



NATIONAL COMMISSION ON FORENSIC SCIENCE

NIST
National Institute of
Standards and Technology
U.S. Department of Commerce

Model Legislation for Medicolegal Death Investigation Systems

Type of Work Product:

Adjudication of Public Comments on the Draft Recommendation on Model Legislation for Medicolegal Death Investigation Systems

Public Comment Summary:

Six public comments were received. One was a statement of support by the National Association of Medical Examiners. Three others had to do with the need to raise qualifications for coroners or to make the model law such that coroners will be replaced with medical examiners. There were also suggestions to include the NIJ Scene Investigators Guide as a reference, and to specify qualifications to serve as a scene investigator. It was also suggested that the document include language recommending the funding or regional offices. The Subcommittee felt that the document addressed all concerns or was general enough to allow the various suggestions to be implemented where desired. The suggested reference was added.

Adjudication Process Used by Subcommittee:

Using an on-line project management system, the leader of the Model Legislation project reviewed public comments then prepared an adjudication summary and red-lined edited Views Document which was posted on the on-line system for review by the Project Team. After approval, the documents were then made available on-line to the entire MDI Subcommittee for review. There were no objections to the documents and they were approved then forwarded to the Commission.

Itemized Issues and Adjudication Summary:

1. The National Association of Medical Examiners fully supports the recommendation of the Medicolegal Death Investigation Subcommittee that the Attorney General advocate and provide financial support for the drafting of model medicolegal death investigation legislation by the Uniform Law Commission. We recognize the need for assistance to State governments in improving the quality of their medicolegal death investigation statutes and providing greater uniformity nationally.

No response necessary

2. There should be a set minimum standard for qualifications. In my rural county, we have the elected coroner system. This means, if a person is 18 years of age, has a pulse and respiration; they can be elected as the coroner. There is no training provided or offered. PERIOD! Any training must be sought out and paid for by many of the individual coroners. Unless these individuals have the financial means and desire, they remain without training. By establishing a minimum standard of training and qualifications, there will be fewer mistakes and it will provide another set of trained eyes at deaths scenes. The elected coroner

system should be scrapped and there should only be an M.E. system with trained, accredited Medicolegal Death Investigators employed by the M.E. offices. Rural areas could use a regional office which could cover 3 or 4 counties.

M.E.'s should be required to be board certified Forensic Pathologists. Investigators should have minimum standards of investigative experience and be accredited by the American Board of Medico-Legal Death Investigators.

The subcommittee agrees with these comments and believes they have been addressed.

3. I do not see how this "model legislation" will improve the situation of death investigation in the U.S. It does nothing to remove unqualified lay coroners from death investigation, and still leaves the choice between coroner or Medical Examiner system to the states. The states will not change without a federal mandate. Coroners should be eliminated, as an outdated remnant of medieval times. Modern death investigation should consist of Medical Examiner systems, headed by forensic pathologists. I recommend that this recommendation go back to committee for a re-draft that removes coroners and their interests.

Model laws are not intended to compel states to act but instead serve as templates for states to act when motivated by other internal or external forces. We believe the creation of model laws for medical examiners and coroners can help improve both systems. Such laws can also be used as templates by states looking to convert coroner systems to medical examiner systems

4. Suggest including "education" where "research" currently exists, within the discussion, as well as within the "Other" category in the list at the end of the document, so that it would say: "Research and education policy, including good faith immunity".

The subcommittee believes that there are many areas where a model law will help medicolegal death investigative systems. Research was offered as an illustration but was not meant to be limiting.

5. a) The document should reference the 2011 NIJ Death Investigation: A Guide for the Scene Investigator.
b) Suggestions for scene investigator qualifications, including background and education should be added as well.

a) We have added this reference.

b) The subcommittee agrees and considered this issue addressed under the last bullet point in the "structure" section.

6. a) The document should reference the 2009 NRC study Strengthening Forensic Science in the United States A Path Forward ISBN 0-309-13131-6
b) The legitimizing of coroner systems where non-physicians make determinations of cause and manner of death does not promote improvement in death investigation in the US. The diagnosis of cause of death, assignment of manner of death and signing of the certificate of death are medical decisions requiring the judgement and knowledge of physicians.
c) The National Commission should be promoting legislation and funding for the development

of regionalized death investigation systems and statewide medical examiner systems where death investigations and autopsies are carried out under the supervision of forensic pathologists.

- a) *The document does reference the 2009 NRC study.*
- b) *The recommendation does not address whether coroner systems should be replaced by medical examiner systems although several committee members support this perspective. Instead, the committee has generated a document that recommends model medicolegal legislation that can be used to either improve coroner systems or replace them at a state's discretion. Our recommendation also supports model legislation that can be used to improve medical examiner systems.*
- c) *The legislation proposed in this document can be used to regionalize offices or convert coroner to medical examiner system. Model legislation can only serve as a template. This policy recommendation does not cover federal funding that would support or incentivize implementation of model laws by states.*