



**WILLIAM J. SCOTT
ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD**

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FILE NO. S-276

**CORONERS:
Duty to perform autopsy**

**Honorable Robert A. Downs
State's Attorney
Fulton County
Lewistown, Illinois 61542**

Dear Sir:

I have your recent letter wherein you advise me that a child, residing in your county, died in the home of its parents and "no medical reason could be given by the physician for the cause of death." You go on to relate that the "Coroner of our County desired to perform an autopsy, which permission was refused by the family and no autopsy was performed by our Coroner for the reason that he feared the consequences of possible liability." In this factual context you pose the question:

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"When the family of a deceased individual objects to the performance of an autopsy, may the coroner of a county insist upon the performance of an autopsy without liability, even though there is no clear evidence that foul play was a contributing factor to the death?"

Illinois Revised Statutes, chapter 31, § 10,

provides in pertinent part:

"Every coroner, whenever, as soon as he knows or is informed that the dead body of any person is found, or lying within his county, whose death is suspected of being:

* * * * *

- (c) A death where the circumstances are suspicious, obscure or mysterious or where, in the written opinion of the attending physician, the cause of death is not determined;

* * * * *

shall go to the place where the dead body is, and take charge of the same and shall make a preliminary investigation into the circumstances of the death. * * * "

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Chapter 31 § 10.2 provides further:

"Where a death has occurred and the circumstances concerning the death are suspicious, obscure, mysterious, and in the opinion of the examining physician and the coroner the cause of death cannot be established definitely except by autopsy, it is declared that the public interest requires that an autopsy be performed, and it shall be the duty and responsibility of the coroner to cause an autopsy to be performed."

Certainly, the statute does not require "clear evidence that foul play was a contributing factor to the death" before a coroner may order an autopsy. And objection by the family of the deceased cannot prevent an autopsy where the conditions set out in the statute for performance of an autopsy do exist. Indeed the language of the statute is mandatory. If the examining physician and the coroner agree that the cause of an obscure or mysterious death cannot be determined without an autopsy, the coroner must cause an autopsy to be performed, notwithstanding the objections of the decedent's family.

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That the coroner, like any public official, is not subject to civil liability when he performs an act which his oath of office and Illinois law requires is a proposition so well settled that citation of authority is unnecessary.

Very truly yours,

A T T O R N E Y G E N E R A L