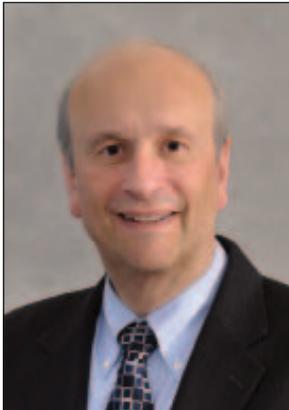


A Lawyer's Primer On The Postmortem Examination



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Samuel D. Hodge, Jr. and Nicole Marie Saitta

"That made me think I could contribute more to society by looking at people on the autopsy table and feeding back the findings so that lots of people could benefit, rather than just treating patients one at a time." – Dr. Michael Baden

WHAT DO MICHAEL JACKSON, Whitney Houston, Trayvon Martin, Dale Earnheart, and Junior Seau have in common? They all underwent postmortem examinations to ascertain the exact causes of their deaths. It seems that the news is filled with stories of people undergoing autopsies, the final medical audit, in order to establish why they died and whether foul play played a part in that process. In fact, no medical procedure is more commonly involved in litigation than the autopsy. Cyril H. Wecht, *Utilizing the Pathologist to Prove Injury*, 2 Ann. 2000 ATLA CLE 2915 (2000). These postmortem examinations, however, are not confined to criminal investigations. In fact, there are two types of autopsies: a clinical autopsy and a forensic autopsy, and both aim to ascertain the cause and manner of death, to characterize the extent of any disease that may have been present, or to learn whether a particular medical treatment has been effective. See Richard Prayson, *Autopsy: Learning from the Dead*, Cleveland Clinic Press, 2007. The primary cause of death is the disease or injury that started the events that led to the person's demise; the im-

mediate cause of death is the disease or injury that was a consequence of the primary cause of death; and the intermediate cause of death is the sequence of events leading from the primary to the immediate cause of death. *Id.* at 7. Melissa Conrad Stöpler, Autopsy (Post-Mortem Examination, Obduction), MedicineNet.com, <http://www.medicinenet.com/autopsy/article.htm> (Last visited June 2012).

PURPOSE OF AN AUTOPSY • Families are frequently overcome with emotion, anger, and bereavement upon the passing of a loved one. An autopsy is a logical way to help them understand what happened from a medical point of view. It also has the added advantage of increasing the medical knowledge about a particular disease or illness, thus benefiting the next of kin and society as a whole. *Autopsy – Aiding the Living by Understanding Death*, College of American Pathologists, http://www.ucdmc.ucdavis.edu/pathology/services/clinical/anatomic_pathology/autopsy/Autopsy_pamplet_CAP.pdf (Last visited 2001). The procedure can also identify inheritable issues and assist family members through the early diagnosis and treatment of a medical problem. *Id.* Nevertheless, a doctor may not examine or remove body parts without consent from the next of kin. *Kelly v. Brigham & Women’s Hosp.*, 745 N.E.2d 969 (Mass. App. Ct., 2001). That permission, however, may not always be given because a number of people view autopsies with distaste or object because of religious reasons. *Id.* Even medical examiners (“MEs”) are limited in their ability to perform postmortem examinations and may only act when clothed with the necessary statutory authority. *Kellogg v. Office of the Chief Medical Examiner of the City of New York*, 735 N.Y.S. 2d 350 (N.Y. Sup. Ct. 2001). This article will attempt to demystify the kinds of autopsies and will provide an overview of how the procedure is performed.

Types Of Autopsies

A forensic autopsy is considered a classic function of the police power of the state and is usually performed as part of a criminal investigation. *See Waeschle v. Dragovic*, 576 F.3d 539 (6th Cir. 2009), *cert. denied*, 103 S.Ct. 2063 (2010); *Kellogg v. Office of the Chief Medical Examiner of the City of New York*, *supra*. While forensic autopsies are commonly associated with violent deaths, most cases involve sudden but natural deaths. Richard Prayson, *Autopsy: Learning from the Dead*, *supra*, at 78.

This type of postmortem examination consists of a series of tests and procedures conducted on the corpse to ascertain the presence of trauma and/or to classify any disease process that may have produced or contributed to the death. The examination is conducted by a forensic pathologist who has specialized training in the ability to recognize displays of injury, assemble evidence and examine the circumstances surrounding the death. *Forensic Autopsy*, Office of Chief Medical Examiners, Maryland Department of Health and Mental Hygiene, <http://dhmh.maryland.gov/ocme/SitePages/Fo-rensic-Autopsy.aspx> (Last visited May 8, 2012).

A death certificate must be filled out by a physician before the deceased can be taken to a funeral home. When the person dies from natural causes and has a family physician, the health care professional can finalize the death certificate. However, if the individual was not under the care of a doctor or the death seems to be unusual, the result of an injury or suspicious, the medical examiner must be alerted to start an investigation and to make sure the death certificate is completed. *Id.* In this regard, a forensic autopsy is used to classify the manner of death as one of the following: natural, accidental, homicide, suicide or undetermined. Robert Valdes, *How Autopsies Work*, How Stuff Works, <http://science.hoststuffworks.com/autopsy.htm>. This type of autopsy is also used to ascertain the time of the person’s demise. *Id.* To be more specific, the National

Association of Medical Examiners requires a forensic pathologist to investigate all:

- Deaths due to violence;
- Known or suspected non-natural deaths;
- Unexpected or unexplained deaths when in apparent good health;
- Unexpected or unexplained deaths of infants and children;
- Deaths occurring under unusual or suspicious circumstances;
- Deaths of persons in custody;
- Deaths known or suspected to be caused by diseases constituting a threat to public health;
- Deaths of persons not under the care of a physician.

Gary Peterson and Steven Clark, *Forensic Autopsy Performance Standards*, National Association of Medical Examiners, http://thename.org/index.php?option=com_docman&task=cat_view&Itemid=26&gid=45&orderby=dmdatepublished (updated 2012).

On the other hand, a clinical autopsy is the most accurate and detailed way, following a person's demise, in which a doctor has to examine the validity of the clinical diagnosis on which care was delivered. L.P. Dehner, *The Medical Autopsy: Past, Present, and Dubious Future*, 107 *Modern Med.* 94 (Mar-Apr. 2010). Clinical or pathological autopsies are generally done to ascertain a particular disease or for research purposes. They also shed light onto the pathological processes that led to the death of the person. *Post-Mortem Examination or Autopsy*, <http://www.medindia.net/patients/patientinfo/autopsy-types.htm> (Last visited June 2012). Those selected for this type of autopsy include:

- Those whose causes of deaths are unknown or unanticipated;
- Those whose deaths have significant questions concerning effectiveness of therapy/extent of disease;
- Individuals whose deaths cause the family to express concerns or require reassurances;
- People whose deaths have a genetic component which was suspected but not confirmed prior to death;
- Cases in which deaths have occurred during diagnostic/therapeutic procedures; and
- Situations in which sudden, unexpected or unexplained deaths occur in the hospital that appears to be natural and not subject to a forensic medical jurisdiction.

Autopsy — Indications for Autopsy, Department of Pathology and Laboratory Medicine, U.C. Davis Health System, http://www.ucdmc.ucdavis.edu/pathology/services/clinical/anatomic_pathology/autopsy/indications.html (Last visited on May 7, 2012).

The benefits of clinical autopsies are well known. Not only do they help establish the cause and manner of death, but they also provide for clarification, confirmation, and correction of ante-mortem diagnoses and identify new and reemerging diseases. Thus, they are an important instrument in protecting the public health and improving the accuracy of vital statistics. Elizabeth C Burton, *Autopsy Rate and Physician Attitudes Toward Autopsy*, *Medscape*, <http://emedicine.medscape.com/article/1705948-overview#aw2aab6b4> (Last visited on Mar. 21, 2012).

THE AUTOPSY PROCEDURE • The public's perception of an autopsy is that it is shrouded in mystery, and the pathologist rarely talks about the procedure. After all, it is only performed on the dead, seldom witnessed by the family and it may take weeks to obtain the results. Nevertheless, this postmortem

examination has been utilized for years, and there is a logical approach to how the procedure is done.

Historically, autopsies became an accepted practice in the 18th century, and this exploration of the human body grew out of the need for dissection in the study of anatomy. See Melissa Stöppler, *Autopsy (Post Mortem Examination, Obduction)* MedicineNet.com, supra; see also, Richard Prayson, *Autopsy: Learning from the Dead*, supra at 31. Despite varying methods by which an autopsy can be performed, the fundamental task — close examination of the exterior body and internal organs — remains the same. *Id.* at 39.

The first step is for the decedent's body to be transported in a body bag or wrapped in an evidence sheet to the appropriate facility. Regulations issued by state health agencies and local rules concerning the transportation of bodies vary, so the medical examiner must be familiar with these governmental mandates. Jurgen Ludwig, *Current Methods of Autopsy Practice*, 304 (Saunders 1972). If the post-mortem examination is not done immediately, the body will be refrigerated until the start of the procedure. Robert Valdes, *How Autopsies Work*, supra. As for the autopsy process itself, it usually starts when the body arrives at the medical facility with the deceased's medical records and proper identification. *Id.* If the case is not authorized by statute, a valid and completed consent form is needed. The decedent's personal physician or caregiver may also be contacted to obtain the necessary medical records if they have not accompanied the body from a hospital or other medical facility, and these records are used to help frame the examination. Richard Prayson, *Autopsy: Learning from the Dead*, supra at 43. The physician who conducts the autopsy is known as the "prosector," and this doctor is assisted by a "diener" (morgue assistant). *Autopsy Procedure*, Forensic Science http://www.mitcpileggi.net/Deep_Background/resources/forensics/autopsy.htm (Last visited June 2012).

Before any invasive cuts are made, the body is examined externally and a check of the "toe-tag" is made to insure that the correct individual is being examined. *Id.* Next, a review of the known circumstances of death and an external examination, including measurement of body length and weight, position of the clothing, and trace evidence on the clothing, is completed. Garry Peterson and Steven Clark, *Forensic Autopsy Performance Standards*, The National Association of Medical Examiners, supra. Known circumstances, such as positioning of the decedent when found and the location and temperature of the body, are recorded. The body is usually photographed, and x-rays may be performed. *Id.* Samples of hair and nails may be taken, particularly if an unnatural death is suspected, and all orifices are inspected upon removal of the clothing. Richard Prayson, *Autopsy: Learning from the Dead*, supra at 46.

Next, the examiner assesses the apparent age of the decedent, the sex, racial characteristics, hair, eyes, body habitus (physique), scars, tattoos, and other surface findings, including obvious injuries, such as a stab or gunshot wound. Garry Peterson and Steven Clark, *Forensic Autopsy Performance Standards*, The National Association of Medical Examiners, supra. Skin discolorations and deformities are two findings that might prove useful in determining the cause of death, thus these abnormalities are noted as well. Philipp Rezek and Max Millard, *Autopsy Pathology: A Guide for Pathologists and Clinicians*, (Thomas 1963).

Postmortem changes, including decomposition, livor mortis and rigor mortis, are described. Livor mortis is a deep purple or red discoloration that appears on the dependent portions of the body after death. This change in color is caused by the settling of blood under the force of gravity. S. Erin Presnell and Stephen J. Cina, *Postmortem Changes*, Medscape, <http://emedicine.medscape.com/article/1680032-overview> (Last updated July 14, 2011). Livor mortis will usually appear within one

or two hours following death and is visible to the side on which the body is lying. *Helton v. Singletary*, 85 F. Supp.2d 1323 (S.D. Fla., 1999). On the other hand, rigor mortis is the postmortem stiffening of the body's muscles. S. Erin Presnell and Stephen J. Cina, *Postmortem Changes*, Medscape, supra. This process generally occurs six to eight hours after a person's demise. *Commw. v. Woong Knee New*, 47 A.2d 450 (Pa., 1946). The onset of rigor mortis is affected by many conditions, including weather, but the degree of stiffness is not particularly helpful in ascertaining the time of death. *Hocker v. O'Klock*, 158 N.E.2d 7 (Ill., 1959).

The exact procedure for conducting the autopsy may vary depending upon the extent and purpose of the examination. In the absence of restrictions from the next of kin concerning the extent of the procedure or atypical cases that would involve a more in-depth examination, most standard autopsies consist of an examination of the chest, abdominal cavity, and brain. Benjamin Wedro, *Autopsy*, eMedicine Health, http://www.emedicinehealth.com/autopsy/article_em.htm (Last visited June 2012).

Before starting the internal inspection, a wooden block is placed under the corpse's back, which causes the chest to be thrust forward and the arms and neck to flail back thereby allowing the thoracic area to be more easily opened. S. Erin Presnell and Stephen J. Cina, *Postmortem Changes*, Medscape, supra. This portion of the body is then separated by making a deep U- or Y-shaped incision that extends from the shoulders to mid-chest and down to the pubic region. Ed Friedlander, *Autopsy*, <http://www.pathguy.com/autopsy.htm> (Last modified Mar. 2, 2012). When making the incision, the examiner considers esthetic requirements for the person's funeral (i.e. particular care will be given to individuals who will be viewed in a coffin) and modifications are made accordingly. For example, the incision for females is made either just above or below the breasts. Philipp Rezek and Max Millard, supra, p.

163. It should be noted that the procedure itself does not interfere with an open viewing since none of the incisions are visible after the body is prepared for burial. Melissa Conrad Stöppler, *Autopsy (Post Mortem Examination, Obduction)*, MedicineNet.com, supra. The incision avoids the belly button and only cuts through the muscle and fat, avoiding bone or cartilage. Richard Prayson, *Autopsy: Learning from the Dead*, supra at 47. Before the organs are removed, the pathologist examines the internal abdominal cavity and notes the relative positioning of organs, evidence of fluid or blood collection, and the presence of any rib fractures. *Id.* at 48. If a urine sample is needed, a needle is inserted into the bladder before this structure is removed. *Id.* at 48. The organs of the abdomen, including the liver, pancreas, large and small intestine, and spleen, are then examined, removed and weighed while tissue samples are taken. *Id.* at 49. Next, rib cutters remove the chest plate to allow for inspection of the thoracic cavity. With the sternum removed, the examiner is able to note the position and condition of the heart and lungs before their removal. *Id.* at 49.

Autopsy techniques differ little in their end results when properly executed, but organs are removed by one of two techniques: the Virchow method, which removes and dissects each organ individually; or the von Zenker method, which removes an entire organ block before dissecting specific body parts. Richard Prayson, *Autopsy: Learning from the Dead*, supra at 50-51. No matter which technique is utilized, however, organs are carefully sliced so that the pathologist can identify gross abnormalities, diseases, and other irregular findings. The contents of hollow organs, such as the stomach and intestines, are also examined and may be sent to a lab for further analysis. Samples of organ tissue may be taken so that slides can be viewed for microscopic changes. *Id.* at 52.

Once the thoracic organs are removed and viewed, the focus of the medical examiner switches to the head and neck regions. Inspection of the

brain requires an incision in the back of the head from one ear to the other so that the scalp may be retracted forward to reveal the skull. A vibrating saw is then utilized to cut through the bone, and the brain is lifted out for examination and measurement. Lawrence Frisch, *Autopsy*, Health Information, Aurora Health Care, <http://www.aurora-healthcare.org/yourhealth/healthgate/getcontent.asp?URLhealthgate=%2214771.html%22> (Last reviewed Dec. 2010). The spinal cord is removed using either an anterior or posterior approach, and an examination of the muscles, soft tissues, airways and vascular structures of the anterior neck is also done. The upper airway, pharynx and esophagus are removed for examination, and in cases of occult neck injury, the posterior neck will be dissected. Garry Peterson and Steven Clark, *Forensic Autopsy Performance Standards*, The National Association of Medical Examiners, *supra*.

Throughout this postmortem examination, the physician will search for evidence of trauma or other signs to indicate the cause of death. Tissue samples as well as bodily fluids, such as bile from the gall bladder, vitreous humor from the eye, and blood samples, will be taken and analyzed. Kathleen Romito and Corinne Fliener, *Autopsy – How It IS Done*, Health.com, http://www.health.com/health/library/topic/0,,hw2451_hw2465,00.html (Last updated May 12, 2011). Bone marrow, both red and yellow, may also be sampled from the ribs or pelvis. Richard Prayson, *Autopsy: Learning from the Dead*, *supra* at 56. It is not uncommon for pictures of the findings to be taken for future reference. This type of documentation is done in many postmortem examinations, especially forensic autopsies for which the evidence may be important in a subsequent criminal prosecution. Teaching hospitals take pictures of organs or tissues for research or instructional purposes. Organs and tissues may be preserved in formalin for additional testing and study, sampling for microscopy, use at medical conferences, or storage for

medical student training, depending on the specific circumstances and family consent. Melissa Conrad Stöppler, *Autopsy (Post Mortem Examination, Obduction)*, MedicineNet.com, *supra*.

Upon completion of the autopsy, the organs are loosely placed back into the body, returned to the body in a plastic bag, or incinerated, and all incisions are sewn closed. Robert Valdes, *How Autopsies Work*, How Stuff Works, *supra*. A written report, including the objective forensic autopsy findings and the interpretations of the examiner, including cause and manner of death, is prepared. Garry Peterson and Steven Clark, *Forensic Autopsy Performance Standards*, The National Association of Medical Examiners, *supra*.

ESTABLISHING THE TIME OF DEATH • Ascertaining the moment of death can be crucial to a criminal investigation, especially when forensic investigators are trying to exculpate or charge a suspect. The postmortem interval (“PMI”) is the phrase utilized for that time period from the moment the person died until the corpse is discovered. *Time of Death*, World of Forensic Science, eNotes, <http://www.enotes.com/forensic-science/time-death> (2006). However, the time of death and PMI cannot be determined with exactness and are merely given as estimates and ranges. Calculating the time of death is based upon such factors as the proof found at the crime scene, environmental evidence where the body was found, and physical evidence present on or in the corpse. *Id.*

When a person dies, the body starts to decompose, and this process continues until it becomes a skeleton. The rate of decomposition, however, varies a great deal. For instance, climate, geography, and season play a role in the process. *Body Farm*, World of Forensic Science, eNotes, <http://www.enotes.com/body-farm-65299-reference/body-farm> (2006). In fact, “[t]he knowledge of the internal sequential changes a dead body undergoes in relation to the variations on the rate of their oc-

currence due to ambient temperature, humidity, and the presence of insects or other predators are all considered when estimating the time of death.” *Time of Death*, World of Forensic Science, eNotes, supra.

The traditional method of establishing the time of death is the rate method, and common factors utilized include the rate of cooling of the body (algor mortis), the initiation and duration of rigor mortis and livor mortis, determination of potassium concentration in the vitreous humor of the eyes, and forensic entomology. *Id.* These postmortem changes progress on a relatively set schedule; however, many factors may affect the processes, and the time frame for the development of these changes is based on studies under very controlled conditions, including an ambient temperature of 75 degrees Fahrenheit. S. Erin Presnell and Stephen J. Cina, *Postmortem Changes*, Medscape, supra. Unfortunately, the longer the PMI, the less accurate the estimated time of death becomes. *Id.*

The temperature of the body changes following death, with the decedent’s temperature usually cooling to the ambient or surrounding environment. *People v. Hendrix*, (Cal. Ct. App. Dec. 27, 2007). This temperature can be taken rectally at the scene or in the liver or brain at the time of autopsy. Several formulas are applied to estimate the rate of cooling after death; however, as a general rule, the body loses an average 1.5 to two degrees Fahrenheit per hour for the first 12 hours after the person’s demise. Many factors affect this rate including ambient temperature, clothing, body habitus, and body temperature before death. S. Erin Presnell and Stephen J. Cina, *Postmortem Changes*, Medscape, supra.

The vitreous humor potassium test is a forensic technique which correlates the amount of time elapsed after death with the level of potassium concentration found in the vitreous humor of the eye. *Dreher v. Attorney General of New Jersey*, 273 Fed. Appx. 127 (3d Cir. Apr. 14, 2008), cert. denied, 555 U.S. 950 (2008). Potassium steadily increases in the vitreous

humor after death; however, existing formulas to calculate the rate are restricted by confidence limits of almost 24 hours and are all best used in the first 100 hours after a person dies. Many factors affect the potassium levels, including any condition that promotes accelerated decomposition (e.g. high ambient temperature). Additionally, vitreous humor is not usually retrievable after approximately four days in temperate conditions. S. Erin Presnell and Stephen J. Cina, *Postmortem Changes*, Medscape, supra.

Forensic entomology examines those insects in, on or surrounding a body, as well as their eggs and larvae, to estimate the postmortem interval. *Time of Death*, World of Forensic Science, eNotes, supra. There are two main methods used to estimate the approximate time of death based on insect infestation. One technique examines what types of insects are found on and in a decomposing body, and the second method looks at the life stages and cycles of specific insects to determine how long a person has been deceased. Which process is employed is largely dependent upon the amount of time the individual has been dead. *Forensic Entomology — Can Bugs Help Determine Time of Death?*, Crime Blog, <http://www.crimemuseum.org/blog/forensic-entomology-can-bugs-determine-time-of-death> (Posted June 12, 2009). If a person has died less than one month earlier, the life cycle of insects is examined, but if the decedent is thought to have died between one month to a year earlier, the entomologist will examine the succession of different insects found. *Id.*

CONSENT AND STATUTORY AUTHORITY FOR AN AUTOPSY

Autopsies require the consent of the next of kin in the absence of a suspicious death invoking the jurisdiction of a governmental unit. Harold Sanchez, *Autopsy Request Process*, Medscape, <http://emedicine.medscape.com/article/1730552-overview> (Last visited Apr. 8, 2010). In fact, a number of states have laws that impose an affirmative duty on a hospital and its physicians to seek permission

before performing an autopsy, and some even make it a crime to perform an unauthorized postmortem examination without appropriate permission. *Juseinoski v. New York Hospital Med. Center of Queens*, 2004 WL 1191009 (N.Y. Sup. Ct. May 13, 2004), *rev'd*, 795 N.Y.S.2d 753 (N.Y. App. Div. 2005). For instance, New York Public Health Law section 4214 (1) provides:

“[t]he director or person having lawful control and management of any hospital in which a patient has died may order the performance of an autopsy upon the body of such deceased person, after first giving notice of the death to the next of kin of such person, unless the body is claimed or objection is made to such autopsy by the next of kin within forty-eight hours after death, or within twenty-four hours after such notice of death. In no case shall an autopsy or dissection be performed upon any body within forty-eight hours after death, unless a written consent or directive therefor has been received from the person or persons legally entitled to consent to or to order such autopsy or dissection.”

Ideally, consent should be obtained before an individual's death, but most often the next of kin must grant permission on behalf of the deceased. This consent may cover the removal of specific organs or the retention of these body parts for future research or education. Richard Prayson, *Autopsy: Learning from the Dead*, *supra*, at 88. Some argue that consent for an autopsy implies permission for retention, but the public may not know about this assumption, so informed consent requires the family to be made aware of possible organ retention. *Id.* at 88-89.

Statutes governing the right to perform autopsies and the formalities for the consent are quite different and varied. *Id.* at 90-92. For example, in Arizona, priority is given to whoever assumes custody of the body for burial; South Carolina gives priority to the surviving spouse only if the spouse was

still living with the decedent; and Indiana, Utah, and West Virginia have a minimum age of 16 to consent if the remaining next of kin are minors. *Id.* at 92. Most states, however, have general statutes under public health regulations, criminal procedure codes, or descriptions of county medical examiner or coroner duties that govern when and by whom an autopsy is done.

Medical examiners obtain jurisdiction to perform medical-legal investigations of decedents by statute. Michael Panella, *Death Investigation Liability of Medical Examiners and Coroners: Proposed Recommendations to Mitigate Legal Risks*, 32 J. Legal Med. 449 (Oct.-Dec.2011). These laws help ameliorate conflicts that may occur when a relative objects to a suspicious death autopsy, but the wording of each state statute can be quite general or specific and may lend itself to loose interpretation. *Id.* For instance, the South Carolina Coroner's Act, S.C. Code Ann. §17-5-530 reflects that “a person has a duty to notify the coroner when death occurs by violence” but the exact meaning of “violence” is not defined as it is in Pennsylvania's statute, 16 Pa. Stat. Ann. §1237 (a) (3) (2001). Problems with statutory interpretation have led to litigation as demonstrated in *Kellogg v. Office of Chief Medical Examiner of City of New York*, *supra*. Medical examiners, however, are usually protected from liability under the theory of governmental immunity so long as the public official's actions are discretionary, fall within the scope of the statutory authority, and are done without malice. *Id.* Generally, the medical examiner's rights supersede those of the family if an autopsy is required because of accidental or suspicious circumstances. Michael Scarmon, *Brotherton v. Cleveland: Property Rights in the Human Body — Are the Goods oft Interred with their Bones?*, 37 S.D. L. Rev. 429 (1991/1992).

CONCLUSION • Two types of autopsies — forensic and clinical — are used to obtain information about the manner in which an individual died. The specific procedure utilized can vary, but the ultimate goal of gathering information about the decedent’s death is the same for all postmortem examinations. During an autopsy, a medical examiner will attempt to establish the time of death through various methods, and the extent to which the ME can perform an autopsy and/or retain specific organs is directed by the next of kin’s or individual’s consent as well as statutory authority.

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PRACTICE CHECKLIST

A Lawyer’s Primer On The Postmortem Examination

No medical procedure is more commonly involved in litigation than the autopsy.

- There are two types of autopsies, a clinical autopsy and a forensic autopsy, and both aim to ascertain the cause and manner of death, to characterize the extent of any disease that may have been present, or to learn whether a particular medical treatment has been effective.
- An autopsy can identify inheritable issues and assist family members through the early diagnosis and treatment of a medical problem. Nevertheless, a doctor may not examine or remove body parts without the consent from the next of kin. Even medical examiners (“ME”s) are limited in their ability to perform postmortem examinations and may only act when clothed with the necessary statutory authority
- A forensic autopsy is usually performed as part of a criminal investigation. While they are commonly associated with violent deaths, most cases involve sudden but natural deaths:
 - ___ This type of postmortem examination consists of a series of tests and procedures conducted on the corpse to ascertain the presence of trauma and/or to classify any disease process that may have produced or contributed to the death.
- A clinical autopsy is the most accurate and detailed way, following a person’s demise, which a doctor has to examine the validity of the clinical diagnosis on which care was delivered:
 - ___ Clinical or pathological autopsies are generally done to ascertain a particular disease or for research purposes. They also shed light onto the pathological processes that led to the death of the person.
- Despite varying methods by which an autopsy can be performed, the fundamental task — close examination of the exterior body and internal organs — remains the same:
 - ___ The first step is for the decedent’s body to be transported in a body bag or wrapped in an evidence sheet to the appropriate facility.

___ As for the autopsy process itself, it usually starts when the body arrives at the medical facility with the deceased's medical records and proper identification. If the case is not authorized by statute, a valid and completed consent form is needed.

___ The exact procedure for conducting the autopsy may vary depending upon the extent and purpose of the examination. Most standard autopsies consist of an examination of the chest, abdominal cavity, and brain.

___ Upon completion of the autopsy, the organs are loosely placed back into the body, returned to the body in a plastic bag or incinerated, and all incisions are sewn closed.

- Autopsies require the consent of the next of kin in the absence of a suspicious death invoking the jurisdiction of a governmental unit.
- Statutes governing the right to perform autopsies and the formalities for the consent are quite different and varied. Most states, however, have general statutes under public health regulations, criminal procedure codes, or descriptions of county medical examiner or coroner duties that govern when and by whom an autopsy is done.

For a more detailed discussion of the topics in this article, see Hodge and Saitta, *Behind the Closed Doors of the Coroner's Office — The Medical/Legal Secrets Involving an Autopsy*, Temple Journal of Science, Technology and Environmental Law, Temple University School of Law, Fall 2012.