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# CHAIRMAN'S MEMORANDUM

## NO. 14-2003 SEPTEMBER 16, 2003

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**TO:** COUNTY CORONERS, COUNTY MEDICAL EXAMINERS, AND COUNTY ATTORNEYS

**RE:** DUTY TO PERFORM AUTOPSY FOLLOWING THE DEATH OF AN INMATE

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This memorandum is intended to serve as a reference to all coroners and medical examiners with respect to their statutory duties to perform an autopsy in the event of an inmate death. Please be advised that, pursuant to Correction Law §47(1), the State Commission of Correction, through its Medical Review Board, is required to investigate and review the cause and circumstances surrounding the death of any inmate of a correctional facility. To accomplish these means, the Legislature has enacted several statutes in New York State County Law which are set forth below.

County Law §671(1)(b) provides that the coroner or medical examiner "shall make inquiry into all deaths whether natural or unnatural in his county occurring to an inmate of a correctional facility . . . , whether or not the death occurred inside such facility." County Law §674(5) requires the coroner or medical examiner to "promptly perform or cause to be performed an autopsy and to prepare an autopsy report which shall include a toxicological report and any report of any examination or inquiry with respect to any death occurring within his county to an inmate of a correctional facility . . . , whether or not the death occurred inside such facility."

As provided in Correction Law §40, the definition of "correctional facility" includes a state prison or other facility operated by the State Department of Correctional Services, a county jail, a city jail, a town or village jail or lockup, a court detention pen, a hospital prison ward, or a secure facility operated by the State Office of Children and Family Services. Therefore, an autopsy must be performed for an inmate of any one of the above facilities, even if, at the time death, the inmate was being treated in a hospital, ambulance, etc.

The only exception to the above requirements are set forth in Public Health Law §4210-c(1), which provides that "[n]otwithstanding any other provision of law, in the absence of a compelling public necessity, no dissection or autopsy shall be performed over the objection of a surviving relative or friend of the deceased that such procedure is contrary to the religious belief of the decedent, or, if there is otherwise reason to believe that a dissection or autopsy is contrary to the decedent's religious beliefs." Public Health Law §4210-c(4) further provides that "no dissection or autopsy shall be performed over the objection of a surviving relative or friend that such autopsy is contrary to the religious beliefs of the deceased, or where there is otherwise reason to believe

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Alan J. Croce, Chairman/Commissioner

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that a dissection or autopsy is contrary to the decedent's religious beliefs, until notice thereof is given to the next of kin or friend as defined herein, or until forty-eight hours have elapsed, whichever is greater, to permit an objecting party to institute legal proceedings to determine the propriety of such dissection or autopsy."

County Law §677(6) provides that the coroner or medical examiner "shall promptly provide the chairman of the correction medical review board and the commissioner of correctional services with copies of any autopsy report, toxicological report or any report of examination or inquiry prepared with respect to any death occurring to an inmate." Because the names of the agencies are similar, it is a common mistaken belief that sending a copy of the autopsy and toxicology reports to the Department of Correctional Services satisfies this statute. However, a copy must also be sent to the Chairman of the Correction Medical Review Board of the State Commission of Correction, at 4 Tower Place, Albany, New York 12203. In the event an autopsy is not performed due to a religious objection pursuant to Public Health Law §4210-c(1), the Commission should be so notified and must still be provided a copy of any "external autopsy" or similar report of examination.

Thank you in advance for your anticipated cooperation. Please feel free to contact Brian M. Callahan of the Commission's Office of Counsel should you have any questions.

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Alan J. Croce, Chairman/Commissioner

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