

Legal Review of Police Autopsy Attempts Against Unnatural Death

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Abstract. *The purpose of this study is to determine and analyze the legal mechanisms of the police in the autopsy of unnatural deaths. In this paper, the author uses a normative legal method with a descriptive analysis research specification. In a sudden unexpected death or unwitnessed death, there is a probability that the death is related to a crime and must be treated as an unnatural death before it can be scientifically proven that the death was natural. Forensic autopsy plays a role in the pre-trial phase of the criminal justice system, in which case the National Police investigator has a role and authority. Before a case reaches the investigation stage, it certainly begins with an investigation. Forensic medicine and medicolegal science can help determine whether an alleged crime against the body or life can be continued or stopped. Forensic autopsy synergizes with the purpose of examining criminal cases, namely the discovery of material truth.*

Keywords: *Criminal; Examining; Forensic; Medicine.*

1. Introduction

The positive legal regulations that apply in Indonesia are clearly a component important in building a safe, peaceful and secure life. As in the Constitution of the Republic of Indonesia, namely Law The 1945 Constitution of the Republic of Indonesia has emphasized that Indonesia is a state of law, this phrase is stated in Article 1 paragraph 3 of the 1945 Constitution of the Republic of Indonesia.

This confirms that the implementation of the Indonesian state government must be always based on and in accordance with the will of the law. Indonesia as a country of law (*legal state*) in the sense of all actions must be based on the law where every criminal act that occurs must be processed through legal channels, so that the law is seen as the only way resolution of a criminal problem.²In order to find out if there is a criminal act, then law enforcement in the form of the police will carry out the investigation and inquiry process.

Crimes that occur in society will have a very big impact major role in the investigation process in determining whether or not a crime has occurred.

Considering that one of the human traits that cannot be controlled is anger. With If someone's anger is uncontrolled, it is likely that a crime will occur. undesirable things like crimes against life.

In almost every part of the world, unnatural deaths have occurred. The cause of the incident was murder (*Homocicide*), (*accident*) accidents and suicide (*suicide*).³Investigators are required to obtain *post mortem et repertum* expert testimony, in every case where the suspicion of unnatural death is caused by by unlawful acts.

In a sudden death (*sudden unexpected death*) or death without witnesses (*unwitnessed death*) there is a probability that the death will occur related to a crime so it must be treated as a death unnatural (*unnatural*) before it can be scientifically proven that death is reasonable (*natural*).⁴In case of sudden death (*sudden unexpected death*) or death without witnesses (*unwitnessed death*) which is reasonable to suspect as an unnatural death, forensic autopsy occupies an important position in in proving the case to find the exact cause of death.

The urgency of forensic autopsies is not widely understood, despite regulations legislation has regulated it. The forensic autopsy was not carried out on the pretext of or any reason, in cases of unnatural death, has the potential to become a bad precedent for law enforcement in the future.

Based on the description of the background to the selection of legal material as follows:

has been described above, for this reason the researcher is interested in conducting research with the aim of research to find out and analyze the legal mechanisms of the Police in an autopsy attempt on unnatural deaths.

2. Research Methods

The normative juridical research method uses an approach by means of study legislation, theories and related concepts with the problem to be researched. Determining the sample is a process in selecting a representative portion of the entire population. This research not using samples as research material but using studies literature as a data source. Use of secondary data as raw data used as well as adding expert opinions as additional data so that it is processed as a research result.

3. Results and Discussion

1) Definition of Autopsy

Etymologically, autopsy is the treatment of disease by... the way to cut or slice a sick or surgical part of the human body. Meanwhile, in terminology, a post-

mortem is an investigation or examination of the corpse, including body organs and their composition internal parts. After surgery or injury, with the aim of

determine the cause of someone's death, both for medical purposes or answer the mystery of a crime. An autopsy is an examination medical human body dies after conducting surveys and investigations into the corpse and then make a conclusion.

There are 3 types of autopsy based on the purpose, namely first, anatomical autopsy namely an autopsy carried out by medical faculty students under the guidance of directly an expert in anatomical analysis in the anatomy laboratory of the medical faculty.

The aim is to study the tissues and structure of body organs in normal condition. Second, a clinical autopsy is performed on patients who die after being treated in hospital aims to determine the pathological process that present in the victim's body, determine the exact cause of death, determine whether the clinical diagnosis made during treatment is appropriate Post Mortem examination results, determine the effectiveness of the treatment that has been given given, studying the usual course of a disease, is useful as prevention in facing similar diseases in the future, to find out abnormalities in body organs and tissues resulting from a disease.

Third, a forensic autopsy or judicial autopsy is carried out on authorized request, in connection with an investigation into the case crimes that cause death. Usually carried out in cases of death unnatural events such as murder, suicide, accidents, traffic accidents, poisoning, sudden death and unknown death or suspicious reason.

2) Unnatural Death

Manner of death (*manner of death*) explains how the cause of death occurred. The manner of death can generally be categorized as natural death. (*natural death*) and unnatural death (*unnatural death*). *Black's Law Dictionary* define natural death (*natural death*) is death due to causes natural, that is, other than accidents or violence. Unnatural death is defined as as a death accelerated by human intervention, for example due to blows, sharp force, explosions, gunshots, or the like. Natural death in some medical literature is defined as death related to internal bodily events that are not influenced by external events; death caused by disease, completely independent of unnatural factors when caused by external events.

A sudden death (*sudden unexpected death*) and or death without witnesses (*unwitnessed death*) it is appropriate to carry out an investigation process to determine whether the death is classified as a death reasonable (*natural death*)

or unnatural death (*unnatural death*). Because in This condition can give rise to suspicions as to whether there are elements of a criminal act.

so it must be treated as an unnatural death (*unnatural*) before it can be proven that the death was natural (*natural*).⁹Death is not natural can be an accident (*accident*), suicide (*suicide*), or murder (*homicide*).

3) Legal Police Mechanisms in Autopsy Efforts on Deaths unreasonable

In the event of unnatural death, forensic autopsy has an important role. very important in determining whether or not to continue the investigation of the case moving towards the investigation stage. The investigation into the case of unnatural death based on forensic autopsy has a validity value that can be accountable for its scientific truth. Events related to loss of life or death in the Criminal Code formulated as a material crime, the consequence is the existence of causal relationship between the perpetrator's actions and the consequences prohibited by law the law must be proven. Therefore, death arising from a criminal event, correlated with the teachings of causality as a basis in determine criminal liability.

It can be said that investigators and investigators (Police) have a role which is very important in terms of carrying out a forensic autopsy on an unidentified death. reasonable as evidence and a means of proof later if the autopsy is carried out produce evidence that a crime has occurred causing the loss of a person's life. Evidence in a crime case criminal law is a very fundamental part of the criminal investigation process. criminal law even as a vital determinant in decision making (*decision making*) regarding a case that is being processed at the investigation level or investigations which will continue to the level of examination of evidence at court.

This autopsy process is what will lead to things that are known with *Seven "W"s of Darjes*, namely: what actions have been carried out; where the act is done; when the act is committed; how to do that done; with what the action was done; why the action was done and who did it.

There are 3 objectives in carrying out an autopsy, namely; first, to provide facts (evidence) through reports *Visum et repertum* to the judge. Second, conclude based on a causal relationship. Third, it allows judges call another expert doctor to make a newer autopsy conclusion If the autopsy cannot clear up the issue in court, the judge can request expert information or submit new material, as stated in The Criminal Procedure Code (KUHP), which provides the possibility conducting a re-examination or re-examination of the evidence, if any issues arise a reasonable objection from the defendant or his legal counsel to a check up result.

From the above, it can be concluded that *visum et repertum* is a doctor's

statement about what was seen and found during the autopsy forensic evidence for judicial purposes. So in this case, an autopsy is a testimony written in the judicial process.

At the police stage, the autopsy results can be used to answer some key questions related to the death event, such as:

- a. Cause of Death: An autopsy can identify whether the death was caused by natural factors, accidents, suicide, or criminal acts.
- b. Type of Wound: An autopsy can detect the type of wound on the body. the victim, whether the injury was due to violence or an accident, and how the injury affects the victim's body.
- c. Time of Death: Using forensic techniques, an autopsy can estimate the time of death, which is useful for correlating events within a certain time in the context of proving a criminal act.
- d. Other Evidence: An autopsy can help identify other evidence, such as signs of resistance or the presence of objects left on the victim's body which could be additional evidence in the investigation.

In order to get *Visum et repertum* that is correct then forensic autopsy

carried out includes external examination of the corpse in the form of actions that are not destroying the integrity of the corpse's tissue carefully and systematically and conducting an examination post-mortem, thorough examination by opening the skull cavity, neck, chest, abdomen, and pelvis. Sometimes additional examinations are performed necessary such as histopathological, toxicological, serological examinations, and so on.¹² The police as one of the institutions given authority by Article 133 paragraph 1 of the Criminal Procedure Code provides the authority to request an autopsy examination, in carrying out investigations as intended in Article 18, investigators authorized to "bring in experts in connection with the investigation".

In the corridor of investigation, legally forensic autopsy or autopsy upon request only *Visum et Repertum* (VeR) from the party Police (investigators) according to Article 133 of the Criminal Procedure Code states:

- 1) In the case of an investigator handling a victim for the benefit of justice either injury, poisoning or death which is suspected to be due to an incident constitutes a criminal act, he is authorized to submit a request for information expert to expert in forensic medicine or doctor and/or other expert;
- 2) Requests for expert information as referred to in paragraph (1) are made

in writing, which in the letter is expressly stated to wound examination or post-mortem examination and/or surgical examination forensic corpse.

3) Corpses sent to forensic medical experts or doctors at hospitals must be treated well with full respect to the corpse and given a label containing the corpse's identity, with a position stamp attached to the big toe or other part corpse.

Based on the legal substance in this article, there are two terms, namely post-mortem examination and forensic post-mortem examination. In terms of interpretation on There is no specific interpretation for these two terms. However, it can be it was concluded that the post-mortem examination was only an examination of the external parts of the corpse and forensic autopsy examination is an examination of the external and internal parts in a corpse or commonly called an autopsy.

The legal procedure for autopsy in relation to consent with the victim's family (unnatural death) as the legal basis for the police in Article 134 of the Criminal Procedure Code which states that:

1) In cases where it is absolutely necessary for the purposes of proving surgery forensic corpses can no longer be avoided, investigators are obliged to notify first to the victim's family;

2) If the victim's family objects, the investigator is obliged to explain this.

as clear as possible about the purpose and objectives of the surgery the;

3) If within two days there is no response from the family or If the party who needs to be notified is not found, the investigator will immediately carry out provisions as referred to in Article 133 paragraph (3) of the law This.

From the provisions of Article 134 of the Criminal Procedure Code, Police Investigators through experts medical professionals can perform forensic autopsy without any *informed consent* if there is no confirmation from the corpse within 2 (two) days the family and only by request of a letter *Visum et Repertum* from the party investigators, then a forensic autopsy can be carried out.

As regulated in Articles 133 to 134 of the Criminal Procedure Code, the police have the authority to determine what type of examination should be carried out performed on the corpse and ask a forensic doctor to carry it out via letter of request *visum et repertum*. Therefore, forensic doctors and the hospital cannot refuse a request from the police. The police do has an obligation to notify the need for an autopsy and provide

provide the clearest possible explanation to the family. If the family objects and

If the police consider that an autopsy is not necessary, a letter of revocation will be issued Request *Visum et repertum*.

However, if the police deem it necessary and unavoidable again, then the autopsy must still be carried out even if there are objections from the family. A forensic doctor who receives a request from the police to perform an autopsy examination and serve as an expert witness in cases. Expert testimony is provided in form of report results and if necessary expert testimony in court.

The autopsy results will be submitted by the doctor or hospital to the authorities. police, and if the investigation is still ongoing, it usually still has confidential status, However, if the case has reached the court, this information can be accessed.

by other parties, including the suspect (if any) or family. As it is known that the results of an examination by a specialist doctor on the goods the evidence in a criminal case, then *Visum et Repertum* have a role as evidence of instructions for conducting an autopsy, so that after it is carried out examination of the external and internal parts of the corpse, can be determined clearly cause of death of a victim.

In the investigation of cases of unnatural death with suspicion of criminal incident, whether or not there is a forensic autopsy depends entirely on written request from investigators addressed to health service facilities, both health centers and hospitals as places where examinations are carried out corpse. Doctors as the person in charge of making a post-mortem examination depends entirely on the investigator's 'order' stated in writing. in this case, if the investigator in his request letter does not mention the examination in the corpse, the doctor who made the visum et repertum did not perform an autopsy on it. corpse. It can be said that the act of examining a corpse with or without an autopsy autopsy depends entirely on the written request of the investigator.

In describing the conditions of an interpretation of unnatural death which raises the argument that an autopsy is urgently needed. This also also as part of the precision decisions of the Police in taking steps scientific proof involves medical procedures (autopsy). Representationally, factually unnatural death is in the case of a body being removed from water, one of the specific medicolegal purposes of an autopsy is to determine whether the cause of death was drowning or whether the person died of other causes and then his body was thrown into the water for burial.

hiding his crimes. Unnatural deaths also occur in cases simulated hanging in which the murderer presents it as suicide self.

In the case of a fire in a building, the specific medicolegal objectives of an autopsy is to determine whether the person died from injuries burns or other causes (e.g., falling from a brick while in a building) who are burning or inhaling non-breathable gases) and to distinguish

Burn *santemortem* from burn *spostmortem*. Autopsy findings of particles soot in the distal airways and additional autopsy investigation findings of the presence of *carboxyhemoglobin* (COHb) in the blood does not necessarily prove that the wound is surface burns of the body occurred before death, but the victim was still alive at the time a fire occurs in which case the conclusion would be different.

4. Conclusion

As regulated in Articles 133 to 134 of the Criminal Procedure Code, the police have the authority to determine what type of examination should be carried out performed on the corpse and ask a forensic doctor to carry it out via letter of request *visum et repertum*. So therefore forensic doctors and the hospital cannot refuse a request from the police. The police do has an obligation to notify the need for an autopsy and provide provide the clearest possible explanation to the family. If the family objects and if the police consider that an autopsy is not necessary, a letter of revocation will be issued. request *Visum et repertum* However, if the police deem it necessary and can no longer be avoided, then an autopsy must still be carried out even if there is objections from the family. The forensic doctor who received the request from the police to carry out examinations and serve as expert witnesses in cases. Expert testimony provided in the form of a report of the results and, if necessary, expert testimony in court. The autopsy will be handed over by the doctor or hospital to the police, and if the investigation is still ongoing, it usually still has confidential status, but if the case has reached the court, the information can be accessed by the other party others, including the suspect (if any) or family.

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