

# Memorandum

PREPARED FOR: Representative Dexter  
DATE: June 7, 2023  
BY: Tyler Larson, Research Analyst  
RE: Background on Oregon's death investigation system **UPDATED February 7, 2024**



This memorandum is a response to your request for background on the state's death investigation system with an emphasis on how the Chief Medical Examiner's Office came to be located within the Department of State Police. The memorandum is organized into the following sections:

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## Overview of Oregon's Death Investigation System

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Established in [ORS chapter 146](#), Oregon's death investigation system is a joint effort between county and state officials (Figure 1). The Chief Medical Examiner is responsible for administration of the state's death investigation system.<sup>1</sup> The Chief Medical Examiner's Office exists under the Department of State Police and is the state's sole-source provider of forensic pathology services.<sup>2</sup> Counties are primarily responsible for the investigation of deaths and for funding death investigations, except the Chief Medical Examiner may reimburse each county with a population under 200,000 for up to one-half the cost of autopsies ordered by a medical examiner or district attorney.<sup>3</sup>

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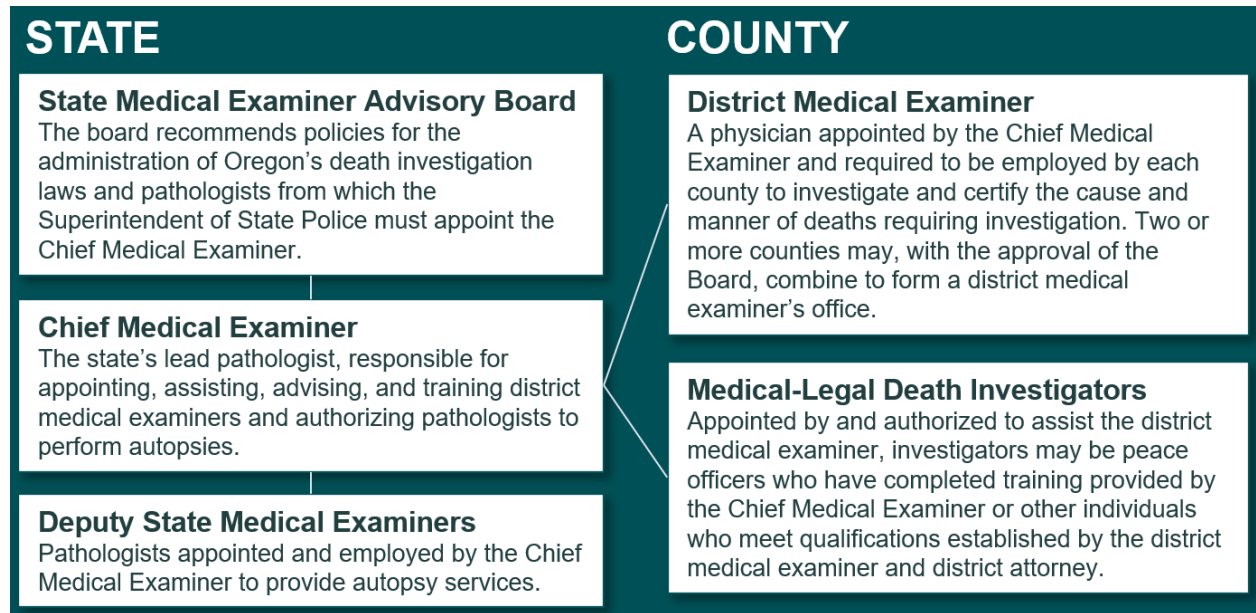
Figure 1 (page 2) was updated to indicate that individuals who meet qualifications established by the district medical examiner and district attorney may be appointed as medical-legal death investigators. The original figure only noted peace officers who have completed training provided by the Chief Medical Examiner.

<sup>1</sup> [ORS 146.035 to 146.055 \(2021\)](#).

<sup>2</sup> [ORS 146.035 \(2021\)](#). Legislative Fiscal Office, [2021-23 Legislatively Approved Budget Detailed Analysis](#), PDF at 206 (November 2022).

<sup>3</sup> [ORS 146.065 and 146.075 \(2021\)](#). Seven of Oregon's 36 counties (Clackamas, Deschutes, Jackson, Lane, Marion, Multnomah, and Washington) have a population of 200,000 or greater. Oregon Secretary of State, *Oregon Blue Book: County Populations*, <https://sos.oregon.gov/blue-book/Pages/local/county-population.aspx>.

**Figure 1: Death investigations are a joint effort between county and state officials**



Source: Legislative Policy and Research Office  
 Data: [ORS chapter 146 \(2021\)](#). The [Statutes Affected by Measures for Oregon Laws 2022](#) shows no measures were enacted during the 2022 session amending ORS chapter 146. Oregon Secretary of State, *Oregon Blue Book: County Populations*, <https://sos.oregon.gov/blue-book/Pages/local/county-population.aspx>.

## Selected Events Related to Placement with the Department of State Police

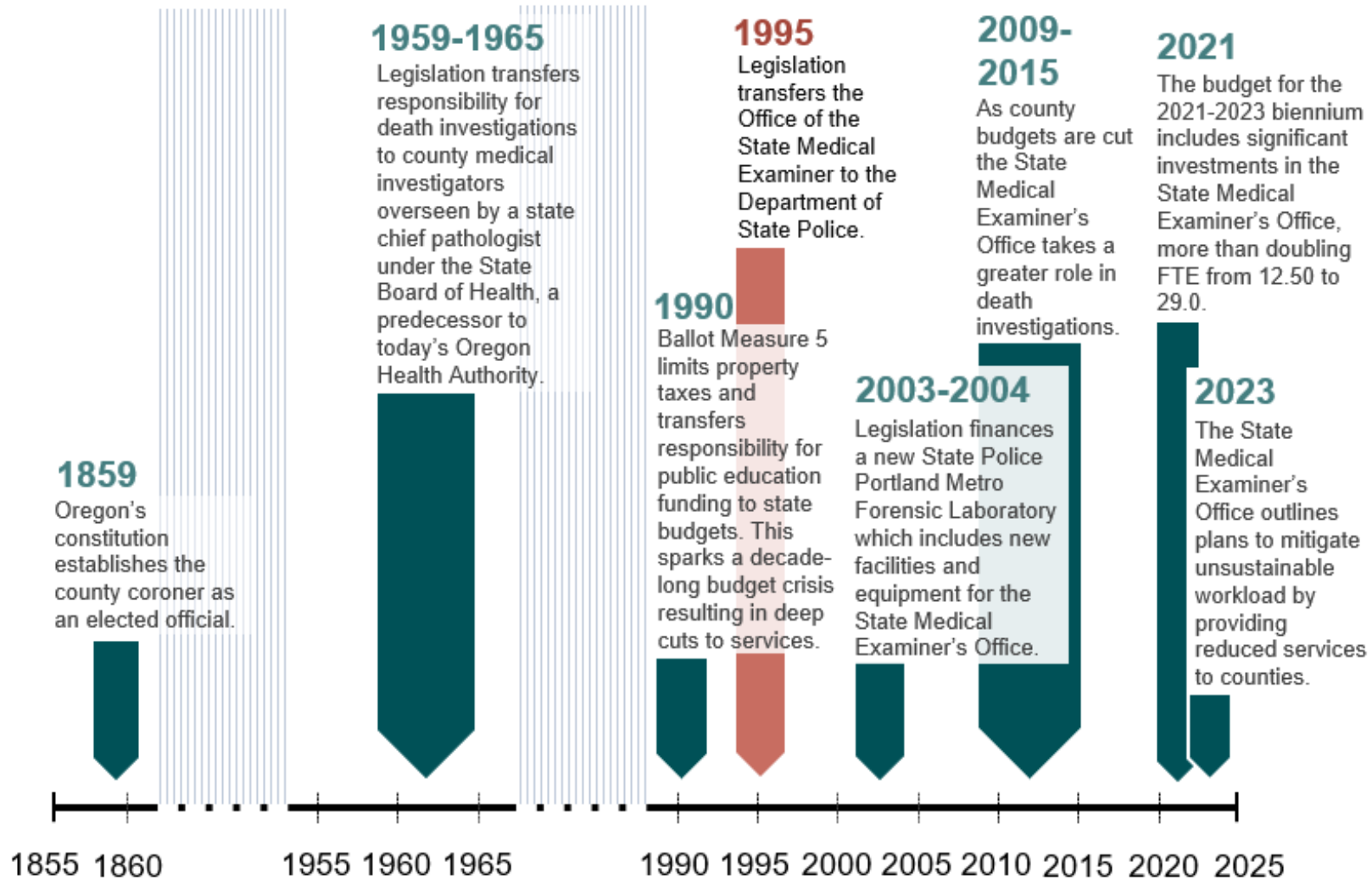
LPRO staff reviewed legislation, agency activity, and media coverage related to Oregon’s death investigation system. Figure 2 (page 3) highlights key events related to the Chief Medical Examiner’s Office being located within and administered by the Department of State Police from the state’s original constitution of 1859 through May of 2023. The program was transferred to the Department of State Police in 1995 as the state endured budget cuts to pay for property tax reforms enacted by voters.<sup>4</sup> A unanimous groups of stakeholders recommended the transfer because they “felt a stronger champion for the vital cross-sectional program existed in the public safety arena and that such a move would remove the program from competing with [...] health and social programs.”<sup>5</sup>

<sup>4</sup> [House Bill 2164 \(1995\)](#). Legislative Fiscal Office, [Budget Highlights: Legislatively Approved 1995-97 Budget](#) (July 1995). Oregon Historical Society, [Oregon Encyclopedia: Measure 5 \(property taxes\)](#), (visited May 9, 2023).

<sup>5</sup> Exhibit A submitted for House Bill 2164 (1995) (on file with LPRO).



**Figure 2. Selected Events Related to the Chief Medical Examiner’s Office Location with the Department of State Police**



Source: Legislative Policy and Research Office



# Timeline of Events Shaping Oregon’s Death Investigation System

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LPRO staff reviewed legislation, agency activity, and media coverage related to Oregon’s death investigation system. This section provides a timeline of key events from the state’s original constitution of 1859 through May of 2023.

## **1859: The Constitution of the State of Oregon establishes the coroner as an elected county official.**

From 1859 to 1959, death investigations were the purview of a county coroner, an elected official responsible for administering the process by which each county identified the dead, the cause of death, and the person, if any, responsible for the death.

The coroner was a constitutional officer with statutory duties. Article VI (Administrative Department) of the original Constitution of the State of Oregon established the coroner as an elected official for each county along with the county clerk, treasurer, sheriff, and surveyor.<sup>6</sup> All county officials were required to:

- be an “elector” of the county, meaning a resident who was eligible to vote;
- keep their offices within the county; and
- perform their duties as prescribed by law.<sup>7</sup>

Oregon statute required a coroner to report to the county district attorney when a person had:

- been killed or dangerously wounded by another,
- suddenly died under circumstances with reasonable grounds to suspect the death was occasioned by criminal means, or
- died by suicide.<sup>8</sup>

The law granted coroners investigative powers, including the power to enter closed premises for the purpose of death investigations and to summon a panel of jurors for a coroner’s inquest, a panel of six jurors sworn to render a verdict on the identity of the deceased, the cause of death, and the person, if any, responsible for the death. As one attorney general opinion described the coroner’s inquest process, “it is the coroner who presides and the jury who decides.”<sup>9</sup>

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<sup>6</sup> [Or. Const. art. VI sect. 6 \(Original text adopted and approved by voters in 1857, approved by Congress in 1859\).](#)

<sup>7</sup> [Or. Const. art. VI sect. 8 \(Original text adopted and approved by voters in 1857, approved by Congress in 1859\).](#)

<sup>8</sup> [ORS chapter 146 \(1953\).](#)

<sup>9</sup> 29 Or. Op. Atty. Gen. 131 (1959, on file with LPRO).



## 1939: The Legislative Assembly allocates funds to establish a state crime detection lab.

The Legislative Assembly allocated \$13,000 to establish a crime detection laboratory to provide “scientific services” to both law enforcement and criminal defendants.<sup>10</sup>

Coverage in *The Oregonian* declared the lab as the first of its kind in the nation and quoted Dr. Frank Menne, head of pathology for the University of Oregon medical school, who advocated for further changes to the state’s death investigation policies:

“The next step toward scientific prevention and apprehension of crime will be the abolition of the present county coroner system, which Dr. Menne described as having been established for ‘11<sup>th</sup> century conditions.’ In its place he advocated substitution of a qualified state medical examiner with county examiners under him, all to receive training in autopsy and related work.”<sup>11</sup>

## 1953-1956: Voters authorize lawmakers to establish qualifications for county coroners.

In a 1953 decision, the Supreme Court of Oregon determined that Article VI county officials, including coroners, are constitutional offices for which the legislature was not authorized to prescribe additional qualifications.<sup>12</sup> While the Legislative Assembly could provide duties and powers for county coroners, it was not authorized to adopt requirements for those constitutional officers.

A constitutional amendment proposed by the Legislative Assembly during the 1955 regular legislative session and approved by voters in the 1956 general election authorized the legislature to establish qualifications for county coroners and surveyors.<sup>13</sup> The argument submitted by the legislative committee in favor of the measure referred to the Supreme Court’s 1953 decision:

“As Article VI now stands, the surveyor and coroner are constitutional officers for whom it is impossible to provide any qualifications beyond that of elector of the county. The Oregon Supreme Court has decided that upon the basis of the present sections the legislature cannot provide any additional qualifications, and it is now possible for one to be elected and qualified as a county surveyor, who is not licensed or competent to make surveys. Because of the technical duties which are attached to the offices of both coroner and surveyor, it seems desirable that the legislature should have a free hand in fixing minimum

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<sup>10</sup> “Crime Detection ‘Lab’ First of Kind: Criminologist Says Oregon Pioneer In Field,” *The Oregonian*, May 1, 1939 (accessed via NewsBank; on file with LPRO).

<sup>11</sup> *Id.*

<sup>12</sup> “The law is well established that, where a state constitution provides for certain officials and names the qualifications for such officers, the legislature is without authority to prescribe additional qualifications unless the constitution, either expressly or by implication, gives the legislature such power. [...] Referring to our own constitution, we find that the governor and legislators, as well as the county surveyor, are constitutional officers.” [State ex rel. Powers v. Welch, 198 Or. 670, 672-673, 677-678 \(1953\).](#)

<sup>13</sup> State of Oregon, *Official Voters’ Pamphlet for the Regular General Election* (November 6, 1956), 16-18, available at <https://digital.osl.state.or.us/islandora/object/osl%3A999307/datastream/OBJ/view>.



qualifications for those offices; and the proposed constitutional amendments to Article VI merely enable the legislature at some future time to provide such qualifications as may seem desirable.”<sup>14</sup>

## **1958: An interim committee recommends replacing county coroners with medical investigators overseen by a state chief pathologist.**

“In 1957, the Legislative Assembly commissioned an interim committee to study and report its findings on the entire matter of the investigation of deaths. A comprehensive report was filed in 1958.”<sup>15</sup> The interim committee concluded the coroner system in most counties was “unsatisfactory in the extreme” and “frequently obstructed law enforcement.”<sup>16</sup>

The committee’s work appears to be based on the 1954 Model Post-Mortem Examinations Act produced by the [Uniform Law Commission](#) (then the National Conference of Commissioners of Uniform State Laws), a nonprofit entity directed by over 300 legal professionals seeking to “provide states with non-partisan, well-conceived and well-drafted legislation that brings clarity and stability to critical areas of state statutory law.”<sup>17</sup>

A prefatory note provided with the text explained the act:

“The purpose of the Model Post-Mortem Examinations Act is to provide a means whereby greater competence can be assured in determining causes of death where criminal liability may be involved. Experience has shown that many elected coroners are not well trained in the field of pathology, and the Act would set up in each state an Office headed by a trained pathologist, this Office to have jurisdiction over post-mortem examinations for criminal purposes. The Office would in general supersede the authority of Coroner's Offices in this field.

The proposed Post-Mortem Examination Office would be controlled by an honorary commission of disinterested persons aware of the problems involved. It would be under a duty to cooperate with all law enforcement agencies in the state, to set up regional and local offices as needed, and to develop a suitable laboratory as well as to make use

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<sup>14</sup> *Id* at 17.

<sup>15</sup> Facts as recited in a 1960 Oregon Supreme Court case determining how legislation abolishing the county coroner’s office effective January 1, 1961, impacted the election of the Lane County coroner at the November 8, 1960, general election. The Supreme Court affirmed a circuit court opinion which found the office of county clerk had been abolished by legislation enacted in 1959 and therefore the county clerk could not be compelled to place the office of coroner on the ballot for the November 1960 election. [State ex rel Appling v. Chase, 224 Or. 112, 118 \(1960\)](#).

<sup>16</sup> “Medical Examiner Aim In Place of Coroner,” *The Oregonian*, October 3, 1958, (accessed via NewsBank; on file with LPRO).

<sup>17</sup> National Conference of Commissioners of Uniform State Laws, *Model Post-Mortem Examinations Act* (1954; on file with LPRO). This appears to be the most recent model legislation for death investigations produced for U.S. States. [A 2017 recommendation from the National Commission on Forensic Science](#) (a former Federal Advisory Committee established to enhance the practice and improve the reliability of forensic science) described the 1954 model legislation as “very dated” and requested the U.S. Attorney General finance the development of new model legislation.





of other laboratories already in existence.”<sup>18</sup> Regarding the shift of death investigation duties from a constitutional county officer to a legislatively created position, Attorney General Robert Thornton “assured the committee the Legislature has authority to abolish the post of coroner.”<sup>19</sup> The interim committee voted 7-1 to recommend the policy changes to lawmakers; the single “no” vote was attributed to the Lane County coroner.

The Oregon interim committee was concerned about budget and the location of the program within the executive branch. Multnomah County “was excepted because of its efficiently operating coroner system” [sic] and because “it was felt the bill would have little chance in the Legislature if downstate counties felt they would have to foot part of the bill of coroner’s duties in Multnomah County.”<sup>20</sup>

At least one member of the interim committee objected to placing the state coroner position under the control of the Board of Health. Dr. Arch Diack, a Portland physician and interim committee member, abstained from the recommendation vote and instead provided separate comments to lawmakers along with the interim committee report:

“He urged establishment of a department of forensic medicine in connection with the existing state police crime laboratory at the medical school, and said the most logical association of the teaching and administrative functions of a medical examiner system would be through a continued and enlarged liaison with the Oregon State Police as administrators of the state medical examiner system.

He pointed out that the State Police has a corps of career men capable of receiving continual training in this specialized work who are closer to the problems connected with the medical examiner’s work than any other state agency.”<sup>21</sup>

## **1959-1965: Legislation transfers responsibility for death investigations to district medical investigators overseen by a state chief pathologist.**

Legislation enacted in 1959 effectively eliminated the office of county coroner in all counties except Multnomah, replacing the county-based death investigation system with a centralized statewide program under the direction of the Chief Medical Investigator, a pathologist who received policy direction from a stakeholder advisory group.<sup>22</sup> The new state program was placed under the Board of Health, the predecessor to today’s Oregon Health Authority, and relied on county public health officials to fulfill local death investigation duties.<sup>23</sup> Autopsies were conducted by either the Chief Medical

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<sup>18</sup> “Medical Examiner Aim In Place of Coroner,” *The Oregonian*, October 3, 1958, (accessed via NewsBank; on file with LPRO).

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> Chapters 628 and 629, Oregon Laws 1959. Codified as [ORS chapter 146 \(1961\)](#).

<sup>23</sup> [ORS 146.040 and 146.410 to 146.610 \(1961\)](#).



Investigator or pathologists approved by the Chief Medical Investigator.<sup>24</sup> Expenses for death investigations were borne by the county, except the state was required to reimburse counties for one-half the cost of a post-mortem examination.<sup>25</sup> Death investigations in counties with a population greater than 400,000 (this only applied to Multnomah County) continued to be the responsibility of the county coroner, who was required to report deaths requiring investigation to the district attorney and the findings of the death investigations to the Chief Medical Investigator.<sup>26</sup>

The state health officer told lawmakers during the 1959 session that the Board of Health would need an emergency appropriation of \$10,000 to implement the new Chief Medical Investigator's office.<sup>27</sup> The Legislature made an appropriation of exactly that amount to the Board of Health in April of 1960, but after first denying "a motion to give the Board of Health the \$41,985 it said it needed to start the program."<sup>28</sup>

In 1960, the Supreme Court of Oregon affirmed that the position of county coroner was abolished in all counties except Multnomah.<sup>29</sup> Legislation enacted in 1965 and effective in 1969 abolished the Multnomah County coroner and transferred responsibility for death investigations in each county with a population of 200,000 or greater to a deputy chief medical investigator appointed by the Chief Medical Investigator and paid for with state funds, working in facilities paid for by the county.<sup>30</sup> Counties below the threshold were still entitled to reimbursement for half the cost of autopsies.<sup>31</sup> The measure was brought with the support of Dr. William Brady, the first pathologist to hold the office of Multnomah County coroner, who had run on a platform of abolishing the last remaining county coroner office.<sup>32</sup>

## 1968-1971: Chief Medical Investigator resigns citing lack of adequate program funding.

Dr. Russell Henry, Oregon's first Chief Medical Investigator, became a fixture in Oregon news. Dr. Henry not only provided medical conclusions in a variety of criminal trials, but he also trained medical investigators to solve mock crimes, opined on the likely cause of death of Napoleon Bonaparte (*not* arsenic poisoning, but likely liver disease), and was

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<sup>24</sup> [ORS 146.470 \(1961\)](#).

<sup>25</sup> [ORS 146.565 \(1961\)](#).

<sup>26</sup> [ORS 146.105 to 146.280 \(1961\)](#). 30 Or. Op. Atty. Gen. 153 (1961, on file with LPRO).

<sup>27</sup> "Irked Board Votes Money," *The Oregonian*, April 23, 1960, (accessed via NewsBank; on file with LPRO).

<sup>28</sup> *Id.*

<sup>29</sup> [State ex rel Appling v. Chase, 224 Or. 112, 118 \(1960\)](#).

<sup>30</sup> Senate Bill 200 (1965, on file with LPRO). [Codified in ORS chapter 146 \(1965\)](#). [Decennial census data](#) shows only Multnomah County had a population greater than 200,000 in 1960. By 1970, Lane County also exceeded the statutory threshold.

<sup>31</sup> [ORS 146.565 \(1965\)](#).

<sup>32</sup> "Why does EVERY Newspaper support Dr. Brady for Coroner?" *The Oregonian*, May 9, 1964 (accessed via NewsBank; on file with LPRO). "Important Change." *The Oregonian*, February 26, 1965 (accessed via NewsBank; on file with LPRO).





the first pathologist in the nation to warn the public of deaths related to a popular diet drug compound that included amphetamines, diuretics, and barbiturates.<sup>33</sup>

But fame did not beget budget allocations. Dr. Henry warned in an April 1968 interview that lack of funding meant the office consisted of only himself and a secretary; that the program was only able to reimburse counties for about 20 percent of the cost of autopsies, rather than the 50 percent authorized in statute; that the office still had to rely on borrowed laboratory facilities for medical examinations; and of the need for a toxicologist to meet rising drug deaths.<sup>34</sup> Dr. Henry resigned later that year to lead the Los Angeles County Medical Examiner-Coroner's office, a position that reportedly came with a 34 percent raise; a car and driver; dedicated laboratory facilities; and a team of professional staff including medical examiners, a toxicologist, and chemists.<sup>35</sup>

The Chief Medical Investigator's legislatively approved budget for the 1969-1971 budget included funds for a telephone reporting system to replace the mail-based system for county medical investigators, and the part-time services of a toxicologist at the University of Oregon Medical School.<sup>36</sup> Dr. Brady, the last elected Multnomah County coroner and newly appointed Chief Medical Investigator, believed the legislature had "very adequately funded the program."<sup>37</sup>

## **1973-1984: Death investigation laws "modernized;" Department of Justice confirms counties responsible for funding death investigations.**

House Bill 2279 (1973) rearranged the death investigation laws; changed the title of the Chief Medical Examiner to State Medical Examiner; re-established the stakeholder advisory group as the State Medical Examiner Advisory Board; and, most substantively, allowed district medical examiners, in addition to district attorneys, to order an autopsy.<sup>38</sup> Counties with a population of 200,000 or more were still required to secure a Deputy State Medical Examiner approved by the State Medical Examiner, who was authorized to reimburse counties below the population threshold for up to half the cost of autopsies. Dr. Brady, the former Multnomah County coroner and current Chief Medical Investigator, testified the legislation was developed with stakeholders over the

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<sup>33</sup> "Investigators To Solve Mock Crimes In Medical-Legal Workshop At UO," *The Oregonian*, May 2, 1964 (accessed via NewsBank; on file with LPRO). "State Medical Investigator Doubts Theory That Napoleon Died Of Arsenic Poisoning," *The Oregonian*, January 18, 1965 (accessed via NewsBank; on file with LPRO). "Senate Probers Hear Illinois Coroner Testify On 14 Suspected Deaths From Diet Pills," *The Oregonian*, February 1, 1968 (accessed via NewsBank; on file with LPRO).

<sup>34</sup> "Chief Medical Examiner's Battle To Update State System Stymied By Lack Of Money," *The Oregonian*, April 21, 1968 (accessed via NewsBank; on file with LPRO). "Medical Investigator Resigns To Accept LA Position," *The Oregonian*, November 9, 1968 (accessed via NewsBank; on file with LPRO).

<sup>35</sup> "Medical Investigator Resigns To Accept LA Position," *The Oregonian*, November 9, 1968 (accessed via NewsBank; on file with LPRO).

<sup>36</sup> "2 Programs To Aid Medical Investigation," *The Oregonian*, November 24, 1969 (accessed via NewsBank; on file with LPRO).

<sup>37</sup> *Id.*

<sup>38</sup> House Bill 2279 (1973). The text of the measure is incorporated into [ORS chapter 146 \(1975\)](#).



previous two years and necessary “so the ‘tools’ of investigation could be used more effectively.”<sup>39</sup>

By 1983, Dr. Brady and a cast of Deputy State Medical Examiners were fixtures in Oregon news, providing autopsies in high-profile cases and testifying in criminal trials. A 1983 profile in *The Oregonian’s Northwest Magazine* described Oregon’s death investigation laws and praised the work of Dr. Brady (nicknamed *Dr. Death*) who attributed the success of his program to following the rules. “We’re low-key. We’re non-controversial. We stay out of the headlines because we’re not screwing up.”<sup>40</sup>

A 1984 written opinion from the Attorney General responding to a question from the State Medical Examiner summarized the roles and responsibilities established in Oregon’s death investigation laws:

“Each county is required to have a medical examiner for the purpose of investigating and certifying the cause and manner of human deaths requiring investigation. For counties or districts with populations greater than 200,000, the State Medical Examiner may appoint, subject to the approval of the State Medical Examiner Advisory Board, a Deputy State Medical Examiner whose compensation is paid by the state from funds appropriated by the legislature. For all other counties, a district medical examiner is appointed by the State Medical Examiner with the approval of the local board or boards of commissioners. The district medical examiner's compensation is to be paid by the county or counties of the district, as are all expenses of equipping, maintaining and operating the medical examiner's office. [...]

[T]he State Medical Examiner's duties include appointing and discharging each district medical examiner, designating pathologists authorized to perform autopsies, and approving laboratories to perform blood and urine analyses. [...]

The State Medical Examiner's role in death investigations is one of support and assistance. It is at the county level, where each district has its own local medical examiner, that primary responsibility for death investigations lies. [...]

Just as primary responsibility for initiating and directing death investigations rests with the counties, the primary responsibility for funding death investigations is at the county level. [...]

Thus, the general expenses of death investigations must be borne by the county budgets. The state provides limited autopsy funding assistance to counties with populations of less than 200,000, but only to the extent that the state has made funds available for reimbursement of those costs.”<sup>41</sup>

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<sup>39</sup> Minutes of the House Committee on Judiciary for March 5, 1973 (on file with LPRO).

<sup>40</sup> “Probing the Mysteries of Death,” *The Oregonian*, March 27, 1983, (accessed via NewsBank; on file with LPRO).

<sup>41</sup> Or. Op. Atty. Gen. OP-5592 (accessed via Westlaw; on file with LPRO). Citations and footnotes are omitted from quotes to improve readability.



The opinion concluded that the State Medical Examiner may refuse to perform autopsies for a county that fails to appropriate funds to pay for the cost of death investigation autopsies.<sup>42</sup>

## **1985-1987: Scandals lead to changes in Oregon’s death investigation laws.**

Two scandals gained widespread attention in 1985 that preceded further changes to Oregon’s death investigation laws.

First, a mortician in Lincoln City plead guilty “to 60 counts of theft and corpse abuse after 16 unembalmed bodies were found in the garage of his funeral home” and “31 bodies that were to have been cremated were found in his Lincoln City cemetery.”<sup>43</sup> Legislation enacted in 1985 required the state medical examiner to investigate bodies disposed of in an offensive manner as part of a measure establishing additional regulatory requirements for funeral homes, cemeteries, and crematoriums.<sup>44</sup>

Second, a 270-page report compiled by investigators for the Attorney General found that Dr. Brady, the longstanding State Medical Examiner, diverted public funds (from the sale of autopsy reports and tissue samples) into a personal checking account and used the funds for office expenses including interior decorating, landscaping, and holiday parties. It also found that Dr. Brady and two deputy state medical examiners used state facilities and resources to provide private contract autopsy services for the state of Washington and the National Transportation Safety Board.<sup>45</sup> The Attorney General concluded that Dr. Brady exhibited “poor judgment, inappropriate administration, and questionable professional ethics” but ultimately declined to prosecute, finding “the conduct in question is more appropriately addressed outside of the criminal justice system.”<sup>46</sup> After receiving the Attorney General’s report, the administrator of the state Health Division fired Dr. Brady and the deputy state medical examiner for Multnomah County.

The editorial page of *The Oregonian* expressed concern about replacing the trained pathologists, advocating instead “to restructure the office” so that “Brady would confine himself to professional work and professional leadership and leave the office and personnel management to the Health Division’s managers.”<sup>47</sup> One county medical examiner claimed “well over half” of the county medical examiners planned to resign if

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<sup>42</sup> *Id.*

<sup>43</sup> “Senate OKs tighter mortuary rules,” *The Oregonian*, April 26, 1985 (accessed via NewsBank; on file with LPRO).

<sup>44</sup> Senate Bill 876 (1985).

<sup>45</sup> “Brady’s activities detailed in report by probers,” *The Oregonian*, October 2, 1985 (accessed via NewsBank; on file with LPRO).

<sup>46</sup> “Probe criticizes Brady; asks no prosecution,” *The Oregonian*, September 25, 1985 (accessed via NewsBank; on file with LPRO).

<sup>47</sup> “Retain Brady’s skills”, “Firings of examiner’s too drastic,” *The Oregonian*, September 27, 1985 (accessed via NewsBank; on file with LPRO).



Dr. Brady was not reinstated and opined that the firings “destroyed the medical examiner system.”<sup>48</sup>

The deputy medical examiner, Dr. Larry Lewman, was reinstated at reduced pay the week after being fired and shortly thereafter became the acting state medical examiner.<sup>49</sup> The Oregon Government Ethics Commission ruled there was probable cause that Dr. Brady violated ethics laws but declined to continue with a formal hearing after Dr. Brady paid the state over \$17,000 in restitution.<sup>50</sup>

In 1987, A jury awarded Dr. Brady a \$300,000 judgment against the State Health Division for damage to his reputation when the administrator of the State Health Division publicized charges and fired Dr. Brady without sufficient due process.<sup>51</sup>

Later that year, legislation was enacted which limited the purposes for which a pathologist conducting an autopsy could remove and retain body tissues or organs to “the legal or medical determination of the manner or cause of death, or other purposes approved under rules of the Health Division.”<sup>52</sup> The legislation was in direct response to the sale of tissue samples by Dr. Brady.<sup>53</sup>

Finally, after more than two years serving in the interim role and multiple failed recruitments, Dr. Larry Lewman was appointed as the State Medical Examiner.<sup>54</sup> Dr. Lewman expressed several concerns before finally accepting the position, including low wages, few staff, and outdated facilities.<sup>55</sup>

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<sup>48</sup> “Brady to appeal firing to governor’s office,” *The Oregonian*, October 2, 1985 (accessed via NewsBank; on file with LPRO).

<sup>49</sup> “Gebbie fires Brady, keeps Lewman at reduced pay,” *The Oregonian*, October 4, 1985 (accessed via NewsBank; on file with LPRO).

<sup>50</sup> “State won’t press Brady case: \$17,083 in restitution satisfies ethics panel,” *The Oregonian*, January 15, 1986 (accessed via NewsBank; on file with LPRO).

<sup>51</sup> “Jury awards Brady \$300,000 in damages,” *The Oregonian*, March 5, 1987 (accessed via NewsBank; on file with LPRO). The decision for Dr. Brady was upheld in a 1988 appellate court decision. [Brady v. Gebbie](#), 859 F.2d 1543 (1988).

<sup>52</sup> Senate Bill 45 (1973). The text of the measure is incorporated into [ORS 146.117 \(1987\)](#).

<sup>53</sup> “Senate passes bill limiting medical examiner,” *The Oregonian*, April 10, 1987 (accessed via NewsBank; on file with LPRO).

<sup>54</sup> “Lewman named state medical examiner,” *The Oregonian*, October 23, 1987 (accessed via NewsBank; on file with LPRO).

<sup>55</sup> “Lewman mulls medical examiner’s job, outlines desired reforms,” *The Oregonian*, October 17, 1987 (accessed via NewsBank; on file with LPRO).



## **1989-1995: Voter-approved property tax limits spark a decade-long state budget crisis; legislation transfers the State Medical Examiner’s office to the Department of State Police.**

The State Medical Examiner’s office reported that deaths related to heroin, cocaine, and methamphetamine claimed a record number of 79 Oregonians in 1989.<sup>56</sup> Annual drug deaths would more than double by 1995, marking a grim increase in the workload of the State Medical Examiner’s office.<sup>57</sup>

Voters approved Ballot Measure 5 in 1990, amending the Oregon Constitution to phase in limits on property taxes over five fiscal years.<sup>58</sup> The Legislative Assembly was required to “replace from the State’s general fund any revenues lost by the public school system because of the limitations.”<sup>59</sup> Measure 50 (1997) required property taxes to be based on “assessed value” rather than real market value and limited annual growth in assessed value to 3 percent.<sup>60</sup>

“Tremendous growth in lottery revenues and above average growth in the State’s economy” from 1989 to 1995 would not be enough to avoid budget cuts as the state’s share of total school funding increased from 26 percent in 1989-1991 to 66 percent in 1995-1997.<sup>61</sup>

[House Bill 2164 \(1995\)](#) transferred “all the duties, functions and powers of the Health Division relating to the State Medical Examiner’s office” to the Department of State Police. Testimony submitted by the acting Administrator of the Health Division explained the need for the measure:<sup>62</sup>

“Department of Human Resources initiated a five-month study to determine a more effective way of administering the Medical Examiner’s Office. The program has been in the Health Division since the 1973 legislature created the Death Investigation Laws in ORS 146, and in recent years dwindling dollars forced this review.

The unanimous recommendation from the supporters listed below was to transfer the State Medical Examiner Program from the Health Division to the Department of State Police. It was felt that a stronger champion for the vital cross-sectional program existed in the public safety arena and that such a move would remove

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<sup>56</sup> “1989 drug deaths in Oregon set record,” *The Oregonian*, January 3, 1990 (accessed via NewsBank; on file with LPRO).

<sup>57</sup> Exhibit N submitted for House Bill 2164 (1995; on file with LPRO).

<sup>58</sup> Ballot Measure No. 5 (1990; on file with LPRO).

<sup>59</sup> *Id.*

<sup>60</sup> Oregon Department of Revenue, [A Brief History of Oregon Property Taxation](#) (2009).

<sup>61</sup> Legislative Fiscal Office, [Budget Highlights: Legislatively Approved 1995-97 Budget](#) (July 1995). Oregon Historical Society, [Oregon Encyclopedia: Measure 5 \(property taxes\)](#), (visited May 9, 2023).

<sup>62</sup> Exhibit A submitted for House Bill 2164 (1995) (on file with LPRO).



the program from competing with the large number of health and social programs with in [sic] the Department of Human Resources.”

The list of supporters included the Chief Justice of the Oregon Supreme Court; Attorney General and future Governor Theodore Kulongoski; the Superintendent of State Police; the Director of the Department of Human Resources (now the Department of Administrative Services); Dr. Lewman, the State Medical Examiner; the Medical Examiner’s Advisory Board; lawmakers; and representatives for law enforcement, county health departments, district attorneys, and criminal defense attorneys.

When asked during a committee hearing how the program “worked” in the State Health Division, the acting Administrator reiterated the issue was securing funding for the program:

“The primary problem is when it comes to establishing prioritys [sic] within the health division for the expenditure of the general fund. Since it is not truly a health priority, when cuts come along it is not well defended. [...] I think it has been underfunded.”<sup>63</sup>

## **1996-2000: State Medical Examiner seeks new facilities and additional pathologists**

A January 1996 profile in *The Oregonian* described the old North Portland funeral home shared by the State Medical Examiner’s office and the Multnomah County medical examiner:

“The building where the bodies are kept and the autopsies are done is hopelessly outdated. A broken 1940s vintage X-ray machine leans against a wall. The autopsy room leaks into the basement.

Once under the control of the state’s Health Division, the state medical examiner’s office became part of the Oregon State Police last July. [The State Medical Examiner] thinks the switch will provide much-needed state money.

Storage space for bodies is at a premium. The cooler holds only five bodies, and Mondays -- after a busy weekend -- there are typically a dozen more bodies lined up on gurneys and the floor. Some are unrefrigerated for days. [...]

A fourth pathologist is due to be added this year (there have been only three since 1977). There will be more money for much needed clerical support.”<sup>64</sup>

Drug deaths continued to climb in 1996, as the State Medical Examiner’s office reported 205 deaths related to illegal narcotics, more than half of which occurred in Multnomah County.<sup>65</sup>

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<sup>63</sup> Minutes of the House Judiciary Subcommittee on Crime and Corrections for February 14, 1995 (on file with LPRO).

<sup>64</sup> “The business of death,” *The Oregonian*, January 14, 1996 (accessed via NewsBank; on file with LPRO).

<sup>65</sup> “Drug deaths score a record,” *The Oregonian*, January 12, 1997 (accessed via NewsBank; on file with LPRO).





In 2000, Dr. Karen Gunson, the new State Medical Examiner, identified her key goals as adding two additional deputy state medical examiners to provide regional autopsy services and securing new facilities and better equipment for the office.<sup>66</sup>

“Gunson considers her office facilities inadequate and is working with state police to find a new location. The morgue cooler, which can hold five bodies, would be too small to accommodate victims of a multiple-casualty disaster. The autopsy equipment is basic; pruning shears are used to cut ribs. The ventilation system is quirky: When it's on in the autopsy area, the heat shuts off.”<sup>67</sup>

## **2003-2008: Legislature funds new facilities; office relocates but continues to struggle with recruitment.**

The legislatively approved budget for the 2003-2005 biennium authorized a \$15.5 million Oregon State Police forensics lab and medical examiner facility.<sup>68</sup> In 2004, the State Medical Examiner's Office moved into new facilities which included cool storage for about 60 bodies and an X-ray machine and darkroom.<sup>69</sup>

The State Medical Examiner's office struggled to recruit a replacement pathologist for Lane County after a deputy State Medical Examiner retired in 2004.<sup>70</sup> Dr. Gunson, the State Medical Examiner, explained the contract did not include money for office space, health insurance, or retirement benefits, and was not competitive in a market with so few qualified pathologists. “I have talked to several forensic pathologists about how nice Lane County was and how they would have such a nice life there, but they're not interested because it was a contract and not a full-time position.”<sup>71</sup>

The State Medical Examiner's legislatively approved budget for the 2007-2009 biennium included an additional deputy State Medical Examiner (pathologist) to provide services to the Mid-Willamette Valley.<sup>72</sup>

In 2008, after more than three years of recruitments, the State Medical Examiner's office was able to hire a Deputy State Medical Examiner for Lane County.<sup>73</sup> Due to the vacant position, the number of autopsies done in Lane County fell by more than half because of the expense of transporting bodies to Portland.<sup>74</sup> Dr. Karen Gunson, State

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<sup>66</sup> “Medical examiner's task: solving puzzles,” *The Oregonian*, April 20, 2000 (accessed via NewsBank; on file with LPRO).

<sup>67</sup> *Id.*

<sup>68</sup> Legislative Fiscal Office, [Analysis of the 2003-05 Legislatively Adopted Budget](#), PDF at 179-180 (December 2003).

<sup>69</sup> *Id.*

<sup>70</sup> “County tries to lure pathologist,” *The Register-Guard*, November 13, 2005 (accessed via NewsBank; on file with LPRO).

<sup>71</sup> *Id.*

<sup>72</sup> Legislative Fiscal Office, [Analysis of the 2007-09 Legislatively Adopted Budget](#), PDF at 207 (October 2007).

<sup>73</sup> “County gets its own medical examiner,” *The Register-Guard*, February 4, 2008 (accessed via NewsBank; on file with LPRO).

<sup>74</sup> *Id.*



Medical Examiner, blamed the vacancy on the nation's chronic shortage of certified pathologists:

"It takes 14 years of schooling to become a forensic pathologist and only about 400 people are certified nationwide, she said. Most earn far more than the \$155,000 that Oregon lawmakers were willing to pay for the Lane County post, she added."<sup>75</sup>

## **2009-2015 The State Medical Examiner's Office tries to fill gaps as counties struggle to finance death investigations.**

In response to the pending loss of over \$200 million in annual federal forest payments, the Governor's Task Force on Federal Forest Payments and County Services recommended several policy changes designed to secure essential county services.<sup>76</sup> Related to public safety, the recommendations included transferring financial responsibility for medical examiner services from Southern Oregon counties to the State Medical Examiner's office and adding a Deputy State Medical Examiner (pathologist) to the Central Oregon region.<sup>77</sup> Congressional reauthorization of the timber payments after expiration in 2008 came with a phase-out schedule through fiscal year 2012.<sup>78</sup>

In 2011, at the request of Multnomah County and [Street Roots](#), a nonprofit "social justice newspaper sold by people experiencing homelessness and poverty to earn an income," the State Medical Examiner added the data field "domicile unknown" to track the housing status of the deceased.<sup>79</sup> The data was used to inform [Domicile Unknown](#), a now-annual review of deaths among people experiencing homelessness in Multnomah County from the Multnomah County Health Department and Street Roots. The administrative change paved the way for [Senate Bill 850 \(2021\)](#), which requires all death certificates to indicate if the decedent was homeless at the time of death, allowing for better reporting of homeless deaths.

In 2012, faced with an expected decline of 25 percent of county General Fund revenue in the coming year, Lane County planned \$2 million in cuts to the District Attorney's office including all medical death investigators, a part-time morgue attendant, and the facilities where the state-funded deputy State Medical Investigator performed autopsies.<sup>80</sup> Public safety officials made it clear the loss would delay investigations and the ability to move a body of a deceased person in a timely manner:

"We are prohibited by law from moving a body from a scene until we get authorization from a medical examiner. [...] We're going to be sitting at scenes of

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<sup>75</sup> *Id.*

<sup>76</sup> Governor's Task Force on Federal Forest Payments and County Services, *Final Report* (January 2009; on file with LPRO).

<sup>77</sup> *Id.*, PDF at 63-64, 142.

<sup>78</sup> Emergency Economic Stabilization Act of 2008 ([P.L. 110-343](#)).

<sup>79</sup> Multnomah County Health Department, *Domicile Unknown: Medical Examiner Review of deaths among people experiencing homelessness in Multnomah County in 2011*, PDF at 7 (2012).

<sup>80</sup> "Death and taxes," *The Register-Guard*, April 20, 2012 (accessed via NewsBank; on file with LPRO).



deaths for extended periods of time awaiting authorization. I don't know what we're going to do with these bodies.”<sup>81</sup>

The State Medical Examiner’s legislatively approved budget for 2013-2015 included \$300,000 “to address concerns for diminishing availability of public safety services in some Oregon counties,” specifically “to support contractual payments for medical examiner services in Southern Oregon.”<sup>82</sup>

In a series of meetings held across the state in advance of the 2015 legislative session, the Association of Oregon Counties (AOC) sought feedback on legislative proposals designed to shore up public safety in counties harmed by the loss of federal timber payments.<sup>83</sup>

“Discussions will look at implementing a series of public safety proposals that stem from recommendations of the governor’s 2009 task force on federal forest payments and county services, including hiring a state medical examiner for central Oregon and aiding counties for the creation of regional jails. The AOC also is looking at increasing and extending the tax that funds 9-1-1 systems and pushing the creation of a Mental Health Justice Reinvestment Account, which would establish a grant program to prevent people with mental [sic] illness from entering the criminal justice system.”<sup>84</sup>

## **2018-2019: State Medical Examiner’s Office supports unique public health and safety initiatives.**

Dr. Kimberly Repp, epidemiologist for the Washington County Department of Health and Human Services, worked with the district medical examiner and Chief Medical Examiner’s Office to implement improved data gathering for suspected suicides, then used the database to identify trends and direct resources to members of the community who may be more likely to harm themselves.<sup>85</sup> When the data showed that in the month before suicide people were likely to give a pet away, and that 25 percent of individuals who died by suicide had an eviction in the previous two weeks, Dr. Repp worked with animal shelters to raise awareness, and with the County Sheriff to ensure suicide prevention hotline information was included on eviction paperwork.

The State Medical Examiner’s legislatively approved budget for the 2019-2021 biennium included two additional pathologists, one laboratory technician, and one forensic anthropologist.<sup>86</sup> The forensic anthropologist began conducting analysis of 33 unidentified female human remains held at the State Medical Examiner’s facility as part

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<sup>81</sup> *Id.*

<sup>82</sup> Legislative Fiscal Office, [Analysis of the 2013-15 Legislatively Adopted Budget](#), PDF at 156 (September 2013).

<sup>83</sup> “Summit focuses on public safety,” *East Oregonian*, July 21, 2014 (accessed via NewsBank; on file with LPRO).

<sup>84</sup> *Id.*

<sup>85</sup> “Animal shelters are a potential ally in suicide,” *The Astorian*, December 27, 2018 (accessed via NewsBank; on file with LPRO).

<sup>86</sup> Legislative Fiscal Office, 2019-21 [Legislatively Adopted Budget Detailed Analysis](#), PDF at 188-189 (October 2019).



of the Oregon State Police effort to increase and improve reporting, investigation, and response to incidents involving missing and murdered Native American women.<sup>87</sup>

## **2020-2022: State Medical Examiner’s Office responds to extreme events; after action report concludes state and county death investigations are underfunded.**

High winds and dry conditions triggered multiple fires across Oregon in September of 2020. In preparation for a potential mass fatality event, the State Medical Examiner deployed a mobile morgue unit in Linn County.<sup>88</sup> The mobile morgue “provides a complete suite of autopsy and identification services” housed within two portable trailers which can be staged in a temporary facility by a team of 6-8 individuals in a day.<sup>89</sup>

The State Medical Examiner reported alcohol-related deaths grew 73 percent between 2019 and 2020.<sup>90</sup> Addiction recovery advocates and public health officials blamed the rise on pandemic-era liquor laws and drinking behaviors.<sup>91</sup>

The State Medical Examiner’s legislatively approved budget for the 2021-2023 biennium included “sixteen new positions (14.66 FTE), more than doubling the Office’s staffing level.”<sup>92</sup> The state budget included \$111.6 million for new Oregon State Police facilities, including a new forensic laboratory and medical examiner office in Springfield.<sup>93</sup>

A June 2021 heatwave brought record temperatures and 96 deaths from heat-related illnesses, according to the State Medical Examiner.<sup>94</sup> A 2021 after-action review recommended the State Medical Examiner’s Office update its fatality management plan to “establish tracking criteria for cases reported by county agencies regarding disasters” and close information loops to ensure consistent “fatality information verification in emergencies.”<sup>95</sup>

A 2022 after action review of Oregon’s COVID-19 vaccine campaign and on-going response operations gave a blunt assessment of the state’s medical examiner system:

“Medical examiner offices at the state and county level are underfunded. The ME system cannot meet minimum national standards due to lack of staffing and

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<sup>87</sup> Department of State Police, [Oregon State Police Report on Missing and Murdered Native American Women](#), PDF at 7 (September 2020).

<sup>88</sup> “Mobile morgue remains open as search missions continue,” *The Oregonian*, September 19, 2020 (accessed via NewsBank; on file with LPRO).

<sup>89</sup> Oregon State Medical Examiner, [2020 Oregon Wildfire Mobile Morgue Operation](#), (June 2021)

<sup>90</sup> “Laws boosted restaurants, may have fueled problem drinking,” *The Bulletin*, August 5, 2022 (accessed via NewsBank; on file with LPRO).

<sup>91</sup> *Id.*

<sup>92</sup> Legislative Fiscal Office, [2021-23 Legislatively Approved Budget Detailed Analysis](#), PDF at 206-207 (November 2022).

<sup>93</sup> *Id.* at 200.

<sup>94</sup> “State’s summer heat warning of what’s to come,” *The Astorian*, December 30, 2021 (accessed via NewsBank; on file with LPRO).

<sup>95</sup> Oregon Office of Emergency Management, [Initial AAR: 2021 Excessive Heat Event](#) (July 2021).



infrastructure has no capacity to launch a robust statewide response in an emergency.”<sup>96</sup>

## **2023: State Medical Examiner made plans for pending service reduction likely to impact counties.**

Reporting confirmed an internal communication at the Department of State Police declaring the “current [State Medical Examiner’s Office] workload is unsustainable — and it’s expected to continue increasing. Prior efforts have been insufficient to mitigate the workload, so drastic measures are necessary to restore a manageable balance.” Service reductions were proposed to take effect July 1, 2023.<sup>97</sup> The department proposed being more selective about the cases it takes, reducing services to counties including autopsies in suspected drug overdose deaths for Multnomah County. The primary issue remained a chronic shortage of forensic pathologists; one report noted the state’s shortage “is so acute that it pays \$1,750 a day to a pathologist from King County in Washington to help perform autopsies at least one or two days a month.”<sup>98</sup>

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<sup>96</sup> Office of Governor Kate Brown, *State of Oregon after-action review: COVID-19 vaccine campaign and on-going response operations* (February 2022; on file with LPRO).

<sup>97</sup> [“Staffing crisis could lead to drastic service cuts at Medical Examiner’s office,” KOIN 6](#), February 15, 2023. [“Too many bodies, not enough doctors,” The Oregonian](#), March 18, 2023. [“Bodies stacking up, autopsies nixed as Oregon Medical Examiner’s Division facing ‘worsening crisis,’” Fox 12](#), May 11, 2023.

<sup>98</sup> [“Too many bodies, not enough doctors,” The Oregonian](#), March 18, 2023.

