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STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 690
 Title: PAYMENT OF THE COSTS OF
POST MORTEM EXAMINATIONS
 Sponsor: HOUSE FINANCE COMMITTEE
 Requestor: _____
 Date of Request: 3/16/84

FISCAL DETAIL

Agency Affected: ALASKA COURT SYSTEM
 Program Category Affected: _____
ADMINISTRATION OF JUSTICE
 BRU, Program or Subprogram(s) Affected: _____
TRIAL COURTS

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		(539.1)				
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		(539.1)				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

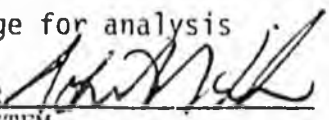
GENERAL FUND		(539.1)				
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		-0-				
PART-TIME		-0-				
TEMPORARY		-0-				

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: ROBERT G. FISHER  Phone: 264-0561
 Division: ALASKA COURT SYSTEM Date: 3/16/84

Approved by Commissioner: _____ Date: 3/16/84
 Agency: ALASKA COURT SYSTEM

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

ANALYSIS:

This bill would transfer the responsibility for the payment of the cost of post mortem examinations, autopsies, and related services, including transportation and facilities usage, to the Department of Health and Social Services upon the passage of this legislation. The FY 84 operating budget for the Court System contains funding for the payment of these costs. Upon the passage of this bill, the Court System would transfer the unobligated balance of FY 84 funds to Health and Social Services. The FY 85 budget for the Court System contains \$539,100 of funds for these costs. The entire amount would be transferred to the other agency.

APPLICATION FOR
FOOD STAMPS
AID TO FAMILIES WITH DEPENDENT CHILDREN

(DATE STAMP HERE)

We will consider this application without regard to race, color, sex, age, handicap, religion, national origin, marital status, or political belief. If you believe you have been discriminated against, you can file a complaint with the Division of Public Assistance or the Department of Health & Social Services. Food Stamp complaints may also be sent to USDA FNS Western Region, 550 Kearney St. San Francisco, California 94108

FOR OFFICE USE ONLY:

Case No. _____ Date Received by _____
Decision Office _____

GR APPLICATION

New

Review or RC

Expedited Service

INSTRUCTIONS FOR COMPLETING APPLICATION

CAREFULLY READ and complete all of the questions in the application. All of the questions must be completed before your application can be processed. If a question does not apply to your situation, write "N/A". If you don't know or don't understand what the question means, write "don't know" or "not sure". Your eligibility worker or fee agent will assist you with these questions during your interview.

We are required to take action on your application within 30 days from the time it is received in our office. If you are applying for food stamps, you will receive them for the entire month in which you first apply. Most clients have to have an interview before we can see if they are eligible, but you do not have to wait for an interview before you turn in your application.

When you are interviewed, be sure to bring with you proof of all income received by all household members; for example—pay stubs, award letters from government benefits such as Social Security income, Unemployment Insurance, BIA grants, and other similar income.

You must list the Social Security number of each person for whom you want to receive a cash payment. If someone doesn't have a Social Security number, your eligibility worker or fee agent will help you apply for one. We will also need proof of the age and relationship of the children applying for AFDC (birth certificate, baptism papers, or school records will give us the necessary information). If you are applying for food stamps, all members age 18 and over must provide a Social Security number and certain members must also complete a work registration form.

We also need the following: rent or house payment receipts, utility bills, checking or savings account statements, child care receipts and work related expense receipts.

ASSISTANCE REQUESTED: Check the boxes which match your situation:

- FOOD STAMPS ONLY (available for most low-income households)
- AFDC ONLY (a cash payment for families in which one or both parents of a child(ren) under 18 are absent, deceased, disabled, or incapacitated)
- BOTH AFDC and FOOD STAMPS

GR burial application

YOUR NAME _____
(First) (Middle) (Last) Phone where you can be reached _____
STREET ADDRESS _____
MAILING ADDRESS _____ City _____ State _____ Zip _____

Describe how to get to your home if you don't have a street address: _____

Have you applied for assistance before? No Yes Where? _____ When? _____
If yes, under what last name did you apply? _____

IF YOU NEED FOOD STAMPS RIGHT AWAY: If your household (you and the people who live and eat with you) has little or no income right now, you may be able to receive food stamps within a few days. Answer the following questions if your household has little or no income and needs food stamps right away, and then complete the application.

Has anyone in your household received any income so far this month? Yes No If yes, how much? \$ _____
Did your household's entire income recently stop? Yes No When? _____
Does anyone in your household expect to receive income later this month? Yes No Don't Know
If yes, how much? \$ _____ When? _____
How much do the members of our household have in cash and savings (give your best estimate of the total)? \$ _____

HOUSEHOLD MEMBERS List yourself first if you are also applying:

Name:	(Last)	(First)	(M.I.)	Social Security Number	Relationship	Birthday			Age
						Month	Day	Year	
1.				- -					
2.				- -					
3.				- -					
4.				- -					
5.				- -					
6.				- -					

(If you need more room, use page 8)

ADDITIONAL INFORMATION:

Are household members listed above either U.S. citizens or persons from another country residing legally in the United States? Yes No If answer is no, please explain the circumstances. _____

Are any of the persons 16 through 17 years old in school or vocational training? Yes No Are any of the persons 18 through 20 years old in school or vocational training? Yes No

If you are not working, are you receiving Unemployment benefits? Yes No List all other persons in your home who are also receiving Unemployment: _____

Has anyone in your household quit a job in the last 60 days? Yes No If yes, give date quit and explain: _____

RESOURCES:

Does anyone in your household own (or are you buying) any cars, trucks, boats, campers, motorcycles, snowmachines, airplanes, or other vehicles? Yes No If yes, please describe. _____

	MAKE	MODEL	YEAR	AMOUNT OWED	ESTIMATED VALUE
1.					
2.					
3.					

List the total amounts of money you and the members of your household have: Cash on Hand \$ _____ Stocks and Bonds \$ _____

Do you or anyone in your household have a bank account, savings account, checking account, or money in a savings and loan or credit union? Yes No If yes, complete the following: Type of account (checking, savings, etc.) _____
 Money in the account today \$ _____ Name of Bank (savings & loan, etc.) and branch _____
 Name(s) on the Account _____ Account # _____

Do you or anyone in your household share a joint bank, savings and loan, or credit union account of any type with someone who is not living in your home? Yes No If yes, give names on the account, name of the bank and branch, and the amount now in that account: _____
 Account # _____

Does your household own any real estate besides the home you are living in, such as land or buildings (including buildings you rent to others)? Yes No If yes, you may need to provide us with information about the value of the property, any amount owed, and what the property is used for. Describe property. _____

Did you or a member of your household sell, trade, or give away anything of substantial value during the last three months? Yes No If answer is yes, explain. _____

CHAPTER 35.
EMBALMING

Section

- 10. (Repealed)
- 20. (Repealed)
- 30. (Repealed)
- 40. (Repealed)
- 50. (Repealed)
- 60. (Repealed)
- 70. (Repealed)
- 80. (Repealed)
- 90 Care of human remains
- 100. Transportation of the dead
- 110. Requirements of funeral establishments
- 120. Preparation room requirements
- 130. Definitions

7 AAC 35.010. LICENSE REQUIRED. Repealed. (Eff. 12/29/77, Reg. 64)

7 AAC 35.020 QUALIFICATIONS OF APPLICANTS FOR EMBALMER'S LICENSE. Repealed. (Eff. 12/29/77, Reg. 64)

7 AAC 35.030. APPLICATION. Repealed. (Eff. 12/29/77, Reg. 64)

7 AAC 35.040. EXAMINATION OF APPLICANTS FOR EMBALMER'S LICENSE. Repealed. (Eff. 12/29/77, Reg. 64)

7 AAC 35.050. SCOPE AND CONDUCT OF EXAMINATION. Repealed. (Eff. 12/29/77, Reg. 64)

7 AAC 35.060. SUCCESSFUL AND UNSUCCESSFUL APPLICANTS. Repealed. (Eff. 12/29/77, Reg. 64)

7 AAC 35.070. REVOCATION, SUSPENSION AND REFUSAL TO ISSUE LICENSE. Repealed. (Eff. 12/29/77, Reg. 64)

7 AAC 35.080. REPORTS BY FUNERAL ESTABLISHMENTS. Repealed. (Eff. 12/29/77, Reg. 64)

7 AAC 35.090. CARE OF HUMAN REMAINS. (a) All human remains shall be disinfected by approved disinfecting solutions so that there will be no danger of spreading disease or infection.

(b) Embalmers shall take every precaution to

prevent the spread of infections from persons who have died of communicable diseases.

(c) It shall be the duty and responsibility of all physicians licensed to practice medicine in the State of Alaska who are in attendance or any physician who by virtue of his appointment as medical examiner or local health officer shall have knowledge or suspect that a person has died of a communicable disease which may reasonably constitute a threat to the health of morticians and their staffs, village officials, clergymen, and all others involved in the handling and preparation of a dead human body, to inform and counsel such individuals promptly of this hazard or potential threat to their health and safety. Appropriate precautionary measures to prevent the spread of communicable diseases from deceased human bodies to employees of mortuary establishments, persons contracted to provide services involved in the preparation and handling of dead human bodies, and to the general public, shall be undertaken at all times and shall be the responsibility of the funeral director, or in his absence, the senior village official present.

(d) When death has occurred from smallpox, plague, anthrax, diphtheria, meningococcal meningitis, cholera, epidemic typhus, or any unusual and highly communicable disease, the body shall be handled and prepared under strict quarantine regulations. If one of the above named communicable diseases occurred or was reasonably suspected to be present, the body shall be embalmed by a licensed embalmer and immediately placed in a casket or coffin which shall be permanently closed unless the Commissioner of Health and Social Services shall make a specific exception. (In effect before 7/28/59; am 2/21/71, Reg. 37)

Authority: AS 18.05.040

7 AAC 35.100. TRANSPORTATION OF THE DEAD. (a) The transportation of human remains dead of any diseases mentioned in sec. 90 of this chapter shall be permitted only under the following conditions:

(1) the body shall be thoroughly embalmed with disinfectant solution; and

(2) all orifices shall be closed with absorbent cotton; and

7 AAC 35.090
2/21/71

(3) the body shall be washed with the solution and placed immediately in an hermetically sealed casket; and

(4) the casket encased in a suitable shipping container acceptable to the Commissioner of Health and Social Services.

(b) The transportation of human remains dead of any cause other than those diseases mentioned in sec. 90 of this chapter is permitted only under the following conditions:

(1) when the destination can be reached within the state within 24 hours after death, an unembalmed body shall be thoroughly washed, all orifices shall be closed with absorbent cotton, and the body dressed in a clean sheet and placed in an hermetically sealed metal shipping container;

(2) human remains shipped into or out of Alaska must first be embalmed;

(3) when the body cannot reach its destination within 24 hours after the death, the body shall be thoroughly embalmed, and placed in a casket; the casket encased in a suitable shipping container acceptable to the Commissioner of Health and Social Services;

(4) exceptions to (b) of this section may be approved only by the Commissioner of Health and Social Services where circumstances render the provisions of (b) of this section impossible to carry out.

(c) An outside shipping container is required in all instances except when the casket is transported in a hearse. The outside container shall be of wood, canvas, reinforced nylon, composition board, or other suitable material. (In effect before 7/28/59; am 2/21/71, Reg. 37)
Authority: AS 18.05.040

7 AAC 35.110. REQUIREMENTS OF FUNERAL ESTABLISHMENTS. (a) A funeral establishment shall

- (1) repealed (Eff. 12/29/77, Reg. 64);
- (2) have a sanitary preparation room; and
- (3) be subject to approval and inspection by the department.

(b) Repealed. (Eff. 12/29/77, Reg. 64) (Eff. 2/21/71, Reg. 37; am 12/29/77, Reg. 64)

Authority: AS 18.05.040

7 AAC 35.120. PREPARATION ROOM REQUIREMENTS. (a) The walls and ceiling of the preparation room shall be covered with tile, plaster, sheet rock, composition wall board or brick. With the exception of tile, all these materials shall be finished off with an impervious, readily washable or cleanable material.

(b) Outside ventilation shall be provided for by windows or transoms. If outside ventilation cannot be provided for by these means, an eight-inch pipe shall be installed to run from the ceiling of the room to the roof of the building, or from the side wall to the outside of the building. The installation shall be arranged so that it will not be a public health hazard.

(c) The preparation room shall be private and shall not be located near a public passageway. It shall contain only equipment necessary for preparing bodies for burial or shipment, and no toilet or commode.

(d) Windows and exterior doors shall be installed in such a way that the room shall be obstructed from view from the outside and so that fumes and odors are prevented from entering other parts of the building.

(e) The equipment for preparation rooms shall consist of the following:

(1) an operation or embalming table, which has rustproof metal or porcelain or glass top and a drainage opening at the lower end;

(2) a covered waste can, and sink with running water and backflow prevention and sewage connections;

(3) a cabinet, and instrument table, instruments, all necessary supplies including disinfectants and antiseptics, a sterilizer for instruments, and several pairs of rubber gloves;

(4) a first aid emergency kit for personal use.

(f) A water supply shall be available that complies with the Water Supply chapter of the Administrative Code.

Title 45, Code of Federal Regulations, sec. 233.90(c)(v)(1), when the 18-year-old meets all of the following criteria:

(A) was an eligible recipient of Aid to Families with Dependent Children (AFDC) assistance in the month preceding his 18th birthday;

(B) is a full-time high school student living at home with a relative specified in 45 CFR 233.90(c)(v)(1); and

(C) other children and the specified relative are in the home and continue to be eligible for AFDC; or

(2) a person who has applied for but who is not yet receiving benefits under the Adult Public Assistance, Alaska Longevity Bonus, or Supplemental Security Income programs.

(b) Persons eligible for cash payments under (a)(2) of this section may receive them for a period not to exceed six months.

(c) There are no restrictions on the use of cash payments. (Eff. 3/23/78, Reg. 65)

Authority: AS 47.05.010

AS 47.25.120

7 AAC 47.130. FUNERAL AND BURIAL EXPENSES. (a) General relief assistance payments which may not exceed \$750 per deceased person will be paid to the vendor for the following funeral and burial services provided in the state:

(1) preparation and embalming;

(2) provision of a cloth-covered wooden casket with at least four handles and a padded and lined interior, which is similar to Sound Casket Company No. 199 gray domet, Puget Sound Casket Company No. 0 gray flannel square, or Casket Distributors Incorporated No. A-2 welfare regular service flannel cover;

(3) chapel service with minister;

(4) use of a hearse; and

(5) other services, facilities, and equipment necessary for a dignified burial;

(b) General relief assistance will be paid to a vendor of funeral and burial services which exceed the monetary limitation provided in (a) of this section, for the following:

(1) the cost of the least expensive municipal or private cemetery plot that is reasonably available in the state, whichever is less, or the cost of cremation if cremation is requested by the next-of-kin;

(2) the reasonable cost of opening and closing the grave;

(3) the cost of hermetic sealers, an oversized casket, clothing and extraordinarily lengthy storage of the deceased if the service is necessary and authorization is given by a regional manager of the division before the service is rendered;

(4) the cost of transporting the deceased from the place of death to the place of burial if the deceased was transported from the last place of residence to the place of death at public expense and authorization is given by a regional manager of the division before transporting the deceased person.

(c) One assistance payment will be made for services under (a) and (b) of this section. This payment will be made to the vendor that prepares the deceased person for burial. The vendor who receives payment from the division shall immediately refund to the division any amounts received from a prior resource specified in sec. 160(b) of this chapter. (Eff. 3/23/78, Reg. 65; am 11/8/80, Reg. 76)

Authority: AS 47.05.010

AS 47.25.120

AS 47.25.300

7 AAC 47.140. ELIGIBILITY. Eligibility for General Relief and General Relief Medical assistance is based upon

(1) financial need;

(2) immediate and specific need for subsistence items such as rent, food, fuel, transportation, burial, or medical supplies and services;

(3) lack of prior resources listed in sec. 160(b) of this chapter of any kind sufficient to meet the specific need;

(4) age at which applicant may be eligible, as set out in sec. 170 of this chapter; and

(5) residence in the State of Alaska at the time of application; proof of residence may be required;

(6) registration for work with the Alaska Department of Labor and acceptance of any bona fide offer of employment. This requirement applies to all persons 18 through 59 years of age except a person

(A) who has been determined by a physician to be mentally or physically incapacitated and that incapacity prevents the person from engaging in gainful employment;

(B) who is attending high school full-time; or

(C) who is needed in the home to care for a relative who has been determined by a physician to be mentally or physically incapacitated. (Eff. 3/23/78, Reg. 65; am 5/2/79, Reg. 70; am 5/24/80, Reg. 74)

Authority: AS 47.05.010
AS 47.25.120

7 AAC 47.150. DETERMINATION OF FINANCIAL ELIGIBILITY. (a) Financial eligibility exists only if the need standard exceeds monthly net income, as determined under this section.

(b) Need is determined by use of one of the following tables:

(1) Adult-only households

Number of Adults	Need Standard (Rent Under \$35/mo.)	Need Standard (Rent \$35 or more/mo.)
1	\$235	\$300
2	335	400
3	435	500
4	535	600
5	635	700

\$100 must be added for each additional adult.

(2) Households with children and adults

Number of Persons	Maximum Need Standard
Parent plus 1 child	\$300
Parent plus 2 children	350
Parent plus 3 children	400
Parent plus 4 children	450
Parent plus 5 children	500
Parent plus 6 children	550
Parent plus 7 children	600

\$100 must be added for each additional adult, and \$50 for each additional child.

(c) Monthly net income is determined by

(1) counting all income earned or unearned, from any source, except payments made under the Alaska Native Claims Settlement Act, received during the calendar month in which application is made, and all income reasonably expected to be received in time to meet the specific needs (income received weekly is multiplied by 4.3, that received every two weeks by 2.15, that received twice monthly by 2, and that received monthly by 1);

(2) subtracting all mandatory payroll deductions (federal and state income tax, FICA, unemployment insurance, union dues, insurance premiums, and retirement); and

(3) not counting income received in the month just before the calendar month in which application is made, but considering this a resource under sec. 160 of this chapter.

(d) Persons who are included in the household, and who will therefore have their financial needs, income, and resources considered in determining financial eligibility, include the applicant, all persons related to the applicant by blood, marriage, or adoption who reside with him, and all unrelated persons whose needs are included in the request for assistance and who would benefit directly from the requested assistance, or who would benefit directly even if their needs are not included. (Eff. 3/23/78, Reg. 65)

Authority: AS 47.05.010
AS 47.25.130

7 AAC 47.160. RESOURCES. (a) General Relief or General Relief-Medical assistance may

not be granted if the applicant, despite an excess of need over income, has other resources available and adequate to meet the specific need. Resources that will affect eligibility are classified as prior or personal.

(b) Prior resources include but are not limited to

(1) coverage by Social Security, workman's compensation, or by medical and hospital insurance;

(2) eligibility for assistance from categorical programs such as Adult Public Assistance and Aid to Families with Dependent Children;

(3) qualification to receive assistance from the Veteran's Administration, Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), Alaska Fisherman's Fund, U.S. Seaman's Act program, Crippled Children's Service, Office of Vocational Rehabilitation, Medicaid, Medicare, or free clinics;

(4) potential treatment or assistance from the United States Public Health Service and Bureau of Indian Affairs health care and general relief programs; and

(5) availability of cash, medical, and subsistence items and assistance from the Salvation Army, Red Cross, Lion's International, and other charitable organizations.

(c) Personal resources are

(1) liquid assets such as cash, savings, stocks, or bonds totaling more than \$500;

(2) more than one each of these: automobile, snowmobile, boat, or a combination of all three, unless they are used to produce income; a combination of any two is not considered a resource for the purpose of this section;

(3) real property, except for the applicant's home and the land upon which it stands and land contiguous to it, unless the property is for sale at or below fair market value, is producing reasonable income, or is essential to the employment of the applicant;

(4) credit sufficient to directly or indirectly meet the specified need. (Eff. 3/23/78, Reg. 65)

Authority: AS 47.05.010
AS 47.25.130

7 AAC 47.170. AGE AT WHICH APPLICANT MAY BE ELIGIBLE. (a) Applicants 18 years of age or older may be found eligible for General Relief and General Relief Medical assistance.

(b) An applicant under 18 years of age may be found eligible if he meets at least one of the following requirements:

(1) is living apart from parents or guardian and managing his own financial affairs, regardless of the source of his income;

(2) is 16 years of age or older and married, living with his spouse at the time of application;

(3) is in need of assistance to pay medical expenses for the diagnosis, prevention, or treatment of pregnancy or for diagnosis, and treatment of venereal disease; or

(4) is a female seeking abortion, or treatment following an abortion. (Eff. 3/23/78, Reg. 65)

Authority: AS 09.65.100
AS 47.05.010
AS 47.25.120

7 AAC 47.180. PROVISION OF MEDICAL BENEFITS. The division shall provide a written certification of eligibility for General Relief Medical benefits upon a form or card specified by it. This certification signifies that the person or persons named on it have been found eligible for medical assistance for the period of time stated. This certification neither guarantees to the recipient that certain medical services and supplies will be furnished nor guarantees to the provider that he will receive unrestricted payment for any and all services and supplies he provides. (Eff. 3/23/78, Reg. 65; am 4/15/82, Reg. 82; am 5/25/82, Reg. 84)

Authority: AS 47.05.010
AS 47.25.170

Editor's Note: Emergency amendments of 7 AAC 43.005(e), 7 AAC 47.030, 7 AAC 47.050, 7 AAC 47.060, 7 AAC 47.070, 7 AAC 47.110, 7 AAC 47.180, 7 AAC 47.200, 7 AAC 47.210, 7 AAC 47.220 and 7 AAC 47.900, filed on 4/15/82 (effective 5/17/82), were repealed on 5/25/82 and are therefore not being printed. The text of these provisions appears as it did before the emergency amendments.

Memorandum

Alaska Court System

TO:

Alaska State Troopers, Kotzebue
Kotzebue Police Department, Kotzebue

DATE : September 17, 1982

FROM: Judge Jones and
Magistrate Sinkey

SUBJECT: Funeral expenses in
Coroner's cases

As of March 31, 1982, the Bureau of Indian Affairs and the Maniilaq Association ceased paying funeral expenses, i.e. embalming, casket and clothing, for deceased Alaska Natives taken to Anchorage for autopsy under Court Order.

The State Division of Public Assistance will now pay such funeral expenses up to \$750 for persons eligible under the general relief burial requirements. The Court System will continue to pay autopsy and transportation costs.

To obtain this assistance, the deceased's family or next of kin should contact the Division's Kotzebue Office to report the name of the deceased and request burial assistance.

The Division of Public Assistance is open Monday through Friday from 8:00 a.m. to 4:30 p.m., telephone number 442-3451.

PBJ/RDS:sh

cc: Magistrates, NANA Region
Mr. Richard Holbrook, USPHS
Mr. Nathan Kotch, State Division of
Public Assistance
Maniilaq Association
Kotzebue IRA
NANA Region Village Councils



Superior Court
State of Alaska

SECOND JUDICIAL DISTRICT

P.O. BOX 317

KOTZEBUE, ALASKA

99752

November 26, 1982

907-442-2708

Chambers of
PAUL B. JONES, Judge

Ms. Shirley McDonald, Cpr. Dan Weatherly, Chief Donald Buehler,
Florence Jetton, Nate Kotch, Magistrate Robert D. Sinkey, Sgt.
Laurence Wallace

RE: Interim Report Concerning Meeting on Coroner Cases

Dear Participants:

As you recall, we met on November 12, 1982 regarding coordinating and solving problems we all are having with coroner cases.

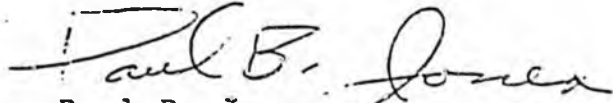
We are still working on an information sheet to send out or to furnish those agencies making the initial contact with families. Meanwhile, our Clerk of Court, May Pannick, found an excellent article in the Tanana Chiefs, Incorporated publication which I am enclosing. This would seem to furnish an ideal beginning for an information sheet. Perhaps this information could be published in the publications of Maniilaq, NANA, Northwest Arctic School District.

Please note that TCC has a social service representative to advise families concerning funeral and burial arrangements. It would seem that Maniilaq could provide a similar type of representative as we discussed during our meeting.

Page 2
RE: Interim Report Concerning
Meeting on Coroner Cases.
November 26, 1982

I will continue working on the various items we
discussed at the meeting.

Sincerely,

A handwritten signature in cursive script that reads "Paul B. Jones". The signature is written in dark ink and is positioned above the typed name and title.

Paul B. Jones
Superior Court Judge

PBJ/sh

Enclosure

cc: File
May Pannick

Family death requires special arrangements

Though grief and shock often complicate arrangements after a relative's death, the situation can be made easier by following simple steps. TCC family services department offers the following advice:

-To avoid confusion, select one person to speak for the family in the funeral and burial arrangements. Please give TCC's social service representative the contact person's name.

-If the death was unattended by a doctor, law enforcement officials must be notified first. If an autopsy is required, those officers will arrange to transport the body. Autopsies are mandatory for all suicide and homicide deaths, and usually are required for accidental drownings or shootings, deaths unattended by a doctor or when the cause of death is unknown.

-If a person dies in a village and an autopsy is required, the state will pay to transport the body to the city and home again for burial. The state won't pay the funeral home bill unless the family qualifies for relief. If a person was taken away from home at state expense and then dies, the state will pay to transport the deceased home.

-If someone dies in a city or must be shipped to the city for an autopsy, embalming is required. Embalming also is required if the body isn't buried within 24 hours. A funeral home must be selected and authorities notified when family wants the body transported for burial preparation. State law prohibits a funeral home from keeping the body until payment is received, but the funeral home will want to arrange immediate payment.

-If the deceased was in a public assistance program or had little or no income at the time of death, the family should apply to the state's public assistance program for general relief assistance for burial expense. It is crucial to apply before making fee arrangements with the funeral home. If the deceased is eligible for general relief, the state will pay \$750 for the

least-expensive burial. Without the state's agreement to pay, the least expensive funeral is about \$1200. If you arrange a funeral, make a partial down payment and then apply for general relief, you will be denied. Also, you can't have the state pay \$750 then pay extra for a more expensive funeral.

-If you live in a village and want state aid to pay for the funeral, have your fee agent send the application immediately to Fairbanks. Or apply in person at the public assistance office. Applications are taken only between 8 and 9 a.m. weekdays.

TCC is encouraging the public assistance office to treat these cases as emergencies and see people immediately. TCC is asking public assistance to make immediate determinations so the family and funeral home will know how to plan. You can help by bringing or sending to public assistance pay stubs and other proofs of income for the deceased during the month he/she died. Incomes of family members living in the same household must also be verified.

Doyon Ltd. offers a \$500 grant to the family of any deceased Doyon stockholder for the traditional potlatch following a death. Contact Kitty Harwood, 201 First Avenue., Fairbanks, 452-4755.

If the death is connected with a violent crime, the family may apply for special compensation. It is important to keep all receipts and costs and submit these with the application to Violent Crimes Compensation Board, Pouch N, Juneau, 99811. Applications must be made within two years of the violent death.

TCC no longer can financially assist with the burial. The burial procedure is complicated, so notify and work with your subregional TCC office.

Several villages are collecting reserve funds to assist families in need. These "revolving loans" are intended for cases when state public assistance and/or violent crime compensation isn't available.

TANANA CHIEFS CONFERENCE, INC.
NOVEMBER 1982



Trial Courts

State of Alaska

SECOND JUDICIAL DISTRICT

P.O. BOX 317

KOTZEBUE, ALASKA

99752

ROBERT D SINKEY
Magistrate

907-442-1208

February 25, 1983

Ms. Delores Wilks
Coroner
Alaska Court System
303 K Street
Anchorage, Alaska 99501

RE: Frederick Weinard, deceased
Coroner Case No. 2KB-83-03cor.

Dear Ms. Wilks:

On February 17, 1983, I ordered the remains of Frederick Weinard to Witzleben Funeral Home in Anchorage for autopsy. It was the usual order for post mortem-autopsy and nothing was required by this court except the post mortem and the subsequent return of the body for ultimate family burial in the village of Candle.

Surviving members of the family wished only two small services performed by Witzleben, these were to perform basic cosmetic work and to dress the body in the clothing supply by the family. The total responsibility required of the funeral home was performed by the following services:

1. Furnish the facilities for the ordered autopsy.
2. Removal of remains from airport.
3. Dressing and cosmetic work.
4. Return of the body in the seigler case, to the airport for its ultimate return to the village of Candle.

These basic needs were conveyed to Witzleben by this court and by close family friends in Anchorage who was prepared to pay for the dressing and cosmetic work.

Page 2
February 25, 1983
Ms. Delores Wilks
RE: Frederick Weinar

At about the time the autopsy was taking place, the friend of the family, Ms. Karen Upchurch, called from Anchorage and was very upset after having been informed by Witzleben that costs to the family would be in the amount of \$770. Witzleben was preparing to perform and charge for the following services:

1. Basic operating fee \$175.00
2. Preparation of remains \$230.00
3. Dressing and cosmetology \$95.00
4. The obtaining of the death certificate and "administrative costs" \$70.00
5. Recording of statistical data \$100.00
6. Use of operating room \$100.00

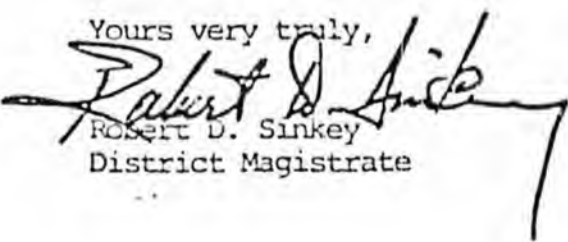
For a grand total of \$770.00

Mind you, these were charges and services intending to recover from the family and were over and above the usual cost to the court system for use of the facilities and transportation both ways. These charges usually run in the neighborhood of \$110.00 total.

The body was still at autopsy and the listed services had not yet been performed. In order to protect the family from these charges I ordered that the body be returned without further services and that the services already performed be itemized and broken down in detail. When Witzleben discovered that they could not charge the family as anticipated, they requested permission from your office to transfer the remains to another mortuary.

Ms. Wilks, this is the third time in the period of the year where frantic and unhappy family members and relatives have approached this court concerning attempted services and charges by Witzleben. I have not yet had problems stemming from any other mortuary. In my opinion, the native families of the NANA Region are being victimized by Witzleben and I will in the future, direct autopsy to other Anchorage funeral homes.

Yours very truly,


Robert D. Sinkey
District Magistrate

RDS/sh
Enclosures
cc: F.J. Witzleben, President
Hon. Paul B. Jones

MEMORANDUM

RECEIVED

OCT 14 1983

TO: Stephanie Cole
FROM: Karla Forsythe
DATE: October 13, 1983
SUBJECT: Suspension of funeral home

Office of Administrative Director
Alaska Court System

I have attached a portion of the West Virginia Board of Regents Purchasing Guidelines which discusses suspension of vendors.

As you may know, Fraya brought back the West Virginia manual from a government purchasing conference she attended. The manual is excellent, and I am using it as a basis for a first draft. However, there are several sections which are more relevant to a large government institution such as a school system, and which are not appropriate for use by the court system. The suspension provisions fall in this category.

It occurs to me that the provisions might be useful to you in developing a procedure for terminating the services of a funeral home which has been creating problems. The provisions are based on West Virginia statutes, and as far as I can tell, Alaska has no similar provisions. But they might be helpful. The procedures set forth comport with fundamental due process principles, and make sense from a practical standpoint.

Karla

ARTICLE SEVEN

SUSPENSION

In accordance with Section 5A-3-39 of the State Code, any person suspended under said provisions shall not be eligible to sell or offer to sell commodities or printing to the BOR.

SUSPENSION OF VENDORS BY BOARD OF REGENTS

In accordance with Section 18-20-10f of the State Code, the BOR shall have the power and authority to suspend, for a period of time not to exceed one year, the right and privilege of a person to bid on purchases of the board when there is reason to believe that such a person has violated any of the provisions in Section 18-26-10c through 18-26-10f of the State Code or the rules and regulations of the BOR pursuant thereto.

- a. These rules and regulations require implicitly, and explicitly herein, that vendors honor and fulfill the terms and obligations imposed upon them by virtue of contracts entered into with the BOR. Adherence is hereby required to contractual provisions relating to the quantity and quality of commodities furnished or services rendered and to the price therefore and to the date(s) of delivery or performance. Further, adherence is required to all federal, state and local laws, regulations, and ordinances governing a vendor's performance or conduct, which laws apply to the vendor because of a contractual relationship with the BOR entered into pursuant to the provisions of Article 26 of Chapter 18 of the Code or these regulations.
- b. The power and the authority of suspension vested in the BOR by virtue of Section 18-26-10f of the Code may be exercised when the BOR has reason to believe that:
 1. A vendor has exhibited a pattern of poor performance in fulfilling his contractual obligations to the BOR in more than one contract (purchase order). "Poor performance" may include documented, repeated errors of omission or commission which constitute technical breaches of contract but which, taken individually, are insufficient to warrant termination of the relevant contract by reason of default. The essence of this ground for suspension is continued and repeated instances of a vendor providing or furnishing commodities, materials, workmanship or services at a quantity or quality level below that which is required by generally accepted industry standards; or
 2. The vendor has willfully breached any contract entered into pursuant to the provisions of Article 26 of Chapter 18 of the Code or these Regulations.

A contract shall be deemed to have been "willfully breached" in any instance wherein a vendor refuses to do or perform any act clearly required by the terms of the contract; or in any instance wherein a vendor knowingly provides or furnishes commodities, materials, workmanship, or services at a quantity or quality level below that which is specified in the contract; or in any instance wherein a vendor is given written notice that the quantity or quality level of commodities, material, workmanship, or services which he has provided is below that which is specified in the contract and such vendor, without questioning the accuracy of such notice of omission or fault, continues such omission or fault without recompense or correction for such omission or fault; or

3. A vendor has violated any provisions of the purchasing laws; or
4. A vendor has been convicted of any federal, state, or local law punishable as a felony, which conviction arises from the vendor's acts or omissions directly related to the performance of a contract entered into pursuant to Article 26 of Chapter 18 of the Code or these regulations.

- c. Every person (vendor) whom the BOR has reason to believe has violated the provisions of the purchasing laws or these regulations will be notified by letter posted by registered mail of such belief and reason(s) therefore. At the same time, the vendor shall be given notice that a hearing will be held concerning the matter, if a hearing is requested within five (5) days of the vendor's receipt of the notice. The date, time, and place of the hearing will be specified in the Procurement Officer's letter to the vendor. The date and time of the hearing shall be at least ten (10) days after notice is given.

If a hearing is not requested, the vendor's right and privilege to bid on BOR purchases may be suspended for a period not to exceed one year, effective the date and time at which the hearing would have been held had one been requested. Notice of such suspension and the reason(s) therefore shall be sent to the vendor at that time by letter posted by registered mail.

- d. The Chief Procurement Officer shall act as hearing examiner at any hearing held. An opportunity shall be afforded to all parties to present evidence and arguments with respect to the matters and issues involved. The affected vendor shall have the right, but shall not be required, to be represented by an official of his choice. The hearing shall be conducted in an informal manner; technical rules of evidence shall not apply. The vendor and the Chief Procurement Officer or their respective representative shall have the right to examine and

cross-examine witnesses who testify, and shall have the right to submit rebuttal evidence.

All of the testimony and evidence at any such hearing shall be reported by stenographic notes and characters or by mechanical means. All rulings on the admissibility of testimony and evidence shall also be reported. The institution involved shall prepare an official record, which shall include reported testimony and exhibits in each contested case, and all agency staff memoranda and data used in consideration of the case, but it shall not be necessary to transcribe the reported testimony unless required for purposes of rehearing or judicial review.

- e. If the affected vendor or his representative does not appear at the hearing, the Chief Procurement Officer shall request such vendor's right and privilege to bid on BOR purchases be suspended for a period not to exceed one year. If approved by BOR, such suspension shall be effective immediately and notice of such suspension and the reason(s) therefore shall be sent to the vendor by letter posted by registered mail.

Every such decision rendered by the Chief Procurement Officer in a contested case shall be in writing or stated in the record and shall be accompanied by findings of fact and conclusions of law. Prior to the rendering of any final order or decision, any party may propose findings of fact and conclusions of law. If proposed, all parties shall be given an opportunity to accept such proposed findings and conclusions, and the final order or decisions shall include a ruling on each proposed finding. Findings of fact, if set forth in statutory language, shall be accompanied by concise and explicit statement of the underlying facts supporting the findings. A copy of the order or decision and accompanying findings and conclusions shall be served upon each party and his attorney of record, if any, in person or by registered mail.

- f. Any vendor suspended in accordance with Section 18-26-10f of the State Code shall have the right to have the BOR's action reviewed in accordance with Section 5A-3-40 of the State Code by a Board composed of the Governor, Attorney General, and Auditor of the State, which Board shall have the power and the authority to set aside such suspension. If the vendor wishes such review, he shall submit a request for review and three copies to the Board of Regents. Upon request to the Chief Procurement Officer by the vendor, all reported testimony and evidence taken at previous hearings, if any, shall be transcribed, and a copy thereof furnished to the vendor at his expense. The Chief Procurement Officer shall be responsible for making arrangements for the transcription of the reported testimony and evidence taken at a previous hearing, if any, shall be transcribed, and

a copy thereof furnished to the vendor at his expense and such transcription shall be accomplished with all dispatch.

- g. Requests for review shall be in narrative form explaining in detail the reasons why the review is requested. The BOR shall distribute the "requests for review" to the Governor, Attorney General, and Auditor.
- h. If the vendor feels an oral presentation is necessary, he shall request a hearing and give reasons why a hearing is necessary.

M E M O R A N D U M

February 7, 1984

To: Stephanie Cole
Deputy Director of Services

Rick Barrier
Deputy Director of Operations

Bob Fisher
Fiscal Officer

From: Karla L. Forsythe *KLF*
General Counsel

Subject: SB 382 - payment for autopsies

RECEIVED
FEB 9 1984

Office of Administrative Director
Alaska Court System

Last week in Juneau Rick and I talked with Dr. Rabeau, director of the division of public health, and Dwayne Peeples, an analyst with the division who is preparing the fiscal note.

They wondered to what extent court involvement would continue if DHSS becomes responsible for payment. They wanted a step-by-step outline of who. They also wanted to know the number of autopsies statewide, and how many are performed in each location (Anchorage, Fairbanks, Bethel), as well as the procedure for bodies coming from southeast Alaska.

Although Bob had given a figure of \$300 for embalming, this figure seemed high to Peeples who had called several mortuaries and was quoted a figure of \$250. Peeples wondered if the \$300 included dressing.

He also questioned the scope of "related services" under the statute, and decided it probably includes dressing and preparation.

Another question involved the use of sealer boxes, the rate of replacement and the cost. Peeples pointed out that DHSS inventory procedures are quite stringent and they will want to keep track of the boxes, although Rick noted that this is an administrative nightmare.

We all agreed that embalming would probably be needed for all the autopsies under the wording of the present bill, but that this could be modified if necessary.

Peeples asked the extent to which we become involved in complaints. Rick indicated the public health by regulation has more involvement.

He also wanted to know if we had considered bid procedures. Rick said the difficulty comes in knowing how to bid it, because the mortuaries may be willing to pay for the bodies.

They both indicated that the division needs new staff to coordinate the process, consisting of at least one clerk IV in Anchorage and probably another clerk in Fairbanks, who would work with the professional services contracts with the pathologists, with paying bills, with coordinating the process, and with enforcement of funeral home practices.

Rabeau noted that the commissioner has said that of all the DHSS offices, public health ought to have the responsibility. Basically, they don't want to become involved because they have undergone staffing cuts, and say they simply don't have anyone to do the work without additional staff.

I have not yet seen a copy of the DHSS fiscal note, but will forward it when it comes across my desk.

Please let me know if you have any questions.

KLF:smh

Attachments

cc: Arthur H. Snowden, II

ALASKA

BILL SHEFFIELD, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

POUCH H 01
JUNEAU, ALASKA 99811
PHONE: 465-3030

December 21, 1983

Mr. Arthur Snowden II
Administrative Director
Alaska Court System
303 "K" Street
Anchorage, AK 99501

Dear Mr. Snowden:

I have received your letter of December 13, 1983. It appears that correspondence from this department (dated December 12, 1983, from E.S. Rabeau) passed yours in the mail. I believe your concerns and the position of this Department are generally addressed in that letter.

There is only one matter which I believe needs further discussion. This department has, as yet, made no commitment to assume costs of embalming in all cases involving court ordered autopsies. We are attempting to design provisions in our General Relief Program which would permit us to pay costs of embalming in a limited number of cases, which would include some rural deaths which are not presently covered by General Relief.

Sincerely,

Robert London Smith
Robert London Smith, Ph.D.
Commissioner

RECEIVED
JAN 5 1984

Office of Administrative Director
Alaska Court System



Alaska Court System

State of Alaska

303 "K" STREET
ANCHORAGE, ALASKA
99501

ARTHUR M. SNOWDEN II
ADMINISTRATIVE DIRECTOR

(907) 274-8611

December 13, 1983

Robert London Smith
Commissioner
Department of Health and Social Services
Pouch H-01
Juneau AK 99811

Reference: Problems related to autopsies mandated under
Alaska law

Dear Commissioner Smith:

As you may be aware, a variety of problems relating to court-ordered autopsies have surfaced in the past few months. Court system personnel, members of your staff and other interested parties have been working together in an attempt to remedy these problems.

After considerable study, the court has concluded that some problems may be remedied by transferring certain responsibilities from the court system to your department.

Under the system currently in place, a coroner (a court employee) is contacted about a death. The coroner makes an initial determination about whether an autopsy should be ordered pursuant to the provisions of applicable state statutes and Department of Health and Social Services regulations (see AS 12 65.020, 7 AAC 05.440). If an autopsy should be ordered, the coroner contacts a medical examiner from a list provided by your department. (Your department has the responsibility for

the appointment of medical examiners. AS 12.65.110). Since Alaska has no morgue, the coroner then directs that the deceased be transported to a funeral home. The choice of the funeral home (absent a specific designation by next of kin) is made from a rotation schedule presently maintained by the court of licensed funeral homes which wish to receive these referrals.

Payment to the funeral home is complicated. Under the present system, the court pays for the transportation of the deceased to the place of autopsy and then back to the place of death or residence (whichever is less), the pathologist's bill and the preparation room fee. Funeral expenses (casket, clothing, burial plot, headstone, services and burial) are the family's responsibility. The families deal directly with the funeral homes about these issues. It appears that in most cases involving bodies from rural Alaska, your department pays burial expenses through the avenue of general assistance. 7 AAC 47.130. (Payment for embalming costs has been a hotly contested issue in the past. However, it is our understanding that your department has agreed to assume these costs in cases involving all court ordered autopsies, and is presently designing a system to implement this policy change.)

Two problems appear to be occurring. First, the court system has no formal contracts with the funeral homes on the rotating list. There have been some indications that problems have occurred between the families of the deceased and one or more of these homes. One of the concerns that we have heard expressed is that maintenance of the rotation list should include responsibility for the quality of services and the investigation of abuses. The court system is not equipped to perform these functions. First, we are not charged with regulatory and licensing functions. Also, our role as an independent dispute resolution body precludes our involvement in investigations which may end up before the court. The Department of Health and Social Services, however, does investigate, regulate and license as part of its mandated functions.

The Department of Health and Social Services already regulates certain areas relating to autopsies. It is true that the Department of Commerce, not the Department of Health and Social Services, licenses persons who engage in the practice of mortuary science and issues funeral establishment permits. See AS 08.42.020 and 08.42.100. However, the Department of Health and Social Services enacts and enforces the regulations relating to embalming and the requirements for preparation rooms. See 7 AAC 35.090 - 7 AAC 35.130. The department's regulations also mandate that autopsies be performed in certain circumstances. See 7 AAC 05.440. In that the Department of Health and Social Services is already involved in regulation in this area, it is much more qualified than the court system to evaluate the qualifications of funeral homes for inclusion on a rotation schedule.

The Department of Health and Social Services is the primary beneficiary of information discovered during autopsies. The Bureau of Vital Statistics is contained within your department. The bureau is charged with the preparation of the state's vital records, including death certificates. Information obtained from autopsies is essential to the preparation of death certificates. As primary beneficiary of the autopsy results, your department logically has a greater interest in quality control in this area.

I would propose, in conclusion, that we enter into an inter-agency agreement wherein your department assumes responsibility for the maintenance of a funeral home rotation schedule or other mechanism which you find appropriate. Your department could screen, qualify and contract with funeral homes in a manner you determine to be appropriate. Your department would then provide the court with a list or rotation schedule of funeral homes to which the coroners will send bodies for autopsy.

The second problem in this area relates to payment of the funeral homes for services rendered. Because payment for different items comes from different sources under the present system, much confusion has been created. Also, there has been some concern that no routine checking can presently be done for "double billing" - items which may be charged both to families and the court system.

If the Department of Health and Social Services assumes the responsibility for the designation of funeral homes to be used for court-ordered autopsies, your department should also assume the responsibility for processing payments for those funeral home costs the state pays.

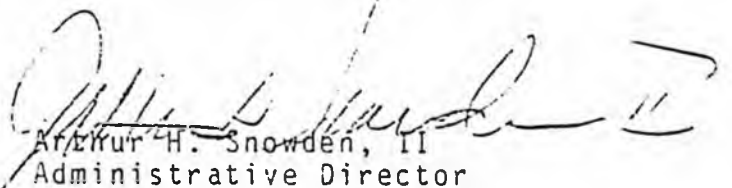
Your department already processes and pays some funeral expenses through the avenue of general assistance. See 7 AAC 47.130. Additionally, as previously stated, it is my understanding that the department has agreed to begin paying for embalming costs associated with all court-ordered autopsies, to begin at some point in the near future. If the department assumes the responsibility for paying all funeral and autopsy expenses which the state assumes, there is less chance of confusion about who should be paying what, and there is greater probability of preventing double billings of the same items to different state agencies and families (The court would, of course, transfer the monies allocated to the court for autopsy expenses to the department.)

It would be possible to propose legislation to effect these changes. However, it appears that the necessary changes could be effected by means of an interagency agreement between the Department of Health and Social Services and the court system.

I'll be happy to talk to you about this proposed change in procedures. Also, Deputy Director Stephanie Cole and Fiscal Officer Bob Fisher are authorized to work with your staff and provide you with any information you may need.

I am optimistic that we can work together to eliminate these problem areas for the benefit of the public.

Very truly yours,



Arthur H. Snowden, II
Administrative Director

cc: Governor Bill Sheffield
Attorney General Norm Gorsuch
Assistant Attorney General Connie Sipe
Senator Frank Ferguson
Representative Al Adams
Stephanie Cole
Bob Fisher

BILL SHEFFIELD, GOVERNOR

ALASKA
DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

POUCH H 01
JUNEAU, ALASKA 99811
PHONE: 465-3030

December 12, 1983

RECEIVED
DEC 16 1983

Mr. Arthur Snowden II
Administrative Director
Alaska Court System
303 "K" Street
Anchorage, AK 99501

Office of Administrative Director
Alaska Court System

Re: Autopsy Costs-Letter of September 9, 1983

Dear Mr. Snowden:

This letter is in reply to the letter from Stephanie Cole, your Deputy Director for Services, on the same subject.

In reply to your inquiries therein, after careful consideration, I am not prepared to commit the Department of Health and Social Services to the assumption for all autopsy and related burial costs. It is still my belief as expressed at our September meeting that all such costs, including costs of embalming, should be the Court System's responsibility.

While, as you note, this department does have certain responsibilities which affect the process of doing autopsies, those responsibilities are only peripherally related to autopsies. Each is part of a duly authorized activity, well within the scope of this department's mission. This department, at present, has no mission to perform the role you describe.

The scope of this department's authority is set out at AS. 44.29.020. This department's role does not include the criminal investigatory role that court-ordered autopsies in Alaska serve. (Note AS. 12 Chapter 65.)

Our regulations related to embalming, of course, cover all deaths, not merely those in which an autopsy is done. The present regulations are disease control measures, authorized by AS. 18.05.040(1) and (7). They are in no way specific to court ordered autopsies, and carry with them no administrative apparatus to administer the performance of all court ordered autopsies.

Our vital statistics duties, again, cover all deaths, births, marriages, divorces, and adoptions in Alaska. They too do not require an administrative apparatus of the sort needed for the purchasing of services ordered by the court system in the course of autopsies.


Our authority for general relief burials, (7AAC 47.130) is found at AS 47.25.120-300. Qualifications for G.R. burials must be need-based under those sections. Our procedures for handling such burials are for the provision of public assistance to the needy.

The Commissioner's authority to appoint a medical examiner does not include with it any specific authority or responsibility after the appointment. It is simply related to this department's responsibilities as the State's health agency.

Your proposal would entail a separation of the authority to order autopsies and the transportation and handling of dead bodies, (which, by its nature, must remain with the court system), from the responsibility to pay for such handling. It would present extreme management problems and would necessitate, not only a shift of a large portion of the court system's budget over to DHSS, but also a legislative change in the fundamental functions of this department. At this time, this department does not favor such a change.

It is still our opinion, as previously expressed, that if the court system mandates an autopsy (thus necessitating the need for embalming) it should assume the responsibility for paying for the embalming. The autopsy has removed the next of kin's option of interment without embalming.

Sincerely,


E. S. Rabeau, M.D.
Deputy Commissioner
for Health Services



Alaska Court System
State of Alaska

OFFICE OF THE ADMINISTRATIVE DIRECTOR

STEPHANIE J. COLE
DEPUTY DIRECTOR FOR SERVICES

303 K Street
Anchorage, Alaska 99501

September 9, 1983

E. Stuart Rabeau, M.D.
Director, Division of Public Health
Pouch H-01
Juneau, Alaska 99811

Subject: Autopsy Costs

When I returned to my office on September 8, I talked to Administrative Director Art Snowden about the matters discussed at the Thursday morning meeting.

Mr. Snowden agreed that there are several arguments in favor of the state's assumption of financial responsibility for embalming costs following a court-ordered autopsy. However, rather than simply seeking to add monies to the court system's budget to cover these costs, he would suggest that a larger examination of the system be undertaken with an eye to centralizing all responsibility for autopsy and related burial costs, and money to pay same, in the Department of Health and Social Services.

Our reasoning is as follows. The Department of Health and Social Services is the executive agency which has undertaken to regulate autopsy-related areas such as embalming (7AAC 35.010 -.130) and the requirements and procedures for the preparations of death certificates (7AAC 05.400 et.seq). Also, the Commissioner of Health and Social Services is the only official who may waive certain regulatory requirements (7AAC 35.100 (b)(4)). As discussed at our meeting, the Department of Health and Social Services already has procedures in place, through general relief programs, to handle claims for funeral and burial expenses. 7AAC 47.130.

Additionally, the Commissioner of Health and Social Services is the authority who may appoint medical examiners. AS 12.65.010.

E. Stuart Rabeau, M.D.
September 9, 1983
Page 2

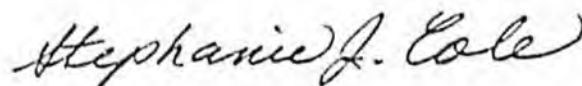
It seems to us that the Department of Health and Social Services, as the primary regulatory agency in this area and the agency most concerned with death investigation results (re: preparation of vital records), is a more appropriate vehicle than the court system for handling expenses and billings for autopsies and related burial costs.

At present, the court system does have money budgeted for autopsy purposes. We would be willing to transfer our monies to the department should the department begin paying autopsy expenses. Then, the department could seek additional monies from the legislature to cover embalming costs.

This assumption of total responsibility, in line with existing regulatory authority, could also be extended to you in the area of funeral homes. The department could examine and contract with funeral homes in any manner it deemed appropriate, and simply provide the court system with direction as to which funeral homes to use. In that way, if abuses did occur which came to the attention of the department, the department could take whatever steps were necessary to cease dealings with a particular home. The court system would follow the department's direction in such a matter.

Please let us know your reactions to these ideas.

Very truly yours,



Stephanie J. Cole
Deputy Director for Services

SJC:mjs

cc: Lewis J. Sears, Ph.D
Doctor E.S. Rabeau
Rhonda Roberts
Nadine Winters
Marty K. Rutherford
Connie Sipes
Don Burton
Dolores Wilks
Carole Baekey



Alaska Court System

State of Alaska

303 "K" STREET
ANCHORAGE, ALASKA
99501

ARTHUR M. SNOWDEN II
ADMINISTRATIVE DIRECTOR

(907) 274-8611

December 13, 1983

Robert London Smith
Commissioner
Department of Health and Social Services
Pouch H-01
Juneau AK 99811

Reference: Problems related to autopsies mandated under
Alaska law

Dear Commissioner Smith:

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After considerable study, the court has concluded that some problems may be remedied by transferring certain responsibilities from the court system to your department.

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the appointment of medical examiners. AS 12.65.110). Since Alaska has no morgue, the coroner then directs that the deceased be transported to a funeral home. The choice of the funeral home (absent a specific designation by next of kin) is made from a rotation schedule presently maintained by the court of licensed funeral homes which wish to receive these referrals.

Payment to the funeral home is complicated. Under the present system, the court pays for the transportation of the deceased to the place of autopsy and then back to the place of death or residence (whichever is less), the pathologist's bill and the preparation room fee. Funeral expenses (casket, clothing, burial plot, headstone, services and burial) are the family's responsibility. The families deal directly with the funeral homes about these issues. It appears that in most cases involving bodies from rural Alaska, your department pays burial expenses through the avenue of general assistance, 7 AAC 47.130. (Payment for embalming costs has been a hotly contested issue in the past. However, it is our understanding that your department has agreed to assume these costs in cases involving all court ordered autopsies, and is presently designing a system to implement this policy change.)

Two problems appear to be occurring. First, the court system has no formal contracts with the funeral homes on the rotating list. There have been some indications that problems have occurred between the families of the deceased and one or more of these homes. One of the concerns that we have heard expressed is that maintenance of the rotation list should include responsibility for the quality of services and the investigation of abuses. The court system is not equipped to perform these functions. First, we are not charged with regulatory and licensing functions. Also, our role as an independent dispute resolution body precludes our involvement in investigations which may end up before the court. The Department of Health and Social Services, however, does investigate, regulate and license as part of its mandated functions.

The Department of Health and Social Services already regulates certain areas relating to autopsies. It is true that the Department of Commerce, not the Department of Health and Social Services, licenses persons who engage in the practice of mortuary science and issues funeral establishment permits. See AS 08.42.020 and 08.42.100. However, the Department of Health and Social Services enacts and enforces the regulations relating to embalming and the requirements for preparation rooms. See 7 AAC 35.090 - 7 AAC 35.130. The department's regulations also mandate that autopsies be performed in certain circumstances. See 7 AAC 05.440. In that the Department of Health and Social Services is already involved in regulation in this area, it is much more qualified than the court system to evaluate the qualifications of funeral homes for inclusion on a rotation schedule.

The Department of Health and Social Services is the primary beneficiary of information discovered during autopsies. The Bureau of Vital Statistics is contained within your department. The bureau is charged with the preparation of the state's vital records, including death certificates. Information obtained from autopsies is essential to the preparation of death certificates. As primary beneficiary of the autopsy results, your department logically has a greater interest in quality control in this area.

I would propose, in conclusion, that we enter into an inter-agency agreement wherein your department assumes responsibility for the maintenance of a funeral home rotation schedule or other mechanism which you find appropriate. Your department could screen, qualify and contract with funeral homes in a manner you determine to be appropriate. Your department would then provide the court with a list or rotation schedule of funeral homes to which the coroners will send bodies for autopsy.

The second problem in this area relates to payment of the funeral homes for services rendered. Because payment for different items comes from different sources under the present system, much confusion has been created. Also, there has been some concern that no routine checking can presently be done for "double billing" - items which may be charged both to families and the court system.

If the Department of Health and Social Services assumes the responsibility for the designation of funeral homes to be used for court-ordered autopsies, your department should also assume the responsibility for processing payments for those funeral home costs the state pays.

Your department already processes and pays some funeral expenses through the avenue of general assistance. See 7 AAC 47.130. Additionally, as previously stated, it is my understanding that the department has agreed to begin paying for embalming costs associated with all court-ordered autopsies, to begin at some point in the near future. If the department assumes the responsibility for paying all funeral and autopsy expenses which the state assumes, there is less chance of confusion about who should be paying what, and there is greater probability of preventing double billings of the same items to different state agencies and families (The court would, of course, transfer the monies allocated to the court for autopsy expenses to the department.)

It would be possible to propose legislation to effect these changes. However, it appears that the necessary changes could be effected by means of an interagency agreement between the Department of Health and Social Services and the court system.

I'll be happy to talk to you about this proposed change in procedures. Also, Deputy Director Stephanie Cole and Fiscal Officer Bob Fisher are authorized to work with your staff and provide you with any information you may need.

I am optimistic that we can work together to eliminate these problem areas for the benefit of the public.

Very truly yours,

Arthur H. Snowden, II
Administrative Director

cc: Governor Bill Sheffield
Attorney General Norm Gorsuch
Assistant Attorney General Connie Sipe
Senator Frank Ferguson
Representative Al Adams
Stephanie Cole
Bob Fisher

Memorandum

Alaska Court System

TO: Art Snowden
Administrative Director

DATE : December 13, 1983

FROM: Stephanie Cole
Deputy Director for Services

SUBJECT: Autopsy problems

I have been investigating the idea of transferring our responsibility to designate specific funeral homes for autopsies to the Department of Health and Social Services. Specifically, you have asked that I consider any legislative changes which might be necessary to effect this transfer.

I have come to two conclusions: (1) Existing statutes do not require the court system to choose and designate the funeral homes to be used, and (2) It would be more appropriate to have Health and Social Services handle this task. However, I am not sure that legislation is the appropriate method of handling this change; an interagency letter of agreement may be a better way to proceed.

*discussed
w/art
12/13*

The coroner's obligation

The coroner's obligation is to direct a medical examiner to perform an autopsy in appropriate cases:

Sec. 12.65.020. Duties. When a person dies unattended by a physician, or when no physician is prepared to execute the certificate of death prescribed by the Vital Statistics Act, the coroner assigned to serve the place where the death occurs may, by written order, direct a medical examiner to view the remains of the deceased person and to perform the post mortem examination, including an autopsy, necessary to make a proper determination of the cause of death and to execute the prescribed death certificate. Upon the completion of the examination, the examiner shall, without delay, submit a report of the findings and conclusions to the coroner. The coroner shall order an inquest under this chapter if the findings and conclusions of the medical examiner, together with other information available to the coroner, warrant the inquest. Otherwise the coroner shall enter an order dispensing with the inquest and shall record the certificate of death as prescribed by law. (emphasis added)

The appointment of medical examiners is the responsibility of the commissioner of health and social services. AS 12.65.010. The statutes do not address the designation of the location for the autopsy, or the facility to be used.

As a practical matter, it is essential that the duty coroners be able to tell the state troopers or other officials who contact them about a death where the body will be taken. However, I see no reason why this information could not be provided to the court without any necessity for the court to maintain the list, receive complaints about particular cases, etc.

I tried to track down this history of the rotation list. I was only partially successful. Although some system may have been in effect prior to 1972, in March 1972 an interagency meeting was held to coordinate autopsy related activities. At that meeting, decisions were made about a rotation list, who should be on it, etc., and a decision was made to have the court provide the rotation schedule.

The arguments in favor of having the Department of Health and Social Services maintain the rotation list are as follows:

- (1) The court is not a regulatory and licensing agency; the Department of Health and Social Services is.

One of the concerns that we have heard expressed is that maintenance of the rotation list should include responsibility for the quality of services and the investigation of abuses. The court system is not equipped to perform these functions. First, we are not usually charged with regulatory and licensing functions. Also, our role as an independent dispute resolution body precludes our involvement in investigations which may end up before the court.

The Department of Health and Social Services, however, does investigate, regulate and license as part of its mandated functions.

(2) The Department of Health and Social Services already regulates certain areas relating to autopsies.

The Department of Commerce, not the Department of Health and Social Services, licenses persons^x who engage in the practice of mortuary science and issues funeral establishment permits. See AS 08.42.020 and 08.42.100. However, the Department of Health and Social Services enacts and enforces the regulations relating to embalming and the requirements for preparation rooms. See 7 AAC

§ 090 - 7 AAC 35.130. In that the Department of Health and Social Services is already involved in regulation in this area, it is much more qualified than the court system to evaluate the qualifications of funeral homes for inclusion on a rotation schedule.

(3) The Department of Health and Social Services is the primary beneficiary of information discovered during autopsies.

The Bureau of Vital Statistics is contained with the Department of Health and Social Services. The bureau is charged with the preparation of the state's vital records, including death certificates. Information obtained from autopsies is essential to the preparation of death certificates.

As primary beneficiary of the autopsy results, the Department of Health and Social Services logically has a greater interest in quality control in this area.

Payment for funeral home services

If the Department of Health and Social Services assumes the responsibility for the designation of funeral homes on a rotation schedule, the department should also assume the responsibility for processing payments for those funeral home costs the state pays.

The Department of Health and Social Services already processes and pays some funeral expenses through the avenue of general assistance. See 7 AAC 47.130. Additionally, it is my understanding that the department has agreed to begin paying for embalming costs associated with court-ordered autopsies, to begin at some point in the near future. If the department assumes the responsibility for paying all funeral and autopsy expenses which the state assumes, there is less chance of confusion about who should be paying what, and there is greater probability of preventing double billings of the same items to different state agencies.

In summary, I would suggest we ask the Department of Health and Social Services to enter into a formal interagency agreement in which the department:

(1) agrees to provide the court with a list or rotation scheduled of funeral homes to which the court will send bodies for autopsies, and

(2) agrees to begin processing and paying all bills received from funeral homes for state-assumed autopsy and burial expenses.

The court would, of course, transfer the monies allocated for autopsy expenses to the department.

DEPT. OF HEALTH AND SOCIAL SERVICES

POUCH H-07
JUNEAU, ALASKA 99811
PHONE: 465-3355

DIVISION OF PUBLIC ASSISTANCE

October 20, 1963

Stephanie J. Cole
Deputy Director for Services
Alaska Court System
303 K Street
Anchorage, AK 99501

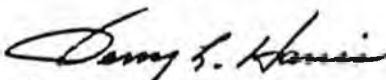
Dear Ms. Cole:

Thank you for your letter of concern about the general assistance program for burial expenses.

Our representative in Point Hope is one of about 200 fee agents in small communities throughout the state. Fee agents are trained and paid to process applications for Food Stamps and Aid to Families With Dependent Children. However, they are often called upon to perform a good many other services as well. Because of lack of additional funding for training and compensation, fee agents are not conversant with all of the program services we offer. Thus we encourage that queries be addressed to district or regional offices, which are staffed with trained, full-time eligibility technicians.

The Commissioner of Health and Social Services has directed a full review of the fee agent system in coordination with other state agencies to explore ways in which the system can be strengthened and used more fully. Your letter further underlines this need, and we appreciate your expression of concern.

Sincerely,


foe/Rod Betit
Director

cc: Heather Noble
Carole Baekey



Alaska Court System
State of Alaska

OFFICE OF THE ADMINISTRATIVE DIRECTOR

STEPHANIE J. COLE
DEPUTY DIRECTOR FOR SERVICES

303 K Street
Anchorage, Alaska 99501

October 26, 1983

Ms. Lou Ann Cutler
1024 West Sixth Avenue
Suite 204A
Anchorage, AK 99501

Re: Autopsies

Dear Lou Ann:

I understand that Bob Fisher did call you and give you a number for the amount of court-ordered autopsies statewide per year. It is also my understanding that in FY 1983 court-ordered autopsies numbered approximately 750 (\pm 20).

I did have one concern. Recently I was reviewing some autopsy billings and I briefly discussed various items on them with Bob Fisher. I had told you that the cost of embalming generally runs \$150-\$300. From current billings it looks like \$300 is the more representative figure and that it is even higher in some cases. Therefore, if you are making cost calculations, I suggest you use \$300 per case as the embalming cost (or a little higher).

Enclosed please find a copy of the letter I received from the Division of Public Assistance. This may be of some interest to you.

Please let me know if there is anything else I can do for you.

Very truly yours,

Stephanie

Stephanie J. Cole
Deputy Director for Services

cc: Bob Fisher, w/enclosure
Enclosure
SJC:le

RECEIVED

JAN 5 0 1984
ALASKA
MEMORIAL
SERVICES.
Office of Administrative Director
Alaska Court System

Witzleben Family Funeral Homes and Crematory

P.O. Box 102351
Anchorage, Alaska 99510-2351

January 3, 1984

Alaska Court System
Attn: Dale Cuda
P.O. Box 130
Bethel, Alaska 99559

Re: Alaska State Trooper Belden

Dear Magistrate Cuda:

Yesterday, January 2, 1984, a Federal & State Holiday, Trooper Belden called our office wanting to know why the remains of Theresa B. Williams has not been sent back to Bethel. I informed him that it was because, up until that time, no one had contacted us regarding the remains and we had no instructions as to what to provide, to whom, or where to ship the remains. He informed me that the "Alaska Court System would pay all the charges" and that the remains was to be returned. He did not specify where, so I could only assume he meant to Bethel. As it turned out that was not the case.

Later in the day we received a call from a Mrs. Shavings of Møkoryuk requesting information and informing us that an application had been submitted to Joyce Freeman at the Division of Public Assistance, on Friday, December 30, 1983. I advised her that we had never been contacted by the family or the Division and therefore unable to do anything until Tuesday because of the holiday. I further advised her that she should contact Mrs. Freeman first thing on Tuesday morning. Mrs. Freeman called our office at 8:45 am today (Tuesday) giving approval - NOT because she had received an application (she had not), a call from Mrs. Shavings (she had not), NOR because she had been called by Trooper Belden earlier this morning, but because she knew the family and knew they qualified.

Miss Williams died December 26th. We did not receive her remains until Thursday, December 29th. The autopsy was performed the same day. However the permit you sent us gave her name as "Jane Doe" and listed "Storage in Anchorage". Even though, as Mrs. Shavings informed us, the family had been given our name and phone number, they made no effort to contact us with instructions, so the rude call from Trooper Belden on Monday morning, a legal holiday, was our first person to person contact.

Now if the court system is going to assume the responsibility of giving directions as to the disposition of a remains, then I feel it is only reasonable to expect you or someone from YOUR office to call us with that information, and tell us what you are and are not authorizing the court system to pay for. I will not take instructions from a state trooper (who represents another branch of government) since in coroner's cases I am acting under the authority of the Court System. Would you take a call from a person in the Department of Labor telling you to bill services to the Department of

6th Avenue Chapel
1023 East 6th Avenue
(907) 274-7576

Our Family Serving Your Families

Bragaw Chapel
1707 South Bragaw
(907) 277-1682

RECEIVED
JAN 9 1984

Office of Administrative Director
Alaska Court System

of Transportation without first getting some confirmation from a representative of the Department of Transportation that they would accept such an order?

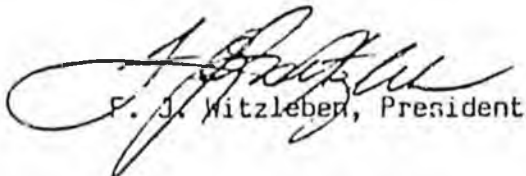
I understand and appreciate the difficulties you have with communications in the places you serve. However, it does not HELP to have troopers trying to play Funeral Director and only causing more confusion because they aren't fully informed on what responsibilities belong to the Court System (i.e. what it WILL authorize and pay for), what belong to the families and the social services agencies that serve them, and the guidelines and regulations under which we operate. What happened to the information form that the court system supposedly distributed that was to be given to the family and copied to the mortuary so that everyone would have the information they needed?

It was nice to know that Trooper Belden was working over the holiday, as we were, but that does not mean that we are able to get authorization's from a social services agency or obtain a new permit for shipment when all State and Federal Offices are closed. I would like to be able to provide those benefits to the families I serve EVERYday too. It would certainly make my life easier, since I'm working then anyway. I would hope that in the future the families will contact us in a timely manner, so that their loved ones can be sent to the appropriate place as expeditiously as possible. As a side note, the delays are also frustrating to non-bush families who want their loved ones shipped to the lower 48 but find they cannot because of airlines delays, weather, holidays, strikes, etc. Even in town the cemeteries often hold up, or force changes in a families wishes because they're closed for maintenance, weather, darkness, etc.

We both have statutes and regulations with which we have to work. Don't you think it would be helpful if we each were able to better understand the others duties and responsibilities, and not keep making it a one way street where the mortuary is ALWAYS the bad guy? Possibly as an alternative it would be beneficial for the Bethel area to consider having the pathologists come out there to perform the autopsies and then you can repair and send the bodies back to the families yourselves.

I trust that better communications can be developed so that these situations do not occur again.

Sincerely yours,



F. J. Witzleben, President

cc: Charles Doris - Coroner
Alaska State Troopers - C.I.B. (Anchorage)
Joyce Freeman - DPA, Bethel
Trooper Belden
Commissioner of Public Safety
Court Administrator

PERMIT MUST ACCOMPANY BODY UNTIL ITS FINAL DISPOSAL

BURIAL - TRANSIT PERMIT

ALASKA DEPARTMENT OF HEALTH AND WELFARE
BUREAU OF VITAL STATISTICS
JUNEAU, ALASKA

83-45
DEATH CERTIFICATE NO.

CITY OR TOWN <u>Bethel</u>		SEX	RACE	AGE
FULL NAME OF DECEASED <u>Joe</u>				
PLACE OF DEATH <u>Bethel</u> ALASKA		DATE OF DEATH <u>12/26/83</u>		
FUNERAL DIRECTOR NAME <u>Witzgibens 6th Ave</u>		ADDRESS <u>Anch</u>		
DISPOSAL <input checked="" type="checkbox"/> STORAGE AT <u>Anch</u>		and <input type="checkbox"/> SHIPMENT OR REMOVAL TO <u>unl</u> <input type="checkbox"/> BURIAL <input type="checkbox"/> CREMATION		
AT <u>(Cemetery or Crematory)</u>		LOCATED AT <u>(City and State)</u>		
A death certificate having been filed as required by the laws of Alaska, or definite arrangements to do so having been made, permission is hereby given to dispose of the body of deceased as indicated above; provided that all other regulations of the Alaska Department of Health and Welfare relating thereto have been fulfilled.				
DATE <u>12/27/83</u>		SIGNATURE OF LOCAL REGISTRAR <u>Saloo. Cende</u>		
AUTHORIZED DISPOSITION AS STATED ABOVE OCCURRED ON (DATE)		SIGNATURE OF PERSON IN CHARGE		

SEE OTHER SIDE FOR INSTRUCTIONS

IN THE DISTRICT COURT FOR THE STATE OF ALASKA

AT Bethel

REPORT OF CORONER CALL

CASE NO. 4BE-83-40 CO

1. Name of Victim Jane Doe Soc. Sec. # _____
2. Date of Death 12/26/83 Date of Birth _____
3. Place of Death Bethel
(Address or Location)
4. Coroner informed by Belden
at approximately 3 (am) (pm) on 12/26, 1983
5. (check one)
 I visited the scene personally.
 I delegated (State Trooper) (~~City Police~~) Belden (Name)
to act in my place after informing him of what my duties in such cases are.
6. A full report of the circumstances will be forwarded to my office as soon as possible by Belden (Name)
of ACT (Agency)
7. (check one)
 I ordered a post mortem-autopsy examination to be accomplished by Dr. Propst of Anchorage, Alaska, and that he submit his report without delay to my office.
 No autopsy or post mortem examination was authorized by me.
8. (check one)
 Since a near relative _____ (Name) _____ (Relation) was on hand, I left certain property in (his)(her) custody.
 No near relative being available, I took certain property into my custody, and an inventory will be prepared without undue delay.
9. Mortuary where body was taken Witzlebens 6th Ave
10. Next of kin will be notified by _____
11. Next of kin address _____
12. Employer _____
13. Remarks Doc burned on BIA road in Bethel. Id in question.

Memorandum

Alaska Court System

TO: Bob Fisher

FROM: *Stephanie*
Stephanie Cole
Deputy Director for Services

DATE : January 30, 1984

SUBJECT: Attached copy of bill
from Chapel of Chimes
re burial of John
Tukle

Heather Noble from Alaska Legal Services in Barrow contacted me about this bill again. I was finally able to contact Mrs. Plummer with Chapel of Chimes in Fairbanks to explain some of the items which I felt required some further explanation. I think part of what makes this billing so hard to understand is the fact that the autopsy took place at Fairbanks Memorial Hospital. For example, the "use of operating room" cost billed at \$100.00 is not for the use of that room for the autopsy, because the autopsy took place at the hospital. Rather, they are charging \$100.00 for use of that room for the embalming process, although they have already charged \$395.00 for the embalming (to include care and preparation for burial or cremation). Although this seems somewhat duplicative, it does seem to be a matter to be resolved between the family and the funeral home, and not by the court system.

The "outer receptacle" billed for is a wooden crate which surrounds the casket and which is apparently required by the airlines. According to Mrs. Plummer, this is not reusable and cannot be returned. Again, I would imagine that this is something with which the court system would not be concerned, because it doesn't relate to charges that we pay.

The items that are of the most direct concern to me are the two billings for transportation. According to Mrs. Plummer, these are not a "per mile" charge, but are rather a flat fee charged for any movement of the body. The funeral home has charged \$85.00 for the transportation of the deceased from the hospital to the mortuary, and then an additional \$85.00 for transportation of the deceased from the mortuary back to the Wien terminal for the return flight home. While this is not technically transportation "to and from the place of autopsy", I still think we should pay this amount. The "to and from place of autopsy" standard was devised to apply in the most common situation, where the autopsy actually takes place at the funeral home. In this case, it is just unfortunate that the autopsy and the funeral preparations did not take place at the same place. While the argument for paying for these

additional transportation costs is similar to the argument for our assuming embalming costs, I am still persuaded that in this case, we should pay those two costs.

In part, I am persuaded because the family in this case did not apply for public assistance monies quickly enough. Rather, - they borrowed money to pay for the funeral. Therefore, even though they would qualify for general assistance under Department of Health and Social Services standards, they were unable to get the burial assistance grant because they did not apply in time. Under these circumstances, I believe that we should pick up the additional transportation charges. Please let me know what you think.

SC:tr

Enclosure

THE FOLLOWING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

This amount covers the average costs to date. PLEASE RETAIN FOR COMPARISON. Any changes will appear on the regular statement after all services are completed.

CHAPEL OF CHIMES

Alaskan Memorial Parks, Inc.
An Alaskan Corporation
D.B.A.
Chapel of Chimes

415 Illinois St.
Fairbanks, AK • 99701

Box 2670
Phone: (907) 456-5566

A. MORTUARY SERVICE CHARGE
Basic overhead expense for funeral director & staff to respond to initial request for service. Arrangement conference with responsible party to determine services desired and coordinating service plans with cemetery, crematory and/or other parties involved in the final disposition of the deceased. Charge is for any or all of the above items.

B. PROFESSIONAL SERVICES: Technical & Personal

1. Embalming (to include care & preparation for burial or cremation) \$ 375
2. Preparation & care other than embalming \$ 0
3. Directing of services as required for chapel, church, lodge, graveside or other place \$ 0
4. Cremation \$ 0
5. Other \$ 0

TOTAL A \$ 420.-

C. FACILITIES

1. Use of operating room \$ 100
2. Use of chapel for services; or charge for transporting equipment to church or other place (rent or use of facilities other than mortuary must be arranged by family) \$ 0
3. Use of mortuary for visitation; or charge transporting equipment to church or other place \$ 0
4. Other \$ 0

TOTAL C \$ 100.-

D. AUTOMOTIVE EQUIPMENT (25 mile radius of mortuary)

1. Transportation of deceased to mortuary \$ 85
2. Family sedan and driver \$ 0
3. Transportation beyond 20 mile radius at 1.00/mile each \$ 0

TOTAL D \$ 170.-

E. FUNERAL GOODS FURNISHED:

1. Casket \$ 876
2. Outer receptacle \$ 100
3. Burial garments \$ 0
4. Memorial register book \$ 0
5. Memorial service folders _____ at \$ _____ per 100 \$ 0
6. Acknowledgment cards _____ box(es) at \$ _____ /box \$ 0
7. Other \$ 0

TOTAL E \$ 976.-

CONTRACT & NOTE

THIS AGREEMENT, DATED AND SIGNED AT FAIRBANKS, ALASKA

By J. W. TURK
whose mailing address is 714 W. TURK

For funeral service of J. W. TURK

A. MORTUARY SERVICE CHARGE \$ 420

B. PROFESSIONAL SERVICES \$ 375

C. FACILITIES \$ 100

D. AUTOMOTIVE EQUIPMENT \$ 170

E. FUNERAL GOODS FURNISHED \$ 976

Total Our Charges \$ 2,045.-

F. CASH ADVANCEMENTS (see attached list) \$ 0

Total All Charges \$ 2,045.-

Paid Herewith \$ 0
Balance Due \$ 2,045

Subject to final audit

Balance due to be paid as per following paragraph and/or attached disclosure statement which by reference hereof is made a part hereto.

NOTICE TO CONSUMER: DO NOT SIGN THIS AGREEMENT UNTIL YOU HAVE READ IT COMPLETELY, NOR IF SPACES INTENDED FOR AGREED TERMS ARE LEFT BLANK.

1. I (we) authorize the foregoing services and agree to pay the full amounts listed for such services, including merchandise and cash advancements. I (we) presently have sufficient resources available to pay such amounts. The liability for payment I (we) hereby assume is in addition to and independent of the liability imposed by law on the estate of the deceased or any other person to pay for such services.

2. Payment of the total amount listed above \$ 2,045 shall be made in full on or before 12-10-78

After thirty (30) days any amounts remaining unpaid shall bear a finance charge of 1.5% per month or fraction thereof until paid on the unpaid balance. This FINANCE CHARGE reflects an ANNUAL PERCENTAGE RATE of 18%. If this agreement should be placed in the hands of an attorney for collection of any amounts due hereunder, I (we) agree to pay the full costs of such collection, including a reasonable attorney's fee and court costs, if any.

3. I (we) hereby acknowledge receipt of a correct and complete copy of this Agreement.

4. I (we) certify that I (we) have been made aware of charges, cash advancements and was presented casket prices before making casket selection.

RESPONSIBLE PERSON(S)	RELATIONSHIP
<u>J. W. TURK</u>	<u>Deceased</u>
<u>J. W. TURK</u>	<u>Deceased</u>
<u>J. W. TURK</u>	<u>Deceased</u>

Home Address: 714 W. TURK Phone: 997-27

Date: 11/7/78 Funeral Director: J. W. TURK

THE PRECEDING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

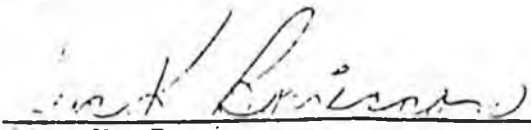
Funeral Home

Fred Smith, Coroner & Public Administrator
 Corner calls for month of August, 1983
 August 31, 1983

DATE:

<u>NAME</u>	<u>FROM</u>	<u>TO</u>	<u>AMOUNT</u>
Frankie Lampe	Wien	FMH	50.00
John Allen Semakem	East ramp	FMH	50.00
Sidney Budden	East ramp	FMH	50.00
John Hugo	Wien	FMH	50.00
Eward I Jenkins	Wien	FMH	50.00
Octave J. Gerou	Bassett	FMH	50.00
Howard F. Albert	Wien	FMH	50.00
John Wesley Tukle	Wien	FMH	50.00
Nicholas J. Noel	Fairbanks Inn	FMH	50.00
Frank Stallings	Healy	FMH	175.50
Jimmie Oscar Jr.	Wien	FMH	50.00
Michael Calkins	Helicopter pad	C/C	50.00
John Calkins	Metro Field	FMH	50.00
Stephen F. Wuksinich	Metro Field	C/C	50.00
Eric Voss	Wien	Bassett	50.00
Stephen Wuksinich	C/C	FMH	50.00
Herman Jackson	Bassett	FMH	50.00
Eric Voss	Bassett	FMH	50.00
Sean Thies	5190 Amhurst	FMH	50.00
Total coroner calls for month of August 1983			1,024.50
July Balance			427.00
			<u>1,511.50</u>

Approved for payment
 September 19, 1983


 Mrs. K. Borjesson
 Deputy Coroner

RECEIVED

August 31, 1983

EP 09 1355

ALASKA COURT SYSTEM
ADMINISTRATIVE

Alaska Court System
c/o Mrs. Dolores Wilks
941 West 4th Avenue
Anchorage, Alaska 99501

STATEMENT OF EXPENSE FOR THE SERVICES RENDERED FOR:

Paula C. Oskolkoff (8-15-83)

Use of Equipment, Facilities & Personnel for Autopsy \$ 50.00

Kirk S. Wessells (8-11-83)

Use of Equipment, Facilities & Personnel for Autopsy \$ 50.00

Total Balance Due..... \$ 100.00

Evergreen Memorial Chapel

9-25-83 - 4915 2703
210-394 (40.00)

*Approved
D. Wilks
9-9-83*

Evergreen Memorial Chapel

737 E STREET TELEPHONE 279-5477
P O BOX 100537 ANCHORAGE, ALASKA 99510



*for
AK.*

340-394 (490.00)
345 - 110.00
115 - 92.00

RECEIVED

August 31, 1983

SEP 1 1983

Alaska Court System
c/o Mrs. Dolores Wilks
941 West 4th Avenue
Anchorage, Alaska 99501

STATEMENT OF EXPENSE FOR THE SERVICES RENDERED FOR:

FARRELL, Ralph L. (8-19-83)

Use of Equipment, Facilities & Personnel for Autopsy \$ 50.00

DARBY, Michael (8-20-83)

Use of Equipment, Facilities & Personnel for Autopsy \$ 50.00

WALTERS, Mary (8-22-83)

Use of Equipment, Facilities & Personnel for Autopsy \$ 50.00

SNEPER, Alexander H. (8-24-83)

Use of Equipment, Facilities & Personnel for Autopsy \$ 50.00

WERMERS, Leonard (8-25-83)

Use of Equipment, Facilities & Personnel for Autopsy \$ 50.00

WERMERS, Mark (8-25-83)

Use of Equipment, Facilities & Personnel for Autopsy \$ 50.00

WIESINGER, WERTER (8-25-83) = FAA Paying

Use of Equipment, Facilities & Personnel for Autopsy \$ 50.00 ^{Delete}

Total Balance Due..... \$300.00 ^{250.00}

approved by Wilks 9-9-83

Evergreen Memorial Chapel

737 E STREET TELEPHONE 279-5477
P O BOX 100537 ANCHORAGE ALASKA 99510



These TOTAL 300.00 w/o Wiesinger

*PAY 50.00 For M. WERMERS - See FW
on 1st DATE*

August 26, 1983

Alaska Court System
c/o Mr. Mark Ellis
Box 209
Dillingham, AK 99576

STATEMENT OF EXPENSE FOR THE SERVICES RENDERED FOR:

KARL SAVO

Use of Equipment, Facilities & Personnel for Autopsy..	\$ 50.00
Livery to and from Mortuary.....	\$ 60.00
Total Balance Due.....	\$110.00

Evergreen Memorial Chapel

RECEIVED

SEP 26 1983

Sept 12 19 83

Approved for payment in the amount of

\$ 110.00

autopsy

Paul R. ...

Magistrate

Evergreen Memorial Chapel

737 E STREET
P O BOX 100537

TELEPHONE 279-5477
ANCHORAGE, ALASKA 99510



August 26, 1983

Alaska Court System
c/o Mrs. Susan Thomsen
415 Main Street
Ketchikan, AK 99901

RECEIVED

SEP 11 1983

STATEMENT OF EXPENSE FOR THE SERVICES RENDERED FOR:
CECIL J. SECKMAN

Use of Equipment, Facilities & Personnel for Autopsy..S 50.00
Livery to Mortuary from Airport.....S 30.00

Total Balance Due.....S 80.00

Evergreen Memorial Chapel

Approved for payment
Date 9/6/83 Amt. \$80.00
Susan E. Thomsen
Clerk

Evergreen Memorial Chapel

737 E STREET TELEPHONE 279-5477
P O BOX 100537 ANCHORAGE, ALASKA 99510



August 31, 1983

Alaska Court System
c/o Mr. Rick Siangco
Pouch U
Juneau, AK 99811

STATEMENT OF EXPENSE FOR THE SERVICES RENDERED FOR:

Guckenbickler, Timothy (8-29-83)

Use of Equipment, Facilities & Personnel for Autopsy \$ 50.00
Livery to and from Mortuary \$ 60.00

Moss, Retha (8-29-83)

Use of Equipment, Facilities & Personnel for Autopsy \$ 50.00
Livery to Mortuary \$ 30.00

Total Balance Due.....\$190.00

Evergreen Memorial Chapel

*Approved for payment.
#190.00
Richard D. ...
9/6/83*

Evergreen Memorial Chapel

737 E STREET
P O BOX 100537

TELEPHONE 279-5477
ANCHORAGE, ALASKA 99510



August 29, 1983

Mr Rick Siangco, Magistrate
Alaska Court System
Pouch U
Juneau, AK 99811

STATEMENT FOR THE SERVICES RENDERED FOR: CYNTHIA ELROD

Livery airport to mortuary	\$ 30.00
Use of facility, equipment & personnel for autopsy	50.00
Livery mortuary to airport	30.00
	<hr/>
Total Amount Due	\$110.00

Approved for payment.
Robert D. Siangco
9/1/83

Evergreen Memorial Chapel

Evergreen Memorial Chapel

737 E STREET TELEPHONE 279-5477
P O BOX 100537 ANCHORAGE ALASKA 99510





Alaska Court System
State of Alaska
OFFICE OF THE ADMINISTRATIVE DIRECTOR

STEPHANIE J. COLE
DEPUTY DIRECTOR FOR SERVICES

303 K Street
Anchorage, Alaska 99501

October 26, 1983

Ms. Lou Ann Cutler
1024 West Sixth Avenue
Suite 204A
Anchorage, AK 99501

Re: Autopsies

Dear Lou Ann:

I understand that Bob Fisher did call you and give you a number for the amount of court-ordered autopsies statewide per year. It is also my understanding that in FY 1983 court-ordered autopsies numbered approximately 750 (\pm 20).

I did have one concern. Recently I was reviewing some autopsy billings and I briefly discussed various items on them with Bob Fisher. I had told you that the cost of embalming generally runs \$150-\$300. From current billings it looks like \$300 is the more representative figure and that it is even higher in some cases. Therefore, if you are making cost calculations, I suggest you use \$300 per case as the embalming cost (or a little higher).

Enclosed please find a copy of the letter I received from the Division of Public Assistance. This may be of some interest to you.

Please let me know if there is anything else I can do for you.

Very truly yours,

Stephanie J. Cole
Deputy Director for Services

cc: Bob Fisher, w/enclosure
Enclosure
SJC:le

10/20/83

BILL SHEFFIELD, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

POUCH H-07
JUNEAU, ALASKA 99811
PHONE: 465-3355

DIVISION OF PUBLIC ASSISTANCE

October 20, 1983

Stephanie J. Cole
Deputy Director for Services
Alaska Court System
303 K Street
Anchorage, AK 99501

Dear Ms. Cole:

Thank you for your letter of concern about the general assistance program for burial expenses.

Our representative in Point Hope is one of about 200 fee agents in small communities throughout the state. Fee agents are trained and paid to process applications for Food Stamps and Aid to Families With Dependent Children. However, they are often called upon to perform a good many other services as well. Because of lack of additional funding for training and compensation, fee agents are not conversant with all of the program services we offer. Thus we encourage that queries be addressed to district or regional offices, which are staffed with trained, full-time eligibility technicians.

The Commissioner of Health and Social Services has directed a full review of the fee agent system in coordination with other state agencies to explore ways in which the system can be strengthened and used more fully. Your letter further underlines this need, and we appreciate your expression of concern.

Sincerely,

Rod Betit
for Rod Betit
Director

cc: Heather Noble
Carole Baekey



Alaska Court System
State of Alaska

OFFICE OF THE ADMINISTRATIVE DIRECTOR

STEPHANIE J. COLE
DEPUTY DIRECTOR FOR SERVICES

October 3, 1983

303 K Street
Anchorage, Alaska 99501

Mr. Rod Betit, Director
Division of Public Assistance
Pouch H-07
Juneau, Alaska 99811

Subject: General Assistance Monies for Burial Expenses

Dear Mr. Betit:

As you may know, the Department of Health and Social Services and the court system have recently been faced with numerous problems relating to autopsy and burial expenses for deaths in rural Alaska.

Recently, a problem came to my attention. Heather Noble, an Alaska Legal Services attorney in Barrow, contacted me about possible payment for burial expenses. I told her about the general assistance program for burial expenses, and suggested to her that her client contact your local representative in Point Hope. When her client did contact the Point Hope representative, the client was told that no such program existed. Because Ms. Noble had spoken to me, she pursued the matter further in a larger city and was able to obtain the requested assistance for her client.

I think it would be helpful if you could remind your workers that the general assistance program for burial expenses does exist. Their awareness of this program may help alleviate some of the problems that we are encountering. Thank you for your help.

Very truly yours,

Stephanie J. Cole
Deputy Director for Services

SJC/mjs

cc: Heather Noble, Alaska Legal Services, Barrow
Carole Baekey

BILL SHEFFIELD, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF COMMISSIONER

3601 "C" STREET - SUITE 578
POUCH 6333
ANCHORAGE, ALASKA 99502-0333

August 31, 1983

Mr. Art Snowden
Court Administrator
303 "K" Street
Anchorage, Alaska 99501

Dear Mr. Snowden:

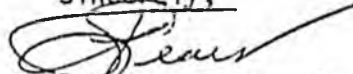
A meeting has been arranged regarding Rural Burial Problems on behalf of the Governor and the Commissioner for the Department of Health & Social Services. The meeting will be held on Thursday, September 8, 1983 at 9:00 AM in the third floor conference room of the Frontier Building located at 3601 "C" Street.

As you know, Rural Burial Problems is a major issue for many citizens and elected officials of the State of Alaska. The agenda will cover two major topics; (1) Memorandums of Agreement between the Department and the Courts regarding burial charges by morticians that are not required by Courts and; (2) Administrative Regulations regarding same.

Your attendance and participation in this meeting will be of great value to all concerned. We look forward to seeing you.

Thank you.

Sincerely,



Lewis J. Sears, Ph.D.
Assistant Commissioner

LJS/lcb

RECEIVED
SEP 2 1983

Office of Administrative Director
Alaska Court System

BILL SHEFFIELD, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF COMMISSIONER

3601 "C" STREET - SUITE 578
POUCH 6333
ANCHORAGE, ALASKA 99502-0333

August 31, 1983

RECEIVED

SEP 6 1983

Office of General Counsel
Alaska Court System

Ms. Stephanie Cole
Court System
303 "K" Street
Anchorage, Alaska 99501

Dear Ms. Cole:

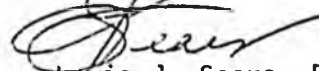
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Your attendance and participation in this meeting will be of great value to all concerned. We look forward to seeing you.

Thank you.

Sincerely,



Lewis J. Sears, Ph.D.
Assistant Commissioner

LJS/lcb

RURAL BURIAL MEETING LI

Lewis J. Sears, Ph.D
Assistant Commissioner
Department of Health
and Social Services
3601 "C" Street, Suite 578
Pouch 633
Anchorage AK 99502

Lou Ann Cutler
1024 W. 6th Avenue
Suite 204A
Anchorage AK 99501

Dr. E.S. Rabeau
Deputy Commissioner
Department of Health and
Social Services
Pouch H01
Juneau AK 99811

Ms. Marty K. Rutherford
Special Assistant
Division of Municipal and
Regional Assistance
Building B, Suite 102
225 Cordova Street
Anchorage AK 99501

Ms. Rhonda Roberts
Special Assistant to the
Governor
3601 "C" Street, Suite 758
Anchorage AK 99502

Ms. Nadine Winters
Community and Regional
Affairs
Pouch B
Juneau AK 99811

Ms. Connie Sipes
Assistant Attorney General
Suite 110
1031 W. 4th Avenue
Anchorage AK 99504

Ms. Stephanie J. Cole
Deputy Director for Services
State of Alaska Court System
303 K Street
Anchorage AK 99501

Mr. Don Burton
Special Assistant to the
Commissioner - Law
Pouch H01
Juneau AK 99811

Robert J. Sundberg, Commissioner
Alaska State Troopers
Department of Public Safety
Pouch N
Juneau AK 99811

Ms. Charlene Doris
Coroner
303 K Street
Anchorage AK 99501

Heather Noble
Alaska Legal Services
P.O. Box 309
Barrow AK 99723

Janie Leusk
Alaska Federation of Natives
411 W. 4th Avenue, #1A
Anchorage AK 99501

Ms. Carole A. Baekey
Judicial Education Coordinator
State of Alaska Court System
303 K Street
Anchorage AK 99501



RECEIVED

SEP 19 1983

Office of General Counsel
Alaska Court System

Superior Court

State of Alaska

FOURTH JUDICIAL DISTRICT

P. O. BOX 130

BETHEL, ALASKA

99559

CHAMBERS OF
CHRISTOPHER R. COOKE, PRESIDING JUDGE

PHONE (907) 543-2298

September 9, 1983

Ms. Stephanie Cole
Deputy Director for Services
Alaska Court System
303 K Street
Anchorage, Alaska 99501

RE: Coroner Functions

Dear Stephanie:

I have followed your exchange of correspondence with AVCP with interest. I have long felt that the coroner function is primarily an administrative one which should properly be placed in the executive branch. Determining cause of death, gathering evidence for use in possible criminal prosecutions, and investigating the facts and circumstances relating to unattended deaths are clearly executive branch, not judicial, functions. It is time for us to insist that these duties be handled by an executive branch agency.

Coroner's matters should be referred to the court system only when an inquest by a jury is needed to determine cause of death or, as in the case of a missing person, whether death should be presumed. Even then, the factual presentation should be made by the Department of Law, not by a judge.

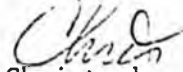
On a more practical level there are a couple of other points to be considered regarding the feeling of people in the Bethel area about the need for autopsies. In the past there have been situations where bodies have not been returned for long periods of time. Sometimes this has happened because embalming charges or other related expenses are not paid and funeral homes hold the body.

Also, at least according to local rumor and belief, many villagers feel that an autopsy is some form of desecration of the body. One such story is that when an autopsy is performed the internal organs are removed and the body is filled with sawdust. While this may not be accurate, these notions affect public reaction to autopsy situations.

Letter to Ms. Stephanie Cole
Page 2
September 9, 1963

My own approach to many autopsy situations from the villages is to not order them even if the cause of death is somewhat uncertain if the circumstances indicate that the death is in all probability the result of accident or natural causes and where there is no likelihood that the death was caused by another person. In these cases conducting an autopsy to actually determine the cause of death is not worth all the inconvenience, expense, delay and hassles. If necessary, I will complete the death certificate based on the police report of the circumstances. However, it is still my feeling that these kinds of things are really not judicial business. Good luck.

Very truly yours,



Christopher R. Cooke
Superior Court Judge

CRC:fs

cc: Mr. Arthur Snowden, II

AVCP

Association of Village Council Presidents
P. O. Box 219 • Bethel, Alaska 99559 • Phone 543-3521

August 4, 1983

RECEIVED
AUG 10 1983

Art Snowden III
Administrative Director
Alaska Court System
303 K Street
Anchorage, AK 99501

Office of Administrative Director
Alaska Court System

RE: Court Ordered Autopsies in the AVCP/Calista Region

Dear Mr. Snowden:

I am writing to you on behalf of the 56 Native Villages of the AVCP/Calista Region concerning the present policy of having court ordered autopsies performed in Anchorage, outside of our Region.

Recent events in one of our villages, Kwethluk, underscore the legal and ethical limitations of removing the bodies of local residents for autopsy purposes to Anchorage. In Kwethluk, we had a serious clash of individual vs. state interests involved over the removal of the body of a local resident, Arnold Nicolai. The family of the deceased objected to the removal of the body on religious grounds and a prior adverse experience of having the body of a family member removed to Anchorage for autopsy purposes and not returned for a protracted period of time.

Although we recognize a legitimate State interest in conducting an inquiry into the cause of death, we believe that as a legal and ethical matter, the State must show a compelling reason for removing a body to Anchorage for an autopsy when fundamental First Amendment rights (i.e., Russian Orthodox and Eskimo religious practice of holding a 48 hour mourning period in the presence of the deceased and immediate burial of the untampered body thereafter) are involved.

As a matter of law, even if the State can show a compelling reason for an Anchorage autopsy (i.e., lack of facilities in Bethel and determination of the cause of death), the State is still under a burden in the face of a Fundamental Constitutional right to exercise that such an exercise would properly include holding all future court ordered autopsies in Bethel.

We believe that such a change in policy will go along way towards balancing the valid but competing interests of the State and our Native Eskimo people in the Bush. It will also help to defuse volatile confrontations, such as the Kwethluk incident, through a sensitive application of State law to Native interests.

Art Snowden III
Page 2
August 4, 1983

*DHSS
\$750
embalming
casket
preparation*

This procedural change would also rectify the additional financial burden placed on our rural families. Embalming and preparation costs directly related to the autopsy order are the responsibility of the deceased's family.

As a matter of information and courtesy, we are sending a copy of this letter to the interested parties listed below.

Sincerely,

ASSOCIATION OF VILLAGE COUNCIL PRESIDENTS
Willie Kasayulie, Chairman

Gene Saitola for,

Ivan M. Ivan, President

*- it pays \$50 facility fee
for use of room*

IMI:TD:my

- cc: Governor Sheffield
Senator John Sackett
Rep. Tony Vaska
John Nicori, Kwethluk Tribal Council President
Moses and Marty Nicolai, parents of the deceased
Liz Dillion, Tribal Council Member, Kwethluk
Atty Peter Ehrhardt, attorney for the Nicolai family
Commissioner of Health & Social Services
Commissioner of Public Safety
William "Spud" Williams, Tanana Chiefs Conference

Senior Voice

OPAG

010501 S0384
CONSUMER PROTECTION SECTION
ATT GENERAL'S OFF
1031 W 4TH AVE SUITE 110
ANCHORAGE AK 99501

Grieving families caught in 'Catch-22'

by Liz Lauzen

When a 26-year-old Nuiqsut man fell off a perch and died recently, his body was sent to Fairbanks for an autopsy to determine the cause of death.

His mother, an unemployed woman in her 50s, is now stuck with a \$2,000 bill for funeral services—much of it for state-required services which would not have been needed or desired had the son's body remained in the village for burial. It's a situation which the

state's senior citizen ombudsman, funeral directors and state officials all describe as a "Catch 22."

No one seems to know for sure how often grieving Alaskan families are caught in the squeeze between the state court system's requirement for an autopsy and the public health division's regulations concerning embalming and transportation of bodies.

But three divisions of state government and a legislative committee are currently seeking a solution aimed at

relieving families of the costs of these state-mandated funeral home services.

In conversations with coroners, state court officials, funeral home directors, public health officials and attorneys, the problems surrounding autopsies were described.

State laws concerning coroner duties require an autopsy in nearly every death which is not attended by a physician.

In Alaska, this means most deaths of an accidental or violent nature, and any

other death in which a physician is not following the case closely enough to feel comfortable in signing the death certificate.

Because autopsies are performed only in Fairbanks, Anchorage and Juneau, bodies must be transported from rural communities to the urban center.

At the same time, state public health laws require that the body be embalmed "when a body cannot reach its destination within 24 hours."

This time frame allows villagers to bury their dead in the village without embalming when an autopsy is not required. It does not allow for these simple burial practices when an autopsy is required.

The state court system will pay for the cost of transporting the body to the site of the autopsy; for the autopsy itself; and for the cost of returning the body to the village. It will not pay for other

Continued on page 16

Grieving families caught in 'Catch-22'

Continued from page 1

expenses, including embalming.

The Division of Public Health which requires embalming to control communicable diseases, does not pay for embalming. Nor does it pay the cost of transporting the body from the site of the autopsy to the funeral home, where the embalming is done. Nor does it pay the cost of a casket.

"The family is not responsible in any way for the remains being embalmed and put in a casket," said Heather Noble, attorney for Alaska Legal Services in Barrow who is investigating the problems of the Nuiqsut woman.

"I'm concerned with the money. I want the state to pick up the costs."

In some cases, the state Division of Public Assistance will pay these costs.

"People can qualify if they—or the deceased—meet resource and assets requirements," explained Public Assistance official Jim Dalman.

Generally, a family must have cash assets of less than \$300 and a monthly income of less than \$400 (for two adults) to qualify, Dalman said. Public Assistance recipients who die are almost always picked up.

But this is not a program which could pick up the funeral cost for every body on which an

em • balm (*em bāim'*), *v.t.* — to treat (a dead body) so as to preserve it, as with chemicals, drugs or balsams; to protect from decay.

autopsy is performed and embalming is required, Dalman said.

"This is a state program with limited funding," he said. "We use it as a program of last resort, for use in a situation where the family must demonstrate it is without means. It is quite restrictive."

About 150 funerals are paid for by general relief each year, he explained.

One problem with the program is that it is little known in many villages.

Another problem is that it must be applied for in advance, before embalming or other funeral home services are performed.

For those who do not qualify — or do not apply for — public assistance, costs for funeral services can add up rapidly.

For a grieving family, the lines between state-required services, funeral home-recommended services, and family-desired services often blur.

The Nuiqsut woman's \$2,000 bill included \$800 for a casket, \$400 for embalming, and charges for Ilmosine service, pro-

fessional fees, clothes and flowers.

"If that body had stayed in the village, the family could have built a casket from a packing crate," explained Noble. The cost, in that case, would have been minimal.

In some villages, fear of what will happen to the body once it is removed from the

village further complicates autopsy problems.

In Kwethluk, a village near Bethel, the problem recently came to a head when villagers refused to allow an Alaska State Trooper to remove the body.

Additional troopers were sent in, but villagers still opposed the removal, explained Stephanie Cole, deputy director for magistrate services for the court system.

"Apparently, someone in the past had had a negative experience in that the body had not been returned," Cole said. "That is not a common problem, but such stories do not die."

The result, said Cole, was that the villagers agreed to allow the body to be removed to Bethel, but not to Anchorage, where the autopsy would normally have been performed.

But Cole said facilities in Bethel are not sufficient for performing autopsies, so most bodies will continue to be removed to one of the state's three larger cities for autopsies.

State officials have begun to look at the problem.

Officials from the Division of Public Health, the court system, the Consumer Protection section of the Attorney General, and the Department of Health and Social Services are looking at the problem. *Continued on page 17*

Autopsy-related fees add up

When the state requires an autopsy, and the family must then pick up fees for funeral home services, what does it cost?

Eight funeral homes provide services in Alaska: two in Fairbanks, one in Juneau and five in Anchorage. Fees vary from funeral home to funeral home. And they vary because of preference for more service or more expensive services.

One funeral home director, who asked that his firm not be named, outlined services and charges often en-

countered by families when an autopsy is performed.

Some of these services are not required by state public health laws, but grieving families often elect to have them performed after the body has been removed from the village for autopsy.

- Professional fees, \$420. Includes arrangements with families, paperwork, permits, overhead (utilities, salaries, etc.), writing obituary.

- Embalming, \$395. Preparing body with chemicals for burial. (Required)

- Operating room charge, \$100. restoring the body after autopsy. (Highly recommended by morticians).

- Transportation, \$85. charge when autopsy is performed away from funeral home and body must be transported to funeral home for embalming. (Required, unless other arrangements can be made).

- Casket, \$300 or more. (Families could elect to have body shipped back to village for burial. (Required))

Grieving families caught in 'Catch-22' of autopsy

Continued from page 16

eral's office and the Alaska State Troopers met in September to discuss the concerns and begin to find solutions.

"There is a problem, several problems involved," said Cole.

"There are problems because there are several agencies involved, and a lot of tension focused on all of it."

Key to the discussions is who should pay for autopsy-related fees which the court system does not pick up.

Current regulations in both the Division of Public Health and the court system do not authorize the state to pay for embalming and services incidental to autopsies.

"I personally feel the court system has the responsibility for paying the costs of embalming," said Dr. E. S. Rabeau, director of the Division of Public Health and deputy director of the Department of Health and Social Services.

"If they are taking custody of the body, then by God they should pay for it," he added.

Rep. Al Adams (D-Kotzebue) and his staff have begun to look at the problem as well.

Lack of information about how many people qualify for public assistance is one problem involved with deciding who should pay for the costs of embalming, said Lou Ann Cutler, an Adams aide.

"Personally, I feel the state should pay. But which agency?"

Another problem that can be addressed, Cutler said, is that of informing the public.

"A lot of people who do qualify don't know they qualify.

"It's not easy for the troopers and the magistrates to deal with the families. Families are upset, sometimes the troopers are under time constraints to get the body out.

"And also, there is some question perhaps whether or not some funeral homes are doing a hard sell."

Will legislation be needed to sort out the problem?

"If we have to go that route, yes. But we prefer to settle it internally, if we can," Cutler said.

Memorandum

Alaska Court System

TO: Arthur H. Snowden, II
Administrative Director

DATE : August 29, 1983

FROM: *Stephanie*
Stephanie J. Cole
Deputy Director for Services

SUBJECT: Letter from Ivan M.
Ivan, 8/25/83

I don't know if you want me to respond to Mr. Ivan's latest letter. Since he is seeking "...a medical examiner be appointed for the Bethel Region, together with appropriate facilities, to conduct court ordered autopsies," it seems clear that his remedy is to seek help from his legislative representatives.

I could respond to his second paragraph. Although AS12.65.020 does say "may," corresponding regulations (see 7 AAC 05.440 - copy attached) make it clear that a magistrate must investigate any suspicious case. I suppose one does not have to equate "autopsy" with "investigation," but I don't know how else you'd do an investigation in any thorough way.

Do you want me to respond to this point, or any portion of the letter?

SJC:mjs

cc: Karla Forsythe
Dori Wilks
Carole Baekey

Enclosures

*No
ans ✓*

RECEIVED

SEP. 8 1983

Office of General Counsel
Alaska Court System

possible, upon request of the State Registrar. (In effect before 7/28/59; am 7/25/60, Reg. 2)

Authority: AS 18.50.230
AS 18.50.240

7 AAC 05.440. SUSPICIOUS DEATHS. When there is any question of foul play, no one shall accept a death or fetal death certificate for filing or recording, issue a burial-transit permit, or otherwise move or allow a body to be moved or molested except by order of a law-enforcement officer or court until clearance by the proper magistrate. In any case without medical attention, the magistrate may request a medical examiner to determine the cause of death and prepare a certificate. In any suspicious case, the magistrate will investigate; and if he deems it necessary, enter the case as coroner and call a coroner's jury. In all such cases, the magistrate is responsible for seeing that the certificate of death or fetal death is prepared and filed. He may require anyone concerned to furnish the necessary facts for the certificate, and any medical examiner or other physician brought into the investigation to sign the certification of cause of death. If a coroner's jury has been impanelled, the magistrate must also sign the certificate as coroner, giving the jury's findings in addition to any medical certification.

In presumptive death cases, with no body established, presumption of death must be established in accordance with the statutes. In all presumptive death cases the filing of the certificate, and the presumption about death and its cause shall be the responsibility of the appropriate court. (In effect before 7/28/59; am 7/25/60, Reg. 2)

Authority: AS 12.65.020
AS 12.65.070
AS 18.50.230
AS 18.50.240

7 AAC 05.450. FETAL DEATHS. Any product of gestation of less than 20 weeks duration of pregnancy, showing no evidence of life, may have a fetal death certificate prepared, filed, recorded, and registered as required above, at the option of the parents or others concerned; such certificate is not mandatory for fetal deaths with a duration of pregnancy of less than 20 weeks. However, this regulation does not release anyone from the duty of reporting any suspicion of foul play or illegal act; nor does it except

such cases from any existing burial requirements or restrictions, or other health requirements, either state or local. (In effect before 7/28/59; am 7/25/60, Reg. 2)

Authority: AS 18.50.240

7 AAC 05.460. BURIAL-TRANSIT PERMITS. No dead body or fetus of 20 weeks or more gestation shall be finally disposed of, or removed from the state, until a burial-transit permit has been issued by the proper local registrar or other agent duly authorized by the State Registrar. Such burial-transit permit shall be obtained in any case within 72 hours after death (or delivery), unless an extension of time is granted under secs. 550-570 of this chapter. (In effect before 7/28/59; am 7/25/60, Reg. 2)

Authority: AS 18.50.250

7 AAC 05.470. PERSONS WHO MUST OBTAIN. The funeral director, or person acting as such, who first assumes custody of a dead body or fetus shall be responsible for obtaining the burial-transit permit. For the purpose of these regulations, the person who first assumes custody shall include anyone first moving, or causing to be moved, such body or fetus for the following purposes:

- (1) for final disposition;
- (2) for removal from the state;
- (3) for storage or other holding for a period beyond 72 hours after death;
- (4) for transportation by common carrier; and
- (5) for removal by any means from the registration district where death occurred.

No dead body or fetus shall be moved for any of the above purposes without being accompanied by a burial-transit permit, unless an emergency exists or the body is being moved by an established funeral director for the purpose of preparation for final disposition, and then only in accordance with these regulations and the instructions of the State Registrar; provided further that a law enforcement officer or a court may order the removal of a body when necessary for an official investigation, with a notice of such removal to the proper local

AVCP

Association of Village Council Presidents
P. O. Box 219 • Bethel, Alaska 99559 • Phone 543-3521

August 25, 1983

RECEIVED

AUG 24 1983

ALASKA COURT SYSTEM
Alaska Court System

Stephanie Cole
Deputy Director for Services
Alaska Court System
303 K Street
Anchorage, AK 99501

RE: Response to Cole Letter of August 17, 1983

Dear Ms. Cole:

Thank you for your response to our August 4, 1983 letter to Mr. Snowden.

First, Alaska court officials are not mandated to order an autopsy when a physician is unwilling to sign a death certificate. AS 12.65.020 provides that a court may order a medical examination of the deceased.

Secondly, your letter does not comment on the major point raised: the religious objection of the family to the removal of the body from the Bethel Region. We believe that this objection poses a fundamental constitutional issue which your letter and State Law does not address. Unless this issue is properly addressed we will be faced with a potential crisis and court contest, similar in intensity to that of Kwethluk, each time a court ordered autopsy is attempted.

Finally, it should be pointed out that the State could provide adequate facilities in Bethel for conducting autopsies. Additionally, AS 12.65.010 provides for State appointment of a medical examiner for the Bethel area. The Commissioner of health and social services may make such an appointment when "...in his opinion, the administration of justice requires."

We believe, and hope that you concur and will support the principal, that "the administration of justice" requires that a medical examiner be appointed for the Bethel Region, together with appropriate facilities, to conduct court ordered autopsies.

By copy of this letter we ask our state representatives to assist us in implementing the above request.

Sincerely,

ASSOCIATION OF VILLAGE COUNCIL PRESIDENTS
Willie Kasayulie, Chairman

Tom Richard J, for

Ivan M. Ivan, President

Stephanie Cole
Page 2
August 25, 1983

cc: Governor Sheffield
Senator John Sackett
Rep. Tony Vaska
John Nicori, Kwethluk Tribal Council President
Moses and Marty Nicolai, Parent of the Deceased
Liz Dillion, Tribal Council Member, Kwethluk
Atty Peter Ehrhardt, Attorney for the Nicolai Family
Commissioner of Health & Social Services
Commissioner of Public Safety
William "Spud" Williams, Tanana Chiefs Conference

AVCP

Association of Village Council Presidents
P. O. Box 219 • Bethel, Alaska 99559 • Phone 543-3521

August 25, 1983

Stephanie Cole
Deputy Director for Services
Alaska Court System
303 K Street
Anchorage, AK 99501

RECEIVED
AUG 28 1983
ALASKA COURT SYSTEM

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Tom Richard J, for

Ivan M. Ivan, President

Stephanie Cole
Page 2
August 25, 1983

cc: Governor Sheffield
Senator John Sackett
Rep. Tony Vaska
John Nicori, Kwethluk Tribal Council President
Moses and Marty Nicolai, Parent of the Deceased
Liz Dillion, Tribal Council Member, Kwethluk
Atty Peter Ehrhardt, Attorney for the Nicolai Family
Commissioner of Health & Social Services
Commissioner of Public Safety
William "Spud" Williams, Tanana Chiefs Conference



Alaska Court System
State of Alaska

OFFICE OF THE ADMINISTRATIVE DIRECTOR

STEPHANIE J. COLLE
DEPUTY DIRECTOR FOR SERVICES

303 K Street
Anchorage, Alaska 99501

August 17, 1983

Ivan M. Ivan, President
Association of Village Council Presidents
P.O. Box 219
Bethel, AK 99559

Dear Mr. Ivan:

Your letter to Art Snowden dated August 4, 1983, arrived in this office at a time when Mr. Snowden was out of the office. Because of the importance of your request, Mr. Snowden requested me by telephon to respond to you immediately.

Unfortunately, it is not possible to schedule all future court ordered autopsies from your region in Bethel.

As you know, the circumstances under which an autopsy must be ordered are set out in the Alaska Statutes. When a death occurs under such circumstances, court officials must order an autopsy.

Bethel does not have appropriate facilities for the performance of autopsies. The requirements for autopsy rooms are established by state regulation (see 7 AAC 35.120). There are no funeral homes in Bethel, and the Bethel hospital facilities do not conform with the state requirements for autopsy rooms. I have spoken with Dr. Propst, who performed the autopsy on Arnold Nicolai in Bethel. He told me that the facilities in Bethel are totally inadequate for autopsy purposes. (In that Bethel does not have an autopsy facility, Dr. Propst had to transport his autopsy instruments with him.)

Also, a medical examiner is not generally available to Bethel. We were very fortunate in that we were able to schedule Dr. Propst to go to Bethel for the autopsy of Mr. Nicolai. Medical examiners are not available to go to Bethel on a routine basis.

Mr. Ivan M. Ivan
August 17, 1983
Page 2

Also, the court system has no available funds which would allow us to conduct autopsies in Bethel. In the case of Mr. Nicolai, the court system chartered a plane to transport Dr. Propst to and from Bethel. The court system had to pay Dr. Propst's professional fees for his travel time, in addition to his fee for the autopsy. We have no money available in our budget to pay for these types of extraordinary expenses.

I would like to respond to two other points you made in your letter. Alaska law does require that a body be embalmed if it will not reach its final destination within 24 hours after the death. [7 AAC 35.100(b)(3)]. It is true that the embalming costs are the responsibility of the deceased's estate or the deceased's family. However, it should be noted that the state Division of Public Assistance will pay funeral expenses up to \$750.00 for all persons unable to afford these costs.

Also, you noted that the Nicolai family objected to the removal of Mr. Nicolai's body because, in part, of a prior adverse experience of having the body of a family member removed to Anchorage for autopsy purposes and not returned for a protracted period of time. I understand that there have been cases in which this problem has occurred, primarily because of lack of communication between the family and the Anchorage funeral home. The funeral home will not release the body until it receives information from the family as necessary to complete the death certificate, and the funeral home needs direction from the family as to where the body should be sent. (Sometimes the required information is sent with the body.) However, in the past, some families did not know who to contact in Anchorage and a delay in the return of the body did occur. It is my understanding that the Anchorage coroner's office has been actively working to avoid any future problems in this area. Anchorage Coroner Dolores Wilks will be happy to discuss this situation with you and to give you any information you may need. You can reach her at the above address or by phone at 264-0690.

In summary, I must conclude that we are bound to our current practice because of the requirements of the Alaska Statutes and regulations, our budgetary constraints and the lack of an appropriate facility and a medical examiner in Bethel. To the extent that you may want to pursue changes in the laws that presently exist, I would suggest that you contact your legislative representatives.

AVCP

Association of Village Council Presidents
P. O. Box 219 • Bethel, Alaska 99559 • Phone 543-3521

August 4, 1983

RECEIVED
AUG 10 1983

Art Snowden III
Administrative Director
Alaska Court System
303 K Street
Anchorage, AK 99501

Office of Administrative Director
Alaska Court System

RE: Court Ordered Autopsies in the AVCP/Calista Region

Dear Mr. Snowden:

I am writing to you on behalf of the 56 Native Villages of the AVCP/Calista Region concerning the present policy of having court ordered autopsies performed in Anchorage, outside of our Region.

Recent events in one of our villages, Kwethluk, underscore the legal and ethical limitations of removing the bodies of local residents for autopsy purposes to Anchorage. In Kwethluk, we had a serious clash of individual vs. state interests involved over the removal of the body of a local resident, Arnold Nicolai. The family of the deceased objected to the removal of the body on religious grounds and a prior adverse experience of having the body of a family member removed to Anchorage for autopsy purposes and not returned for a protracted period of time.

Although we recognize a legitimate State interest in conducting an inquiry into the cause of death, we believe that as a legal and ethical matter, the State must show a compelling reason for removing a body to Anchorage for an autopsy when fundamental First Amendment rights (i.e., Russian Orthodox and Eskimo religious practice of holding a 48 hour mourning period in the presence of the deceased and immediate burial of the untampered body thereafter) are involved.

As a matter of law, even if the State can show a compelling reason for an Anchorage autopsy (i.e., lack of facilities in Bethel and determination of the cause of death), the State is still under a burden in the face of a Fundamental Constitutional right to exercise that such an exercise would properly include holding all future court ordered autopsies in Bethel.

We believe that such a change in policy will go a long way towards balancing the valid but competing interests of the State and our Native Eskimo people in the Bush. It will also help to defuse volatile confrontations, such as the Kwethluk incident, through a sensitive application of State law to Native interests.

Mr. Ivan M. Ivan
August 17, 1983
Page 3

Please contact me if you have any further questions.

Very truly yours,

Stephanie J. Cole

Stephanie J. Cole
Deputy Director for Services

SJC:jm

cc: Governor Sheffield
Senator John Sackett
Rep. Tony Vaska
John Nicori, Kwethluk Tribal Council President
Moses and Marty Nicolai, parents of the deceased
Liz Dillion, Tribal Council Member, Kwethluk
Atty Peter Ehrhardt, attorney for the Nicolai family
Commissioner of Health & Social Services
Commissioner of Public Safety
William "Spud" Williams, Tanana Chiefs Conference

bcc: Chris Cooke
Dale Cuda
- Mike Hall
Karla Forsythe
Susan Miller
Carole Boecky
Bob Fisher
Rick Barrer
Art Snowden
Dolores Wilks
Judge Tunley

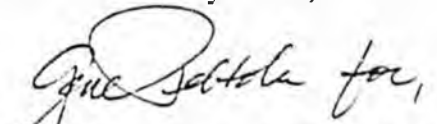
Art Snowden III
Page 2
August 4, 1983

This procedural change would also rectify the additional financial burden placed on our rural families. Embalming and preparation costs directly related to the autopsy order are the responsibility of the deceased's family.

As a matter of information and courtesy, we are sending a copy of this letter to the interested parties listed below.

Sincerely,

ASSOCIATION OF VILLAGE COUNCIL PRESIDENTS
Willie Kasayulie, Chairman


Ivan M. Ivan, President

IMI:TD:my

cc: Governor Sheffield
Senator John Sackett
Rep. Tony Vaska
John Nicori, Kwethluk Tribal Council President
Moses and Marty Nicolai, parents of the deceased
Liz Dillion, Tribal Council Member, Kwethluk
Atty Peter Ehrhardt, attorney for the Nicolai family
Commissioner of Health & Social Services
Commissioner of Public Safety
William "Spud" Williams, Tanana Chiefs Conference

Memorandum

Alaska Court System

TO: Senior Staff

FROM: *Stephanie*
Stephanie J. Cole
Deputy Director for Services

DATE : August 4, 1983

SUBJECT: Bush Autopsy

Dale Curda, the magistrate in Bethel, called me today about a coroner situation in Kwethluk that some of you may be interested in.

Someone died in Kwethluk. Dale Curda ordered an autopsy. When the troopers arrived to pick up the body to take to Anchorage, the family would not let the troopers take the body. The troopers called for reinforcements; soon they numbered seven. However, about 50 villagers stood in and around the house where the body lay and refused to allow the body to be taken.

Finally, Dale called Judge Tunley who conducted a telephonic hearing until late that night. A compromise was reached: the villagers allowed the body to be taken to Bethel (not Anchorage) for autopsy and then the body was immediately shipped back to Kwethluk. Dr. Propst made a special trip to Bethel to perform the autopsy.

The court system had to bear the expense of Dr. Propst's trip to Bethel. Dr. Propst stated that he was rarely available for such trips because of his busy schedule.

The avowed reason for the problem was that Kwethluk is a Russian Orthodox village, and that religion requires that a body be buried within 48 hours of death. However, Dale indicated that there may be some controversy on this point. He thought the refusal could be related to specific problems a villager or villagers had with bush autopsies in the past: "mangled" bodies being returned, and communication problems - the villagers not being kept informed about where the body was.

Dale was concerned that the problem may reoccur in other villages, and he suggested that the court staff might want to give the problem some thought.

SJC:jm

Memorandum

Alaska Court System

TO:

All Magistrates, District Court
Judges and Clerks of Court

DATE : June 8, 1982

FROM: Bob Martin
Magistrate Training Assistant

SUBJECT: Funeral Expenses in
Coroner Cases

As of March 31, 1982, the Bureau of Indian Affairs and A.V.C.P. Social Services ceased paying for funeral expenses, i.e. embalming, casket and clothing, for deceased Alaska Natives taken to Anchorage for autopsy under court order.

The State Division of Public Assistance will now pay such funeral expenses up to \$750.00 for all persons unable to afford these costs.

To obtain this assistance the decedent's family or next of kin should contact the nearest Division of Public Assistance District Office (see Attachment #1).

If the family receives welfare assistance of any kind, they are presumed eligible for burial assistance. Otherwise, a form entitled Application for Food Stamps (GEN #50) with the words "GR Burial Application" added in the middle of the first page should be completed and submitted to the nearest district office (see Attachment #2). This form is available from village fee agents. When burial assistance is requested, the Division will determine eligibility, advise the applicant whether these services will be provided and, if so, arrange payment with the funeral home.

The Court System will continue to pay autopsy and transportation costs.

Further questions on this subject should be forwarded to my office.

BM/kl

Attachments

cc: Susan Miller



DIVISION OF PUBLIC ASSISTANCE DISTRICT OFFICES

The following is an up to date listing of all of the Division of Public Assistances offices and the decision making offices they each report to as of 6/1/82.

Southeast Region

21 Juneau
24 Petersburg

Decision Making Office

Juneau

23 Ketchikan
22 Sitka

(Are decision makers)

Northern Region

41 Fairbanks
42 Galena
* # 45 Barrow
* # 49 Minto
* # 78 Tok

Decision Making Office

Fairbanks

43 Ft. Yukon
47 Kotzebue

(Are decision makers)

Southwest Region

51 Bethel
* # 54 Mt. Village
55 Aniak

Decision Making Office

Bethel

46 Nome (Is D.M.O.)
48 Unalakleet (Non-D.M.O.)

(Reports to Nome)

Southcentral Region

* # 70 Aleutians
71 Anchorage
72 Valdez
73 Dillingham
* # 74 Cordova
75 Kodiak
* # 81 McGrath

Decision Making Office

Anchorage

76 Kenai (Is D.M.O.)
77 Wasilla (Is D.M.O.)

Note: A Wrangell office has recently opened: this office presently reports to Juneau.

A Palmer office has also opened: this office reports to Wasilla

An * represents areas where there is presently no P.A. district office.

Memorandum

Alaska Court System

TO: Susan Miller

DATE : October 8, 1982

FROM: Bob Martin
Magistrate Training Assistant

SUBJECT: Payment for Embalming
on Court Ordered
Autopsies

I talked with Bob Fisher this afternoon about your question regarding payment for embalming for court ordered autopsies.

Bob said that barring indigency, it is the family's responsibility to pay for embalming the body when the court has ordered an autopsy. The Division of Public Assistance will pay for embalming if the decedent's family or next of kin qualify for burial assistance.

In those cases where the FAA orders autopsies, the federal government pays the embalming costs.

BM:jm

cc: Bob Fisher
Rick Barrier

Bob

District Court

State of Alaska

Box 270

Barrow, ALASKA 99723

April 21, 1983

F.J. Witzleben,
President
Witzleben Funeral Homes and Crematory
P.O. Box 102351
Anchorage, Ak 99510

RE: BILLY M. SHEA/RALPH NEAL HOWARD

Dear Mr. Witzleben:

I have been made aware that you have called Mr. Hall, Mr. Snowden and Mr. Barrier in Anchorage. You should be made aware that I have attempted to call you and your assistant Ms. Ellen Chiavaro-Smolenski and was not able to make contact with you, I did leave two messages. According to Ms. Chiavaro-Smolenski the messages were not passed on. I spoke to her on these matters on April 15, 1983. I tell you these things because I want you to know that I have not ignored your letters or requests.

When I spoke to Ms. Chiavaro-Smolenski I explained to her in detail why the families of the deceaseds had not received their Death Certificates as quickly as they might expect. In the case of Mr. Shea, his certificate has several errors which your assistant pointed out to this office. When those errors were reported we had to send the information to Juneau for their documents to be corrected. The certificate was then returned to our office with the errors corrected and the certificates were sent to his family. Also, in the notice sent of the errors your assistant indicated that sections 31a through 31g had not been completed. In the case of Mr. Shea there was not an accident and these sections did not need to be completed.

In Mr. Howard's case I sent a letter to Mrs. Howard and copies of the Death Certificate that we had. I pointed out to her that until the autopsy report was received and a decision was made as to whether or not an Inquest was to be held, the documents would not do her much good. This case was mainly handled in Fairbanks and I have to wait for autopsy reports (which can take up to a month) and any further information. If an Inquest had been needed in that matter it could have taken even longer for her to receive the completed certificate. If I send her copies without the necessary information contained she cannot submit them for the things she needs done.

MEMORANDUM
RE: Billie M. Hall (Mrs. Howard)
April 22, 1961

Now that we have received the information on Mr. Howard we will have to submit to Juneau the new information and wait until they have the information on the original Death Certificate and return their corrections to us so that we can make the corrections on our certificate. Juneau is now about 4 to 6 weeks behind on their preparations. So, as you can see it might still be awhile before Mrs. Howard receives the corrected document. We have to wait for the corrections to be made in Juneau so that all documents correspond and there are not two different documents.

We understand the inconvenience that this puts on the families and would like to avoid the wait as much as you would, however, I don't feel that sending incorrect copies aids the families and I have ordered the staff here not to send out the copies until the corrections have been made or the additions added. Therefore, it will take quite awhile for the requests to be filled.

If you have any further questions on these matters do not hesitate to call or write our office and we will be of as much help as we possibly can.

Sincerely,

V. Jeanne Cross
V. Jeanne Cross,
Magistrate
Acting Clerk of Court
Barrow Trial Courts

cc: Files
Mike Hall

RECEIVED

November 15, 1983

NOV 15 1983

RECEIVED

NOV 15 1983

The Honorable Joe Josephson
Alaska State Legislature
Pouch V (RS 3100)
Juneau, Alaska 99811

Office of Administrative Director
Alaska Court System

In The Trial Courts
State of Alaska
Third Judicial District

Dear Senator Josephson,

Considering your options (us or public radio), thank you for spending some of your time with us Saturday. Neither Dave Franke, Dick Rome, or myself belong to the Allied Funeral Group, so we were as much in the dark about the agenda for the meeting, and the reasons for holding it, as you were.

It is our feeling that the problems alluded to at the meeting this weekend, are not so much a legislative problem as an administrative one. We believe the Alaska Court Systems unwillingness to pay for our services upon completion of an autopsy, coupled with the discontinuing of B.L.W. funding, which had historically solved this problem, and the reluctance of the Department of Health and Social Services to provide funding without the usual administrative delay is creating problems for us, State Inspectors, Magistrates and families of the deceased.

We took the time to do some legal research this morning. While we are not attorneys, it seems pretty evident to us that the Department of Health and Social Services has very broad statutory powers when it comes to regulating and protecting the public health (18.05.010 and 18.15.010) and also more specific power when it comes to transporting the dead (18.05.040). Perhaps someone on your staff could research this further to verify our assumptions. We have never been told by Health and Social Services that this was not the case, but some members of the allied group said that Health and Social Services staff people had told them this.

If Health and Social Services' solution to this problem is to eliminate the requirement for embalming, we think they are making a serious mistake. Sending an autopsied and unembalmed human remains back to a family is pure foolishness. Often, the cause of death cannot be determined for several days. But when the cause is hepatitis B, Meningitis, Tuberculosis, Etc., sending that body back unembalmed is criminal. If you feel we lack objectivity in this matter, please contact Dr. Michael T. Propst, M.D. at Humana Hospital (264-1171). He is a State

Evergreen Memorial Chapel, Inc.

737 F STREET TELEPHONE 279-2477
P O BOX 237 ANCHORAGE ALASKA

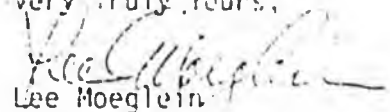


Medical Examiner and board certified in clinical and forensic pathology. The choice of the words "foolishness" and "criminal" are his as I have just talked to him about this issue. Also, sending untreated bodies that have been autopsied back to families regardless of the cause of death would set the administration of rural justice back fifty years. Problems between the police and families would multiply ten-fold.

If you desire, we can arrange for you, your colleagues, members of your staff, Health and Social Services administrators, or others with a pertinent interest in this issue to attend an autopsy at our facilities. We are not suggesting this to shock anyone, but we are willing to give you a first-hand look at what takes place at an autopsy and following the examination. We think you would then have a better understanding of the problem and perhaps a clearer idea of what can be done to solve this problem. We are going to suggest that this same opportunity be given to Magistrates of the Alaska Court System and the courts administrators.

Thank you for your interest in this issue. Please call us if you have further questions or comments.

Very Truly Yours,


Lee Moeglein
Funeral Director
Evergreen Memorial Chapel

Copy to: D. Charlene Doris
Coroner-Public Administrator
Third Judicial District

Evergreen Memorial Chapel, Inc.

737 E STREET
P.O. BOX 537

TELEPHONE 479-5477
ANCHORAGE ALASKA



STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES
OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH H 01
JUNEAU, ALASKA 99801
PHONE: 465-3030

February 17, 1982

F. J. Witzleben, President
Witzleben-Bruce Funeral Homes and Crematory
P. O. Box 2351
Anchorage, AK 99510-2351

RECEIVED
FEB 19 1982

Office of Administrative Director
Alaska Court System

Dear Mr. Witzleben:

In response to your letter of January 28, 1982 concerning the Embalming Regulations 7 AAC 35.090-130. I will attempt to respond to your comments and questions as they appear in the letter.

It is hoped you read through 7 AAC 35.090(a-d) in its entirety. Paragraph (d) begins with the sentence, "When death has occurred from smallpox, plague, anthrax, diphtheria, meningococcal meningitis, cholera, epidemic typhus, or any unusual and highly communicable disease, the body shall be handled and prepared under strict quarantine conditions." It would be unpracticable for us to attempt to list every highly or unusual communicable disease. To clear a possible misconception on your part the embalming process will not render harmless Tubercle bacillus or Hepatitis virus. The whole thrust of 7 AAC 35.090(a-d) is the importance of exercising the utmost care in the handling of the deceased, especially the mortician. Good sanitation practices cannot be stressed too highly.

As you have undoubtedly read through 7 AAC 35.100(a-c) you are aware that when a body can reach its destination within 24 hours after death and the person did not die of any of the diseases mentioned specifically or in the group "unusual and highly communicable" the body can be buried unembalmed. After the 24 hour period only the Commissioner of Health and Social Services can waive the embalming requirement.

In the Fairbanks area we have worked out a speedy method of having a request for a waiver considered. The mortuary or relative of the deceased contacts the coroner who investigates, the coroner then contacts David Bruce, Deputy Director of the Division of Public Health. The coroner has obtained, in writing, a statement from the attending physician stating the deceased did not die from a communicable disease falling in the group listed in 7 AAC 35.090(d), or that the body in some other manner represents a threat to the health of the public. Incidentally, we will not grant a waiver unless we have the coroner's recommendation that one be given. Mr. Bruce then works with my Special Assistant to present the

February 17, 1982

information to me. If I am in travel status, my Special Assistant contacts me by phone and discusses the matter. If I am satisfied that a waiver is best for all parties concerned, the persons handling the body are not placed at risk and there is no threat to the public's health, a waiver is often granted. I would suspect in the instance of advanced decomposition it is unlikely a waiver would be granted.

Are you in violation of the code if you return the deceased after 24 hours unembalmed? While not an attorney, I would say yes you would be and thus subject to prosecution. For the remainder of the question I can only refer you to your own attorney and/or your insurance company.

Your next question concerning the metal shipping containers utilized by the Alaska Court System is difficult to answer as we have not promulgated regulations covering caskets. We can find no law mandating the use of a casket for burial unless the deceased is infected with a disease as referenced in 7 AAC 35.090(d). Our basic premise is that everyone deserves a "decent" burial. Beyond this we have not entered the arena of specifying casket requirements. What you and I determine to be a "decent burial" might be offensive to another.

If well constructed I see no reason why the court system's transfer case could not be considered both a shipping container and casket. As I have never seen one of these devices nor do I recall any dialogue on the subject, my office reserves the right to reevaluate this decision at a later date should a problem arise.

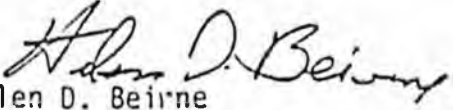
We hesitate to comment in too much detail on a portion of a proposed federal rule. However, I suspect the state regulation would supercede the federal rule especially since provision for superceding is contained in the wording.

In response to your questions concerning authorization, as we cannot interpret Federal intent again I can only refer you to your attorney. You might wish to provide comment to the Federal Trade Commission on their proposed rule.

There is one other Governmental Agency having some jurisdiction. The Federal Aviation Administration has rules and regulations covering the transportation of the dead. If their requirements are more rigid they would supercede state codes.

I hope some of your questions have been answered. For some, those outside my sphere of influence, it would be improper, have no legal standing and would only add to the confusion if I were to attempt a comment in detail.

Sincerely,


Helen D. Beirne
Commissioner

cc: William Nix, Commissioner, Dept. of Public Safety
Dolores Wilks, Coroner, Third Judicial District
Arthur Snowden, Court Administrator
Margaret E. Witzleben, Chairperson, Alaska Allied Funeral
Services Association
Harry D. Treagor, Director, Division of Occupational Licensing
Dept. of Commerce and Economic Development

Memorandum

Alaska Court System

TO:

Rick Barrier

DATE :

November 9, 1982

FROM:

Karla Forsythe

SUBJECT:

Payment of expenses
related to autopsies

I've attached the Probate Forms and statutes which relate to presentation of claims against an estate by a creditor.

Pursuant to AS 13.16.470 (a) (2), claims for "reasonable funeral expenses" will be paid second in line, after the costs and expenses of administration. If we can't argue successfully that embalming costs are part of funeral costs, the fourth payment preference is "reasonable and necessary medical and hospital expenses of the last illness of the defendant, including compensation of persons attending him." It seems unlikely that the legislature intended ^{preference in} ~~to~~ pay claims for actually burying someone, and for expenses incurred while a person is dying, but to omit related expenses such as embalming.

The procedure could work as follows:

- when the coroner arranges to ship the body to the location at which the autopsy will be performed, the next of kin should be notified that the court will be seeking reimbursement for expenses which will be incurred in embalming the body and preparing it for travel. If the next of kin want to incur additional expenses (fancier casket), they should make separate arrangements with the funeral home.
- the court system would present a claim both to the personal representative and to the court. Someone would have to represent the court system before the court if the claim is disallowed and we want to pursue it.

Do you think these estates will have sufficient to make it worthwhile?

*Hope this is
what you
wanted -*

57-58

PROBATE FORMS

57. Written Statement of Claim Delivered or Mailed to Personal Representative or Filed With Court. [AS 13.16.465]

(Title of Court and Cause)

NO. _____
CLAIM AGAINST ESTATE

_____, creditor of the estate of _____, deceased, hereby states that said estate is indebted to said creditor in the amount of \$_____ for _____ (set forth basis

_____ of claim; state date claim due if not yet due; if con-

_____ tingent or unliquidated, state the nature of the uncer-

_____ tainty; if secured, describe security)

DATED this _____ day of _____, 19_____.

Claimant

Address

58. Notice of Allowance of Claim. [AS 13.16.475]

(Title of Court and Cause)

NO. _____
NOTICE OF ALLOW-
ANCE OF CLAIM

To: _____ (name) _____ (address)

Your claim in the amount of \$_____ has been allowed.

DATED this _____ day of _____, 19_____.

Probate Forms

Probate Rules

Personal Representative

Address

NOTE: Failure of the personal representative to mail notice to the claimant of action on his claim for sixty days after the time for original presentation of the claim has expired has the effect of a notice of allowance. AS 13.16.475(a).

59. Notice of Disallowance of Claim.
[AS 13.16.475]

NO. _____
NOTICE OF DISALLOW-
ANCE OF CLAIM

TO: _____

1. Your claim against the above-named estate presented _____, 19____, in the amount of \$_____ has been disallowed.

OR

1. Your claim against the above-named estate presented _____, 19____, in the amount of \$_____ has been allowed in the amount of \$_____ and disallowed in the remaining amount.

2. You are further notified that failure to protest this disallowance by filing a petition for allowance with the Court or commencing a proceeding against the personal representative within sixty days of the mailing of this notice shall result in your claim being forever barred.

DATED this _____ day of _____, 19_____.

Personal Representative

Address

65. Petition by Claimant for Allowance of Claim.
[AS 13.16.475]

(Title of Court and Cause)

NO. _____
PETITION FOR ALLOW-
ANCE OF CLAIM

Petitioner, _____, respectfully requests the Court to allow his claim against the estate of _____ deceased, and in support thereof states:

1. A written statement of petitioner's claim against said estate in the amount of \$_____ was served upon the personal representative of the decedent of said estate (or filed with the Court) on _____, 19____. A copy of said written statement of petitioner's claim is attached hereto and made a part of this petition. Said claim has been disallowed by the personal representative.

2. Petitioner's claim is a valid, just debt of the estate owing to petitioner.

WHEREFORE, petitioner prays that this Court allow said claim in the amount of \$_____ against the estate of _____, deceased, for legal interest thereon and costs expended herein, and for other such relief as this Court deems just and proper and to which the petitioner may be entitled.

DATED this _____ day of _____, 19____

Petitioner

Address

Probate Forms

Probate Rules

66. Order for Notice of Petition of Personal Representative or Claimant for Allowance.

(Title of Court and Cause)

NO. _____
ORDER

The petition for allowance of the claim of _____, personal representative of the estate of _____, deceased (or claimant against the estate of _____, deceased), having come before the Court and the Court finding that notice of the hearing on this petition should be given to the following individuals:
(Names and addresses.)

IT IS ORDERED that hearing upon said petition shall be held on the _____ day of _____, 19____, at _____M.; and that notice of that time, place and date be given to the individuals named herein by _____
(specify method of notice)

DATED this _____ day of _____, 19____.

Judge

67. (Blank)

68. (Blank)

69. (Blank)

70. (Blank)

IX. Probate Rules

Rules

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§ 13.16.450 DECEDENTS ESTATES, GUARDIANSHIPS, ETC. § 13.16.460

(Title effective January 1, 1973)

Article S. Creditor's Claims.

Section	Section
450. Notice to creditors	495. Claims not due and contingent or unliquidated claims
455. Statutes of limitations	500. Counterclaims
460. Limitations on presentation of claims	505. Execution and levies prohibited
465. Manner of presentation of claims	510. Compromise of claims
470. Classification of claims	515. Encumbered assets
475. Allowance of claims	520. Administration in more than one state; duty of personal representative
480. Payment of claims	525. Final distribution to domiciliary representative
485. Individual liability of personal representative	
490. Secured claims	

Sec. 13.16.450. Notice to creditors. Unless notice has already been given under this section, a personal representative upon his appointment shall publish a notice once a week for three successive weeks in a newspaper of general circulation in the judicial district announcing his appointment and address and notifying creditors of the estate to present their claims within four months after the date of the first publication of the notice or be forever barred. (§ 1 ch 78 SLA 1972)

Only claims for money due the claimant from the deceased require presentation to the administrator. *Geist v. O'Connor*, 13 Alaska 15, 92 F. Supp. 461 (D. Alas. 1950).

Am. Jur., ALR and C.J.S. references.—21 Am. Jur., Executors and Administrators, §§ 321 to 330, 341 to 408.

Sufficiency of notice of claim against decedent's estate, 74 ALR 368.

Sufficiency of notice of unmatured or contingent claim 74 ALR 385.

Filing claim against estate of decedent as affecting or precluding other remedies against the estate, 120 ALR 1225.

34 C.J.S. Executors and Administrators §§ 567 to 481.

Sec. 13.16.455. Statutes of limitations. Unless an estate is insolvent the personal representative, with the consent of all successors, may waive any defense of limitations available to the estate. If the defense is not waived, no claim which was barred by any statute of limitations at the time of the decedent's death shall be allowed or paid. The running of any statute of limitations measured from some other event than death and advertisement for claims against a decedent is suspended during the four months following the decedent's death but resumes thereafter as to claims not barred pursuant to the sections which follow. For purposes of any statute of limitations, the proper presentation of a claim under § 465 of this chapter is equivalent to commencement of a proceeding on the claim. (§ 1 ch 78 SLA 1972)

Sec. 13.16.460. Limitations on presentation of claims. (a) All claims against a decedent's estate which arose before the death of the decedent, including claims of the state and any subdivision of

(Title effective January 1, 1973)

it, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort or other legal basis, if not barred earlier by other statute of limitations, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented as follows:

(1) within four months after the date of the first publication of notice to creditors if notice is given in compliance with § 450 of this chapter; however, claims barred by the nonclaim statute at the decedent's domicile before the first publication for claims in this state are also barred in this state;

(2) within three years after the decedent's death, if notice to creditors has not been published.

(b) All claims against a decedent's estate which arise at or after the death of the decedent, including claims of the state and any subdivision of it, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented as follows:

(1) a claim based on a contract with the personal representative, within four months after performance by the personal representative is due;

(2) any other claim, within four months after it arises.

(c) Nothing in this section affects or prevents

(1) any proceeding to enforce any mortgage, pledge, or lien upon property of the estate; or

(2) to the limits of the insurance protection only, any proceeding to establish liability of the decedent or the personal representative for which he is protected by liability insurance. (§ 1 ch 78 SLA 1972)

Am. Jur. and ALR references.—21 *A.M. Jur. Executors and Administrators*, § 343 et seq.

Conduct of representative, preventing filing of claims in time, 11 ALR 246; 66 ALR 1415.

Contingent claim, 34 ALR 372.

Executory contract for sale, 35 ALR 327.

Bar of statute of nonclaim of decedent's domicile as affecting assertion of claim elsewhere, 72 ALR 1030.

Claim for taxes, 109 ALR 1370.

Necessity of presenting claim for specific performance of a contract to make a will in favor of another or to will the latter a specified sum or property, 113 ALR 1070.

Exclusiveness of grounds enumerated in statute providing, under specified circumstances, extension of time for filing claims under decedent's estate, 37 ALR2d 1304.

Sec. 13.16.465. Manner of presentation of claims. Claims against a decedent's estate may be presented as follows:

(1) The claimant may deliver or mail to the personal representative a written statement of the claim indicating its basis, the

13.16.465

§ 13.16.470 DECEDENTS ESTATES, GUARDIANSHIPS, ETC. § 13.16.470

(Title effective January 1, 1973)

name and address of the claimant, and the amount claimed, or may file a written statement of the claim, in the form prescribed by rule, with the clerk of the court. The claim is considered presented on receipt of the written statement of claim by the personal representative or on the filing of the claim with the court, whichever occurs first. If a claim is not yet due, the date when it will become due shall be stated. If the claim is contingent or unliquidated, the nature of the uncertainty shall be stated. If the claim is secured, the security shall be described. Failure to describe correctly the security, the nature of any uncertainty, and the due date of a claim not yet due does not invalidate the presentation made.

(2) The claimant may commence a proceeding against the personal representative in any court where the personal representative may be subjected to jurisdiction, to obtain payment of his claim against the estate, but the commencement of the proceeding must occur within the time limited for presenting the claim. No presentation of claim is required in regard to matters claimed in proceedings against the decedent which were pending at the time of his death.

(3) If a claim is presented under (1) of this section, no proceeding on it may be commenced more than 60 days after the personal representative has mailed a notice of disallowance; but, in the case of a claim which is not presently due or which is contingent or unliquidated, the personal representative may consent to an extension of the 60-day period, or to avoid injustice the court, on petition, may order an extension of the 60-day period, but in no event shall the extension run beyond the applicable statute of limitations. (§ 1 ch 78 SLA 1972)

Character of claim. — The claim that is to be presented to the administrator is not a claim of any peculiar or particular character, but is any claim that might be asserted as a cause of action or as a right demanded. In re Estate Gladough, 1 Alaska 649 (1902).

Am. Jur. and ALR references.—21 Am. Jur., Executors and Administrators, § 375.

Necessity of presenting claim to executor or administrator before bringing suit, 34 ALR 362.

Presentation of claim as condition

precedent to action on contingent claim, 34 ALR 372.

Executor's or administrator's waiver or presentation of claim against estate before bringing action thereon, 34 ALR 393.

Presentation of claim against deceased debtor's estate as condition of action to enforce judgment lien, 114 ALR 1167.

Amendment of claim against decedent's estate, introducing new or different claim or effecting substantial change in claim, 33 ALR2d 627.

Sec. 13.16.470. Classification of claims. (a) If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall make payment in the following order;

- (1) costs and expenses of administration;

amended 1-18-73
see p. 183

(Title effective January 1, 1973)

(2) reasonable funeral expenses and reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending him;

(3) debts and taxes with preference under federal law or the laws of this state;

(4) all other claims.

(b) No preference shall be given in the payment of any claim over any other claim of the same class, and a claim due and payable shall not be entitled to a preference over claims not due. (§ 1 ch 78 SLA 1972)

Am. Jur. and ALR references.—21 Am. Jur., Executors and Administrators, § 355.

Vendor under executory contract for sale of land as preferred creditor in case of vendee's death, 35 ALR 929.

State's prerogative right of preference at common law, 51 ALR 1355; 65 ALR 1331; 90 ALR 184; 167 ALR 640.

Remedies of creditors of insolvent decedent's estate where other creditors have received excessive payment, 77 ALR 931.

Effect of filing claim for mortgage on real estate, as against estate of deceased mortgagor, 78 ALR 1148.

Expense of preserving assets before appointment of executor or administrator as entitled to priority, 108 ALR 393.

Sec. 13.16.475. Allowance of claims. (a) As to claims presented in the manner described in § 465 of this chapter within the time limit prescribed in § 460 of this chapter, the personal representative may mail a notice to any claimant stating that the claim has been disallowed. If, after allowing or disallowing a claim, the personal representative changes his decision concerning the claim, he shall notify the claimant. The personal representative may not change a disallowance of a claim after the time for the claimant to file a petition for allowance or to commence a proceeding on the claim has run and the claim has been barred. Every claim which is disallowed in whole or in part by the personal representative is barred so far as not allowed unless the claimant files a petition for allowance in the court or commences a proceeding against the personal representative not later than 60 days after the mailing of the notice of disallowance or partial allowance if the notice warns the claimant of the impending bar. Failure of the personal representative to mail to a claimant notice of action on his claim for 60 days after the time for original presentation of the claim has expired has the effect of a notice of allowance.

(b) Upon the petition of the personal representative or of a claimant in a proceeding for the purpose, the court may allow in whole or in part any claim or claims presented to the personal representative or filed with the clerk of the court in due time and not barred by (a) of this section. Notice in this proceeding shall be given to the claimant, the personal representative and those other

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§ 13.16.480 DECEDENTS ESTATES, GUARDIANSHIPS, ETC. § 13.16.480

(Title effective January 1, 1973)

persons interested in the estate as the court may direct by order entered at the time the proceeding is commenced.

(c) A judgment in a proceeding in another court against a personal representative to enforce a claim against a decedent's estate is an allowance of the claim.

(d) Unless otherwise provided in any judgment in another court entered against the personal representative, allowed claims bear interest at the legal rate for the period commencing 60 days after the time for original presentation of the claim has expired unless based on a contract making a provision for interest, in which case they bear interest in accordance with that provision. (§ 1 ch 78 SLA 1972)

Appeal. — If an administrator has any good reason to believe that the heirs of the estate are aggrieved by a decision of the court, allowing a creditor's claim previously rejected by him, and that their rights are injuriously affected by the judgment and decree of the court, upon their request it is the duty of the administrator, in their behalf, to present his application for an appeal in their interest; and in their interest such appeal may properly be allowed, if there is any reasonable ground for it whatsoever. In re Estate Gladough, 1 Alaska 649 (1902).

Interest of person seeking appeal. — The person seeking the appeal must have an interest in the subject matter of the appeal, and his interest must be adversely affected by the

judgment. In re Estate Gladough, 1 Alaska 649 (1902).

Am. Jur., ALR and C.J.S. refer-
ences.—21 Am. Jur., Executors and
Administrators, §§ 171 to 204, 221,
261, 377, 386.

Allowance out of decedent's estate
for services rendered by executor
employed by executor
tor, 70 ALR 521; 142 ALR 142.

Who entitled to contest, or appeal
from, allowance of claim against de-
cedent's estate, 118 ALR 743.

Executor's right to appeal from
court's rejection of claim, 129 ALR
922.

Creditor's right to maintain action
in interest of decedent's estate, 158
ALR 722.

33 C.J.S. Executors and Adminis-
trators §§ 129 to 140.

Sec. 13.16.480. Payment of claims. (a) Upon the expiration of four months from the date of the first publication of the notice to creditors, the personal representative shall proceed to pay the claims allowed against the estate in the order of priority prescribed, after making provision for homestead, family and support allowances, for claims already presented which have not yet been allowed or whose allowance has been appealed, and for unbarred claims which may yet be presented, including costs and expenses of administration. By petition to the court in a proceeding for the purpose, or by appropriate motion if the administration is supervised, a claimant whose claim has been allowed but not paid as provided herein may secure an order directing the personal representative to pay the claim to the extent that funds of the estate are available for the payment.

(c) The personal representative at any time may pay any just claim which has not been barred, with or without formal presenta-

(Title effective January 1, 1973)

tion, but he is personally liable to any other claimant whose claim is allowed and who is injured by such payment if

(1) the payment was made before the expiration of the time limit stated in (a) of this section and the personal representative failed to require the payee to give adequate security for the refund of any of the payment necessary to pay other claimants; or

(2) the payment was made, due to the negligence or wilful fault of the personal representative, in such a manner as to deprive the injured claimant of his priority. (§ 1 ch 78 SLA 1972)

Sec. 13.16.485. Individual liability of personal representative.

(a) Unless otherwise provided in the contract, a personal representative is not individually liable on a contract properly entered into in his fiduciary capacity in the course of administration of the estate unless he fails to reveal his representative capacity and identify the estate in the contract.

(b) A personal representative is individually liable for obligations arising from ownership or control of the estate or for torts committed in the course of administration of the estate only if he is personally at fault.

(c) Claims based on contracts entered into by a personal representative in his fiduciary capacity, on obligations arising from ownership or control of the estate or on torts committed in the course of estate administration may be asserted against the estate by proceeding against the personal representative in his fiduciary capacity, whether or not the personal representative is individually liable therefor.

(d) Issues of liability as between the estate and the personal representative individually may be determined in a proceeding for accounting, surcharge or indemnification or other appropriate proceeding. (§ 1 ch 78 SLA 1972)

Tort committed in course of administration.—An administrator, executor, or trustee may be sued in his representative capacity, and collection may be had from the trust assets, for a tort committed in the course of administration, if it is determined by the court that the tort

was a common incident of the kind of business activity in which the administrator, executor, or trustee was properly engaged on behalf of the estate. *Vance v. Estate of Myers*, Sup. Ct. Op. No. 770 (File No. 1447), 491 P.2d 816 (1972).

Sec. 13.16.490. Secured claims. Payment of a secured claim is upon the basis of the amount allowed if the creditor surrenders his security; otherwise payment is upon the basis of one of the following:

(1) if the creditor exhausts his security before receiving payment, unless precluded by other law upon the amount of the claim allowed less the fair value of the security; or

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§ 13.16.495 DECEDENTS ESTATES, GUARDIANSHIPS, ETC. § 13.16.510

(Title effective January 1, 1973)

(2) if the creditor does not have the right to exhaust his security or has not done so, upon the amount of the claim allowed less the value of the security determined by converting it into money according to the terms of the agreement under which the security was delivered to the creditor, or by the creditor and personal representative by agreement, arbitration, compromise or litigation. (§ 1 ch 78 SLA 1972)

Sec. 13.16.495. Claims not due and contingent or unliquidated claims. (a) If a claim which will become due at a future time or a contingent or unliquidated claim becomes due or certain before the distribution of the estate, and if the claim has been allowed or established by a proceeding, it is paid in the same manner as presently due and absolute claims of the same class.

(b) In other cases the personal representative or, on petition of the personal representative or the claimant in a special proceeding for the purpose, the court may provide for payment as follows:

(1) if the claimant consents, he may be paid the present or agreed value of the claim, taking any uncertainty into account;

(2) arrangement for future payment, or possible payment, on the happening of the contingency or on liquidation may be made by creating a trust, giving a mortgage, obtaining a bond or security from a distributee, or otherwise. (§ 1 ch 78 SLA 1972)

Sec. 13.16.500. Counterclaims. In allowing a claim the personal representative may deduct any counterclaim which the estate has against the claimant. In determining a claim against an estate a court shall reduce the amount allowed by the amount of any counterclaims and, if the counterclaims exceed the claim, render a judgment against the claimant in the amount of the excess. A counterclaim, liquidated or unliquidated, may arise from a transaction other than that upon which the claim is based. A counterclaim may give rise to relief exceeding in amount or different in kind from that sought in the claim. (§ 1 ch 78 SLA 1972)

Sec. 13.16.505. Execution and levies prohibited. No execution may issue upon nor may any levy be made against any property of the estate under any judgment against a decedent or a personal representative, but this section shall not be construed to prevent the enforcement of mortgages, pledges or liens upon real or personal property in an appropriate proceeding. (§ 1 ch 78 SLA 1972)

Sec. 13.16.510. Compromise of claims. When a claim against the estate has been presented in any manner, the personal representative may, if it appears for the best interest of the estate, compromise the claim, whether due or not due, absolute or contingent, liquidated or unliquidated. (§ 1 ch 78 SLA 1972)

(Title effective January 1, 1973)

Sec. 13.16.515. Encumbered assets. If any assets of the estate are encumbered by mortgage, pledge, lien, or other security interest, the personal representative may pay the encumbrance or any part of it, renew or extend any obligation secured by the encumbrance or convey or transfer the assets to the creditor in satisfaction of his lien, in whole or in part, whether or not the holder of the encumbrance has filed a claim, if it appears to be for the best interest of the estate. Payment of an encumbrance does not increase the share of the distributee entitled to the encumbered assets unless the distributee is entitled to exoneration. (§ 1 ch 78 SLA 1972)

Sec. 13.16.520. Administration in more than one state; duty of personal representative. (a) All assets of estates being administered in this state are subject to all claims, allowances and charges existing or established against the personal representative wherever appointed.

(b) If the estate either in this state or as a whole is insufficient to cover all family exemptions and allowances determined by the law of the decedent's domicile, prior charges and claims, after satisfaction of the exemptions, allowances and charges, each claimant whose claim has been allowed either in the state or elsewhere in administrations of which the personal representative is aware, is entitled to receive payment of an equal proportion of his claim. If a preference or security in regard to a claim is allowed in another jurisdiction but not in this state, the creditor so benefited is to receive dividends from local assets only upon the balance of his claim after deducting the amount of the benefit.

(c) In case the family exemptions and allowances, prior charges and claims of the entire estate exceed the total value of the portions of the estate being administered separately and this state is not the state of the decedent's last domicile, the claims allowed in this state shall be paid their proportion if local assets are adequate for the purpose, and the balance of local assets shall be transferred to the domiciliary personal representative. If local assets are not sufficient to pay all claims allowed in this state the amount to which they are entitled, local assets shall be marshalled so that each claim allowed in this state is paid its proportion as far as possible, after taking into account all dividends on claims allowed in this state from assets in other jurisdictions. (§ 1 ch 78 SLA 1972)

Sec. 13.16.525. Final distribution to domiciliary representative. The estate of a nonresident decedent being administered by a personal representative appointed in this state shall, if there is a personal representative of the decedent's domicile willing to receive it, be distributed to the domiciliary personal representative for the

§ 13.16.525

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§ 13.16.535 DECEDENTS ESTATES, GUARDIANSHIPS, ETC. § 13.16.540

(Title effective January 1, 1973)

benefit of the successors of the decedent unless (1) by virtue of the decedent's will, if any, and applicable choice of law rules, the successors are identified under the local law of this state without reference to the local law of the decedent's domicile; (2) the personal representative of this state, after reasonable inquiry, is unaware of the existence or identity of a domiciliary personal representative; or (3) the court orders otherwise in a proceeding for a closing order under § 620 of this chapter or incident to the closing of a supervised administration. In other cases, distribution of the estate of a decedent shall be made in accordance with §§ 5—400 and §§ 535—695 of this chapter. (§ 1 ch 78 SLA 1972)

Am. Jur. and ALR references.—21 representative in respect of assets sub-
Am. Jur., Executors and Administra- ject to ancillary administration in an-
tors, §§ 171 to 204, 221. other state, 132 ALR 1369.

Accountability of domiciliary rep-

Article 9. Special Provisions Relating to Distribution.

Section	Section
535. Successors' rights if no admin- istration	580. Purchasers from distributees protected
540. Distribution; order in which as- sets appropriated; abatement	585. Partition for purpose of distri- bution
545. Right of retainer	590. Private agreements among suc- cessors to decedent binding on personal representative
550. Interest on general pecuniary devise	595. Distributions to trustee
555. Penalty clause for contest	600. Disposition of unclaimed assets
560. Distribution in kind; valuation; method	605. Distribution to person under dis- ability
565. Distribution in kind; evidence	610. Apportionment of estate taxes
570. Distribution; right or title of distributee	
575. Improper distribution; liability of distributee	

Sec. 13.16.535. Successors' rights if no administration. In the absence of administration, the heirs and devisees are entitled to the estate in accordance with the terms of a probated will or the laws of intestate succession. Devisees may establish title by the probated will to devised property. Persons entitled to property by homestead allowance, exemption or intestacy may establish title to it by proof of the decedent's ownership, his death, and their relationship to the decedent. Successors take subject to all charges incident to administration, including the claims of creditors and allowances of surviving spouse and dependent children, and subject to the rights of others resulting from abatement, retainer, advancement, and ademption. (§ 1 ch 79 SLA 1972)

Sec. 13.16.540. Distribution; order in which assets appropriated; abatement. (a) Except as provided in (b) of this section and except as provided in connection with the share of the sur-

(Title effective January 1, 1973)

estate or to any other person having a superior right. (§ 1 ch 78 SLA 1972)

Sec. 13.16.690. Small estates; summary administrative procedure. If it appears from the inventory and appraisal that the value of the entire estate, less liens and encumbrances, does not exceed homestead allowance, exempt property, family allowance, costs and expenses of administration, reasonable funeral expenses, and reasonable and necessary medical and hospital expenses of the last illness of the decedent, the personal representative, without giving notice to creditors, may immediately disburse and distribute the estate to the persons entitled to it and filing a closing statement as provided in § 695 of this chapter. (§ 1 ch 78 SLA 1972)

Am. Jur. and C.J.S. references.—21
Am. Jur., Executors and Administrators, §§ 227, 427 to 518, 538 to 544;
40 Am. Jur., Partition, §§ 60, 61, 63,
114, 120.

34 C.J.S. Executors and Administrators §§ 482 to 535, 827 to 943.

Sec. 13.16.695. Small estates; closing by sworn statement of personal representative. (a) Unless prohibited by order of the court and except for estates being administered by supervised personal representatives, a personal representative may close an estate administered under the summary procedures of § 690 of this chapter by filing with the court, at any time after disbursement and distribution of the estate, a verified statement stating that

(1) to the best knowledge of the personal representative, the value of the entire estate, less liens and encumbrances, did not exceed homestead allowance, exempt property, family allowance, costs and expenses of administration, reasonable funeral expenses, and reasonable, necessary medical and hospital expenses of the last illness of the decedent;

(2) the personal representative has fully administered the estate by disbursing and distributing it to the persons entitled to it; and

(3) the personal representative has sent a copy of the closing statement to all distributees of the estate and to all creditors or other claimants of whom he is aware whose claims are neither paid nor barred and has furnished a full account in writing of his administration to the distributees whose interests are affected.

(b) If no action or proceeding involving the personal representative is pending in the court one year after the closing statement is filed, the appointment of the personal representative terminates.

(c) A closing statement filed under this section has the same effect as one filed under § 690 of this chapter.

(d) The superior court may authorize the disposal in a manner it prescribes of personal property which has not been disposed of

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§ 13.16.440 DECEDENTS ESTATES, GUARDIANSHIPS, ETC. § 13.16.470

Sec. 13.16.440. Proceedings for review of employment of agents and compensation of personal representatives and employees of estate.

NOTES TO DECISIONS

Estates consisting of wrongful death recovery not exempted from procedures for presentation, etc., of claims against estate. — See In re Estate of Pushruk, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977).

Article 8. Creditor's Claims.

Section

- 455. Statutes of limitations
- 470. Classification of claims
- 515. Encumbered assets

Sec. 13.16.455. Statutes of limitations. Unless an estate is insolvent the personal representative, with the consent of all successors whose interests would be affected may waive any defense of limitations available to the estate. If the defense is not waived, no claim which was barred by any statute of limitations at the time of the decedent's death shall be allowed or paid. The running of any statute of limitations measured from some other event than death and advertisement for claims against a decedent is suspended during the four months following the decedent's death but resumes thereafter as to claims not barred pursuant to the sections which follow. For purposes of any statute of limitations, the proper presentation of a claim under AS 13.16.465 is equivalent to commencement of a proceeding on the claim. (§ 1 ch 78 SLA 1972; am § 15 ch 154 SLA 1976)

Effect of amendments. — The 1976 amendment inserted "whose interests would be affected" in the first sentence. Legislative history reports. — For report on ch. 154, SLA 1976 (SB 717), see 1976 House Journal, p. 1569.

Sec. 13.16.460. Limitations on presentation of claims.

NOTES TO DECISIONS

This section, et seq., provides detailed and explicit procedures for presentation, allowance and payment of claims against the estate. In re Estate of Pushruk, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977). Nothing in AS 13.16.005 — 13.16.705 exempts estates consisting in whole or in part of a wrongful death recovery. In re Estate of Pushruk, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977). Applied in In re Estate of Hutchinson, Sup. Ct. Op. No. 1618 (File No. 3570), 577 P.2d 1074 (1978).

Sec. 13.16.470. Classification of claims. (a) If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall make payment in the following order:

- (1) costs and expenses of administration;
- (2) reasonable funeral expenses;
- (3) debts and taxes with preference under federal law;

(4) reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending him;

(5) debts and taxes with preference under other laws of this state;
 (6) all other claims.

(b) No preference shall be given in the payment of any claim over any other claim of the same class, and a claim due and payable shall not be entitled to a preference over claims not due. (§ 1 ch 78 SLA 1972; am § 16 ch 56 SLA 1973)

Effect of amendments. — The 1973 amendment rewrote subsection (a).

Legislative history reports. — For

report on ch. 56, SLA 1973 (HCS SB 140), see 1973 Senate Journal Supplement No. 9; 1973 House Journal, p. 819.

NOTES TO DECISIONS

Alaska Statute 13.11.135(a) and subsection (a) of this section can be construed harmoniously if, and only if, family allowances are not found to be within the meaning of the word "claim" as defined in AS 13.06.050. In re Estate of Hutchinson, Sup. Ct. Op. No. 1618 (File No. 3570), 577 P.2d 1074 (1978).

Alaska Statute 13.11.135(a), not subsection (a) of this section, is the statute of greater specificity. It deals only with family allowances and states that they have priority over all claims with unmistakable clarity. Subsection (a) of this section, on the other hand, is much broader. It deals with the priorities for all categories of claims. In re Estate of Hutchinson, Sup. Ct. Op. No. 1618 (File No. 3570), 577 P.2d 1074 (1978).

Family allowances are not "claims". — The word "claims" as used in subsection (a) does not include family allowances. In

re Estate of Hutchinson, Sup. Ct. Op. No. 1618 (File No. 3570), 577 P.2d 1074 (1978). Family allowances are not specifically included in the definition of "claim" in AS 13.06.050 as are, for example, expenses of administration. In re Estate of Hutchinson, Sup. Ct. Op. No. 1618 (File No. 3570), 577 P.2d 1074 (1978).

The wording of AS 13.11.135(a) itself casts doubt on whether family allowances were meant to be included within the meaning of the word "claims". It states that family allowances have priority over "all claims," not "all other claims." In re Estate of Hutchinson, Sup. Ct. Op. No. 1618 (File No. 3570), 577 P.2d 1074 (1978).

Thus, family allowances should be given priority over expenses of administration. In re Estate of Hutchinson, Sup. Ct. Op. No. 1618 (File No. 3570), 577 P.2d 1074 (1978).

Sec. 13.16.475. Allowance of claims.

NOTES TO DECISIONS

Ordinarily claims against an estate need only be proved by a preponderance of the evidence. Cavanah v. Martin, Sup. Ct. Op. No. 1792

(File No. 3867), 590 P.2d 41 (1979).

Cited in In re Estate of Pushruk, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977).

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§ 13.16.480 DECEDENTS ESTATES. GUARDIANSHIPS, ETC. § 13.16.580

Sec. 13.16.480. Payment of claims.

NOTES TO DECISIONS

Applied in In re Estate of Hutchinson,
Sup. Ct. Op. No. 1618 (File No. 3570), 577
P.2d 1074 (1978).

Sec. 13.16.515. Encumbered assets. If any assets of the estate are encumbered by mortgage, pledge, lien, or other security interest, the personal representative may pay the encumbrance or any part of it, renew or extend any obligation secured by the encumbrance or convey or transfer the assets to the creditor in satisfaction of his lien, in whole or in part, whether or not the holder of the encumbrance has presented a claim, if it appears to be for the best interest of the estate. Payment of an encumbrance does not increase the share of the distributee entitled to the encumbered assets unless the distributee is entitled to exoneration. (§ 1 ch 78 SLA 1972; am § 16 ch 154 SLA 1976)

Effect of amendments. — The 1976 amendment substituted "presented a claim" for "filed a claim" near the end of the first sentence. Legislative history reports. — For report on ch. 154, SLA 1976 (SB 717), see 1976 House Journal, p. 1569.

Article 9. Special Provisions Relating to Distribution.

Section

- 580. Purchasers from distributees protected
- 610. Apportionment of estate taxes

Sec. 13.16.560. Distribution in kind; valuation; method.

NOTES TO DECISIONS

Applied in In re Estate of Hutchinson,
Sup. Ct. Op. No. 1618 (File No. 3570), 577
P.2d 1074 (1978).

Sec. 13.16.575. Improper distribution; liability of distributee.

NOTES TO DECISIONS

Applied in In re Estate of Hutchinson,
Sup. Ct. Op. No. 1618 (File No. 3570), 577
P.2d 1074 (1978).

Sec. 13.16.580. Purchasers from distributees protected. If property distributed in kind or a security interest in it is acquired for value by a purchaser from or lender to a distributee who has received an instrument or deed of distribution from the personal representative,