



STATE OF KANSAS

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June 5, 1985

ATTORNEY GENERAL OPINION NO. 85- 61

Gene M. Olander
District Attorney
Third Judicial District
Suite 212, Courthouse
Topeka, Kansas 66603

Re: Counties and County Officers -- District Coroner --
Possession of Property

Synopsis: Under K.S.A. 19-1029 a district coroner may take possession of any property important to the determination of the cause of death in any case in which the law requires the coroner to be notified of the death. This statutory language is sufficiently broad to include records maintained by an ambulance service if such records are important to determining the cause of death. Cited herein: K.S.A. 19-1029; 19-1030; 19-1031; 19-1032.

* * *

Dear Mr. Olander:

As District Attorney for the Third Judicial District you have requested an opinion regarding K.S.A. 19-1029 and the powers of a district coroner. The statute in question provides:

"The district coroner, or his deputy, shall take possession of and retain as long as necessary, any property important in determining the cause of death in any case in

which this act required that the coroner be notified, but only such property. When such property is no longer necessary for his investigation, the property shall be put into the possession of the law enforcement authorities having responsibility for the case." (Emphasis added.)

Your inquiry concerning this statute arises from an investigation being conducted by the district coroner in the third judicial district. During the course of the investigation (of deaths occurring after an automobile accident) the coroner sought to obtain records from the Medivac Ambulance Service in order to assist in determination of cause and time of death. You ask whether the records of the Medivac Ambulance Service constitute "property" which the coroner may possess for investigative purposes under the terms of K.S.A. 19-1029.

You indicate that in this circumstance the coroner has few other alternatives for securing this information. A coroner's inquest, as defined by K.S.A. 19-1030, is not appropriate in this circumstance because there is no evidence that the deaths in question were caused by unlawful means. Similarly, an inquisition by your office is inappropriate because you have no information that a crime has been committed.

K.S.A. 19-1031 requires that:

"When any person shall die, or human body be found dead in any county of the state, and the death is suspected to have been as a result of violence, caused by unlawful means or by suicide, or by casualty, or suddenly when the decedent was in apparent health, or when decedent was not regularly attended by a licensed physician, or in any suspicious or unusual manner, or when the determination of the cause of a death is held to be in the public interest, the coroner or deputy coroner of the county in which such death occurs or dead body is found, shall be notified by the physician in attendance, by any law enforcement officer, by the undertaker, by any person who is or may in the future be required to notify the coroner, or by any other person." (Emphasis added.)

Upon receiving such notice the coroner is required to take charge of the body, "make inquiries regarding the cause of death, and reduce the findings to a report in writing." K.S.A. 19-1032. The coroner's report regarding the cause of death is filed with the clerk of the district court in the county where the death occurred. Thus, it is clear that the primary responsibility of a district coroner or deputy district coroner is to determine the cause of death of a person who dies from other than natural causes. State v. Gordon, 219 Kan. 643, Syl. ¶6 (1976).

In order to facilitate the execution of these responsibilities, the legislature enacted K.S.A. 19-1029, which permits the coroner to take possession of and retain "any property" important to the determination of the cause of death in any case in which the law requires the coroner to be notified. Pursuant to K.S.A. 19-1031, in cases where a death is suspected to have been caused by "casualty", it is necessary to notify the coroner. It is our opinion that under the circumstances you describe, records of the ambulance service which pertain to the accident victims are within the scope of "any property" as used in K.S.A. 19-1029. The statute does not qualify the coroner's access to particular types of property other than to require that the property be important to a determination of cause of death. Under such circumstances, we must be guided by the fundamental rule of statutory construction that the purpose and intent of the legislature must govern when that intent can be ascertained from the statute. Szoboszlay v. Glessner, 233 Kan. 475, 478 (1983). In addition, we note that in construing a statute, words in common use are to be given their natural and ordinary meaning in the context of the statutory purpose. Jackson v. City of Kansas City, 235 Kan. 278, 319 (1984).

Application of these rules to K.S.A. 19-1029 can lead to no other conclusion than that a coroner may take possession of any property important in determining a cause of death in a case where such a determination is required. We are not aware of any statutory obstacles to this conclusion and can perceive no reason for disregarding the manifest legislative intent evident in the language of K.S.A. 19-1029. We note again the language of the statute which limits the coroner's access to that property which is important to determining cause of death and "only such property."

We conclude, therefore, that under the terms of K.S.A. 19-1029, a district coroner may take possession of any property important to the determination of the cause of death in any case in which the law requires that the coroner be notified of the death. This

statutory language is sufficiently broad to include records maintained by an ambulance service if such records are important to determining the cause of death.

Very truly yours,


ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS


Mary F. Carson
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RTS:JSS:MFC:crw