



### F3 Evidentiary Neglect: The Failure to Perform an Autopsy

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After attending this presentation, attendees will have a better perspective on when an autopsy should be performed, as well as comprehending the various issues regarding privacy, the public's right to know, and ethical parameters.

The presentation will impact the forensic science community by increasing awareness concerning the various dimensions regarding the role of and need for autopsies.

On February 13, 2016, 79-year-old Supreme Court Justice Antonin Scalia was found dead in bed at a West Texas hunting ranch. His doctor offered that Scalia had suffered from cardiovascular disease and hypertension. Scalia had visited his doctor days before his death complaining of a shoulder injury from tennis. The ranch owner called emergency services and the United States Marshals Service arrived at the ranch. There was no medical examiner in Presidio County so the marshals called for the local justices of the peace.<sup>1</sup> When one could not be found, a county judge conducted an investigation "over the phone." The judge declined to order an autopsy after taking into consideration law enforcement's observations of the body and scene, consultation with Scalia's physician, and respecting the wishes of the family. "Our folks never indicated that anything seemed amiss or unusual, but that wasn't our role," declared a spokesman for the Federal Marshals service. "We weren't there to make any determination like that, so I'm not going to be drawn into that."<sup>2</sup>

Almost immediately questions arose from ordinary citizens and conspiracy theorists as to the cause of Scalia's death. The circumstances and rebuttals had a surprising similarity to Teddy Kennedy's Chappaquiddick affair 50 years earlier. Following the tragic death of Secretary Ron Brown in 1996, the federal government had created legislation delegating the responsibilities to invest the deaths of the president, vice president, and members of the cabinet to the Armed Forces Medical Examiner.<sup>3</sup>

A well-performed autopsy is the gold standard for any death investigation. Despite advances in diagnostic technologies, autopsies still detect major findings not identified prior to death in 25%–40% of deaths.<sup>4</sup> Most states have statutes that order mandatory autopsies in deaths in police custody, criminal violence, sudden deaths of infants and children, and others. The National Association of Medical Examiners (NAME) Forensic Autopsy Standards identify 12 types of deaths in which autopsies "shall be performed."<sup>5</sup> On many occasions, medical examiners and coroners have been sued for performing an autopsy against the wishes of the family. There are few, if any, cases in which the medical examiner or coroner was sued for not performing an autopsy.

Performing autopsies protects the public interest and provides necessary information to address legal, public health, and public safety issues in each case. Statutes give medical examiners and coroners wide discretion on the performance of autopsies. In Minnesota, for example, statutes allow for the performance of autopsies when, in the judgment of the coroner or medical examiner, "the public interest would be served by an autopsy."<sup>6</sup> Autopsies should be performed in deaths of prominent persons, recent releases from hospitals, institutional deaths, drug deaths, and, at times, simply at the request of the family in suspicious circumstances.

The failure to perform necessary autopsies creates a gap in medical evidence to explain the cause of a death and can "arouse public interest, raise questions, or engender mistrust of authorities." In the midst of an opioid epidemic and faced with a paucity of trained forensic pathologists, medical examiners and coroners are searching for excuses not to defer autopsies or simply performed external examinations. This practice can have disastrous consequences. In today's media-fueled environment, we cannot be so naïve to believe that "everyone should be treated the same."<sup>7</sup> The deaths of prominent and high-profile government officials need and require careful autopsy examinations. Even a lay person would suggest that the death of Supreme Court Justice would require an in-depth federal investigation. As one family put it, "You are the professional, we are a grieving family, you should have done your job!"<sup>8</sup>

#### Reference(s):

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#### Autopsies, Ethics, Evidence