

CITIZENS LEAGUE REPORT

No. 103

Establishing a Medical Examiner system.

February 1959

REPORT OF CORONER-MEDICAL EXAMINER SUB-COMMITTEE
OF PUBLIC SAFETY COMMITTEE
THE CITIZENS LEAGUE OF MINNEAPOLIS & HENNEPIN COUNTY

1. BACKGROUND, PURPOSE AND SCOPE OF STUDY:

- (a) Inquiry into need for state-wide bill or special Hennepin County bill establishing medical-examiner system in place of existing coroner system.
- (b) If such legislation is deemed warranted, a consideration of the necessary and desirable features of such legislation.

2. METHODS OF STUDY:

- (a) Coroner-Medical Examiner Sub-Committee Members: Douglas Amdahl, Wayne Bennett, Mrs. Guy Crawford, M. F. Dougherty, W. Cable Jackson, C. Paul Jones, Yale Kamisar, Mrs. Alta Leonard, Edward Mattson, Verne Moss and G. Kendall Smith listened to talks by and discussed various matters with: Dr. William B. Guthrie, Hennepin County Coroner; Dr. A. J. Henderson, Ramsey County Coroner; Tom Flaherty, Dr. Henderson's Chief Investigator; George Scott, Hennepin County Attorney; Warren Blaisdell, Secretary of the Law Improvement Committee of the Minnesota State Bar Association; and Goodrich Sullivan, Chairman of the Sub-Committee of the Law Improvement Committee which drafted a prior state-wide Medical Examiner Bill; and the Chairman talked privately with Attorney Jule Hannaford, representative of the Minnesota Medical Association.
- (b) Committee members read and considered the proposed state-wide bill (Attachment A), a proposed Hennepin County bill (attachment B), a report to the 1957 state legislature by a committee favoring retention of the coroner system (attachment C), and a short article by Dr. Henderson written for Minnesota Medicine dealing with the duties of the coroner and deputy coroner (attachment D).
- (c) G. Kendall Smith and Yale Kamisar read and considered: a 1953 report on the Minnesota Coroner System by Louis P. Hiniker, graduate student in political science at the University of Minnesota (reprinted in National Municipal League, Coroners in 1953: a Symposium of Legal Bases and Actual Practices (3d ed. 1955); National Municipal League, A Model State Medico-Legal Investigative System (1954); Abernethy, How To Get Away With Murder, True Magazine, July 1958, p. 48; Andrews, What You Should Know About Your Coroner, The Rotarian, Aug. 1957, p. 29; Lawyers and Doctors Lead Attacks on Coroner Systems, 42 J. Am. Jud. Soc'y. 134 (1958).

3. FINDINGS

Under existing law, the county coroner need not be medically trained. According to Dr. Henderson, 36 of the 87 county coroners are not so trained. Of these, most are undertakers. The 1953 Hiniker report lists 26 undertakers, 3 osteopaths, one dentist and two insurance salesmen among the non-medically trained Minnesota coroners.

We are persuaded that a significant number of incidents of foul play may go undetected because the coroner is not medically trained. We think it relevant that according to the Hiniker report only 4.2 per cent of deaths occurring in rural areas were autopsied while 35 per cent were autopsied in Minneapolis.

We are convinced that medically trained personnel should perform the coroner's functions. Even Dr. Henderson, who is in favor of maintaining the coroner system, agreed that there should be a M. D. qualification for coroner candidates on a state-wide basis as is the law in St. Louis county.

We are disturbed by the substantial number of undertaker-coroners, particularly when under existing law, 390.08, coroners are prohibited "from influencing, interfering with, or in any manner attempting to direct or designate the undertaker who shall take charge of or inter any corpse from such morgue."

It is pointed out in 12 J. Am. Jud. Soc'y. 135:

"Authorities say the undertaker-coroner combination is common in this country and particularly undesirable. As coroner, an undertaker is called to view the remains of about one-fifth of all persons who die. He has a business advantage in securing these bodies for burial. When the case involves murder, the undertaker coroner may be selling funeral arrangements to a surviving spouse who might well have been involved in the murder. Under these conditions, there is a tendency to embalm first and investigate later. Unfortunately, embalming destroys many sources of information useful in determining the cause of death."

The coroner's office is presently a political one. We believe that the office, like many other technical, non-policy-making posts, ought not to be elective. We believe that better men will be available for the office if the ordeal of a political campaign is eliminated. Again, Dr. Henderson agreed too that he would "rather not" engage in a political campaign every four years.

Under existing law, 390.11 of the Minnesota Code, the coroner "shall hold inquests, post mortem examinations or autopsies upon the dead bodies of such persons as are supposed to have come to their death by violence and may hold such inquest when the death is believed to have been and was evidently occasioned by accident or casualty".

Considering that the coroner is subject to an action for damages if the courts hold that his autopsy was unauthorized, we feel the current statutory authority is not sufficiently clear or specific; nor do we find it extensive enough to protect the welfare of the community. For example, there seems to be no existing authority to investigate a death in order to ascertain the appearance or spread of an epidemic. We believe that these objections are met by Section 6 of the proposed bill (Attachment A)

We believe coroner's juries and coroner's inquests are an unnecessary expense and should be abolished. The chief argument for maintaining them is that a coroner jury's finding in favor of a suspect protects a prosecuting attorney who otherwise might be criticized for not taking the case to the grand jury. Both county attorney George Scott and assistant county attorney C. Paul Jones, however, firmly stated they neither wanted nor needed such protection.

It appears that Twin City laboratories and pathological services can adequately serve any county of the state.

We are not impressed that a medical-examiner system will be substantially more costly than the existing coroner system, but our opinion may be altered when out-of-state inquiries are answered. Indeed, the 1954 Legislative Research Committee Report indicated that a medical-examiner system might prove less costly. Along these lines, information was presented to the committee that indicates a qualified pathologist is available for \$12,500 per annum if he is permitted the privilege of retaining outside dignified practice. Other ways to reduce the salary of medical examiner, as such, would be to allow him to teach law or medical courses. This would also be desirable in that it would dignify the position and thus attract better qualified men.

There is some disagreement as to where to place the State Medical Examiner in the state administrative structure. Warren Blaisdell thought it advisable to put it under the Board of Health as opposed to the Bureau of Criminal Apprehension. He was of the view that putting it under Criminal Apprehension might create a "Police flavor" disturbing to a grieving family and might result in an overemphasis of the criminal aspects of the death as compared to broader aspects, e.g., the presence of an epidemic. Dr. Guthrie and Mr. Scott thought that the duties of the medical examiner are such that the Bureau of Criminal Apprehension would be the more appropriate state agency. These authorities did agree with the Minnesota Medical Association that most desirable would be to have it as an independent unit of government but that wherever the office is placed in the administrative structure is not of major importance, because it will be operated largely independent of any state agency. We therefore find acceptable the Bar Association proposal that the office be under the control and supervision of the State Board of Health.

After considerable deliberation, we believe the best strategy to employ is to lend all our support to the state-wide bill first rather than jeopardizing the state-wide bill's passage, by pressing for a local bill at the same time and thereby bringing divergent views to the attention of the legislature. Therefore, while we favor the local bill in principle (it is still in the process of minor revision) and agree that such a bill should be filed, we believe we should not actively support it unless the state-wide bill be doomed.

It is noted that the Hennepin County bill eliminates the office of Coroner while the state-wide bill does not. Mr. Blaisdell explained that the State bill anticipated a vacuum existing if the coroner were abolished before every part of the state was fully serviced by the new Medical Examiner System, or transfer of the Coroner's other duties to another office had been arranged.

4. CONCLUSION AND RECOMMENDATIONS

For the reasons outlined above we recommend that the League support proposals for a medical-examiner system; that it first support the Minnesota Bar Association's state-wide bill providing for a State Medical Examiner; and, when and if it becomes apparent that such a bill will not achieve passage, that it immediately shift support to the bill establishing a Hennepin County Examiner.

Lyle R. ... Chairman

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