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The State of South Carolina



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January 5, 1994

The Honorable Sue R. Townsend
S.C. Coroner's Association
Training Coordinator
Post Office Box 1469
Aiken, South Carolina 29801

Dear Sue:

In a letter to this Office, you requested clarification of S.C. Code Section 17-7-20 which states in part:

Whenever a body is found dead and an investigation or inquest is deemed advisable the coroner...shall go to the body and examine the witnesses most likely to be able to explain the cause of death, take their testimony in writing and decide for himself whether there ought to be a trial or whether blame probably attaches to any living person for the death....

Pursuant to such provision, the coroner may hold an inquest but, if in the coroner's judgment there is "no apparent or probable blame" against an individual as to the death, no inquest is held.

You questioned the proper interpretation of the quoted provision and particularly asked whether as coroner you could take written statements independent of law enforcement or may you utilize statements obtained by law enforcement such as statements gathered by law enforcement from witnesses to a fatal incident.

In Moses v. Sumter County, 55 S.C. 502, 33 S.E. 581 (1899) the State Supreme Court citing such provision stated that its purpose was to

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...dispense with formal inquests...in all cases in which the coroner after a preliminary investigation by himself without a jury, should decide that no blame probably attaches to anyone for the death. It is made the duty of the coroner in all cases to hold this preliminary investigation and he has no discretion to dispense with it....

55 S.C. at 503-504.

An opinion of this Office dated February 9, 1981 noted that State statutes do not require a coroner to hold an inquest in every situation. An opinion dated July 9, 1973 also concurred that it was within the discretion of a coroner in each case as to whether or not an inquest is held in a particular situation. See also, S.C. Code Section 17-7-100 ("(w)hen the coroner upon the required preliminary examination shall determine that a formal inquest shall be held...").

As to you question regarding whether you should take statements independent of those obtained by law enforcement officers or may you utilize statements these officers have gathered, enclosed are copies of prior opinions of this Office dated October 7, 1976 and April 26, 1984, which discuss the responsibilities of a coroner and law enforcement officers in an investigation. In particular, the opinion states that coroners and law enforcement officers

...have full authority to investigate, but not to the exclusion of the other. Neither does either have authority to direct the other as to methods of investigation. Obviously, the ideal situation would be for there to be complete cooperation between the coroner and the police, and between police of different jurisdictions... I can only say that a coroner has the authority to gather evidence at the scene of a crime and preserve it for presentation at an inquest or trial. This does not mean, however, that he may withhold it from investigating police officers who have need of it for examination or testing relating to solution of the crime....

I am unaware of any changes in the law since these opinions were written which would speak specifically to your situation. Therefore, I can only reiterate that ideally there should be cooperation between law enforcement and coroners in investigating

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a death. However, clearly, Section 17-7-20 does provide for a coroner to "go to the body and examine the witnesses...(and)... take their testimony in writing...." Therefore, in the absence of cooperation with law enforcement, as coroner, you would be authorized to complete your own investigation separately.

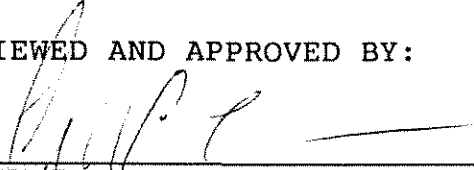
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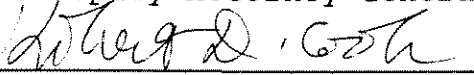
Sincerely,


Charles H. Richardson
Assistant Attorney General

CHR:ypj

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