

Opinion No. 38**County Coroner — County Coroners,
Powers of Death Certificates —
Photography**

HELD: 1. A county coroner must investigate all deaths there, in the exercise of his discretion, he finds reasonable grounds to suspect such death was occasioned by killing, suicide, or by the act of another, by criminal means; such facts as length of time between injury and death, lack of medical services at time of death, etc., are merely facts to be considered by the coroner in his investigation, they do not affect his right or duty to make such investigation.

2. Section 69-513, R.C.M., 1947, places a duty upon local registrars to advise the coroner of all deaths caused by other than natural causes.

3. County coroners must investigate all questionable deaths, and he can sign death certificates therefore, despite the fact that the body had been embalmed prior to the time he was notified of such death.

4. County coroners may use photography as a reasonable investigative tool in performing, "inquir(ies) into the cause of . . . death," as required by Section 94-201-1, R.C.M., 1947.

October 11, 1955

Dr. Emmet J. Paulsen
County Coroner
Silver Bow County
Butte, Montana
Dear Dr. Paulsen:

You have submitted for my opinion several instances where information concerning deaths in Silver Bow County has come to your attention. In each case you conclude the factual description with the question:

"Should the Coroner be called in this case?"

Section 94-201-1, R.C.M., 1947, provides that:

"Coroner To Summon Jury To Inquiry Into Cause of Death. When a coroner is informed that a person has been killed, or has committed suicide, or has died under such circumstances as to afford a reasonable ground to suspect that his death has been occasioned by the act of another by criminal means, he must go to the place where the body is, cause it to be exhumed if it has been interred, and summon not more than nine persons, qualified by law to serve as jurors, to appear before him, forthwith, at the place where the body of the deceased is, to inquire into the cause of the death."

Neither the authority nor the responsibility for the county coroner to "inquire into cause of death" where a person's death was caused by killing suicide, "or under such circumstances as to afford a reasonable ground to suspect that (the) death has been occasioned by the act of another by criminal means", is limited by the manner in which the information concerning death is received by the coroner. When he receives information that such a death has occurred, under the plain wording of Section 94-201-1, supra, "he

must go to the place where the body is . . . to inquire into the cause of the death."

Section 69-513, R.C.M., 1947, imposes a duty upon a person in charge of an interment to file with the local registrar of the district a certificate of death or stillbirth within three days after the occurrence. The section further provides that:

". . . 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."

Although local registrars have a duty created by statute to inform the coroner of any death caused by other than natural means, the coroners responsibility and discretionary powers to investigate questionable deaths obviously is not limited to such notification by the broad terms of Section 94-201-1, supra.

The office of coroner is of ancient origin and under the common law was second in importance only to that of sheriff. The office by common law gave the coroner not only the power but the responsibility of investigating all questionable deaths, regardless of how they came to his attention. See, 18 C.J.S. P. 288, 13 Am. Jur. p. 106. Section 94-201-1, supra, vests the coroners of Montana with the same general authority where there are circumstances indicating the deceased was killed, committed suicide, or where they have " . . . reasonable grounds to suspect that his death has been occasioned by the act of another by criminal means, . . .". The only limitation upon this exercise of discretionary power by a coroner is "reasonableness".

It is therefore my opinion that a county coroner, under the provisions of Section 94-201-1, R.C.M., 1947, must investigate all deaths occasioned by killing, by suicide, or where in the exercise of his discretion, he finds reasonable grounds to suspect such death was caused by criminal means; such facts as length of time between injury and death, lack of medical services at time of death, etc., are merely facts

to be considered by the coroner in his investigation; they do not affect his right to make such investigation.

It is further my opinion that local registrars have a duty under Section 69-513, R.C.M., 1947, to advise the coroner of all deaths caused by other than natural causes.

Secondly, you have asked if a coroner can sign a death certificate where the death is not brought to his attention until after the body has been embalmed.

The jurisdiction of a county coroner to investigate questionable deaths under Section 94-201-1, supra, clearly states that he can require that the body be exhumed. Section 69-512, R.C.M., 1947, requires that a death certificate be obtained in every instance where death occurs. The following Section 69-513, supra, provides that the coroner may execute death certificates certifying, "... the cause of death according to his best knowledge and belief." From a review of these sections it is readily apparent that a coroner is not limited in jurisdiction because a body has been embalmed. The right of coroners to sign death certificates in certain cases was decided in the affirmative in a previous official opinion of this office issued in 1921. See 9, Reports and Official Opinions of the Attorney General, 296.

It is therefore my opinion that a county coroner must investigate all questionable deaths and he can sign death certificates therefor, despite the fact that the body had been embalmed prior to the time he was notified of such death.

Finally, you ask if a coroner has the right to go to the scene where an accident causing death occurred, to take pictures at the scene of such accident.

Section 94-201-1, supra, states in part that, "When a coroner is informed that a person has been killed, or has committed suicide, . . . (or died under questionable circumstances) he must go to the place where the body is . . . to inquire into the cause of death." Obviously, such an inquiry is primarily investigative in nature. Taking pictures is a uni-

versally accepted technique and an invaluable and indispensable tool necessary for preservation of evidence.

The coroner cannot be restricted in the reasonable exercise of his judgment to investigate the cause of death. Thus, he may go anywhere pertinent to the investigation of a death including the scene of the cause of death and use photography or any other reasonable investigative tool.

It is therefore my opinion that a coroner can use photography as a reasonable investigative tool in performing "... inquir(ies) the cause of . . . death.", as required by Section 94-201-1, R.C.M., 1947.

Very truly yours,
ARNOLD H. OLSEN,
Attorney General