

# Statutory provisions of an autopsy

MBChB 2

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# Y – incision



# Introduction

- Autopsies (from the Greek word *autopsia*, meaning ‘to see with one’s own eyes’), have been performed for centuries,
- Aim - to learn about the form and inner workings of the human body and to ascertain the cause of death in deceased individuals.
- In time, two distinct settings for the autopsy have developed, with academic or clinical autopsies being conducted in order to establish the nature and extent of underlying natural disease, but also to enable academics to teach students and to perform research.

# Medico-legal

- On the other hand, medico-legal autopsies are routinely performed in terms of statutory provisions which mandate the examination of bodies of deceased individuals who have died as a result of “other than natural causes” (or where the cause of death is not apparent or of an unexpected nature), in order to facilitate further legal decisions and proceedings.

# BEFORE THE CLINICAL AUTOPSY

- Ascertain that the deceased had probably died as a result of natural causes and that consent has been obtained for the postmortem examination to be performed.
- If there is a reasonable possibility that death had been the result of “other than natural causes”, the matter should be reported to the police for further investigation .

# Consent

- However, where the attending clinician is satisfied that death was due to natural causes, he may issue such a certificate, despite not knowing with certainty what the pathological diagnosis is.
- In such cases it may be prudent to request a clinical autopsy.
- Permission to perform an academic/clinical autopsy may be obtained from the deceased before his or her death or in terms of a will, or from his next of kin, after death has taken place.

# CLINICAL AUTOPSY

- Clinical autopsies provide an opportunity to fully investigate the nature and extent of disease, associated complications and co-morbid conditions, and as such the autopsy is an excellent tool to inform clinicians and to arrive at a clinico-pathological correlation.
- It may also provide valuable information for the next of kin and closure in cases of uncertainty, as well as providing information which may be of benefit to surviving family members (siblings and children, in cases of certain familial disease).

# Quality control

- In addition, the regular performance of clinical autopsies provides excellent opportunity for individual and institutional quality control and clinical audit.
- The incidence of significant differences between autopsy findings and clinical diagnosis varies between 20% and 40%, suggesting that in one or two out of five deceased individuals upon whom autopsies are performed, the main clinical diagnosis is not confirmed or supported at autopsy.



# Is there need for clinical autopsy?

- It has been said that clinicians and health care institutions avoid requesting clinical autopsies, since such missed (or wrong) diagnoses may constitute grounds for subsequent litigation.
- Interestingly, a review of 99 Appeals Court decisions in medical malpractice cases has shown that such proceedings were not instituted on the basis of autopsy findings, but rather on standard of care issues – and that the performance of an autopsy is not likely to precipitate malpractice proceedings.

# They are fewer now!!

- A decline in the autopsy rate (which indeed appears to be a universal phenomenon) does not only compromise clinical audit and diagnostic verification, but seriously compromises the teaching of under- and postgraduate students, both in terms of the teaching of autopsy practice and technique as well as in the macroscopic and microscopic diagnosis of disease conditions.

# Forensic autopsies

- These examinations are conducted primarily as part of the medico-legal investigation of deaths which may have been “due to other than natural causes.”

# Motor vehicle accident



- We can best define an autopsy as ‘a post mortem dissection of a corpse’ and
- define postmortem examination as ‘an examination of a human body or the remains thereof, with the purpose of establishing the cause of death and factors associated with the death and may include an autopsy’.

# Laws Governing Autopsies in Kenya

1)- The Criminal Procedure Code of Kenya CAP 75

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- i) The Inquest Act CAP 11
- li) The National Police Service Act 2011 Section 55(1)

2)- Births and Death Registration

3)- Public health Act of Kenya CAP 242

4)- Human Tissue Act of Kenya CAP 252 and

5)- Anatomy Act of Kenya CAP 249.

- These two Acts are specific only to Kenya. They were enacted when the medical school of the University of Nairobi was established in 1969. They provide for the handling of tissues from autopsies for research, teaching as well as cadavers for teaching purposes.

# NB-No consent required.

- The police department's mandate to hold an inquest on causes of suspicious deaths is contained in section 385-388 of the criminal procedure code Chapter 75.
- The criminal procedure code CAP 75 section 385-388 provides for inquiries into sudden deaths. Section 385 of this chapter empowers a magistrate to hold inquests.
- The forensic pathologist also helps the police in the initial investigation by collecting evidence at the crime scene that can lead to positive identification of the decedent.

# The law hence

- provides that the following deaths must be investigated; “suspected suicide, suspected homicide, unascertained deaths, Death in the custody of police officers, Death in the custody of prison officers.”



# Police responsibility

- The criminal procedures code also specifies “that the **officer in charge of a police station** or any other officer in his or her behalf, on receiving information of a death falling into any of the above mentioned categories shall immediately inform the nearest magistrate empowered to hold an inquest and then proceed to where the body of the person is to make an investigation and draw a report on the apparent cause of death, which should then be forwarded to the nearest magistrate empowered to hold inquest

# The Court Clientele

- The forensic pathology department also serves the courts as part of their clients. The forensic pathologist may be required by the magistrate to investigate to the cause of death as outlined in section 386 of the criminal procedure code which provides that a magistrate so empowered, may hold an inquiry to the cause of death, either instead of or in the addition to the investigation held by the police or prison officer.
- It further gives a magistrate the authority to order for the disinterment and examination of a body that had been interred in order to determine the cause of death. (exhumation)

# Court appearance.

- A forensic pathologist may also be required by the court to attend court hearing in order to provide their expert testimonies in relation to the investigation they had done while performing the autopsy.
- In this case, the forensic pathologist is expected to present a detailed report and give his expert opinion to the possible cause of death.

The end