

## The Body Politic: Some push for change in wake of bizarre coroner's race



Michael Dobersen, M.D. says it makes no sense to elect county coroners in partisan elections. The forensic pathologist was asked to change his affiliation to Republican as a condition for receiving a midterm appointment in 1993, but has since reregistered as a Democrat. Photo by Peter Jones

**By Peter Jones**

In a year of the [Tea Party](#) and an unusual contest for Colorado governor, no one expected the 2010 race for [Arapahoe County](#) coroner to cause a flicker on the political radar screen.



Republican attorney Jay Ledbetter,

who challenged the Democratic coroner in 2010, thinks the coroner's race should remain partisan. Courtesy photo

The functionary race to oversee the county's death investigations has typically been subject to all the ballyhoo of paint drying on the county administration building.

Last year's race for coroner was a lively and rare exception.

For the first time in recent memory, two hopefuls fought a bitter and frequently partisan campaign for the position. The contenders even angrily debated on [KHOW](#) radio's [Caplis and Silverman Show](#) with two hosts, who were clearly baffled.

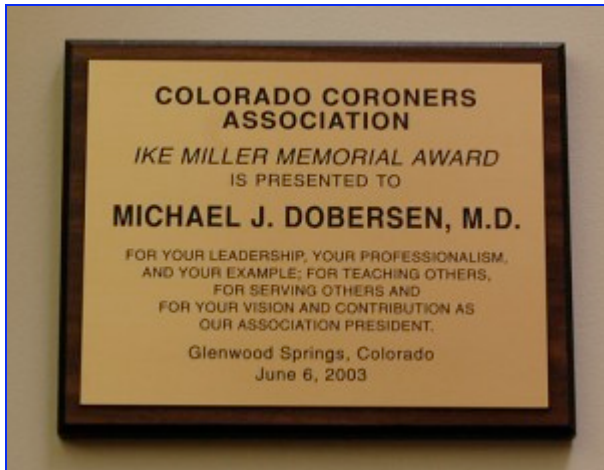


Is there such thing as a Republican or Democratic autopsy? Some say the 2010 race for Arapahoe County coroner was a case in point for changing Colorado's system. Photo by Peter Jones

Even after incumbent Democrat Michael Dobersen narrowly won re-election by a margin of about 0.6 percent, the controversy over the coroner held on to unusual life signs.

Dobersen filed a formal complaint with the Colorado Attorney General's Office accusing his opponent, Republican Jay Ledbetter, of violating a state criminal statute that prohibits knowingly or recklessly making false statements to affect an election.

In July, the Attorney General's Office declined to prosecute, writing in a letter to Dobersen that "... there is little indication that Mr. Ledbetter acted recklessly, as a matter of law."



Few county coroners in Colorado have medical degrees. Forensic pathologist Michael Dobersen is a rare exception.

Dobersen, a medical doctor and a five-term incumbent, says the entire experience was among the most bizarre and unpleasant he has ever experienced as a physician or a public official.

“My job is really behind the scenes,” he said. “All of sudden, I’m put in the public spotlight trying to defend against all these wacky allegations. I work for the medical legal system. It’s medicine – and I’m thrust into a situation that’s political.”

Ledbetter, an attorney, says that’s the way it should be.

“This election proved it,” the Republican said. “What we wound up with was a fellow who needed to be examined.”

### **Body wanted – for coroner**

The qualifications for a county coroner in Colorado are minimal. According to the state Constitution, a candidate must be 18 years old and a registered voter with no felony convictions. No previous medical, legal or investigative experience is required.

Unless the county is home rule, such as Denver or Broomfield, the Constitution mandates that coroners be elected in partisan races.

In Colorado, their backgrounds run the gamut, from a dentist to a former construction industry professional. Because the majority of elected coroners in the state have no medical training, much less experience in forensic pathology, most have run for office on the basis of management skills and typically contract with outside medical examiners to conduct autopsies.

Dobersen is the rare exception. The medical doctor is one of 18 forensic pathologists in the entire state. He is one of only a handful of Colorado coroners with similar qualifications.



“Are there Republican autopsies and Democratic autopsies?” University of Colorado political-science professor Ken Bickers said, “My sense is the reason we have partisan elections of coroners is because we haven’t gotten around to getting rid of it. It’s why human skeletons still have a piece of tail.” Coroner Michael Dobersen keeps this one on display. Photos by Peter Jones

As a result, the long-serving official is in regular demand as a contractor for other county coroners and has been a consultant on such high-profile cases as the 9/11 terrorist attacks, the Columbine shootings, Hurricane Katrina and the 1996 murder of child beauty queen, JonBenet Ramsey.

Dobersen's relative celebrity and consultant work became a campaign issue for the first time last year when Ledbetter criticized the incumbent's \$220,000 annual compensation, which includes his coroner and medical-examiner salaries, but not his freelance work approved by the county's board of commissioners.

Dobersen says the arrangement saves the county money.

"A forensic pathologist is the gold standard for running medical examiner's office across the country," he said. "Somebody has to do the work for the other counties. That's part of being in a specialty where there are only 400 practitioners in the whole country."

Ledbetter had pledged to end what he called "double dipping."

### **Partisan autopsies**

Despite its functional position in government, the Arapahoe County Coroner's Office had partisan undertones well before Ledbetter stressed his party credentials.

Dobersen was appointed as a midterm replacement in 1993 when Arapahoe was still a strongly Republican county.

The GOP-led board of commissioners had assembled a search committee that included representatives from the sheriff and district attorney's offices, among others.

Dobersen was also asked to meet with a group of unelected Republican activists. The Democrat says during the meeting it became clear what was missing from his resume.

"They said, 'We'd like you to be a Republican,'" Dobersen recalled. "I told them I didn't particularly agree that this position had anything to do with politics. But this was kind of my dream job. This was one of the best jobs I could ever aspire to."

Dobersen switched parties and would successfully seek re-election as a Republican four times, despite describing his own politics as being to the "left of [filmmaker] Michael Moore."

The self-described "RINO or Republican in name only" says over the years he enjoyed an informal, mutually understood relationship with Republican activists who often praised Dobersen as among the most well qualified coroners in the United States.

"Everyone knew my feelings, It kind of became funny after a while," Dobersen said.

The official seldom saw competition in his bids to keep the only county-level office without term limits. He ran unopposed every year until 2006 when – ironically – a far less experienced Democrat challenged him.



In an election year that generally favored Democrats in a county that had become increasingly “purple,” Dobersen narrowly held on to his seat, winning by only 4 percentage points.

Dobersen reregistered as Democrat shortly after the election. Responding to charges of political opportunism, he insisted that he was reacting to the Bush presidency, not maneuvering to remain in office.

“Then, the realization hit,” he said.

For the first time Dobersen would run as a Democrat.

### **A fight over death**

Republican Ledbetter has a long history as a prosecutor and a defense attorney. His resume touts a strong background in criminal inquiry and the rules of evidence, but like many candidates for coroner, he had little medical background.

Ledbetter may not have had an M.D. after his name, but he did have an R. For the first time in recent years of Arapahoe County coroner elections, a candidate decided to make issue of his party affiliation – and the changing nature of his opponent’s.

“The R behind my name means something,” he said in a September 2010 debate with Dobersen. “It means I stand for limited government, lower taxes, fiscal responsibility. It means I stand for transparency, ethics.”

Ledbetter would level a litany of charges against Dobersen – from wasting tax money by conducting too many autopsies to negotiating what Ledbetter considered an exorbitant salary.

Ledbetter’s most contentious claim said he would “stop the practice of where coroner’s staff manipulates evidence in ongoing criminal trials by changing reports during the trial to convict an innocent person of a crime rather than admit an error.”

According to Ledbetter, he had been tipped off to what he later admitted was a bogus charge from a disgruntled defense attorney. After learning of the “mistake,” Ledbetter sent an apology to Dobersen and retracted the claim to reporters.

Under Colorado law, it is a crime to knowingly or recklessly make false statements to affect an election. The penalty is three to 12 months in jail and a fine up to \$1,000.

The Colorado Attorney General’s Office declined to prosecute Ledbetter largely on the grounds that the candidate considered his single source credible and later withdrew the allegation.

“My task was not to determine whether the approach of Mr. Ledbetter was advisable or in the best interest of the public, but whether criminal charges should be filed based on applicable law,” Deputy Attorney General Michael Dougherty wrote in a letter to Dobersen.

There have been few prosecutions under the 1980 elections law and none since at least 2005, according to the Attorney General's Office.

Dobersen was disappointed in the decision.

"You'd think it would be reckless because he gets this information and doesn't even substantiate it with something else," he said. "Furthermore, if that's his way of investigating things, what kind of coroner would he have made?"

Ledbetter says he was vindicated by the decision.

"The Attorney General's Office recognized the proactive nature I took once I discovered that it wasn't a reliable report," he said.

Still, the bitter and narrowly won contest for coroner between a Democratic forensic pathologist and a Republican attorney had voters and activists in both parties scratching their chins.

Dobersen, who was endorsed by such Republicans as Sheriff Grayson Robinson and former county Commissioner John Brackney, says he was aghast by the entire experience.

"I was running on my qualifications and experience," he said. "When you go in for a cardiac catheterization or a bypass operation, you don't ask your physician what political party he belongs to."

### **A dead system?**



State Rep. Rhonda Fields tried to form a commission to rethink

Colorado's coroner system. The bill died when the Colorado Coroners Association opposed it. Courtesy photo

Roughly a third of 50 states elect county coroners in a system similar to Colorado's. Another third bypass the "coroner" position in favor of appointing qualified medical examiners. Another third use a hybrid method of one kind or another.

Ken Bickers, a University of Colorado political-science professor specializing in elections, thinks it makes no sense to continue using an "Old West" system of electing functionary officials.

"Are there Republican autopsies and Democratic autopsies?" Bickers said. "My sense is the reason we have partisan elections of coroners is because we haven't gotten around to getting rid of it. It's why human skeletons still have a piece of tail."

Bickers thinks Colorado would be better off appointing coroners – much as the county's public works and social service directors are appointed – rather than leaving the choice of qualified candidates to the will of the political parties.

"I'm not a big fan of electing officers that don't need to be elected. Our ballots are already extremely long," he said. "I don't think most voters would say, 'Gosh, I would feel so much more empowered if I could elect the coroner.'"

Such talk got state Rep. Rhonda Fields thinking. During the 2010 legislative session, the Aurora Democrat proposed creating a commission of stakeholders to examine Colorado's coroner system and potentially recommended changes.

Her move came in wake of the Arapahoe County election and public squabbling between Douglas County Coroner Lora Thomas and Sheriff Dave Weaver. Earlier this year, Thomas threatened to release information on a murder case unless Weaver gave Thomas's staff access to a gym and vending machine.

"There's a fracture in the system," Fields said of the increasingly odd landscape. "I don't think these offices need to be politicized. It should be about making sure we have people with the right skill set to do what's necessary."

Fields's bill died in committee after the Colorado Coroners Association, led by Larimer County Coroner Patrick Allen, objected. Allen, CCA's president and a Republican forensic pathologist serving his ninth term, believes such talk would have led to a centralized system and hurt rural areas.

"The widespread opinion of the coroners in the state is that they want to be responsible to their constituents in a local fashion," he said. "Nothing is broken. The system is working adequately. So why create something and spend more money?"

Arapahoe County's election was an anomaly, Allen says.



Douglas County's coroner, who is not a forensic pathologist, also favors the current partisan system.

"I am a Republican and a fiscal conservative," Thomas said. "I approach this position with my fiscal conservative values in place."

Dobersen, who says he will not seek a sixth term in 2014, has proposed electing coroners on a nonpartisan basis. He thinks such coroners should work with state-appointed medical examiners that would be assigned to each of Colorado's 22 judicial districts.

Meanwhile, Fields plans to reintroduce her own bill next year.

Whatever grows out of such discussions, no one expects that altering a more than century-old system will be easy.

Not surprisingly, Ledbetter, who has not ruled out another run for office, says he would oppose any effort to fundamentally change Colorado's partisan-based coroner structure.

"I think a philosophy of governance and fiscal responsibility should play into this," the Republican attorney said. "And maybe, in the next election, it might."