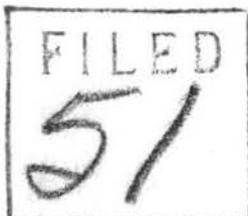


DEATHS:  
INQUESTS:  
CORONERS:

There is no legal obligation imposed upon anyone finding and disposing of a dead body to notify the coroner within whose jurisdiction such body was found, other than the local registrar of vital statistics, and only by him when the death was caused by other than natural causes.



December 1, 1955

*See sec 58.451 applicable to  
St Louis City, First and Second  
Class counties.*

Mr. Robert Lamar  
Prosecuting Attorney  
Texas County  
Cabool, Missouri

Dear Sir:

Your recent request for an official opinion reads as follows:

"Mr. Gentry, Coroner of Texas County, has asked me a question which at first I thought was simple, but on which I am unable to find any Statutory enactment. In an automobile accident late at night, a man driving alone in his car was killed. When the accident was discovered, a doctor and ambulance were called, but the man was dead before their arrival. The incident was not reported to the Coroner until some days later, after the body had been embalmed and buried. He has asked me if there is any requirement that persons finding a dead body report the same to the Coroner's office. It seems likely that at some time there has been an opinion on this question from your office, and if so, I would very much appreciate having a copy of it."

All references to statutes are to RSMo 1949.

The question which you directly ask us is: "If there is any requirement that persons finding a dead body report the same to the coroner's office?"

However, the fact situation which you set forth as giving rise to your question presents the additional question of whether persons finding a dead body and disposing of it, are required to report this fact to the coroner. We shall consider these questions in the above order.

It would clearly appear that there is no requirement to report in the first situation. If John Doe is walking through a woods and comes upon a dead human body, he may legally walk away and not report the fact to anybody. Or, he may report it to some

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people and not to others, but he is under no obligation to report it to the coroner.

In this regard, we direct attention to the (1948) case of State v. Stringer, 211 S.W.2d 925. In this case it was established that a young, unmarried woman gave birth to a baby; that within some two hours after its birth, she dropped it on the floor, as a result of which the baby died. She claimed that the dropping was accidental; the state maintained that the dropping was intentional. It was further established that immediately after the baby died, the mother took the body out to a weed patch back of her home and secreted it. When first questioned by officers, she stated that she had given the baby to some people in St. Louis. Later, when the body of the baby was found, she changed her story as above. She was duly tried and convicted of manslaughter, and appealed.

In its opinion reversing the judgment, the Missouri Supreme Court stated, in part (l.c. 930-31):

"This brings us to the problem of whether certain evidence was admissible and if not whether its admission prevented a fair trial and was therefore unjustly prejudicial to the rights of the accused. The facts and circumstances noted were established by the testimony of two neighbors and the little girl, by the doctor and his daughter and by the sheriff and the prosecuting attorney. In addition to these witnesses the state produced the Coroner of Washington County, Dr. Dempsey. When he was first offered as a witness defense counsel inquired as to the purpose of his testimony and the prosecutor said: 'The purpose of the inquiry is to show there was never any report made by the defendant to the Coroner of the county, Washington County, Missouri, of the death of this baby.' When defense counsel objected to this offer the court expressed the opinion that the state could show that the witness was the Coroner and then inquire whether any one had reported the death to him. This question was then asked: 'Has anyone made a report to you since August 15, 1946, on August 15 or since that time, with regard to the death of a male child that was born to Jerene Stringer?' The answer was 'No, I did not receive any official notice.'

"The state contends in any event that the evidence could not have been prejudicial to the accused and

was therefore harmless error. It is contended that no jury would be influenced against the accused merely because the coroner said that no one had reported the death in question to him. In this connection it is argued that the jury could not have considered the failure of the defendant to report the death to the coroner as of any consequence because they would be unaware of the duty to report a death to the coroner.

"(13) However, from the prosecuting attorney's initial statement and from the context it is plain that the purpose of the testimony was to show that the accused had not reported the child's death to the coroner. He was finally permitted to say that no one had officially reported the death to him, but of what consequence could that fact have been unless it meant that the appellant had not reported it? In the second place, the argument erroneously assumes that there was some legal duty on the general public and particularly upon the accused to report the child's death to the coroner. An examination of the statutes does not reveal any such general public duty. Mo.R.S.A. Sections 9767, 13227-13268, 14839. The Statute requiring the coroner to summon a jury 'so soon as he shall be notified of the dead body of any person, supposed to have come to his death by violence or casualty,' (Mo.R.S.A. Section 13231) does not necessarily impose any such specific duty upon an accused or, for that matter, upon the general public.

193.140  
52.180-  
58.510  
293.400

"(14) But irrespective of any duty on the part of the general public it is certain that there was no statutory duty on the accused to report the child's death to the coroner and the meritorious question is whether the plain inference that there was such a duty was unfairly prejudicial in the circumstances of this trial. As we have pointed out, the evidence to show that the appellant intentionally killed the child was wholly circumstantial. There was the fact of no preparation for the baby's birth, her desire to conceal its birth and its identity and finally her concealment of its body. 26 Am. Jur., Secs. 302, 475. Any circumstance, including the desire to elude discovery, reasonably pointing to the

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defendant's guilt was admissible against her. 1 Wharton, Criminal Evidence, Sec. 299, p. 395. But here her failure to report the child's death to the coroner is not necessarily inconsistent with her innocence. In some instances failure to report a death might be a most cogent circumstance pointing to guilt. For example, in Hedger v. State, 144, Wis. 279, 128 N.W. 80, a husband knew that his wife lay dead in the kitchen of their home, a victim of violence, and yet he failed to report the fact to any one and so contrived that some one else should apparently be the first to discover her. In this case it is obvious that the appellant did not intend to report the child's death at all--on the contrary, she attempted to conceal it--and the fact that she did not report it to any one or to some person who in the normal course of events she would naturally have been expected to report it to is a strong indication of guilt. The fact of this plain inference demonstrates the damaging quality of the coroner's evidence that she had not reported the child's death to him.

"(15) She was under no statutory duty to do so and there was no compulsion, in the circumstances, for her reporting it to the coroner. Had he talked to her in his official capacity as the sheriff and the prosecuting attorney did, or even as a friend, there might then have been some reason for her divulging the child's death. But here there was no duty or circumstance compelling a voluntary report by the accused to the coroner in any capacity. \* \* \*"

The above case, which has not subsequently been modified by a later appellate court opinion, more than sustains our position above.

We now turn our attention to the second situation set forth by you. In this regard we direct attention to Section 193.130, which reads as follows:

"A certificate of every death or still-birth shall be filed with the local registrar of the district in which the death or stillbirth occurred within three days after the occurrence is known; or if the place of death or stillbirth is not known

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then with the local registrar of the district in which the body is found within twenty-four hours thereafter. In every instance a certificate shall be filed prior to interment or other disposition of the body."

Also, to Section 193.140, which reads:

"1. The person in charge of interment shall file with the local registrar of the district in which the death or stillbirth occurred or the body was found a certificate of death or stillbirth within three days after the occurrence.

"2. In preparing a certificate of death or stillbirth the person in charge of interment shall obtain and enter on the certificate the personal data required by the division from the persons best qualified to supply them. He shall present the certificate of death to the physician last in attendance upon the deceased or to the coroner having jurisdiction who shall thereupon certify the cause of death according to his best knowledge and belief. He shall present the certificate of stillbirth to the physician, midwife, or other person in attendance at the stillbirth, who shall certify the stillbirth and such medical data pertaining thereto as he can furnish.

"3. Thereupon the person in charge of interment shall notify the appropriate local registrar, if the death occurred without medical attendance, or the physician last in attendance fails to sign the death certificate. In such event the local registrar shall inform the local health officer and refer the case to him for immediate investigation and certification of the cause of death prior to issuing a permit for burial, cremation or other disposition of the body. When the local health officer is not a physician or when there is no such officer, the local registrar may complete the certificate on the basis of information received from relatives of the deceased or others having knowledge of the facts. If the circumstances suggest that the death or stillbirth was caused by other than natural causes, the local registrar shall refer the case to the coroner for investigation and certification."

From the above, it is clear that in the situation which you set forth, the undertaker, who prepared the body for burial and who

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did bury it, was required to file with the local registrar of vital statistics, prior to "interment or other disposition of the body," a certificate of death and receive from him "a permit for burial, cremation, or other disposition of the body."

On October 10, 1941, this department rendered an opinion, a copy of which is enclosed, to Frank W. Jenny, Prosecuting Attorney of Franklin County, which opinion elaborates upon this point.

Paragraph 3 of Section 193.140, supra, concludes with the statement that "if the circumstances suggest that the death or still-birth was caused by other than natural causes, the local registrar shall refer the case to the coroner for investigation and certification."

This clearly leaves the matter of referring the case to the coroner to the discretion of the registrar, and also relieves all other persons from any such duty. In the (1941) case of Crenshaw v. O'Connell, 150 S.W.2d 489, at l.c. 492, the court stated:

"As to this, suffice it to say that under the statute having to do with the coroner's duties in respect to registration of deaths, Sec. 9767, 193.140 R.S.No 1939, Mo. St. Ann Section 9047, p. 4191, the coroner is authorized to make a certificate of death only when the case is referred to him by the local registrar as one without an attending physician and one where the circumstances of the case render it probable that the death was caused by unlawful or suspicious means. The purpose of such reference is, of course, to have an investigation by the coroner as the officer whose duty it is to hold an inquest on the body of any deceased person; and when such a case is properly referred to the coroner, he conducts his investigation, and then executes the certificate of death required for a burial permit, stating therein the disease causing death or the means of death, and otherwise making the same conform to the requirements of the statute. O'Donnell v. Wells, 323 Mo. 1170, 21 S.W.2d 762; Patrick v. Employers Mutual Liability Insurance Co., supra; Gilpin v. Aetna Life Insurance Co., 234 Mo. App. 566, 132 S.W.2d 686."

We shall not here go into the statutes and cases regarding coroners and their duties other than to observe that all of them pertain to the duty of the coroner when he shall have been notified of the existence of a dead body. None of these laws and cases refer to any duty imposed upon anyone to so notify the coroner other than the laws and cases heretofore cited by us and cases not cited by us but of similar import with those cited.

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In view of the above, we feel that in the situation which you set forth, that the undertaker who took charge of the body, prepared it for burial and did bury it, was not under any duty to notify the coroner of this death. We have noted that it was the duty of the undertaker to prepare and present to the local registrar of vital statistics a certificate of death and to receive from him a permit for burial, cremation or other disposition of the body.

CONCLUSION

It is the opinion of this department that there is no legal obligation imposed upon anyone finding and disposing of a dead body to notify the coroner within whose jurisdiction such body was found, other than the local registrar of vital statistics, and only by him when the death was caused by other than natural causes.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Hugh P. Williamson.

Very truly yours,

John M. Dalton  
Attorney General

HPW/bl/ld

enc. Frank W. Jenny,  
Oct. 10, 1941