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LEGISLATIVE REFERENCE

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FIRE DEATHS IN

MARYLAND

A RESPONSE TO LEGISLATION

(HB 1034)

RECEIVED

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HALL OF RECORDS

General Assembly

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INTRODUCTION

HB 1034 was passed by the legislature and signed by Governor Hughes in the 1984 session. (See appendix A) Briefly, the legislation required that autopsies be performed on firefighters who die in the line of duty, and that this be supplemented by certain tests for toxic substances, microscopic tissue studies and the issuance of written reports on the effects of the fumes on human tissues. The Bill further established an effective date and required the Department of Health and Mental Hygiene to conduct a study to determine the feasibility of applying the Bill to persons other than firefighters.

The purpose of the legislation was to insure the eligibility of firefighters to receive Federal benefits under the Public Safety Officers Benefit Act of 1976, and to address the larger issue of fire deaths in Maryland.

Death by fire in the United States occurs at a level considerably higher than that in West European nations. Recent legislation concerning smoke detectors and advances in the building codes and other areas are a response to this situation.

Fire deaths in the State of Maryland as in most of the country are most common in the home. Fire deaths in the State are illustrated in Appendix B which represents data supplied by the Bureau of Vital Statistics. Although the actual number per year varies the annual rate is approximately 100. Roughly half of the fire death cases in any particular year are autopsied. The figures are given in Appendix C for 1983. (Where injury by fire has been followed by a significant period of hospitalization with resultant death, autopsy is not necessary because considerable information is available from the hospital record, and specimens obtained for possible toxicological use taken even a few hours after injury by fire would yield meaningful data concerning toxic exposure during the fire.)

BACKGROUND

In the mid-1970's the Office of the Chief Medical Examiner (OCME) of the State of Maryland was a participant in the "Research Applied National Needs" (RANN) study instituted by the National Science Foundation (NSF). Under the program the Applied Physics Laboratory at Johns Hopkins University conducted a major research project extending over 7 years. One quarter of the budget of this project was used to investigate fire deaths in the State of Maryland. Background information and biologic specimens were provided from fire death autopsies performed by the OCME. Cyanide and carbon monoxide levels were determined at the OCME toxicology unit, and other more sophisticated toxicologic work was conducted by the vast resources of APL with support by considerable Federal funding. This study continued for several years and produced some of the most significant literature in the field. Eventual budget restrictions curtailed the program and the mechanisms for pursuing these studies has been dismantled and is no longer available even at the Applied Physics Laboratory. The reinstitution of this program is therefore not feasible. Other programs of historic interest in the field are mentioned in the Independent Study.

INDEPENDENT STUDY

An Independent Study was carried out under the legislative mandate "to determine the feasibility of carrying out versions of this act with respect to other than firefighters". The study gives some historical and scientific background of the present state of knowledge of fire deaths. Scientifically, it is pointed out that the exact mechanisms of carbon monoxide and cyanide poisoning are known whereas the effects in biologic systems of the many other products of combustion are to be viewed with a significantly lesser degree of certainty. The mechanisms of death and incapacitation alleged to be due to these other products of combustion are highly speculative and are not of sufficient soundness to allow the required description of their "specific effects... on human tissue". Interpretation of cyanide levels is questionable since valid results are only produced when specimens are obtained shortly after death. The determination of the levels of other substances are not routine and methodologies would have to be developed for the individual laboratory. For the OCME this would require considerable expenditure (See appendix D). With the cost during the first year of over \$200,000 and subsequent yearly cost of over \$50,000, it would also need to be emphasized that this machine would have to be entirely devoted to analysis of specimens from the 100 fire deaths per year in the State and would not be available to significantly contribute to the analysis of the thousands of other cases analyzed yearly by the OCME. It would take at least a year to develop procedures to begin production of reliable results. At this point, although numerically accurate numbers could be generated interpretation of the results would still be speculative as the mechanism of action of many of the compounds to be studied are as yet unknown. The fact that a product of combustion is found in a deceased

person does not indicate whether the substance did not affect the person in an adverse way. Thus, OCME agrees with the Independent Study that considerable basic research in this area would be required before the association of any particular substance with the death of an individual could be made.

HOUSE ENVIRONMENTAL MATTERS COMMITTEE LETTER

The House Environmental Matters Committee raised four questions (See appendix E) related to HB 1034 and these were addressed by the Independent Study. The OCME strongly agrees with the opinions of the Independent Study in its answers to these questions. The Study's responses are well thought out, and show clear understanding of the many issues involved. Emphasis is placed by OCME on those aspects of the Study's responses which underscore the necessity for significant funding. Question #1 (Grant money availability to defray cost) is important for its reflection upon the problem of quality control and the possibility of conflict of interest when dealing with any organization supported even in part by private resources. OCME knows of no independent laboratory which performs the relevant analyses on a routine fee-for-service basis. Although some determinations can be done in a research lab setting it is not appropriate to interpret the results of such tests on a practical level with current procedures and level of knowledge. It would therefore be necessary to develop procedures and standards internally to produce results for which the Office would be held accountable. These same factors are also relevant to question 4b of the Environmental Matters Committee concerning "contracting out" of the toxicology work.

EXISTING LEGISLATION

An additional problem area with the existing legislation not addressed by House Environmental Matters Committee concerns the portion dealing with family objection to autopsy. In HB 1034 the phrase "If the family of the deceased does not object" is in sharp distinction to previous existing Medical Examiners statute. It was added to HB 1034 in recognition of the Medical Examiner law objection on religious grounds as stated in Health-General §5-310 (b) (2) (See appendix F). This section of the existing statute requires the Medical Examiner to recognize objection on religious grounds but allows the autopsy to be performed on the authorization of the Chief Medical Examiner or his designee. HB 1034 as written prevents the Medical Examiner from exercising this critical authority and allows the family of a firefighter to object for any reason. (The likely intent of the legislature was to include the recognition of religious objection for families of firefighters where HB 1034 is mandating autopsy, but the final bill does not specifically limit objection to religious grounds and therefore affords the family of a firefighter unlimited reason to object to autopsy. There is further confusion of this issue in the revised fiscal note dated April 26, 1984 (see appendix D) which in the Summary of Legislation states that "The deceased firefighter's family must approve the proposed type of autopsy". Although this fiscal note does not constitute statute, it does provide a potential source of misinformation for legislators concerned with this issue.)

FIREFIGHTERS AND BENEFITS

In that State of Maryland, it has long been the policy of the OCME to autopsy individuals who die while at work. This is even more the case when public safety officers, especially firefighters and police are involved. Over the years all firefighters have been autopsied and since the availability of Federal benefits, all have received these benefits. Application procedure on the part of the estate has involved submission of certified copies of the autopsy protocol and toxicology studies routinely prepared by this Office. The Office knows of no instance where difficulty has been experienced by the estate because of any deficiency in the services rendered by this Office. Clearly, the procedures and protocol have proven to be more than adequate for the purpose. Examination of Federal legislation (See appendix G) does not reveal the requirement for autopsy or toxicologic studies as being essential for the estate to collect the benefits under the act. Although the application form (see appendix H) requests the submission of all notarized autopsy and toxicological reports, further examination shows that if these are not available a statement to that effect will suffice in lieu of the documents. Thus, in Maryland where both certified autopsy and toxicology reports have been available for years, it is evident that the service provided by the OCME in Maryland exceeds the minimum requirements for benefits and the Office has always thus most properly represented the interests of the families of firefighters. The anticipated expenditures of expanded toxicological analysis in fire deaths will not add to the benefits received by the firefighters survivors.

OCME ACTIVITIES

During the last year there has been renewed interest in death by fires at the OCME. Two national meetings have been attended by various members of the staff. In June, 1984 the "National Conference on Fire Toxicity" sponsored by the Consumer Product Safety Commission and NASA was held in Arlington, Virginia. In August the National Institute of Building Sciences held a meeting titled "Toxicity '84 Conference" in Washington. The Acting Chief, Chief Toxicologist and Chief Accident Investigator attended these meetings. The meetings were each highlighted by numerous examples of considerable variance of opinion of the significance of the work done by competing groups in the area. Despite considerable work in the area, it is evident that the interpretation of studies and data is controversial at best. On February 11, 1985 the Acting Chief will attend the "Symposium of Recent Advances in Arson Analysis and Detection" to be given as part of the American Academy of Forensic Sciences "37th Annual Meeting".

A survey was made by the OCME of several prominent Medical Examiner Offices. They were asked by an unbiased letter to evaluate HB 1034. A copy of the letter and the responses received are attached. (See appendix J) It is of interest that the concerns of other prominent Medical Examiners are eventually the same as those of this office. The contradictory phrase of the section on family object and the questionable applicability of research level toxicologic determination highlight the responses.

CONCLUSIONS

Death by fire represents a tragic and costly factor in American life that needs to be addressed from many directions. State, Federal and Local efforts aimed at fire prevention and control are most important means to the reduction of this loss. HB 1034 represents a significant step in Maryland to insure benefits for the survivors of firefighters who die in the line of duty and to attempt to learn more about the cause or causes of death in fires. Much basic research on fire deaths need to be done to determine the biologic effects of the numerous materials produced by burning. With appropriate funding and of the support the OCME could again become a major contributor to research in this field. The results of such an effort combined with those of other groups could begin to yield a data based upon which practical interpretation could be based in the future.

APPENDIX A

(HB 1034)

HOUSE BILL No. 1034
(41r3086)

21

Introduced by Delegates Sher, DiPietro, Ryan, Taylor, McClellan,
and Muth

Read and Examined by Proofreader:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor,
for his approval this _____ day of _____
at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 Death by Fire - Autopsy

3 ~~FOR--the--purpose--of--expanding--the--scope--of--the--law--relating--to~~
4 ~~fire--fighters--who--die--in--the--line--of--duty--by--requiring--the~~
5 ~~medical--examiner--to--conduct--an--autopsy--on--any--person--whose~~
6 ~~death--appears--to--be--fire--related;--requiring--the--autopsy--to~~
7 ~~include--certain--tests;--and--requiring--the--medical--examiner--to~~
8 ~~investigate--the--source--of--toxic--fumes--and--the--effect--on~~
9 ~~human--tissue--in--certain--cases;--providing--that--the--Department~~
10 ~~of--Health--and--Mental--Hygiene--shall--conduct--a--certain--study~~
11 ~~of--the--feasibility--of--this--Act--by--a--certain--date;--and~~
12 ~~providing--for--a--certain--effective--date--for--this--Act--subject~~
13 ~~to--certain--contingencies.~~

14 FOR the purpose of requiring the medical examiner to conduct an
15 autopsy under certain circumstances on fire fighters whose
16 death in the line of duty appears to be fire related;
17 requiring the autopsy to include certain tests; requiring
18 the medical examiner to prepare certain reports; providing
19 that the Department of Health and Mental Hygiene shall

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
Underlining indicates amendments to bill.
Strike-out indicates matter stricken from the bill by
amendment or deleted from the law by amendment.

1 conduct a certain feasibility study by a certain date; and
2 providing for a certain effective date for this Act subject
3 to certain contingencies.

4 BY repealing and reenacting, with amendments,

5 Article - Health - General
6 Section 5-310(c)
7 Annotated Code of Maryland
8 (1982 Volume and 1983 Supplement)

9 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
10 MARYLAND, That the Laws of Maryland read as follows:

11 Article - Health - General

12 5-310.

13 (c) (1) [An autopsy of a fire fighter who dies in the line
14 of duty shall include a toxicological analysis for toxic fumes.]
15 IF THE FAMILY OF THE DECEASED DOES NOT OBJECT, A MEDICAL EXAMINER
16 SHALL CONDUCT AN AUTOPSY OF ANY PERSON FIRE FIGHTER WHOSE DEATH
17 IN THE LINE OF DUTY APPEARS TO BE FIRE RELATED, OR TO HAVE BEEN
18 CAUSED BY THE INHALATION OF TOXIC GASES OR TOXIC FIRE
19 ATMOSPHERES.

20 (2) THE AUTOPSY SHALL INCLUDE:

21 (I) A TOXICOLOGICAL ANALYSIS FOR TOXIC FUMES;

22 (II) GROSS AND MICROSCOPIC STUDIES OF HEART,
23 LUNG, AND ANY OTHER TISSUE INVOLVED;

24 (III) APPROPRIATE STUDIES OF BLOOD AND URINE;
25 AND

26 (IV) APPROPRIATE STUDIES OF BODY FLUIDS AND
27 BODY TISSUES.

28 (3) IF THE MEDICAL EXAMINER DETERMINES TOXIC FUMES
29 WERE THE CAUSE OF DEATH, THE MEDICAL EXAMINER SHALL INVESTIGATE
30 THE--SOURCE--OF--THE-FUMES-AND-THE-FUMES-SPECIFIC-EFFECT-ON-HUMAN
31 TISSUE PREPARE A WRITTEN REPORT ON THE SPECIFIC EFFECTS OF THE
32 FUMES ON HUMAN TISSUE.

33 [(2) The] (4) IN THE CASE OF A FIRE FIGHTER WHO DIES
34 IN THE LINE OF DUTY, THE analysis shall be sufficient to
35 determine eligibility for benefits under the federal Public
36 Safety Officers' Benefits Act of 1976.

37 SECTION 2. AND BE IT FURTHER ENACTED, That the Department
38 of Health and Mental Hygiene shall conduct a study by January 1,
39 1985 to determine the feasibility of carrying out the provisions
40 of this Act with respect to persons other than fire fighters.

1 ~~SECTION 2. ---AND BE IT FURTHER ENACTED, That this Act shall~~
2 ~~take effect July 1, 1984.~~

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall
4 take effect on July 1, 1985 subject to (1) the approval of a
5 study to determine the feasibility of this Act by the Department
6 of Budget and Fiscal Planning; and (2) the availability of funds
7 to carry out the purposes of this Act.

Approved:

Governor.

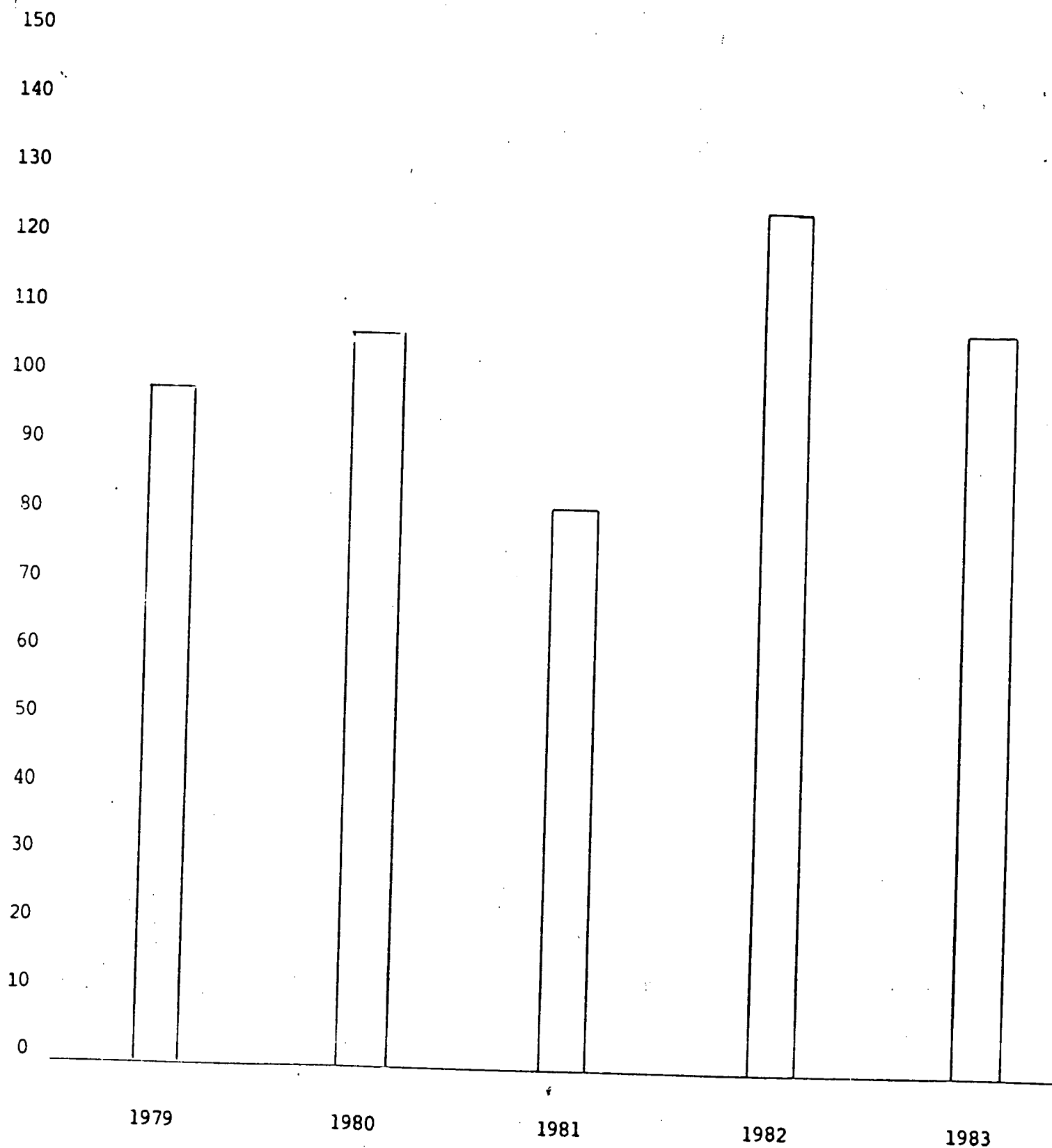
Speaker of the House of Delegates.

President of the Senate.

APPENDIX B

MARYLAND FIRE DEATHS 1979 - 1983

MARYLAND RESIDENT FIRE DEATHS (EXCLUDING SUICIDES) BY SPECIFIED VARIABLES FOR THE YEARS
1979 TO 1983



APPENDIX C
1983 FIRE DEATHS

MARYLAND RECORDED FIRE/BURN DEATHS BY
ATTENDANT AND REPORT OF AUTOPSY FOR THE
1983 CALENDAR YEAR

ATTENDANT BY AUTOPSY REPORT	FIRE DEATHS
TOTAL	109
AUTOPSY	
YES	48
NO	61

APPENDIX D

FISCAL NOTE
(April 26, 1984)

6-11-84

DEPARTMENT OF FISCAL SERVICES

Telephone:
(301) 641-3710
(301) 858-7710

REVISED FISCAL NOTE

Replaces Revised Fiscal Note Dated:
March 28, 1984

House Bill 1034 (Delegate Sher, et al)

HB 1034

Environmental Matters

Referred to Finance

SUMMARY OF LEGISLATION: This enrolled bill requires medical examiners to perform an autopsy on fire fighters whose death in the line of duty appears to be fire related or caused by the inhalation of toxic gases or toxic fire atmosphere. The deceased fire fighter's family must approve the proposed type of autopsy. The autopsy is to include: a toxicological analysis for toxic fumes; gross and microscopic studies of heart, lung, and other tissue; and appropriate studies of blood, urine, body fluid and body tissue. If toxic fumes are determined to be the cause of death, the examiner will prepare a written report on the specific effect of the fumes on human tissue. The Department of Health and Mental Hygiene will conduct a study by January 1, 1985 to determine the feasibility of implementing this bill. This bill is effective July 1, 1985 subject to approval of the feasibility study by the Department of Budget and Fiscal Planning and allocation of funds for the additional personnel and equipment.

STATE FISCAL IMPACT STATEMENT: This bill will not increase FY 1985 expenditures but if implemented State expenditures will increase by \$200,760 for staff and equipment. State revenues are unaffected.

LOCAL FISCAL IMPACT STATEMENT: No effect.

STATE REVENUES: No effect.

STATE EXPENDITURES: The Department of Health and Mental Hygiene advises that the feasibility study can be performed using current personnel and resources. The State Chief Medical Examiner advises that this bill will increase State expenditures in the first year of implementation (FY 86) by approximately \$200,760 to conduct the required tests for an average of 2 fire deaths per year. This figure reflects salaries and fringe benefits for 2 chemists (\$40,000), and \$200,760 for testing and additional equipment:

Blood and Tissue Screening	\$240
Bile and Urine Tests	240
Blood Carbon Monoxide Tests	160
Blood Cyanide Screening	160
1 Gas Chromatic Graphic Spectrograph	150,000
1 Gas Chromatic Graphic Instrument	50,000
TOTAL	\$200,760

Future year expenditures reflect a 10% salary and benefits factor and a 6% operating cost factor.

Fiscal Note (Continued) - Page 2.
House Bill 1034

FY 87
\$51,200

FY 88
\$57,800

FY 89
\$63,700

SOURCE OF ESTIMATE: Agency/DFS Concurs

Per: L. E. Logan
als
April 26, 1984

L.E.L.

Joseph M. Coble, Director
Division of Fiscal Research

APPENDIX E
HOUSE ENVIRONMENTAL MATTERS COMMITTEE
LETTER



HOUSE OF DELEGATES

ANNAPOLIS, MARYLAND 21401-1991

LARRY YOUNG
39TH DISTRICT
BALTIMORE CITY

COMMITTEE
CHAIRMAN, ENVIRONMENTAL MATTERS

March 27, 1984

5
COPIES TO:
FREN

IN REPLY PLEASE REFER
TO OFFICE INDICATED
1716 MCCULLOH STREET
BALTIMORE, MARYLAND 21217
728-0062
516 N. CHARLES ST.
SUITE 501
BALTIMORE, MD 21201
727-6212

Honorable Adele Wilzack, Secretary
Department of Health and Mental Hygiene
201 West Preston Street
Baltimore, Maryland 21201

Dear Secretary Wilzack:

Re: HB-1034 - Death by Fire Autopsy

This bill, as amended, requires the Medical Examiner's office within the department to conduct an autopsy of any person whose death appears to be fire related or to have been caused by the inhalation of toxic gases or toxic fire atmospheres. The bill further requires that the autopsy shall include certain analyses and tests to be conducted by the Medical Examiner and, if the Medical Examiner determines toxic fumes were the cause of death, then the Medical Examiner shall investigate the source of the fumes and the fumes specific effect on human tissue. HB-1034, as amended by the Environmental Matters Committee, requires the Department by January 1, 1985, to conduct a study to determine the most effective method, if any, to carry out the provisions of this act.

The Environmental Matters Committee therefore directs the Department to include in its study the following questions:

- Policy (1) Is grant money available in whole or in part to help defray costs from the federal government, organizations such as the Fire Foundation or the insurance industry?
- Policy (2) Should this law be limited to fire fighters who die in the line of duty or should it cover any persons whose death appears to be fire related?
- Technical (3) What specific analyses studies, and tests are required to carry out the provisions of this act?

29

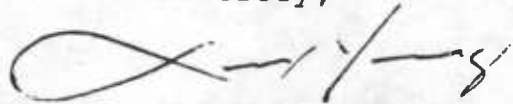
PLEASE RESPOND TO:
O COMMITTEE OFFICE, T.H. LOWE BUILDING, SUITE 161, ANNAPOLIS, MARYLAND 21401-1991
TOLL FREE 841-3534 (BALTO. AREA) 858-3534 (WASH. D.C. AREA)

Secretary Adele Wilzack
Page Two - March 27, 1984

- (4) (a) Is it cost effective for the Department to directly perform the specific objectives of this law?
- (b) Should the department contract out these services?
- (c) Are there public agencies or private organizations available to help defray the costs of conducting the test required under this law?

Your usual prompt and thorough attention to this matter is appreciated. Please contact my office if you have any further questions.

Sincerely,



Larry Young, Chairman
Environmental Matters Committee

LY:elw

APPENDIX F

MEDICAL EXAMINER LAW
HEALTH-GENERAL §5-310

§ 5-310. Autopsies.

(a) *When cause of death established.* — If the cause of death in a medical examiner's case is established beyond a reasonable doubt, the medical examiner who investigates the case shall file in the medical examiner's office a report on the cause of death within 30 days after notification of the case.

(b) *Autopsy required; exception.* — (1) If the medical examiner who investigates a medical examiner's case considers an autopsy necessary, the Chief Medical Examiner, the Deputy Chief Medical Examiner, an assistant medical examiner, or a pathologist authorized by the Chief Medical Examiner shall perform the autopsy.

(2) If the family of the deceased objects to an autopsy on religious grounds, the autopsy may not be performed unless authorized by the Chief Medical Examiner or by the Chief Medical Examiner's designee.

(c) *Autopsy on fire fighter.* — (1) An autopsy of a fire fighter who dies in the line of duty shall include a toxicological analysis for toxic fumes.

(2) The analysis shall be sufficient to determine eligibility for benefits under the federal Public Safety Officers' Benefits Act of 1976.

(d) *Findings.* — The individual who performs the autopsy shall prepare detailed written findings during the progress of the autopsy. These findings and the conclusions drawn from them shall be filed in the office of the medical examiner for the county where the death occurred. The original copy of the findings and conclusions shall be filed in the office of the Chief Medical Examiner.

(e) *Fee for pathologist.* — The Chief Medical Examiner shall set a reasonable fee for performing an autopsy by an authorized pathologist. (An. Code 1957, art. 22, § 7; 1982, ch. 21, § 2.)

APPENDIX G
FEDERAL PUBLIC SAFETY OFFICERS
DEATH BENEFITS LEGISLATION

42 § 3795 PUBLIC HEALTH AND WELFARE

Ch. 46

The Gun Control Act of 1968, referred to in text, is Pub.L. 90-618, Oct. 22, 1968, 82 Stat. 1213, for classification of which in the Code, see Short Title note under section 921 of Title 18, Crimes and Criminal Procedure.

The Criminal Justice Act of 1964, referred to in text, is classified to section 3006A of Title 18, Crimes and Criminal Procedure.

Title XI of the Organized Crime Control Act of 1970, referred to in text, is classified to chapter 40 (section 841 et seq.) of Title 18, Crimes and Criminal Procedure.

Title III of the Omnibus Crime Control and Safe Streets Act of 1968, referred to

in text, is classified to chapter 119 (section 2510 et seq.) of Title 18, Crimes and Criminal Procedure.

1973 Amendment. Pub.L. 93-63 substituted "each second fiscal year" and "a Report of" for "each fiscal year" and "an Annual Report on".

Effective Date of 1973 Amendment. Amendment of section by Pub.L. 93-63 effective on and after July 1, 1973, see section 3 of Pub.L. 93-63, set out as a note under section 3701 of this title.

Legislative History. For legislative history and purpose of Pub.L. 91-644, see 1970 U.S. Code Cong. and Adm. News, p. 5804. See, also, Pub.L. 93-63, 1973 U.S. Code Cong. and Adm. News, p. 1729.

Library References

Attorney General § 6.

C.J.S. Attorney General §§ 5, 6.

✓ SUBCHAPTER IX—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

§ 3796. Payment of death benefits

Amount; recipients

(a) In any case in which the Administration determines, under regulations issued pursuant to this subchapter, that a public safety officer has died as the direct and proximate result of a personal injury sustained in the line of duty, the Administration shall pay a benefit of \$50,000 as follows:

- (1) if there is no surviving child of such officer, to the surviving spouse of such officer;
- (2) if there is a surviving child or children and a surviving spouse, one-half to the surviving child or children of such officer in equal shares and one-half to the surviving spouse;
- (3) if there is no surviving spouse, to the child or children of such officer in equal shares; or
- (4) if none of the above, to the dependent parent or parents of such officer in equal shares.

Interim benefit payment

(b) Whenever the Administration determines, upon a showing of need and prior to taking final action, that the death of a public safety officer is one with respect to which a benefit will probably be paid, the Administration may make an interim benefit payment not exceeding \$3,000 to the person entitled to receive a benefit under subsection (a) of this section.

chapter 119 (sec-
title 18, Crimes and
dure.

ent. Pub.L. 93-83 substi-
fiscal year" and "a
each fiscal year" and "an
on".

ate of 1973 Amendment.
section by Pub.L. 93-83
d after July 1, 1973, see
Pub.L. 93-83, set out as a
tion 3701 of this title.

History. For legislative
urpose of Pub.L. 91-644, see
Cong. and Adm.News, p.
o, Pub.L. 93-83, 1973 U.S.
Adm.News, p. 1729.

ey General §§ 5, 6.

OFFICERS' DEATH

determines, under reg-
at a public safety offi-
personal injury
pay a benefit of

officer, to the survi-

children and a surviving
children of such officer
spouse;

the child or children

at parent or parents

s, upon a showing
ath of a public safe-
will probably be
it payment not ex-
nefit under subsec-

Ch. 46 LAW ENFORCEMENT ASSISTANCE 42 § 3796a

Deduction of interim payment

(c) The amount of an interim payment under subsection (b) of this section shall be deducted from the amount of any final benefit paid to such person.

Repayment of interim payment; waiver

(d) Where there is no final benefit paid, the recipient of any interim payment under subsection (b) of this section shall be liable for repayment of such amount. The Administration may waive all or part of such repayment, considering for this purpose the hardship which would result from such repayment.

Reductions from final benefit payment

(e) The benefit payable under this subchapter shall be in addition to any other benefit that may be due from any other source, but shall be reduced by—

- (1) payments authorized by section 8191 of Title 5;
- (2) payments authorized by section 12(k) of the Act of September 1, 1916, as amended (D.C.Code, sec. 4-531(1)).

Execution or attachment prohibited

(f) No benefit paid under this subchapter shall be subject to execution or attachment.

Pub.L. 90-351, Title I, § 701, as added Pub.L. 94-430, § 2, Sept. 29, 1976, 90 Stat. 1346.

Historical Note

Effective Date. Section 6 of Pub.L. 94-430 provided that: "The amendments made by this Act [enacting this subchapter, amending section 3768 of this title, and enacting provisions set out as notes under this section] shall become effective and apply to deaths occurring from injuries sustained on or after the date of enactment of this Act [Sept. 29, 1976]."

Short Title. Section 2 of Pub.L. 94-430 provided: "That this Act [which enacted this subchapter, amended section 3768 of this title, and enacted provisions set out as notes under this section] may be cited as the 'Public Safety Officers' Benefits Act of 1976.'"

Separability of Provisions. Section 5 of Pub.L. 94-430 provided that: "If the pro-

visions of any part of this Act [see Short Title note under this section] are found invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby."

Authority to Make Payments. Section 4 of Pub.L. 94-430 provided that: "The authority to make payments under part J of the Omnibus Crime Control and Safe Streets Act of 1968 [this subchapter] (as added by section 2 of this Act) shall be effective only to the extent provided for in advance by appropriation Acts."

Legislative History. For legislative history and purpose of Pub.L. 94-430, see 1976 U.S. Code Cong. and Adm.News, p. 2504.

§ 3796a. Limitations on benefits

No benefit shall be paid under this subchapter—

- (1) if the death was caused by the intentional misconduct of the public safety officer or by such officer's intention to bring about his death;

(2) if voluntary intoxication of the public safety officer was the proximate cause of such officer's death; or

(3) to any person who would otherwise be entitled to a benefit under this subchapter if such person's actions were a substantial contributing factor to the death of the public safety officer.

Pub.L. 90-351, Title I, § 702, as added Pub.L. 94-430, § 2, Sept. 29, 1976, 90 Stat. 1347.

Historical Note

Effective Date. Section effective Sept. 29, 1976, see section 6 of Pub.L. 94-430, set out as a note under section 3796 of this title.

Legislative History. For legislative history and purpose of Pub.L. 94-430, see 1976 U.S. Code Cong. and Adm. News, p. 2504.

§ 3796b. Definitions

As used in this subchapter—

(1) "child" means any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased public safety officer who, at the time of the public safety officer's death, is—

(A) eighteen years of age or under;

(B) over eighteen years of age and a student as defined in section 8101 of Title 5; or

(C) over eighteen years of age and incapable of self-support because of physical or mental disability;

(2) "dependent" means a person who was substantially reliant for support upon the income of the deceased public safety officer;

(3) "fireman" includes a person serving as an officially recognized or designated member of a legally organized volunteer fire department;

(4) "intoxication" means a disturbance of mental or physical faculties resulting from the introduction of alcohol, drug, or other substances into the body;

(5) "law enforcement officer" means a person involved in crime and juvenile delinquency control or reduction, or enforcement of the criminal laws. This includes, but is not limited to, police, corrections, probation, parole, and judicial officers;

(6) "public agency" means any State of the United States, District of Columbia, the Commonwealth of Puerto Rico, and territory or possession of the United States, or any unit of government, combination of such States, or units, or any department, agency, or instrumentality of any of the foregoing;

(7) "public safety officer" means a person serving a public agency in an official capacity, with or without compensation, as a law enforcement officer or as a fireman.

Pub.L. 90-351, Title I, § 703, as added Pub.L. 94-430, § 2, Sept. 29, 1976, 90 Stat. 1347.

APPENDIX H
FEDERAL BENEFIT APPLICATION FORMS



U.S. Department of Justice

Office of Justice Assistance, Research,
and Statistics

Washington, D.C. 20531

Date _____

Ref: PSOB Claim # _____, decedent

Dear Sir or Madam:

This letter is in response to our telephone conversation concerning the death of the public safety officer referenced above and his survivors' eligibility for benefits under the Public Safety Officers' Benefits Acts of 1976.

I have enclosed two claim forms which must be submitted to this office to file a claim for benefits. The form entitled "Report of Public Safety Officer's Death" must be completed and signed by the head of the decedent's employing agency. Documents to be submitted with the form are checked below:

- () Investigation report or detailed statement of circumstances. This document must bear the original signature of the reporting officer or the investigating agency's records custodian. It also must be notarized.
- () Complete autopsy report, bearing the original signature of an official in the medical agency that performed the autopsy. It also must bear the agency's raised seal or be notarized. If an autopsy was not performed, submit a statement to that effect bearing the original signature of the head of the decedent's employing agency or the medical examiner. It also must be notarized.
- () Toxicology report, bearing the original signature of an official in the medical agency that performed the toxicology analysis. It also must bear the agency's raised seal or be notarized. If a toxicology analysis was not performed, submit a statement to that effect bearing the original signature of the head of the decedent's employing agency or the medical examiner. It also must be notarized.
- () Death certificate, bearing the raised seal of the medical examiner or the Department of Health.
- () Emergency room and/or hospital records, bearing the original signature of the hospital's records custodian and also notarized.
- () Statement bearing the original signature of the head of the local government and notarized, indicating the volunteer fire department is legally organized and that its primary function is to provide fire services to the local community.
- () Rule, regulation or law which authorized or obligated the decedent to act in the line of duty outside of duty hours. This document must bear the original signature of an official in the issuing agency. It also must be notarized.
- () Decedent's official position description, bearing the original signature of the head of the decedent's employing agency or the agency's personnel officer. It also must be notarized. Also include applicable rules, regulations or laws which authorized the decedent to act as a law enforcement officer or fire fighter. This document must bear the original signature of an official in the issuing agency and it must be notarized.
- () Statement, bearing the original signature of the emergency medical technician and notarized, detailing the medical treatment administered to the decedent at the scene and enroute to the hospital. This statement should include the total number of minutes oxygen was administered.
- () Statement, bearing the original signature of the decedent's spouse or a close friend, and notarized, indicating whether or not the decedent smoked cigarettes, cigars or a pipe.

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The form entitled "Claim for Death Benefits" should be completed and signed by the claimant. If a person other than the claimant signs the claim form, an affidavit must be submitted by the claimant authorizing this individual to file the claim on her/his behalf. Documents to be submitted with this form are checked below:

- () Decedent's marriage certificate, bearing the raised seal of the agency that issued the certificate.
- () If either the decedent or spouse was previously married, provide a divorce decree for all previous marriages bearing the raised seal of the court of issuance. If a previous marriage ended with the death of a spouse, provide a copy of the spouse's death certificate bearing the raised seal of the medical examiner or the Department of Health.
- () Birth certificate for all surviving children, and/or stepchildren, regardless of age or dependency, which identifies the names of both parents and bears the raised seal of the Department of Health.
- () If the decedent is survived by a posthumous child, so indicate on item 13 of the "Claim for Death Benefits" and item 14 of the "Report of Public Safety Officer's Death." Indicate expected delivery date of the child in the "Date of Birth" column. When the child is born, provide this office with a certified copy of the birth certificate.
- () If the decedent is survived by an adopted child, provide a certified copy of the adoption papers or a certified copy of the child's revised birth certificate naming the decedent as a parent.
- () If the decedent is survived by a stepchild, provide two or more statements from persons who knew the decedent and the stepchild, indicating whether or not a parent-child relationship existed between them. These statements must describe the relationship between the decedent and the stepchild. They must bear the original signature of the individual making the statement and must be notarized.
- () If the decedent is survived by a child who is 19 years of age or older and mentally or physically incapable of self support, provide a statement from a qualified physician indicating the nature of the child's disability and certifying that the child is not capable of self support because of the disability. This statement must be signed by the physician and notarized.
- () If the decedent is survived by a child who is between 19 and 23 years of age and a full time student, provide (1) a certified copy of the child's student transcript; and (2) a statement from the school indicating its financial and/or management relationship with local or state government; and (3) a list of the organizations which accredit the school's programs. These documents must bear the original signature of a school official and must bear the raised seal of the school or a notary.
- () If the decedent is survived by a child who is 19 years of age or older, was not a full-time student at the time of the decedent's death, and is capable of self support, submit a statement to that effect, bearing the child's original signature and notarized.

We would appreciate the Department assisting the family in the preparation of its claim to ensure that all materials are included and properly certified. We suggest that both the family's and the Department's claim materials be submitted as one package to the following address:

Public Safety Officers' Benefits Program
Office of Justice Assistance Research and Statistics
633 Indiana Avenue, N.W.
Washington, D.C. 20531

It needs to be emphasized that every document requested must be provided to support a claim and that each document must be an original or a certified copy (e.g. bearing a raised seal and a certifying official's original signature). If a required document is not provided or properly certified, payment of benefits will be delayed.

If we have not answered all of your questions regarding documentation and submission of the claim, please call or write us. Our telephone number is (202) 724-7620.

Sincerely,

Public Safety Officers' Benefits Program

Enclosures



U.S. DEPARTMENT OF JUSTICE
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION
PUBLIC SAFETY OFFICERS' BENEFITS PROGRAM
WASHINGTON, D.C. 20531

REPORT OF PUBLIC SAFETY
OFFICER'S DEATH

APPROVED: OMB NO. 43-R0584

FOR LEAA USE ONLY

CASE NUMBER
SOCIAL SECURITY NUMBER
FIPS CODE
DATE

This information is being requested pursuant to Public Law 94-430, Public Safety Officers' Benefits Act of 1976, Section 701, and the disclosure is voluntary. Disclosure of an individual's Social Security number is voluntary. This form will be used by LEAA to determine eligibility for the payments of benefits and information may be disclosed to Federal, State and local agencies to verify eligibility for benefits. Failure to supply all of the requested information may result in a delay in processing this form and receipt of benefits.

1. NAME AND MAILING ADDRESS OF PUBLIC SAFETY AGENCY, ORGANIZATION OR UNIT IN WHOSE SERVICE DEATH OCCURRED
(Include zip code)

PART I: NOTICE OF LINE OF DUTY DEATH OF PUBLIC SAFETY OFFICER

2. NAME OF DECEASED OFFICER

3. DATE OF INJURY

4. DATE OF DEATH

5. SOCIAL SECURITY NO.

6. DECEASED OFFICER'S LAST MAILING ADDRESS
(Include zip code)

7. NAME OF DECEDENT'S SUPERIOR
OFFICER

8. SUPERVISOR'S AREA CODE
AND PHONE NO.

9. AT THE TIME OF INJURY WHICH RESULTED IN DEATH, WAS OFFICER PERFORMING IN THE LINE
OF DUTY? ☐ YES ☐ NO

AS A

POLICE OFFICER ☐

CORRECTIONS OFFICER ☐

PROBATION OFFICER ☐

PAROLE OFFICER ☐

FIREFIGHTER ☐

JUDICIAL OFFICER ☐

OTHER (Specify) ☐

IN THE SERVICE OF

STATE GOVERNMENT ☐

LOCAL UNIT OF GOVERNMENT ☐

LEGALLY ORGANIZED VOLUNTEER
FIRE DEPARTMENT ☐

OTHER (Specify) ☐

10. OFFICER'S EMPLOYMENT
STATUS WHEN INJURY
OCCURRED

☐ FULL-TIME

☐ PART-TIME

☐ VOLUNTEER

☐ OTHER (Specify)

11. WAS INJURY CONTRIBUTED TO BY:

OFFICER'S INTENTIONAL MISCONDUCT?

YES

NO

UNKNOWN

OFFICER'S INTENT TO BRING ABOUT HIS OWN DEATH?

OFFICER'S VOLUNTARY INTOXICATION?

ANY PERSON WHO MAY BE ENTITLED TO BENEFIT?

(Attach explanations for any "yes" answers.)

PART II: PLEASE CHECK AND ATTACH ALL APPLICABLE REPORTS RELATING TO THE DIRECT CAUSE OF OR
PROXIMATE CAUSE OF DEATH.

12. CERTIFIED COPY OF ORIGINAL REPORTS

MEDICAL REPORT (attending physician) ☐
CORONERS REPORT ☐
AUTOPSY REPORT ☐

INVESTIGATION REPORT ☐
OTHER (Identify) ☐

* If no investigation report exists please provide statement of circumstances leading to death.

13. IF KNOWN, GIVE NAME AND ADDRESS OF WITNESS(ES) WITH WHOM OFFICER WAS INVOLVED WHEN INJURED, IF NOT PROVIDED
IN THE ABOVE REPORTS.

PART III: INFORMATION CONCERNING POSSIBLE CLAIMANTS (Provision of this information does not constitute a finding for or against an Interim Payment of Benefits or Final Award of Benefits.)

14. NAMES, RELATIONSHIP, AND ADDRESS OF PERSONS IN PRECEDENCE ORDER AND APPLICABILITY CATEGORY AS FOLLOWS:

	NAME (Last, First, Middle)	DATE OF BIRTH	ADDRESS (Include City, State & Zip Code)
SURVIVING SPOUSE			
CHILDREN			
SURVIVING DEPENDENT PARENT(S) WHEN NEITHER SPOUSE NOR CHILDREN SURVIVE DECEDENT			

15. HAS A LEGAL GUARDIAN BEEN APPOINTED FOR ANY OF THE ABOVE MENTIONED CHILDREN? ☐ YES ☐ NO (IF "YES" GIVE NAME AND MAILING ADDRESS OF GUARDIAN)

GUARDIAN(S) NAME	ADDRESS (Include zip code)	GUARDIAN FOR: (List children's names)

PART IV: INFORMATION CONCERNING OTHER CLAIMS

16. TO YOUR KNOWLEDGE HAS OR WILL A CLAIM BE FILED FOR BENEFITS UNDER:

- | | | |
|---|--------------------------|--------------------------|
| A. FEDERAL EMPLOYEES COMPENSATION ACT, SECTION 8191, TITLE 5, U.S. CODE | YES | NO |
| B. DISTRICT OF COLUMBIA RETIREMENT AND DISABILITY ACT OF SEPT. 1, 1916, AS AMENDED SECTION 12 (K) | <input type="checkbox"/> | <input type="checkbox"/> |

PART V: CERTIFICATIONS A false answer to any question in this Statement may be grounds for non-payment of benefits and may be punishable by fine or imprisonment (U.S. Code, Title 18, Sec. 1001). All the information you give will be considered in reviewing the claim and is subject to investigation.

17. EMPLOYING ORGANIZATION - To the best of my knowledge and belief, the above stated information is true and complete.

TYPED NAME & TITLE	SIGNATURE	DATE
ORGANIZATION	ADDRESS (Include zip code)	PHONE NO.

18. IS THERE A RETIREMENT/DISABILITY BOARD WHICH WILL CONSIDER THE FACTS OF THIS CASE IN ORDER TO DETERMINE ELIGIBILITY FOR OTHER BENEFITS?

☐ YES ☐ NO

If "yes", please give address and telephone number of the Board.

REMINDER: ARE ALL REQUIRED DOCUMENTS ATTACHED (SEE PART II)?

NOTE: If completed claimant form has been forwarded to your organization, please mail immediately under separate cover to LEAA.

APPENDIX J
SURVEY OF MEDICAL EXAMINERS

B. THOMAS F. THOMAS, M.D., CHIEF
 J. L. THOMAS, M.D.
 ROBERT H. THOMAS, M.D.
 C. L. THOMAS, M.D.
 J. L. THOMAS, M.D.

EDITH HAINES, CHIEF
ADMINISTRATIVE PERSONNEL

43



COMMONWEALTH of VIRGINIA

Department of Health

Office of the Chief Medical Examiner
9 North 14th Street
Richmond, Virginia 23219

TIDEWATER DISTRICT
401 A COLLEY AVE
NORFOLK, VA 23507
(804) 623-8356

WESTERN DISTRICT
CARLTON TERRACE BLDG
927 S. JEFFERSON ST
ROANOKE, VA 24016
(703) 982-7290

CENTRAL DISTRICT:
9 NORTH 14TH STREET
RICHMOND, VIRGINIA 23219
(804) 786-3174

NORTHERN VA DISTRICT
FAIRFAX HOSPITAL
FALLS CHURCH, VA 22046
(703) 573-0290

November 14, 1984

Yale H. Caplan, Ph.D.
Toxicologist
Office of the Chief Medical Examiner
111 Penn Street
Baltimore, MD 21201

Dear Dr. Caplan:

You have requested my comments on Maryland House Bill No. 1034, the thrust of which appears to be to mandate a Medical Examiner's autopsy upon the body of any firefighter who dies "in the line of duty". The intent of this Bill is quite obvious: To qualify the survivor of such a dead firefighter for certain Federal and/or State death benefits under unique legislation applicable to law enforcement and public safety officers. How far the umbrella of such special legislation could be stretched is a matter of public policy at both the Federal and State levels. It is not difficult to discern the reason for Maryland Bill No. 1034.

It is in my opinion unwise to include in statutory law the specific mechanical directions for the performance of a Medical Examiner's investigation, autopsy, or the interpretation of the case. A statutory mandate, for instance, to test for "toxic fumes", not otherwise defined, is far too sweeping in impact, and is an unnecessary legalistic intrusion into the technical and professional practice of pathology. Such mandated analyses will also be very expensive. Developing the chemical techniques for quantitative analyses of an indeterminate number of chemical compounds and biological materials will, I suspect, far overtax whatever laboratory personnel and facilities presently exist in the State of Maryland. It should also be noted that the "specific effects" of these fumes on human tissue are still in a research and development phase, and considerable amounts of basic medical and physiological research must be performed, not only to determine which fumes are involved but also their effects, if any, on human beings.

Page 2

Yale H. Caplan, Ph.D.

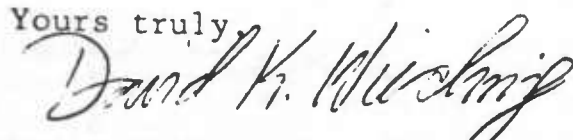
November 14, 1984

Another problem with the Bill is the phrase in (c)(1) concerning "if the family of the deceased does not object". This clause will cause significant problems in the orderly administration of this Bill and of the Medical Examiner Act in general. If an official autopsy is deemed to be necessary, it should be done, and only the most exceptional of objections should be entertained. The purpose of this Bill is to help the firefighters' survivors, and that object cannot be obtained under such restrictive clauses. A second problem in that same paragraph concerns the phrase "in the line of duty". That open-ended definition will be the root of perpetual litigation and administrative difficulty. What is the "line of duty" for a firefighter? Clearly the man who collapses at the blaze has succumbed in the line of duty, but what about the middle-aged firefighter who dies of chronic respiratory illness while mowing his grass? The problems here are endless.

The purpose of this Bill is worthy, but it is overkill. One would think that accommodation could be worked out at the administrative level to accomplish these results without resort to a Bill such as this one.

With kind regards,

Yours truly,



David K. Wiecking, MD, LLB
Chief Medical Examiner

bb

THOMAS D. SMITH, M.D.
DEPUTY CHIEF MEDICAL EXAMINER

ANN M. DIXON, M.D.
ASSISTANT MEDICAL EXAMINER
HORMEL H. GUARD, M.D.
ASSISTANT MEDICAL EXAMINER
VIRGINIA G. DOLAN, M.D.
ASSISTANT MEDICAL EXAMINER
MARGARITA A. KOFALL, M.D.
ASSISTANT MEDICAL EXAMINER

YALE H. CAPLAN, Ph.D.
TOXICOLOGIST
SHELDON C. THOMPSON, Ph.D.
ASSISTANT TOXICOLOGIST
C. RICHARD CROOKS, Ph.D.
ASSISTANT TOXICOLOGIST
KENNETH G. OFLOFF, Ph.D.
GENOTOXICOLOGIST



STATE OF MARYLAND
DEPARTMENT OF POST MORTEM EXAMINERS
OFFICE OF THE CHIEF MEDICAL EXAMINER

311 PENN STREET
BALTIMORE, MARYLAND 21201

THE MARYLAND BOARD OF
EXAMINERS OF MEDICAL EXAMINERS

DEBORAH E. THOMAS, M.D., CHAIR
JOHN H. DEKOR, M.D.
JOSEPH H. KEEFER, M.D.
THOMAS D. SMITH, M.D.
JEAN R. STOLEY, M.D.

THOMAS HARRIS, M.D.
ADMINISTRATIVE SERVICES

October 30, 1984

John I. Coe, M.D.
Chief of Pathology & Medical Examiner
Hennepin County Medical Center
730 South Seventh Street
Minneapolis, MN 55415

Dear Dr. Coe:

Legislation has recently been passed in the State of Maryland (copy enclosed) requiring the Medical Examiner in this State to perform autopsies on fire fighters and, potentially, all fire death victims. You will note that implementation of this legislation is subject to a feasibility study which is being done in part by an independently contracted party and this office.

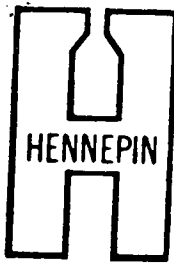
On behalf of Dr. Thomas D. Smith, Acting Chief Medical Examiner, and myself, I am requesting that you review the enclosed. Please provide us with any comments you may have about its appropriateness and also the handling of such cases within your jurisdiction.

Your assistance will be greatly appreciated and will help us to decide the direction and action we will recommend.

Sincerely,

Yale H. Caplan, Ph.D.
Toxicologist

YHC/ib
enc.



MEDICAL EXAMINER
730 South 7th Street
Minneapolis, Minnesota 55415-1798



347-2125

November 19, 1984

Yale H. Caplan, Ph.D.
Office of the Chief Medical Examiner
111 Penn Street
Baltimore, MD 21201

Dear Dr. Caplan:

I am writing in response to your letter of October 30 to Dr. John Coe. I have replaced Dr. Coe since his retirement as Chief Medical Examiner, but he still works in the office on a part-time basis and referred your letter to me.

I read your letter and your legislation with interest. On one hand, the legislation dismays me. I infer from it that you are obligated to perform an autopsy in all cases but have no discretion regardless of special circumstances. On the other hand it appears that the family of the decedent has an option and can veto an autopsy regardless of how compelling the need.

I think the law as it is written has an intention to produce death investigations which are very similar to those that we are currently undertaking in analogous cases in our jurisdiction without such legislation. Let me outline for you our established (but not formally written) approach to fire victims:

1. Any person (including a fire fighter) who dies during a fire connected with his or her employment would be autopsied.
2. Such an autopsy would include:
 - a. A detailed external examination
 - b. A detailed internal examination
 - c. A measurement of carboxyhemoglobin in blood and if blood were not available in skeletal muscle
 - d. Toxicologic analysis for ethyl alcohol
 - e. Retention of at least 50 grams of fresh liver which is stored in a frozen condition and retained for six months for potential toxicologic study

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HENNEPIN COUNTY

an equal opportunity employer

Yale H. Caplan, Ph.D.

Page 2

November 19, 1984

- f. Retention of urine for possible toxicologic screening
- g. Analysis of vitreous humor for postmortem electrolyte values

Victims of fires not associated with places of employment would in most instances receive identical investigation and would be autopsied. Compelling circumstances such as mass disaster involving an extremely large number of victims might necessitate limiting the examination to an external examination supplemented by carboxyhemoglobin determination. Strenuous objection by the next of kin to the performance of an autopsy might be honored if an external examination and chemical testing of a blood sample enabled us to document the cause and manner of death without an autopsy.

Occasional cases are associated with carboxyhemoglobin saturations which are not sufficient to explain the death. These cases are always autopsied, and the investigation is then supplemented with a detailed pulmonary examination looking for signs of fume inhalation. In addition, further toxicologic studies are undertaken. Cyanide, or other toxic products of combustion, would be evaluated in such cases.

I hope this letter clarifies for you our approach to fire death investigation here in Hennepin County. If you have any further questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Garry F. Peterson M.D.", with a stylized flourish at the end.

Garry F. Peterson, M.D.
Chief Medical Examiner

sp

RICHARD L. FISHER, M.D.
CHIEF MEDICAL EXAMINER
THOMAS D. SMITH, M.D.
DEPUTY CHIEF MEDICAL EXAMINER
ANN M. DIXON, M.D.
DEPUTY MEDICAL EXAMINER
JAMES P. GUARD, M.D.
DEPUTY MEDICAL EXAMINER
MICHAEL J. DELAN, M.D.
DEPUTY MEDICAL EXAMINER
MARTA A. KORELL, M.D.
DEPUTY MEDICAL EXAMINER
YALE H. CAPLAN, PH.D.
TOXICOLOGIST
BERNARD C. THOMPSON, PH.D.
ASSISTANT TOXICOLOGIST
C. RICHARD CROOKS, PH.D.
ASSISTANT TOXICOLOGIST
KENNETH G. ORLOFF, PH.D.
SERIOLOGIST



STATE OF MARYLAND
DEPARTMENT OF POST MORTAL EXAMINERS
OFFICE OF THE CHIEF MEDICAL EXAMINER

311 PENN STREET
BALTIMORE, MARYLAND 21201

THE MARYLAND POST MORTAL EXAMINERS COMMISSION
JOHN B. LINGG, M.D.
ROBERT H. HERTIGSTALL, M.D.
COL. THOMAS S. SMITH
JOHN R. STIFLER, M.D.

DOROTHY HATFIELD, CHA. A.
ADMINISTRATIVE SUPERVISOR

October 30, 1984

Joseph H. Davis, M.D.
Chief Medical Examiner
Dade County
1050 NW 19th Street
Miami, FL 33136

Dear Dr. Davis:

Legislation has recently been passed in the State of Maryland (copy enclosed) requiring the Medical Examiner in this State to perform autopsies on fire fighters and, potentially, all fire death victims. You will note that implementation of this legislation is subject to a feasibility study which is being done in part by an independently contracted party and this office.

On behalf of Dr. Thomas D. Smith, Acting Chief Medical Examiner, and myself, I am requesting that you review the enclosed. Please provide us with any comments you may have about its appropriateness and also the handling of such cases within your jurisdiction.

Your assistance will be greatly appreciated and will help us to decide the direction and action we will recommend.

Sincerely,

Yale H. Caplan, Ph.D.
Toxicologist

YHC/ib
enc.

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METROPOLITAN DADE COUNTY, FLORIDA



MEDICAL EXAMINER DEPARTMENT
1050 N.W. 19TH STREET
MIAMI, FLORIDA 33136
(305) 325-7342

November 5, 1984

Yale H. Caplan, Ph.D.
Toxicologist
Office of the Chief Medical Examiner
State of Maryland
111 Penn Street
Baltimore, Maryland 21201

Re: Maryland H.B. 1034

Dear Yale:

I consider this bill to be ill advised for the following reasons:

1. It conflicts with your already existing medical examiner statute by raising the issue of family permission. The wording would be interpreted as a requirement upon the medical examiner to inquire of the family if there is an objection to autopsy if the victim were a fire fighter.

Present law leaves it up to the medical examiner to exercise professional judgment in regard to an autopsy. There is nothing to prevent the medical examiner from setting policy to autopsy and test such cases whenever possible. I suspect this is already the policy. It has been policy in my office for the past 28 years.

2. The bill is redundant. Current law would bring under jurisdiction any person dead of occupational cause and/or toxic gas inhalation. There is no reason nor gain from reiteration in a companion statute.

This is a bad bill, ill conceived and, I suspect, politically motivated by union leadership to demonstrate its concern for its membership. Make it go away.

Sincerely,


Joseph H. Davis, M.D.
Dade County Medical Examiner

THE MARYLAND BAR EXAMINERS COMMISSION

ELIZABETH L. THOMP, M.D., C.E.
JOHN P. DEHOFF, M.D.
ROBERT H. HUNNETALL, M.D.
COL THOMAS E. SMITH
JEAN R. PHILLIPS, M.D.

STATE OF MARYLAND
DEPARTMENT OF LOCAL MORTUARY EXAMINERS
OFFICE OF THE CHIEF MEDICAL EXAMINER

1.1 PM - 6:15 PM
BAL: 75 - 100% (100% at 100%)

• EUGENE HARTLEY, CHA.
ADMINISTRATIVE BUI. DIVISION

October 30, 1984

Warner U. Spitz, M.D.
Chief Medical Examiner
Wayne County Michigan
400 E. Lafayette
Detroit, MI 48226

Dear Dr. Spitz:

Legislation has recently been passed in the State of Maryland (copy enclosed) requiring the Medical Examiner in this State to perform autopsies on fire fighters and, potentially, all fire death victims. You will note that implementation of this legislation is subject to a feasibility study which is being done in part by an independently contracted party and this office.

On behalf of Dr. Thomas D. Smith, Acting Chief Medical Examiner, and myself, I am requesting that you review the enclosed. Please provide us with any comments you may have about its appropriateness and also the handling of such cases within your jurisdiction.

Your assistance will be greatly appreciated and will help us to decide the direction and action we will recommend.

Sincerely,

Yale H. Caplan, Ph.D.
Toxicologist

YHC/ib
enc.

5/

Office of the
Medical Examiner of Wayne County

400 EAST LAFAYETTE ST.
Detroit, Michigan 48226

WERNER U. SPITZ, M. D.
CHIEF MEDICAL EXAMINER

TELEPHONE:
224-5640



November 26, 1984

Yale H. Caplan, Ph.D.
Toxicologist
Department of Post Mortem Examiners
111 Penn Street
Baltimore, Maryland 21201

Dear Dr. Caplan:


I have reviewed House Bill 1034 and I consider this piece of legislation a giant step backwards in regards to the autonomy and authority of Medical Examiners. Bill 1034 re-states the obvious by underscoring the teachings of textbooks used by forensic pathologists.

Since when is legislation used to substitute for good judgement, good practice and professional literature?

Anyone who is on the job, should be autopsied, fire fighters and police officers included. Blood from such cases should be subjected to laboratory analysis on a routine basis.

I fail to understand the logic of a law compelling Medical Examiner's to do their job.

Sincerely,



WERNER U. SPITZ, M.D.
Chief Medical Examiner

WUS: dw