



**State of Maine
Office of the Attorney General**

Death Investigation Protocol

I. BACKGROUND

A. The Attorney General is charged with the investigation and prosecution of all homicides occurring in the State of Maine. 5 M.R.S.A. § 200-A. The purpose of this protocol is to establish procedures for law enforcement agencies in cases of violent, unnatural, unexplained, suspicious, or suspected deaths. While it is implicit in these procedures that a death has occurred, it is important to note that the procedures are also applicable to those situations where there is no body, but there is evidence that a death may have occurred, as in the case of a missing person where timely implementation of these procedures is oftentimes critical.

B. Technical assistance and expertise are indispensable to the successful investigation and prosecution of homicides. This office will continue to rely upon the State Police Criminal Investigation Division (CID) as its primary homicide investigative arm with such exceptions as will be noted here or in other written instructions from this office. In Portland, the Portland Police Department is designated as the primary homicide investigative arm of this office. In Bangor, it is the Bangor Police Department. Further references to “CID” or “Criminal Investigation Division” in this protocol refer, respectively, to the Portland Police Department, the Bangor Police Department, or the State Police.

II. IMPORTANCE OF DEATH SCENE CONTROL

Control of the death scene is a primary focus of these procedures. Often, the medical examiner can gain valuable insight into the cause and manner of death, as well as the time of death, from viewing the scene and the body at the scene. Moreover, the scene is sometimes replete with subtle clues that could aid in the identification or discovery of the perpetrator. All, or a significant part, of this evidence could be lost through inadvertent disturbance of the scene by persons lacking the required expertise.

III. PROCEDURES TO BE FOLLOWED IN ALL CASES INVOLVING VIOLENT, UNNATURAL, UNEXPLAINED, SUSPICIOUS, OR SUSPECTED DEATHS

A. Initial Procedures. The first law enforcement officer arriving at the scene of a death is charged with the following duties:

1. Conduct a cursory search of the premises for the limited purpose of determining if there are other victims or perpetrators present.
2. Without disturbing the body, determine that death has in fact occurred. If there is any evidence of life, all necessary life-sustaining measures should be initiated.
3. Without disturbing the scene, make a cursory examination of the scene to determine if the death is at all suspicious. (All deaths resulting from gunshot wounds are to be considered "suspicious" until a thorough investigation has determined otherwise.) If the death is at all suspicious (or there is no body, but there is evidence that death may have occurred), the following procedures will be followed:
 - (a) Secure and protect the scene. The body should not be moved unless the body is in immediate danger of destruction or further damage.
 - (b) Notify superiors and the Chief Medical Examiner's Office, the Criminal Investigation Division, and the District Attorney. The Chief Medical Examiner will notify the Attorney General's Office. If you wish, however, you may obtain the name and telephone number of the Attorney General duty officer from the Office of the Chief Medical Examiner or State Police Dispatch enabling you to be in direct contact with the duty officer.
 - (c) Record names, addresses, telephone numbers, and other pertinent information of all persons present (they may be important witnesses) or assign another person to this task.
 - (d) Maintain a timetable of all persons arriving and leaving the scene.
 - (e) Unless circumstances require it, do not arrest or detain a suspect without prior authorization of the CID detective in charge or the Attorney General duty officer.
 - (f) If the circumstances require arresting or detaining a suspect, do not undertake questioning of the suspect without first discussing this procedure with the CID detective in charge or the Attorney General duty officer. Be prepared, if at all possible, to record by means of videotape or audiotape any statements volunteered by the suspect.

B. Nonsuspicious Deaths. If the death is of a nonsuspicious nature, the following procedures will be followed:

1. Notify superiors.
2. Notify the Chief Medical Examiner.
3. Conduct a thorough investigation following departmental procedures.
4. All violent nonsuspicious deaths, e.g., motor vehicle deaths, accidental deaths, will be reported immediately to the District Attorney and the Chief Medical Examiner.

C. Possible Suicide. When the circumstances of death suggest a possible suicide not involving a person in custody or confinement, the investigating officer should first call the Office of the Chief Medical Examiner to report the event.

1. The officer should make an initial evaluation of the scene to determine whether the following indicators of intent are present:
 - (a) Suicide note or other materials clearly indicating the decedent's desire or expectation of death (e.g., will).
 - (b) Friends or relatives who can state that there has been recent or previous suicide attempts.
 - (c) Friends, relatives, physicians who state the decedent had recently disclosed suicidal thoughts.
 - (d) Recent diagnosis of significant disabling medical disorder or chronic severe medical or mental illness.
 - (e) Recent significant change in personal circumstances such as financial loss, divorce, or other catastrophic event.
2. If two or more of the above factors are present, the case should be investigated according to departmental procedures and the procedures outlined in this protocol. The investigating officer should be present during the examination of the decedent by the local medical examiner and must ensure that a blood kit for toxicology testing is available.
3. If the investigating officer has any suspicion regarding the circumstances OR if there are not at least two of the above factors present, the officer should speak directly with the Chief Medical Examiner or Deputy Chief Medical Examiner on call to determine the need for additional investigation. In certain cases, due to the complexity of these investigations, the Office of the Chief Medical Examiner may request that the Criminal Investigation Division assist in the investigation.
4. If it is suspected that a suicide is the result of a drug overdose, the investigating officer should also consult section IV-G of this protocol.
5. Unless the evidence is conclusive as to suicide, the investigating

officer is required to notify the Criminal Investigation Division.

IV. PROCEDURES FOR DEATHS WITH SPECIAL CIRCUMSTANCES

A. Fire and Explosion Deaths

The State Fire Marshal is designated the official representative of the Attorney General in the investigation of fatal fires and explosions. The law enforcement officer or firefighter discovering a body in a fire or following an explosion is charged with notifying the State Fire Marshal and the Chief Medical Examiner. The scene shall not be disturbed or the body moved, unless the body is in immediate danger of destruction or further damage. If arson is suspected or the death is otherwise suspicious, the case should be handled as any other suspicious death, which includes notifying the Criminal Investigation Division. (See Section III above.)

B. Hunting Deaths

The State Warden Service is designated the official representative of the Attorney General in the investigation of hunting fatalities. The law enforcement officer encountering an apparent hunting fatality shall notify the State Warden Service and the Chief Medical Examiner. The State Warden Service will in turn notify the Criminal Investigation Division for assistance in conducting the investigation. The scene shall not be disturbed or the body moved until authorized, unless the body is in immediate danger of destruction or further damage.

C. Deaths while in custody or confinement

The death of an individual while in custody or confinement in a jail, holding facility, or correctional institution shall be reported immediately to the Office of the Chief Medical Examiner. In addition, the Criminal Investigation Division shall be notified. This notification is necessary for these agencies to carry out their responsibility of investigating the death to determine the cause and manner of death and whether the death is suspicious. Finally, the Inspections Divisions of the Department of Corrections shall be notified for the purpose of conducting an investigation into the operational practices, policies and procedures to determine compliance with required standards.

The death of an individual while in custody or confinement as a result of being ordered to undergo a mental health examination, being involuntarily committed to a mental institution on the basis of mental disease or defect, or having been taken into protective custody shall be reported immediately to the Office of the Chief Medical Examiner. In addition, the Criminal Investigation Division shall be notified. This notification is necessary for these agencies to carry out their responsibility of investigating the death to determine the cause and manner of death and whether the death is suspicious.

D. Police-involved deaths

The Investigation Division of the Office of the Attorney General is designated as the official representative of the Attorney General in the investigation of police-

involved deaths. A "police-involved death" means a death resulting from a law enforcement officer's act or acts. Not included, however, is any motor vehicle fatality unless it results from the imposition of physical force intentionally applied. A police-involved death shall be reported immediately to the Investigation Division of the Office of the Attorney General. In addition, the Office of the Chief Medical Examiner shall be notified.

For further important information, consult the Attorney General's Protocol for the Reporting of the Use of Deadly Force by a Law Enforcement Officer.

E. Workplace deaths

The "workplace manslaughter" law became effective on September 30, 1989. 17-A M.R.S.A. § 203(1)(C). The law is applicable to those situations where an employee dies in the workplace. While not every death that occurs in the workplace is a "workplace manslaughter," all workplace deaths of other than clearly natural cause must be reported immediately to the Chief Medical Examiner. The Chief Medical Examiner's Office will notify the Criminal Division of the Attorney General's Office. While the initial scene investigation of a workplace death will continue to be the responsibility of the agency normally providing law enforcement services in the particular locale, any prosecution under the workplace manslaughter law will be brought by the Attorney General's Office. Moreover, depending on the circumstances, investigators from the Criminal Investigation Division may be assigned to assist in the investigation of these matters. It is also likely that investigators from the Occupational Health and Safety Administration (OSHA) or the Maine Bureau of Labor Standards (BLS) will be assigned to assist in the investigation. In the initial scene investigation of these matters, law enforcement officers are reminded to treat the situation like they would a vehicular manslaughter, securing photographs, measurements, and other evidence.

F. Child deaths

When law enforcement officers respond to the scene of a child death and foul play is suspected, the officers should follow this protocol as stated in Sections II and III above. Additionally, however, it is necessary to expand the scope of instances where a thorough scene investigation will be conducted in an attempt to determine the cause, manner and circumstances of the death of a child. A "child," for these purposes, is a person under the age of three years. The authority of the Medical Examiner in these cases is granted pursuant to statute. 22 M.R.S.A. §§ 3025 and 3028. The investigation of child death cases will be expanded beyond those situations of suspected criminal involvement. In addition to those suspicious child deaths that merit a criminal investigation, two additional categories of child deaths are included for special investigation by the Criminal Investigation Division:

1. Cases in which the cause of the child's death is not apparent. The Criminal Investigation Division will specially investigate all of these cases.

2. Selected trauma cases. The decision to specially investigate these cases will be made on a case-by-case basis by the Medical Examiner's Office.
 - a. If the decision is made to specially investigate a particular traumatic death, the Office of the Chief Medical Examiner will notify the Criminal Investigation Division. The scene should continue to be protected until a representative from the Criminal Investigation Division arrives.
 - b. If the decision is made not to specially investigate a particular traumatic death, the Office of the Chief Medical Examiner will notify the responding officer so that the scene need no longer be protected. Of course, an appropriate routine investigation is still necessary as in any medical examiner case of nonnatural death.
 - c. The purpose of the investigation, special or routine, in each case is to determine, to the extent possible, the cause, manner and circumstances of the child's death. Deaths of young children are being singled out for special investigation because of the different technical approach and types of inquiry needed in pursuing them.
3. It is important for the first responding law enforcement agency to also protect the scene in the two types of cases enumerated above, as would be done in instances of suspicious death, until a decision is made concerning the need for a special investigation.

G. Suspected Drug Overdose Deaths

The purpose of the investigation in each case is to determine, to the extent possible, the cause, manner and circumstances surrounding the drug overdose, the identity of the drug involved, and the source of the drug. When a law enforcement officer responds to the scene of a suspected drug overdose death and homicide is suspected, the officer should follow this protocol as stated in Section II and III above.

1. This includes the immediate notification of the Office of the Chief Medical Examiner.
2. In cases where homicide is not suspected, the following procedures should be followed:
 - a. If, during the preliminary stages of the investigation, it appears that the death could possibly be the result of a drug overdose, the regional supervisor for the Maine Drug Enforcement Agency (MDEA) shall be notified and the supervisor will determine if MDEA agents will be assigned to assist in the investigation. The MDEA supervisor will immediately notify the regional Attorney

General Drug Task Force prosecutor (or in the case Aroostook County, the District Attorney) of the death and the ensuing investigation.

- b. In all suspected drug overdose deaths, a thorough scene investigation and victimology should be conducted in an attempt to determine the cause, manner and circumstances surrounding the death. This should include witness statements, inventory of any drugs or drug paraphernalia, information about the deceased's medical or mental health history, and identification of all known treating physicians. Of course, an appropriate routine level investigation is still necessary, as in any death by other than natural causes.
- c. Because in suspected drug overdose cases, the cause of death is not readily apparent, and may not be for several weeks pending the results of the toxicology, these cases will be investigated until a point where the investigating agency and the Office of Chief Medical Examiner have determined no further investigation is necessary and/or the cause of death is determined. The Office of Chief Medical Examiner will notify the appropriate investigating agency when the cause of death has been determined.

V. Public Statements. Public statements released in homicide or suspected homicide cases are released under the authority of the Office of the Attorney General. The applicable Criminal Investigation Division may release information in these cases after consultation with the Office of the Attorney General and the Office of the Chief Medical Examiner.

A. The following types of information should not be released:

- 1. Information as to the character or reputation or prior criminal record of an accused person or a prospective witness.
- 2. Admissions, confessions, or a statement or alibi attributable to any accused person, except as otherwise contained in a public record.
- 3. The performance or results of tests or the desire, agreement, or refusal of the accused or any potential witness to take or perform a test.
- 4. Statements or information concerning the credibility or anticipated testimony of prospective witnesses.
- 5. The possibility of a plea to the offense charged or to a lesser offense, or other disposition.
- 6. Opinions concerning evidence or argument in the case, whether or not it is anticipated that such evidence or argument will be used at trial.
- 7. Opinions as to the guilt of the accused, the evidence, or the merits of the case.

B. The following guidelines are examples of information that may be released in death investigations. Again, in cases within the jurisdiction of the Office of the Attorney General, the applicable Criminal Investigation Division or designated agency will handle releases.

1. The identity of the decedent, if confirmed and not in question, may be released after family or next of kin has been notified. If there is any question as to the identity, it may not be released without authorization of the Office of Chief Medical Examiner.
2. Information regarding the cause and manner of death may be released only with authorization of the Office of Chief Medical Examiner and the applicable prosecuting agency.
3. A description of the offense, i.e., homicide, hunting fatality, apparent suicide, suspicious death, accidental, and time and place thereof, that the investigation is in progress, and the identity of the investigating agency.
4. A warning to the public of any dangers.
5. A request for assistance in apprehending a suspect or assistance in other matters, provided that the information released is necessary to accomplish that purpose.
6. Except in the case of a juvenile, the name of the accused, age, residence, employment, and marital status.
7. The circumstances immediately surrounding the arrest, including the time and place of the arrest, resistance, pursuit, possession and use of weapons.
8. The substance or text of the charge, such as a complaint, indictment, information, and where appropriate, the identity of the complainant.
9. Information contained in a public record, stated so as to attribute the information to public record.
10. The scheduling or result of any step or action in the judicial proceeding.

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G. STEVEN ROWE
Attorney General

Further Information. Questions about this protocol may be addressed to William R. Stokes, Chief of the Criminal Division, Office of the Attorney General, 6 State House

Station, Augusta, ME 04333, (207) 626-8800.