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Lack of investigation

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Melissa Flores | 0 comments

Current Santa Clara Coroner practices vary from those used in Robbins' case

When 33-year-old Jon Robbins died of a gunshot wound in late September 2002, his family and girlfriend trusted the Medical Examiner-Coroner's office to determine the cause of his death. Instead, nearly three years later, the family still searches for closure and criticizes the Santa Clara County department for negligence in the investigation.

A new policy at the time in deciding whether to perform an autopsy left the choice in the hands of local law enforcement agencies, rather than the Medical Examiner-Coroner's office, despite state law requirements that autopsies be performed in specific circumstances (see box). Lost blood samples resulted in a lack of toxicology reports, adding to the family's frustrations.

Captain Bob Dixon, a spokesperson for the department, discussed current practices in the coroner's office. Dixon joined the department less than two years ago and could not comment on the Robbins' case.

"Our medical staff make the decision on whether an autopsy will be performed," Dixon said. "It has been our policy for at least the last year and a half [since I've been here.]"

Dixon was unfamiliar with the procedure before he joined the department, but said the state has very specific laws that govern when an autopsy is required.

"The bottom line is if someone dies under a doctor's care, a primary care physician can sign the death certificate," he said. "An autopsy is most likely performed in unwitnessed deaths, of people not under a doctor's care or those who die unexpectedly."

Andrea Wagner, a medical investigator who responded to the scene of Robbins' death, had recommended an autopsy due to the "special circumstances" surrounding Robbins. He died of a gunshot wound to the head that was not witnessed by anyone. But Wagner did not have the authority to request an autopsy, she told Private Investigator Ed Elliott in an interview Feb. 13, 2003.

At the time of Robbins' death, the office had adopted a policy under the leadership of then-Chief Medical Examiner-Coroner Gregory Schmunk that dictated that an autopsy would only be performed at the request of local law enforcement jurisdictions, Wagner told Elliott.

Lack of investigation

The medical examiner's investigation of the death of Jon Robbins did not include toxicology reports since blood samples taken were mistakenly discarded.



The request for an autopsy needed to come from local law enforcement – in this case Gilroy Detective Dan Zen – or from assistant medical examiner coroner Parviz Pakdaman. The Gilroy Police Department made their own mistakes in the investigation. (see related story.)

Schmunk left the Medical Examiner-Coroner's office at the end of 2003 after a five-week suspension when news of past legal troubles caused

authorities to question his credibility.

In cases where law enforcement has opted not to perform an autopsy, the family does have the right to request one and pay for the procedure themselves.

Robbins' family members and his girlfriend don't recall being informed about the procedure for a private autopsy.

Wagner noted in her reports that she informed the family of the autopsy protocol and that she provided them with a pamphlet about it. These days, the medical investigator would not inform the family of the autopsy protocol at the scene of death, Dixon said, because that determination would be made after the body had been taken to the Medical Examiner-Coroner's office.

A request for a private autopsy must be done in writing and costs at least \$1,705 per case, according to the Santa Clara County Medical Examiner-Coroner's Web site. Specific tests such as toxicology, microbiology, neuropathology and other special exams have additional fees.

"We were told after the fact that we must request it and pay for it," said Sandy Ludlow, Robbins' mother. "It was explained in a brochure they handed to us when we were besides ourselves with grief."

According to the Medical-Examiner Coroner's office, they released Robbins' body to the Habing Funeral Home Sept. 30, less than 48 hours after it was removed from the scene of his death. A staff member from Habing's called the Coroner's office the morning of Sept. 30 and told the Ludlows the body had been ready before 9 a.m., less than 15 hours from the time Robbins had been declared dead, according to Sandy. Ludlow and Robbins' girlfriend felt the amount of time the department held the body was too short to do a thorough examination. Under normal circumstances, the office performs a physical autopsy the day after a death and releases the body that same day, Dixon said. The release of Robbins' body falls within the time frame currently used by the Medical-Examiner Coroner's office, according to Dixon.

After the release of his body, assuming thorough investigations had been completed, the family had him cremated, removing any chance of an autopsy or further investigation of the body.

"The ability to perform an autopsy was lost to due negligence," Elliott wrote in a review of his findings of the investigation. "This must be laid at the feet of the Santa Clara County Medical Examiner ... and at the feet of Gilroy Police Detective Zen."

The family and Elliott cite two other inadequacies in the investigation. In an interview with Elliott, Wagner said to her knowledge no x-ray had been taken of Robbins' skull – an x-ray that could have been used to determine if the trajectory of the bullet suggested a self-inflicted wound or a homicide.

In police reports and in Wagner's reports, authorities noted that Robbins was known as a heavy drinker and was thought to be drinking at the time of his death.

A friend said he had several beers around midday while working on a car, according to Elliott's report.

"He had been known in the past to become 'sad' when he had 'been drinking'," Wagner noted in one report, though Robbins had never been treated or diagnosed with a psychiatric disorder.

Robbins' family thought of him as a social drinker and did not think he had a drinking problem.

"He would drink when he and his buddies got together," Sandy said. "Debra' doesn't drink so he cut back on it when he realized that maybe she was not crazy about it."

While much has been made about Robbins' penchant for alcohol by law enforcement – with authorities hinting that he may have killed himself because he was intoxicated – no toxicology report ever turned up because Robbins blood sample had been lost. A staff member had mistaken the batch with Robbins' sample, taken in September 2002, for September 2001 samples and tossed them out, Wagner told Elliott.

"Ms. Wagner was embarrassed that the toxicological blood samples taken from Jon's body were 'accidentally' thrown away," Elliott wrote in a report.

While Dixon could not comment on procedures at the time of Robbins' death, he said the department currently takes two blood samples from each body. One is sent directly to a laboratory for testing and the other is stored in the office for one year.

"They will take a sample, keep it here and send out a sample, Dixon said. "I would say [toxicology] plays a major portion in a lot of cases because you can't really close a case until we have those results back."

He added that toxicology results take at least three to six weeks.

While the chance for conclusive findings in Robbins' death have been lost, Robbins' family hopes other families can avoid what they have been through.

"It's so wrong that everyone won't admit they didn't do a good job or try to change what they do," Ludlow said. "The investigators lay everything on everyone else. Every time they said it was someone else's call."

Autopsy procedures

California State law requires the Medical-Examiner Coroner's Office to perform an autopsy in the following circumstances:

- Suddenly or unexpectedly, including sudden natural death, sudden infant death syndrome (SIDS), or death of a person who was not under the care of a doctor at the time of death.
- As a result of any type of injury, including suicide, homicide a motor vehicle accident, drug overdose, or poisoning.
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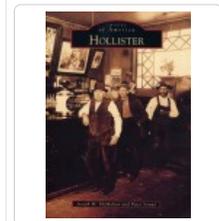


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Melissa Flores City Editor



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