costs, shall be paid into the city treasury when the prosecution is on behalf of the city and into the parish treasury to be deposited in the parish general fund and used as a general expenditure of said parish in parishes other than Orleans, when the prosecution is on behalf of the state or parish.

Reviewing the statute quoted, this office has previously determined:

“ . . . if the prosecution is on behalf of the city (i.e. prosecution for a violation of a city ordinance) the proceeds from the fines are to be paid into the city treasury. However, if the prosecution is on behalf of the state or parish (i.e. prosecution for a violation of a state statute or a parish ordinance) then the proceeds from the fines are to be deposited with the parish. Therefore, a fine received from the prosecution of a state statute in city court must be deposited with the parish.” See Attorney General Opinion 92-149, page 2, copy attached.

The conclusion of the author of Opinion 92-149, as stated above, remains the opinion of this office. We would further direct your attention to Opinion 88-180, copy attached, which is also in accord with Opinion 92-149.

R.S. 16:3¹ charges the office of the district attorney with the responsibility of representing the state in all criminal prosecutions charged under state law which appear before the city court. Further, R.S. 16:4² sets fees in certain districts for district attorneys whose salaries in lieu of fees have not been fixed by law. However, since R.S. 16:10³ and R.S. 16:191⁴ provide salaries for the office of the district attorney in the Seventh Judicial District, additional fees for the criminal prosecution of state violations in city court is not mandated. In accord is Attorney General Opinion 80-111.

¹ R.S. 16:3 provides:

§ 3. Representation of state in city courts; fees

The district attorneys throughout the state shall represent the state in all criminal prosecutions before city courts constituted by law.

They shall receive the same fees now provided by law for convictions for the same offenses in the district courts of Louisiana.

² R.S. 16:4 provides:

§ 4. Fees in certain districts

The district attorneys throughout the state whose salaries in lieu of fees have not been fixed by law shall be entitled to receive, in addition to their salaries as allowed by the constitution, the following fees: Five dollars for each conviction on which the accused is finally sentenced only to pay a fine; ten dollars for each conviction on which the accused is finally sentenced to imprisonment in jail; fifteen dollars for each conviction on which the accused is finally sentenced to imprisonment in the penitentiary for a term shorter than life; twenty dollars for each conviction on which the accused is finally sentenced to imprisonment in the penitentiary for life; and twenty-five dollars for each conviction on which the accused is finally sentenced to death. He shall receive only one fee for each defendant convicted regardless of the number of convictions against the same defendant where the sentences imposed by the court are to run concurrently, and shall not be paid his fee until the sentence has become final on appeal or otherwise. In districts composed of more than one parish, fees herein provided for shall be paid by the parish in which the conviction takes place and the governing authority of each parish shall annually, and at the time they prepare their general budget of expenses, budget an amount sufficient to pay the fees as herein fixed.

³ R.S. 16:10 provides:

§ 10. Annual salary of district attorneys payable by state.

A. The annual salary of the several district attorneys throughout the state of Louisiana is hereby fixed at fifty thousand dollars payable monthly by the state treasurer upon the warrant of the district attorney.

B. The provisions of this section shall not be construed to repeal, supersede or affect any existing law or laws or laws or provisions of any statutes which have been enacted or may be enacted by the legislature fixing the compensation to be paid the district attorneys throughout the state by the governing authorities of the several parishes of the state. Any such compensation paid by the governing authorities of the several parishes of the state shall be in addition to the sum which the state treasurer is required to pay under the provisions of this section.

⁴ R.S. 16:191 provides:

§ 191. Additional salary of district attorney

The district attorney for the seventh judicial district of this state shall receive as compensation for this services, in addition to the annual salary paid him by the state of Louisiana, an annual salary of four thousand dollars, payable monthly on his own warrant, by the parishes comprising the seventh judicial district, apportioned as follows:

(1) By the parish of Concordia, the sum of two thousand five hundred dollars per annum.

(2) By the parish of Catahoula, the sum of one thousand five hundred dollars per annum.

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Should you have further questions in which we may provide assistance, please contact this office.

Very truly yours,

RICHARD P. IEYOUNG
ATTORNEY GENERAL

BY:

KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL

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The proceeds from the fines from the prosecution for a violation of a city ordinance are to be paid into the city treasury. If the prosecution is on behalf of the state or parish, i.e. the prosecution results from a violation of a state statute or a parish ordinance, then the proceeds from the fines are to be deposited with the parish.

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Assistant District Attorney
4001 Carter Street, Suite 9
Vidalia, LA 71373

Date Received:
Date Released:

KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL