

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

OPINIONS
DIVISION

June 26, 2009

Ricky Shivers
County Coroner
75 Shivers Lane
Yazoo Cilty, MS 39194

Re: *Pathologists Authorized to Perform Postmortem Medicolegal Examinations*

Dear Mr. Shivers:

Attorney General Jim Hood has received your request and has assigned it to me for research and reply. You state:

FACTS

The Coroners throughout the State of Mississippi are being advised by Mr. Sam Howell with the State Medical Examiner's Office that only designated pathologists who are on a "designated pathologist list," as maintained by the Commissioner of Public Safety, can be utilized by the county Coroners to conduct postmortem medicolegal examinations. As you aware, each County pays from its own County funds the costs of each such examination. My specific question and request for an opinion from your office is whether or not County Coroners are required to utilize only pathologists which are on the aforesaid "designated pathologist list" maintained by the Commission of the Department of Public Safety.

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Additionally, in accordance with the Attorney General's opinion dated April 14, 2000, it would appear that the pathologist, employed or contracted by a regional medical examiner district would be permitted to utilize the state morgue facility for postmortem examinations and investigations and the Counties would only be required to reimburse the costs of using the facility, equipment, and supplies. Please include in your opinion if my interpretation of the above is correct or not.

RESPONSE

In all counties, other than counties establishing a regional medical examiner district pursuant to Section 41-61-77(4) of the Mississippi Code, an autopsy or other study shall be made by the State Medical Examiner or by a competent pathologist designated by the State Medical Examiner. Section 41-61-65 of the Mississippi Code provides in pertinent part:

(1) If, in the opinion of the medical examiner investigating the case, it is advisable and in the public interest that an autopsy or other study be made for the purpose of determining the primary and/or contributing cause of death, an autopsy or other study shall be made by the State Medical Examiner or by a competent pathologist designated by the State Medical Examiner.

If a regional medical examiner district is established in accordance with Section 41-61-77(4) the district may employ or contract with one or more pathologists to serve as medical examiners of the district, who will perform postmortem examinations and autopsies for the counties involved. The pathologist(s) do not have to be on the "designated pathologist list" in that, "the medical examiners authorized in this [regional district] have the same authority within the district and counties served by such district as does the State Medical Examiner." Section 41-61-77(4) provides in part:

(4) The board of supervisors of any two (2) or more adjacent counties may enter into written agreements with one another, in accordance with Section 17-13-1 et seq., to establish regional medical examiner districts for the purposes of providing and coordinating medical examiner services on a regional basis, establishing central forensic facilities for the counties involved, and employing or contracting with one or more pathologists to serve as medical examiners of the district, who will perform postmortem examinations and autopsies for the counties involved. Any powers which may be exercised under this chapter by an individual county, county medical examiner or county medical examiner investigator may be exercised jointly with any other county or with the county medical examiner or county medical examiner investigator of such other county, in accordance with the terms of the agreement between the counties involved. Any county entering into such an agreement shall be authorized to expend any funds

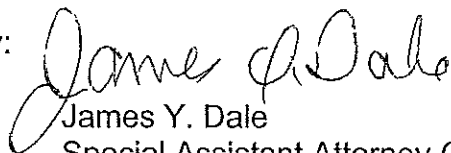
necessary to carry out the purposes of such agreement. Any municipality located within any such district is hereby authorized and empowered to contribute funds to such district. For any such district established, the counties involved shall attempt to coordinate the operation of the district and any district facilities with the operation of any district office or offices established by the State Medical Examiner under subsection (1) of this section which include such counties. The medical examiners authorized in this subsection shall have the same authority within a medical examiner district and the counties served by such district as does the State Medical Examiner. (Emphasis Added)

In answer to your second question concerning use of the "state morgue facility for postmortem examinations and investigations", Section 41-61-77(1) provides that, "The facilities of the central and district offices and their staff services may be available to the medical examiners and designated pathologists in their investigation." Thus, a pathologist on the "designated pathologist list" or of a regional medical examiner district is authorized to utilize the State facilities (central and district offices) for their investigations including postmortem examinations and autopsies, in the discretion of the State Medical Examiner's Office. As stated in MS AG Op., Howell (April 14, 2000) the State Medical Examiner's Office "may require reimbursement of the costs of using the facility, equipment, and supplies."

Sincerely,

JIM HOOD, ATTORNEY GENERAL

By:



James Y. Dale

Special Assistant Attorney General