

463 HJ

HB 354 - HB 392

463

BISS AND HOLMES

ATTORNEYS AT LAW
AN ASSOCIATION OF PROFESSIONAL CORPORATIONS

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February 25, 1977

State of Alaska
Department of Public Safety
Division of Fire Prevention
Pouch N
Juneau, AK 99811

Attention: Ronald A. Hendrie, State Fire Marshal

Subject: City of Palmer Fire Prevention Inspections and
Enforcement of Fire Safety Regulations

Dear Sir:

Upon receipt of your letter of February 14, 1977 deferring to the City of Palmer the State's responsibilities for fire prevention inspections and enforcement of the State Fire Safety Regulations, the City Manager requested that I respond on behalf of the State.

We do not have the personnel nor the budget to undertake this program. We have not done this in the past nor do we plan to undertake this responsibility in the future. Some years ago when the question of the adoption of the State Fire Safety Regulations came up before the City Council, it is my recollection that State representatives were present. I pointed out to the City that if such responsibilities for inspection and enforcement were undertaken by the City, it would also be assuming the areas of liability. The Council declined to undertake inspections and enforcement at that time.

The City of Palmer isn't insured against this type of liability and cannot afford such insurance even if we had the personnel and budget to undertake the program. We must therefore defer responsibility for fire prevention inspections and enforcement

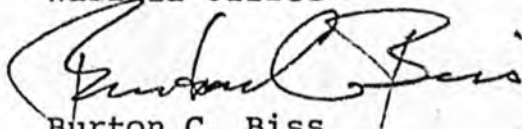
State Division of Fire Prevention
Page 2
February 25, 1977

of the State Fire Safety Regulations back to the State.

Should you desire clarification on any of the above please
contact me at 376-5318 or write me at the letterhead address.

Very truly yours,

BISS AND HOLMES
Wasilla Office



Burton C. Biss
City Attorney for the
City of Palmer, Alaska

Certified Mail No. 356167
Return Receipt Requested

BCB:esp

cc: William E. Curtis
Daniel M. Contini, Jr.

Terry Gardiner

Box 6092, Ketchikan, Alaska 99901 Pouch V, Juneau, Alaska 99811

April 4, 1977

Dick Block
Commissioner of Insurance
Pouch D
Juneau, Alaska 99811

Dear Commissioner Block:

In relation to HB 354 the Committee has requested your analysis of the bill in terms of what effect it would have on insurance availability and cost to municipalities.

There has been testimony presented to the Committee that the insurance rates for municipalities have become extremely high if not impossible in some cases. The Committee is interested in some type of information which may reflect what the change in insurance policies or rates in issuance of policies would be if HB 354 or a similar bill were enacted into law.

Do to the lateness in the session I would appreciate your earliest return of some comment on this.

Sincerely,

Terry Gardiner

Terry Gardiner
State Representative
Alaska Legislature

enclosure

RESOLUTION 635 - R
CITY COUNCIL
CITY OF PETERSBURG, ALASKA

WHEREAS the City of Petersburg has suffered periodic judicial harassment from claims arising from or related to building inspections, enforcement of Ordinances and regulations, denials of licenses and permits, false imprisonment, and other interference with the policy decisions which are within the discretionary functions of the City; and

WHEREAS the City of Petersburg is encountering increased difficulty in obtaining liability insurance coverage adequate to provide for the scope of its' Municipal functions; and

WHEREAS the City of Petersburg provides extra-territorial police and rescue service on a gratuitous basis, and further, is being requested by the State of Alaska to enter into a mutual aid agreement of emergency Public Safety requirements at the State Airport and for back-up assistance from the Alaska State Troopers with respect to emergency response outside of Petersburgs Municipal limits.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Petersburg that;

the City of Petersburg endorses a concept of a legislative solution similar to the Federal Tort Claims Act and State Immunity as prescribed in AS 09.50.250 as may be amended by SB 151, and

the City of Petersburg unequivocally urges the Alaska legislature to adopt "An act relating to suits against local government" amending AS 09.65.070 to grant limited immunity to local governments respecting building inspections, enforcement of Ordinances, the exercise of discretionary functions, licenses and permits, false imprisonment and false arrest, extra-territorial services provided on a gratuitous basis, and services performed by the Municipality pursuant to request or contract with the State of Alaska.

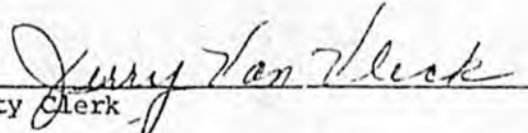
PASSED AND APPROVED by the City Council of the City of Petersburg, Alaska

This 7 day of March, 1977



Mayor

ATTEST:



City Clerk

CITY OF HAINES

PHONE 766-2571 — POST OFFICE BOX 239 — HAINES, ALASKA

March 16, 1977

Mr. L. B. Jacobson
Robertson, Monagle, Eastaugh
& Bradley
P.O. Box 1211
Juneau, Alaska 99802

Re: Proposed Legislation Limiting Municipal Liability
"An Act Relating To Suits Against Local Governments"

Dear Mr. Jacobson:

In response to your request for input on the above-entitled legislation, the Council of Haines strongly endorses the passage of most of its provisions, as indicated by the Resolution sent to you last week. We have several comments to offer concerning the effects of the City's exposure to liability in our community; firstly, I will attempt to answer the questions articulated on page four of your letter to Jim Eide.

(1) The City of Haines has not been sued in 20 years.

(2) Officials and employees of the City of Haines receive a frequent barrage of threats of litigation, particularly arising from both enforcement and non-enforcement of zoning laws, provisions concerning hazardous buildings, road conditions limiting access for emergency vehicles, charges of misrepresentation (usually because of poor or unclear communication). It is a rare week when somebody associated with the City is not reminded of the possibility of a lawsuit arising from some situation or another.

(3) In July, 1976, the Superintendent of Public Works redflagged four structures as hazardous buildings. The owners of the buildings were sent letters notifying them that they should either repair or demolish the building or request a Council hearing after which the Council could order demolition. However, to date, nothing has been done to enforce these requests, chiefly because of uncertainty as to whether present City employees would be considered qualified to undertake building inspection duties. By City Ordinance, the Superintendent of Public Works is authorized to condemn hazardous buildings. However, there has been considerable discussion about the advisability of having a Superintendent of Public Works undertake this duty, since he is otherwise not expected to have any expertise in structural engineering. It seems clear that in case a decision or order were to be challenged, it must be possible to demonstrate the inspector's qualifications, but the

State is apparently reluctant to define minimum qualifications for a building inspector.

Because of the same uncertainty, the City of Haines has yet to adopt any building code. We do not wish to have laws on our books which we are not equipped to enforce. We have joined the "Small Towns Institute" in the hope that other communities of comparable size might have ideas for a less stringent code than either the National Building Code or the Uniform Building Code. Even if we were to adopt a code, it is doubtful whether we would find a single individual in Haines of sufficient expertise to undertake structural, plumbing and electrical inspections. In a town this size, the most qualified individuals are likely to be those in business in these fields, who would have a conflict of interest if they were to become inspectors. In addition, the Council is understandably reluctant to incur the expense of an inspector because of Haines' well known financial limitations. However, probably the most important factor in considering the adoption of a building code has been uncertainty over the increased liability associated with its adoption, not only because of possible challenges to the inspector's qualifications, but because of possible liability for failing to discover or disclose a violation of the code. Obviously, in a town which has had no building code, the adjustments involved in following a code would be considerable, and feelings among the citizens are likely to be volatile unless it were done absolutely consistently and by individuals whose authority would be difficult to question. The City adopted the Uniform Fire Code several years ago, but it is not systematically enforced.

In summary, the City of Haines has never taken a strong stand in enforcing codes intended to promote public safety, in spite of some rather flagrant examples of hazardous conditions, because it simply cannot afford the risk of losing a suit for damages. Necessary precautions which municipalities could undertake as well as limitations on possible awards for damages arising from negligent enforcement are all too ambiguous. It is unrealistic to expect a small town City Council, whose members are burdened with many other issues, to achieve enough sophistication in the field of code enforcement to be able to confidently direct a reasonable course of consistent enforcement in the face of the extremely high risk imposed by the attitude of the Supreme Court, when accompanied by the lack of positive direction from the law itself concerning inspections and authority therefor. The resultant loss to public safety and aesthetics is apparent to anyone walking through the streets of Haines.

(4) It is almost impossible to estimate added costs necessary for the insurance and activities required to insure an unquestioned standard of code enforcement, but it would be considerable even if a building code were not adopted. If a building code were adopted and building inspectors hired, the cost would be a minimum of \$20,000 per year.

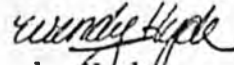
In addition, the City has hesitated to offer certain community services because of the risk of liability associated with them. This winter, citizens requested that a street be closed to motor vehicles and dedicated to sledding, so that kids would be less likely to be found careening down the center of a street, where it is difficult for drivers to see them. Based on experiences of municipalities

in Juneau and Ketchikan and on the possibility of a suit because of increased response time required by emergency vehicles having to use an alternate route because of the blocked-off street, the Council ultimately declined to allow a City street to become a sledding hill.

In regard to the proposed Section AS 09.65.070 (d) (5), there has been some concern that if the volunteer fire department were fighting a fire outside city limits when a fire occurred inside, the property owner inside city limits could sue the department for delayed response time in arriving at his property. In that case, the City taxpayer in essence, supports the department through property taxes and the property owner outside the City does not (although he does, through sales tax whenever he shops within city limits). Since we are a Third Class Borough, the State will not allow a fire district to be formed outside the City.

If you have additional questions or would like additional input, please do not hesitate to ask.

Sincerely,


Wendy Hyde
City Clerk

WH

cc: Mr. Don Berry, Municipal League
Mr. Norman C. Banfield

CITY OF HAINES

TELEPHONE (907) 766-2231 - POST OFFICE BOX 239 - HAINES, ALASKA 99827

RESOLUTION NO. 3777

A RESOLUTION ENDORSING "AN ACT RELATING TO SUITS AGAINST LOCAL GOVERNMENT"

WHEREAS, the cases of Adams v. State and State v. Jennings have demonstrated that the Supreme Court of the State of Alaska will hold government entities to common law standards of liability for negligence in enforcing codes intended to promote public safety; and

WHEREAS, the reasoning behind the judgments in these cases indicates that government bodies may be exposed to increased liability in carrying out all discretionary functions including the granting of licenses and permits, including zoning permits and variances; and

WHEREAS, such liability discourages local governments from undertaking functions intended to promote general welfare, such as inspections for the promotion of public safety; and

WHEREAS, such liability will dramatically increase both the cost of liability insurance for municipalities and the necessity of their maintaining it; and

WHEREAS, the interpretation of local government codes and inspections to mean that the government is totally responsible for the implementation of safety standards, rather than that the government may contribute to the process of insuring conditions of general safety places an inordinate financial responsibility on already-overburdened local governments; and

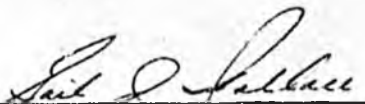
WHEREAS, the effect of such liability in a municipality continuing to enforce building, fire and safety codes is to place an inordinate financial burden on the taxpayer in order to benefit a very specialized class of persons, namely those injured as a result of unsafe conditions in a structure inspected or under the jurisdiction of inspection by an agent of the municipality; and

WHEREAS, in consideration of the aforementioned fact, proposed legislation has been drafted which would afford immunity to municipalities from actions for damages related to certain activities;

THEREFORE, BE IT RESOLVED BY THE HAINES COMMON COUNCIL that we fully endorse the proposed "Act Relating to Suits Against Local Governments" with the exception of Section AS 09.65.07 (d) (4);

BE IT FURTHER RESOLVED that in consideration of the possibly disastrous effects of total immunity from suits arising from assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, intentional or negligent misrepresentation, deceit, or interference with contract rights; we recommend that suits based on the aforementioned charges be allowed against local governments or their agents, but that damages therefor be limited to an absolute maximum of \$20,000.

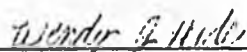
DATED: March 7, 1977



Gail J. Wallace, Mayor

CERTIFICATE

I, Wendy J. Hyde, being the duly appointed and acting City Clerk of the City of Haines, Alaska certify that the foregoing is a true and correct copy of a resolution adopted by the Common Council at a regular meeting held March 7, 1977. Said meeting was duly called and held with a quorum at all times.



Wendy J. Hyde, City Clerk

SEAL

H B

3 9 2

SUBJECT: Senate Bill No. 285 - Medical Examiner's Bill
House Bill No. 392

In reviewing this proposed legislation, several basic questions arise: We should start with the premises that there should be a Medical Examiner employed by the State of Alaska. The Court System, according to Susan Burke, feels from an administrative standpoint that the "office" should not be controlled by the Court. Many of the local pathologists are of the opinion that a medical examiner should be established. In talking with members of other departments, including Chiefs, the consensus seems to be that a medical examiner should be established but that it should be a separate entity free from political influence as well as possible pressures from law enforcement and the Court. With this in mind, we can look at the bill as written. Comments below should be read with the proposed bill.

Chapter 52. STATE MEDICAL EXAMINER

Section 19-52.010. Should the Medical Examiner's office be a part of the Department of Public Safety or would it be better as an independent agency, such as ^{is} the Public Defender? The Public Defender, as you know, is under the Governor's office.

Section 18.52.020 ALASKA MEDICAL EXAMINER COMMISSION

Should one of the Commission members be a representative of

Municipal Police Agencies for input regarding problems unique to their agencies?

Section 18.52.025 MEMBERSHIP, POWERS AND DUTIES OF COMMISSION

(a) If the Chairman of the Commission is the Commissioner of Public Safety, will this have the appearance of "Police Control" over the Medical Examiner?

(b)

Section 18.52.030 APPOINTMENT AND QUALIFICATIONS OF STATE MEDICAL EXAMINER.

(a) Should the Medical Examiner be appointed by the Governor on a "staggered" basis to avoid the appearance of political pressure?

(b) There are currently two "Board Certified" Forensic pathologist in the State of Alaska. Both of these physicians are located within the Anchorage Area and conduct autopsies on a "parttime basis." What effect will this have on the other cities within the State, both economically (transportation of bodies to Anchorage) and the need for immediate examinations?

(c) The two Forensic pathologists in Alaska are only able to do autopsies on a "parttime" basis.

Section 18.52.035 APPOINTMENT AND QUALIFICATIONS OF ASSOCIATE AND ASSISTANT MEDICAL EXAMINERS.

(a)

(b) Should the "assistant" be required to attend a prescribed number of training hours taught by a Forensic pathologist, District Attorney, Public Defender, and the Police?

(c)

Section 18.52.040 POWERS AND DUTIES OF STATE MEDICAL EXAMINER AND
ASSOCIATE MEDICAL EXAMINERS.

(a)

(1)

(2) Can the police still use the FBI Laboratory which provides services (firearms, serology, hairs, fiber, etc.) at no cost to the State?

(3) See 18.52.035 (b) above.

(4)

(5) What about a "contested" cause or manner of death. Can a Coroner's Jury be impaneled to determine facts? This could be of great importance in insurance claims.

(6)

(7) See Section 18.52.100 (a).

(8)

(9)

(b)

(1)

(2)

(3) What about a Coroner's Inquest?

(4) Should the Medical Examiner be required to establish "probable cause" before a court to exhume a body?

(5) Should the Medical Examiner request the assistance in writing, stating the reasons?

(6)

(7)

(8) Should the Medical Examiner take possession of weapons or other evidence that the Police want to send to the F.B.I. or other laboratory? There are no laboratories in the State at this time that can do Fire Arms (commonly referred to as "ballistics" test) identification.

(9) Would it be better for a Judge to issue subpoenas and see to it that "rules of evidence" are conformed with?

(c)

(1)

(2) Should manner of death be determined by Coroner's Inquest?

(3)

(d)

(1)

(2) Should he also notify the nearest law enforcement agency?

(3)

Section 18.52.050 DEATHS REQUIRING DETERMINATION AND CERTIFICATION OF CAUSE AND MANNER.

(a) Should there be an option by way of coroner's inquest to determine the manner of death? This could be of assistance in our adversary system? What effect will this have on Life Insurance Benefits?

(1) See a.

(2) See a.

(3) See a.

(4)

(5) To determine if the death is "suicide" or "homicide", or "accidental" a coroner's inquest should be held. This could have an effect on "double indemnity" insurance claims.

(6) Should the Medical Examiner be allowed to negate "possible" civil litigations?

(7) See (6) above.

(8)

(b)

Section 18.52.060 NOTIFICATION OF DEATH REQUIRED

(a)

(b)

Section 18.52.070 AUTOPSY.

(a)

(b)

(c) If the death is investigated by the police, shouldn't the Agency investigating also be furnished with a copy

(d)

Section 18.52.075 LABORATORIES.

Does this mean the Medical Examiner will seize all evidence from a violent death and ask for appropriate examinations? If this section is passed, is it necessary for police investigators to respond to crime scenes?

Section 18.52.077 FORENSIC EXAMINATIONS

Is this to be a private laboratory? Is all evidence seized by compunction with a death to be furnished to the Medical Examiner (bullets, guns, etc.) so he might send them to a laboratory of his choice?

Section 18.52.080 PRESERVATION OF EVIDENCE AND CREMATION OF BODIES

(a)

(b)

(c)

Section 18.52.085 AUTHORITY TO ENTER AND SECURE PREMISES

(a) Should he first be advised by the investigating agency that possible destructible evidence has been secured?

(b) Is the Medical Examiner an "officer of the court" empowered to serve such court orders?

(c)

(1)

(2)

(3)

(d)

Section 18.52.090 DISPOSITION OF BODY AND PROPERTY

(a)

(b) Should the Medical Examiner be allowed to certify "manner of death"? Isn't it the duty of the medical examiner to determine "cause" of death and a jury or judge decide the manner?

(c) Is it the duty of the medical examiner to seize physical evidence? Should the police be required to "take possession" of personal effects (not evidence) for 48 hours? If so, and it is necessary to place a guard on the premises, who is responsible for the police officer's salary?

(d) See (c) above.

Section 18.52.100 RECORDS AND REPORTS

- (a) Should insurance companies be required to obtain a Court Order to obtain these records? Would it be better to limit these records (without court order) to physicians, the court, District Attorney, and Police?
- (b) See (a) above.
 - (1) See (a) above.
 - (2) See (a) above.

Section 18.52.110 DEFINITIONS

- (1) Would it be better to eliminate the word "manner" and have the court decide whether the death is:
 - (1) Homicide; (2) Suicide; (3) accidental
 - (4) natural causes; (5) undetermined?
- (2) See (1) above.
- (3)
- (4) Should we add: "investigative crimes" to this?
- (5) See (1) above.
- (6)
- (7)

Section 12.65.011 CHAPTER 65 INQUESTS
ORDER OF INQUEST

Should the police be allowed to make such a request? What about those "hush areas" when contact with a District Attorney is at a minimal? Might there be reasons that an inquest would be desirable for a death occurring in a small community for reasons important to the citizens of that community?

Section 12.65.021 SUMMONING JURORS FOR INQUEST

Section 12.65.031 OATH OF INQUEST JURORS

Section 12.65.041 SUBPOENA AND EXAMINATION OF WITNESSES

Section 12.65.051 VERDICT OF INQUEST JURY

Section 3 AS 18.50.230

a.

Section 4 AS 18.50.230

(c)

Section 5 AS 18.50.230

(d) Should a coroner's inquest be furnished evidence to determine "presumptive deaths" or should the medical examiner have the power to do so without an inquest?

Section 6 AS 18.50.240 (a)

Section 7 AS 18.50.240 (c)

Section 8 18.50.240 (d)

Section 9 AS 18.50.250 (a)

Section 10 AS 18.50.250 (b)

Section 11 AS.22.15.110 ADDITIONAL DUTIES OF DISTRICT JUDGES AND MAGISTRATE

(1)

(2) See Section 18.52.090 COMMENT ON (b) Isn't this our current policy?

Section 22.15.310 APPOINTMENT

Section 13 AS 22.15.320 ADMINISTRATION OF DECEDENT'S ESTATES

Section 14 AS 22.15.340 COMPENSATION

Section 15 AS 22.15.350 OTHER DUTIES

Section 16 AS 13.15.065 (a)

Section 16 AS 39.25.110

(16) If the Medical Examiner is an "exempt" employee,
is he responsible to the Governor's office OR the
Department of Public Safety?

Section 17

INTERIM OPERATION OF ALASKA MEDICAL
EXAMINER COMMISSION

(a)

(1)

(2)

(3)

(4)

(b)

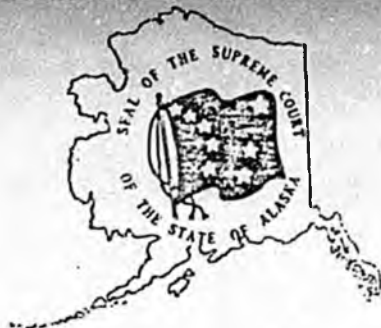
(1)

(2)

(3)

There were approximately 450 Court Ordered autopsies last year. I have no idea as to what this actually cost the State of Alaska; however, as this bill is written I foresee a substantial increase in laboratory costs alone. If Police Departments are no longer responsible to seize evidence for transmittal to Forensic laboratories (such as, the F.B.I.) who will pay for these services which were formerly provided at no cost? Can a small community, such as Palmer, Soldotna, Kenai and others, afford to pay for these services. Is it necessary to have a "full time" Medical Examiner, or would a "part time" examiner be more effective so long as training is provided for the assistants and associates? Should the

Medical examiner have the authority to direct investigators regarding collection of evidence at a crime scene? Who is responsible for collecting and transporting perishable evidence from the scene? Is the Medical Examiner to write a letter of transmittal to the appropriate laboratory requesting examination? Will the medical examiner be responsible for the retention of and "chain of custody" of evidence? If this bill is passed, will local law enforcement agencies be responsible to the Department of Public Safety for death investigations? Can the Department of Public Safety, through the Medical Examiner, investigate all deaths or will local jurisdictions still be responsible for investigation of violent deaths which occur within their jurisdictions? Isn't it the duty of the Medical Examiner to assist law enforcement in determining the "Cause of Death" and the investigating agency to gather facts to determine the "manner of death"? Can this bill be abused by allowing the medical examiner to send evidence to the private laboratory of his choice?



Alaska Court System
State of Alaska

303 K STREET
ANCHORAGE, ALASKA 99501
(907) 274-8611

RICHARD P. BARRIER
DEPUTY ADMINISTRATIVE DIRECTOR

OFFICE OF ADMINISTRATIVE DIRECTOR

March 14, 1978

Steve Mizera
Administrative Assistant To The
Honorable Joseph L. Orsini
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Steve:

As we discussed on the phone last week I am submitting information to your office concerning the fiscal impact of HB 392/SB 285- Medical Examiner bill. Specifically, you have requested more detailed information concerning the cost and number of autopsies and lab fees incurred by the Court System.

For fiscal year 1978, the Court System is budgeted approximately \$198,000 for autopsy expenses. This includes contractual payments to doctors for actual autopsy work and testifying at inquests, payments for lab fees required for determination of cause of death, payments to mortuaries or hospitals for use of facilities for conducting autopsies, air freight for shipping bodies from the bush into the metropolitan areas for autopsy. In Anchorage, the current charge for an autopsy is \$240.00, including lab fees. In addition, the local mortuaries charge a \$50.00 facility usage fee. Anchorage autopsies, therefore, average approximately \$300.00 per case. In Fairbanks, the cost is somewhat higher, with physician fees averaging approximately \$300.00 per case plus \$60.00 to \$100.00 in lab fees. Bush cases generally cost the same as Anchorage cases, with the exception of \$100.00 to \$200.00 transportation and livery charges. There are approximately 300 autopsies performed on Anchorage coroner cases each year, and another 200 to 300 cases originating in Fairbanks, bush locations, or southeast Alaska. The average cost would therefore be between \$330.00 and \$390.00, all costs included.

For FY 79, the Court System has requested \$228,000 for autopsy expenses. This is based upon a projected 15 per cent increase in cost for professional fees.

I have reviewed the fiscal note prepared by the Department of

March 14, 1978

Public Safety, revised April 25, 1977. This fiscal note appears to still be fairly accurate, at least to the extent that the costs can be predicted at this time. I would like to call your attention to the last page of this fiscal note in which Public Safety lists several comments concerning the fiscal note. In these comments it is stated that the Court System has a budget \$225,000 for autopsies state-wide. This amount should be \$228,000 for fiscal year 1979. Public Safety estimates that the establishment of the Medical Examiner office will reduce the need for funds currently expended by the Court System by \$45,000. This is a fairly safe estimate of the amount of the direct physician fees which would be eliminated by having a Medical Examiner to personally perform a large number of the Anchorage autopsies.

The final paragraph of Public Safety comments concerning the bill states that the balance of the Court System's current appropriation (for FY 79 this would be \$228,000 minus \$45,000) will be required for maintaining autopsy costs beyond the direct physician work which the Medical Examiner himself will conduct. In other words, approximately \$183,000 will still be appropriated, either to the Court System or to Public Safety, to cover the cost of autopsies outside of Anchorage, autopsies within Anchorage which are performed by private physicians, all lab fees, all transportation costs, and all facility costs pertaining to autopsies.

In summary, Public Safety has stated that a full year's operation of the Medical Examiner's office will cost approximately \$212,000. Of this amount available through savings in previously appropriated funds for autopsies. However, the remainder of \$183,000 in the Court System budget would still be required for the payments listed above.

I hope that this letter has somewhat clarified the situation surrounding the payments for autopsies. If not, or if you have other questions concerning autopsy costs or the Medical Examiner bill, please let me know as soon as possible. As you are aware, the Court System is urging that action be taken on SB 285 during the current session.

Sincerely,

Richard P. Barrier
Deputy Administrative Director

cc: Arthur H. Snowden, II
Administrative Director

Trygve R. Hermann
Director of Administrative Services
Public Safety

Daniel W. Hickey
Chief Prosecutor

Robert F. Schroeder
Fiscal Analyst

RFB/ch

COMMENTS CONCERNING THE FISCAL NOTE FOR HB392/SB 285

ATTACHED IS A COST COMPARISON COMPILED BY MYSELF WITH ASSISTANCE FROM OTHER PARTIES AND AGENCIES FAMILIAR WITH ALL OR PART OF THE DEATH INVESTIGATION SYSTEM IN ALASKA. THESE ARE NOT INFLATED FIGURES. IF ANYTHING THEY ARE TOO CONSERVATIVE.

WHAT I HAVE ATTEMPTED TO DO IS PREPARE A REALISTIC COMPARISON OF THE COST OF RUNNING THE PRESENT SYSTEM AS OPPOSED TO THE COST OF THE PROPOSED NEW SYSTEM.

THE ALASKA COURT SYSTEM WHICH MANAGES THE CURRENT SYSTEM SAYS THAT IT BUDGETS \$225,000 FOR PERFORMING AUTOPSIES.

ADDING TOGETHER THE \$180,000 PER YEAR THAT THE COURT SYSTEM PLANS TO KEEP FOR "ONGOING PROGRAMS", \$616,660 TO ESTABLISH A LABORATORY AND AUTOPSY FACILITY, THE COST OF ESTABLISHING ASSISTANT MEDICAL EXAMINER OFFICES STATEWIDE, ADMINISTRATIVE COSTS, PURCHASING NEW EQUIPMENT, SERVICING OLD EQUIPMENT, AND ALLOWING FOR INFLATION AND UNKNOWN COSTS WILL EASILY BRING THE COST OF IMPLEMENTING THIS BILL TO IN EXCESS OF ONE MILLION DOLLARS PER YEAR.

A MILLION DOLLARS PER YEAR IS A FAR CRY FROM THE PREDICTIONS IN THE FISCAL NOTE OR THE CURRENT COST OF RUNNING OUR PRESENT SYSTEM.

RESPECTFULLY SUBMITTED,



LEE MOEGLIN
EVERGREEN MEMORIAL CHAPEL, INC.
737 E St.
ANCHORAGE, AK. 99501 279-5477

3-17-42

PRESENT COST PER YEAR FOR DELIVERY SYSTEM, AUTOPSY FACILITY,
AND AUTOPSY PERFORMANCE (INCLUDING LABORATORY TOXICOLOGY AND
HISTOLOGY SERVICES) **

DELIVERY TO AUTOPSY FACILITY (600 TRIPS @ \$20)	\$12,000.00
DELIVERY TO AIRPORT (300 TRIPS @ \$20)	6,000.00
FACILITY FEE (INCLUDING ASSISTANCE, EQUIPMENT, INSTRUMENTS, AND CLEAN UP)(600 @ \$50)	30,000.00
PATHOLOGY SERVICES (INCLUDES ANATOMICAL EXAMINATION TOXICOLOGY AND HISTOLOGY SERVICES)	144,000.00
LEGAL TESTIMONY AND CONSULTING	<u>7,500.00</u>
TOTAL COST	<u>\$199,500.00</u>

** DELIVERY AND FACILITY COSTS BASED ON OUR EXPERIENCE WITH PROVIDING THEM. ANATOMICAL PATHOLOGY, TOXICOLOGY, HISTOLOGY, TESTIMONY AND CONSULTING FEES BASED ON FIGURES FROM DR. MICHAEL T. PROPST, M.D., FORENSIC PATHOLOGIST. TOTAL CASE VOLUME ESTIMATES FROM MRS. DOLORES WILKS, CORONER/PUBLIC ADMINISTRATOR--ANCHORAGE.

PROJECTED COST PER YEAR FOR THE DEPARTMENT OF PUBLIC SAFETY
TO SET UP ITS OWN LABORATORY AND DO ITS OWN TOXICOLOGY, HISTOLOGY,
AND DELIVERY.

DELIVERY SYSTEM

TWO MEN PER SHIFT, THREE SHIFTS PER DAY, SEVEN DAYS PER WEEK, 365 DAYS PER YEAR. INCLUDING OVERTIME AND FRINGE BENEFITS. TWO VEHICLES WITH MINIMUM EQUIPMENT, GAS, OIL, INSURANCE, MAINTENANCE COSTS. (A) \$200,000.00

PERSONNEL

CHIEF MEDICAL EXAMINER	65,000.00
ASSOCIATE MEDICAL EXAMINER	55,000.00
TWO MEDICAL RECORDS ASSISTANTS	35,400.00
SECRETARY-RECEPTIONIST	15,000.00
DIENER (AUTOPSY ASSISTANCE-DAYTIME HOURS)	15,000.00
MEDICAL TECHNOLOGIST OR CHEMIST WITH DEGREE & EXPERIENCE	25,000.00
HISTOLOGY TECHNOLOGIST	20,000.00
PERSONNEL FRINGE BENEFITS (20%)	46,080.00

TRAVEL

COMMISSION	5,000.00
MEDICAL EXAMINER	6,000.00
ASSOCIATE AND ASSISTANT MEDICAL EXAMINER	15,000.00

FACILITY

LEASE- 3,000 SQ. FT.	54,000.00
TELEPHONE	3,600.00
ELECTRICITY AND REFUSE (COMMERCIAL RATE)	1,980.00

OTHER

CHIEF MEDICAL EXAMINER AUTO	3,000.00
ASSOCIATE MEDICAL EXAMINER AUTO	3,000.00
GAS AND OIL	2,400.00
OFFICE SUPPLIES	1,200.00
PRINTING	10,000.00
REAGENTS AND EXPENDABLES (TOXICOLOGY)	25,000.00
(HISTOLOGY)	10,000.00

TOTAL* \$616,660.00

*COMMENT- THESE FIGURES DO NOT INCLUDE THE COST OF SETTING UP ASSISTANT MEDICAL EXAMINERS OFFICES THROUGHOUT THE STATE. THEY DO NOT INCLUDE INFLATION, THE EQUIPMENT NECESSARY TO SET UP A LABORATORY OR AUTOPSY FACILITY, (SUCH AS PHOTOGRAPHIC MICROSCOPES, X-RAY FACILITIES, FLUROSCOPY, INSTRUMENTS, TWO WAY RADIO, DICTATION EQUIPMENT, TWO WAY RADIO, TABLES, SHIPPING CONTAINERS FOR TRANSPORTING REMAINS, OR THE REPLACEMENT OR SERVICE COSTS ON THESE ITEMS. ALSO, WE DID NOT INCLUDE STATE ADMINISTRATIVE COSTS WHICH COULD EASILY RUN AS HIGH AS 15% OF THE COST OF THE ENTIRE OPERATION. WE ALSO DID NOT INCLUDE THE \$180,000 THE COURT SYSTEM PLANS TO KEEP FOR "ONGOING PROGRAMS IN STATEWIDE LOCATIONS".
(A) A STUDY CONDUCTED SEVERAL YEARS AGO BY DR. DONALD ROGERS, M.D. INDICATED IT WOULD COST UPWARDS OF \$250,000 PER YEAR FOR THIS SERVICE.

PROJECTED COST PER YEAR FOR DELIVERY SYSTEM, AUTOPSY FACILITY,
AND AUTOPSY PERFORMANCE (INCLUDING TOXICOLOGY AND HISTOLOGY)
WHEN THESE SERVICES ARE CONTRACTED OUT UNDER HB 392 **

DELIVERY TO FACILITY ONE WAY (600 TRIPS @ \$120)	\$72,000.00
DELIVERY OF CASES TO MORTUARIES FOR RETURN TO LOCALITY OF DEATH AFTER EMBALMING (300 TRIPS @ \$120)	36,000.00
TRANSFER OF REMAINS TO AIRPORT FROM MORTUARY (300 @ \$120)	36,000.00
RETURN OF 300 SHIPPING CASES TO AIRPORT (BY DOUBLING UP, 150 TRIPS INSTEAD OF 300 @ \$120)	18,000.00
ROUTINE TOXICOLOGY (600 CASES @ \$79 PER CASE)	47,400.00
ADDITIONAL TOXICOLOGY (600 @ AVERAGE \$10 PER CASE)	6,000.00
HISTOLOGY SERVICE (PREPARE SLIDES) (600 @ \$15)	9,000.00
CHIEF MEDICAL EXAMINER (300 AUTOPSIES)	65,000.00
CONTRACT PROFESSIONAL SERVICES (300 AUTOPSIES @ \$200)	60,000.00
MEDICAL RECORDS ASSISTANTS (2 @ \$17,700.00)	35,400.00
MORGUE ATTENDANT (DIENER-24 HR. COVERAGE)	20,000.00
STATE FRINGE BENEFITS FOR PERSONNEL (20%)	36,080.00
COMMISSION TRAVEL	5,000.00
MEDICAL EXAMINER TRAVEL	6,000.00
ASSOCIATE AND ASSISTANT MEDICAL EXAMINER TRAVEL	15,000.00
3,000 SQ. FT. AUTOPSY FACILITY	54,000.00
PRINTING COSTS	10,000.00
TELEPHONE	3,600.00
OFFICE SUPPLIES	1,200.00
AUTOMOBILE LEASE	3,000.00
GAS, OIL, ETC.	1,200.00
MAG CARD 11 TYP (TYPEWRITER WITH A MEMORY)	<u>3,600.00</u>

TOTAL COST*\$543,480.00

** THESE FIGURES DO NOT INCLUDE THE COST OF SETTING UP ASSISTANT MEDICAL EXAMINER OFFICES THROUGHOUT THE STATE. WE HAVE NO WAY OF EVEN ESTIMATING HOW MUCH THAT MIGHT COST. WE ALSO HAVE NOT INCLUDED THE COST OF EQUIPMENT SUCH AS REGULAR TYPEWRITERS, PHOTOGRAPHIC MICROSCOPES, X-RAY, FLUROSCOPY, INSTRUMENTS, TWO WAY RADIO, DICTATION EQUIPMENT, TABLES, SHIPPING CASES FOR HUMAN REMAINS, OR THE REPLACMENT COST OR SERVICE COSTS OF THESE ITEMS. ALSO, WE DID NOT INCLUDE STATE ADMINISTRATIVE COSTS FOR BOOKEEPING, ACCOUTING, LEGAL FEES, ETC. WHICH COULD RUN AS MUCH AS 15% OF THE ENTIRE COST OF THE OPERATION. WE ALSO DID NOT INCLUDE THE \$180,000.00 THE COURT SYSTEM PLANS TO KEEP FOR "ONGOING PROGRAMS IN STATEWIDE LOCATIONS".

COST FIGURES COURTESY OF OUR OWN UNDERSTANDING OF THE DELIVERY SYSTEM, LOOMIS SECURITY ESTIMATES, MUNICIPALITY OF ANCHORAGE ESTIMATES, DR. MICHAEL T. PROPST, M.D., VOLUME FIGURES COURTESY OF THE ALASKA COURT SYSTEM. OTHER ITEMS FROM THE FISCAL NOTE. SOME ITEMS FROM THE FISCAL NOTE NOT INCLUDED BECAUSE THEY ARE FRILLS OR EXTRAVAGENT AND UNNECESSARY.

IN ADDITION TO OUR DESIRE TO SEE THIS BILL DEFEATED,
THERE ARE A FEW SUGGESTIONS WHICH MIGHT BE IN ORDER
TO IMPROVE THE CURRENT SYSTEM.

A. THE ALASKA COURT SYSTEM CURRENTLY SETS NO STANDARDS
FOR THE FACILITIES OR EQUIPMENT USED IN PERFORMING THESE
AUTOPSIES. STANDARDS SUCH AS SIZE OF FACILITY, TYPE OF
CONSTRUCTION, LIGHTING REQUIREMENTS, VENTILATION, KINDS OF
EQUIPMENT, ETC. IF THERE IS A PROBLEM IN REGARD TO THE
ADEQUECY OF FACILITIES, IT COULD EASILY BE RECTIFIED.

B. REQUEST THAT THE CURRENT CORONERS BE ALLOWED TO RUN
THEIR OFFICES WITHOUT CONSTANT INTERFERENCE FROM COURT
SYSTEM ADMINISTRATORS.

C. PROVIDE THE CORONERS WITH ADEQUATE FUNDING TO DO THEIR
JOB.

THANK YOU FOR YOUR ATTENTION.

RESPECTFULLY,


LEE MOEGLEIN

MEMO RE:

SB 285
HB 392

(January 27, 1978)

Criminal Justice Planning Department questioned whether a commission was needed. They will soon provide information as to how the office of medical examiner is handled in other states. This bill provides that there will be established in the Department of Public Safety the office of state medical examiner.

Sec 18.52.020 established the Commission.

There appears to be an oversight in Sec. 18.52.050 which reads:

"DEATHS REQUIRING DETERMINATION AND CERTIFICATION OF CAUSE AND MANNER. (a) The office of the state medical examiner shall determine and certify the cause and manner of any human death that affects the health and safety of the public and which

(1) is apparently homicidal, suicidal, accidental..."

Would this require the medical examiner to determine the cause of every traffic accident?

Also, an oversight may exist where this section continues:

" (2) occurs when the deceased was unattended by a physician during the 24 hours immediately preceding his death;"

As most deaths are in this category, would this make the duties of the medical examiner too broad?

Again, at Sec 18.52.060, which reads: "NOTIFICATION OF DEATH REQUIRED. (a) Any person having knowledge of a death requiring investigation under this chapter shall immediately notify either a medical examiner or a state or local law enforcement agency of the fact and location of death."

Shouldn't "person" be changed?

Conceivably everyone knowing of a death is required to call.

Sec. 18.52.085 authorizes a medical examiner to enter rooms or dwellings but unless it incorporates the words: "with permission" there are obvious problems with the current statutes on search and seizure.

This same section (b) permits the examiner to apply to a judge for an order, but the examiner need "not if exigent circumstances exist."
"Exigent circumstances should be clearly defined."

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IN THE HOUSE BY COMMITTEE

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 392

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act Entitled: "An Act relating to inquiries into deaths, the public administration of the estates of deceased persons, and outlining additional duties, responsibilities, authority and functions of coroners and their designees or employees; and providing for effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

*Section 1. AS 22.15.110 (1) is amended as follows:

Sec. 22.15.110. ADDITIONAL DUTIES OF DISTRICT JUDGE AND MAGISTRATE.

Each district judge and magistrate shall

(1) perform the duties and exercise the authority of coroner as prescribed by (law) AS 12.65.020-110 and by §§ 360-420 of this chapter.

*Section 2. AS 22.15.350 is amended as follows:

Sec. 22.15.350. DUTIES AS CORONER. In addition to his other duties, a public administrator or coroner shall perform the duties set out in AS 12.65.020-110, §110 of this chapter and as specified in §§360-420 of this chapter

Section 3. AS 22.15 is amended by adding §§ 360-420 as follows:

Sec. 22.15.360. PUBLIC ADMINISTRATORS, CORONERS TO BE MAGISTRATES.

1 Each person appointed under §310 of this chapter, if not previously sworn
2 in as a magistrate of the district court in the jurisdiction in which he
3 is sitting, shall be given the oath of office pertaining to magistrates
4 upon such appointment. Thereafter such person shall be a judicial officer
5 as devined in AS 22.20.010 and shall be empowered with the functions as
6 set forth in AS 22.20.030.

7 Sec. 22.15.365. EMPLOYEES, POWERS. A coroner shall have authority
8 to employ up to three persons as judicial employees in accord with
9 AS 22.20.037 and who shall be able to exercise the functions set forth
10 in AS 22.20.035, as assistants to the coroner, and act in his stead when
11 so designated by the coroner, to be on call on a 24-hour basis in the
12 coroner's discretion.

13 Sec. 22.15.370. EXAMINATION OF BODY AT PLACE OF DEATH: REMOVAL
14 OR RELEASE: KEEPING BODY IN POSITION OR PLACE OF DEATH FOR PURPOSES OF
15 INQUIRY. In addition to the coroner's functions as set forth in
16 AS 12.65.020 - 110, the coroner or one of his assistants as designee,
17 on being informed of a death and finding it to fall into the classifi-
18 cation of deaths requiring his inquiry, may immediately proceed to
19 where the body lies, examine the body, make identification, make
20 inquiry into the circumstances, manner, and means of death, and, as
21 circumstances warrant, either order its removal for further investi-
22 gation or disposition, or release the body to the next of kin for
23 further disposition. For purposes of inquiry, the body of one who is
24 known to be dead under any of the circumstances enumerated in
AS 12.65.020 shall not be distrubed or moved from the position or

1 place of death without permission of the coroner or his designee.

2 Sec. 22.15.375. AUTHORITY TO TAKE CHARGE OF PERSONAL EFFECTS,
3 ETC. OF DECEASED AT SCENE OF DEATH; RELATED MATTERS OF SEALING
4 PREMISES: COSTS; DELIVERY OF PROPERTY OR EVIDENCE TO A LAW ENFORCEMENT
5 AGENCY OR DISTRICT ATTORNEY; PROHIBITION AGAINST REMOVAL OF ANY ITEM
6 OR AGAINST ANY DISTURBANCE OF THE SCENE PRIOR TO ARRIVAL OF CORONER;
7 ALTERNATIVE DESIGNATION OF PEACE OFFICER TO ACT IN CORONER'S BEHALF.

8 In any death into which the coroner is to inquire, he may take charge
9 of any and all personal effects, valuables, and property of the
10 deceased at the scene of death and hold or safeguard them until lawful
11 disposition thereof can be made otherwise. He may, in his discretion,
12 lock the premises and apply a seal to the door or doors prohibiting
13 entrance to the premises, pending arrival of a legally authorized
14 representative of the deceased; provided that this shall not be done
15 in such a manner as to interfere with any investigation subsequently
16 to be made by a law enforcement agency. Any costs arising from the
17 premises being locked or sealed while occupied by property of the
18 deceased may be a proper and legal charge against the estate of the
19 deceased.

20 Any such property or evidence related to the investigation
21 or prosecution of any known or suspected criminal death may be
22 delivered to a law enforcement agency or district attorney, receipt
23 for which shall be acknowledged, but only with full and complete
24 knowledge by and express permission or approval of, the coroner or
25 his designee. Such items may include, but not be limited to,

1 photographs taken by the coroner or his designee which may be help-
2 ful in a coroner's inquest or to the office of the district attorney
3 in its prosecutorial function.

4 Alternatively, the coroner or his designee may direct any
5 law enforcement officer called to the scene to preserve such
6 property or evidence and deliver same to his office or that of the
7 district attorney and may direct that duplicates of evidentiary
8 photographs of the scene be made available to the coroner's office
9 and the district attorney's office at the same time. In his
10 discretion, the coroner or his designee may arrange for a peace
11 officer to carry out any of the functions outlined herein as an
12 aid to the coroner's office.

13 It shall be unlawful for any person to search for, or remove,
14 any papers, moneys, valuable property or weapons constituting the
15 estate of the deceased from the person of the deceased or from the
16 premises, prior to the arrival of the coroner or his designee or
17 without his permission. At the scene of any death, when it is
18 immediately apparent or when it has not been previously recognized
19 and the coroner's examination reveals that police investigation or
20 criminal prosecution may ensue, the coroner or his designee shall
21 not further wilfully disturb the body or any related evidence until
22 the law enforcement agency has had reasonable opportunity to respon-
23 to the scene, if their purposes so require and they so request.

24 Sec. 22.15.380. CORONER'S AUTHORITY TO TAKE POSSESSION OF
BODY; EXHUMATION, POST MORTEM EXAMINATION OR AUTOPSY; RECORDS OF

1 MEDICAL FINDINGS; RETENTION OF BODY TISSUES; RIGHT TO ATTEND AUTOPSY.

2 For purposes of inquiry the coroner or his designee may, in his
3 discretion, take possession of the body, which shall include the
4 authority to have such body exhumed, order it removed from the scene
5 of death or after exhumation to a convenient place, and make or
6 cause to be made a post mortem examination or autopsy thereon, and
7 make or cause to be made an analysis of the stomach, stomach contents,
8 blood, organs, fluids, or tissues of the body.

9 The coroner or his designee may rely on any licensed physician
10 or pathologist of his choosing to make such examinations, provided
11 said physician or pathologist is licensed in this State to practice
12 medicine, or upon any criminal laboratory or its employees contract-
13 ing with the Alaska Court System to make such laboratory examinations,
14 in executing the coroner's functions as described in this section.

15 The detailed medical findings resulting from an inspection
16 of the body or autopsy by an examining physician shall be reduced
17 to writing and shall include all positive and negative findings
18 pertinent to establishing the cause of death in accordance with
19 medicolegal practice and this, along with the written opinions
20 and conclusions of the examining physician, shall be included in
21 the coroner's record of the death. He shall have the right to
22 retain only such tissues of the body removed at the time of the
23 autopsy as may, in his opinion, be necessary or advisable to the
24 inquiry into the case, or for the verification of his findings.

25 No person may be present during the performance of an autopsy

1 without the express consent of the coroner or his designee.

2 Sec. 22.15.385. RIGHT TO RETAIN BODILY TISSUES. The coroner
3 shall have the right to retain tissues of the body removed at the
4 time of autopsy as may, in his opinion, be necessary or advisable
5 for scientific investigation. In his discretion, the coroner may
6 retain constructive custody of such tissues while directing that
7 they be physically retained by the examining physician, in such
8 physician's laboratory, in any laboratory contracting with the Alaska
9 Court System for the study and examination of such tissues, in any
10 designated morgue attached to such laboratory or attached to any
11 funeral home premises.

12 Sec. 22.15.390. CERTIFICATE OF DEATH: CAUSE OF DEATH: ISSUANCE
13 OF CERTIFICATE WITHOUT HOLDING INQUEST OR AUTOPSY: EFFECT OF LACK
14 OF EVIDENCE. The cause of death appearing on a certificate of death
15 signed by the coroner shall be in conformity with facts ascertained
16 from inquiry, autopsy and other scientific findings. In case of death
17 without medical attendance and without violence, casualty, criminal
18 or undue means, the coroner may, without holding an inquest or autopsy,
19 make the certificate of death from statements or relatives, persons
20 last in attendance, or persons present at the time of death, after
21 due medical consultation and opinion has been given by one qualified
22 and licensed to practice medicine and so recorded in the records of
23 the death, providing such information affords clear grounds to es-
24 tablish the correct medical cause of death within accepted medical
practice and within the requirements of the Division of Vital Statistics

1 of the Department of Health, Education, and Social Services of this
2 State. The coroner shall not finally exclude crime, suicide, or accident
3 as a cause of death because of lack of evidence.

4 Sec. 22.15.395. NOTES, LETTERS WRITTEN BY DECEASED, DISPOSITION
5 THEREOF. Whenever the death of any person shall have been referred
6 to the coroner for investigation, there shall be delivered to the
7 coroner any note, letter or other document apparently written by the
8 deceased which may tend to indicate an intention by the writer to
9 take his life, including directions for disposition of his property
10 or disposal of his remains. A facsimile copy thereof shall be placed
11 in the coroner's records, and, if an inquest be held, a true copy
12 shall be read into the record and transcribed into the notes of the
13 proceedings. Upon completion of legal proceedings arising from such
14 death, the original instrument shall be delivered by the coroner or
15 his designee to the addressee or to the legal representative of the
16 estate of the decedent; provided, however, that if the instrument
17 purports to be testamentary in nature, it may be filed with the special
18 master appointed in that judicial district to hear probate matters.

19 Sec. 22.15.400. CORONER'S INQUEST. The coroner or his designee,
20 in his discretion and if the circumstances so warrant, hold an inquest
21 in any case of death in accord with the provisions of AS 12.65.020
22 and will seriously consider holding an inquest in any case where a
23 request to do so is made by the attorney general, the district attorney,
24 the foreman of the grand jury, any law enforcement agency, any hospital
or by a physician in attendance at the time of death or by a physician
in attendance at the time of death or by a physician who had treated

1 the decedent. If the coroner or his designee decides not to hold
2 an inquest as requested, he shall state the reasons therefore in writing
3 which shall become a part of the record in such case.

4 The decision by the coroner or his designee to hold an inquest,
5 or to order an autopsy at the time of death of decedent, is discretionary
6 and no one may intervene or order that it not be held without a full
7 hearing in open court before the coroner citing adequate reasons
8 therefor.

9 Sec. 22.15.405. LIMITATIONS AND PROHIBITIONS IN AUTOPSIES.

10 The written authorization for any autopsy in a proper coroner's case
11 may permit the person performing the autopsy to remove any structure or
12 organ from the remains of decedent for examination into the cause
13 of death, but not for other purposes, unless permission is obtained
14 from next of kin or is in the decedent's will, note or letter written
15 with specific directions for such other purposes. Without such per-
16 mission or direction, the person performing the autopsy may not exceed
17 the directions contained in the order of the coroner or his designee.

18 Sec. 22.15.410. REPEALING PRIOR ACT AS 12.65.010

19 Sec. 22.15.415. EMBALMING. No embalmer shall embalm a dead
20 human body when he has information reasonably indicating crime in
21 connection with the death until permission of the coroner or his
22 designee has been obtained. No embalmer shall embalm a dead human
23 body of any person who has died from an unknown cause, except with the
24 permission of the coroner or his designee.

25 Sec. 22.15.420. EFFECTIVE DATE JULY 1, 1978.

County CORONER System - (19) States INCLUDING WASHINGTON

County Medical EXAMINER - (5) States

COMBINATION County CORONER + Medical EXAMINER - (13) States
INCLUDING ALASKA + CALIFORNIA

STATE Medical EXAMINER - (11) States

DEATH INVESTIGATION:

AN ANALYSIS OF LAWS AND POLICIES OF THE UNITED STATES, EACH STATE AND JURISDICTION

[As of January 31, 1977]

The research herein was performed by the Sheehan, Phinney, Bass & Green Prof. Ass'n., Manchester, New Hampshire pursuant to contract 240-76-0021 with the Bureau of Community Health Services, Health Services Administration, Department of Health, Education, and Welfare. The opinions expressed herein are those of the authors and should not be construed as representing the opinions or policies of any agency of the United States Government.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Public Health Service
Health Services Administration
Bureau of Community Health Services
5600 Fishers Lane, Rockville, Maryland 20857

DHEW Publication No. (HSA) 78-5252

1978

ALASKA

Alaska's death investigation system consists of coroners and medical examiners. District judges and magistrates are required to serve as ex officio coroners and perform the duties and exercise the authority of that office. When authorized by the supreme court, the judge in each judicial district is required to appoint a person to act as public administrator of the estates of deceased persons and as coroner.

The commissioner of health and social services is authorized to appoint for a term of one year or less as many medical examiners in each of the judicial districts as, in his opinion, the administration of justice requires. Each medical examiner is required to be a physician licensed to practice in Alaska or a physician employed by the State, or an agency of the United States Government within the State if licensed in a State other than Alaska.

When a person dies unattended by a physician or when no physician is prepared to execute a certificate of death, the district judge or magistrate assigned to serve the place where the death occurs may by written order direct a medical examiner to view the dead body and to perform an examination, including an autopsy, as is, in the opinion of the medical examiner, necessary to make a proper determination of the cause of death and to execute the prescribed death certificate. Upon completing his examination, the medical examiner is required without delay to submit a report of his findings and conclusions to the district judge or magistrate. The judge or magistrate is required to order an inquest if the findings and conclusions of the medical examiner, together with the other information available to the judge or magistrate, so warrant. In holding an inquest, the district judge or magistrate may subpoena and examine an appointed medical examiner when available, or otherwise a physician, who is required to examine the body and give a professional opinion as to the cause of death. If the findings and conclusions of the medical examiner together with other information available to the judge or magistrate do not warrant an inquest, the district judge or magistrate is required to enter an order dispensing with the inquest and to record the certificate of death as prescribed by law.

When a coroner is informed that a person has been killed by another or has suddenly died under such circumstances as to afford a reasonable ground to suspect that his death has been occasioned by criminal means or he has committed

suicide, the coroner is required to go to the place where the dead person is, or, in the alternative, arrange for a peace officer to do so and report his findings to the coroner, on the basis of which the coroner may proceed with an inquest if an inquest is warranted.

The inspection, disclosure, and copying of vital statistics records may occur only when the custodian is satisfied that the applicant has a direct interest in the matter and that the information is necessary for the determination of personal and property rights.

Reports of findings and conclusions are submitted to the district judge or magistrate having jurisdiction. No further statutory indication exists relative to the accessibility of such reports to next of kin.

Alaska has no statutory provision relating specifically to the investigation of sudden and unexplained infant deaths.

Citations: Alaska Stat. §§ 12.65.010, 12.65.020, 12.65.030, 12.65.040, 12.65.070; §§ 22.15.110, 22.15.310, 22.15.350; §§ 18.50.310, 18.50.320; §§ 09.25.110, 09.25.120; Alaska Admin. Code § 05.925.

ARIZONA

Arizona has a county medical examiner death investigation system, with the power of appointment in the board of supervisors of each county. Each county medical examiner is required to be a licensed physician in good standing certified in pathology and skilled in forensic pathology. If the board of supervisors of any county determines that the appointment of a medical examiner is not practical, the board of supervisors is required to establish a list of licensed physicians who have agreed to perform the duties required of a county medical examiner on a contract basis. Licensed physicians on such list are not required to be either residents of the county, certified in pathology or skilled in forensic pathology. The county medical examiners are responsible for the medical examination or autopsy of a human body when death occurs and the deceased is not under the current care of a physician for a potentially fatal illness or when an attending physician is unavailable to sign the death certificate; or when death results from violence; or when death occurs suddenly when in apparent good health, or in prison, or in a suspicious, unusual, or unnatural manner, or during anesthetic or surgical procedures; or when death from disease

authority granted by him subject to any rules and regulations prescribed by the State Medical Examiner Commission.

A county coroner is elected by the qualified electors of each county for a term of two years and is commissioned by the Governor. Each coroner may at his discretion appoint deputy coroners.

The State Medical Examiner is authorized to investigate the death of any person from violence, whether apparently homicidal, suicidal, accidental, or industrial, including but not limited to death due to thermal, chemical, electrical or radiation injury and death due to criminal abortion, whether apparently self-induced or not, or suddenly when in apparent good health, or in a prison, jail or penal farm, or in any suspicious or unusual or unnatural manner. When the State Medical Examiner is informed that a death has occurred in any such manner or under any such circumstances, he is authorized to make such examinations, investigations and autopsies as he deems necessary or as may be requested by the Prosecuting Attorney, the Circuit Court, the Sheriff of the County in which death occurs, the Chief of Police of a City in which death occurs, or the Commission of the Arkansas Department of Correction at the time of death. The State Medical Examiner is not required to make such examination, investigation, or autopsy at the request of any private citizen or any public official other than those enumerated above.

Each county coroner is required to investigate the cause of death when death occurs without medical attendance or when the dead body of any person is found and the circumstances of his death are unknown or indicate that he has been foully dealt with. Upon receiving any information that such a death has occurred, the coroner is required to hold an inquest to inquire into the cause, manner and circumstances of the death. The coroner is required to deliver every inquisition, with all the examinations, depositions, and recognizances concerning the case to the clerk of the Circuit Court of his county, who is required to immediately lay the same before the Prosecuting Attorney, prosecuting in and for the county.

The State Medical Examiner or his assistants are required to promptly make and file with the Prosecuting Attorney of the county in which the death occurs a full report of his findings and the facts developed by an autopsy. The State Medical Examiner or his assistants or deputy, is required to make a certificate of death.

All records, files and information kept, retained or obtained by the State Medical Examiner in his examinations, investigations and autopsies are confidential and privileged unless released by a court of competent jurisdiction, the Prosecuting Attorney having criminal jurisdiction over the case, or by the State Medical Examiner, to persons with legal or scientific interests.

The State Registrar is required to permit the inspection of a death record, or issue certified copies from a death record or part of a death record, only when he is satisfied that the applicant has a direct and tangible interest in the content of the death record and that the information contained in the death record is necessary for the determination or protection of a personal or property right.

Arkansas has no statutory provision relating specifically to the investigation of sudden and unexplained infant deaths.

Citations: Const., Art. VII, §§ 46, 48; Ark. Stat. Ann. §§ 12-201, 12-901; §§ 42-611, 42-612, 42-613, 42-615, 42-616, 42-621, 42-622, 42-301, 42-302, 42-325; § 82-520.

CALIFORNIA

California's death investigation system consists of county coroners and medical examiners.

A coroner is required to be elected by the people of each county. The board of supervisors in any county may, by ordinance, abolish the office of coroner and provide instead for the office of medical examiner, to be appointed by the board and to exercise the powers and perform the duties of the coroner. Each medical examiner is required to be a licensed physician and surgeon duly qualified as a specialist in pathology.

Coroners and medical examiners are required to inquire into and determine the circumstances, manner, and cause of all violent, sudden or unusual deaths; unattended deaths; deaths in which the deceased has not been attended by a physician in the twenty days before death; deaths related to or following known or suspected self-induced or criminal abortion; known or suspected homicide, suicide, or accidental poisoning; deaths known or suspected as resulting in whole or in part from or related to accident or injury either old or recent; deaths

due to drowning, fire, hanging, gunshot, stabbing, cutting, exposure, starvation, acute alcoholism, drug addiction, strangulation, aspiration or where the suspected cause of death is sudden infant death syndrome; death in whole or in part occasioned by criminal means; deaths associated with a known or alleged rape or crime against nature; deaths in prison or while under sentence; deaths known or suspected as due to contagious disease and constituting a public hazard; deaths from occupational disease or occupational hazards; deaths under such circumstances as to afford a reasonable ground to suspect that the death was caused by the criminal act of another, or any deaths reported by physicians or other persons having knowledge of death for inquiry by coroner.

Upon being informed that a death has occurred under any of the above described circumstances and finding that it falls into the classification of deaths requiring inquiry, the coroner or medical examiner, or his appointed deputy, may immediately proceed to where the body lies, examine the body, make identification, make inquiry into the circumstances, manner, and means of death, and, as circumstances warrant, order its removal for further investigation or disposition. The coroner or medical examiner has discretion to determine the extent of inquiry to be made into any death occurring under any of the above described circumstances. If in his inquiry he determines that the physician of record has sufficient knowledge to reasonably state the cause of death occurring under natural circumstances, the coroner or medical examiner may authorize that physician to sign the certificate of death.

At the scene of any death, when it is immediately apparent or when it has not been previously recognized and the coroner's examination reveals that police investigation or criminal prosecution may ensue, the coroner or medical examiner may not further willfully disturb the body or any related evidence until the law enforcement agency has had reasonable opportunity to respond to the scene, if their purposes so require and they so request. In all cases in which a person has suddenly died under such circumstances as to afford a reasonable ground to suspect that his death has been occasioned by the act of another by criminal means, the coroner or medical examiner is required to immediately upon receiving notification of the death to report it both by telephone and written report to the chief of police, or other head of the police department of the city or city and county in which the

death occurred outside the incorporated limits of a city. When the suspected cause of death is sudden infant death syndrome, the coroner or medical examiner is required to, within 24 hours or as soon as is feasible, unless the infant's physician of record certifies sudden infant death syndrome as the cause of death and a parent objects to an autopsy, and, in all other cases, the coroner or medical examiner, may, in his discretion, take possession of the body, and make or cause to be made a post mortem examination or autopsy on the body.

In any case involving an infant under the age of one year where the gross autopsy results in a provisional diagnosis of sudden infant death syndrome, the coroner or medical examiner is required, within 24 hours of the gross autopsy, to notify the county health officer. The detailed findings resulting from an inspection of the body or autopsy by an examining physician is required to be either reduced to writing or permanently preserved on recording discs or other similar recording media, including all positive and negative findings pertinent to establishing the cause of death in accordance with medico-legal practice. These findings, along with the written opinions and conclusions of the examining physician, are required to be included in the coroner's record of the death.

In those cases in which a coroner or medical examiner is required to conduct an inquiry pursuant to law, he is required to personally sign the certificate of death. The cause of death appearing on such certificate must be in conformity with facts ascertained from inquiry, autopsy and other scientific findings. In case of death without medical attendance and without violence, casualty, criminal or undue means, the coroner or medical examiner may, without holding an inquest or autopsy, make the certificate of death from statements of relatives, persons last in attendance, or persons present at the time of death, after due medical consultation and opinion has been given by one qualified and licensed to practice medicine and so recorded in the records of death, providing such information affords clear grounds to establish the correct medical cause of death within accepted medical practice by the Division of Vital Statistics of the State Department of Public Health.

Each coroner or medical examiner may, in his discretion, if the circumstances warrant, hold an inquest. If requested to do so by the Attorney General, the district attorney, sheriff, city prosecutor, city attorney, or a chief of police of a city in the county in which such

coroner or medical examiner has jurisdiction, the coroner or medical examiner is required to hold an inquest. Each inquest is required to be open to the public and may be held with or without a jury at the coroner's or medical examiner's discretion.

The coroner or medical examiner may summon a surgeon or physician to inspect the body or hold a post mortem examination and give a professional opinion as to the cause of the death. After hearing the testimony, the jury is required to render its verdict and certify it by an inquisition in writing signed by the members of the jury, or the coroner or medical examiner is required to render his decision if the inquest is held without a jury, setting forth the name of the deceased, the time and place of death, the medical cause of death and whether the death was by natural causes, suicide, accident, or the hands of another person other than by accident. In addition to filing his findings with the county clerk, if the findings are that the deceased met his death at the hands of another, the coroner or medical examiner is required to transmit his written findings to the district attorney, the appropriate police agency, and any other police agency requesting copies.

Each coroner or medical examiner is required to keep an official register or file which includes: the name and any aliases of the deceased, when known; a narrative summary of the circumstances leading to and surrounding the death, together with names and addresses of any witnesses to such events; the cause of death, when known, with reference or direction to the detailed medical reports upon which decision as to cause of death has been based; and persons notified of the death, together with a notation of any unsuccessful attempts at notification.

Records of coroners and medical examiners are public records and are required to be open to inspection by any citizen at all times during office hours. Death certificates are required to be open for inspection by the public in accordance with rules and regulations adopted by the State department of health for local registrars.

Coroners and medical examiners are required to inquire into and determine the circumstances, manner, and cause of those deaths where the suspected cause of death is sudden infant death syndrome. The coroner or medical examiner, within 24 hours or as soon as is feasible, when the suspected cause of death is sudden infant death syndrome unless the infant's physician of record

certifies sudden infant death syndrome as the cause of death and a parent objects to an autopsy, is required to take possession of the body, and to make or cause to be made a post mortem examination or autopsy of the body.

The detailed medical findings resulting from an inspection of the body or autopsy by an examining physician is required to be either reduced to writing or permanently preserved on recording discs or other similar recording media, including all positive and negative findings pertinent to establishing the cause of death in accordance with medico legal practice, and along with written opinions and conclusions of the examining physician, are required to be included in the coroner's record of death.

In those cases involving an infant under the age of one year where the gross autopsy results in a provisional diagnosis of sudden infant death syndrome, the coroner or medical examiner is required, within 24 hours of the gross autopsy, to notify the county health officer. Upon receiving such notification, the county health officer or his designated agent, after consultation with the infant's physician of record, is required to immediately contact the person or persons who had custody and control of the infant and explain to such persons the nature and causes of the syndrome to the extent that current knowledge permits.

The State Department of Health is required to keep each county health officer advised of the most current knowledge relating to the nature and causes of sudden infant death syndrome. Annually, on or before April 1 of each year, the State Department of Health is required to submit a report to the legislature specifying the number of autopsies and post mortem examinations performed pursuant to law during the prior year, where the suspected cause of death was sudden infant death syndrome.

Citations: Cal. Gov't Code §§ 6250, 6253, 7113; §§ 24300, 24304, 24306; §§ 24009, 24010; § 24001 (1975 Supp.); Art. 4, § 462; Cal. Admin. Code Tit. 17, §§ 901, 902; Ch. 10, Art. I, §§ 27460 to 27471; Cal. Health & Safety Code § 10250 § 10253; Cal. Vital Statistics Code, § 10066; Cal. Public Health Admin. Code, Art. 1, § 218.

COLORADO

Colorado has a county coroner death investigation system. A coroner is elected in each county for a term of four years. No person may hold the

and also sent one to the attorney for the Commonwealth of the county or city involved. Va. Code Ann. § 32-31.18. If in the opinion of the medical examiner or the chief medical examiner it is advisable and in the public interest that an autopsy be made, or if one is required by the attorney for the Commonwealth or by the judge of the circuit or corporation court, the chief medical examiner or designated pathologist or toxicologist shall perform an autopsy.²⁰ A full report shall be filed with the medical examiner and the chief medical examiner, and also with the attorney for the Commonwealth, if the latter requests a report, or the medical examiner or chief medical examiner think he should have a report. Va. Code Ann. § 32-31.19. Facilities and personnel are provided by the State Health Commissioner. Va. Code Ann. §§ 32-31.12, 32-31.15, 32-31.20.

ACCESSIBILITY: Death certificate - under regulations issued by the State Board of Health, the State Registrar or the county or city registrar is required, upon request, to disclose data or issue certified copies of death certificates or information when satisfied that the applicant for such record has a direct and tangible interest in the content of such record is necessary for the determination or protection of personal or property rights. Va. Code Ann. § 32-353.6, § 32-353.7, Regulations Governing Vital Statistics, # 11. Reports - Under Va. Code Ann. § 2.1-340, all official records, except as otherwise specifically provided by law, are required to be open to inspection and copying by any citizen of Virginia during the regular office hours of the custodian of such records. Although the applicability of such law to the records in the Office of the Chief Medical Examiner has not been officially construed, it has long been the policy of such office to make its official reports, including autopsy reports, available to next of kin upon their request, unless for good cause shown the attorney for the Commonwealth of the appropriate law enforcement agency requests that such disclosures not be made. (Policy Statements, Medical Examiner, May 15, 1974)

INFANT DEATH: No statutory indication.

WASHINGTON

TITLE: County coroner. However, in counties of the 4th, 5th, 6th, 7th, 8th, and 9th classes, no coroner shall be elected and the prosecuting attorney shall be the ex officio coroner. Wash. Rev. Code § 36.16.030.

TERM: Unspecified in Wash. Rev. Code Const., Art. XI, § 4 for the county prosecuting attorney. For smaller county, no statutory indication.

APPOINTMENT: Elected by the people of the county; Wash. Rev. Code § 36.16.030 - in counties of the 1st, 2nd, and 3rd class. Counties of the 4th, 5th, 6th, and 7th class, the prosecuting attorney is elected; Wash. Rev. Code Const., Art. XI, § 4.

QUALIFICATIONS: No statutory indication.

SUBJECT DEATHS: Suddenly when in apparent good health without medical attendance within the thirty-six hours preceding death; where the circumstances of death indicate death was caused by unnatural or unlawful means; where death occurs under suspicious circumstances; where a coroner's autopsy or post mortem examination or coroner's inquest is to be held (see Wash. Rev. Code § 36.24.020); where death results from: unknown or obscure causes, violence, within one year following an accident, drowning, hanging, burns, electrocution, gunshot wounds, stabs or cuts, lightning, starvation, radiation, exposure, alcoholism, narcotics or other addictions, tetanus, strangulations, suffocation, or smothering; where death is due to premature birth or stillbirth, or a virulent contagious disease, or suspected contagious disease which may be a public health hazard; where death results from alleged rape, carnal knowledge, or sodomy; where death occurs in a jail or prison; where a body is found dead or is not claimed by relatives or friends. Wash. Rev. Code Ann. § 68.08.010.

PROCEDURE: The coroner has jurisdiction over subject deaths, and he may move such bodies to the morgue. Wash. Rev. Code § 68.08.010. It is a misdemeanor not to notify the coroner of subject deaths. Wash. Rev. Code § 68.08.020. The coroner, in his discretion, may make or cause to be made by a competent pathologist, toxicologist, or physician, an autopsy or post mortem examination in any case in which the coroner has jurisdiction over the body. Wash. Rev. Code § 68.08.100. County to bear costs of autopsy. Wash. Rev. Code § 68.08.104.

ACCESSIBILITY: Death certificate - Certificates are required to be filed with the local registrars upon certification of death. Wash. Rev. Code § 70.58.160. Public inspection and copying of records pursuant to procedures in the Wash. Administrative Code is provided for in Wash. Rev. Codes

SS 42.17.250 through 42.17.340.

Reports - under Washington law, reports and records of autopsies or post mortems are confidential, except to the prosecuting attorney or law enforcement agencies having jurisdiction, or to the Department of Labor and Industries in cases in which the department has requested that an autopsy be performed. Any party by showing just cause may petition the court to have an autopsy and the results of such autopsy be made known to such party at his own expense. Wash. Rev. Code § 68.08.105. However, under current practice, autopsy reports and consultations are available to the next of kin.

INFANT DEATH: The coroner may with the approval of the University of Washington and with the consent of a parent or guardian deliver any body of a deceased person under the age of three years over which he has jurisdiction to the University of Washington Medical School for the purpose of having an autopsy made to determine the cause of death. Wash. Rev. Code § 68.08.100. University of Washington Medical School to bear cost of autopsy. Wash. Rev. Code § 68.08.104.

NOTE: Seattle has an appointive Medical Examiner System (see Childs report). See Wash. Rev. Code § 36.24.010 to § 36.24.180 for coroner inquest. See Wash. Rev. Code § 68.08.107 for State toxicological lab and State toxicologist.

WEST VIRGINIA

TITLE: A.) Chief medical examiner. W. Va. Code Ann. § 61-12-3; B.) County medical examiners. W. Va. Code Ann. § 61-12-7.

TERM: A.) Serves at the will and pleasure of the commission. W. Va. Code Ann. § 61-12-3; B.) Three years. W. Va. Code Ann. § 61-12-7.

APPOINTMENT: A.) Appointed by the commission. W. Va. Code Ann. § 61-12-3; B.) Appointed by the commission. W. Va. Code Ann. § 61-12-7. The chief medical examiner may appoint assistants where needed. W. Va. Code Ann. § 61-12-7.

QUALIFICATIONS: A.) Licensed physician in West Virginia, a diplomate or eligible for certification by the American Board of Pathology or American Osteopathic Board of Pathology. W. Va. Code Ann. § 61-12-3; B.) Qualified physicians licensed in West Virginia. W. Va. Code Ann. § 61-12-7.

SUBJECT DEATHS: By violence, or by apparent suicide, or suddenly when in apparent health, or when unattended by a physician or when an inmate of a public institution not hospitalized therein for organic disease, or from some disease which might constitute a threat to public health, or in any suspicious, unusual, or unnatural manner.

PROCEDURE: Medical examiner to be notified by physician in attendance, by any law enforcement officer having knowledge of such death, or by the funeral director, or by any other person present. (Misdemeanor not to notify.) The medical examiner shall take charge of the body, make an investigation, reduce his findings to writing, and submit copies of his report to the chief medical examiner, the prosecuting attorney, and other attorney involved in criminal or civil proceedings surrounding the death, and retain a copy for himself. All forms are prescribed. W. Va. Code Ann. § 61-12-8. The following may determine that an autopsy is advisable and in the public interest or request one: the chief medical examiner, the medical examiner, the prosecuting attorney, or judge of the circuit court of any other court having criminal jurisdiction. The autopsy is to be performed by the chief medical examiner or a member of his staff, or a competent pathologist designated by the chief medical examiner. A medical examiner who is a qualified pathologist may also perform the autopsy and receive additional fees for so performing. W. Va. Code Ann. § 61-12-4, or other existing facilities, W. Va. Code Ann. § 61-12-6, shall be used. Also see W. Va. Code Ann. § 61-12-12.

ACCESSIBILITY: Death certificate - when death occurs in any manner subject to investigation, the medical examiner is required to investigate the cause of death and complete and sign the medical certification on the death certificate. Copies of all records or information in the office of medical examinations are required to be furnished, upon request, to any party to whom the cause of death is a material issue. Under West Virginia law, it is unlawful for any person to permit inspection or disclosure of confidential information contained in records of death, or to copy or issue a copy of all or any part of such confidential information except as authorized by law or by order of a court having jurisdiction or by rule and regulation duly adopted by the State board of health. Current regulations provide that the State Registrar is required to permit the inspection of a record only when he is satisfied that the applicant for such record has a direct and tangible interest in the



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March 7, 1978

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Mr. Bob Steep
Administrative Assistant
to Rep. Terry Gardiner
Pouch V
Juneau, Alaska 99801

Dear Mr. Steep:

It has come to my attention that you are involved with the evaluation of SB285/HB392 - the medical examiner bill. I am a pathologist with 11 years of experience in Alaska and 4 in Washington in the practice of forensic pathology. Approximately 5 years ago I was the author of a bill which was introduced by Senator Groh and Representative Fritz, which also sought to establish a medical examiner system for Alaska. During my research of the subject while writing that bill, I formed some opinions which you might find useful.

First of all, the situation which existed within the court system then has now changed, so that I no longer feel quite so strongly that our present system needs modification. We are currently doing things in a manner which has many similarities with the medical examiner system - a situation brought about by the personnel currently in charge of this function within the court system - specifically, Dolores Wilks, the local coroner who does an admirable job. The goal of my bill 5 years ago was to allow us to work essentially as we now are.

My comments will be directed first to the new bill, and then to its accompanying fiscal note. The former is, I believe, a bad bill and should be defeated; and the latter is inaccurate and grossly underestimates the cost of the operation.

SB285/HB392:

1. Section 18.52.030 (b & c). In a state as small as ours, the requirement of board certification or eligibility in forensic pathology might create difficulty in filling the position if no such person could be recruited, and the requirement that he be an exempt employee would seem to preclude contracting with physicians such as myself who may not be anxious to leave a current position to become a state employee.



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Mr. Bob Steep

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2. Section 18.52.040 (b) (4,8 & 9). The exhumation of a body should be done by court order, not at the whim of the SME. The medical examiner should not have the authority to "take possession" of items such as those listed, or to issue subpoenas. These are police and/or court functions. These 3 paragraphs seem to grant the SME more power and authority than any other investigative agency of the government. One should not assume that some future SME would exercise this authority with restraint.
3. Section 18.52.050 (a) (2). The time limitation should be stricken. Frequently a person may die of a known disease which runs its course in less than 24 hours. On the other hand, a patient may die of an unknown disease after a long lingering illness (a situation covered by paragraph 3).
4. Section 18.52.085. The same comments apply here as to item 2 above. Again, the SME is given too much authority and power.

FISCAL NOTE:

The tenor of the note seems to be to save money for the court system, but seems not to be concerned with the total cost to the State. As a taxpayer, my concern is with the latter.

The fiscal note apparently assumes that funeral directors will provide personnel and vehicles for removal of bodies from "scene" to morgue at no cost to the state, since no provision is made for this function. My estimate of this cost for the Anchorage area alone 5 years ago was \$250,000 per year based on a minimum of 2 hearses and 4 drivers to provide 24 hour coverage. No provision is made for an x-ray department, a toxicology or histology laboratory. These are vital functions of the office and while provision is made in the law for contracting laboratory work, the necessity for responsibility for its quality makes this impractical. The laboratory should be directly under the supervision of the SME since he must vouch for the quality of the work performed by it in court. These are very expensive operations requiring tens of thousands of dollars worth of equipment and many personnel.



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No provision is made for personnel other than the SME and two secretaries. The morgue will require dieners (autopsy assistants) who may or may not be the same people as the hearse drivers. Again, the morgue must be staffed continuously.

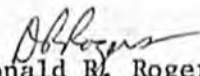
No provision is made for transportation of bodies to Anchorage from bush communities.

The note provides for only one medical examiner for the state - apparently assuming that he can do all the work that is to be done. Currently 3 of us are working in this field in Anchorage alone (admittedly only part time), and approximately one full time equivalent would be necessary for Fairbanks and Southeast. These expenses need to be accounted for in the fiscal note even though the physicians doing the work may be associate medical examiners. More clerical personnel would then be needed beyond the two provided for.

The note lists a 3,000 sq. ft. morgue for \$54,000 annually. It would seem unlikely that a facility of that size could be obtained for that little especially since no provision is made for utilities and depreciation. A provision of \$5,000 is made for "remodeling of Anchorage headquarters". It sounds as though the site for the office has already been chosen - which seems premature at least. A provision of \$10,000 is made for a "photographic microscope" - an incredibly expensive piece of equipment, (my own photographic microscope cost approximately \$2,000) - but no provision is made for a histology laboratory to make the slides to be viewed and photographed (an omission referred to above). A provision is made for a radio-equipped car, but none is made for its operating expenses and depreciation.

In summary, I think the note hugely underestimates the cost of this proposed office. I would be willing to come to Juneau to testify against the bill if that would seem useful.

Sincerely yours,


Donald B. Rogers, M.D.
Pathologist

DRR/ds

cc: Senators Croft, Rodey, Colletta, Tillion and Huber
Representative Hugh Malone

STATE OF ALASKA

DEPARTMENT OF PUBLIC SAFETY

DIVISION OF STATE TROOPERS

POUCH N - JUNEAU 99811

P.O. Box 6188 Annex
Anchorage, AK 99502

Memorandum file
JAY S. HAMMOND, GOVERNOR

Richard L. Burton
Commissioner

April 3, 1978

Honorable Terry Gardner
House of Representatives
Pouch V
Juneau, AK 99811

Dear Representative Gardner,

At your request, I am addressing myself to the investigation area of House Bill 392. As I stated before the committee, the medical examiner, and law enforcement will have to have a very close working relationship. I do feel that if the bill is adopted, responsibilities concerning death investigations in some cases should be specifically directed to law enforcement agencies.

Section 18.52.040(b)(8) directs the medical examiner to take possession or exercise control of the body and effects of the deceased and any weapons, instruments, vehicles, buildings, premises, or other things which he has reason to believe will assist in a determination of the cause and manner of death. Investigations in the cause of a violent death or unattended death should continue to be the responsibility of law enforcement agencies. Possession of instruments, weapons, vehicles, buildings, or other things which are of an evidentiary nature in the death investigation, should be directed to the responsible law enforcement agency. Law enforcement agencies could be directed to submit investigative reports to the medical examiner's office to assist in any hearing or any inquiries to be conducted by that office. Control of the body, to some extent, should be at the discretion of the medical examiner. It is this office which conducts the autopsy, a very critical phase of the death investigation. The team effort which is needed between the medical examiners office and law enforcement is very evident, the expertise required in both areas of responsibility go toward making a complete investigation.

Section 18.52.070(c) should be expanded to include that a copy of the autopsy report should also be filed with the law enforcement agency conducting the death investigation. With this added written into law, it could offset any rights to privacy areas, which may be addressed when police agencies have possession of the autopsy report.

Section 18.52.040(d)(2) as previously stated, the investigation into violent deaths or unattended deaths should be conducted by law enforcement agencies. This could be very easily accomplished with the cooperation and in conjunction with the medical examiners office, as I have previously stated.

I hope my comments are of assistance to the members of the committee that is evaluating this proposed law.

Sincerely,



Capt. U. D. Bivins
Commander
"C" Detachment

Maj. J. D. Vaden, Field Enforcement Commander, Zone I
Col. T. R. Anderson, Director, Alaska State Troopers
Commissioner Richard L. Burton
UDB:deu

COMMENTS CONCERNING HB392/SB 285

The above costs were prepared with the advice of the Court System and a Pathologist.

Currently, the Court System has a budget of 225.0 for autopsies, statewide. We are projecting that the medical examiners office expenditures for FY 79 will be \$212.1. Establishment of the office will reduce the need for funds currently expended by the Court System by \$45.0 and this amount can be applied to funding the Office of Medical Examiner.

The balance of the Court System's current allocation of \$225.0 will be required for maintaining the ongoing program in statewide locations remote from the State Medical Examiner's office.

Revised Fiscal Note

4/25/77

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. HB 392/ SB 285
 Title relating to inquiries into death; establishing a state medical examiner
 Requested by _____ Date _____

II. FISCAL DETAIL
 Agency Affected Department of Public Safety
 Program Category Affected Administration of Justice
 Budget Request Unit(s) Affected _____

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES		42.0	100.1	105.0		
200 TRAVEL		5.0	26.0	28.0		
300 CONTRACTUAL		16.3	74.8	82.0		
400 COMMODITIES		.6	1.2	1.2		
500 EQUIPMENT		27.3	10.0	10.0		
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		91.2	212.1	226.2		

FUNDING (Thousands of Dollars)

GENERAL FUND		91.2	167.1	181.2		
FEDERAL FUNDS						
OTHER (Specify)						
OTHER FUNDING			45.0	45.0		

POSITIONS

FULL TIME		2	3	3		
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See Attached

IV. DATE Revised 4/25/77 PREPARED BY Trygve R. Hermann, Director
 AGENCY PUBLIC SAFETY/Div. of Administrative Services
 PHONE 465-4350

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 Alaska Court System

HB 392
FISCAL NOTE DETAIL

Category	FY 78	FY 79	FY 80
100			
Chief Medical Examiner	32.3	64.7	64.7
Med. Records Assistant	8.8	17.7	17.7
Med. Records Assistant	.9	17.7	17.7
Inflation			4.9
Total	42.0	100.1	105.0
200			
Commission Travel	5.0	5.0	5.0
Chief Medical Examiner		6.0	6.0
Assoc. & Assistant Examiner		15.0	15.0
Inflation			2.0
Total	5.0	26.0	28.0
300			
Rental of 3,000 Sq. Ft. Autopsy			
Work space inc. cooler & freezer	9.0	54.0	54.0
Remodeling for Anch. Headquarters	5.0		
Printing Costs (forms & procedures)		10.0	10.0
Telephone	.5	3.6	3.6
Mag Card II Typ	1.8	3.6	3.6
AJIS Terminal		3.6	3.6
Inflation - Other			7.2
Total	16.3	74.3	82.0
400			
Commodities (office supplies)	.6	1.2	1.2
500			
Photographic Microscope	10.0		
Typewriter	.8		
Furniture	2.0		
File Cabinets (Fire proof)	2.0	1.0	
Photo Equip.	3.5	1.0	
Instruments	1.0		
HWCF Car Purchase	5.0		
Radio	2.0		
Dictation Equipment	1.0		
Other - Unspecified		8.0	10.0
Total	27.3	10.0	10.0

HR 392
HB 753

HB 860 Mopeds

\$50 an hour for Autopsy

Bissant - Matthews } 2 bidders → provide morgue
Rogers }

Funeral Homes - keep bodies

Payed as services rendered

6 Mo after contract terminated No Morgue

Move out of Public Safety → HESS

{ Bodies in the bush areas }

Need a state run mortuary

A. Better Autopsies

Presentation to the House Judiciary Committee on HB 392

By Lee Moeglein

In February, 1977, the Alaska Court System entered into a contract with Forensic Sciences, Inc. (FSI) of Anchorage, who was to provide the court with with autopsy and pathology services.

Bidding for this contract called for "physician services." But the contract was entered into with a corporation and not with a physician, and not even with a corporation which was obligated to employ a physician.

Unsuccessful bidders were Drs. Michael T. Propst and Donald R. Rogers, the only others to offer a bid. They have a successful and long history, past and current, of providing the services called for in the FSI contract with the Court System.

These pathologists, apparently lowest bidders, were not awarded the contract. The reason may have been that FSI offered the state a "free autopsy facility" in an obscure item of the bid under the classification "other." No standards or values were requested or defined in the bidding process for an autopsy facility. Because the state did not approach Rogers and Propst on this subject they had no opportunity to bid successfully. The contract went to FSI after a bidding procedure which did not include

a major and most expensive item in the bid request. Rogers and Propst, today, are of the opinion that the bidding process was rigged to favor FSI.

In the agreement between FSI and the Alaska Court System, FSI agreed to construct an autopsy facility. Completion was to occur on or about May 1, 1977. Apparently, the Court system did not check the financial condition of FSI, or on their ability to provide an autopsy facility prior to the commencement of the contract.

The structure or facility was never commenced nor was it ever completed on or about May 1, 1977. It was, therefore, a major breach of the contract and a failure of performance which should have terminated the contract according to its terms. This was not the case. The Alaska Court System continued to pay for FSI's services. The services of Drs. Rogers and Propst were still available at a lower cost but were never used.

FSI was incorporated in Alaska on November 9, 1976 only ten weeks before entering into this contract. It had no parent corporation at this time. It's capital stock consisted of \$1,000. How was it to provide a completely equipped autopsy and laboratory for death investigation for the state of Alaska with \$1,000?

In mid-1977, the Department of Public Safety entered into an agreement with FSI for law enforcement agency testing and laboratory services. (FSI still had not constructed a lab.) Again, apparently no check of FSI's financial history or posture was made or requested. The Department of Public Safety agreed to advance FSI \$135,000 in cash, to pay \$11,750 monthly for future services, and grant \$15,000 for the establishment of a crime lab. Ultimately, about \$60,000 in services were performed by FSI for the state of Alaska.

According to Julius Brecht, the director of Alaska's Business, Cities and Corporations division, FSI paid an advance fee of \$6,300 to a Washington Corporation--Financial Marketing Systems (FMS). This was apparently paid to find a \$750,000 loan. FSI had no credit ability within the established business community. FSI became a victim of FMS which may have numerous criminal fraud charges pending against it. Julius Brecht issued a Cease and Desist order against FMS and FSI was effectively bankrupt.

The Court System was fleeced; the Department of Public Safety was fleeced and the people of Alaska were fleeced. To date, no one has publicly accounted for at least \$125,000.

Susan Burke of the Alaska Court System, author of HB 392, is of the opinion that none of this is relevant to HB 392. You may think it is relevant. The same people who wrote this bill

are the same people whose poor judgement resulted in the Court System and the Department of Public Safety getting fleeced. A close examination of the fiscal note that accompanies this bill will once again establish that nothin was learned. The state of Alaska could be headed for a much bigger disaster if this bill becomes law.

Thank you.

In February of 1977, The Alaska Court System and Forensic Sciences, Inc. of Anchorage entered into an agreement whereby F.S.I. would provide the court with autopsy and pathology services.

The agreement came as the result of a bid. The other bidders were Dr. Michael T. Propst and Dr. Donald R. Rogers who made a joint bid in competition with F.S.I. The Dr.'s were the apparent low bidders for pathology services but were not awarded the contract because F.S.I. under an item called other, offered the state a free autopsy facility. (Dr. Rogers and Propst both feel that the bid was rigged, since no one ever approached them about free autopsy facilities, nor was this item included on the bid itemization.)

In the agreement between F.S.I., and the Alaska Court System, F.S.I. agreed to construct an autopsy facility. Completion according to the terms of the contract on or about May 1, 1977. This structure was never built or provided from the time the contract was let (commencing March 1, 1977) until the time that F.S.I. went broke. It was a direct violation of the agreement between F.S.I. and the Alaska Court System, yet the court continued to pay for their services instead of contracting with the Dr. Rogers and Propst which would have been less costly.

Beginning fiscal year 1977-78, the Department of Public Safety entered into an agreement with F.S.I. for law enforcement agency tests.

The Department of Public Safety agreed to make an advance payment of \$135,000 plus monthly payments of \$11,750 to F.S.I. Aproximatly \$60,000 worth of services were performed, apparently \$75,000 worth were not. In addition, the department of Public Safety gave F.S.I. \$15,000 to establish a crime lab.

In late 1977 F.S.I. went broke. Subsequent inquiries by Bob Porterfield of the Anchorage Daily News found that F.S.I. made an attempt to negotiate a large loan with Marketing Management Systems of Tacoma, Washington. Seems they made a substantial down payment of about \$70,000 in an attempt to borrow \$700,000.

They got fleeced

Susan Burke of the Alaska Court System says that none of this is relevant to HB 392. I think it is. The same people whose judgement got the Department of Public Safety and the Court System involved with F.S.I. in the first place, are the ones who developed HB 392 and the accompanying fiscal note. I don't think there judgement is any better now than it was then.

Questions: Why didn't the Alaska Court System terminate its contract with F.S.I. when it became apparent that they could not meet the May 1 deadline for construction of an autopsy facility?

Why did the Department of Public Safety advance so much money for lab fees?

Was the attempted loan with marketing management systems of Tacoma an attempt to secure funds to build an autopsy facility and lab to meet the terms of the contract between the Alaska Court System and Forensic Sciences, Inc.?

Alaska State Legislature

SENATOR
JOE ORSINI
2912 ALDER DRIVE
ANCHORAGE, ALASKA 99504



WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA
99011

March 20, 1978

Senate

Richard Burton, Commissioner
Department of Public Safety
450 Whittier St.,
Juneau, AK 99801

Dear Commissioner Burton:

In 1977, between July and September, the Department of Public Safety was a party to a contract with Forensic Sciences, Incorporated. Please provide us with a copy of that contract and answers to the following questions.

According to an Anchorage Daily News article written by Bob Porterfield, the contract called for an advance payment by the state of \$135,000. Why was it necessary for the state to pay for services in advance? Has the state suffered any losses as a result of any contracting party's failure to perform? If so, has any action been taken to recover any losses?

The article indicates that a forensic laboratory may be established within the Department of Public Safety. If there are present plans to do so, please send us any data in your possession, especially as it pertains to the costs and future operations of any laboratory.

Senate Bill 285, as you know, will give a future state medical examiner the power to establish a laboratory, or to contract for services from existing laboratories. Any information you can provide--especially any concerning the cost or operation if a laboratory is to be established, or the performance to be expected if a contract is to be entered into--would be most appreciated.

Thank you for your attention to this request.

Sincerely,

Steve A. Mizera
STEVE A. MIZERA

Administrative Assistant

SAM/hs

Municipality
of
Anchorage



625 C STREET
ANCHORAGE, ALASKA 99501
(907) 279-1441

GEORGE M. SULLIVAN,
MAYOR

ANCHORAGE POLICE DEPARTMENT

March 16, 1978

TO: Members of the Legislature of the State of Alaska

RE: Comments on Senate Bill 285 - Office of the Medical Examiner

After a review of Senate Bill 285, I would respectfully wish to express some concerns that exist within my department and, I feel, many other municipal police agencies in our State.

First, I generally support the concept of having a medical examiner. My concerns with this particular bill fall in two general areas; the placement of the office within the Department of Public Safety, and the extent of responsibility of the examiner.

I would much rather see this office remain within the Court system. The established neutrality of this institution is necessary to the effective operation of a medical examiner.

Currently, it is the responsibility of the physicians performing this function to attempt to determine the "cause" of death, clearly a medical application. In Senate Bill 285, it would appear that the medical examiner is responsible for evidence collection. This function and the subsequent handling and processing of the evidence go toward establishing the "manner" of death. The expertise necessary to effectively perform this task resides within the existing law enforcement agencies and correspondingly this responsibility should remain there.

For these reasons, I would oppose passage of the Medical Examiner bill in its present form.

Major Brian S. Porter
Acting Chief of Police

BSP/dl





ALASKA STATE LEGISLATURE - HOUSE OF REPRESENTATIVES

IN SESSION:

POUCH V
JUNEAU, ALASKA 99811
TELEPHONE: (907) 465-4948

SUITE 203
207 EAST NORTHERN LIGHTS BLVD.
ANCHORAGE, ALASKA 99503
TELEPHONE: (907) 277-6219

REP. M. F. "MIKE" BEIRNE
DISTRICT 7, ANCHORAGE

MEMBER OF:
FIFTH STATE LEGISLATURE
NINTH STATE LEGISLATURE
TENTH STATE LEGISLATURE

COMMITTEES:
HEALTH
EDUCATION AND
SOCIAL SERVICES
FINANCE SUB-COMMITTEE
ON TRANSPORTATION

March 21, 1978

The Honorable Joseph Orsini
Alaska State Senate
Pouch V, Mail Stop 3100
Assembly Building, Room 100
Juneau, AK 99811

Re: Senate Bill 285

Dear Senator Orsini:

I concur with the observations of the Anchorage doctors on this bill and believe it would be a mistake for the State to involve itself in this business at this time.

Very truly yours,

Mike Beirne
Dr. Mike Beirne
State Representative

MFB:jss

Municipality
of
Anchorage



625 C STREET
ANCHORAGE, ALASKA 99501
(907) 279-1441

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MAYOR

ANCHORAGE POLICE DEPARTMENT

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For these reasons, I would oppose passage of the Medical Examiner bill in its present form.

Major Brian S. Porter
Acting Chief of Police

BSP/d1



Susan Burke

Bissant - Matthews

① Should be in Executive not court —

② Coroners controlling peoples estates — Keep it
"Administration of estates"

③ revise

④ Dept of Public Safety — conflicts

* Commission to resolve those conflicts checks

→ HESS in 9th legis version



⑤ inability to monitor contract

Had to pay \$50 extra per body to funeral homes

Autopsies
Estates

We are replacing Private sector
Credibility of Police testimony evidence

Mr. Lee Moeglein — ^{Memorial} Evergreen Funeral Chapel

— Does Autopsy reports

Cost will go from \$225.0 to \$1 million

① Funeral homes would get out of the business

② No lab 1. toxicology
2. histology

③ What about autopsy not done by medical examiners

II don't put in Public Safety

III Not many states have pure Med examiners ^{only} ~~Colonies system~~

IV Remove 200,000 income to Colonies now

Set standards - now for autopsy

- ① set up Medical examiner Commission
- ② set standards
- ③ Put Admin agency
- ④ let them contract for services like now

Rogers & Propst today believe the bidding process was rigged against them.

Forensic Sciences, Inc went belly-up just 10 weeks after

Capt Dean Bivens -

Public Safety supports

Page 3 - Section (C)

Page § 18.52.090 section C

Page 10, line 26 - Add

medical examiner of police officers

~~Dr. P~~

Investigations be by police officers not Medical
examiners

Medical examiner

Kieth Douglas - F.S.I., Inc.

Narcotics - F.S.I.

D.E.A. was doing work in San Francisco

↓
Set up own lab now

Dr. Bissant - Mathews → was ~~an~~ employee
was helped

7 months No contract
\$ 78,750

billings for \$ ~~8,000~~ 8,000 - didn't pay

Bought equipment - \$4,200 - \$24,000

2,000 on water purifier

Anchorage Police Department Employees Assoc.

P. O. Box 1539
Anchorage, Alaska 99510

Representative Terry Gardiner
Pouch V
Juneau, Alaska 99801

Attention: Bob Speed

April 12, 1978

Dear Mr. Gardiner:

I wish to take this opportunity to extend our appreciation for your current investigation into the defunct laboratory which had a contract with the State of Alaska which was arranged by the Court System and administered through the Department of Public Safety.

I have been advised of some additional information that seems to suggest that the letting of the contract and proposed House Bill number 392 (the Medical Examiner's Bill) may have been in some way related. It appears that the "bill" was drafted with a specific person in mind.

I have been advised that Mr. Art Snowden and Mr. Rick Berrier of the Alaska Court System were both contacted while the contract was still in the "talking" stage and encouraged to conduct an investigation into the matter. They were requested to contact individuals within King County, Washington regarding the Forensic Pathologists. Persons contacting Mr. Snowden and Mr. Berrier were respected members of the law enforcement community, and I have been advised that an assistant District Attorney and other pathologists also made contact with either Snowden, Berrier, or both.

It would be interesting to learn who drafted the Medical Examiner's Bill and if that person was Deputy Attorney General, Don Hickey, and if he had any person "in mind" at the time it was drafted. It seems the bill was drafted at about the same time the contract was let.

I have no idea as to what the actual cost to the taxpayer would be under the proposed, but I would guess it to be high.

As I mentioned in my letter of 3-13-78, the F.B.I. laboratory conducts scientific examinations and will testify at no cost (including transportation and per diem) to the State.

Page two, continued:

I am sending along some of the questions I have regarding the proposed Medical Examiner's Bill.

I realize that I offer more questions than I furnish answers, but I am sure that the independent investigation of your committee will resolve these issues.

If I can be of any assistance to you in this endeavor, please do not hesitate to contact me.

Sincerely,

Ken Foster

Ken Foster,
President, Anchorage Police
Department Employees Association

KF/clr

Representative Terry Gardner
Attention, Bob Speed
Pouch V
Juneau, Alaska

March 13, 1978

Reference: House Bill No. 392 - Medical Examiners Bill

I would like to take this opportunity to direct comments toward this bill. The concept of a State Medical Examiner is a good one; however as the bill is written, the Anchorage Police Department Employees Association is against it for the following reasons:

It would appear from the bill that the Department of Public Safety will direct all death investigations. It would seem that the medical examiners office should be a separate entity and free of all political pressure and not give the appearance of being controlled by the police.

The responsibility of the medical examiner should be to establish "cause of death" and not "manner of death." If the medical examiner has the authority to establish manner as well as cause, there would be no need for a coroner's inquest. The "manner of death" is important not only to the police but also to a survivor when one thinks in terms of double indemnity benefits.

The term "manner of death" is defined as: (1) homicide; (2) suicide; (3) accidental; (4) natural causes; (5) undetermined.

The way the bill is written, the medical examiner has the power to seize and control physical evidence at a crime scene and to send this evidence to the laboratory of his choice for the needed examinations. Currently the FBI laboratory in Washington D.C. provided this service along with expert witnesses to testify concerning the results of the examinations at no cost to the State. If the medical examiner elects to send evidence to a local lab of his choice, who is to pay for the examination and subsequent expert testimony? Can a small

Page two, continued:

community afford to pay for these services?

It has been suggested that police in outlying areas are not trained well enough in the collection of evidence, however they are currently receiving the required number of training hours, as in every Municipal Police Department in Alaska. They are in fact taught by certified instructors at either the Department of Public Safety Academy in Sitka, or the Anchorage Police Department academy in Anchorage.

When this bill was proposed last year there was a private crime lab that had one forensic pathologist. That lab was successful in obtaining a contract with the State to perform autopsies and to do a limited amount of examinations.

That lab has since dissolved and at an apparent loss to the State of over \$100,000.00.

The medical examiner's office, as proposed in this bill, would also have the power to conduct hearings and exhume bodies; functions which should be left within the realm of the court.

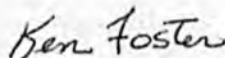
I have talked to members of other law enforcement agencies and the concensus of opinion is the same as that of our association. Ernest Beauchamp, president of the Alaska Peace Officers Association, is currently reviewing the bill and I am sure you will be hearing from him.

Also our association has written a "memo of opposition" to Acting Chief of Police Brian Porter who intends to ask the Municipality to take appropriate action.

At least one of the two "board certified" forensic pathologists in Alaska feels that a medical examiner should not be "picking up criminal evidence" at a crime scene and should assist the police in an investigation, not control it.

Thank you for your attention to this matter. If I can furnish you with additional help or information, please advise me.

Ken Foster,



President, APDEA

KF/clr

Moeglein

proposed CS for HB 392
from

Mrs Wilkes

written by Judge Brewer

Brewer wants to divorce self from
this bill &

Forensic Sciences

D. Bevins

Dean Bevins

may have invested \$3,000
in Forensic Sciences



MARCH 27, 1978

BOB SPEED
ADMINISTRATIVE ASSISTANT
HOUSE JUDICIARY COMMITTEE
POUCH V
JUNEAU, ALASKA 99811

BOB:

ENCLOSED IS A COPY OF A LETTER I SENT TO REPRESENTATIVE CARPENTER. ALSO A COPY OF A SUBSTITUTE VERSION OF HB392. I THINK MY LETTER TO HIM EXPLAINS ITS' ORIGIN AND EXISTANCE.

AT THE AIRPORT ON THE MORNING OF MARCH 24, I HAD THE OPPORTUNITY TO TALK TO CAPTAIN DEAN BIVINS OF THE ALASKA STATE TROOPERS. I WANTED TO MAKE IT CLEAR TO HIM THAT OUR PROBLEMS WERE NOT WITH INVESTIGATORS IN THE CRIMINAL INVESTIGATION BUREAU, BUT RATHER WITH SOME INCOMPETENT ADMINISTRATION. WE HAVE NOTHING BUT HIGH REGARD FOR THESE MEN IN THE FIELD.

HE SAID THE ONLY REASON HE WAS IN FAVOR OF THE BILL WAS THAT IT WOULD MEAN THEY COULD HAVE A PATHOLOGIST AT THE SCENE. I POINTED OUT TO HIM THAT PATHOLOGISTS COULD BE AT THE SCENE NOW IF THEY WERE REQUESTED AND IF THE COURT SYSTEM OR THE STATE POLICE WERE WILLING TO PAY FOR THEIR TIME. HE AGREED.

IF THE DEPARTMENT OF PUBLIC SAFETY COMES UP WITH A NEW FISCAL NOTE FOR THE BILL, COULD YOU PLEASE SEND A COPY TO ME RIGHT AWAY. ALSO, IF AT ANY TIME YOUR COMMITTEE WOULD LIKE ME TO RE-APPEAR TO ANSWER QUESTIONS, I WOULD BE GLAD TO. JUST GIVE ME A LITTLE WARNING SO THAT I CAN REARRANGE MY SCHEDULE.

THANKS FOR YOUR COURTESY.


LEE MOEGLIN

Evergreen Memorial Chapel, Inc.

737 E STREET TELEPHONE 279-5477
P.O. BOX 537 ANCHORAGE ALASKA



MARCH 27, 1978

REPRESENTATIVE LARRY CARPENTER
POUCH V
JUNEAU, ALASKA 99811

SIR:

ENCLOSED IS A COPY OF A SUBSTITUTE VERSION OF HOUSE BILL 392. I HAD TO QUICKLY CATCH AN AIRPLANE THE MORNING OF MARCH 24, AND WAS UNABLE TO GET THIS TO YOU SOONER.

SINCE THE JUDICIARY COMMITTEE STILL WANTS TO ASK MORE QUESTIONS ABOUT HOUSE BILL 392, IT MAY BE A BIT PREMATURE TO PROPOSE A SUBSTITUTE. PERHAPS WHEN YOU HEAR MORE ABOUT THE BILL, THIS SUBSTITUTE WILL SEEM APPROPRIATE.

IT WAS WRITTEN BY JUDGE JOSEPH BREWER, A DISTRICT COURT JUDGE HERE IN ANCHORAGE, AND BY MRS. DOLORES WILKS. SHE IS THE CORONER AND PUBLIC ADMINISTRATOR WITH THE ALASKA COURT SYSTEM HERE IN ANCHORAGE.

THE INTENT OF THIS MEASURE IS TO ATTEMPT TO IMPROVE THE CURRENT SYSTEM. SPECIFIC QUESTIONS WHICH YOU MIGHT HAVE CONCERNING ITS' CONTENT SHOULD PROBABLY BE DIRECTED TO THEM.

I'LL SEND A COPY OF THIS LETTER TO YOUR CONSTITUENT, JAMES HIEBER AT CHAPEL OF THE CRIMES IN FAIRBANKS, ALSO A COPY TO THE COMMITTEES AMINISTRATIVE ASSISTANT, BOB SPEED.

MY APOLOGIES FOR NOT BEING ABLE TO HONOR YOUR REQUEST FOR IT LAST FRIDAY.

RESPECTFULLY,

LEE MOEGLEIN

Evergreen Memorial Chapel, Inc.

737 E STREET TELEPHONE 279-5477
P.O. BOX 537 ANCHORAGE, ALASKA

MARCH 17, 1978

BOB SPEED
ADMINISTRATIVE ASSISTANT
HOUSE JUDICIARY COMMITTEE
POUCH V
JUNEAU, ALASKA 99811

DEAR BOB,

THANK YOU FOR YOUR COURTESY DURING OUR RECENT CONVERSATION IN JUNEAU. ALSO APPRECIATE THE CALL CONCERNING THE MEETING WHICH WAS TO BE HELD TODAY AND THE SUBSEQUENT CALL TO INFORM US IT WAS CANCELLED. PLEASE INFORM ME WHEN YOU ARE READY TO GO AGAIN SO THAT I WILL HAVE TIME TO GET TO JUNEAU.

AS YOU REQUESTED, I AM PUTTING MY COMMENTS IN WRITING CONCERNING THE BILL. (HOUSE BILL 392-MEDICAL EXAMINER) I AM ALSO ATTACHING A DETAILED COST ESTIMATE FOR IMPLEMENTING THE BILL. MAJOR BRIAN PORTER OF THE ANCHORAGE POLICE DEPARTMENT HAS BEEN EVALUATING THE BILL. WHEN HE LEARNED THAT YOU WERE GOING TO MEET ON THIS BILL TODAY, HE PREPARED A STATEMENT WHICH HE ASKED ME TO TAKE TO JUNEAU WITH ME. I'M ENCLOSING A COPY OF THAT STATEMENT. I'LL BRING THE ORIGINAL WITH ME WHEN YOU MEET.

OUR FIRM HAS BEEN A PART OF THE CURRENT DEATH INVESTIGATION SYSTEM IN ALASKA SINCE ITS' INCEPTION. WE, ALONG WITH OTHER FUNERAL HOMES, HAVE PROVIDED THE ALASKA COURT SYSTEM WITH A DELIVERY SYSTEM, FACILITIES, EQUIPMENT AND ASSISTANCE WITH AUTOPSIES FOR YEARS.

DURING THOSE YEARS AND DUE TO OUR EXPERIENCE WE HAVE BECOME PRIVY TO A LOT OF INFORMATION WHICH THE GENERAL PUBLIC IS UNAWARE OF. OUR OBJECTIONS TO HB392 ARE BASED ON THAT KNOWLEDGE AND EXPERIENCE.

WE OPPOSE IT FOR THE FOLLOWING REASONS:

1. COST THE FISCAL NOTE FOR THE BILL GROSSLY UNDERESTIMATES THE COST OF DEVELOPING AND CONTINUING THE SYSTEM WHICH YOU ARE CONSIDERING. ONE OF THE MORE GLARING ERRORS IS THE ASSUMPTION THAT FUNERAL HOMES WILL CONTINUE TO PROVIDE THE DELIVERY SYSTEM. WE PROVIDE THIS SERVICE NOW AT \$20 PER TRIP. (LOOMIS SECURITY AND THE MUNICIPALITY OF ANCHORAGE ESTIMATE THAT IT WOULD COST AT LEAST \$120 TO PROVIDE THIS SERVICE PER TRIP) THE REASON THAT WE ARE WILLING TO DO IT AT SUCH A REDUCED RATE IS BECAUSE THE STATE ALSO PAYS US FOR THE USE OF OUR FACILITIES FOR THE AUTOPSY (\$50 FOR FACILITIES, ASSISTANCE, INSTRUMENTS, EQUIPMENT, CLEAN UP PER AUTOPSY). PROVIDING THIS SERVICE ALSO MEANS THAT IN ALL

Evergreen Memorial Chapel, Inc.

737 E STREET TELEPHONE 270-5477
P.O. BOX 937 ANCHORAGE, ALASKA

PROBABILITY WE WILL ALSO PROVIDE FUNERAL SERVICES TO THE NEXT OF KIN UPON COMPLETION OF THE AUTOPSY.

WITH THE PASSAGE OF THIS BILL, THERE WOULD BE NO ECONOMIC JUSTIFICATION FOR OUR CONTINUING TO PROVIDE DELIVERY AT SUCH LOW COST. THE STATE'S DELIVERY SYSTEM WOULD EVAPORATE. THE STATES COST ANALYSTS HAVEN'T CONSIDERED THIS IN THEIR FISCAL NOTE.

OTHER GLARING OVERSIGHTS IN THE FISCAL NOTE APPEAR. THERE IS NO PROVISION FOR THE COST OF EITHER SETTING UP A TOXICOLOGY OR HISTOLOGY LABORATORY, OR FOR CONTRACTING THE SERVICE OUT TO A PRIVATE PARTY--ALTHOUGH THE BILL AUTHORIZES THE MEDICAL EXAMINER TO DO ONE OR THE OTHER.

THE FISCAL NOTE STATES THAT THE MEDICAL EXAMINER COULD DO 300 AUTOPSIES PER YEAR. THERE ARE NO PROVISIONS TO PAY AN ASSOCIATE OR ASSISTANT MEDICAL EXAMINER TO DO THE OTHER 300 THAT WOULD BE NECESSARY. OR TO CONTRACT THEM OUT.

NO ESTIMATES ARE MADE FOR THE COST OF ESTABLISHING ASSISTANT MEDICAL EXAMINER OFFICES IN CITIES AROUND THE STATE. ALSO, THERE ARE NO PROVISIONS MADE FOR ADMINISTRATIVE COSTS, SUCH AS BOOKEEPING, ACCOUNTING, LEGAL AID, ETC. WHICH COULD EASILY ADD AN ADDITIONAL 15% TO THE TOTAL COST OF THE SYSTEM.

AS NEAR AS WE CAN ESTIMATE, YOU WOULD AT LEAST TRIPLE THE PRESENT COST OF PERFORMING THE SAME SERVICE--MORE LIKELY QUADRUPLE IT. THE FISCAL NOTE IS JUST THE TIP OF AN ICEBERG. IF THIS BILL PASSES, YOU WILL LEAVE THE LEGISLATURE PRONE TO FUTURE BUDGET INCREASES. INCREASES NECESSARY IN THE NAME OF "JUSTICE" AND "LAW AND ORDER".

2. LEGAL WISDOM IN RESEARCHING THE LAWS OF SISTER STATES, I CAN FIND ABSOLUTELY NO PRECEDENT FOR PLACING THE OFFICE IN THE HANDS OF THE POLICE. THIS FUNCTION SHOULD RIGHTFULLY REMAIN A JUDICIAL RESPONSIBILITY. AS ANCHORAGE POLICE CHIEF BRIAN PORTER PUTS IT, "THE ESTABLISHED NEUTRALITY OF THIS INSTITUTION IS NECESSARY".

3. THE CURRENT SYSTEM WORKS: THE CORONERS WHICH WE WORK WITH STATE WIDE ARE COMPETENT, DEDICATED SERVANTS OF THE COURT AND THE PEOPLE. THEY UNDERSTAND THE LAW. WHEN THEY NEED MEDICAL EXPERTISE TO ASSIST THEM, THEY GET IT. NO SYSTEM RUN BY HUMAN BEINGS IS PERFECT, BUT THESE PEOPLE DO A FINE JOB. WHY TRY TO FIX SOMETHING WHICH ISN'T BROKEN?

4. ECONOMICS IF THIS BILL PASSES, YOU WILL TAKE AT LEAST \$200,000 PER YEAR FROM THE PRIVATE SECTOR OF THE STATE'S ECONOMY. MONEY WHICH HELPS PAY FOR FACILITIES AND SERVICES PROVIDED BY INDEPENDENT PHYSICIANS, LABORATORY WORKERS, FUNERAL HOMES, ETC. IN RETURN YOU ARE GOING TO CREATE MORE GOVERNMENT AND THE NEED FOR MORE TAX MONEY. LORD KNOWS WE HAVE ENOUGH GOVERNMENT ADMINISTRATORS AND WORKERS ALREADY.

Other glaring oversights in the fiscal note appear. There is no provision for the cost of either setting up a toxicology or histology laboratory, or for contracting these services from a private party, although the bill authorizes the medical examiner to do one or the other.

The fiscal note states that the Medical Examiner could do 300 autopsies per year. There are no provisions to pay an associate or assistant medical examiner to do the other 300 that would be necessary, or to contract them out.

No estimates are made for the cost of establishing assistant medical examiner offices in cities outside of Anchorage. Also, there are no provisions made for administrative costs, such as accounting and legal services which could easily add an additional 15% to the total cost of the system.

As near as we can estimate, you would at least double the present cost for delivery, facility, assistance, equipment, and pathology services (including toxicology and histology). More likely, you will triple the cost and perhaps quadruple it.

The fiscal note is just the tip of an iceberg. If this bill passes, you will leave the Legislature wide open to future budget increases, increases requested in the name of "justice" and "law and order".

2. LEGAL WISDOM: In researching the laws of sister states, I can find absolutely no precedent for placing the office of the Coroner or Medical Examiner in the hands of the police. This function should rightfully remain a judicial responsibility or at least be independent. Quite frankly, the thought of the whole thing scares me.

3. THE CURRENT SYSTEM WORKS: The coroners which we work with state-wide are competent, dedicated servants of the Court and the people. They understand the Law. When they need medical expertise to assist them, they get it. No system run by human beings is perfect, but these people do a fine job. Why try to fix something which isn't broken? It's like cutting off your head to spite your nose.

4. ECONOMICS: If this system passes, you will take at least \$200,000.00 per year from the private sector of the State's economy. Money which helps pay for facilities and services provided by independent physicians, laboratory workers, funeral homes, etc. In return, you are going to create more government and the need for more tax money. Lord knows we have enough civil servants and government administrators already.

Sir, you asked me for some suggestions which would improve the situation. Had to sleep on that a little, but here goes:

A. The Alaska Court System currently sets no standards for the facilities or equipment used in performing these autopsies (such as size, construction, location, lighting, ventilation, etc.). If there is a problem in this regard, it could easily be solved by setting some standards and letting the private sector provide the facilities.

IN ADDITION TO OUR DESIRE TO SEE THIS BILL DEFEATED,
THERE ARE A FEW SUGGESTIONS WHICH MIGHT BE IN ORDER
TO IMPROVE THE CURRENT SYSTEM.

A. THE ALASKA COURT SYSTEM CURRENTLY SETS NO STANDARDS
FOR THE FACILITIES OR EQUIPMENT USED IN PERFORMING THESE
AUTOPSIES. STANDARDS SUCH AS SIZE OF FACILITY, TYPE OF
CONSTRUCTION, LIGHTING REQUIREMENTS, VENTILATION, KINDS OF
EQUIPMENT, ETC. IF THERE IS A PROBLEM IN REGARD TO THE
ADEQUECY OF FACILITIES, IT COULD EASILY BE RECTIFIED.

B. REQUEST THAT THE CURRENT CORONERS BE ALLOWED TO RUN
THEIR OFFICES WITHOUT CONSTANT INTERFERENCE FROM COURT
SYSTEM ADMINISTRATORS.

C. PROVIDE THE CORONERS WITH ADEQUATE FUNDING TO DO THEIR
JOB.

THANK YOU FOR YOUR ATTENTION.

RESPECTFULLY,


LEE MOEGLIN

MARCH 27, 1978

BOB SPEED
ADMINISTRATIVE ASSISTANT
HOUSE JUDICIARY COMMITTEE
POUCH V
JUNEAU, ALASKA 99811

BOB:

ENCLOSED IS A COPY OF A LETTER I SENT TO REPRESENTATIVE CARPENTER. ALSO A COPY OF A SUBSTITUTE VERSION OF HB392. I THINK MY LETTER TO HIM EXPLAINS ITS' ORIGIN AND EXISTANCE.

AT THE AIRPORT ON THE MORNING OF MARCH 24, I HAD THE OPPORTUNITY TO TALK TO CAPTAIN DEAN BIVINS OF THE ALASKA STATE TROOPERS. I WANTED TO MAKE IT CLEAR TO HIM THAT OUR PROBLEMS WERE NOT WITH INVESTIGATORS IN THE CRIMINAL INVESTIGATION BUREAU, BUT RATHER WITH SOME INCOMPETENT ADMINISTRATION. WE HAVE NOTHING BUT HIGH REGARD FOR THESE MEN IN THE FIELD.

HE SAID THE ONLY REASON HE WAS IN FAVOR OF THE BILL WAS THAT IT WOULD MEAN THEY COULD HAVE A PATHOLOGIST AT THE SCENE. I POINTED OUT TO HIM THAT PATHOLOGISTS COULD BE AT THE SCENE NOW IF THEY WERE REQUESTED AND IF THE COURT SYSTEM OR THE STATE POLICE WERE WILLING TO PAY FOR THEIR TIME. HE AGREED.

IF THE DEPARTMENT OF PUBLIC SAFETY COMES UP WITH A NEW FISCAL NOTE FOR THE BILL, COULD YOU PLEASE SEND A COPY TO ME RIGHT AWAY. ALSO, IF AT ANY TIME YOUR COMMITTEE WOULD LIKE ME TO RE-APPEAR TO ANSWER QUESTIONS, I WOULD BE GLAD TO. JUST GIVE ME A LITTLE WARNING SO THAT I CAN REARRANGE MY SCHEDULE.

THANKS FOR YOUR COURTESY.


LEE MOEGLIN

Evergreen Memorial Chapel, Inc.

737 E STREET TELEPHONE 279-5477
P.O. BOX 537 ANCHORAGE, ALASKA

COMMENTS CONCERNING THE FISCAL NOTE FOR HB392/SB 285

ATTACHED IS A COST COMPARISON COMPILED BY MYSELF WITH ASSISTANCE FROM OTHER PARTIES AND AGENCIES FAMILIAR WITH ALL OR PART OF THE DEATH INVESTIGATION SYSTEM IN ALASKA. THESE ARE NOT INFLATED FIGURES. IF ANYTHING THEY ARE TOO CONSERVATIVE.

WHAT I HAVE ATTEMPTED TO DO IS PREPARE A REALISTIC COMPARISON OF THE COST OF RUNNING THE PRESENT SYSTEM AS OPPOSED TO THE COST OF THE PROPOSED NEW SYSTEM.

THE ALASKA COURT SYSTEM WHICH MANAGES THE CURRENT SYSTEM SAYS THAT IT BUDGETS \$225,000 FOR PERFORMING AUTOPSIES.

ADDING TOGETHER THE \$180,000 PER YEAR THAT THE COURT SYSTEM PLANS TO KEEP FOR "ONGOING PROGRAMS", \$616,660 TO ESTABLISH A LABORATORY AND AUTOPSY FACILITY, THE COST OF ESTABLISHING ASSISTANT MEDICAL EXAMINER OFFICES STATEWIDE, ADMINISTRATIVE COSTS, PURCHASING NEW EQUIPMENT, SERVICING OLD EQUIPMENT, AND ALLOWING FOR INFLATION AND UNKNOWN COSTS WILL EASILY BRING THE COST OF IMPLEMENTING THIS BILL TO IN EXCESS OF ONE MILLION DOLLARS PER YEAR.

A MILLION DOLLARS PER YEAR IS A FAR CRY FROM THE PREDICTIONS IN THE FISCAL NOTE OR THE CURRENT COST OF RUNNING OUR PRESENT SYSTEM.

RESPECTFULLY SUBMITTED,



LEE HOEGLIN
EVERGREEN MEMORIAL CHAPEL, INC.
737 E ST.
ANCHORAGE, AK. 99501 279-5477

3-17-78