

1978 S.C. Op. Att. Gen. 189 (S.C.A.G.), 1978 S.C. Op. Att. Gen. No. 78-157, 1978 WL 22625

Office of the Attorney General

State of South Carolina

Opinion No. 78-157

September 13, 1978

***1 SUBJECT: Coroners, Dead Bodies**

(1) A coroner should be notified before a body is removed from the scene where the circumstances of the death appear to be such as would promote an inquiry into the nature and cause of the death.

(2) [Section 17-5-300\(a\) of the 1976 Code](#) of Laws does not apply to those counties not having a county medical examiner.

TO: Roger A Smith
Spartanburg County Coroner

QUESTIONS:

1. Should the coroner be notified before a body is removed from the scene of the death?
2. Does [Section 17-5-300\(a\) of the 1976 Code](#) of Laws apply to coroners in counties where there is no county medical examiner?

STATUTES:

[Sections 17-7-20, 17-7-510, 17-5-300\(a\), 40-19-240 of the 1976 Code](#) of Laws; Section 10.3 of Rule 61-19 of the Rules and Regulations of the South Carolina Department of Health and Environmental Control.

DISCUSSION:

In your first question you asked for an opinion concerning the law pertaining to police officers and highway patrolmen removing bodies from the scene before a coroner arrives. [Section 17-7-20, Code of Laws of South Carolina](#), 1976 provides in part that

Whenever a body is found dead and an investigation or inquest is deemed advisable, the coroner or the magistrate acting as the coroner, as the case may be, should 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, and if so and if he shall receive the written request, if any, required by Section 17-7-50, he shall proceed to summon a jury and hold a formal inquest as required by law.

Furthermore, [Section 17-7-510, Code of Laws of South Carolina](#), 1976, provides in part that

If any person shall bury or cause to be buried the dead body of a person supposed to have come to a violent death before notice to the coroner to examine the body and before inquiry is made into the manner and circumstances of the death, such person shall be liable to indictment therefor . . .

Therefore, it can be seen that a coroner's responsibility mainly arises in the event of violent death or death with unusual circumstances which promote inquiry into the nature of the death. I have been unable to find any statutory authority which specifically states that law enforcement officers are prohibited from removing bodies from a scene before the coroner arrives.

However, please be advised that Section 10.3 of Rule 61–19 of the Rules and Regulations of the South Carolina Department of Health and Environmental Control provides that:

Before taking charge of a dead human body or fetus, the funeral director or person acting as such shall:

(a) Contact the attending physician and receive assurance from him that death is from natural causes and that the physician will assume responsibility for certifying to the cause of death or fetal death; or

***2** (b) Contact the coroner if the case comes within his jurisdiction and receive authorization from him to remove the body. (emphasis added)

This regulation would seem to imply that a coroner should be notified before a body is removed from the scene where the circumstances are such as would bring it within a coroner's jurisdiction, such as where there has been a violent death or a death with unusual circumstances which would promote inquiry into the nature and cause of the death. Furthermore, this regulation is in accord with Section 10–19–240 of the 1976 Code of Laws included in the chapter relating to embalmers and funeral directors which states in part that:

It shall be unlawful . . . for any person to remove or embalm a dead human body when any fact within his knowledge or brought to his attention is sufficient to arouse suspicion of crime in connection with the cause of death of the deceased, until the permission of the coroner or the magistrate, if the coroner be not accessible, shall have first been obtained. (emphasis added)

Based on the above, it appears that it is intended that a coroner should be notified before a body is moved in those instances where the circumstances of the death are such as to warrant investigation by the coroner. Upon notification the coroner then would be able to make a determination as to whether he should personally inspect the scene where the death occurred.

In your letter you also referred to [Section 17–5–300\(a\) of the Code](#) of Laws which states that

It shall be unlawful for any person to move or authorize removal of . . . (a dead body) . . . from the place where the same is found until the investigation is completed and such removal is authorized by the county medical examiner or the deputy medical examiner in charge.

You asked whether this particular section would apply to coroners in counties where there is no medical examiner. Please be advised that in the opinion of this Office, such statute applies only to those counties where there is a county medical examiner. By virtue of [Section 17–5–220 of the 1976 Code](#) of Laws, in those counties having a population of 240,000 or more there is created a medical examiner commission which is authorized pursuant to [Section 17–5–230 of the 1976 Code](#) of Laws to employ a skilled physician or pathologist as a county medical examiner. Therefore unless your particular county came within this population requirement and therefore has such county medical examiner, the provisions of [Section 17–5–300\(a\)](#) would not apply.

CONCLUSION:

1. A coroner should be notified before a body is removed from the scene where the circumstances of the death appear to be such as would promote an inquiry into the nature and cause of the death.
2. [Section 17-5-300\(a\) of the 1976 Code](#) of Laws does not apply to those counties not having a county medical examiner.

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