

CORONERS: County coroner in counties other than St. Louis  
FUNERAL DIRECTORS: and first class counties has no authority to  
issue blanket instructions to funeral direc-  
tors or undertakers not to embalm or other-  
wise mutilate a dead body until he is notified.

December 1, 1966

OPINION NO. 389

Honorable James L. Paul  
Prosecuting Attorney  
McDonald County  
Pineville, Missouri 64856



Dear Mr. Paul:

You inquire whether a coroner or sheriff has any authority to order a funeral home not to embalm a body which has been brought to the funeral home from a hospital when such victim was dead on the arrival at the hospital until authority to embalm is given by the coroner or sheriff.

We are enclosing herewith an opinion issued by this office on December 15, 1948, to Colonel Hugh H. Waggoner, Superintendent, Missouri State Highway Patrol, Jefferson City, Missouri, in which it was held that a coroner does not have any authority to issue blanket instructions to members of the State Highway Patrol that all dead bodies be left at the scene of the accident or similar occurrence until the coroner arrives and directs final disposition of the body.

We are also enclosing an opinion dated October 10, 1950, written to John M. Rice, Prosecuting Attorney, Newton County, Neosho, Missouri, in which it was ruled that no action can be taken against persons removing dead bodies from the jurisdiction of one coroner to another, and the coroner in the county where the accident or felony was committed has no authority to order the body returned for the purpose of holding an inquest.

The authority and duties of the coroner are discussed at length in the two enclosed opinions. As stated therein the coroner is a public officer and has only such authority as is expressly given him by statute or as necessarily implied in order to execute the duties expressly given by statute. The same is true of a sheriff.

Under Section 58.205, RSMo 1959, a sheriff of the proper county is to perform the duties of the coroner when the coroner is absent for any reason. Under this statute the sheriff's authority is limited to that of the coroner when acting as coroner.

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Section 58.180, RSMo 1959, provides in part that the coroner shall be a conservator of the peace throughout his county and shall take inquests of violent and casual deaths or when a dead body is found in his county.

Section 58.260, RSMo 1959, provides that every coroner as soon as he shall be notified of the dead body of any person supposed to have come to his death by violence or casualty, being found in his county, to summons a jury and to inquire how and by whom he came to his death.

In Patrick v. Employers Mutual Liability Insurance Co., 118 S.W.2d 116, the court in discussing the authority given the coroner by statute to perform an autopsy stated, l.c. 122:

"\* \* \* Of course, it is beyond the realm of probability that the legislature ever intended to confer upon a coroner the right to perform an autopsy in any case that, in his judgment, he might deem proper, for this would empower him to enter the homes of our citizens indiscriminately and over their protests remove corpses under any circumstances, regardless of the cause of death, provided that the coroner thought an autopsy, in a particular case, would further the advance of science or some purpose believed desirable by him. The legislature had no intention to confer any such authority upon the coroner.\* \* \*"

In State v. Stringer, 211 S.W.2d 925 (1948) our Supreme Court held there is no statutory duty on any person to inform the coroner of the presence of a dead body under Section 58.260, supra.

After this decision was rendered the legislature enacted Section 58.451, RSMo 1959, which provides in part that it is the duty of any person who has reasonable grounds to believe that the person died by criminal violence or following abortion in the City of St. Louis or in any county of the first class to notify the coroner and upon receipt of such notification the coroner shall take charge of the said body.

Under Section 58.260, RSMo 1959, when the coroner is notified of the presence of a dead body believed to have come to his death as a result of violence or casualty, it is a discretionary matter with the coroner to decide after his investigation whether an inquest should be held. Boisliniere v. The Board of County Commissioners, 32 Mo. 375. After the coroner has been notified of the presence of a dead body which supposedly came to his death by casualty or violence, his duties as a coroner

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arises. It is not his duty, and he has no authority until he has information of the presence of a dead body in his county that is supposed to have come to his death by violence or casualty. Since there is no legal duty upon any person to inform the coroner of the presence of such a body and no express authority given the coroner by statute (except in St. Louis City and first class counties), it is our opinion that he has no authority to require any person to notify him of the presence of a dead body, and likewise he has no authority to demand that an undertaker or funeral director not embalm or otherwise mutilate a dead body until he has been notified and taken charge of the body.

Certainly when the coroner is notified of the presence of a dead body that is supposed to have come to his death by casualty or violence the coroner has authority to take charge of said body and prevent any mutilation of any kind until he, in his discretion, decides whether an inquest should be held.

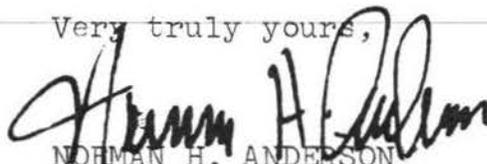
It is our opinion that a coroner in any county other than the City of St. Louis and counties of the first class has no authority to order or request an undertaker or funeral director not to disturb a dead body until the coroner has been notified of the presence of such body. Certainly the undertakers and funeral directors are not required to obey any order made by the coroner which he does not have authority to make. Although this is true, in the interest of justice it is desirable for funeral home directors to cooperate with coroners and report suspicious deaths to coroners before embalming or otherwise mutilating the dead body in order that the coroner may assure jurisdiction.

#### CONCLUSION

It is the opinion of this department that the coroner of McDonald County does not have authority to issue blanket orders or instructions to a funeral home or undertaker to not embalm or otherwise mutilate a body (even though death may be the result of casualty or violence).

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Moody Mansur.

Very truly yours,



NORMAN H. ANDERSON  
Attorney General

Enclosures (opinions): Issued to Waggoner, 12/15/48  
Issued to Rice, 10/10/50