

## FOREWORD

This County Coroner's procedures manual was compiled by the Association of Arkansas Counties staff and reviewed by AAC staff. It reflects the current law through the 2015 legislative session and includes a description of the duties, responsibilities, and procedures of the Coroner's office. It is not to be construed as legal advice. It presents the law for your information and guidance but specific legal questions should be directed to your county attorney.

We hope this procedures manual will be of help to you as you do the day-to-day business of your county.

A handwritten signature in black ink that reads "Chris Villines". The signature is written in a cursive, flowing style.

Chris Villines  
Executive Director

**ASSOCIATION OF ARKANSAS COUNTIES  
BOARD OF DIRECTORS  
2015**

**PRESIDENT**

Judy Beth Hutcherson, County Treasurer ..... Clark County

**VICE PRESIDENT**

Debbie Wise, Circuit Clerk ..... Randolph County

**SECRETARY/TREASURER**

Joe Gillenwater, Justice of the Peace ..... Miller County

Sherry Bell, County Clerk ..... Columbia County

Jimmy Hart, County Judge ..... Conway County

Cindy Walker, County Clerk ..... Columbia County

Angela Hill, County Assessor ..... Faulkner County

Brandon Ellison, County Judge ..... Polk County

Bill Hollenbeck, County Sheriff ..... Sebastian County

Rhonda Cole, County Clerk ..... Clark County

Sandra Cawyer, County Assessor ..... Columbia County

Andrea Billingsley, County Circuit Clerk ..... Little River County

David Thompson, Justice of the Peace ..... Boone County

Debra Buckner, County Collector ..... Pulaski County

Patrick Moore, County Coroner ..... Faulkner County

John Montgomery, County Sheriff ..... Baxter County

Debbie Cross, County Treasurer ..... Greene County

Joe Gillenwater, Justice of the Peace ..... Miller County

**AAC STAFF**

Chris Villines, Executive Director

Mark Whitmore, Chief Legal Counsel     Jeanne Hunt, Executive Assistant

Cindy Posey, Accountant                     Lindsey Bailey, Legal Counsel

Becky Comet, Membership Benefits     Brenda Emerson, ACE Coordinator

Whitney Barket, Receptionist             Christy Smith, Comm. Coordinator

Josh Curtis, Governmental Affairs Director

Scott Perkins, Legislative/ Comm. Director

**AAC RISK MANAGEMENT SERVICES**

Debbie Norman, Risk Manager

Debbie Lakey, WCT Claims Manager     Brandy McAllister, RMS Counsel

Cathy Perry, Claims Analyst                 Kim Nash, Claims Examiner

Kim Mitchell, Administrative Assistant     Barry Burkett, Loss Control Specialist

Riley Groover, Claims Examiner             Elizabeth Sullivan, Administrative Assistant

# TABLE OF CONTENTS

	<u>PAGE</u>
Foreword.....	1
Board of Directors and Staff .....	2
Table of Contents.....	3
CHAPTER 1	
County Government Overview.....	4
CHAPTER 2	
Duties of the Office .....	8
CHAPTER 3	
State Crime Lab .....	20
CHAPTER 4	
Death Scene Investigation .....	27
CHAPTER 5	
Homicide.....	31
CHAPTER 6	
Guidelines for Investigating, Reporting and Certifying Deaths.....	47
CHAPTER 7	
Attorney General Opinions and County Lines Articles .....	61
CHAPTER 8	
FAQs.....	77
CHAPTER 9	
Glossary of Terms .....	82

## Chapter One - INTRODUCTION TO COUNTY GOVERNMENT

County government is a political subdivision of the state. County government provides services to all of the citizens of the county, and every resident of Arkansas lives in a county. The services that every county must provide include: (1) the administration of justice through the courts; (2) law enforcement protection and the operation of the jail (3) real and personal property tax administration, including assessments, collection, and custody of tax proceeds; (4) court and public records management; and (5) the required services prescribed by state law provided through the various elected county officers or departments of county government such as providing and managing a county road system, elections and financial management just to name a few things. Counties may provide for the establishment of any service or performance of any function that is not expressly prohibited by law. These services and functions include, but are not limited to, things like agricultural extension services; community and rural development services; libraries; park and recreation services; emergency medical services; fire prevention and protection services; solid waste collection and disposal services; public health services; and any other services related to county affairs (ACA 14-14-802).

County government elects nine executive officers and a countywide legislative body called the Quorum Court to provide these various services. The nine elected officials are county judge, sheriff, county clerk, circuit clerk, collector, assessor, treasurer, coroner and surveyor. Some counties combine two of these offices into one, such as county clerk/circuit clerk, sheriff/collector, or treasurer/collector. Also, not all counties elect a surveyor and in the counties that do elect them, this job is usually not a full-time position. The county legislative body is entitled the Quorum Court and is composed of 9-15 members called Justices of the Peace. These justices of the peace are district officers and not county officials because they represent a district within the county.

The chief executive officer for county government in Arkansas is the county judge. As chief executive, the judge authorizes and approves the disbursement of all appropriated county funds, operates the system of county roads, administers ordinances enacted by the quorum court, has custody of county property, accepts grants from federal, state, public and private sources, hires county employees except those persons employed by other elected officials of the county, and presides over the quorum court without a vote, but with the power of veto. (ACA 14-14-1101 - 1102)

All powers not vested in the county judge as the chief executive officer of the county shall continue to be exercised and administered by the county court, over which the county judge shall preside. The county court, in fact, is the county judge sitting in a judicial role.

The county court of each county has exclusive original jurisdiction in all matters relating to:

1. County Taxes: Including real and personal ad valorem taxes collected by county government. The county court's authority in this area includes jurisdiction over the assessment of property, equalization of assessments on appeal, tax levies, tax collections, and the distribution of tax proceeds.

2. Paupers: The court's jurisdiction includes all county administrative actions affecting the conduct of human services programs serving indigent residents of the county where such services are financed in total or in part by county funds.

3. Jurisdiction in each other case that may be necessary to the internal improvement and local concerns of the respective counties including county financial activities and works of general public utility or advantage designed to promote intercommunication, trade and commerce, transportation of persons and property, or the development of natural resources, which are not otherwise transferred to the county judges to be administered in an executive capacity.

4. The county court shall have all other jurisdiction now vested by law in the county court except with respect to those powers formerly vested in the county court under the provisions of Section 28 of Article 7 of the Constitution which were transferred to the county judge under the provisions of Section 3 of Amendment 55 to the Arkansas Constitution, (and those powers removed by Amendment 67 as they pertain to the apprenticeship of minors. (ACA 14-14-1105)

In addition to the duties of the county court, the county judge is responsible for coordinating the day-to-day inter-governmental relations between the various state and federal agencies operating at the county level. The judge must also apply for all federal and state assistance moneys for which the county is eligible, and appoints the members to all administrative and advisory boards in the county, some of which have to be confirmed by the quorum court.

The county sheriff is the sheriff of the courts, maintains public peace, and has custody of the county jail. As chief enforcement officer of the circuit courts, the sheriff's office, which includes the sheriff and deputies, is charged by constitutional and statutory laws with the execution of summons, enforcement of judgments, orders, injunctions, garnishments, attachments, and the making of arrests on warrants issued by the courts. The sheriff also opens and attends each term of circuit court, notifies residents selected to jury duty and assists in handling witnesses and prisoners during a given court term.

The sheriff, or a member of that staff, often prepares and assembles evidence of the Prosecuting Attorney's case against defendants charged with both felonies and misdemeanors. The sheriff also transports convicted prisoners and others declared by the court to the various penal and mental institutions of the state.

The sheriff in every county has the custody, rule, and charge of the county jail and all prisoners committed in his county (ACA 12-41-502). The sheriff shall be conservator of the peace in his county (ACA 14-15-501). It shall be the duty of each sheriff to quell and suppress all assaults and batteries, affrays, insurrections, and unlawful assemblies; and he shall apprehend and commit to jail all felons and other offenders (ACA 14-14-1301). The sheriff also works with the various local municipal law enforcement officials or other state and federal officials charged with law enforcement.

The county clerk is the official bookkeeper of county government and serves as the clerk for the county, quorum and probate courts.

As clerk of the county court, the clerk has the duty of keeping a regular account between the treasurer and the county. The clerk charges the treasurer with all moneys received and credits the treasurer with all moneys dispersed. In addition, the clerk keeps an accurate account of all financial transactions within the county and files all documents, vouchers, and other papers pertaining to the settlement of any account to which the county is involved. It is the responsibility of the county clerk to prepare all checks on the treasury for moneys ordered to be paid by the county court and to keep complete and accurate records of all these financial transactions ready for the court's inspection at any time (ACA 16-20-402). [An alternate method of the county treasurer issuing checks, allowed by ACA 14-24-204, is used by many counties.]

The county clerk shall serve, unless otherwise designated by county ordinance, as the secretariat of the quorum court. These duties involve keeping a complete permanent record of the proceedings of the Quorum Court including minutes, ordinances, resolutions and an index to provide easy access to the information (ACA 14-14-902 and 14-14-903).

As clerk to the probate court, the clerk files all instruments making them a matter of record in decedent estate cases, and swears in all witnesses in contested estates. The clerk, also in this capacity, maintains all records relative to adoptions and guardianship cases within the county.

The county clerk, or the clerk's designee, serves as the secretary of the Board of Equalization and records the minutes of their meetings (ACA 26-27-307). Also, if the clerk is the preparer of tax books for the county, the clerk is responsible for extending the taxes in the information provided by the assessor and the Board of Equalization (ACA 26-28-101 through 26-28-108).

The clerk became the official voter registrar with the adoption of Amendment 51 to the Arkansas Constitution in 1966. The clerk maintains an accurate and up-to-date voter registration list within the office and stores the ballot boxes between elections. In addition, the clerk is the custodian of absentee ballots and is responsible for early voting. It is common practice in many counties for the county clerk to assist the county election commission in the

overall performance of the election process. With the increasing complexity of elections, however, there is an increasing trend towards the hiring of election coordinators to aid the county election commission and the county clerk in their respective election responsibilities. (ACA 7-5-401 et seq.)

The clerk issues marriage licenses (ACA 9-11-201), and keeps a record of all firms in the county which have incorporated (ACA 4-26-1201). The clerk issues special licenses allowing certain activities (ACA 26-76-102).

The circuit clerk is the clerk of the circuit court and juvenile court and usually acts as the ex-officio recorder of the county.

Unless otherwise provided by law, the county recorder is the circuit clerk of the county. In a county that under law has assigned the duties of the county recorder to the county clerk, all Code references to circuit clerk that concern recording functions shall mean the county clerk.

The administrative duties of the circuit clerk are to maintain a record of all proceedings of the circuit courts to enter docket number and name of the defendant and to prepare the dockets for these courts (ACA 16-20-102). The circuit clerk prepares summons, warrants, orders, judgments, and injunctions authorized by the circuit court for delivery by the county sheriff. The circuit clerk also maintains a file of all cases pending in either court, as well as a record of all past court cases and their disposition (ACA 16-20-303 and 16-20-304). The clerk has 20 days before commencement of each of the dockets in all cases. In addition, the circuit clerk acts as a secretary to the jury commission by keeping a list of all prospective jurors (ACA 16-32-101 et seq.)

The circuit clerk is also the ex-officio county recorder; and is responsible for recording deeds, mortgages, liens, and surety bonds, and many other orders and instruments which involve property within the county (ACA 14-15-401 et seq). The circuit clerk maintains a record of many miscellaneous items, and files certain licenses. The circuit clerk also swears in all notaries public and files regulations of state agencies which license trade or professional workers.

The county collector is the collector of taxes for the county and collects municipal, county, school and improvement district taxes and turns them over to the county treasurer. The collector is responsible for collecting all property taxes from the first day of March to the fifteenth day of October during the calendar year after they are assessed. By statute, the collector is required to turn over all tax revenue to the treasurer at least once a month (ACA 26-39-201). The County Depository Board may require the collector and other county officials to settle with the county treasurer more frequently than once a month (ACA 19-8-106). Taxpayers may pay their taxes in installments, with one-fourth of the total being due between March and April, one-fourth being due between April and July, and the remaining one-half between July and October 15 (ACA 26-35-501).

Any real or personal property taxes not paid by the fifteenth day of October, or falling within one of the exceptions to the requirement that taxes be paid by October 15 of each year (i.e., postmarked prior to October 15 or paid after October 15 if the fifteenth falls on a weekend or holiday), are considered delinquent and the collector extends a 10% penalty against the taxpayer (ACA 26-36-201). Before December 1st of each year, the collector of taxes shall prepare a list of delinquent personal property taxes and deliver a copy of the list to a legal newspaper in the county. Within seven (7) days thereafter, the newspaper shall publish the list. If there is no newspaper in the county or district, the publication shall be in the nearest newspaper having a general circulation in the county or districts for which the list is being published. (ACA 26-36-203)

The duty of the county assessor is to appraise and assess all real property between the first Monday of January and the first of July, and all personal property between the first Monday in January and the thirty-first of May. (ACA 26-26-1408 and 26-26-1101). All property in the state shall be assessed according to its value on the first of January except merchants and manufacturers inventory that is assessed at its average value during the year immediately preceding the first of January (ACA 26-26-1201).

The assessor must make an abstract of assessment showing the total assessed value of the county. On August 1st, the assessor turns over to the County Equalization Board his/her Real Property Assessment Book and his/her Personal Property Assessment Book.

The assessor is required to maintain current appraisal and assessment records by securing necessary filed data and making changes in valuations as they occur in land use and improvements. He/she is also charged with staying abreast of all property transactions within the county and keeping a file on all properties updated throughout the year (ACA 26-26-715).

The county treasurer is the disbursement officer of the county, and is the unofficial or quasi comptroller. A few counties do have a county comptroller. The treasurer is responsible for the custody and disbursement of all county funds and school district funds. The treasurer, therefore, receives county property tax collections, county sales tax collections, county turnback funds, grant funds, fees and fines from other county officials and departments, and revenues from various other sources. The treasurer, after receiving this revenue, distributes the money to the various taxing entities and the other units of the county. The county treasurer signs checks, prepared and signed by the county clerk indicating that the expenditure has been authorized by the county court, to pay employees and creditors of the county. A copy of each check serves as a warrant and is filed in the county financial records. ACA 14-24-204 provides for an alternate method whereby the county treasurer prepares and issues the check.

The treasurer must keep an accurate and detailed account of all receipts and disbursements of the county (ACA 14-15-807). The treasurer is required to make a monthly financial

report to the quorum court on the fiscal condition of the county (ACA 14-20-105).

The county treasurer is required to charge a two percent commission on all funds coming to his/her office. There are a few exceptions. No commission is allowed for the handling of borrowed money, proceeds of school bond sales, the teacher's salary fund, money collected from insurance on losses, fire protection premium taxes (Act 833 funds for fire departments, but inactive fire departments will not receive funding under this section) and all non-revenue receipts, which is defined as reimbursement of all or a part of a payment made by a county (ACA 21-6-302, 6-17-908, 6-20-221 and 14-284-403). Also, the county treasurer is allowed a smaller commission, 1/4 of 1%, on funds from school districts that employ their own treasurer (ACA 6-13-701) and 1/8 of 1% on funds from municipal improvement districts (ACA 14-90-913). The commission is not kept by the treasurer but is intended to create a source of revenue accruing to the office from which the salary and operation of the office is paid. Any excess treasurer's commission shall be redistributed to the various entities that were charged on a pro-rata basis (AG Opinion #78-112).

The county coroner is charged with the responsibility of determining the cause of death for those deaths properly the responsibility of the coroner. Although the duties of the county coroner are, necessarily, intermittent, the office is a full-time position. The coroner is tasked with the investigation of deaths occurring within the county 24 hours a day, 7 days a week and 365 days per year. At any time the coroner is required to investigate deaths. When a death is reported to the coroner, he shall conduct an investigation concerning the circumstances surrounding the death of an individual and gather and review background information, including but not limited to, medical information and any other information which may be helpful in determining the cause and manner of death. (ACA 14-15-301). These duties are mandated to be completed in very short timeframes.

The county surveyor locates boundaries of specific properties at the request of the assessor, and establishes disputed property lines upon request of the county, circuit or chancery court (ACA 14-15-702). The surveyor is also county timber inspector and determines the amount of timber cut, records the log markings, and prosecutes persons who remove timber from state owned lands (ACA 15-32-201).

A constable is a constitutional township official not a county official as some might think. A constable is charged, by law, to conserve the peace in his township (ACA 16-19-301). In order for a constable to have access to information from the Arkansas Crime Information Center and to carry a firearm, the officer must receive required training. Uniform and vehicle requirements are also mandated for constables in the performance of official duties (ACA 14-14-1314).

The legislative body of county government is called the quorum court and is composed of 9, 11, 13 or 15 members depending on the population of the county. The quorum court members are called justices of the peace and are elected for two-year terms from districts within the county. These district officials meet each month, more often if necessary, to conduct county business and review ordinances and resolutions for passage. The county judge is the presiding officer over the quorum court without a vote, but with the power of veto. This veto can be overridden with a 3/5ths vote of the total membership of the quorum court. (See generally ACA 14-14-801 et seq and 14-14-901 et seq.)

As provided by Amendment No. 55 of the Arkansas Constitution, a county government acting through its quorum court may exercise local legislative authority not expressly prohibited by the Constitution or by law for the affairs of the county (ACA 14-14-801). Some limitations are: The quorum court cannot declare any act a felony (felonies are covered by the State Criminal Code); quorum courts may not participate in the day-to-day administration of county executive branch offices and exercise no authority unrelated to county affairs (ACA 14-14-806).

The quorum court may exercise the following powers, but not limited to: A) the levy of taxes in manner prescribed by law; B) appropriate public funds for the expenses of the county in a manner prescribed by ordinance; C) preserve the peace and order and secure freedom from dangerous or noxious activities; provided, however, that no act may be declared a felony; D) for any public purpose, contract, or join with another county, or with any political subdivision or with the United States; E) create, consolidate, separate, revise, or abandon any elected office or offices except during the term thereof; provided, however, that a majority of those voting on the question at a general election have approved said action; F) fix the number and compensation of deputies and county employees; G) fix the compensation of each county officer with a minimum and maximum to be determined by law; H) fill vacancies in elected county offices; I) provide for any service or performance of any function relating to county affairs; J) to exercise other powers, not inconsistent with law, necessary for effective administration of authorized services and functions (ACA 14-14-801).

## Chapter Two - DUTIES OF THE OFFICE

The County Coroner is an elected official in county government. The Coroner is elected for a two-year term of office with the requirements that he/she be a qualified elector and resident of the county. In the event of a vacancy in office, the Quorum Court fills the vacancy by appointment, the appointee serving until the next general election, when a successor is elected. Before beginning his/her duties, the Coroner must enter into an official bond, to guarantee his/her performance of duties. This may be accomplished either through the State Self-Insured Fidelity Bond, which covers all employees on the payroll, or a Fidelity Bond purchased for the office. He/she must also take the constitutional oath of office.

### Arkansas Constitution Article 19, § 20, Oath of office

Senators and Representatives, and all judicial and executive, State and county officers, and all other officers, both civil and military, before entering on the duties of their respective offices, shall take and subscribe to the following oath of affirmation: "I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Arkansas, and that I will faithfully discharge the duties of the office of \_\_\_\_\_, upon which I am now about to enter."

The Coroner is entitled to that salary fixed for his/her office by applicable law and Quorum Court appropriation, but he/she cannot keep any of the various fees or commissions which may be collected in the performance of his/her duties as Coroner, as in that respect, he/she is only an agent or trustee for the County Treasury.

This section was included to assist the newly elected County Coroners, and incumbents, by providing access to commonly used statutes.

### SALARY AND BENEFITS OF THE OFFICE

Compensation of each county office shall be fixed by the Quorum Court within a minimum and maximum to be determined by law. Salary may not be decreased during the term of office and fees of the office shall not be the basis of compensation for officers or employees of county offices. (Ark. Const. Amend. 55, Sec. 5)

A classification of counties based on population, was devised to determine the salaries of the elected county officers. Ark. Stat. 14-14-1204 established 7 classifications and salary ranges which are subject to change every two years when the legislature is in session.

During the 2009 General Assembly Act 320, which amends Arkansas Code 14-14-1204, was passed. This Act set the minimum and maximum salaries for elected county officers in the various classes of counties.

Act 320 of 2009 also provides as follows:

**14-14-1210. Cost of Living Adjustment.** - (a) Beginning January 1, 2011, and on each January 1 thereafter, three percent (3%) per annum shall be added to the minimum and

maximum salaries and per diems of elected county officers as a cost-of-living adjustment.

b) Beginning September 1, 2010, and on each September 1 thereafter, the Association of Arkansas Counties shall provide each county and the Division of Legislative Audit with a schedule of the minimum and maximum salaries and per diems of elected county officers with the added cost-of-living adjustment for the following year.

Act 1058 of 2015 also provides as follows:

A.C.A. § 21-5-705(a)(1) is amended to include coroners as recipients of death benefits. The state shall pay the additional sum of one hundred fifty thousand dollars (\$150,000) to the designated beneficiary, surviving spouse, or surviving children under twenty-two (22) years of age. A.C.A. § 21-5-705.

"Coroner" means a coroner or a deputy coroner who is engaged in official duty at a crime scene or death location.

A.C.A. § 21-5-701(2).

## COUNTY CORONERS

### 14-15-301 Powers and duties of a coroner

### 14-15-302 Coroner's investigation

### 14-15-303 Death certificate.

### 14-15-304 Confidentiality.

### 14-15-305 Employment.

### 14-15-306 Disposition of prescription medication

**14-15-301 Powers and duties of a coroner.** - When a death is reported to the coroner, he shall conduct an investigation concerning the circumstances surrounding the death of an individual and gather and review background information, including, but not limited to, medical information and any other information which may be helpful in determining the cause and manner of death.

**14-15-302 Coroner's Investigation.** (a) A coroner's investigation does not include criminal investigation responsibilities. However, the coroner shall assist any law enforcement agency or the State Crime Laboratory upon request.

(b)(1) A coroner shall be given access to all death scenes in order to perform the duties set forth in this subchapter.

(2) A coroner may issue subpoenas as necessary to secure pertinent medical or other records and testimony relevant to the determination of the cause and manner of death.

(c)(1) A coroner or his or her deputy who has received instruction and has been deemed qualified by the State Crime Laboratory to take and handle toxicological samples from dead human bodies may do so for the purpose of determining the presence of chemical agents that may have contributed to the cause of death.

(2) Toxicological samples may be taken from dead human bodies in those cases in which the coroner is required by law to conduct an investigation.



(d)(1) A person, institution, or office in this state that makes available information or material under this section is not criminally liable.

(2) A person, institution, or office in this state is not liable in tort for compliance with this section.

(e)(1) A preliminary written report of the coroner's investigation shall be completed within five (5) working days and shall include a pronouncement of death. If indicated, a subsequent report shall be completed.

(2) If the death occurred without medical attendance or was the result of a homicide, an accident, or a suicide, then the preliminary written report shall include without limitation the following information regarding the decedent:

- (A) Name;
- (B) Date of birth or approximate age if unknown;
- (C) Sex;
- (D) Social security number if available;
- (E) Home address;
- (F) Location where the body was discovered;
- (G) Time of death or approximate time if unknown;
- (H) Condition of the body, including any recent trauma, body temperature, and position;
- (I) Any prescribed medications;
- (J) Pertinent medical history;
- (K) Cause and manner of death;
- (L) Photographs or information where photographs

may be accessed in cases of non-natural deaths and deaths of persons under eighteen (18) years of age;

(M) List of all other governmental entities investigating the death; and

(N) Disposition of the body.

(3) Nothing in this section shall limit or otherwise restrict the exercise of professional judgment or discretion by a coroner or prohibit access to information or testimony necessary to complete a coroner's investigation.

**Note:** Attorney General Opinion 1995-263 and A.C.A. § 14-15-302 provide that law enforcement officials must give the county coroner access to all scenes of deaths with respect to which the coroner is required to carry out an investigation pursuant to A.C.A. § 14-15-301. The Attorney General allowed that it is true that a coroner investigation does not include "criminal investigation responsibilities." See: A.C.A. § 14-14-302. However, the Attorney General construed this provision to mean, primarily, that the coroner is not responsible for determining the identities of persons who commit crimes resulting in death. In undertaking his investigation into the cause and manner of death, however, the coroner must satisfy himself as to whether the death was the result of a crime. Law enforcement officers have vital duties to perform at death scenes, and they may need to spend extended periods of time there in certain cases. They should do so, but they must also give the coroner access to the scene at a time that will not unreasonably hinder or frustrate his statutorily-mandated investigation, regardless of whether their investigation has been completed.

**14-15-303 Death certificate.** - If, after conducting an investigation, the law enforcement agency and prosecuting attorney of the jurisdiction are satisfied that no crime has occurred, the coroner is satisfied that the death is not the result of a crime, and the coroner knows to a reasonable

certainty the cause and manner of death, the coroner or his designated deputy shall proceed to execute a death certificate in the form and manner required by law and release the body for final disposition.

**14-15-304 Confidentiality.** - (a) Records gathered and created during the course of a coroner's investigation shall be confidential and deemed exempt from the Freedom of Information Act of 1967, 25-19-101 et seq., but only until such time that the coroner issues his final report.

(b) Confidential medical information gathered during the course of the investigation shall remain exempt from public inspection and copying except as quoted in the coroner's final report.

**14-15-305 Employment.** - County coroners may be employed by an city emergency medical service, county emergency medical service, or joint city and county emergency medical service.

**14-15-306 Disposition of prescription medication.** -

(a) A coroner may collect and secure any prescription medication of the decedent to ensure that the medication does not come into the possession of a person who might use the medication in an illegal or harmful manner.

(b) Collected medication shall be disposed of under circuit court order or shall be forwarded to the Department of Health within thirty (30) days for proper destruction under § 20-64-214.

(c) This section shall not apply to any prescription medication in the custody or possession of an institutional health care provider or attending hospice nurse that is subject to other laws and regulations governing the destruction or disposition of patient or resident medication.

## **DEATH AND DISPOSITION OF THE DEAD "The Revised Anatomical Gift Act"**

### **GENERAL PROVISIONS**

**20-17-1201 Title** - This subchapter shall be known and may be cited as the "Revised Arkansas Anatomical Gift Act".

**20-17-1202 Definitions** - In this subchapter:

(1) "Adult" means an individual who is at least eighteen (18) years of age.

(2) "Agent" means an individual:

(A) authorized to make health-care decisions on the principal's behalf by a power of attorney for health care; or

(B) expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal.

(3) "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research, or education.

(4) "Decedent" means a deceased individual whose body or part is or may be the source of an anatomical gift. The term includes a stillborn infant and, subject to restrictions imposed by law other than this subchapter, a fetus.

(5) "Disinterested witness" means a witness other than the spouse, child, parent, sibling, grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift, or another adult who exhibited special care and concern for the individual. The term does not include a person to which an anatomical gift could pass under § 20-17-1211.

(6) "Document of gift" means a donor card or other record used to make an anatomical gift. The term includes a statement or symbol on a driver's license, identification card, or donor registry.

(7) "Donor" means an individual whose body or part is the subject of an anatomical gift.

(8) "Donor registry" means a database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts.

(9) "Driver's license" means a license or permit issued by the Office of Driver Services to operate a vehicle, whether or not conditions are attached to the license or permit.

(10) "Eye bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes.

(11) "Guardian" means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual. The term does not include a guardian ad litem.

(12) "Hospital" means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.

(13) "Identification card" means an identification card issued by the Office of Driver Services.

(14) "Know" means to have actual knowledge.

(15) "Minor" means an individual who is under eighteen (18) years of age.

(16) "Organ procurement organization" means a person designated by the Secretary of the United States Department of Health and Human Services as an organ procurement organization.

(17) "Parent" means a parent whose parental rights have not been terminated.

(18) "Part" means an organ, an eye, or tissue of a human being. The term does not include the whole body.

(19) "Person" means an individual, corporation, business trust, estate, trust, partnership, Limited Liability Company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(20) "Physician" means an individual authorized to practice medicine or osteopathy under the law of any state.

(21) "Procurement organization" means an eye bank, organ procurement organization, or tissue bank.

(22) "Prospective donor" means an individual who is dead or near death and has been determined by a procurement organization to have a part that could

be medically suitable for transplantation, therapy, research, or education. The term does not include an individual who has made a refusal.

(23) "Reasonably available" means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

(24) "Recipient" means an individual into whose body a decedent's part has been or is intended to be transplanted.

(25) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(26) "Refusal" means a record created under § 20-17-1207 that expressly states an intent to bar other persons from making an anatomical gift of an individual's body or part.

(27) "Sign" means, with the present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol;  
or

(B) to attach to or logically associate with the record an electronic symbol, sound, or process.

(28) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(29) "Technician" means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law. The term includes an enucleator.

(30) "Tissue" means a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for the purpose of research or education.

(31) "Tissue bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.

(32) "Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

**20-17-1203. Applicability** - This subchapter applies to an anatomical gift or amendment to, revocation of, or refusal to make an anatomical gift, whenever made.

**20-17-1204. Who may make anatomical gift before donor's death** - Subject to § 20-17-1208, an anatomical gift of a donor's body or part may be made during the life of the donor for the purpose of transplantation, therapy, research, or education in the manner provided in § 20-17-1205 by:

(1) the donor, if the donor is an adult or if the donor is a minor and is:

(A) emancipated; or

(B) authorized under state law to apply for a driver's license because the donor is at least sixteen (16) years of age;

- (2) an agent of the donor, unless the power of attorney for health care or other record prohibits the agent from making an anatomical gift
- (3) a parent of the donor, if the donor is an unemancipated minor; or
- (4) the donor's guardian.

**20-17-1205 Manner of making anatomical gift before donor's death.**

- (a) A donor may make an anatomical gift:
  - (1) by authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's driver's license or identification card;
  - (2) in a will;
  - (3) during a terminal illness or injury of the donor, by any form of communication addressed to at least two adults, at least one of whom is a disinterested witness; or
  - (4) as provided in subsection (b).
- (b) A donor or other person authorized to make an anatomical gift under § 20-17-1204 may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating that the donor has made an anatomical gift be included on a donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and must:
  - (1) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and
  - (2) state that it has been signed and witnessed as provided in paragraph (1).
- (c) Revocation, suspension, expiration, or cancellation of a driver's license or identification card upon which an anatomical gift is indicated does not invalidate the gift.
- (d) An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

**20-17-1206. Amending or revoking anatomical gift before donor's death**

- (a) Subject to § 20-17-1208, a donor or other person authorized to make an anatomical gift under § 20-17-1204 may amend or revoke an anatomical gift by:
  - (1) a record signed by:
    - (A) the donor;
    - (B) the other person; or
    - (C) subject to subsection (b), another individual acting at the direction of the donor or the other person if the donor or other person is physically unable to sign; or
  - (2) a later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.
- (b) A record signed pursuant to subsection (a)(1)(C) must:
  - (1) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and
  - (2) state that it has been signed and witnessed as provided in paragraph (1).

- (c) Subject to § 20-17-1208, a donor or other person authorized to make an anatomical gift under § 20-17-1204 may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

(d) A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

(e) A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided in amendment or revocation of wills or as provided in subsection (a).

**20-17-1207 Refusal to make anatomical gift – Effect of refusal.**

- (a) An individual may refuse to make an anatomical gift of the individual's body or part by:
  - (1) a record signed by:
    - (A) the individual; or
    - (B) subject to subsection (b), another individual acting at the direction of the individual if the individual is physically unable to sign;
  - (2) the individual's will, whether or not the will is admitted to probate or invalidated after the individual's death; or
  - (3) any form of communication made by the individual during the individual's terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.
- (b) A record signed pursuant to subsection (a)(1)(B) must:
  - (1) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the individual; and
  - (2) state that it has been signed and witnessed as provided in paragraph (1).
- (c) An individual who has made a refusal may amend or revoke the refusal:
  - (1) in the manner provided in subsection (a) for making a refusal;
  - (2) by subsequently making an anatomical gift pursuant to § 20-17-1205 that is inconsistent with the refusal; or
  - (3) by destroying or canceling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.
- (d) Except as otherwise provided in § 20-17-1208(h), in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or part bars all other persons from making an anatomical gift of the individual's body or part.

**20-17-1208 - -Preclusive effect of anatomical gift, amendment, or revocation.**

(a) Except as otherwise provided in subsection (g) and subject to subsection (f), in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending, or revoking an anatomical gift of a donor's body or part if the donor made an

anatomical gift of the donor's body or part under § 20-17-1205 or an amendment to an anatomical gift of the donor's body or part under § 20-17-1206.

(b) A donor's revocation of an anatomical gift of the donor's body or part under § 20-17-1206 is not a refusal and does not bar another person specified in § 20-17-1204 or § 20-17-1209 from making an anatomical gift of the donor's body or part under § 20-17-1205 or § 20-17-1210.

(c) If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part under § 20-17-1205 or an amendment to an anatomical gift of the donor's body or part under § 20-17-1206, another person may not make, amend, or revoke the gift of the donor's body or part under § 20-17-1210.

(d) A revocation of an anatomical gift of a donor's body or part under § 20-17-1206 by a person other than the donor does not bar another person from making an anatomical gift of the body or part under § 20-17-1205 or § 20-17-1210.

(e) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under § 20-17-1204, an anatomical gift of a part is neither a refusal to give another part nor a limitation on the making of an anatomical gift of another part at a later time by the donor or another person.

(f) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under § 20-17-1204, an anatomical gift of a part for one or more of the purposes set forth in § 20-17-1204 is not a limitation on the making of an anatomical gift of the part for any of the other purposes by the donor or any other person under § 20-17-1205 or § 20-17-1210.

(g) If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.

(h) If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably available may revoke the minor's refusal.

#### **20-17-1209 – Who may make anatomical gift of decedent's body or part.**

(a) Subject to subsections (b) and (c) and unless barred by § 20-17-1207 or § 20-17-1208, an anatomical gift of a decedent's body or part for purpose of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:

- (1) an agent of the decedent at the time of death who could have made an anatomical gift under § 20-17-1204(2) immediately before the decedent's death;
- (2) the spouse of the decedent;
- (3) adult children of the decedent;
- (4) parents of the decedent;
- (5) adult siblings of the decedent;
- (6) adult grandchildren of the decedent;
- (7) grandparents of the decedent;
- (8) an adult who exhibited special care and concern for the decedent;
- (9) the persons who were acting as the guardians of the person of the decedent at the time of death; and
- (10) any other person having the authority to dispose of the decedent's body.

(b) If there is more than one member of a class listed in subsection (a)(1), (3), (4), (5), (6), (7), or (9) entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under § 20-17-1211 knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

(c) A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under subsection (a) is reasonably available to make or to object to the making of an anatomical gift.

#### **20-17-1210 – Manner of making, amending, or revoking anatomical gift of decedent's body or part.**

(a) A person authorized to make an anatomical gift under § 20-17-1209 may make an anatomical gift by a document of gift signed by the person making the gift or by that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.

(b) Subject to subsection (c), an anatomical gift by a person authorized under § 20-17-1209 may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more than one member of the prior class is reasonably available, the gift made by a person authorized under § 20-17-1209 may be:

- (1) amended only if a majority of the reasonably available members agree to the amending of the gift; or
- (2) revoked only if a majority of the reasonably available members agree to the revoking of the gift or if they are equally divided as to whether to revoke the gift.

(c) A revocation under subsection (b) is effective only if, before an incision has been made to remove a part from the donor's body or before invasive procedures have begun to prepare the recipient, the procurement organization, transplant hospital, or physician or technician knows of the revocation.

#### **20-17-1211–Persons that may receive anatomical gift – Purpose of anatomical gift.**

(a) An anatomical gift may be made to the following persons named in the document of gift:

- (1) a hospital; accredited medical school, dental school, college, or university; organ procurement organization; or other appropriate person, for research or education;
- (2) subject to subsection (b), an individual designated by the person making the anatomical gift if the individual is the recipient of the part;
- (3) an eye bank or tissue bank.

(b) If an anatomical gift to an individual under subsection (a)(2) cannot be transplanted into the individual, the part passes in accordance with subsection (g) in the absence of an express, contrary indication by the person making the anatomical gift.

(c) If an anatomical gift of one or more specific parts or of all parts is made in a document of gift that does not name a person described in subsection (a) but identifies the purpose for which an anatomical gift may be used, the following rules apply:

(1) If the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank.

(2) If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank.

(3) If the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(4) If the part is an organ, an eye, or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.

(d) For the purpose of subsection (c), if there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift must be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

(e) If an anatomical gift of one or more specific parts is made in a document of gift that does not name a person described in subsection (a) and does not identify the purpose of the gift, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection (g).

(f) If a document of gift specifies only a general intent to make an anatomical gift by words such as “donor”, “organ donor”, or “body donor”, or by a symbol or statement of similar import, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection (g).

(g) For purposes of subsections (b), (e), and (f) the following rules apply:

(1) If the part is an eye, the gift passes to the appropriate eye bank.

(2) If the part is tissue, the gift passes to the appropriate tissue bank.

(3) If the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(h) An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under subsection (a)(2), passes to the organ procurement organization as custodian of the organ.

(i) If an anatomical gift does not pass pursuant to subsections (a) through (h) or the decedent's body or part is not used for transplantation, therapy, research, or education, custody of the body or part passes to the person under obligation to dispose of the body or part.

(j) A person may not accept an anatomical gift if the person knows that the gift was not effectively made under § 20-17-1205 or § 20-17-1210 or if the person knows that the decedent made a refusal under § 20-17-1207 that was not revoked. For purposes of the subsection, if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

(k) Except as otherwise provided in subsection (a)(2), nothing in this subchapter affects the allocation of organs for transplantation or therapy

#### **20-17-1212–Search and notification.**

(a) The following persons shall make a reasonable search of an individual who the person reasonably believes is dead or near death for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal:

(1) a law enforcement officer, firefighter, paramedic, or other emergency rescuer finding the individual; and

(2) if no other source of the information is immediately available, a hospital, as soon as practical after the individual's arrival at the hospital.

(b) If a document of gift or a refusal to make an anatomical gift is located by the search required by subsection (a)(1) and the individual or deceased individual to whom it relates is taken to a hospital, the person responsible for conducting the search shall send the document of gift or refusal to the hospital.

(c) A person is not subject to criminal or civil liability for failing to discharge the duties imposed by this section but may be subject to administrative sanctions.

#### **20-17-1213–Delivery of document of gift not required — Right to examine.**

(a) A document of gift need not be delivered during the donor's lifetime to be effective.

(b) Upon or after an individual's death, a person in possession of a document of gift or a refusal to make an anatomical gift with respect to the individual shall allow examination and copying of the document of gift or refusal by a person authorized to make or object to the making of an anatomical gift with respect to the individual or by a person to which the gift could pass under § 20-17-1211.

#### **20-17-1214–Rights and duties of procurement organization and others.**

(a) When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of the Office of Driver Services and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(b) A procurement organization must be allowed reasonable access to information in the records of the Office of Driver Services to ascertain whether an individual at or near death is a donor.

(c) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

(d) Unless prohibited by law other than this subchapter, at any time after a donor's death, the person to which a part passes under § 20-17-1211 may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

(e) Unless prohibited by law other than this subchapter, an examination under subsection (c) or (d) may

include an examination of all medical and dental records of the donor or prospective donor.

(f) Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

(g) Upon referral by a hospital under subsection (a), a procurement organization shall make a reasonable search for any person listed in § 20-17-1209 having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.

(h) Subject to § 20-17-1211(i) and § 20-17-1223, the rights of the person to which a part passes under § 20-17-1211 are superior to the rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this subchapter, a person that accepts an anatomical gift of an entire body may allow embalming, burial or cremation, and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under § 20-17-1211, upon the death of the donor and before embalming, burial, or cremation, shall cause the part to be removed without unnecessary mutilation.

(i) Neither the physician who attends the decedent at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent.

(j) A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

**20-17-1215 – Coordination of procurement and use.** Each hospital in this state shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.

**20-17-1216–Sale or purchase of parts prohibited.**

(a) Except as otherwise provided in subsection (b), a person that for valuable consideration, knowingly purchases or sells a part for transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death commits an unclassified felony and upon conviction is subject to a fine not exceeding fifty thousand dollars (\$50,000) or imprisonment not exceeding five (5) years, or both.

(b) A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a part.

**20-17-1217–Other prohibited acts.**

A person that, in order to obtain a financial gain, intentionally falsifies, forges, conceals, defaces, or obliterates a document of gift, an amendment or revocation of a document of gift, or a refusal commits an unclassified felony and upon conviction is subject to a fine not exceeding fifty thousand dollars (\$50,000) or imprisonment not exceeding five (5) years, or both.

**20-17-1218–Immunity.**

(a) A person that acts in accordance with this subchapter or with the applicable anatomical gift law of another state, or attempts in good faith to do so, is not liable for the act in a civil action, criminal prosecution, or administrative proceeding.

(b) Neither the person making an anatomical gift nor the donor's estate is liable for any injury or damage that results from the making or use of the gift.

(c) In determining whether an anatomical gift has been made, amended, or revoked under this subchapter, a person may rely upon representations of an individual listed in § 20-17-1209(a)(2), (3), (4), (5), (6), (7), or (8) relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

**20-17-1219–Law governing validity – Choice of law as to execution of document of gift – Presumption of validity.**

- (a) A document of gift is valid if executed in accordance with:
- (1) this subchapter;
  - (2) the laws of the state or country where it was executed; or
  - (3) the laws of the state or country where the person making the anatomical gift was domiciled, has a place of residence, or was a national at the time the document of gift was executed.
- (b) If a document of gift is valid under this section, the law of this state governs the interpretation of the document of gift.
- (c) A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.

**20-17-1221. Effect of anatomical gift on advance health-care directive.**

- (a) In this section:
- (1) "Advance health-care directive" means a power of attorney for health care or a record signed by a prospective donor containing the prospective donor's direction concerning a health-care decision for the prospective donor.
  - (2) "Declaration" means a record signed by a prospective donor specifying the circumstances under which a life support system may be withheld or withdrawn from the prospective donor.
  - (3) "Health-care decision" means any decision made regarding the health care of the prospective donor.
- (b) If a prospective donor has a declaration or advance health-care directive, measures necessary to ensure the medical suitability of an organ for transplantation or therapy may not be withheld or withdrawn from the prospective donor, unless the declaration expressly provides to the contrary.

**20-17-1222–Cooperation between a coroner or the state medical examiner and a procurement organization.**

- (a) A coroner and the state medical examiner shall cooperate with procurement organizations to maximize the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, or education.
- (b) If a coroner or the state medical examiner receives notice from a procurement organization that an

anatomical gift might be available or was made with respect to a decedent whose body is under the jurisdiction of the coroner or the state medical examiner and a post-mortem examination is going to be performed, unless the state medical examiner denies recovery in accordance with § 20-17-1222 the state medical examiner or designee shall conduct a post-mortem examination of the body or the part in a manner and within a period compatible with its preservation for the purposes of the gift.

(c) A part may not be removed from the body of a decedent under the jurisdiction of a coroner or the state medical examiner for transplantation, therapy, research, or education unless the part is the subject of an anatomical gift. The body of a decedent under the jurisdiction of the coroner or the state medical examiner may not be delivered to a person for research or education unless the body is the subject of an anatomical gift. This subsection does not preclude a coroner or the state medical examiner from performing the medicolegal investigation upon the body or parts of a decedent under the jurisdiction of the coroner or the state medical examiner.

**20-17-1223. Facilitation of anatomical gift from decedent whose body is under jurisdiction of coroner or the state medical examiner.**

(a) Upon request of a procurement organization, a coroner or the state medical examiner shall release to the procurement organization the name, contact information, and available medical and social history of a decedent whose body is under the jurisdiction of the coroner or the state medical examiner. If the decedent's body or part is medically suitable for transplantation, therapy, research, or education, the coroner or the state medical examiner shall release post-mortem examination results to the procurement organization. The procurement organization may make a subsequent disclosure of the post-mortem examination results or other information received from the coroner or the state medical examiner only if relevant to transplantation or therapy.

(b) The coroner or the state medical examiner may conduct a medicolegal examination by reviewing all medical records, laboratory test results, x-rays, other diagnostic results, and other information that any person possesses about a donor or prospective donor whose body is under the jurisdiction of the coroner or the state medical examiner which the coroner or the state medical examiner determines may be relevant to the investigation.

(c) A person that has any information requested by a coroner or the state medical examiner pursuant to subsection (b) shall provide that information as expeditiously as possible to allow the coroner or the state medical examiner to conduct the medicolegal investigation within a period compatible with the preservation of parts for the purpose of transplantation, therapy, research, or education.

(d) If an anatomical gift has been or might be made of a part of a decedent whose body is under the jurisdiction of the coroner or after a post-mortem examination the coroner determines that no autopsy is required, or, if the decedent has been referred to the state medical examiner for post-mortem examination under § 12-12-318 and the state medical examiner determines that an autopsy is required, after consultation with the prosecuting attorney and the coroner, and it is determined that the recovery of the parts that are the subject of an anatomical gift will not

interfere with the autopsy, the coroner, state medical examiner, and procurement organization shall cooperate in the timely removal of the part from the decedent for the purpose of transplantation, therapy, research, or education.

(e) If an anatomical gift of a part from the decedent under the jurisdiction of the coroner or the state medical examiner has been or might be made, and after consultation with the coroner and prosecuting attorney, the state medical examiner believes the recovery of the part could interfere with determination of the decedent's cause and manner of death, the state medical examiner shall consult with the procurement organization or physician or technician designated by the procurement organization about the proposed recovery. The procurement organization shall provide the state medical examiner with all information that the procurement organization has that could relate to the cause or manner of the decedent's death. After consultation with the prosecuting attorney and coroner, the state medical examiner may allow the recovery.

(f) The coroner, prosecuting attorney, medical examiner, and a procurement organization shall enter into an agreement establishing protocols and procedures governing the relations between them when an anatomical gift of a part from a decedent whose body is under the jurisdiction of the coroner or medical examiner has been or might be made but the coroner or medical examiner believes that the recovery of the part could interfere with the post-mortem investigation into the decedent's cause or manner of death. Decisions regarding the recovery of the part from the decedent shall be made in accordance with the agreement. The coroner, prosecuting attorney, medical examiner, and the procurement organization shall evaluate the effectiveness of the agreement at regular intervals but no less frequently than every two years.

(g) In the absence of an agreement establishing protocols and procedures governing the relations between the state medical examiner and a procurement organization, if the state medical examiner intends to deny recovery of an organ for transplantation or therapy, the state medical examiner or designee, at the request of the procurement organization, shall attend the removal procedure for the organ before making a final determination not to allow the procurement organization to recover the organ. During the removal procedure, the state medical examiner or designee may allow recovery by the procurement organization to proceed, or, if the state medical examiner or designee believes that the organ may be involved in determining the decedent's cause or manner of death, deny recovery by the procurement organization.

(h) If the procurement organization seeks to recover only an eye or tissue or both, the medical examiner or designee shall not be required to attend a removal procedure as provided in subsection (g).

(i) If the state medical examiner or designee denies recovery under subsection (g), the individual denying recovery shall:

- (1) explain in a record the specific reasons for not allowing recovery of the part;
- (2) include the specific reasons in the records of the state medical examiner; and
- (3) provide a record with the specific reasons to the procurement organization.

(j) If the coroner or the state medical examiner or designee allows recovery of a part, the procurement organization will cooperate with the coroner and medical examiner in any documentation of injuries and the preservation and collection of evidence prior to and during the recovery of the part; and, upon request, shall cause the physician or technician who removes the part to provide the coroner and medical examiner with a record describing the condition of the part, a biopsy, a photograph, and any other information and observations that would assist in the post-mortem examination.

(k) If the state medical examiner or designee is required to be present at a removal procedure under subsection (g), upon request the procurement organization requesting the recovery of the organ shall reimburse the state medical examiner or designee for the additional costs incurred in complying with subsection (g).

**20-17-1225. Relation to Electronic Signatures in Global And National Commerce Act.** This act modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., but does not modify, limit or supersede Section 101(a) of that act, 15 U.S.C. § 7001, or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. § 7003(b).

**20-17-617. Procurement of transplantable tissue - coroners - procurement agencies. -**

(a) The coroners and medical examiners of the counties of Arkansas shall make reasonable efforts to facilitate procurement of transplantable organs and tissues in coordination with organ recovery agencies.

(b) All organs and tissue procured in Arkansas shall be offered first to Arkansas patients before consideration of out-of-state patients unless that would be in conflict with federally mandated guidelines.

**20-17-618. Organ donor registry -**

(a) The office of Driver Services of the Department of Finance and Administration shall assist in establishing a registry of organ donors by providing information to an organ procurement agency created, organized, and existing under the laws of the State of Arkansas. The information shall list persons who have agreed to make an anatomical gift as indicated on their operator's or chauffeur's licenses. The information shall include the person's name, address, sex, birth date, driver's license number, and any limitations on the purposes of the anatomical gift.

(b) Access to the registry maintained by the organ procurement agency shall be provided to all other organ procurement agencies licensed accredited and approved under Arkansas law. Organ procurement agencies may release information from the registry to tissue banks that have written agreements with the organ procurement agency. However, information obtained from the registry shall not be distributed further to any other person or entity.

(c) Any person whose name has been placed on the organ donor registry may have his or her name deleted by filing the appropriate form with the Office of Driver Services of the Department of Finance and Administration.

**UNCLAIMED BODIES**

<b>20-17-701</b>	<b>Rights of coroner, justice of peace, or courts affected</b>
<b>20-17-702</b>	<b>Search for next of kin.</b>
<b>20-17-703</b>	<b>Notice to Department of Anatomy of the University of Arkansas</b>
<b>20-17-704</b>	<b>Delivery to University of Arkansas College Of Medicine.</b>
<b>20-17-705</b>	<b>Wishes of deceased for disposition honored</b>
<b>20-17-706</b>	<b>Cost of embalming and transportation</b>
<b>20-17-707</b>	<b>Holding period for the University of Arkansas College of Medicine</b>
<b>20-17-708</b>	<b>Disposition after use</b>
<b>20-17-709</b>	<b>Records</b>
<b>20-17-710</b>	<b>Nonliability</b>

**20-17-701. Rights of coroner, justice of peace, or courts affected.** - None of the provisions of this subchapter shall affect the right of a coroner or a justice of the peace to hold the dead body as described under 20-17-703 for the purpose of investigating the cause of death, nor shall this subchapter affect the right of any court of competent jurisdiction from entering an order affecting the disposition of the body.

**20-17-702. Search for next of kin. -**

(a) The person who assumes original and lawful possession, charge, or control of any body as described in this subchapter shall conduct diligent search for relatives or next of kin of the deceased, or that person shall request the county sheriff or such other person as may be required by law to conduct the search. The person conducting the search shall make every effort to find the spouse, if any, of the deceased; however, if the person conducting the search is not satisfied that the putative spouse is, in fact, a legal spouse, or it is determined that no spouse exists, then, in that event, every effort shall be made to find parents and siblings, if any, of the deceased.

(b) If the identity of the deceased is not known, the investigation shall include, but not be limited to, the taking of fingerprints and sending the fingerprint records to the Federal Bureau of Investigation in Washington, D.C. for identification and filing.

**20-17-703. Notice to Department of Anatomy of the University of Arkansas. -**

(a) Any person in charge of a prison, morgue, hospital, funeral parlor or mortuary; or any person who is a public officer, agent, or employee of the state, any county or municipality; and all persons coming into possession, charge or control of any human body which is unclaimed for burial shall notify the head of the Department of Anatomy, or his designate, as agent for the University of Arkansas College of Medicine, that the body, if unclaimed, is available for use in the advancement or study of medical science.

(b) For the purpose of notifying the University of Arkansas College of Medicine of its availability, an "unclaimed body" is defined as a human body in the possession, charge, or control of the persons named in subsection (a) of this section for a period not to exceed forty-eight (48) hours, during which time the right of any relative, next of kin, friend, any representative of a fraternal society of which the deceased was a member, or a representative of



any charitable or religious group to claim the body for burial purposes is recognized.

**20-17-704. Delivery to University of Arkansas College of Medicine.** - Upon expiration of the forty-eight (48) hours, as provided in 20-17-703, if the dead human body has not been claimed for burial, the person then having possession, charge, or control shall surrender or deliver the body to the University of Arkansas College of Medicine if so requested by it.

**20-17-705. Wishes of deceased for disposition honored.** - (a) No unclaimed dead human body shall be surrendered to the University of Arkansas for Medical Sciences under this subchapter if there is proof that the deceased has, during his last illness, expressed his desire to be buried or otherwise interred.

(b) Any adult may, by will or otherwise, donate his body to the University of Arkansas for Medical Sciences under the Uniform Anatomical Gift Act, 20-17-1201 et seq.

**20-17-706. Cost of embalming and transportation.** -

(a) If the University of Arkansas for Medical Sciences determines that there is a need for the body, that the body is suitable for anatomical science or study, and that the body has not been embalmed, then the university shall, at its expense, immediately arrange for proper embalment of the body by a licensed embalmer, either with the person having possession, charge, or control thereof if such person is a licensed embalmer or licensed funeral director or with any other licensed embalmer or licensed funeral director.

(b) If the body has been embalmed prior to the claim of the University of Arkansas for Medical Sciences, as is customary, or the body is embalmed by its direction according to the provisions of this subchapter, the University of Arkansas for Medical Sciences shall pay twenty-five dollars (\$25.00) as a reimbursement of embalming expenses and shall assume costs for transportation of the body where shipment is at its direction.

(c) Should the body be embalmed prior to legal claim, any person or organization asserting legal claim to the body within forty-eight (48) hours after death as provided in this subchapter shall assume responsibility for at least twenty-five dollars (\$25.00) of the cost thereof, together with reasonable costs for transportation of the body which may have been incurred.

(d) In the event that the deceased had provided for the use of his body for medical science under the Uniform Anatomical Gift Act, 20-17-601 et seq., and provided funds in his estate for burial, the University of Arkansas for Medical Science shall be free of all claims for the expenses as ordinarily provided under subsections (a) - (c) of this section.

**20-17-707. Holding period for the University of Arkansas College of Medicine.** -

(a) The University of Arkansas for Medical Sciences shall cause any body accepted under this subchapter to be retained in a proper state of preservation for ninety (90) days after the date the body is received by it.

(b) During this time a relative, next of kin, friend, a representative of a fraternal society of which the deceased was a member, a veterans service organization as defined in the Missing in America Project Act, § 20-17-1401 et seq., the

Department of Veterans' Affairs, the United States Department of Veterans Affairs, or a representative of a charitable or religious group may claim the body for burial at his or her or its expense as stated in § 20-17-706(a)-(c).

(c) If a claim is made, the University of Arkansas for Medical Sciences shall be reimbursed by the claimant for the embalming fee and transportation charges that have been incurred by it in favor of the body claimed.

(d) If the body is not claimed by any person or organization within ninety (90) days from the date of arrival at the University of Arkansas for Medical Sciences, then all right, title, and interest in the body shall be deemed to vest in the state for the benefit of the University of Arkansas for Medical Sciences, and any living relative, next of kin, friend, or organization shall be deemed to have consented irrevocably to use of the body for the advancement or study of medical science.

**20-17-708. Disposition after use.** -

(a) At any time when a body, as described in this subchapter, shall have been used and deemed of no further value to medical science or study, the University of Arkansas College of Medicine shall cause the body to be buried or otherwise disposed of according to law, or the remains may be claimed by a member of the family of the deceased for burial at his expense if the body had been willed to the University of Arkansas College of Medicine under provisions of Acts 1949, No. 283. (repealed)

(b) In the event the body, as described in 20-17-703, is deemed unsuitable for anatomical study or research, the person having possession, charge, or control of the body shall be notified, and the body shall then be disposed of in accordance with existing laws, rules, and practices for disposing of unclaimed bodies.

**20-17-709. Records.** - The University of Arkansas College of Medicine shall cause a complete record to be kept of all bodies received under the provisions of this subchapter, and the record shall be open to inspection by any municipal, county, or state officer.

**20-17-710. Nonliability.** - No person shall be civilly liable for possessing, examining, dissecting, or handling in any lawful manner any cadaver under the provisions of this subchapter.

#### **CONTINUING EDUCATION- CORONER EDUCATION FUND AND OTHER RESOURCES**

**26-60-112. Disposition of Funds Collected.** -

(b) The revenues derived from the tax levied by § 26-60-105(a) shall be deposited by the Director of the Department of Finance and Administration into the State Treasury, and the Treasurer of State after deducting three percent (3%) of the revenues for distribution to the Constitutional Officers Fund and the State Central Services Fund to be used for the purposes as provided by law shall distribute the net amount of the revenues as follows:

(1) Ten percent (10%) of the remainder shall be distributed as special revenues, as follows:

(A) The first one hundred fifty-seven thousand five hundred dollars (\$157,500) of the remainder during each fiscal year shall be credited to the County Clerks Continuing Education Fund, the Circuit Clerks Continuing Education Fund, and the County Coroners Continuing Education Fund

that are established in the State Treasury, to be used for defraying the expenses of training seminars and other educational projects benefiting county and circuit clerks and coroners in this state, as provided by appropriations enacted by the General Assembly and shall be used as follows:

(i)(a) Fifty-two thousand five hundred dollars (\$52,500) for county clerks' continuing education.

(b) Any unexpended balances of moneys designated for county clerks' continuing education shall be retained exclusively for the purpose of county clerks' continuing education;

(ii)(a) Fifty-two thousand five hundred dollars (\$52,500) for circuit clerks' continuing education.

(b) Any unexpended balances of moneys designated for circuit clerks' continuing education shall be retained exclusively for the purpose of circuit clerks' continuing education; and

(iii)(a) Fifty-two thousand five hundred dollars (\$52,500) for county coroners' continuing education.

(b) Any unexpended balances of moneys designated for county coroners' continuing education shall be retained exclusively for the purpose of county coroners' continuing education.

#### **14-15-308. Training and Instruction.-**

(a) The Arkansas Commission on Law Enforcement Standards and Training, in coordination with the Department of Health, shall establish a training curriculum for medicolegal death investigators, coroners, and deputy coroners in Arkansas that consists of no less than sixteen (16) hours nor more than forty (40) hours of instruction, including without limitation courses on:

- (1) Medicolegal death investigation leading to certification as a medicolegal death investigator;
- (2) Scene investigation;
- (3) Body recovery;
- (4) Safety;
- (5) Statutes and rules;
- (6) Documentation and reporting;
- (7) Communication and interviewing; and
- (8) Proper completion of a death certificate and assignment of cause of death.

(b) The commission shall:

(1) Issue a certificate of satisfactory participation and completion to a coroner, deputy coroner, or medicolegal death investigator who completes the instructional program required under subsection (a) of this section; and

(2)(A) Administer the funds for the payment and reimbursement for materials, speakers, mileage, lodging, meals, the cost of the certificate, and training equipment that are in addition to compensation allowed under §§ 14-14-1203, 14-14-1204, and 14-14-1206.

(B) The commission may receive funding for coroner training through grants-in-aid, donations, and the County Coroners Continuing Education Fund.

(c) The commission shall provide death investigation training:

- (1) Free of charge to a law enforcement officer, a state death investigator, and an employee of the State Crime Laboratory; and
- (2) For a fee under a memorandum of understanding between the commission and the

Arkansas Coroner's Association to coroners and deputy coroners.

#### **14-15-309. Mass fatality resource inventory and mutual aid agreement.**

- (a) As used in this section:
  - (1) "Fixed assets" means items that are permanently located but can be made available for use, including without limitation:
    - (A) Office space;
    - (B) Body refrigeration units;
    - (C) Personnel rehabilitation areas; and
    - (D) Equipment storage facilities;
  - (2) "Mobile assets" means items that can be transported to an affected area, including without limitation:
    - (A) Personal protective equipment such as masks, tyvek suits, gloves, boots, environmental protection, and hazards protection;
    - (B) Investigative equipment such as cameras, measuring devices, collection bags, and labeling devices;
    - (C) Body recovery equipment such as sheets, body bags, ropes, boards, and stretchers;
    - (D) Administrative equipment for the purposes of data recording, financial management, and records preservation; and
    - (E) Vehicular equipment such as cars, trucks, vans, trailers, and boats; and
  - (3) "Personnel assets" means:
    - (A) Coroners, deputy coroners, and medicolegal death investigators; and
    - (B) Other individuals or entities that possess specialized skills necessary for the comprehensive investigation of deaths in a mass fatality incident.
- (b)
  - (1) The Department of Health may enter into a mass fatality resource inventory and mutual aid agreement among coroners in this state.
  - (2) A mass fatality resource inventory and mutual aid agreement under this section is effective when signed by the county judge in a county in which a coroner enters into an agreement under subdivision (b)(1) of this section.
  - (3) A mass fatality resource inventory and mutual aid agreement under this section may provide for the sharing of fixed assets, mobile assets, and personnel assets.
- (c) The signatures of the county judge and the coroner are necessary for a county to pledge its

deputies, equipment, and resources to the mass fatality mutual aid agreement.

- (d) Only a coroner, deputy coroner, or medicolegal death investigator who receives documentation reflecting satisfactory participation and completion from the commission and is in good standing under this section may be allocated for assignment and duty in the mass fatality resource inventory and mutual aid agreement.
- (e) The Department of Health shall maintain records of coroners, deputy coroners, and medicolegal death investigators who have received training and certificates of course completion under this section from the Arkansas Commission on Law Enforcement Standards and Training.

**19-6-301. Enumeration of Special Revenues.** - (246) The first designated portion of real estate transfer taxes for the continuing education of county coroners under §§ 26-60-105 and 26-60-112

**19-6-821. County Coroners Continuing Education Fund.-**

(a) There is created on the books of the Treasurer of State, Auditor of State, and Chief Fiscal Officer of the State a special revenue fund to be known as the "County Coroners Continuing Education Fund".

(b)

(1) The fund shall consist of those special revenues as specified in § 19-6-301(246).

(2) The fund shall also consist of any other revenues as may be authorized by law.

(c) The fund shall be used for defraying the expenses of training seminars and other educational projects benefiting county coroners in this state as set out in §§ 14-15-308, 16-20-105, 16-20-110, and § 26-60-101 et seq.

## Chapter Three - STATE CRIME LABORATORY

<b>12-12-301</b>	<b>Establishment.</b>
<b>12-12-302</b>	<b>Board created – Members- Meetings. (AMENDED)</b>
<b>12-12-303</b>	<b>Board's powers and duties</b>
<b>12-12-304</b>	<b>Executive</b>
<b>12-12-305</b>	<b>Housing and equipment</b>
<b>12-12-306</b>	<b>State Medical Examiner</b>
<b>12-12-307</b>	<b>Medical examiners - Qualifications - Duties.</b>
<b>12-12-308</b>	<b>Medical examiners - Professional liability insurance.</b>
<b>12-12-309</b>	<b>Utilization of outside personnel.</b>
<b>12-12-310</b>	<b>Reimbursement for use of outside faculty</b>
<b>12-12-311</b>	<b>Cooperation by others required - Tort immunity.</b>
<b>12-12-312</b>	<b>Records confidential and privileged Exception - Release</b>
<b>12-12-313</b>	<b>Records as evidence – Analyst's testimony</b>

### **12-12-301. Establishment. –**

- (a) There is established a State Crime Laboratory.
- (b) The laboratory shall offer services to law enforcement in pathology and biology, toxicology, criminalistics, raw drug analysis, latent fingerprint identification, questioned documents examination, firearms and tool marks identification, and in other such areas as the State Crime Laboratory Board may deem necessary and appropriate.

### **12-12-302. Board created - members - meetings.**

- (a)
- (1) There is created a State Crime Laboratory Board.
  - (2)
    - (A) The members of the board shall be appointed by the Governor and confirmed by the Senate.
    - (B) However, a vacancy may be temporarily filled by the Governor until the Senate shall next meet.
- (b) The members appointed by the Governor shall be composed of:
- (1) One (1) member of the active judiciary;
  - (2) One (1) practicing member of the legal profession;
  - (3) One (1) active county sheriff;
  - (4) One (1) active chief of police;
  - (5) One (1) active prosecuting attorney;
  - (6) Two (2) physicians engaged in the active practice of private or academic medicine; and
  - (7) One (1) member at large from the state.
- (c)
- (1) Appointments to the board shall be for a term of seven (7) years.
  - (2)
    - (A) All appointments made at any time other than the day following the expiration of a term shall be made for the unexpired portion of the term.
    - (B) If, however, the Governor shall not make

<b>12-12-314</b>	<b>Fees – Disposition</b>
<b>12-12-315</b>	<b>Notification of sudden unexpected death</b>
<b>12-12-316</b>	<b>Transportation of corpses</b>
<b>12-12-317</b>	<b>Death Certificates</b>
<b>12-12-318</b>	<b>Examinations, investigations, and autopsies - Authorization and Restrictions</b>
<b>12-12-319</b>	<b>Embalming corpse subject to examination, investigation, or autopsy – penalty</b>
<b>12-12-320</b>	<b>Autopsies – Removal of pituitary gland</b>
<b>12-12-321</b>	<b>Autopsies – Exhumed bodies</b>
<b>12-12-322</b>	<b>Hazardous duty pay</b>
<b>12-12-323</b>	<b>Crime Lab Equipment Fund</b>
<b>12-12-324</b>	<b>Testing by State Crime Lab</b>
<b>12-12-326</b>	<b>Autopsies- Line-of-Duty death</b>
<b>21-5-701</b>	<b>Definitions (Death Benefits)</b>

an appointment by January 15 of the year in which the term expires, that member shall continue to serve until he or she is reappointed or a successor is appointed, and the term of that member shall run for seven (7) years from January 15 in the year the term expired rather than for seven (7) years from the date of actual appointment.

(d)

- (1) The board shall meet and elect one (1) of its members as chair and one (1) as vice chair.
- (2) The chair shall have the power to call meetings of the board upon due notice of the meeting to all members of the board.

- (e) A majority of the members of the board shall constitute a quorum to transact the business of the board.
- (f) The board shall meet a minimum of one (1) time every three (3) months. Failure of any appointee to attend three (3) consecutive meetings shall constitute cause for removal from the board by the Governor.
- (g) Members of the board may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq. The sums shall be paid from the appropriated maintenance and general operations funds of the State Crime Laboratory.

### **12-12-303. Board's powers and duties generally. –**

(a) The State Crime Laboratory Board shall promulgate such policies, rules, and regulations as shall be necessary to carry out the intent and purpose of this subchapter along with the specific duties and responsibilities set out in this subchapter.

(b) The board is authorized to accept gifts, grants, or funds from persons, associations, corporations, foundations, and federal and state governmental agencies and to use the gifts, grants, or funds for purposes of carrying out this chapter or for any other purposes not inconsistent with the purposes and intent of this subchapter which may be authorized by the board.

(c) The board is further authorized by this

subchapter to enter into contracts, not inconsistent with law, and to do such things as it may deem necessary or appropriate to properly carry out the purposes and intent of this subchapter.

**12-12-304. Executive director.**

(a) The State Crime Laboratory shall be headed by an executive director who shall be appointed by the Governor.

(b) The executive director may delegate specific duties to competent and qualified associates, assistants, and deputies who may act for the executive director within the scope of the authority granted him; subject, however, to such rules and regulations as may be prescribed by the board.

(c) The State Crime Laboratory Board shall prescribe the duties, responsibilities, compensation, and qualifications for the executive director.

**12-12-305. Housing and equipment – Functions.**

(a) There shall be established under the supervision of the Executive Director of the State Crime Laboratory a central office and laboratory facility sufficient and adequate to house the various functions of the State Crime Laboratory as set out in this subchapter and as may be necessary and proper for the laboratory to perform in carrying out its official duties and functions as provided by law.

(b) The laboratory shall have the equipment and personnel necessary to respond to the needs of all law enforcement agencies in the State of Arkansas with respect to the following functions:

(1) Forensic toxicology, including without limitation chemical testing and analysis of body fluids and the performance of procedures to determine the presence and significance of toxic agents both in the investigation of death cases authorized by this subchapter and in other appropriate cases;

(2) Criminalistics, including without limitation chemical testing of trace evidence, physical and microscopic analysis of evidence, latent fingerprint identification and classification, firearms and toolmarks identification, serology, DNA analysis, DNA database administration, and computer forensic analysis;

(3) Drug analysis, including without limitation analyzing and identifying substances suspected as being controlled, illicit, or contraband drugs;

(4) Pathology and biology, including the investigation and determination of the cause and manner of deaths that become subject to the jurisdiction of the State Medical Examiner under § 12-12-318 and the general application of the medical sciences to assist the criminal justice system in the State of Arkansas; and

(5) Any other laboratory divisions, sections, or functions that, in the opinion of the State Crime Laboratory Board, may serve the needs of law enforcement in the State of Arkansas for laboratory analysis.

**12-12-306. State medical examiner. -**

(a) The Executive Director of the State Crime Laboratory shall appoint and employ a State Medical Examiner with the approval of the State Crime Laboratory

Board.

(b) The executive director may remove the examiner only for cause and with the approval of the board.

**12-12-307. Medical examiners - qualifications - duties. -**

(a) The State Medical Examiner as well as associate medical examiners shall be citizens of the United States and physicians or surgeons with a M.D. degree who have been licensed or who are eligible to be licensed to practice medicine in the State of Arkansas, who have a minimum of three (3) years postgraduate training in human pathology as recognized by the American Medical Association, and who have had at least one (1) year of experience in medical-legal practice. The State Medical Examiner shall also be board certified or eligible for board certification as recognized by the American Board of Pathology in Forensic Pathology.

(b) In addition to the duties prescribed herein, the State Medical Examiner and his associates may teach in the medical school, conduct classes for law enforcement officers and officials, lecture, do research and engage in such activities as shall be deemed appropriate by the board.

**12-12-308. Medical examiners - professional liability insurance. -**

(a) The State Crime Laboratory shall obtain a policy of professional liability insurance in the amount of no less than four hundred thousand dollars (\$400,000) to indemnify any person or persons injured by the Chief Medical Examiner or his associates in the performance of their duties under this subchapter.

(b) The premium for the policy of insurance shall be paid from funds appropriated by the General Assembly for the maintenance and general operations of the State Crime Laboratory.

**12-12-310. Reimbursement for use of outside faculty. -**

(a) The State Crime Laboratory shall reimburse the University of Arkansas Medical Center and the Graduate Institute of Technology for the use of personnel from those institutions in performing services for the State Crime Laboratory.

(b) The participation of Medical Center faculty and Graduate Institute of Technology faculty in carrying out the provisions of this chapter shall in no way affect their tenure with their institution.

**12-12-311. Cooperation by others required - Tort immunity. -**

(a)

(1) All law enforcement officers and other state, county, and city officials, as well as private citizens, shall fully cooperate with the staff of the State Crime Laboratory in making any investigation provided for or authorized in this subchapter.

(2) (A) The prosecuting attorney for each judicial district shall provide the State Crime Laboratory each month with a list of cases having been adjudicated through plea negotiations and which require no further laboratory analysis.

(B) The monthly list shall contain the State Crime Laboratory case number and will be used by the State Crime Laboratory for the purpose of returning evidence on which analysis is no longer necessary, thus

reducing the backlog of cases found on the evidence shelves at the State Crime Laboratory.

(3) Nothing in this subchapter shall impair the authority of the prosecuting attorney to require further analysis of evidence in any case having been adjudicated through plea negotiations.

(4) (A) Upon completion of all requested analysis of submitted evidence by the State Crime Laboratory, the evidence shall be returned to the submitting agency within thirty (30) days.

(B) The submitting agency shall maintain and store evidence until released by a court of competent jurisdiction or the prosecuting attorney.

(b) Any physician or other person in attendance or present at the death of a person or any hospital, if death occurs therein and results from such conditions and circumstances as set out in ACA 12-12-315, shall promptly notify the chief law enforcement official of the county or municipality which shall have jurisdiction and the State Crime Laboratory of the death and shall assist in making available dead bodies and related evidence as may be requested by the Executive Director of the State Crime Laboratory or his staff or by the law enforcement agency conducting the investigation.

(c) Any physician, surgeon, dentist, hospital, or other supplier of health care services shall cooperate and make available to the Executive Director of the State Crime Laboratory or his staff, the records, reports, charts, specimens, or X rays of the deceased as may be requested where death occurs and an investigation is being conducted under the provisions of this subchapter.

(d) No person, institution, or office in this state who shall make available information or material under this section shall be liable for violating any criminal law of this state, nor shall any person, institution, or office be held liable in tort for compliance with this section.

#### **12-12-312. Records confidential and privileged - Exception - Release. -**

(a)(1)(A) (i) The records, files, and information kept, obtained, or retained by the State Crime Laboratory under this subchapter are privileged and confidential.

(ii) The records, files, and information shall be released only under and by the direction of a court of competent jurisdiction, the prosecuting attorney having criminal jurisdiction over the case, or the public defender appointed or assigned to the case.

(iii) In cases in which the cause and manner of death are not criminal in nature, the laboratory may communicate without prior authorization required under subdivision (a)(1)(A)(ii) of this section with the decedent's next of kin's designee, including without limitation:

- (a) Parents;
- (b) Grandparents;
- (c) Siblings;
- (d) Spouses;
- (e) Adult children; or
- (f) Legal guardians.

(B) (i) This section does not diminish the right of a

defendant or his or her attorney to full access to all records pertaining to the case.

(ii) The laboratory shall disclose to a defendant or his or her attorney all evidence in the defendant's case that is kept, obtained, or retained by the laboratory.

(iii) The Department of Health may access autopsy records, files, and information under this subchapter for the purpose of implementing the quality improvement provisions of the Trauma System Act, § 20-13-801 et seq., and the rules adopted by the State Board of Health under the Trauma System Act, § 20-13-801 et seq.

(2) However, a full report of the facts developed by the State Medical Examiner or his or her assistants shall be promptly filed with the law enforcement agencies, county coroner, and prosecuting attorney of the jurisdiction in which the death occurred.

(b) The State Crime Laboratory Board shall promulgate rules and regulations not contrary to law regarding the release of reports and information by the staff of the laboratory.

(c) All records, files, and information obtained or developed by the laboratory pertaining to a capital offense committed by a defendant who is subsequently sentenced to death for the commission of that offense shall be preserved and retained until the defendant's execution.

#### **12-12-313. Records as evidence - Analyst's testimony. -**

(a) The records and reports of autopsies, evidence analyses, drug analyses, and any investigations made by the State Crime Laboratory under the authority of this subchapter shall be received as competent evidence as to the matters contained therein in the courts of this state subject to the applicable rules of criminal procedure when duly attested to by the executive director or his assistants, associates, or deputies.

(b) Nothing in this section shall be deemed to abrogate a defendant's right of cross-examination if notice of intention to cross-examine is given prior to the date of a hearing or trial pursuant to the applicable rules of criminal procedure.

(c) The testimony of the appropriate analyst may be compelled by the issuance of a proper subpoena, in which case the records and reports shall be admissible through the analyst who shall be subject to cross-examination by the defendant or his counsel, either in person or via two-way closed-circuit or satellite-transmitted television pursuant to subsection (e) of this section.

(d) (1) All records and reports of an evidence analysis of the State Crime Laboratory shall be received as competent evidence as to the facts in any court or other proceeding when duly attested to by the analyst who performed the analysis.

(2) The defendant shall give at least ten (10) days' notice prior to the proceedings that he requests the presence of the analyst of the State Crime Laboratory who performed the analysis for the purposes of cross-examination.

(3) Nothing in this subsection shall be construed to abrogate the defendant's right to cross-examine.

(e) In all criminal trials, except trials in which the defendant is charged with capital murder, ACA 5-10-101, or

murder in the first degree, ACA 5-10-102, upon motion of the prosecutor, after notice to the defendant and upon proper showing of good cause and sufficient safeguards to satisfy all state and federal constitutional requirements of oath, confrontation, cross-examination, and observation of the witness's demeanor and testimony by the defendant, the court, and the jury, and absent a showing of prejudice by the defendant, the court may allow the prosecutor to present the testimony of the appropriate analyst by contemporaneous transmission from a State Crime Laboratory facility via two-way closed-circuit or satellite-transmitted television which shall allow the examination and cross-examination of the analyst to proceed as though the analyst were testifying in the courtroom:

- (1) After notice to the defendant;
- (2) Upon proper showing of good cause and sufficient safeguards to satisfy all state and federal constitutional requirements of oath, confrontation, cross-examination, and observation of the witness's demeanor and testimony by the defendant, the court, and the jury; and
- (3) Absent a showing of prejudice by the defendant.

**12-12-314. Fees - disposition.** - (a) The State Crime Laboratory shall charge certain fees in an amount to be determined by the State Crime Laboratory Board, but subject to the limitations set forth in this section for certain records, reports, and consultations by laboratory physicians and analysts, and expert witness testimony provided in the trial of civil lawsuits, as follows:

(1) A fee shall be charged for records and reports of the laboratory in a reasonable amount to be set by the board when the request for the report shall be from other than a law enforcement or criminal justice system agency;

(2) (A) A fee shall be charged in an amount to be set by the board for consultations, scientific or medical research, depositions, expert witness testimony, and travel to and from courts.

(B) The fees under subdivision (a)(2)(A) of this section shall be at a rate not to exceed two hundred twenty-five dollars (\$225) per hour or one thousand eight hundred dollars (\$1,800) per day and shall be levied against the requesting individual, agency, or organization for work done in civil cases in which laboratory personnel involvement results from the performance of duties and responsibilities under this subchapter; and

(3) A charge of up to three thousand dollars (\$3,000) for each autopsy requested by non-law enforcement officials.

(b) At no time shall any fee be levied or charge made to or against any law enforcement agency of the State of Arkansas for work performed under the provisions of this subchapter.

(c) (1) All fees collected by the laboratory for copies of autopsy reports, autopsies requested by the Federal Aviation Administration, and expenses paid employees for testimony as expert witnesses shall be deposited as a refund to expenditures.

(2) Other moneys derived from the charges provided for and authorized by this section shall be deposited into the State Treasury to the credit of the Miscellaneous Agencies Fund Account of the State General Government Fund.

**12-12-315. Notification of certain deaths.**

(a)(1) The county coroner, prosecuting attorney, and either the county sheriff or the chief of police of the municipality in which the death of a human being occurs shall be promptly notified by any physician, law enforcement officer, undertaker or embalmer, jailer, or coroner or by any other person present or with knowledge of the death if:

(A) The death appears to be caused by violence or appears to be the result of a homicide or a suicide or to be accidental;

(B) The death appears to be the result of the presence of drugs or poisons in the body;

(C) The death appears to be a result of a motor vehicle accident, or the body was found in or near a roadway or railroad;

(D) The death appears to be a result of a motor vehicle accident and there is no obvious trauma to the body;

(E) The death occurs while the person is in a state mental institution or hospital and there is no previous medical history to explain the death, or while the person is in police custody or jail other than a jail operated by the Department of Correction;

(F) The death appears to be the result of a fire or an explosion;

(G) The death of a minor child appears to indicate child abuse prior to death;

(H) Human skeletal remains are recovered or an unidentified deceased person is discovered;

(I) Postmortem decomposition exists to the extent that an external examination of the corpse cannot rule out injury, or in which the circumstances of death cannot rule out the commission of a crime;

(J) The death appears to be the result of drowning;

(K) The death is of an infant or a minor child under eighteen (18) years of age;

(L) The manner of death appears to be other than natural;

(M) The death is sudden and unexplained;

(N) The death occurs at a work site;

(O) The death is due to a criminal abortion;

(P) The death is of a person where a physician was not in attendance within thirty-six (36) hours preceding death, or, in pre-diagnosed terminal or bedfast cases, within thirty (30) days;

(Q) A person is admitted to a hospital emergency room unconscious and is unresponsive, with cardiopulmonary resuscitative measures being performed, and dies within twenty-four (24) hours of admission without regaining consciousness or responsiveness, unless a physician was in attendance within thirty-six (36) hours preceding presentation to the hospital, or, in cases in which the decedent had a pre-diagnosed terminal or bedfast condition, unless a physician was in attendance within thirty (30) days preceding presentation to the hospital;

(R) The death occurs in the home; or

(S)(i) The death poses a potential threat to public health or safety.

(ii) Upon receiving notice of a death that poses a potential threat to public health or safety, the county coroner shall immediately notify the Department of

Health.

(2) Nothing in this section shall be construed to require an investigation, autopsy, or inquest in any case in which death occurred without medical attendance solely because the deceased was under treatment by prayer or spiritual means in accordance with the tenets and practices of a well-recognized church or religious denomination.

(b) With regard to any death in a correctional facility, the county coroner and the State Medical Examiner shall be notified, and when previous medical history does not exist to explain the death, the Department of Arkansas State Police shall be notified.

(c) A violation of the provisions of this section is a Class A misdemeanor.

#### **12-12-316. Transportation of Corpses. -**

(a) The State Crime Laboratory is authorized to transport bodies of persons whose death is subject to the provisions of this chapter to an appropriate place for autopsy or for any other scientific tests.

(b) (1)(A) The bodies of such deceased persons shall be returned to the county from which they were brought by or at the expense of the State Crime Laboratory only if the State Medical Examiner determines that the cause of death was not suicide, accidental, or from natural causes.

(B) In cases where the State Medical Examiner determines that the cause of death was suicide, accidental, or from natural causes, the expense of transporting and returning the bodies of such deceased persons shall be borne by whoever requests the State Crime Laboratory to examine the cause of death, except for cases referred under the provisions of 12-12-315(a)(2).

(C) A body may be transported when authorized by the prosecuting attorney, circuit court, sheriff, or chief of police, or upon the request of the next of kin of the deceased or the persons who may be responsible for burial, to a place other than the county of origin.

(2) The State Crime Laboratory shall not, however, be required to provide actual transportation or the costs of transportation in excess of what would be required to return the body to the county of origin.

(c) The State Crime Laboratory shall provide transportation or shall bear the cost of transportation at the option of the executive director, but in no case shall the cost of transportation of dead bodies subject to the provisions of this subchapter be borne by the State Crime Laboratory without the prior approval and authorization of the executive director or his staff.

#### **12-12-317. Death certificates. -**

(a) The certificate of death of any person whose death is investigated under the provisions of this subchapter shall be made by the Chief Medical Examiner or by his designee or by the coroner, whoever shall have conducted the investigation.

(b) However, where a postmortem examination has been performed, the certificate of death shall be made and signed by the Chief Medical Examiner or his associates or assistants, whoever shall have performed the postmortem examination.

(c) When a petition is filed with a court of competent jurisdiction to change the cause or manner of death listed on

a death certificate which has been signed by the State Medical Examiner or by his designee, the State Crime Laboratory shall be notified of such petition, and the State Medical Examiner or his designee shall be allowed to hear testimony presented by the petitioner and shall be given an opportunity to present evidence to the court to support the original ruling of the State Medical examiner or his assistant who signed the certificate.

#### **12-12-318. Examinations, investigations, and postmortem examinations. - Authorization and restrictions.**

(a)

(1) When death occurs in such a manner or under such circumstances as described in § 12-12-315, the State Crime Laboratory shall have the power and authority to perform such functions and duties as maybe provided by this subchapter.

(2)(A) The laboratory shall make examinations, investigations, or perform postmortem examinations to determine the cause of death as the Executive Director of the State Crime laboratory or his or her staff deems necessary or as may be requested by the:

(i) County coroner of the county in which death occurs or is discovered;

(ii) Prosecuting attorney of the jurisdiction in which death occurs or is discovered;

(iii) Prosecuting attorney of the jurisdiction in which death occurs or is discovered;

(iv) Chief of police of the city in which death occurs or is discovered;

(v) Board of corrections or its designee, or the Director of the Department of Correction or his or her designee if the person was in the care, custody, or control of the Department of Correction at the time of death; or

(vi) Director of the Department of Arkansas State Police or his or her designee.

(B) Deputies of elected officers enumerated in subdivision (a)(2)(A) of this section shall have no authority to request a postmortem examination by the laboratory.

(b)

(1) In cases of sudden death in children between the ages of one (1) year and six (6) years with no previous major medical health problems, the State Medical Examiner, on a case-by-case basis, may delegate authority to the Arkansas Children's Hospital to perform postmortem examinations to determine the cause of death.

(2)

(A) Should any such post mortem examination determine that death occurred from foul play or a criminal act, the hospital will immediately notify the chief law enforcement officer of the jurisdiction in which the death occurred and the examiner.

(B) In addition, the examiner will be responsible for developing guidelines to assure that proper evidentiary procedure is followed.

(3) For purposes of this section, the hospital's staff pediatric pathologist, meeting the criteria prescribed in 12-12-307, shall be considered assistant medical examiners and, examinations as directed by a duly constituted authority.

(c) Postmortem examinations or investigations authorized in this section may be conducted without consent of any



person.

(d) The executive director and his or her staff shall not, as a part of their official duties, perform any postmortem examination at the request of any private citizen or any public official other than those enumerated in this section.

(e) The provisions of this section shall supersede any and all other laws relating to the power and authority of the executive director or his or her staff, including the examiner, to conduct examinations, investigations, or postmortem examinations.

(f)

(1) The executive director shall have the final authority on any ruling of manner of death which may become a matter of dispute between those persons authorized by this section to request a post mortem examination as described in 12-12-315 and the examiner or his or her associates.

(2) The executive director shall use any and all material accumulated by the laboratory, interview all the parties necessary, and consult with any medical authority necessary for him or her to make his or her decision as to the manner of death, and his or her ruling shall be final and binding as that ruling affects any documents generated and signed by any employee of the laboratory relating to manner of death.

(3) This subsection and the executive director's decision in no way affects or prohibits any person or agency to seek any other relief that may be available through legal channels.

#### **12-12-319. Embalming corpse subject to examination, investigation, or autopsy - penalty. -**

(a) It shall be unlawful to embalm a dead body when the body is subject to examination by the State Medical Examiner or his associates, assistants, or deputies as provided for in this chapter, unless authorized by the State Medical Examiner or his associates, assistants, or deputies or unless authorized by the prosecuting attorney of the jurisdiction in which the death occurs to so embalm.

(b) Where a body subject to examination by the State Medical Examiner or his associates has been embalmed without authorization by or prior notice to the State Medical Examiner or his associates, assistants, or deputies as provided for in this chapter, the Executive Director of the State Crime Laboratory may, at his discretion, require an order from the circuit court of the jurisdiction in which death occurred before proceeding with his duties and responsibilities under this chapter.

(c) Person violating the provisions of this section shall be deemed guilty of a Class C misdemeanor and upon conviction shall be subject to the penalties as set forth by law.

#### **12-12-320. Autopsies - removal of pituitary gland.**

(a) The State Medical Examiner and his or her assistants may remove the pituitary gland during the course of an autopsy and donate the pituitary gland to an appropriate organization.

(b) However, the pituitary gland shall not be removed under the authority of this section if the next of kin or the person having the right to control the disposition of the decedent's remains objects.

#### **12-12-321. Autopsies - exhumed bodies. -**

(a) Where death occurs under such circumstances as are set forth in 12-12-315 and where a body has been buried without proper certification of death, it shall be the duty of the chief law enforcement official of the county or municipality in which death occurred or in which the body is buried or the State Medical Examiner, his associates, assistants, or deputies to notify the prosecuting attorney of the jurisdiction in which death occurred and the body is buried.

(b) The prosecuting attorney shall thereupon present the facts to the circuit court of the county; the court may, by written order, require that the body be exhumed and an autopsy be performed by the State Crime Laboratory or its designee.

(c) A full and complete report of the facts developed by the autopsy shall be furnished to the court and the prosecuting attorney in timely fashion.

(d) The cost of the exhumation and for transportation to and from the place of autopsy shall be borne by the county in which the death occurred.

#### **12-12-322 - Hazardous Duty Pay -**

(a)

(1) The State Crime Laboratory is hereby authorized to provide special compensation to certain employees for each full pay period of eighty (80) hours worked in a jail which requires contact at crime scenes, emergency sites, or other sites where exposure to potentially hazardous substances is possible.

(2) It is recognized that many substances which may be encountered may create harmful health effects from either short-term or long-term exposure.

(3) This special pay is to compensate the employees for the increased risk of personal injury.

(4) The rate of pay will be one and one half times the regular authorized hourly pay or hourly rate of pay and will be paid only for the time while at the site of clandestine laboratory.

(5) Payment will be controlled by the Executive Director of the State Crime Laboratory.

(b) The rate of pay for individuals who work less than a full pay period of eighty (80) hours and/or transfer to other work areas not defined above will not receive any enhanced rate of pay for that or subsequent pay periods.

(c) This section covers employees who respond to clandestine laboratory sites for the purpose of assisting and dismantling of such laboratory sites.

(d) A monthly report shall be made to the Legislative Council describing all payments made to employees under the provisions of the section.

#### **12-12-323. Crime Lab Equipment Fund.-**

(a) There is created the Crime Lab Equipment Fund on the books of the Auditor of State, Treasurer of State, and Chief Fiscal Officer of the State.

(b) The moneys in the fund shall be used by the State Crime Laboratory only for:

(1) The purchase of equipment;

(2) Operating expenses;

(3) Constructing and equipping regional crime laboratories; and

(4) The personal services and operating expenses of

regional crime laboratories

#### **12-12-324 Testing by State Crime Laboratory.**

(a)

(1) All firearms used in the commission of a crime that come into the custody of any law enforcement agency in this state shall be delivered to the State Crime Laboratory within thirty (30) calendar days for ballistics testing.

(2) However, if the firearm is being used as evidence in a criminal case, then delivery shall take place within thirty (30) calendar days after the final adjudication of the criminal proceeding.

(b) (1) (A) The laboratory may conduct ballistics tests on all firearms received and input the resulting data into the National Integrated Ballistics Information Network of the Bureau of Alcohol, Tobacco, Firearms and Explosives.

(B) The ballistics tests may include, but not be limited to, firing of the weapon and electronic imaging of the bullets and casings.

(2) The laboratory shall coordinate with all participating agencies when investigations require the use of the National Integrated Bullet Identification Network's computer database.

(3) The laboratory shall provide written analysis reports and experts for testimony when feasible.

(4) After completion of the testing, the firearms shall be returned to the law enforcement agencies.

(5) When the law enforcement agency regains possession of the firearm, the law enforcement agency shall immediately notify the owner, unless the owner is prohibited by law from possessing the firearm, that the owner may regain possession of the firearm at the offices of the law enforcement agency.

(c) A law enforcement agency in this state may request the assistance of the Department of Arkansas State Police in tracing a firearm.

(d) A firearm seized by the Arkansas State Game and Fish Commission for violation of a commission regulation is exempt from this section.

(e) The State Crime Laboratory Board may adopt rules for the implementation of this section, including, but not limited to, rules regarding testing and submission procedures.

#### **12-12-326 – Autopsies – Line-of-duty death.**

(a) As used in this section:

(1) "Eligible person" means a person with an eligibility similar to a firefighter or police officer under the Public Safety Officers' Benefits Act of 1976 or the Hometown Heroes Survivors Benefits Act of 2003, 42 U.S.C. § 3796 et seq., as appropriate;

(2) "Firefighter" means any member of a fire department or firefighting unit of the Arkansas Forestry Commission, any city of the first class or city of the second class, any town, or any unincorporated rural area of this state, who actively engages in the fighting of fires on either a regular or voluntary basis; and

(3) "Police officer" means any law enforcement officer engaged in official duty who is:

(A) A member of:

(i) Any regular or auxiliary police force on a full-time or part-time basis; or

(ii) The Department of Arkansas State Police; or

(B) A sheriff or deputy sheriff of any county.

(b) A coroner or a supervisor of a firefighter, police officer, or eligible person shall promptly notify the State Medical Examiner if the firefighter, police officer, or eligible person dies in the line of duty as a result of injuries sustained in the line of duty or within twenty-four (24) hours after participating in an emergency situation.

(c)(1)(A) The examiner may conduct an autopsy on any firefighter, police officer, or eligible person who dies in the line of duty as a result of injuries sustained in the line of duty or within twenty-four (24) hours after participating in an emergency situation.

(B) The autopsy shall be sufficient to determine eligibility for benefits under the federal Public Safety Officers' Benefits Act of 1976 or the Hometown Heroes Survivors Benefits Act of 2003, 42 U.S.C. § 3796 et seq., as appropriate.

(C) A report of the autopsy shall be provided to the firefighter's or police officer's commanding officer or the supervisor of the eligible person.

(2)(A) If the firefighter, police officer, or eligible person has agreed in writing to allow an autopsy under this section, that directive shall be followed unless the firefighter's, police officer's, or eligible person's spouse dictates otherwise after being notified of the prospective autopsy.

(B) If the firefighter, police officer, or eligible person has not agreed in writing to allow an autopsy under this section, the firefighter's, police officer's, or eligible person's spouse may decide whether or not an autopsy will be performed.

(C) If the firefighter's, police officer's, or eligible person's spouse chooses not to allow the autopsy:

(i) No autopsy may be performed; and

(ii) The body of the firefighter, police officer, or eligible person shall be released to the next of kin.

(3)(A) If the examiner does not perform an autopsy under this section, he or she shall provide to the firefighter's or police officer's commanding officer or the supervisor of the eligible person written notice stating the reason why an autopsy was not performed.

(B) The written notice under subdivision (c)(3)(A) of this section shall include a toxicology report.

#### **21-5-701- Definitions- (Death Benefits)**

As used in this subchapter:

(1) "Child" or "children" means any natural child, adopted child, or stepchild who is eligible under § 21-5-707;

(2) "Coroner" means a coroner or a deputy coroner who is engaged in official duty at a crime scene or death location;

(3) "Covered public employee" means a police officer, firefighter, state highway employee, state correction employee, Department of Community Correction employee, jailer, qualified emergency services worker, wildlife enforcement officer, emergency medical technician, Arkansas Forestry Commission employee, commissioned law enforcement personnel, or emergency response personnel of the State Parks Division of the Department of Parks and Tourism;

(4) "Department of Community Correction employee" means any employee of the Department of Community Correction who is subject to injury through contact with parolees, probationers, or center residents;

(5) "Emergency medical technician" means emergency medical services personnel as defined in § 20-13-202;

(6) "Firefighter" means any member of a fire department or firefighting unit of any city of the first class or city of the second class, or any town, or any unincorporated rural area of this state who actively engages in the fighting of fires on either a regular or voluntary basis, or any instructor of the Arkansas Fire Training Academy, or any member of the firefighting organization of the Arkansas National Guard Robinson Maneuver Training Center or of the Arkansas National Guard Fort Chaffee Maneuver Training Center;

(7) "Jailer" means an employee of a city, town, or county who, while engaged in official duty as a detention or transport officer, is subject to injury through contact with inmates, detainees, parolees, or probationers;

(8) "Police officer" means:

(A) Any law enforcement officer engaged in official duty who is a member of any regular or auxiliary police force on a full-time or part-time basis, the Department of Arkansas State Police, or any member of the law enforcement organization of the Arkansas National Guard Robinson Maneuver Training Center or of the Arkansas National Guard Fort Chaffee Maneuver Training Center;

(B) A sheriff or deputy sheriff of a county who is engaged in official duty; or

(C) A constable or night marshal of a town of this state engaged in official duty;

(9) "Qualified emergency services worker" means a state, local, volunteer, and other emergency responder as defined in § 12-75-103;

(10) "State correction employee" means an employee of the Department of Correction or the Corrections School System who is subject to injury through contact with inmates or parolees of the Department of Correction;

(11) "State highway employee" means an employee of the Arkansas State Highway and Transportation Department who is physically present on a roadway, bridge, or right-of-way of the state highway system or other public transportation facility and who is:

(A) Actively engaged in highway maintenance, construction, traffic operations, or the official duties of his or her employment; or

(B) Supervising, reviewing, evaluating, or inspecting highway maintenance, construction, or traffic operations; and

(12) "Wildlife enforcement officer" means an employee of the Arkansas State Game and Fish Commission who actively engages, on a full-time or part-time basis, in the enforcement of the boating safety laws and regulations enacted for the protection of game, fish, furbearing animals, and other wildlife of the State of Arkansas.

## Chapter Four - DEATH SCENE INVESTIGATION

In Arkansas' dual system, the responsibility of determining the cause and manner of death rests with the medical examiner or coroner. If the medical examiner accepts the case pursuant to ACA 12-12-315, the coroner is relieved of the responsibility of signing the death certificate (ACA 12-12-318),

Even though the coroner is relieved of the formal certification, a good thorough investigation is still in order, reporting the outcome of that investigation to the medical examiner for his use in deciding the cause and manner of death.

Cooperation between all team members at a death scene investigation is imperative for the proper administration of justice. All local agencies involved with each other at death scene should meet periodically to discuss procedure and what is expected from each other as the investigation proceeds. Many duplicative efforts can be avoided with regular meetings.

### Section 1. Notification:

The death scene investigation technically begins after the notification and arrival of the detection division and the coroner's representative. However, it could be said that the investigation actually begins with the arrival of the first public official such as a paramedic or patrol officer. Each person at the scene should record the date, time, and reporting party. Upon notification, the death scene investigator (D.S.I.) should try and determine what type of death inquiry is to be performed: gunshot wound, hanging, drowning, etc. The death scene investigator can begin planning if this information is available. You should avoid pre-conceived notions about the cause and manner of death.

### Section 2. Response:

Without sacrificing the safety of the D.S.I. or the public, you should respond as quickly as possible to the scene of the death. The coroner's representative should pronounce death, noting that time as well as the time of their arrival for the report. This time should be given to the law enforcement team member. You should determine the officers already at the scene and make their names a part of your report. resuscitative efforts and record all pertinent data about those efforts. Obtain copies of any medical intervenor's reports and attach them to your file.

### Section 3. Where the body is found:

The exact location of the death scene is essential and it should be carefully documented. The scene environment affects the body's post-mortem changes. It is important to document the **TEMPERATURE, AMOUNT OF MOISTURE, AIR MOVEMENT AND LIGHTING** in the area where the body is found. The type of surface upon which the victim is resting will affect the amount of body heat loss. Therefore, describe the surface type in your report. "The victim is lying in the

supine position on a carpet-covered floor." In those investigations where the location and/or environment play a major role in the death, such as lightning, cold (exposure), heat stroke, or a work-related death, make a very detailed report of the scene location.

Example: If an individual is found dead in a very hot and unventilated hotel room, describe items such as the present outside/inside temperature and humidity levels, the presence or absence of fans or air conditioning, recent precipitation and the highest outdoor temperature for the last twenty-four (24) hours prior to death.

### Section 4. Describing the victim:

Eventually, the body should be fully described. In the event the body will be autopsied by the medical examiner or privately, you should be very careful in handling the victim and the attached clothing so as not to disturb any evidence that may be on them. It is understood that it is important for investigators at the scene to have as much knowledge as they can as soon as they can, but remember that many cases have been solved only by the careful scrutiny of very minute pieces of physical evidence. In your report, you should describe what is readily visible and enter a disclaimer that reads something like this: "Further detailed description of the clothing and victim is deferred to the medical examiner due to his intervention." If, however, the medical examiner is not going to handle the case, the coroner must make a detailed description in his report including:

- \* Sex
- \* Race
- \* Approximate age/date of birth if know
- \* Height (if estimated, state so)
- \* Weight (if estimated, state so)
- \* Hair color and length
- \* Eye color
- \* Clothing
- \* Scars/tattoos
- \* Jewelry
- \* State of nutrition and dental condition
- \* Any other items that may be pertinent

The following items should be included in a good death scene investigator's report. You should remember that some items must be altered depending on whether or not an autopsy is to be performed by the medical examiner.

**A. Clothing:** Describe the color, fabric and location of each piece of clothing. Be sure to specify any clothing near the body even if it is not attached. Example: The victim's housecoat is noted lying 17" from the victim's right hand.

Be sure to note if the clothing is wet, moist or dry. Specify if there are stains (blood, for example) found on the items of clothing. Describe any holes, cuts or tears in the clothing. Do not - repeat, **DO NOT** remove, handle or attempt to cleanse or brush any of the victim's clothing if the body or

evidence is going to the crime laboratory for analysis.

**B. Valuables and Jewelry:** Describe all jewelry and valuables. These things are sometimes helpful in establishing identity. The personal property should remain on the body for transport to the crime laboratory or other facility. It must be carefully inventoried with witnesses present. If for some reason property is removed or given to someone else, it be noted in the report.

A plan as to the proper procedures in handling evidence and valuables should be agreed upon by all agencies involved. This plan should be adhered to for continuity's sake.

**C. Post-mortem changes:** After death, the body begins deteriorating almost immediately due to the cessation of bodily functions. Post-mortem changes vary greatly from person to person. Environmental conditions greatly affect post-mortem changes.

Even though these changes begin immediately upon death, some are not noticeable for hours after the death. Changes include: body temperature, rigor mortis, liver mortis and decomposition.

**1. Body temperature:** The rate of body cooling is affected greatly by the environment. The rule of thumb is that:

A. The body temperature can remain the same for about an hour.

B. After the initial hour the temperature generally drops 1 - 1 per hour until environmental temperature is reached. (This does not apply if a body is moved from a cooler to warmer environment.)

Body temperature can be taken by using either a liver-probe thermometer or a deep rectal thermometer. It should be noted that high heat and humidity can affect the accuracy of a liver probe. It is suggested that each coroner obtain a deep rectal thermometer as well as proper instruction in the use of it.

Temperatures can be taken and furnished to the medical examiner or, in the event the medical examiner is not involved, the coroner can indicate the temperature at the time of his exam in the report for use in assisting in determining the time of death. If an accurate temperature can't be taken, the investigator should touch a covered and uncovered part of the body and make a note in the report whether the areas where:

1. Hot
2. Warm
3. Cool
4. Cold

You should indicate this in all death investigations. Deep core temperatures must be taken on any death believed to be related to the heat or cold.

**2. Rigor mortis:** This post-mortem change causes muscle "stiffening" due to a chemical reaction. Rigor mortis is seen

in the shorter muscles first. The onset is usually described as:

Detectable	2-4 hours
fully developed	12 hours
disappearing	24-48 hours

It should be noted these are only rough estimates that are greatly influenced by numerous factors.

In the report, a D.S.I. should use the following generally accepted classifications for describing rigor mortis:

- (0) no rigor present
- (1+) slight - just beginning with slight resistance to movement
- (2+) moderate - extremity moves with some difficulty
- (3+) severe - extremity is hard to move
- (4+) completed - well established, will not move

"Gooseflesh" sometimes appears post-mortem and is caused by the same chemical reaction as rigor mortis. This phenomenon is sometimes seen in drownings, but it can accompany any type of death. The presence of "gooseflesh" (cutis anserina) has sometimes mistakenly been taken to mean that the victim died as a result of hypothermia. This is a falsehood.

**3. Liver mortis:** Lividity is caused by the settling of the blood in the capillaries to the dependent portion of the body. It is a helpful tool in establishing the position at death and can lend assistance (in conjunction with other tests) in establishing the time of death.

Lividity forms:

Perceptible	2 hours
well-developed	4 hours
fixed	8 - 12 hours

You should describe the color and pattern of lividity on your exam. You should also state whether the lividity "blanches" with gentle pressure. If it does blanch, lividity is not yet set. Normal lividity is blue to purple.

Carbon monoxide, hypothermia and cyanide poisoning cause pink to cherry red lividity. If cherry red lividity is noticed, the D.S.I. must locate the cause.

Rigor, body temp and lividity exams should all be done at the same time and each should be addressed in the investigator's report. The and environmental conditions at the time of the exam should also be in the report.

**4. Decomposition:** Decomposition is the breaking down of the body tissues after death. External decomposition changes include putrefaction, mummification and Adipocere. Putrefaction is caused by bacterial activity digesting the body tissues, giving the tissues a fluid-like consistency and producing foul-smelling gasses. Sometimes, a brownish fluid exudes from the nose and mouth. This fluid is often mistaken for bleeding. Mummification is when the body shrivels and becomes parchment-like due to exposure to dry

atmospheres. Adipocere (grave wax) is a waxy-like, foul smelling substance that covers a body when exposed to water or a cool moist soil.

Decomposition is affected greatly by the atmospheric and environmental conditions; thus the importance for inclusion of those items in the report.

**D. Victim's injuries:** The examination and description of the victim's injuries or trauma are very important parts of the D.S.I.'s job. If the case is going to be referred to the medical examiner for autopsy, extreme caution is urged in the course of this examination. Without removing or excessive handling of the clothing, visible injuries should be accurately described, photographed and noted in the report. Special attention must be placed on the preservation of evidence. The hands and feet are a very valuable source of evidence, so special precautions should be taken with those areas. Clean paper bags should be placed on both hands and feet, if appropriate. It is suggested that the victim be placed upon a clean sheet and wrapped "mummy" fashion for conveyance to the holding facility. This will preserve any trace evidence that may be on the clothing or body.

If the victim is not going to the crime laboratory for autopsy, the decedent should be taken to a well-lighted facility after the scene investigation is completed for a further, more detailed examination by the coroner's representative to the death scene team. All injuries should be carefully examined, documented and photographed. While measuring trauma, the D.S.I. should use the standard form of measurement; inches, feet and pounds, rather than the metric measurements. A complete and thorough body chart should be made, noting the time and place of the exam.

If it can be determined, post-mortem injuries or animal and insect intervention should be noted in the report. An entomologist can be referred to if necessary to help in determining the type and degree of insect infestation.

Blood patterns on or near the decedent should be photographed with and without measuring device in photo. The flow pattern should be consistent with position and gravity. Any discrepancy should be noted. The size and color and degree of wetness of any pool of blood near the victim must be noted and should be photographed as previously stated.

### **Section 5. Estimating the time of death:**

Often a family member or police official asks a death scene investigator to estimate the time of death. This is a very difficult portion of any death investigation. You should exercise great caution in making any quick decision at the scene as to how long the person may have been dead. In addition to considering the post-mortem changes as previously described, the following information may be of assistance in attempting to determine the post-mortem interval:

1. When was the person last seen alive?
2. What was the person wearing when last seen?

Are those the same clothes he is now wearing? Is the clothing consistent with what the decedent was supposed

to be doing?

3. When last seen, did the person have any medical complaints?

4. Association factors:

- a. T.V. on or off
- b. Lights on or off
- c. Food on table; what's in the trash?
- d. Mail/newspapers
- e. Alarm clock
- f. Number of pills in prescription bottles?
- g. Etc.

5. Autopsy results

### **Section 6. Transportation of victim:**

It is the D.S.I.'s responsibility to insure the safe transportation of the remains to the appropriate facility. This is a matter of local reference and it should be discussed in the meetings held by the death scene team.

Moving the victim must be done only after all team members have given their consent. You should always remember the three body bridges that can be burned in death investigations:

1. Moving the body: Once a body or evidence is moved, it can never be placed in the original configuration again

2. Embalming: Once embalmed, many valuable sources of information are destroyed. Special care must be given to permitting the preparation by a funeral home.

3. Burial/cremation: This is the final body bridge. In the event of cremation, all evidence is destroyed forever. If the body is buried, some evidence will remain for years, but the procedure to exhume a body is costly and emotionally disturbing to family members.

### **Section 7: Positive identification and notifying next of kin:**

Positive identification must be made by two different methods. Some methods that are accepted are:

1. Visually (from photos, etc.)
2. Dental/medical records or x-rays.
3. Scars/tattoos/marks
4. Personal papers/documents
5. Clothing/jewelry

No release should be made to a family member or news media until positive I.D. has been made. Your report should reflect which methods identification were used.

After making positive identification, the next of kin should be notified as quickly as possible. It is suggested that a uniformed police officer and a member of the coroner's staff make the notification in person if at all possible. As much correct information as possible must be given to the family. (You should not give out any critical information that may hinder or harm an on-going investigation, however.) You should make the family aware of the exact procedures that will be undertaken in the handling of their loved one's remains. A notation of the time and the person notified should be a part of the report.

The legal hierarchy of next of kin relationship is:

1. Spouse
2. Child of legal age
3. Parent
4. Brother or sister
5. Other relative

**Section 8: Opinion on cause and manner of death:**

In the event a death has not been handled by the medical

examiner, it becomes the responsibility of the coroner or his representative on the death scene team to certify the cause and manner of death. Only after an exhaustive and thorough investigation should the coroner affix his name and seal to the death certificate.

The certificate will be reviewed many times over for years to come. Be sure the decision you make is the right one.

## Chapter Five - HOMICIDE

(Contributed by the Federal Bureau of Investigation, Little Rock Division)

The following format was originally prepared by Pierce R. Brooks, Manager, VICAP, FBI Academy, Quantico, Virginia, and is offered only as an example that could be considered for use in completing reports of homicide investigations.

### **HOMICIDE INVESTIGATION PROCESS REPORT FORMAT**

#### **1. BRIEF RESUME OF THE CRIME**

Include briefly, and if known: who, what, when, where, how, and why.

#### **2 INVESTIGATORS AT THE SCENE**

Describe the scene of crime in detail as observed by the investigators upon their arrival. Include:

- (1) Date and time investigators received the call.
- (2) Date and time investigators arrived at the scene.
- (3) Physical reconstruction of the scene: weather, lighting, terrain, type premises, etc.
- (4) Location, position, and condition of victim(s), include clothing.
- (5) Describe the apparent injuries. Include location and description of bloodstains, spatters, etc.
- (6) Evidence: general description and location. Include holes, fractures, breakage of glass, etc.
- (7) List any indications of ransacking, and any stolen or missing property.
- (8) List any points of entry and exit.
- (9) List of suspect(s) trademarks.
- (10) Describe and list any objects or occurrences not necessarily to the commission of the crime, but important as polygraph or interrogation keys; i.e., those objects or occurrences outstanding by their appearance, sound, and/or so that they should have been noted by the suspect the scene.
- (11) Include a diagram of the scene, to scale, and attach as addendum.

#### **3. CHRONOLOGICAL NARRATIVE**

Under this heading write a chronological story of the crime in detail. The following information should be included, although not necessarily in the order listed:

- (A) Prior to the crime include:
  - (a) The date, time, and location of events connected with the crime prior to its occurrence.
  - (b) The names, descriptions, movements, and statements of the persons involved.
- (B) During the crime include:
  - (a) The date and time of the crime.
  - (b) The location and description of the scene at the time of crime occurrence.
  - (c) The action and statements of victim(s),

suspect(s), and witness(es).

- (d) Reconstruct pertinent phases in detail as required. Use video or still photo sequence if necessary.
  - (e) Include a description of the weapons used.
  - (f) Include a description of the injuries sustained.
- (C) After the crime include:
- (a) The pertinent facts occurring after the crime occurred.
  - (b) The manner in which the police were notified.
  - (c) The observations and actions of officers at the scene other than the investigators.
  - (d) The method of the suspect(s) escape.
  - (e) If apprehended, the circumstances of the suspect(s) arrest.

#### **4. PERSONNEL AT THE SCENE**

- (A) Obtain information available (statements, observations, etc.) from all sources and include:
- (a) Date and time department received call;
  - (b) Identity of person reporting, if known;
  - (c) Information received from person reporting;
  - (d) Information broadcast;
  - (e) Unit dispatched;
  - (f) Other police units responding; and
  - (g) Indicate first officer(s) at scene and first supervisor at scene.
- (B) List and properly identify all personnel at the scene, i.e., police, fire, ambulance, crime scene technicians, police photographers, coroner deputies, other agencies, press, etc. If possible, time of arrival and departure should be noted.
- (C) List name of prosecutor and/or deputy prosecutor assigned to follow the case, and date and time of notification.

#### **5. VICTIM(S)**

Include, in detail:

- (a) Physical description, background, occupation, habits, etc. Include, if any, the arrest record and all identification numbers.
- (b) Statements, if any.
- (c) Any outstanding physical characteristics, manner of speech, clothing, etc., that could be used as future polygraph keys or interrogation leads.

#### **6. INJURIES**

Include in detail:

- (a) Description of injuries sustained by all persons involved.
- (b) Autopsy information - complete. Attach Medical Examiner's Autopsy Report as addendum.

#### **7. SUSPECT(S)**

- (A) Complete description, arrest, and conviction record in detail, and identification numbers.
- (B) If arrested, admonishment of Miranda Rights and



results.

(a) Statements, if any. Lengthy statements to be transcribed can be attached as addendum.

(b) Booking information, medical treatment, and charges filed.

(C) If not in custody, list background information in detail from all available sources and list means or methods used to locate and apprehend.

(a) List all agencies contacted and names of personnel contacted in these agencies.

## 8. WEAPONS

Include, in detail:

(a) Complete description of all weapons used.

(b) On gun information, include purchase, registration information and, if stolen, etc.

## 9. VEHICLES USED

Include, in detail:

(a) Detailed description of any vehicle involved in this incident.

(b) If vehicle located, list location, condition, mileage, gasoline, evidence, etc.

(c) List and describe any other form of transportation used by the parties involved.

## 10. EVIDENCE

Under this heading, include:

(a) Complete description of all evidence booked; date, time, and location of recovery and by whom.

(b) The chain of custody and indicate the persons who would have to testify to properly introduce any item of evidence in court.

(c) If search warrant used, all information.

(d) List of evidence recovered by crime scene technicians, i.e., prints, cast, marks, etc. Include the exact location of discovery and name of officer responsible. Include a list of latent lifts and their exact location of recovery.

(e) Best available description of evidence not in police custody and relationship to the incident.

(f) Best available list of stolen or missing property.

## 11. WITNESSES

Under this heading include:

(a) Name, residence, business address, and telephone numbers of the witnesses and any other persons, i.e., relative, friend, doctor, etc., who might have pertinent information regarding the subject(s) involved.

(b) After listing the witness as described above, give their statement, or resume of the statement, or pertinent information available. Indicate if the statement is oral, written, signed, and if taped.

(c) Lengthy statements later transcribed can be attached as addendum.

(d) List those persons not included above but needed for possible print elimination.

(e) If a witness or informant appears to be a "transient type," obtain his description and complete

background information for probable future aid for subpoena service.

## 12. COMMUNICATIONS

Under this heading include:

(a) A chronological record of all communications, bulletins, etc., transmitted and/or received.

## 13. ADDENDUM

Include the following:

(a) Scale drawing of crime scene, and related areas

(b) Medical Examiner's Autopsy Report

(c) Press clippings for polygraph and/or prosecutor reference

(d) Any supplemental information, as necessary.

## HOMICIDE INVESTIGATION CHECKLIST

### A. ARRIVAL AT SCENE

1. Enter scene by route least likely to disturb evidence, noting route of travel.

2. Check victim for signs of life (breathing, neck area pulse).

3. Note time of arrival.

### B. LIVING VICTIM

1. Summon Medical Assistance

2 Dying Declarations

(a) Conscious Victim - If victim is conscious, attempt to obtain the following information:

(1) Who did this to you?

(2) If name of assailant not known to victim, commence

(3) identification by description: man, woman, race, height, weight, color hair, eyes, type of clothing, etc.

(4) Ask victim if he knows he is dying.

**REMEMBER:** Dying declarations are competent evidence, exception to hearsay rule.

### C, UNCONSCIOUS VICTIM

(1) At scene - If victim unconscious on arrival at scene,

**MAKE SURE THAT A POLICE OFFICER REMAINS WITH VICTIM AT ALL TIMES, INCLUDING TRIP TO HOSPITAL SO THAT ANY DYING DECLARATIONS MADE DURING CONSCIOUS PERIOD CAN BE NOTED.**

(2) At hospital - **UPON ARRIVAL AT HOSPITAL** alert medical personnel to possibility of dying declarations. Request them to note same if made during operative period.

(3) Notification Request to be notified if victim regains consciousness so that you will be present when any dying declarations made.

### D. REMOVAL OF VICTIM

(a) Before Removal:

(1) If possible, photograph victim's position at scene before removal.

(2) If time and circumstances do not permit photos before victim's removal, carefully note and sketch position, also **MARK** position of head, feet, arms and any objects held by victim, such as weapons, pieces of clothing, etc. Use chalk, stake, etc., for this purpose.

(b) Obtain Physical Evidence from Victim:

(1) Officer accompanying victim to hospital should collect and mark victim's clothing and personal effects as they become available.

(2) Officer received items should carefully note time received and the identity of persons from whom items received.

(3) **IF NECESSARY** for identification, items handled by physicians, nurses should be marked by those persons and chain of custody noted. This is particularly important with items such as bullets, etc.

**REMEMBER** - A failure to follow up on collecting items that left the crime scene with victim may cause their loss or render them useless as evidence.

#### E. NOTIFY COMMAND OF SITUATION:

1. Notify command of your agency. **REQUEST ASSISTANCE.**

2. Notify or request notification of DA Representative.

3. Notify or request notification of medical examiner designated by DA representative.

#### F. SECURE SCENE:

1. Block or Rope Off Scene.

2. Persons at Scene.

(a) Clear unauthorized persons from scene.

(b) Prevent anyone from touching body or disturbing anything pending arrival of medical examiner, identification personnel, investigative officers and the District Attorney, or his representative.

(c) Witnesses.

1) **NOTE** name and address of persons present.

2) **OBTAIN** brief statement from each person present.

3) **HOLD** witnesses until arrival of investigators.

4) **KEEP** witnesses separate to prevent conversation.

(d). Prevent destruction of fragile evidence such as footprints, tire tracks, etc.

#### G. PROCESS SCENE:

**CAUTION** - Be aware that there are search and seizure problems in this area; if in doubt you may wish to contact your DA regarding a warrant or other advise.

**NOTE: AT NIGHT** - Obtain adequate lighting before scene processing commenced as outlined below. Artificial lighting used must be adequate for photography and for minute

detail search for item such as hair, cartridge cases, etc.

**WHEN LIGHTING NOT AVAILABLE**, secure scene under guard and await daylight before processing is commenced.

#### Identification Personnel:

a. Take custody of scene upon arrival.

b. Note time of arrival.

c. Note weather conditions, especially at rural crime scenes.

d. Check perimeter of scene to insure that all of scene is secured.

e. Obtain summary of situation from officer in charge.

f. Photograph scene.

1) Take black and white, color still photographs of scene from all angles. Work from perimeter to center.

2) Include photographs of entrance, exit routes to scene.

**REMEMBER** - There is no such thing as too many photographs of a crime scene. Make sure that all possible locations relevant to scene are photographed. Particularly important that all rooms at house scene are photographed.

**REMEMBER** - Something may have happened in adjoining room that will be of critical importance as the investigation develops.

(1) Photograph specific items of evidence such as footprint cartridge cases, weapons, etc., as observed in place at scene. Where scale is important (footprints, tire tracks) use ruler scale to show size.

(2) Overhead photographs:

(a) Should be taken of outdoor scenes, including streets, intersections. These can be invaluable in constructing scale representation of scene.

(b) Extension ladders, power company and fire-trucks should be utilized for this purpose.

(3) Video tape:

(a) Video tape recordings should be made of scene where possible.

(b) Include video tape shots of collecting evidence, examining victim at scene, etc.

(c) Also video tape defendant, witnesses. **ADVISE SUBJECTS THAT THEY ARE BEING RECORDED. GIVE MIRANDA RIGHTS.**

(4) Photograph victim at scene.

(a) Black and white, color photos should be taken deceased from all angles.

(b) Photograph deceased as items are removed from body, identification, clothing, etc.

(c) **PHOTOGRAPH SUBSTANCES** on body and clothing of deceased such as blood, seminal fluid, powder residue, etc. These should include full length and closeup.

(d) **PHOTOGRAPH WOUNDS - INJURIES** - Include closeups. This should be done step by step as body examined, disrobed by medical examiner at scene.

g. Make careful note of following:

- 1) Position of body.
- 2) Position, condition of clothing.
- 3) Location of substances on deceased and his clothing.
- 4) Any alteration of deceased's position before your arrival as determined from witnesses, officers.

h. Survey Scene.

- 1) Obtain licensed surveyor from city or county.
- 2) Assist surveyor in taking all measurements that could possibly be relevant in preparing scale drawing of crime scene.
- 3) Make notes of your actions in detail as to measurement taken, recorded.

i. Search Scene.

1) Deceased:

- (a) **BEFORE REMOVING** examine deceased for physical evidence. (Example: loose hairs, fibers, etc.)
- (b) **PLACE DECEASED** on plastic sheeting, move body shortest possible distance.
- (c) **EXAMINE GROUND UNDER DECEASED.**
- (d) **EXAMINE DECEASED** for additional physical evidence that may become visible after movement.
- (e) **COLLECT** physical evidence from deceased to include personal effects, clothing, shoes, weapons, etc.

2) Scene Area:

- (a) **ORGANIZE SCENE SEARCH** by adopting specific plan assign tasks, areas of search to individual officers.
- (b) Assign **ONE** officer to collect, mark and transport items found.
- (c) **EXECUTE SEARCH** by carefully following plan of assigned tasks.
- (d) **NOTE, MARK AND PHOTOGRAPH** location of objects found, such as latent fingerprints, footprints, tire track, tool marks, hair, fragments of cloth, buttons, cigarette butts, cartridge cases, bullet holes, bullets, bloodstains, etc.
- (e) **COLLECT, MARK** evidence.

**REMEMBER** - When collecting evidence **DO NOT** overlook such items as room furniture, doors, etc., that can be used to reconstruct crime scene in court.

(j) **PRESERVE ITEMS OF EVIDENCE INDIVIDUALLY.**

**DO NOT** place separate items of evidence in container. Example: mixing items of clothing in one bag can compromise evidence such as head or pubic hair when the location of such items on a particular garment is critical.

- i) **USE CORRECT CONTAINER** powder folds or other leak proof container (not envelopes) for blood, hairs, dirt, paint, etc. (paper, not plastic, should be used to

contain biological materials such as bloody garments, victim's hands, etc.)

ii) **PROVIDE INFORMATION** to lab personnel concerning source of item, what tests you desire performed plus short resume of case details so that lab personnel know how your items of evidence should (or should not) fit into case.

k Process Defendant:

Photograph Defendant:

(a) **PHOTOGRAPH FULLY CLOTHED** to establish condition, color of clothing and defendants' physical appearance.

(b) **PHOTOGRAPH UNCLOTHED** as soon as possible after arrest to establish evidence of defendant's physical condition. Obtain closeups of any injured area. Repeat this process approximately 12 hours after arrest to show presence or absence of bruises.

**REMEMBER** - The defendant may later claim to have received injuries from victim or police. Photographs showing absence of such injuries are invaluable

(c) **PHOTOGRAPH BODY AREAS** likely to show needle marks, etc. Note if fresh appearance.

1) Have defendant physically examined by M.D. to establish his condition.

2) Draw blood sample to show alcohol, drug content. Also to establish blood type for comparison purposes.

3) Take hair samples - eyebrow, head, body, pubic hair.

4) Have defendant psychiatrically examined by qualified psychiatrist as soon as possible after arrest.

**CAUTION** - Defendant must first consent to such examination after being advised of his Miranda rights by the examining psychiatrist. The defendant must also clearing understand that the examination is being conducted for the state's purposes and not for his treatment. If defendant will not consent to examination, have his behavior and responses observed.

l. Autopsy Processing:

1) Arrange transportation of deceased to site of autopsy.

2) Maintain custody of deceased.

**REMEMBER** - The body of the deceased and those items or substances found upon it or contained within it are evidence for which you are responsible. An identification officer or other police officer must remain with deceased until autopsy and related gathering of evidence is completed.

3) Photograph Deceased.

(a) **PHOTOGRAPH DECEASED PRIOR TO INCISION** (Photos should be taken both before and after body is cleaned.) for identification (full face and both sides), any identifying marks, tattoos.

(b) **PHOTOGRAPH EXTERNAL SURFACES** of body to show postmortem

lividity, wounds, injuries, bruises, needle marks etc., in close detail. **SHOW ENTRANCE AND EXIT WOUNDS.**

(c) **MARK** skin surface of deceased to identify what is being photographed, when necessary. (Example: underside of arm to show left or right arm, etc.)

(d) **PHOTOGRAPH INTERNAL BODY ORGANS** when needed to show wound damage, cause of death. (Example: photograph showing bullet through heart.)

(e) **PHOTOGRAPH OBJECTS OR SUBSTANCES** removed from deceased, such as bullets, fragments, etc.

(f) **AVOID** unnecessary photographing of genitals, viscera unless same relevant to cause of death, recovery of evidence, etc.

4) Fingerprint Deceased. (should follow obtaining finger- nail scrapings.)

5) Obtain two (2) blood samples.

6) Obtain two (2) urine samples

7) Obtain hair samples - head, eyebrow, body, pubic.

8) Obtain fingernail scrapings.

9) Collect and preserve physical evidence obtained from deceased.

(a) **PLACE EACH ITEM SEPARATELY** in individual bag or container.

(b) **DO NOT** allow garments removed from deceased to come in contact with each other. Bag each separately.

**REMEMBER** - The location on a particular garment of bloodstains, hair or other substance may be critical. Example: defendant's head hair on deceased's undergarment could be highly significant but significance would be lost if deceased's clothing mixed at autopsy.)

(c) **MARK X-RAYS** with corresponding numbers of bullets removed from body.

10) If you have any doubt about the value of an item or substance as evidence, resolve same by collecting and pre-serving the item or substance as evidence.

m. Investigative Personnel:

a. Obtain summary of situation from officer at scene.

b. Check scene security and take steps necessary to correct errors or omissions, if any.

c. Review all actions of officers on scene.

d. Initiate Investigation from the Beginning.

e. Determine Identity of Deceased.

(1) Identification on person of deceased.

(2) Relatives

(3) Witnesses

(4) Fingerprints

n. Attempt to reconstruct events at crime scene by use of the following:

(1) Position of body

(2) Number, location of wounds

(3) Trajectory of bullets

(4) Bloodstains, substances

(5) Other signs of violence

(6) Other physical evidence at scene

o. Organize Investigation:

(1) Assign specific tasks to individual officers

(2) Supervise execution of assigned tasks

(3) Receive, Record and Index information received from investigators.

a) **ESTABLISH CASE BOOK** to include the following:

i. Index of contents

ii. Initial reports

iii. Follow-up reports

iv. Evidence reports

v. Medical reports

vi. Witness statements

vii. Defendant's statements

viii. Background on defendant

ix. Background on deceased

x. Small scene diagram

xi. Small scene photographs.

b) **PROVIDE COPIES** of case book for:

i. Principal investigators

ii. DA assigned to case

(c) **KEEP CASE BOOK CURRENT** by distributing new reports, etc., as available.

(4) Communicate Information:

(a) **TO YOUR OWN INVESTIGATORS** so that an intelligent, directed investigation can be accomplished.

(b) **TO OTHER AGENCIES** that may be in a position to provide useful leads or than may already possess valuable information for your case.

(c) **CONDUCT PERIODIC BRIEFINGS** for communication purposes as investigation develops.

d. Obtain Detailed Statements:

(1) Defendant:

(a) Advise of **MIRANDA RIGHTS**, using card.

(b) Have defendant initial or sign card.

(c) **VIDEO TAPE OR RECORD** defendant's statement.

i. Advise defendant he is being recorded (both video tape and tape.)

ii. Advise defendant of his **MIRANDA RIGHTS** during recording.

iii. Note on tape the beginning, ending times, place and persons present.

(2) Witnesses:

(a) **WHEN TO TAPE** - Satisfy yourself from your witness being interviewed is providing truthful statement before tape recording made.

(b) **LIMIT** subject on tape to case at hand and do not delve into irrelevant matters that may render tape damaging to your case or inadmissible in court.

(c) **EXCEPTION** to taping only truthful statements is seen where witness hostile, likely to be defense witness. Get tape when able in those situations. When in doubt on this point, tape - but make it relevant to case.

(d) **CHECK VICINITY**, neighborhood for possible witnesses obtain statements.

i. Establish movements of deceased prior to

death to determine:

- (1) Time last seen alive
- (2) Who with
- (3) What doing
- (4) Location

p. Examine deceased's background, including the following:

- (1) Relatives
- (2) Friends
- (3) Employment
- (4) Possible criminal record or activities
- (5) Finances
- (6) Possible romantic involvement's
- (7) Possible use of narcotics

q. Motive:

- (1) Consider deceased's background.
- (2) View scene information for evidence

indicating motives such as:

- (a) Sex
- (b) Theft of money or property
- (c) Narcotics
- (d) Mental derangement

r. Determine actions of defendant before homicide:

(1) You may be required to cover period days, weeks or months before homicide, depending on circumstances, including motive.

(2) Pay attention to any unusual actions of defendant, trips, absences from work, home, etc.

(3) Cover any activities such as surveillance of victim, purchase of weapons, etc.

s. Determine actions of defendant after homicide:

- (1) Flight
- (2) Destruction or concealment of:
  - (a) **CLOTHING** worn at crime scene
  - (b) **WEAPONS USED**
  - (c) **VEHICLES USED** (including cleaning of same to remove bloodstains, etc.)
  - (d) **OTHER EVIDENCE** such as business records, letters, notes, etc.

### **Practical Tips:**

- (1) Call upon experienced investigators to assist.
- (2) Question thoroughly those concerned.
- (3) Be careful in questioning witnesses - they may turn out to be principals in the crime.
- (4) Do not divulge critical information carelessly to - witnesses - it may get back to the defense and you may end up with what you have told the witness instead of what he actually knows about the event.
- (5) Separate witnesses.
- (6) Confer with your co-workers.
- (7) Cooperate with fellow officers.
- (8) Be courteous and tactful.
- (9) Give constant attention to dissemination of pertinent information to other agencies.
- (10) Do not disclose valuable information to press or unauthorized persons.

### **H. REPORT WRITING:**

1. Facts of case must be reported. No investigation regardless of how competently executed is complete unless accurately reported.

**REMEMBER** - Reports are your channel of communication to command, DA, fellow officers. Your case is never better than your report.

2. Contents of report must include a least the following:

a. Summary - A brief, concise summary of operative case facts at beginning of report. This puts case in narrative form, enables reader to grasp picture before examining balance of report for details, witnesses' statements. Summary should NOT contain verbatim recital of witnesses' statements. Attach witnesses' statements separately to report.

b. List of Evidence - List items seized, using consecutive numbers for each individual item. Specify following:

- (1) What
- (2) Where Seized
- (3) From Whom
- (4) Where Stored

(5) Action Taken - Specify if item given to lab personnel for testing, and, if so, to whom.

(6) Action Needed - Specify any processing remaining to be done such as latent prints, lab testing, etc.

c. List of Witnesses with brief statement of what testimony concerns: connection with case.

d. Witnesses' Statements attach to report. Observe guidelines set out in this checklist.

e. Do not include:

- (1) Your opinions concerning value of case, character of witnesses, sanity of defendant, etc.
- (2) Irrelevant material.

## THE HOMICIDE CRIME SCENE

(Written by Det. Sgt. Vernon J. Geberth)

The homicide crime scene is without a doubt, the most important crime scene for a police officer or investigator. Because of the nature of the crime, death by violence, or unnatural causes, the answer to "What has occurred?" can only be determined after a careful and intelligent examination of the crime scene, and the professional and medical evaluation of the various bits and pieces gathered by the criminal investigator. These bits and pieces may be in the form of trace evidence found at the scene, statements taken from suspects, direct eyewitness accounts or the autopsy results from the medical examination.

Homicide investigation is a highly professional and specialized undertaking - one which requires years of practical experience, coupled with a process of continued education. However, homicide investigation is the exclusive purview of the investigator, nor are all homicides solved because detectives are smarter than patrol officers. In fact, successful homicide investigation often depends upon the initial actions taken by patrol officers responding to any given scene. Technically speaking, all members of the department have a responsibility to contribute both actively and skillfully to the process of crime solving.

Whether it be the operator in communications, who initially takes the call and obtains a crucial piece of information from the person reporting the crime, or the officer in the radio car who responds to a homicide "run" and detains a key witness or suspect, the fact is that practical homicide investigation is based on the cooperation of patrol officers and detectives working together towards a common goal. The goal is solving the homicide.

There are three basic principles involved in the initiation of an effective homicide investigation; these are:

1). Rapid response to the homicide crime scene by patrol officers. This is imperative in order to protect evidentiary materials before they are destroyed, altered or lost.

2). Anything and everything should be considered as evidence. Whether this evidence is physical or testimonial, it must be preserved, noted, and brought to the attention of the investigators. The **ONLY** evidence collected at this point of the investigation is eyewitness accounts or spontaneous statements of a suspect at the scene

3) After the scene is secured, **IMMEDIATE** and **APPROPRIATE** notification must be made to the homicide investigators.

The importance of preserving the homicide crime scene and conducting an intelligent examination at the scene cannot be overemphasized.

### A. THE CRIME SCENE:

The investigation of homicide usually starts at the point where the body is originally found. This location is referred to as the crime scene. It should be noted, however, that there may be two or more crime scenes attached to this original location where the body is found. These additional crime scenes may include:

1. Where the body was moved from.

2. Where the actual assault leading to death took place.

3. Where any physical or trace evidence connected with the crime is discovered.

4. A vehicle which was used to transport the body to where it is eventually found.

It is important that responding police officers be aware of this multiple crime scene possibility. Therefore, during the initial receipt of information by the police concerning a possible homicide, the officer or person receiving this communication should attempt to ascertain exactly where the incident or situation requiring police investigation is located, and what possible additional locations may need coverage. In reference to the term "crime scene" will mean the location where the body is first discovered. This is where the preliminary homicide investigation begins, and it is appropriately referred to as the primary crime scene.

### B. WHY START THE INVESTIGATION AT THE CRIME SCENE?

The reason why the homicide investigation starts at the crime scene is two-fold:

1. The police are usually called to this location by the person who discovers the body - a witness to the crime, or in some instances, the victim himself.

2. In homicide cases, the location where the body is discovered yields an abundance of physical evidence and provides for a base of inquiry.

Practically speaking, from an investigative point of view, the body and its surroundings (including associative evidence, and other factors unique to any specific crime) provide the professional homicide detective with significant information on which to base his investigation. For example, the intelligent examination of the scene oftentimes may reveal:

1. The identity of the victim.

2. The approximate time of death.

3. Important evidence and/or a clue to the circumstances of death. Scene investigation is paramount to the investigation of homicide. There is a principle in homicide investigation that refers to a theoretical exchange between two objects that have been in contact with one another. This theory of transfer or exchange is based on the fact that:

1. The perpetrator will take away traces of the victim and the scene.

2. The victim will retain traces of the perpetrator and may leave traces of himself on the perpetrator.

3. The perpetrator will leave behind traces of himself at the scene and possibly upon the victim.

It is important to keep in mind that anything and everything may become evidence at one time or another. The list of items that may constitute physical and/or testimonial evidence is as extensive as the number, type and causes of homicide itself. Whether it be the utterances of the suspect murderer at the scene, or an important piece of trace evidence, the fact remains that the homicide crime scene is the logical and proper point to start the murder investigation.

### C. DETERMINING THE DIMENSIONS OF THE HOMICIDE

## CRIME SCENE:

The cardinal rule in homicide cases is protect and preserve the crime scene. However, before a crime scene can be protected, it must be identified as such. In order for the officer to make an intelligent evaluation of the crime scene, he must have an idea of what constitutes physical evidence and where the boundaries of the scene should be established in order to protect that evidence.

Examples of physical evidence which may be found at the crime scene are listed below. Although the list is not all inclusive of all types of evidence, these items are the type most frequently found at the homicide crime scene:

<u>OBJECTS</u>	<u>BODY MATERIAL</u>	<u>IMPRESSIONS:</u>
a. Weapons	a. Blood	a. Fingerprints
b. Tools	b. Semen	b. Tire tracks
c. Firearms	c. Hair	c. Footprints
d. Displaced furniture	d. Tissue	d. Palmprints
e. Notes or	e. Spittle	e. Tool marks
f. Letters	f. Urine	f. bullet holes
g. Vehicles	g. Feces	g. Newly damaged
h. Bullets	h. Vomit	areas

The patrol officer, who has the duty of responding to the scene as quickly as possible begins the investigation by securing the immediate area. Upon confirming that the victim is dead, an assessment is then made by this officer, at the scene, to determine boundaries.

Technically speaking, the homicide crime scene begins at the point where the suspect changed intent into action. It continues through the escape route, and includes any location where physical or trace evidence may be located.

Practically speaking, at this stage of the investigation, it is next to impossible to know the exact boundaries of the scene. The best course of action for the officer to follow is:

1. Clear the largest area possible. You can always reduce the scene perimeter.
2. Make a quick and objective evaluation of the scene based on:
  - a) the location of the body
  - b) presence of any physical evidence
  - c) eyewitness statements
  - d) the presence of natural boundaries (a room, a house, a hallway, an enclosed park, etc.
3. Keep in mind the possibility of a multiple series of crime scenes.

If the crime scene is indoors, the job of making this determination and securing the area is relatively easy to accomplish. If the scene is out of doors, the determination will have to be based on the type of location, pedestrian and vehicular traffic, crowds, paths of entry and exit, weather conditions, and many other factors peculiar to a specific location or crime scene.

In any event, the first officer should not do any examining of contents, but merely stabilize the scene by isolating body and immediate area, including any visible evidence from all other persons.

## D. PROTECTING THE CRIME SCENE:

The homicide crime scene includes the location where the body is first discovered and any other location related to this scene. It must be protected from entry by unnecessary or unauthorized persons so that physical evidence present will not be a) altered, b) moved, c) destroyed lost, or contaminated.

Other police officers, including supervisory personnel, who do not have a specific or valid reason for being at the crime scene, should be regarded as unauthorized persons.

Probably no other aspect of homicide investigation is more open to error than the preservation and protection of the crime scene. The first official- act taken at the scene will either help to bring the investigation to a successful conclusion or will negatively effect both the entire investigation- and eventual prosecution of the case.

Therefore, it is incumbent upon the first officer arriving at the scene of a homicide to perform this first and necessary aspect of the investigation "Safeguard the Location As Soon And As Effectively As Possible".

The first police officer to arrive at the homicide crime scene is usually a patrol officer. He is the agency's prime crime fighting tool, and as such is expected to respond immediately to any incident where there is a report of a crime or an opportunity to apprehend a criminal. He is also the department's representative responsible for conducting the preliminary investigation. This preliminary investigation begins this officer arrives at the scene.

In homicide cases, the responding officer's duties or role in the preliminary investigation may simply be to arrive at the scene, enough to know that assistance from investigators is required, and thereafter protect the scene so that evidence is not destroyed or changed.

Scene protection may be as simple as closing a door to a room where the body is discovered, or as complex as roping off an area of several blocks. There is no definite method or rule to satisfactorily establish the boundaries of all crime scenes at first glance. As information becomes available at the scene, various other locations may also have to be secured in order to retrieve important physical and trace evidence. Many times I have been at the scene of a homicide in one location, and as a result of information developed from witnesses or evidence located at the primary scene, be required to immediately secure a second and third location, a vehicle, and even a building fire-escape and alleyway used as an escape route by the perpetrator.

## E. OBTAINING THE EVIDENCE:

Obviously, the best places for obtaining physical evidence are nearest to where the critical act occurred, such as in the immediate vicinity of the homicide victim. However, other areas related to this primary crime scene should not be overlooked. For example:

1. The point of forced entry.
2. The route of escape.
3. The suspect himself (his clothing, hands, body,

etc.)

4. The location where the weapon or any other physical evidence is or may be located.
5. A vehicle that was used in the crime.
6. The suspect's residence.
7. The location where the assault leading to death took place.
8. The location where the body was moved from.

The list of locations that may need protection from contamination are as extensive as the crime is complex.

The scene should be secured by the use of ropes, barricades, autos, additional officers, and even volunteers from the crowd if necessary. The use of crime scene cards and reflective ribbon can be effective scene indicators. However, the presence of a uniformed officer is essential in order to reinforce scene protection during this phase of the investigation.

I also recommend that once all injured persons, and the deceased have been attended to, and all emergency conditions cleared up, such as extinguishing fires, removing hostages in barricade situations, clearing any crowds, taking the suspect into custody etc., that the officers who have secured the scene, review their actions and make adjustments to provide for the safeguarding of any additional evidence that may have been overlooked during those first critical moments.

The police officer or criminal investigator endeavoring to protect and preserve the homicide crime scene will find that he or she faces any number of obstacles. It is impossible to list or define all the conceivable events which may occur at any given scene. However, there are 5 basic factors or "scene contaminants" which seem to crop up at almost every crime scene. These factors can either by themselves or in combination with other events create problems and oftentimes do irreparable damage to the scene.

1. **WEATHER** - This factor, especially if the scene is out-of-doors, can create serious problems since much of the physical evidence (for example, the body, blood, other body fluids and residues) are subject to change and/or erasure by rain, snow, wind, direct sunlight and extreme temperature.

2. **RELATIVES AND FRIENDS OF THE VICTIM** - They may be upset by the sight of the scene that they begin to clean up and put things "back where they belong." They are also capable of destroying and secreting any notes or evidence of suicide in order to protect the family name.

3. **SUSPECTS OR ASSOCIATES** - They may attempt to destroy or remove incriminating- evidence. It is important to note that if a suspect is taken into custody a short distance away from the scene, that he **NOT** be returned to the actual crime scene. He may contaminate the scene either by adding something to it, or more importantly, **NEGATE** the value of any trace evidence originally imparted by him or to him from the scene.

4. **CURIOS ONLOOKERS, SOUVENIR COLLECTORS, ORDINARY THIEVES** - This group encompasses any people who are at the scene either out of curiosity or a desire to take something either because they are souvenir collectors or common thieves. They can introduce confusing fingerprints, alter the condition of the scene, add to crowd control

problems, and in many instances, steal evidence. During my assignment in homicide in the South Bronx, we often used to joke that a murder weapon could be heard to hit the ground in the Bronx, because so many would-be felons were on hand to it.

4. **OTHER MEMBERS OF POLICE AGENCIES AND HIGH-RANKING OFFICIALS** - They usually are not assigned to the case, but come along to "help". In my opinion, this is the biggest problem encountered in protection of the crime scene.

Although the protection of the crime scene is the responsibility of the officer, it must be noted that all officers responding to and arriving at the scene have an equal responsibility in preserving it. The primary objective in this phase of the investigation is to preserve the body and immediate surrounding area exactly as they were when death took place.

## F. SUSPECTED-POISONING-CASES

**SECTION-1.** In determining whether or not death or illness is due to poisoning, one must remember that the symptoms preceding death, as well as the external appearance of the body, are of great importance. Of course, many poisons will produce some similar symptoms, but when the outstanding symptom is one of those indicated below, there are definite poisons to look for first. These are classified as follows:

### 1. External Appearances After Death:

- a. Livid cherry red color of large areas – carbon monoxide, cyanide.
- b. Face and neck very dark – strychnine, hypnotic, aniline.
- c. Pupils contracted – opiates.
- d. Pupils dilated – antipine, hyoscyamine, scopolamine.
- e. Emaciation – metals.
- f. Burns about the mouth and nose – strong mineral acids and alkali.
- g. Characteristic odors – phenols...carbolic acid; peach pits...cyanides; garlic...oxalic acid, phosphorus

### 2. Symptoms Preceding Death:

- a. Convulsions – strychnine, nicotine.
- b. Delirium – atropine, hyoscyamine.
- c. Extreme drowsiness – opiates, hypnotics.
- d. Extreme rapidity of death – cyanide, strychnine, nicotine.
- e. Long delayed death – metals.
- f. Abdominal pains – metals, food poisoning.
- g. Diarrhea – metals, food poisoning.
- h. Vomiting – metals, food poisoning.
- i. Burning of the mouth – corrosives, mercury arsenic.

### 3. Poisoning May Be Suspected If:

1. Nearby persons attempt to:
  - a. Hurry embalming
  - b. Hurry funeral
  - c. Cremate body
  - d. Falsify death certificate
2. Sudden death of healthy individual.



3. Death apparently due to unknown causes.

## **SECTION 2. Guide for Investigating a Poisoning:**

**1. Questioning the Victim** - If possible, question the victim. Prior permission should be obtained from the physician and his recommendations as to length of questioning should be followed. Keep informed of the recovery progress of the victim and continue questioning as necessary. The questioning, develop as much essential information as possible.

**2. Questioning and Investigating Witnesses** - Witnesses should be questioned to develop information regarding the poisoning and should be investigated to determine if they participated in the poisoning.

### **Witnesses may include:**

- a. Persons who witnessed the act of poisoning.
- b. Persons who have knowledge of a suspect's utterances or actions that would tend to establish a motive for the crime.
- c. Persons who have knowledge of the victim's consumption of food or drink within the period of the time he probably received the poison.
- d. Persons who sold the victim or suspects drugs or medicines.
- e. Persons who have knowledge of the victim's movements prior to the time he was stricken.
- f. Persons familiar with the victim's habits, particularly:
  - 1) His eating and drinking habits
  - 2) His use of drugs and medicines
  - 3) His attempts at self-medication
- g. Persons familiar with the victim's financial status, family background, and social life.

**3. Essential Information** - From his questioning of witnesses and the victim, the investigator should try to obtain answers to the following questions.

- a. Where was the victim when the symptoms first appeared?
- b. What were the symptoms?
- c. Did someone intentionally give the victim poison? If so, who? What was the person's motive?
- d. Did the victim administer the poison himself? If so, was the poisoning accidental or intentional? What was his reason? Had the victim ever contemplated suicide or attempted it?
- e. Who summoned assistance? When? By what means?
- f. Prior to the appearance of the symptoms, what did the victim do? With whom did he associate?
- g. What did the victim eat or drink prior to the appearance of the symptoms? Where? Did he request food and beverages, or was it offered to or urged upon him? Who prepared it? Who served it?
- h. Did the victim notice anything peculiar about the food or beverage? Was he in the habit of eating the food or beverage in question?
- i. Did the victim eat or drink anything after the symptoms first appeared?
- j. Was the victim in the habit of drinking any form of

alcohol not intended for drinking purposes?

k. Did the victim take any medicines prior to the appearance of the symptoms? Was this medicine prescribed by a doctor? Was the medicine given to the victim by other than a physician or a pharmacist? Where is the container in which the medicine was kept? Did the victim habitually take any kind of medicine? Was he addicted to any narcotic drug?

l. Was the victim unhappy or depressed recently? Was he angry or jealous of anyone?

m. Did the victim have money on his person prior to the symptoms? Does he still have that money in his possession? What was the condition of his estate? Did he owe large sums?

n. Who would inherit the victim's estate? Has that person lost money recently? Does he handle money in his occupation?

o. Did the victim have any recent difficulties with regard to his occupation or employment? Did anyone ever accuse him of misconduct or criminal actions?

p. Was anyone jealous of the victim because of his position? Will anyone benefit from the victim's death through promotion?

q. Did the victim recently receive any threatening letters or -communications? How were they disposed of? Who sent them? If they were anonymous, who had a motive for sending them or possessed the information on which they were based?

r. Did the victim write any letters recently? To whom? What was the subject matter of the letters?

The autopsy may disclose:

- a. The exact time of death.
- b. The affected organ that was the direct cause of death.
- c. The specific poison that caused the death -- the identification and analysis of the poison may be performed by a toxicologist subsequent to the autopsy.
- d. The approximate time the poison was taken.
- e. The food or beverage that contained the poison -- this may not be possible if death is several days after taking of the poison.
- f. The approximate time of death if the victim died before medical or public authorities could reach him.
- g. A disease or accident that may have caused death -- suicide victims will be surprised by the slowness of death and kill themselves by other means.

**4. Investigation of the Activities of the Victim** - Investigation should be made of the activities of the victim during the period prior to the poisoning.

**5. Ascertaining the Source of the Poison** - Determining the source of the poison may furnish valuable investigative leads. Some possible sources that should not be overlooked are:

- a. Hospitals, dispensaries, laboratories, and pharmacies.
- b. Offices, homes, and grocery stores - these may contain poisonous cleaning substances, rodent or insect poisons, and medicines that may be toxic if improperly used.
- c. Depots, warehouses, storage areas, farms and similar places where rodent and insect poisons may be kept.
- d. Filling stations, garages, and other places where fuels with alcohol bases may be found.

- e. Establishments where cleaning and solvent compounds containing poisons are kept or used.
- f. Illicit narcotics channels.
- g. Dealers in bad liquor.

**6. Collection of Physical Evidence** - There are usually few witnesses to a poisoning and therefore, physical evidence is of vital importance. It is absolutely necessary that physical evidence be taken into custody in a legal manner, properly marked for identification, and safeguarded by a complete chain of custody covering every person who has such evidence in his possession from the time of the seizure until it is presented in court. In addition to the usual forms of physical evidence, the investigator or crime scene technician should obtain, when possible:

- a. Remains of food and drink last taken
- b. Drugs, medicines, narcotics, or chemicals in the home of the suspect and victim.
- c. Glasses, bottles, spoons, etc., from which the victim may have drunk.
- d. Vomit, urine, feces, etc.

**7. Cooperation Between Police and Medical Investigators** - In cases of suspected poisoning, it is especially important that police and medical investigators work closely together starting from the examination at the scene of the crime of the deceased. The usual notes, sketches, and photographs should be made out and, if possible, the laboratory toxicologist should be present at the autopsy. It is possible or even probable that the autopsy surgeon may be unfamiliar with the needs of the toxicologist and the investigators will need to make suggestions. As a minimum the investigator should ask the autopsy surgeon to remove and seal in clean glass jars without the addition of preservative:

- a. The stomach and its contents.
- b. All or a good sample of liver.
- c. Blood, at least 25-50 ml.
- d. Both kidneys.
- e. All or part of the brain.
- f. Contents of intestines.

**8. Letter of Transmittal of Evidence to Laboratory** - Included in the letter of transmittal of evidence to the laboratory for examination should be the following:

- a. Case title
- b. Case number
- c. Evidence submitted
- d. Disposition of evidence
- e. Autopsy report
- f. Symptoms before death

**G. THE INVESTIGATIVE CHECK LIST:**

The homicide investigator faces a monumental task at the crime scene. There are a multitude of duties to perform, and each event needs to be documented according to a routine procedure. This routine procedure is necessary so that valuable information or observations are not overlooked.

Although each homicide is distinctive and unique, there are certain basic steps to be pursued at all crime scenes. The following investigative checklist is for investigators to use at the scene to refresh their memory and serve as a guide.

Remember, the fundamental rule in homicide investigation is the - documentation of events in the investigator's notebook.

**INITIAL RECEIPT OF INFORMATION**

**DOCUMENTATION OF INFORMATION**

- \_\_\_\_\_ Date and time.
- \_\_\_\_\_ Method of transmission.
- \_\_\_\_\_ Name, rank, badge number, etc., of persons making notification.
- \_\_\_\_\_ Details of information.

**ARRIVAL AT THE HOMICIDE CRIME SCENE**

- \_\_\_\_\_ Record the exact time of arrival.
- \_\_\_\_\_ Record the exact address of the scene.
- \_\_\_\_\_ Record outside weather/temperature conditions.
- \_\_\_\_\_ Record outside lighting conditions.
- \_\_\_\_\_ Interview the first officer and other police personnel at the scene in order to determine the sequence of events that have occurred since their arrival.
- \_\_\_\_\_ Record persons present at the scene.
- \_\_\_\_\_ Officers
- \_\_\_\_\_ Ambulance personnel
- \_\_\_\_\_ Family or relatives
- \_\_\_\_\_ Witnesses
- \_\_\_\_\_ Ensure witnesses are kept separated.
- \_\_\_\_\_ Provide for witness availability.
- \_\_\_\_\_ Location of the victim.
- \_\_\_\_\_ Have officer escort you through scene using same path used by responding officer.
- \_\_\_\_\_ Determine and verify death.
- \_\_\_\_\_ Ascertain whether or not there are any suspect(s) in custody.
- \_\_\_\_\_ Are there any additional victims?
- \_\_\_\_\_ Is this a multiple murder?
- \_\_\_\_\_ Any alarms transmitted for suspect(s)?
- \_\_\_\_\_ Present extent of the crime scene.

## **IMPLEMENT CRIME SCENE CONTROL PROCEDURES**

\_\_\_\_\_ Take preliminary photos with Instamatic or Polaroid camera. (Preferably Polaroid so that scene may be immediately reviewed by investigators.)

\_\_\_\_\_ Stabilize the crime scene by identifying the perimeter.

\_\_\_\_\_ Determine the scope of the general scene.

\_\_\_\_\_ Establish a perimeter.

\_\_\_\_\_ Assign patrol officers as needed.

\_\_\_\_\_ Update and expand crime scene protection as necessary. Is this multiple scene?

\_\_\_\_\_ Implement procedures to safeguard all evidence found at scene.

## **INITIATE A CRIME SCENE LOG**

\_\_\_\_\_ Assign an officer to record the names of all personnel and citizens involved in the investigation at the crime scene to limit entry into the scene.

\_\_\_\_\_ Allow no entry to scene except to authorized personnel.

\_\_\_\_\_ Record arrival/departure times of all officials.

\_\_\_\_\_ Establish a single path of entry into crime scene area.

\_\_\_\_\_ Record any alterations to the scene that were made as a result of investigative necessity.

\_\_\_\_\_ Lights turned on and off.

\_\_\_\_\_ Door opened, closed, locked, or unlocked.

\_\_\_\_\_ Body moved or cut down.

\_\_\_\_\_ Windows opened, closed, locked or unlocked.

\_\_\_\_\_ Names of all parties who moved the dead prior to and during police presence at the scene.

\_\_\_\_\_ Gas turned off. Appliances turned off or on.

\_\_\_\_\_ If vehicle involved, is engine off or on?

## **AMBULANCE PERSONNEL**

\_\_\_\_\_ If ambulance personnel were present before investigator's arrival, determine if the crew or anyone else moved the body or any other items within the crime scene. If yes, record the following:

\_\_\_\_\_ When were the alterations made?

\_\_\_\_\_ Purpose of the movement.

\_\_\_\_\_ Persons who made the alteration.

\_\_\_\_\_ The time of death as pronounced by ambulance crew.

## **ESTABLISH A COMMAND POST OR TEMPORARY HEADQUARTERS**

\_\_\_\_\_ Select a location out of the central crime scene, preferably a location with a telephone.

\_\_\_\_\_ Notify communications and/or the station house of the telephone number of the command post to facilitate communications.

\_\_\_\_\_ Make notifications as necessary from this location.

\_\_\_\_\_ Crime scene technicians.

\_\_\_\_\_ Coroner/Medical examiner.

\_\_\_\_\_ Additional investigators.

\_\_\_\_\_ Prosecutor/Deputy Prosecutor

## **ESTABLISH A POLICY FOR CRIME SCENE INTEGRITY**

\_\_\_\_\_ Do not touch, move, or alter anything at the scene until full documentation has been completed.

\_\_\_\_\_ Do not use any telephone(s) located inside the crime scene.

\_\_\_\_\_ Coordinate activities at the scene and direct investigators by fixing responsibility for performance of certain duties.

\_\_\_\_\_ Implement procedures to protect evidence from damage by \_\_\_\_\_ weather or exposure, and the presence of investigators.

\_\_\_\_\_ Do not allow smoking by anyone in the crime scene.

\_\_\_\_\_ Do not turn water on or off, do not flush toilets, do not use any facility in the scene.

\_\_\_\_\_ Record condition of lights, lamps, and electric appliances such as TV's, radios, clocks, etc.

## **INITIATE A CANVASS**

\_\_\_\_\_ Initiate a canvass of the immediate area by additional personnel to locate any witnesses or persons who may have additional information about the homicide.

\_\_\_\_\_ Make sure that the canvassers are provided with all information from the investigators and scene so that they may properly solicit information from prospective witnesses.

\_\_\_\_\_ Have investigators check vehicles and registration

numbers of automobiles in the immediate area.

\_\_\_\_\_ Require official reports from the canvassers indicating:

\_\_\_\_\_ Negative locations (locations with no results)

\_\_\_\_\_ Locations that have been canvassed, indicating number of persons residing therein.

\_\_\_\_\_ Positive locations for possible follow-up and re-interview.

\_\_\_\_\_ Information relating to the event being canvassed.

### **THE SUSPECT IN CUSTODY**

\_\_\_\_\_ If the suspect is arrested and present at the scene, make sure that he or she is immediately removed from the crime scene and is not returned to the scene under any circumstances. This procedure is necessary to prevent scene contamination.

\_\_\_\_\_ Safeguard all evidence found on the suspect, including blood, weapons, debris, soil, proceeds of crime, etc.

\_\_\_\_\_ Ensure that the suspect does not wash his or her hands, nor engage in any conduct which may alter or destroy any evidence.

\_\_\_\_\_ Record any spontaneous statements made by the suspect(s).

\_\_\_\_\_ Do not permit any conversation between the suspect and any parties present.

### **WEAPONS**

\_\_\_\_\_ If a weapon is discovered, do the following:

\_\_\_\_\_ Do not attempt to unload, if the weapon is a firearm.

\_\_\_\_\_ Record where the weapon is located.

\_\_\_\_\_ Safeguard the weapon for forensic examination.

\_\_\_\_\_ Have the weapon photographed before further examination.

\_\_\_\_\_ If the weapon was a firearm, consider an examination of the suspect's hands for residue analysis.

\_\_\_\_\_ Determine if the weapon is from the premises.

\_\_\_\_\_ Determine if there is any blood or trace evidence on the weapon.

### **SUSPECT IN CUSTODY: INTERROGATION AT THE SCENE**

If the suspect is in custody at the scene, and circumstances indicate that immediate interrogation of the subject would be beneficial to the investigation, the following steps should be

taken:

\_\_\_\_\_ Advise the suspect(s) of his or her rights under the Miranda ruling prior to any custodial interrogation (at a minimum from a Miranda card; better to obtain a signed waiver form).

\_\_\_\_\_ Determine if the suspect fully understands his/her rights.

\_\_\_\_\_ Obtain an intelligent waiver of these rights from the suspect prior to any questioning.

\_\_\_\_\_ Document this procedure in your investigative notebook.

\_\_\_\_\_ Allow the suspect to make a full statement.

\_\_\_\_\_ Reduce the statement to writing and have the suspect sign it.

\_\_\_\_\_ Keep the suspect isolated at all times from other suspect(s), witnesses, prisoners, and any personnel not connected with the investigation.

\_\_\_\_\_ Advise any officers transporting the suspect not to engage the suspect in any conversation or questioning. However, if during transport the suspect makes any statement, the officers should document this information.

\_\_\_\_\_ If the suspect is brought to the police station, he or she should be placed in a separate holding cell.

\_\_\_\_\_ Alibi statements should be documented and recorded in the investigator's notebook.

\_\_\_\_\_ Any self-serving statements should also be recorded and documented, in the event the suspect later changes his or her story.

### **CRIME SCENE PROCESSING**

\_\_\_\_\_ The crime scene search should not be undertaken until all crime scene photographs, sketches, measurements, dusting for prints, and written documentation have been completed.

### **CRIME SCENE PHOTOGRAPHS**

The following photographs should be taken:

\_\_\_\_\_ Photos of the entire location where the homicide took place.

\_\_\_\_\_ Photos of contiguous areas and sites.

\_\_\_\_\_ Photos of witnesses, if applicable.

\_\_\_\_\_ Photos of suspect(s).

\_\_\_\_\_ Photos of the clothing and shoes.

\_\_\_\_\_ Photos of any injuries (body, face, hands, etc.).

\_\_\_\_\_ Do not add any chalk marks or markers prior to taking the original crime scene photographs. Markers can be added later on for close-up shots.

\_\_\_\_\_ Take photos from the general to the specific.

### **DOCUMENTATION OF CRIME SCENE PHOTOGRAPHS**

\_\_\_\_\_ Date and time photos are taken.

\_\_\_\_\_ Exact location of photographs.

\_\_\_\_\_ Description of item photographed.

\_\_\_\_\_ Compass direction (north, south, east, west).

\_\_\_\_\_ Focus distance.

\_\_\_\_\_ Type of film and camera used.

\_\_\_\_\_ Light and weather conditions.

\_\_\_\_\_ Number of exposures.

\_\_\_\_\_ Identification of photographer.

\_\_\_\_\_ Eliminate extraneous objects including any police equipment.

\_\_\_\_\_ Show the relationship of the scene to its surroundings.

\_\_\_\_\_ Outdoor scenes – fixed objects as they relate to the scene from eye level.

\_\_\_\_\_ Indoor scenes – objects in the room such as doors, windows, etc., to "fix" the body to the scene.

### **RECOMMENDED CRIME SCENE PHOTOGRAPHS**

\_\_\_\_\_ Front entrance to the building.

\_\_\_\_\_ Entrance to the room or apartment where the deceased is found.

\_\_\_\_\_ Two (2) full-body views.

\_\_\_\_\_ A general view of the body and crime scene.

\_\_\_\_\_ A close-up shot of the body.

\_\_\_\_\_ Photos of any visible wounds.

\_\_\_\_\_ If the body has been removed, photos should be taken of the body's original location.

\_\_\_\_\_ Photos of possible entrance or escape routes used.

\_\_\_\_\_ Areas where any force was used for entry or exit.

\_\_\_\_\_ Area and close-up views of any physical evidence such as bloodstains, weapons, shell casings, hairs, fibers, etc

\_\_\_\_\_ Fingerprints (bloodstained and latents, as well as any lifts should be photographed before removal.)

\_\_\_\_\_ After body has been moved, additional photos should be taken.

\_\_\_\_\_ Areas beneath the body.

\_\_\_\_\_ Any additional evidence found beneath the body.

### **THE CRIME SCENE SKETCH**

\_\_\_\_\_ Make a simple line drawing of the crime scene, either in the investigative notebook or on a separate piece of paper.

\_\_\_\_\_ The following information should be included.

\_\_\_\_\_ Measurements and distances.

\_\_\_\_\_ A title block consisting of:

\_\_\_\_\_ Name and title of sketchier.

\_\_\_\_\_ Date and time sketch was made.

\_\_\_\_\_ Classification of crime.

\_\_\_\_\_ Identification of victim(s).

\_\_\_\_\_ Agency's case number.

\_\_\_\_\_ Names of the persons assisting in taking measurements.

\_\_\_\_\_ Precise address of the location sketched and compass North.

\_\_\_\_\_ A legend, to identify any object or articles in scene.

\_\_\_\_\_ A scale, to depict measurements used.

### **THE CRIME SCENE SEARCH**

\_\_\_\_\_ Establish the perimeters of the crime scene and document this location by crime scene photographs and sketches, including written documentation.

\_\_\_\_\_ Reconstruct aspects of the crime in formulating search.

\_\_\_\_\_ Ascertain the legal basis for the search prior to any seizure of evidence.

\_\_\_\_\_ Visibly locate any physical evidence and determine which evidence should be gathered before any destruction or any alteration takes place.

\_\_\_\_\_ Establish the method of search based on your investigative theory, size of the area to be searched, and any other factors.

- \_\_\_\_\_ Areas that should be processed:
- \_\_\_\_\_ The point of entry.
- \_\_\_\_\_ The escape route.
- \_\_\_\_\_ The suspect or his or her clothing, including injuries.
- \_\_\_\_\_ The location where any physical evidence or weapons may be located.
- \_\_\_\_\_ A vehicle used in the crime.
- \_\_\_\_\_ The suspect's residence.
- \_\_\_\_\_ The location where the actual assault leading to death took place.
- \_\_\_\_\_ Location where the body was moved from.

**DUST FOR FINGERPRINTS**

The following areas should be processed for "latent prints".

- \_\_\_\_\_ Area of entry or exit.
- \_\_\_\_\_ Weapons or objects which were apparently handled.
- \_\_\_\_\_ Door handles.
- \_\_\_\_\_ Telephone instruments.
- \_\_\_\_\_ Windows.
- \_\_\_\_\_ Glasses.
- \_\_\_\_\_ Light switches.
- \_\_\_\_\_ Newly damaged areas.
- \_\_\_\_\_ Objects that may have caused death.
- \_\_\_\_\_ Objects missing from their original location.

**DESCRIPTION OF THE DECEASED**

A complete description of the body should be documented in the investigator's notes, including the following information:

- \_\_\_\_\_ The position of the body.
- \_\_\_\_\_ Sex.
- \_\_\_\_\_ Age.
- \_\_\_\_\_ Race.
- \_\_\_\_\_ Appearance.
- \_\_\_\_\_ Build.

- \_\_\_\_\_ Color of hair.
- \_\_\_\_\_ Description of the clothing.
- \_\_\_\_\_ Presence or absence of any jewelry.
- \_\_\_\_\_ Evidence of any injuries (bruises, bite marks, wounds, etc.)
- \_\_\_\_\_ Condition of body.
- \_\_\_\_\_ Liver mortis.
- \_\_\_\_\_ Rigor mortis.
- \_\_\_\_\_ Decomposition.
- \_\_\_\_\_ Blood wet or dry.
- \_\_\_\_\_ Insect activity.
- \_\_\_\_\_ Putrefaction.

\_\_\_\_\_ Is the condition of the body consistent with the facts.

\_\_\_\_\_ Note and record the condition of the victim's hands for signs of evidence (defense marks, hairs, fibers, etc.)

\_\_\_\_\_ What is the condition of the victim's pockets?

\_\_\_\_\_ Examine the immediate area surrounding the body for evidence.

\_\_\_\_\_ Record the direction and size of any bloodstains.

\_\_\_\_\_ Check the clothing and shoes for any trace evidence.

**PRELIMINARY MEDICAL EXAMINATION AT THE SCENE**

\_\_\_\_\_ Record the time of arrival of the coroner.

\_\_\_\_\_ Obtain a preliminary estimate on the time of death.

\_\_\_\_\_ Document the apparent cause of death in shootings and stabbings.

\_\_\_\_\_ Release of the body.

\_\_\_\_\_ Use a new or laundered sheet to wrap body before removal.

\_\_\_\_\_ Bag the hands of the victim with paper bags to remove any evidence under fingernails.

**EVIDENCE PROCESS AND CONTROL**

\_\_\_\_\_ Ensure that all evidence is properly marked and packaged.

\_\_\_\_\_ Establish a "chain of custody".

\_\_\_\_\_ Designate a "searching officer" to take charge of all evidence.

\_\_\_\_\_ Record the name and unit designation of all persons participating in the homicide crime scene search.

\_\_\_\_\_ Photograph all evidence in its original position (in-situ).

\_\_\_\_\_ Record the position and location of all evidence on the crime scene sketch and in the investigative notebook.

\_\_\_\_\_ Record the name of any officer or person discovering any physical evidence and the location where it was recovered.

\_\_\_\_\_ Measure the location of any evidence found from two (2) separate points of reference.

\_\_\_\_\_ Weapons.

\_\_\_\_\_ Are there any shell casings present?

\_\_\_\_\_ Any bullet holes or spent rounds?

\_\_\_\_\_ Determine how many shots were fired.

\_\_\_\_\_ Position of bullets in revolver.

\_\_\_\_\_ Safety on or off?

\_\_\_\_\_ Bullet in chamber?

\_\_\_\_\_ Is firearm loaded or unloaded?

\_\_\_\_\_ Are the wounds consistent with the weapon suspected?

\_\_\_\_\_ Is there any trace evidence on the weapon?

### **RELEASE OF THE HOMICIDE CRIME SCENE**

\_\_\_\_\_ Note the telephone number of any phones at the scene.

\_\_\_\_\_ Have the deceased's mailbox searched and note the date of any mail found therein.

\_\_\_\_\_ Do not release the scene prior to the completion of the canvass and any interrogation of witnesses and suspect(s).

\_\_\_\_\_ Before leaving the scene, look over the entire area from the perspective of the defense counsel to make sure you have "covered all the bases".

\_\_\_\_\_ If the scene is to be abandoned during certain investigator procedures, implement procedures for the continued protection of the scene during the absence of investigators.

\_\_\_\_\_ Gather all materials used in the crime scene processing such as film cartridges, Polaroid negatives, flash

bulbs, notes, etc.

\_\_\_\_\_ Causes these materials to be removed from the scene for destruction at another location. (The extent of crime scene search can be ascertained by examination of the items left behind at the homicide crime scene.)

## **Chapter Six – GUIDELINES FOR INVESTIGATING, REPORTING AND CERTIFYING DEATHS**

Coroners must investigate, report and certify deaths and must comply with Arkansas law on performing these important duties. Below are provisions of Arkansas law on: Registering death certificates (ACA 20-18-601); Notification of certain deaths (ACA 12-12-315); and Reporting death caused by maltreatment (ACA 12-12-1709).

### **20-18-601. Registration generally.**

Registration generally.

(a)(1) A death certificate for each death that occurs in this state shall be filed with the Division of Vital Records of the Department of Health or as otherwise directed by the State Registrar of Vital Records within ten (10) days after the death or the finding of a dead body and shall be registered if the death certificate has been completed and filed in accordance with this section.

(2) A fact of death record for each death that occurs in this state shall be filed with the division within three (3) calendar days after the death or the finding of a dead body.

(3)(A) If the place of death is unknown but the body is found in this state, the death certificate shall be completed and filed in accordance with this section.

(B) The place where the body is found shall be shown as the place of death.

(C)(i) If the date of death is unknown, it shall be determined by approximation.

(ii) If the date cannot be determined by approximation, the date found shall be entered and identified as such.

(4)(A) If a death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in this state, the death shall be registered in this state, and the place where the body is first removed shall be considered the place of death.

(B) If a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the body is first removed from the conveyance in this state, the death shall be registered in this state, but the certificate shall show the actual place of death insofar as the place of death can be determined.

(C) In all other cases, the place where death is pronounced shall be considered the place where death occurred.

(b) The funeral director or the person acting as the funeral director who first assumes custody of the dead body shall:

(1) File the death certificate and fact of death record;

(2) Obtain the personal data from the next of kin or the best qualified person or source available;

(3) Obtain the medical certification from the person responsible for the medical certification, as set forth in subsection (c) of this section; and

(4) Provide a death certificate that contains sufficient information to identify the decedent to the certifier.

(c)(1)(A) The medical certification shall be completed, signed, and returned to the funeral director within two (2) business days after receipt of the death certificate by the physician in charge of the patient's care for the illness or condition that resulted in death, except when inquiry is required by § 12-12-315, § 12-12-318, or § 14-15-301 et seq.

(B) In the absence of the physician or with his or her approval, the certificate may be completed and signed by his or her associate physician, by the chief medical officer of the institution in which death occurred, by the pathologist who performed an autopsy upon the decedent, or by a registered nurse as provided in this subsection, if the individual has access to the medical history of the case and has reviewed the coroner's report if required and if the death is due to natural causes. The individual completing the cause-of-death section of the certificate shall attest to its accuracy either by a signature or by approved electronic process.

(2) The Arkansas State Medical Board shall enforce by rule subdivision (c)(1) of this section concerning the time period in which the medical certification shall be executed.

(3) A registered nurse employed by the attending hospice may complete and sign the medical certification of death and pronounce death for a patient who is terminally ill, whose death is anticipated, who is receiving services from a hospice program certified under § 20-7-117, and who dies in a hospice inpatient program or as a hospice patient in a nursing home.

(4) If the hospice patient dies in the home, the registered nurse may make pronouncement of death. However, the coroner and the chief law enforcement official of the county or municipality where death occurred shall be immediately notified in accordance with § 12-12-315.

(5) The Department of Health shall provide hospitals, nursing homes, and hospices with the appropriate death certificate forms, which will be made available to the certifier of death. When death occurs outside these health facilities, the funeral home shall provide the death certificate to the certifier of death.

(d) If the cause of death appears to be other than the illness or condition for which the deceased was being treated or if inquiry is required by either of the laws referred to in subsection (c) of this section, the case shall be referred to the office of the State Medical Examiner or coroner in the jurisdiction where the death occurred or the body was found for investigation to determine and certify the cause of death. If the State Medical Examiner or county coroner determines that the case does not fall within his or her jurisdiction, he or she shall within twenty-four (24) hours refer the case back to the physician for completion of the medical certification.

(e) When inquiry is required by either of the laws referred to in subsection (c) of this section, the State Medical Examiner or coroner in the jurisdiction where the death occurred or the body was found shall determine the cause of death and shall complete and sign the medical certification within forty-eight (48) hours after taking charge of the case.

(f) If the cause of death cannot be determined within forty-eight (48) hours after death, the medical certification



shall be completed as provided by regulation. The attending physician or State Medical Examiner or county coroner shall give the funeral director or person acting as the funeral director notice of the reason for the delay, and final disposition of the body shall not be made until authorized by the attending physician or State Medical Examiner or county coroner.

(g) When a death is presumed to have occurred within this state but the body cannot be located, a death certificate may be prepared by the state registrar only upon receipt of an order of a court of competent jurisdiction, which shall include the finding of facts required to complete the death certificate. Such a death certificate shall be marked "PRESUMPTIVE" and shall show on its face the date of death as determined by the court and the date of registration and shall identify the court and the date of the decree.

(h) Upon receipt of autopsy results or other information that would change the information in the cause-of-death section of the death certificate from that originally reported, the certifier shall immediately file a supplemental report of cause of death with the division in order to amend the record.

#### **12-12-315. Notification of certain deaths.**

(a)(1) The county coroner, prosecuting attorney, and either the county sheriff or the chief of police of the municipality in which the death of a human being occurs shall be promptly notified by any physician, law enforcement officer, undertaker or embalmer, jailer, or coroner or by any other person present or with knowledge of the death if:

(A) The death appears to be caused by violence or appears to be the result of a homicide or a suicide or to be accidental;

(B) The death appears to be the result of the presence of drugs or poisons in the body;

(C) The death appears to be a result of a motor vehicle accident, or the body was found in or near a roadway or railroad;

(D) The death appears to be a result of a motor vehicle accident and there is no obvious trauma to the body;

(E) The death occurs while the person is in a state mental institution or hospital and there is no previous medical history to explain the death, or while the person is in police custody or jail other than a jail operated by the Department of Correction;

(F) The death appears to be the result of a fire or an explosion;

(G) The death of a minor child appears to indicate child abuse prior to death;

(H) Human skeletal remains are recovered or an unidentified deceased person is discovered;

(I) Postmortem decomposition exists to the extent that an external examination of the corpse cannot rule out injury, or in which the circumstances of death cannot rule out the commission of a crime;

(J) The death appears to be the result of drowning;

(K) The death is of an infant or a minor child under eighteen (18) years of age;

(L) The manner of death appears to be other than natural;

(M) The death is sudden and unexplained;

(N) The death occurs at a work site;

(O) The death is due to a criminal abortion;

(P) The death is of a person where a physician was not in attendance within thirty-six (36) hours preceding death, or, in pre-diagnosed terminal or bedfast cases, within thirty (30) days;

(Q) A person is admitted to a hospital emergency room unconscious and is unresponsive, with cardiopulmonary resuscitative measures being performed, and dies within twenty-four (24) hours of admission without regaining consciousness or responsiveness, unless a physician was in attendance within thirty-six (36) hours preceding presentation to the hospital, or, in cases in which the decedent had a pre-diagnosed terminal or bedfast condition, unless a physician was in attendance within thirty (30) days preceding presentation to the hospital;

(R) The death occurs in the home; or

(S)(i) The death poses a potential threat to public health or safety.

(ii) Upon receiving notice of a death that poses a potential threat to public health or safety, the county coroner shall immediately notify the Department of Health.

(2) Nothing in this section shall be construed to require an investigation, autopsy, or inquest in any case in which death occurred without medical attendance solely because the deceased was under treatment by prayer or spiritual means in accordance with the tenets and practices of a well-recognized church or religious denomination.

(b) With regard to any death in a correctional facility, the county coroner and the State Medical Examiner shall be notified, and when previous medical history does not exist to explain the death, the Department of Arkansas State Police shall be notified.

(c) A violation of the provisions of this section is a Class A misdemeanor.

## **REPORTING CHILD MALTREATMENT**

### **12-18-401 Generally.**

A person may immediately notify the Child Abuse Hotline if he or she:

(1) Has reasonable cause to suspect that:

(A) Child maltreatment has occurred; or

(B) A child has died as a result of child maltreatment; or

(2) Observes a child being subjected to conditions or circumstances that would reasonably result in child maltreatment.

### **12-18-402. Mandated reporters.**

(a) An individual listed as a mandated reporter under subsection (b) of this section shall immediately notify the Child Abuse Hotline if he or she:

(1) Has reasonable cause to suspect that a child has:

(A) Been subjected to child maltreatment; or

(B) Died as a result of child maltreatment; or

(2) Observes a child being subjected to conditions or circumstances that would reasonably result in child maltreatment.

(b) The following individuals are mandated reporters under this chapter:

(1) A child care worker or foster care worker;

- (2) A coroner;
- (3) A day care center worker;
- (4) A dentist;
- (5) A dental hygienist;
- (6) A domestic abuse advocate;
- (7) A domestic violence shelter employee;
- (8) A domestic violence shelter volunteer;
- (9) An employee of the Department of Human Services;
- (10) An employee working under contract for the Division of Youth Services of the Department of Human Services;
- (11) A foster parent;
- (12) A judge;
- (13) A law enforcement official;
- (14) A licensed nurse;
- (15) Medical personnel who may be engaged in the admission, examination, care, or treatment of persons;
- (16) A mental health professional or paraprofessional;
- (17) An osteopath;
- (18) A peace officer;
- (19) A physician;
- (20) A prosecuting attorney;
- (21) A resident intern;
- (22) A public or private school counselor;
- (23) A school official, including without limitation institutions of higher education;
- (24) A social worker;
- (25) A surgeon;
- (26) A teacher;
- (27) A court-appointed special advocate program staff member or volunteer;
- (28) A juvenile intake or probation officer;
- (29) A clergy member, which includes a minister, priest, rabbi, accredited Christian Science practitioner, or other similar functionary of a religious organization, or an individual reasonably believed to be so by the person consulting him or her, except to the extent the clergy member:
  - (A) Has acquired knowledge of suspected child maltreatment through communications required to be kept confidential pursuant to the religious discipline of the relevant denomination or faith; or
  - (B) Received the knowledge of the suspected child maltreatment from the alleged offender in the context of a statement of admission;
- (30) An employee of a child advocacy center or a child safety center;
- (31) An attorney ad litem in the course of his or her duties as an attorney ad litem;
- (32) (A) A sexual abuse advocate or sexual abuse volunteer who works with a victim of sexual abuse as an employee of a community-based victim service or mental health agency such as Safe Places, United Family Services, or Centers for Youth and Families.
  - (B) A sexual abuse advocate or sexual abuse volunteer includes a paid or volunteer sexual abuse advocate who is based with a local law enforcement agency;
- (33) A rape crisis advocate or rape crisis volunteer;
- (34) (A) A child abuse advocate or child abuse volunteer who works with a child victim of abuse or maltreatment as an employee of a community-based victim

service or a mental health agency such as Safe Places, United Family Services, or Centers for Youth and Families.

(B) A child abuse advocate or child abuse volunteer includes a paid or volunteer sexual abuse advocate who is based with a local law enforcement agency;

(35) A victim/witness coordinator;

(36) A victim assistance professional or victim assistance volunteer; or

(37) An employee of the Crimes Against Children Division of the Department of Arkansas State Police.

(38) An employee of a reproductive healthcare facility; and

(39) A volunteer at a reproductive healthcare facility.

(c) (1) A privilege or contract shall not prevent a person from reporting child maltreatment when he or she is a mandated reporter and required to report under this section.

(2) A school, Head Start program, or day care facility shall not prohibit an employee or a volunteer from directly reporting child maltreatment to the Child Abuse Hotline.

(3) A school, Head Start program, or day care facility shall not require an employee or a volunteer to obtain permission or notify any person, including an employee or a supervisor, before reporting child maltreatment to the Child Abuse Hotline.

#### **12-18-302 Reports by mandated reporters.**

(a) As prescribed under this section, a mandated reporter under this chapter may report child maltreatment or suspected child maltreatment by telephone call, facsimile transmission, or online reporting.

(b) Facsimile transmission and online reporting may be used in nonemergency situations by an identified mandated reporter under this chapter who provides the following contact information:

(1) Name and phone number; and

(2) In the case of online reporting, the email address of the identified mandated reporter under this chapter.

(c) The Child Abuse Hotline shall provide confirmation of the receipt of a facsimile transmission via a return facsimile transmission or via online receipt.

(d) A mandated reporter under this chapter who wishes to remain anonymous shall make a report through the Child Abuse Hotline toll-free telephone system.

#### **12-18-201 Failure to notify by a mandated reporter in the first degree.**

(a) A person commits the offense of failure to notify by a mandated reporter in the first degree if he or she:

(1) Is a mandated reporter under this chapter;

(2) Has:

(A) Reasonable cause to suspect that a child has been subjected to child maltreatment;

(B) Reasonable cause to suspect that a child has died as a result of child maltreatment; or

(C) Observes a child being subjected to conditions or circumstances that would reasonably result in child maltreatment; and

(3) Knowingly fails to notify the Child Abuse Hotline of the child maltreatment or suspected child maltreatment.

(b) Failure to notify by a mandated reporter in the first degree is a Class A misdemeanor.

**12-18-202 Failure to notify by a mandated reporter in the second degree.**

(a) A person commits the offense of failure to notify by a mandated reporter in the second degree if he or she:

- (1) Is a mandated reporter under this chapter;
- (2) Has:

(A) Reasonable cause to suspect that a child has been subjected to child maltreatment;

(B) Reasonable cause to suspect that a child has died as a result of child maltreatment; or

(C) Observes a child being subjected to conditions or circumstances that would reasonably result in child maltreatment; and

(3) Recklessly fails to notify the Child Abuse Hotline of the child maltreatment or suspected child maltreatment.

(b) Failure to notify by a mandated reporter in the second degree is a Class C misdemeanor.

**12-18-203 Making a false report under this chapter.**

(a) A person commits the offense of making a false report under this chapter if he or she purposely makes a report containing a false allegation to the Child Abuse Hotline knowing the allegation to be false.

(b)(1) A first offense of making a false report under this chapter is a Class A misdemeanor.

(2) A subsequent offense of making a false report under this chapter is a Class D felony.

**12-18-205 Unlawful disclosure of data or information under this chapter.**

(a) A person commits the offense of unlawful disclosure of data or information under this chapter if the person knowingly discloses data or information to a person to whom disclosure is not permitted by this chapter.

(b) Unlawful disclosure of data or information under this chapter is a Class A misdemeanor.

**12-18-206 Civil liability for failure to report.**

A person required by this chapter to make a report of child maltreatment or suspected child maltreatment to the Child Abuse Hotline who purposely fails to do so is civilly liable for damages proximately caused by that failure.

**Act 1211 of the Regular Session, 2015**

**12-18-103(8). Definitions.**

(8) "Department" means the Department of Human Services and the Department of Arkansas State Police;

**12-18-303. Minimum requirements for a report to be accepted.**

(a) Except as otherwise provided in this section, the Child Abuse Hotline shall accept a report if:

(1) The report is of:

(A) An allegation of child maltreatment or suspected child maltreatment that if found to be true, would constitute child maltreatment as defined under this chapter;

(B) The death of a child that:

(i) Is sudden and unexpected; and

(ii) Was not caused by a known disease or illness for which the child was under a physician's care at the time of death; or

(C) The death of a child reported by a coroner or county sheriff under § 20-15-502;

(2) Sufficient identifying information is provided to identify and locate the child or the child's family; and

(3) The child or the child's family is present in Arkansas or the incident occurred in Arkansas.

**12-18-402. Mandated reporters.**

(i) Died suddenly and unexpectedly.

(ii) As used in subdivision (a)(1)(C)(i) of this section, "died suddenly and unexpectedly" means a child death that was not caused by a known disease or illness for which the child was under a physician's care at the time of death, including without limitation child deaths as a result of the following:

(a) Sudden infant death syndrome;

(b) Sudden unexplained infant death;

(c) An accident;

(d) A suicide;

(e) A homicide; or

(f) Other undetermined circumstance; or

**12-18-602. Initiation of the investigation.**

(a) The Department of Human Services and the Department of Arkansas State Police shall cause an investigation to be made upon receiving initial notification of suspected child maltreatment or notification of a child death.

(b)

(1) All investigations shall begin within seventy-two (72) hours.

(2) However, the investigation shall begin within twenty-four (24) hours if:

(A) The allegation is severe maltreatment, excluding an allegation of:

(i) Sexual abuse if the most recent allegation of sexual abuse was more than one (1) year ago or the alleged victim does not currently have contact with the alleged offender;

(ii) Abandonment and the child is in a facility; or

(iii) Cuts, welts, bruises, or suffocation if the most recent allegation was more than one (1) year ago and the alleged victim is in the custody of the Department of Human Services;

(B) The allegation is that a child has been subjected to neglect as defined in § 12-18-103(14)(B); or

(C)

(i) A child has died suddenly and unexpectedly.

(ii) As used in subdivision (b)(1)(C)(i) of this section, "died suddenly and unexpectedly" means a child death that was not caused by a known disease or illness for which the child was under a physician's care at the time of death, including without limitation child deaths as a result of the following:

(a) Sudden infant death syndrome;

(b) Sudden unexplained infant death;

(c) An accident;

(d) A suicide;

(e) A homicide; or

(f) Other undetermined circumstance.

(c) At the initial time of contact with the alleged offender, the person conducting the investigation shall advise the alleged offender of the allegations made against the alleged offender in a manner that is consistent with the laws protecting the rights of the person who made the report.

(d) The Department of Human Services and the Department of Arkansas State Police shall:

(1) Develop policy and procedures to follow when a child dies suddenly and unexpectedly to use in a child death investigation;

(2) Determine during the Department of Human Services' and the Department of Arkansas State Police's investigation whether the child's death was caused by child maltreatment; and

(3) Assess the home to ensure the safety of surviving siblings or children in the home.

(e) Upon initiation of the investigation, the primary focus of the investigation shall be whether or not the alleged offender has access to children and whether or not children are at risk such that children need to be protected.

#### **20-15-502. Reports required.**

(a) Any sheriff, deputy sheriff, city police officer, state police officer, member of the staff of any public or private hospital, or attending physician with knowledge of the sudden death of a child between the ages of one (1) week and one (1) year who appeared in apparent good health shall immediately report the death to the county coroner or the county sheriff if the county coroner is unavailable, within twenty-four (24) hours after the discovery of the death.

(b) The report shall include facts concerning the time, place, manner, and circumstances surrounding the death.

(c) Upon receipt of the report, the county coroner, or the county sheriff if the county coroner is unavailable, shall report the death to the Department of Health and the Child Abuse Hotline.

**Child Abuse Hotline** 1-800-482-5964- Anyone who suspects child maltreatment may report. Some people (for example, doctors, teachers and school counselors) must, by law, report suspected child maltreatment. Learn how.

**Adult Protective Services** 1-800-482-8049- Do you suspect an adult is being abused or neglected at home or in a care facility? If so, call our hotline to make a confidential report.

### **SUDDEN INFANT DEATH SYNDROME**

#### **20-15-501 Title**

This subchapter shall be known and may be cited as the "Sudden Infant Death Syndrome Act".

#### **20-15-502 Reports required.**

(a) Any sheriff, deputy sheriff, city police officer, state police officer, member of the staff of any public or private hospital, or attending physician with knowledge of the sudden death of a child between the ages of one (1) week and one (1) year who appeared in apparent good health shall immediately report the death to the county coroner or the county sheriff if the county coroner is unavailable, within twenty-four (24) hours after the discovery of the death.

(b) The report shall include facts concerning the time, place, manner, and circumstances surrounding the death.

(c) Upon receipt of the report, the county coroner, or the county sheriff if the county coroner is unavailable, shall report the death to the Department of Health.

#### **20-15-503 Autopsy.**

(a) Upon receipt of the report, the county coroner, or the county sheriff if the county coroner is unavailable, shall request from the parents or guardian of the deceased written permission upon a form provided by the Department of Health for an autopsy to be made to determine the exact cause of death.

(b)(1) Upon receipt of the permission, the county coroner, or the county sheriff if the county coroner is unavailable, shall notify the department. The department shall arrange for the transportation of the deceased and arrange for an autopsy to be made by a licensed physician in the State of Arkansas and shall arrange for the return transportation of the deceased.

(2) If the parents or guardian shall refuse permission for an autopsy to be made, the death nevertheless shall be reported to the department.

(c)(1) The results and findings of the autopsy, if any is performed, shall be reported to the parents or guardian of the deceased.

(2) The appropriate finding of cause of death shall be recorded upon the certificate of death in any case and the term "sudden infant death syndrome" shall be entered on the certificate of death when it is appropriately descriptive of the circumstances and cause of death of the child.

(d) Information concerning sudden infant death syndrome shall be provided by the department to the parents or guardian of an infant whose death has been reported pursuant to this subchapter.

#### **20-15-504 Limitation on autopsies.**

The Department of Health shall provide for the transportation and the autopsy as provided in § 20-15-503 only so long as federal funds are available to the division for the transportation and autopsies of suspected victims of sudden infant death syndrome.

#### **20-18-604 Final disposition of dead body or fetus.**

(a) The funeral director or the person acting as the funeral director who first assumes custody of a dead body shall obtain authorization for final disposition of the body as provided in the regulations.

(b) Prior to final disposition of a dead fetus, irrespective of the duration of pregnancy, the funeral director, the person in charge of the institution, or other person assuming responsibility for final disposition of the fetus shall obtain from the parents authorization for final disposition on a form prescribed by the State Registrar of Vital Records.

(c) With the consent of the physician or State Medical Examiner or county coroner, who is to certify the cause of death, a dead body may be moved from the place of death for the purpose of being prepared for final disposition.

(d) An authorization for final disposition issued under the law of another state which accompanies a dead body or fetus brought into this state shall be authority for final disposition of the body or fetus in this state.

(e) Authorization for disinterment and re-interment shall be required prior to disinterment of a dead body or fetus. The authorization shall be issued by the state registrar to a licensed funeral director or person acting as such upon proper application.

### **Guidelines for Death Scene Investigation**

**of sudden, Unexplained Infant Death:  
Recommendations of the Interagency Panel  
on Sudden Infant Death Syndrome**

**Summary of history on SIDS**

*Because no uniform procedure has been developed for collecting and evaluating information on sudden, unexplained infant deaths (SUIDs) in the United States, the U.S. Senate and U.S. House of Representatives recommended in 1992 that the U.S. Department of Health and Human Services Interagency Panel on Sudden Infant Death Syndrome (SIDS) establish a standard scene investigation protocol for SUIDs. Two members of the panel, the Division of Reproductive Health of CDC and the National Institute for Child Health and Human Development of the National Institutes of Health, convened a workshop in July 1993 to gather information and ideas to use in developing such a protocol. Workshop participants, who included consultants having expertise in SIDS and representatives of public and private organizations concerned with SIDS, suggested that the Interagency Panel on SIDS develop both a short-form protocol and a longer, comprehensive protocol. The participants also recommended data items to include in the short-form protocol. This report includes the short-form, which was developed to standardize the investigation of SUID scenes; ensure that information pertinent to determining the cause, manner, and circumstances of an infant death is considered in each investigation; and assist researchers in accurately determining the cause of and risk factors for SIDS. It can be used by medical examiners, coroners, death investigators, and police officers. Instructions for using the protocol are also included.*

**INTRODUCTION**

Sudden, unexplained infant deaths (SUIDs) are those for which no cause of death was obvious when the infant died. Sudden infant death syndrome (SIDS) (also known as crib death) is the most frequently determined cause of SUIDs. SIDS is “the sudden death of an infant under 1 year of age which remains unexplained after a thorough case investigation, including performance of a complete autopsy, examination of the death scene, and review of the clinical history” (1). SIDS should not be diagnosed if these criteria are not met.

Because these criteria are often not met and because practices for case investigation vary in the United States, efforts to determine the cause of and risk factors for SIDS have been hampered. The autopsy rate for SUIDs is about 90%; however, autopsy protocols vary by death investigation jurisdiction (which can consist of a county, district, or state) (2). The proportion of deaths ruled to be caused by SIDS and that include examination of the death scene is unknown, but it is probably very low because few jurisdictions have a written protocol for SUIDs scene investigation. For example, only four states (California, Minnesota, Missouri, and New Mexico) have detailed, written protocols for SUIDs scene investigation (3-6). Scene investigation protocols also differ by jurisdiction, and practices for investigating SUIDs vary among medical examiners, coroners, and others who research SUIDs (2).

Because no uniform procedure has been developed for collecting and evaluating information on SUIDs in the United States, the U.S. Senate and the U.S. House of Representatives recommended in 1992 that the U.S. Department of Health and Human Services Interagency Panel on SIDS establish a standard scene investigation protocol for SUIDs (7). Two members of this panel, the Division of Reproductive Health of CDC and the National Institute for Child Health and Human Development of the National Institutes of Health, convened a workshop in July 1993 to gather information and develop ideas that could be used to establish such a protocol. One recommendation from the workshop participants was to develop both a short-form protocol and a more extensive protocol. This report includes the short-form protocol developed by the Interagency Panel on SIDS and instructions for using it.

**SIDS**

SIDS is listed on death certificates as the cause of death for 5,000-6,000 infants (age 0-364 days) each year in the United States. The mortality rate due to SIDS has declined gradually, from a high of 1.5 per 1,000 live births in 1980 to 1.2 per 1,000 live births in 1993 (7-10), but the reason for this decline is not known. For postneonates (age 28-364 days), SIDS is the leading cause of death (accounting for about 35% of postneonatal deaths) (7,8).

The distribution of age at death is the most unique epidemiologic feature of SIDS cases (11). The risk of SIDS peaks at 2-4 months of age; SIDS is uncommon during the first month of life and after the sixth month of life. About 90% of SIDS cases occur in children under 6 months of age. In the United States, the incidence of SIDS is greater during the winter months than the summer months (11,12).

Although the etiology and pathogenesis of SIDS are unknown, increased risk for SIDS is associated with many maternal characteristics, infant characteristics, and environmental factors (12). The most consistently reported and potentially modifiable risk factors are lack of breast-feeding (11,13), exposure to tobacco smoke in utero (12-15) or during infancy (13,15), and the infant sleeping prone (12, 16-18). Other factors associated with SIDS include male sex, low maternal education, young maternal age, high parity, the mother being unmarried, and late or no prenatal care (12). Some researchers have suggested that SIDS has multiple etiologies and that predisposing biochemical, anatomic, or developmental abnormalities may increase the risk of SIDS for infants (1).

A standard protocol for SUIDs scene investigation offers several potential benefits (Exhibit 1). For example, it may assist researchers in accurately determining the cause of and risk factors for SIDS by reducing the likelihood of incorrect identification of SIDS and by enabling or facilitating the gathering of data on deaths correctly determined to be caused by SIDS. Any SUID that has not been thoroughly investigated should be classified as undetermined or unexplained. For about 15% of SUIDs, a thorough investigation will determine or identify a cause of death other than SIDS (19).

## **Exhibit 1. Reasons for a Standard Protocol for SUID Scene Investigations**

- To generate a single, reasonable hypothesis for the cause, manner, and mechanism of death.
- To assist the pathologist, medical examiner, or coroner in ruling in or ruling out natural causes of death, child abuse or neglect, or injury.
- To identify public health threats, such as those related to consumer products or unsafe health practices.
- To contribute to the understanding of the cause of and risk factors for SIDS and other reasons for SUIDs and to develop preventive strategies.
- To use the opportunity to provide parents and caregivers information about grief counseling, support groups, and healthy infant-care practices.
- To provide information on SUIDs and SIDS to epidemiologists and agencies with an interest in the welfare of children.

## **WORKSHOP OBJECTIVES**

The Interagency Panel on SIDS “Workshop on Guidelines for Scene Investigation of Sudden Unexplained Infant Deaths” was held in Rockville, Maryland, on July 12 and 13, 1993. Before the workshop, the participants (who represented federal agencies as well as public and private sector organizations) received information about SIDS, including a sample list of data items drawn from known written protocols on SUID scene investigations. During the workshop, participants discussed five topics:

- Desirable attributes of a standard protocol for SUID scene investigation;
- Data items of a standard protocol and which items are required or optional;
- Training to use the protocol;
- Procedures for data collection, reporting, and quality assurance; and
- Strategies for implementing the protocol.

For each of the five topics, three breakout groups were established. Participants clarified, combined, or eliminated ideas and ranked them in order of importance. After the workshop, the organizers combined and summarized the groups’ information and ideas (20).

The principal goal developed by the workshop participants was to create both a standardized short-form protocol and a standardized expanded protocol for SUID scene investigation. Participants also specified five purposes of the short-form protocol (Exhibit 2). Using the ideas developed in each of the five topic areas, the Interagency Panel on SIDS developed a draft, short-form protocol compatible with death investigation report forms previously published by CDC’s Medical Examiner and Coroner Information Sharing Program. The draft was reviewed by panel members and selected experts who attended the workshop; the resultant Sudden Unexplained Infant Death Investigation Report Form (SUIDIRF) and accompanying instructions are available from CDC (Appendix).<sup>\*</sup> Suggested modifications to the SUIDIRF will be used to develop the expanded protocol (the U.S. Model SUID Investigation Protocol), which

## **Exhibit 2. Purposes of the SUIDIRF**

- To provide a generic, short-form model protocol for investigating SUIDs.
- To assist state and local death investigation jurisdictions in developing a uniform, standardized, and systematic approach to investigating the scene of SUIDs.
- To ensure that all information pertinent to determining the cause, manner, and circumstances of an infant’s death is considered in each investigation.
- To document the extent of investigation of a scene for SUIDs.
- To provide information useful to the pathologist during autopsy.

will include specific guidelines for conducting investigations, asking the questions contained in the protocol, completing the protocol, establishing a computer data base for information gathered by using the protocol, and meeting the recommendations outlined in the workshop report (20).

## **USING THE SUIDIRF**

All sudden and unexplained deaths among infants up to 1 year of age may be investigated by using the SUIDIRF.

Local statutes define which infant deaths must be investigated, but these deaths usually include any in which the cause or circumstances of death are unknown (including deaths that are apparently due to a natural cause but cannot be confirmed by medical records, a personal physician, or a witness to the death) and any for which child abuse or neglect is suspected.

The SUIDIRF is not copyrighted and can be used with or without modification by any agency involved in investigating SUIDs. The protocol is intended for use primarily by medical examiners, coroners, death investigators, and police officers. Public health workers should ensure that local medical examiners and coroners are familiar with this report and the SUIDIRF.

Because the SUIDIRF is available in electronic form, it may be modified to meet the needs of individual investigators or agencies. For example, the data items may be rearranged, larger spaces for writing may be created, and data items may be added. To ensure uniform collection of core data items, items currently on the SUIDIRF should not be deleted or ignored. Further, these items may be important to other agencies or organizations examining trends. CDC is investigating options for computerized data entry and report generation in the SUIDIRF format.

role of medical examiners and coroners in public health surveillance and epidemiologic research of SUIDs (21).

---

\* Copies of a standard 8.5" x 11" SUIDIRF and an optional worksheet on which the questionnaire items are written out in full may be obtained from:

Centers for Disease Control and Prevention  
Medical Examiner and Coroner Information Sharing  
Program

4770 Buford Highway, N.E.  
Mail Stop F-35  
Atlanta, Georgia 30341-3724  
Phone: (770) 448-7060  
Fax: (770) 488-7044  
E-mail: MECISP1@cehdeh1.em.cdc.gov

Comments on and suggestions for improving the usefulness of the SUIDIRF are welcome and may be directed as shown above.

## **CONCLUSION**

The death scene investigation is an essential component of a thorough investigation of SUIDs. Information gathered during the scene investigation augments that obtained from an autopsy and review of the infant's clinical history. Information gathered during a SUID scene investigation can help the pathologist interpret postmortem findings and rule in or rule out accidental, environmental, and unnatural causes of deaths, including child abuse and neglect. Although the ultimate goal of a SUID scene investigation is to accurately assign a cause of death, no less important goals are identifying health threats posed by consumer products, identifying and understanding risk factors associated with SUIDs, and using the opportunity to refer families to grief counseling and support groups. These guidelines set the stage for standardized investigative procedures, data collection instruments, and training for SUID scene investigations, and they underscore the central

## References

1. Willinger M, James LS, Catz C. Defining the sudden infant death syndrome (SIDS): deliberations of an expert panel convened by the National Institute of Child Health and Human Development. *Pediatr Pathol* 1991;11:677-84.
2. Combs DL, Parrish RG, Ing. R. Death investigation in the United States and Canada, 1992. Atlanta: U.S. Department of Health and Human Services, Public Health Service, CDC, 1992.
3. Maternal and Child Health Branch. Death scene and deputy coroner investigation protocol for sudden unexpected infant deaths; instruction manual. Sacramento, CA: State of California, Department of Health Services, Maternal and Child Health Branch, 1991.
4. Division of Maternal and Child Health. Minnesota infant death investigation guidelines (for infants 0 to 24 months old): background and implementation for local investigative personnel. Minneapolis, MN: Minnesota Department of Health, Division of Maternal and Child Health, Infant Mortality Reduction Initiative, 1993.
5. Missouri Department of Social Services. Scene investigation guide for sudden, unexplained deaths of infants. Jefferson City, MO: Missouri Department of Social Services, Missouri Child Fatality Review Project, n.d.
6. Office of the Medical Investigator. SIDS/Childhood. Albuquerque, NM: State of New Mexico, Office of the Medical Investigator, n.d.
7. Kochanek KD, Hudson BL. Advance report of final mortality statistics, 1992. Hyattsville, MD: U.S. Department of Health and Human Services, Public Health Service, CDC, 1995. (Monthly vital statistics report; vol 43, no. 6, suppl).
8. CDC. Sudden infant death syndrome - United States, 1980-1988. *MMWR* 1992;41(28):515-7.
9. Iyasu S, Lynber MC, Rowley D, Saftias AF, Atrash HK. Surveillance of postneonatal mortality, United States, 1980-1987. *MMWR* 1991;40(SS-2):43-55.
10. CDC. Infant mortality - United States, 1993. *MMWR* 1996;45(10):211-5.
11. CDC. Seasonality in sudden infant death syndrome - United States, 1980-1987. *MMWR* 1990;39(49):891-5.
12. Hoffman HJ, Hillman LS. Epidemiology of the sudden infant death syndrome: maternal, neonatal, and postneonatal risk factors. *Clin Perinatol* 1992;19(4):717-37.
13. Scheondorf KC, Kiely JL. Relationship of sudden infant death syndrome to maternal smoking during and after pregnancy. *Pediatrics* 1992;90:905-8.
14. Haglund B, Cnattingius S. Cigarette smoking as a risk factor for sudden infant death syndrome: a population-based study. *Am J Public Health* 1990;80(1):29-32.
15. Klonoff-Cohen HS, Edelstein SL, Lefkowitz ES, et al. The effect of passive smoking and tobacco exposure through breast milk on sudden infant death syndrome. *JAMA* 1995;273(10):795-8.
16. American Academy of Pediatrics Task Force on Infant Positioning and SIDS. Positioning and SIDS. *Pediatrics* 1992;89(6):1120-6.
17. Guntheroth WG, Spiers PS. Sleeping prone and the risk of sudden infant death syndrome. *JAMA* 1992;267(17):2359-62.
18. Dwyer T, Ponsonby A-LB, Newman NM, Gibbons LE. Prospective cohort study of prone sleeping position and sudden infant death syndrome. *Lancet* 1991;337:1244-7.
19. Valdes-Dapena M. The sudden infant death syndrome: pathologic findings. *Clin Perinatol* 1992;19(4):701-16.
20. Iyasu S, Hanzlick R, Rowley D, Willinger M. Proceedings of "Workshop on Guidelines for Scene Investigation of Sudden Unexplained Infant Deaths" - July 12-13, 1993. *J Forensic Sci* 1994;39(4):1126-36.
21. Hanzlick R, Parrish RG. The role of medical examiners and coroners in public health surveillance and epidemiological research. *Annu Rev Public Health* 116;17:409.



## REPORTING ADULT MALTREATMENT

### **12-12-1707 Adult and long-term care facility resident maltreatment hotline.**

(a) The Department of Human Services shall maintain a single statewide telephone number that all persons, whether mandated by law or not, may use to report a case of suspected adult maltreatment and long-term care facility resident maltreatment.

(b) When appropriate, a copy of the initial report shall immediately be made available to the appropriate law enforcement agency for its consideration.

(c)(1) The department shall not release information that would identify the person who made the report unless a court of competent jurisdiction orders release of the information after the court has reviewed in camera the record related to the report and has found that disclosure is necessary:

- (A) To prevent execution of a crime; or
- (B) For prosecution of a crime.

(2)(A) However, any person to whom the name of the reporter is disclosed is prohibited from redisclosing this information, except as provided in subdivision (c)(2)(B) of this section.

(B)(i) Upon request, the information shall be disclosed to:

- (a) The Attorney General;
- (b) The prosecuting attorney; or
- (c) Law enforcement officers.

(ii) However, the information shall remain confidential until criminal charges are filed.

(d)(1) A report of an allegation of suspected adult maltreatment or long-term care facility resident maltreatment shall be accepted if the allegation, if true, would constitute adult maltreatment or long-term care facility resident maltreatment and so long as sufficient identifying information is provided to identify and locate the victim.

(2) A report to the hotline when the allegation, even if true, would not constitute adult maltreatment or long-term care facility resident maltreatment shall be screened out.

(e)(1) The hotline shall accept a report if the victim or offender is present in Arkansas or if the incident occurred in Arkansas.

(2) If the incident occurred in another state, the hotline shall screen out the report and transfer the report to the hotline of the state in which the incident occurred.

(3) Upon request from an adult maltreatment or long-term care facility resident maltreatment investigator in another state, the department shall complete courtesy interviews with the victim, offender, or any witness of adult maltreatment who resides in Arkansas.

(f) Upon registration of a hotline report of suspected adult maltreatment or long-term care facility resident maltreatment, the hotline shall refer the matter immediately to the appropriate investigating agency as outlined in this subchapter.

### **12-12-1708 Persons required to report adult or long-term care facility resident maltreatment.**

(a)(1) Whenever any of the following persons has observed or has reasonable cause to suspect that an endangered person or an impaired person has been

subjected to conditions or circumstances that constitute adult maltreatment or long-term care facility resident maltreatment, the person shall immediately report or cause a report to be made in accordance with the provisions of this section:

- (A) A physician;
- (B) A surgeon;
- (C) A coroner;
- (D) A dentist;
- (E) A dental hygienist;
- (F) An osteopath;
- (G) A resident intern;
- (H) A nurse;
- (I) A member of a hospital's personnel who is engaged in the administration, examination, care, or treatment of persons;
- (J) A social worker;
- (K) A case manager;
- (L) A home health worker;
- (M) A mental health professional;
- (N) A peace officer;
- (O) A law enforcement officer;
- (P) A facility administrator or owner;
- (Q) An employee in a facility;
- (R) An employee of the Department of Human

Services;

- (S) A firefighter;
- (T) An emergency medical technician;
- (U) An employee of a bank or other financial institution;

(V) An employee of the United States Postal Service;

(W) An employee or a volunteer of a program or an organization funded partially or wholly by the department who enters the home of or has contact with an elderly person;

(X) A person associated with the care and treatment of animals, such as animal control officers and humane society officials;

(Y) An employee who enforces code requirements for a city, township, or municipality; or

(Z) Any clergy member, including without limitation, a minister, a priest, a rabbi, an accredited Christian Science practitioner, or any other similar functionary of a religious organization, or an individual reasonably believed to be a minister, a priest, a rabbi, an accredited Christian Science practitioner, or any other similar functionary of a religious organization by the person consulting him or her, except to the extent he or she:

(1) Has acquired knowledge of suspected maltreatment through communications required to be kept confidential pursuant to the religious discipline of the relevant denomination or faith; or

(ii) Received the knowledge of the suspected maltreatment from the offender in the context of a statement of admission.

(2) Whenever a person is required to report under this subchapter in his or her capacity as a member of the staff, an employee in or owner of a facility, or an employee of the department, he or she shall immediately notify the person in charge of the institution, facility, or agency, or that person's designated agent, who shall then become responsible for making a report or cause a report to be made

within twenty-four (24) hours or on the next business day, whichever is earlier.

(3) In addition to those persons and officials required to report suspected maltreatment, any other person may make a report if the person has observed an adult or long-term care facility resident being maltreated or has reasonable cause to suspect that an adult or long-term care facility resident has been maltreated.

(b)(1) A report for a long-term care facility resident shall be made:

(A) Immediately to the local law enforcement agency for the jurisdiction in which the long-term care facility is located; and

(B) To the Office of Long-Term Care, under regulations of that office.

(2) A report of a maltreated adult who does not reside in a long-term care facility shall be made to the adult and long-term care facility maltreatment hotline provided in § 12-12-1707.

(c) No privilege or contract shall relieve any person required by this subchapter to make a notification or report from the requirement of making the notification or report.

(d) (1) Upon request the Department of Human Services shall provide a person listed in subdivision (a)(1) of this section with confirmation of receipt of a report of maltreatment.

(2) However, confirmation shall consist only of the acknowledgement of receipt of the report and the date the report was made to the department.

#### **12-12-1709. Report of death caused by maltreatment.**

(a)(1) Any person or official who is required to report a case of suspected adult maltreatment or long-term care facility resident maltreatment under this subchapter and who has reasonable cause to suspect that an adult or long-term care facility resident has died as a result of maltreatment shall report the suspected death from maltreatment to the appropriate medical examiner or coroner.

(2)(A) In all cases of the death of a long-term care facility resident or a hospice facility resident, the long-term care facility or the hospice facility shall immediately report the death to the appropriate coroner.

(B) The report is required regardless of whether the long-term care facility or the hospice facility believes the death to be from natural causes or the result of maltreatment or any other cause.

(3)(A) In all cases of the death in a hospital of a person who was a long-term care facility resident within five (5) days before entering the hospital, the hospital shall immediately report the death to the appropriate coroner.

(B) The report is required regardless of whether the hospital believes the death to be from natural causes, the result of maltreatment, or any other cause.

(b)(1) The medical examiner or coroner shall accept the report for investigation and upon finding reasonable cause to suspect that a person has died as a result of maltreatment shall report the findings to a law enforcement agency and the appropriate prosecuting attorney.

(2) If the institution making the report is a hospital or long-term care facility, the medical examiner or coroner shall report the findings to the hospital or long-term care facility unless the findings are part of a pending or ongoing law enforcement investigation.

(c) If it receives findings under subdivision (b)(2) of this section, the medical examiner, coroner, or hospital shall also report findings under subsection (b) of this section to the Department of Health and Human Services if:

(1) Reasonable cause exists to believe the death resulted from maltreatment; or

(2) Upon request of the department and there is a pending investigation concerning allegations of maltreatment occurring before death.

#### **12-12-1712 Photographs and X-rays.**

(a) Any person who is required to report a case of adult maltreatment or long-term care facility resident maltreatment may take or cause to be taken, at public expense, color photographs of the area of trauma visible on the maltreated person and, if medically indicated, cause to be performed radiological examination of the maltreated person.

(b)(1) Whenever a person is required to report under this subchapter in his or her capacity as a member of the staff of any private or public institution or agency, he or she shall immediately notify the person in charge of the institution or agency or his or her designee.

(2) Upon notification under subdivision (b)(1) of this section, the person in charge of the institution or agency or his or her designee shall:

(A) Take or cause to be taken, at public expense, color photographs of physical trauma; and

(B) If medically indicated, cause to be performed a radiological examination of the maltreated person.

(c) Any photograph or X-ray taken shall be sent to the Department of Human Services as soon as possible.

#### **12-12-1713 Immunity for investigation participants.**

(a) Any person, official, or institution acting in good faith in the making of a report, the taking of a photograph, or the removal of a maltreated person under this subchapter shall have immunity from liability and suit for damages, civil or criminal, that otherwise might result by reason of those actions.

(b) The good faith of any person required to report a case of adult maltreatment or long-term care facility resident maltreatment shall be presumed.

#### **12-12-1717 Availability of founded reports of adult or long-term care facility resident maltreatment.**

(a) A report made under this subchapter that is determined to be founded, as well as any other information obtained, including protected health information, and a report written or photograph taken concerning a founded report in the possession of the Department of Human Services shall be confidential and shall be made available only to:

(1) A physician who has before him or her an endangered person or an impaired person the physician reasonably believes may have been maltreated;

(2) A person authorized to place the adult in protective custody if the person:

(A) Has before him or her an adult the person reasonably believes may have been maltreated; and

(B) Requires the information to determine whether to place the adult in protective custody;

(3) An authorized agency having responsibility for the care or supervision of an endangered person or an impaired person;

(4) Any person who is the subject of a report or that person's legal guardian;

(5) A grand jury or court, if the grand jury or court determines that the information is necessary for the determination of an issue before the grand jury or court;

(6) A prosecuting attorney, law enforcement official, coroner, or the Attorney General or his or her designated investigator;

(7) [Repealed.];

(8) (A) An employer or volunteer agency for the purpose of screening an employee, applicant, or volunteer upon submission of a signed, notarized release from the employee, applicant, or volunteer.

(B) The only information released to the employer or volunteer agency shall be whether or not the Adult and Long-term Care Facility Resident Maltreatment Central Registry contains any founded reports naming the employee, applicant, or volunteer as an offender;

(9) The Death Review Committee of the Department of Human Services;

(10) The current administrator of the long-term care facility, if the incident occurred in a long-term care facility;

(11) The administrator of the long-term care facility that currently employs the offender, if different from the long-term care facility in which the incident occurred;

(12) A person or provider identified by the department as having services needed by the maltreated person;

(13) Any applicable licensing or registering authority;

(14) Any employer, legal entity, or board responsible for the person named as the offender;

(15) Any legal entity or board responsible for the maltreated person;

(16) [Repealed.]; and

(17) A state or federal agency pursuing an official criminal records check.

(b) (1) Under no circumstances may the information contained in the registry be released to a person unless the person's capacity is confirmed by the department.

(2) Except for the subject of the report, no person or agency to whom disclosure is made may disclose to any other person a report or other information obtained under this section.

(c) (1) The department may not release data that would identify the person who made a report except to law enforcement, a prosecuting attorney, or the office of the Attorney General.

(2) A court of competent jurisdiction may order release of data that would identify the person who made a report after the court has reviewed in camera the record related to the report and has found that disclosure is needed:

(A) To prevent execution of a crime; or

(B) For prosecution of a crime.

(d) However, information contained in the registry may be made available to bona fide and approved research groups solely for the purpose of scientific research, but in no event shall the name of a person be released, nor shall specific circumstances or facts related to a specific person

be used in any research report that might be identifiable with the person.

(e) A person who knowingly permits or encourages the release of data or information contained in the registry to a person not permitted by this subchapter to receive the data or information upon conviction is guilty of a Class A misdemeanor.

#### **12-12-1720 Penalties.**

(a)(1) A person commits the offense of failure to report under this subchapter in the first degree if he or she:

(A) Is a mandated reporter under § 12-12-1708;

(B) Has observed or has reasonable cause to suspect that an endangered person or impaired person has been subjected to conditions or circumstances that constitute adult maltreatment or long-term care facility resident maltreatment; and

(C) Knowingly fails to report or cause a report to be made to the adult and long-term care facility resident maltreatment hotline.

(2) Failure to report under this subchapter in the first degree is a Class B misdemeanor.

(b)(1) A person commits the offense of failure to report in the second degree if he or she:

(A) Is a mandated reporter under § 12-12-1708;

(B) Has observed or has reasonable cause to suspect that an endangered person or impaired person has been subjected to conditions or circumstances that constitute adult maltreatment or long-term care facility resident maltreatment; and

(C)(i) Knowingly fails to make a report in the manner and time provided in this subchapter to the adult and long-term care facility resident maltreatment hotline.

(ii) Knowingly fails to cause a report to be made in the manner and time provided in this subchapter to the adult and long-term care facility resident maltreatment hotline.

(2) Failure to report in the second degree is a Class C misdemeanor.

(c) A person or caregiver required by this subchapter to report a case of suspected adult maltreatment or long-term care facility resident maltreatment who purposely fails to do so is civilly liable for damages proximately caused by the failure.

(d)(1) A person commits the offense of false reporting of adult abuse if he or she purposely makes a false report to the adult and long-term care facility resident maltreatment hotline knowing the allegation in the false report to be false.

(2) For a first offense, false reporting of adult abuse is a Class A misdemeanor.

(3) For a subsequent offense, false reporting of adult abuse is a Class D felony.

(e)(1) A person commits the offense of unlawful disclosure of data or information under this subchapter if:

(A) He or she purposely discloses data or information to a person to whom disclosure is not permitted under § 12-12-1717 or § 12-12-1718; or

(B) He or she purposely encourages or permits the release of data or information to a person to whom disclosure is not permitted under § 12-12-1717 or § 12-12-1718.

(2) Unlawful disclosure of data or information under this subchapter is a Class A misdemeanor.

(f)(1) A person commits the offense of failure to report a death under this subchapter if he or she:

(A) Is required to report a death under § 12-12-1709;

(B) Has reasonable cause to suspect that an adult or long-term care facility resident has died as a result of maltreatment; and

(C) Knowingly fails to make the report in the time and manner required under this subchapter.

(2) Failure to report a death under this subchapter is a Class C misdemeanor.

**Child Abuse Hotline** 1-800-482-5964- Anyone who suspects child maltreatment may report. Some people (for example, doctors, teachers and school counselors) must, by law, report suspected child maltreatment. Learn how.

**Adult Protective Services** 1-800-482-8049- Do you suspect an adult is being abused or neglected at home or in a care facility? If so, call our hotline to make a confidential report.

## Chapter Seven – ATTORNEY GENERAL OPINIONS and County Lines Articles

### **Conflict of Interest:**

**AG Opinion No. 1986-361:** The Attorney General determined that a conflict of interests would arise for the elected coroner to serve as coroner and simultaneously serve the county under a contract as either the owner or manager of an ambulance service. Whether or not the contract with the county was awarded through the sealed bid process is irrelevant. The AG noted that a county elected official is generally prohibited from having an interest in a service contract with the county under Ark. Code 14-14-1202. {AG Opinion No. 1990-131: The AG later opined that the action by a quorum court under Ark. Code 14-14-1202 may validate the contract, if the quorum court declares there to be “unusual circumstances”, but the particular facts and specific language of the ordinance would impact the legality.}

**AG Opinion No. 1987-457:** The Attorney General stated that there was no conflict of interest where the son and daughter-in-law of a Coroner operate an ambulance service in the same county where the Coroner is the father and father-in-law.

**AG Opinion No. 1988-002:** The Attorney General determined that it was a conflict of interest for an appointed Coroner to appoint his wife as deputy coroner; and that such an appointment by the Coroner generated a personal economic gain to the Coroner or to his immediate family prohibited by Ark. Code 14-14-1202. Also, Ark. Code 21-8-304 prohibits a public official from using his or her position to secure special privileges for their spouse or other persons of standing within the first degree of relationship or for whom they have a substantial financial relationship.

**AG Opinion No. 1990-142:** The Attorney General opined that there was no apparent conflict of interest in the owner and operator of a funeral home simultaneously serving as the duly elected Coroner. The AG mentioned that the facts may dictate the opposite conclusion to the extent the county seeks to contract with the funeral home, but that “unusual circumstances” may exist and be permitted by the Quorum Court by ordinance under Ark. Code 14-14-1202.

**AG Opinion No. 2001-296:** The Attorney General opined that there was no apparent conflict of interest in simultaneously holding the office of deputy coroner and city council.  
Freedom of Information Act

**AG Opinion No. 1987-135:** The Attorney General advised that the Coroner’s Reports are generally public records. However, certain Coroner’s Reports may not be subject to disclosure under the FOIA as “undisclosed investigations by law enforcement agencies of suspected criminal activity”. The Attorney General added that once the investigation is complete the final report and supporting documents fall within the public right to inspect and copy of the FOIA.

**AG Opinion No. 1987-353:** Pursuant to Ark. Code 12-12-312 the autopsy report in the custody of the State Crime Lab are privileged and confidential; and shall be released only by

order of a court of competent jurisdiction, the prosecuting attorney over the case, and the public defender. Also, the defendant and his or her legal counsel shall be afforded access to all records pertaining to the subject criminal case. {Note: Ark. Code 14-15-304 also specifically addresses the protection of Coroner’s records until such time as the final report is issued}.

**AG Opinion 1997-418:** The AG stated that dual service of a sheriff or deputy sheriff as a deputy coroner is constitutionally suspect under Ark. Const. Art. 19, § 6. In the AG’s opinion, such an appointment may well be subject to challenge.

**AG Opinion- 2002-133:** The AG discussed whether it is permissible for a person to simultaneously serve as both county coroner and as a member of the quorum court. The AG stated that in his opinion, the same person may not lawfully serve simultaneously as both county coroner and as a member of the quorum court.

**AG Opinion 2010-045:** The AG stated that an elected county coroner most likely cannot be an employee of a county sheriff’s department as an investigator or in any other position if it is an office. Additionally, even though there is no general bar against the coroner’s service as a county employee, there is a potential for an incompatibility to arise out of county employment.

### **Authority of Coroners to Investigate Death:**

**AG Opinion No. 1995-263:** Ark. Code 14-15-302 expressly provides that a coroner’s responsibility does not include criminal investigation responsibilities. However, a Coroner shall assist any law enforcement agency or the State Crime Laboratory upon request. This Section provides that the coroner shall be given access to all death scenes; shall have the right to issue subpoenas; if deemed qualified may handle take and handle toxicological samples; and provides the preliminary report shall be issued within (5) five working days and shall include pronouncement of death. This section further provides requirement for the report, if a death occurs without medical attendance or was the result of a homicide, suicide or accident. Ark. Code 14-15-303 directs for the Coroner to satisfy himself as to whether the death was a result of a crime. The other responsibilities at the scene of death not assigned to the Coroner, shall be the authority of law enforcement officials and prosecuting attorneys having jurisdiction.

**AG Opinion No. 1994-107:** The Attorney General determined that the Coroner has the authority to prohibit removal of a weapon from a death crime scene. The Coroner also has authority to prohibit the removal of a body from a death crime scene pursuant to Ark. Code 20-18-604. In regard to the coroner’s authority at the crime scene, reference should be made to A.C.A. 14-15-301 to -303. Section 14-15-302(b)(1) states that “[c]oroners shall be given access to all death scenes in order to perform the duties set forth in this

subchapter." These duties include conducting an investigation concerning the circumstances surrounding the death (14-15-301), assisting law enforcement agencies or the State Crime Lab (14-15-302(a)), taking toxicological samples if deemed qualified (14-15-302(c)), and releasing the body for final disposition in accordance with 14-15-303. It is generally deemed that medical personnel have the final say as to whether a person is apparently dead may receive medical treatment. While cooperation between [the coroner and emergency medical personnel] would be preferred, if a disagreement about whether or not to continue emergency medical treatment at a scene cannot be resolved, the coroner should yield to the decision of emergency medical personnel on this issue. Also, Ark. Code 20-13-901, "the do not resuscitate act" allows persons to prohibit medical treatment. (See Also: AG Opinion No. 1999-064; and 1991-263.

**AG Opinion 2010-133:** The AG stated that although a coroner may certainly request that the Arkansas State Police (the "ASP") conduct a criminal investigation involving a death, the coroner has no authority to direct that the ASP honor the request.

#### **Personnel Records:**

The Attorney General's Office has created a body of opinions concerning the Freedom of Information Act ("FOIA") in application to county offices and public records of county officials. The subject of the request and the published opinion by number are provided below. These opinions may greatly assist the office in your county in making decisions concerning the FOIA. You may review and retrieve the entire opinion identified by going to the Attorney General's website: <http://www.arkansasag.gov/opinions/>. Additionally, this section provides other helpful Attorney General opinions regarding the elected position discussed in this manual.

#### **Coroner Records:**

See Ops. Att'y Gen. 2001-373 (Federal Privacy Act)

#### **FOIA Generally:**

See Ops. Att'y Gen. 2003-006 (Application of ACA 25-19-108 to counties)

See Ops. Att'y Gen. 2005-298 (Response to absence of records)

See Ops. Att'y Gen. 2008-162 (Digital pictures of records)

See Ops. Att'y Gen. 99-134 (Records on county web site/fees)

See Ops. Att'y Gen. 2000-096 (Discussion of "meetings" under FOIA)

See Ops. Att'y Gen. 2001-382 (Location/Access to meetings)

See Ops. Att'y Gen. 2002-092 (Meetings)

#### **FOIA – Personnel Records Generally:**

See Ops. Att'y Gen. 1999-398 (Job applications and resumes)

See Ops. Att'y Gen. 2000-058 (Harassment complaints)

See Ops. Att'y Gen. 2000-201 (Internal affairs investigatory files)

See Ops. Att'y Gen. 2000-242 (Suspension letters)

See Ops. Att'y Gen. 2001-130 (Access)

See Ops. Att'y Gen. 2001-368 (Employee objections to release)

See Ops. Att'y Gen. 2002-043 (Payroll, status change, benefits package information)

See Ops. Att'y Gen. 2003-055 (Privacy interests)

See Ops. Att'y Gen. 2003-352 (Time cards)

See Ops. Att'y Gen. 99-168 (Notification to subject of records)

#### **Other Att'y Gen. Opinions:**

**Attorney General Opinion No. 2010-133:** The Coroner may request the Arkansas State Police to criminally investigate a death. However, the Arkansas State Police is not required to criminally investigate deaths and has the discretion to determine how to exercise its powers and duties at the request of the Coroner. ACA 14-15-303 requires law enforcement agency and prosecutor to investigate whether a crime has occurred. ACA 14-15-303 requires the coroner must be satisfied that a death is not the result of a crime prior to releasing the body for final disposition.

**Attorney General Opinion No. 2012-117:** A custodian or requesting party seeking to ascertain whether a custodian's decision is consistent with the FOIA under ACA 25-19-105(c) must supply the AG with: (a) a copy of the request or what records specifically are being requested; (b) what records, if any, the custodian intends to release; and (c) what factual determinations went into both the custodian analysis or the requesting party's position. Frequently, the AG is not provided any of the foregoing necessary information and is unable to determine whether the decision of the custodian is consistent with the FOIA. Similarly, under **Attorney General Opinion No. 2012-113** the AG was unable to determine if the custodian was acting consistent with the FOIA because no party supplied the documents or information required as explained by **Attorney General Opinion No. 2012-117**, above. There was apparently blanket request to the former employer for the release of the entire employment file of a former employee. There was apparently a blanket response by the employee that the request was an unwarranted invasion of privacy. Parties seeking rulings by the AG under must supply the necessary information. Under **Attorney General Opinion No. 2012-115** the custodian supplied the proper documents and information and was deemed correct in releasing the interview questions submitted to applicants. However, the public has an interests in knowing the most qualified applicant was hired and therefore the scores of the person hired to the interview questions should be released and not redacted. **Attorney General Opinion No. 2012-123** the AG determined from submission of the necessary information that the custodian's decision to not release an employee evaluation that did not according to the custodian play a part in the subject termination. Under **Attorney General Opinion No. 2012-144** the AG agreed with the custodian's decision to release a transcription of two emails by a former employee, one to department heads and one to the employees generally, tendering his resignation. However, the Ag found that the redactions made by the custodian were inconsistent with the FOIA. Resignation letters are generally subject to release under the FOIA, however, the custodian may be able redact certain information as an unwarranted invasion of privacy. Because the two resignation letters were not provided and the release of information to the requesting

party was a transcription of the two emails, the AG could not determine that the custodian acted inconsistent with the FOIA. At a minimum the amount of information deleted shall be indicated on the released portion of the record, and if feasible at the place the redaction was made. The use of a transcription was inconsistent with these methods of disclosure and redaction under the FIOA.

**Attorney General Opinion No. 2012-112:** Upon request, it is the duty of the Attorney General to determine if a decision of a custodian is consistent with the FOIA. The AG says that records generated as part of an investigation may be considered employee evaluations or job performance records and may be exempt from release under the FOIA and may constitute an unwarranted invasion of privacy. The Attorney General's office and commentators have typically classified that personnel files typically include: employment applications, school transcripts, payroll-related documents such as re-classifications, promotions, demotions, transfer records, health and life insurance forms, performance evaluations, recommendation letters, etc. However, notwithstanding the exemption, ACA 25-19-105(c)(1) provides that employee evaluations may be subject to release upon final administrative resolution of any suspension or termination at which the records form a basis for the decision to suspend or terminate the employee and there is a compelling public interest. Compelling public interests involve violations of public trust or gross incompetence; the existence of a public controversy; and the employees position within the agency. Custodians may be consistent with the FOIA clearly withhold employee evaluations of low level employees not suspended or terminated. However, in the context of law enforcement officers, the level or ranking of the employee has less weight and the public interest is greater. Whether or not an employee was directly or indirectly involved in an incident is relevant and may turn on whether there are allegations of a single event or multiple events. See also: Attorney General Opinions 2012-105.

**Attorney General Opinions: 2012-111, 2012-110, 2011-156 and 2011-058:** Reflect disclosure of the names of county employees or list of county employees is generally not protected. The AG has explained that the General Assembly has refrained from establishing a protection from releasing an employee's name on the basis of "harassment exception" or "increased risk of harm exception".

**Attorney General Opinion 2012-090:** The Attorney General explained that the Arkansas State Medical Board, a state agency, is not required by ACA 12-18-402 are not required to report suspected child maltreatment identified or reported to the board. However, the individual physicians that serve on the Arkansas State Medical Board are mandatory reporters under the law since physicians are mandatory reporters under ACA 12-18-402(b)(19). The General explained that the physician's duty to report as a mandatory reporter arises the same from their suspicions whether they arise in connection to the service on the board or in connection to their regular practice of medicine.

**Attorney General Opinion No. 2012-143:** The Workers Compensation Commission determines whether an employer

qualifies as an "extra-hazardous" employer. ACA 11-10-314 provides an exemption for disclosure of the confidential data filed with the Workforce Services Commission concerning "extra-hazardous" employer status. This exception is located under a separate section of the Arkansas Code from the FOIA, Freedom of Information Act, ACA 25-19-101 et seq. The AG noted that in 2009 the General Assembly attempted to mandate that creation of any new record or public meeting exceptions to the FOIA after July 1, 2009 must explicitly state that the record or meeting is exempt from the FOIA, ACA 25-19-10 et seq. The exception to the FOIA under ACA 11-10-314 is clearly valid since it was adopted prior to July 1, 2009. However, the AG noted that attempts by the legislature to bind subsequent legislatures are called "entrenchment rules"; and that the validity of the 2009 entrenchment rule on the FOIA is questionable.

During the 2013 regular session Act 411 of 2013 explicitly amended the FOIA, Freedom of Information Act, ACA § 25-19-105(b)(13), concerning examination and copying of public records to protect the personal contact information of nonelected government employees. The amendment specifically exempts from disclosure home or mobile telephone numbers, personal email addresses, and home addresses of nonelected county or government employees. Act 411 seeks to protect privacy of nonelected employees and is effective August 16<sup>th</sup> as per **ATTORNEY GENERAL OPINION NO. 2013-049.**

**Attorney General Opinion No. 2010-169:** The Attorney General made clear that under the Freedom of Information Act a county assessor or public official may not charge citizens of Arkansas for access and copies to public records on a website maintained by the assessor and not charge county residents. The plan of the custodian to eliminate the fee based solely on whether the persons making the request are in-county residents is inconsistent with the Freedom of Information Act.

**AG Opinion 2012-003:** The AG discussed what official under the law has responsibility to transport and store a body or human remains. The AG stated that the coroner most likely has the general authority and responsibility to ensure that the body is transported from the death scene for proper storage pending further examination. This assumes there is an agreement among those investigating the death that moving the body from the death scene is appropriate and necessary under the particular circumstances. The law enforcement officer does not have the responsibility for custody of the remains and therefore generally cannot order the coroner to transport the body to a particular storage location. The only potential legal recourse against a coroner is that somehow it can be shown that the coroner's actions would interfere with a criminal investigation under the particular circumstances.

**AG Opinion- 2015-068:** The AG examined whether it is lawful for a county to pay for burial or cremation expenses for a deceased individual where relatives are unable and/or refuse to pay. The AG determined that, it is lawful for a county to order a burial or cremation and to pay the expenses. The AG further stated that, in her opinion, when relatives have waived their right to a body, the waiver vests

the county with the authority to order and pay for the burial or cremation. [AG Opinion- 2006-011: The AG stated that the county court has the authority to enter a judicial order authorizing the cremation of an unclaimed body after following all of the procedures of applicable law, and in cases where the deceased is a “pauper.” The AG further explained that A.C.A. § 20-17-702(a) requires a “diligent search” for the relatives or next of kin of the deceased and through this

search, a deceased’s status as a pauper can be determined. If a county orders a body to be cremated without authority to do so, the AG stated that the county could be subject to civil liability. Finally, the AG stated that although there is no statute dictating the responsibility for payment of a cremation, a county is authorized to make payment for such a cremation under the county court’s authority and assuming there are appropriated funds for that purpose. ]

## **County Lines Articles:**

### **Smooth, Effective Meetings**

*They don’t just happen!*

*By: Eddie A. Jones*

*County Government Consultant*

Most likely you’ve sat in dismay – maybe you’ve even been appalled or, depending on your position, embarrassed while a meeting tumbled off into nowhere. You know what happened: stories, side issues, chit chat and “stuff” overran the good intentions of those who were trying to accomplish something.

It may be that the Chair and/or the participants were not properly prepared for the meeting. However, the meeting may have started with a clear goal with a real agenda and with at least a majority of the participants prepared. But somehow it ended up a failure. Why? The reason is that a meeting can be led or misled from any chair in the room. Individual contributions, or the lack thereof, determine the net result produced in a public meeting – or a meeting of any kind.

During my thirty-plus years in county government work I have attended literally hundreds of quorum court meetings and I have chaired dozens of meetings in various capacities. I have seen the good, the bad and the ugly. Let’s take a look at what it takes to have smooth effective meetings. We are talking in particular about quorum court meetings or other county government public meetings. But, most of what we say will be applicable to almost any kind of meeting where business is being conducted. We are going to be looking from both sides of the table. It takes not only a competent and prepared Chair – but participants that are prepared and ready to take care of business in a professional manner.

One of the most difficult tasks for an elected official is being called upon to run a public meeting, be it a County Quorum Court meeting, a Committee thereof, or some other type of county government public meeting or hearing. In Arkansas you must understand not only the Open Meetings Law (Freedom of Information Laws ACA 25-19-101, et seq), but also your own rules of order. Many people are under the misconception that Roberts Rules of Order are the mandatory rules of order in Arkansas county government – but that is not so. Every quorum court in Arkansas is authorized under ACA 14-14-801(b)(12) and ACA 14-14-904(e) to provide for their own organization and management and to determine their own rules of procedure, except as otherwise provided by law. Most counties do find that Roberts Rules of Order is a good starting point and an adequate default in the event that its own adopted rules of procedure do not address an issue. In that case it is imperative that the county actually have a copy of Roberts Rules or Order on hand to serve as a reference and guide.

According to Arkansas law, specifically ACA 14-14-904(d), the county judge is the presiding officer, or Chair, of the quorum court without a vote but with the power of veto. However, in the absence of the county judge, a quorum of the justices by majority vote shall elect one of their number to preside or chair the meeting but without the power of veto. A justice retains the right to vote on a measure even though he or she is serving as Chair. So, it behooves the county judge and each member of the quorum court to be prepared and ready to conduct a great meeting – smooth and effective.

The legalities of the Open Meetings Law and your own rules of procedure are not everything you need to know. There is a part of presiding over a meeting that is not in a law or rule. For lack of a better term it amounts to *style*. American Poet, Robert Frost defined style as “*the mind skating circles around itself as it moves forward*”. Even the most competent elected official armed with a complete knowledge of the Open Meetings Law (FOIA) and Roberts Rules or Order can find themselves on the verge of panic while trying to chair a meeting. One word of advice can aid in avoiding this public calamity – RESPECT. Let me further expand on the term “respect” by using an acrostic.

- R** – Responsibility – The Chair is Responsible for implementing the rules that have been established. Responsibility lies with the Chair to clarify roles and rules, to follow the agenda, to be fair but firm and to keep the meeting moving.
- E** – Ethics – Rightly or wrongly the Chair is always held to a higher standard than the other members of the body, and projecting the air of a higher Ethical standard is crucial to a cooperative environment.
- S** – Succinct – Often less is more and making comments and rulings in a direct and Succinct manner helps avoid the sin of sermonizing to members of the body.
- P** – Predictability Principal – Prior Proper Planning Prevents Poor Performance – A successful meeting does not just happen, but rather requires, above all, that the Chair be prepared for what is to come.



- E** – Engage – The Chair is responsible for Engaging ALL of the stakeholders in any public meeting. Leaving any of the stakeholders out of the process is a recipe for discord and disaster.
- C** – Coordinate not Control – The proper goal of the Chair is to Coordinate the rules with the competing interest, not to Control the outcome of the meeting. A controlling Chair will invite stern and vocal opposition and impair the ability of the meeting to accomplish any of its goals.
- T** – Time – In short, starting a meeting late and wasting time during a meeting are both rude. It's rude to your colleagues, citizens and staff. The Chair has the primary responsibility to call the meeting to order on time and to make sure that the meeting moves forward in a timely manner. Don't wait on the perpetual tardy. Suggest a new motto: **5 minutes early is the new on-time.** Start every meeting promptly and people will soon realize that you mean what you say.

Following these suggestions will foster respect both for the Chair and for the body as a whole. Ralph Waldo Emerson said, "Men are respectable only as they respect."

What if you're a participant and not the Chair – in this case a quorum court member not acting as Chair? Here's how to make sure that your participation contributes to an effective meeting.

**1) Focus on the issue.**

Avoid stories, jokes, and unrelated topics. These waste time, distract the attendees, and sometimes mislead. Save the fun and trivia for social events when it's more appropriate and will be appreciated.

**2) Take a moment to organize your thoughts before speaking.**

Then express your idea simply, logically and concisely. People are more receptive to ideas they understand – plus long complex explanations bore people.

**3) Use positive comments in the meeting.**

Negative comments create defensive reactions or even retaliations that take people away from solutions. Negative comments also make you appear mean, uncooperative, weak, or even incompetent.

**4) Test your comments.**

Before speaking, ask yourself, "Does this contribute to an effective meeting?" If you sense it subtracts, keep your mouth shut.

**5) Respect others.**

Different views force us to think. After all, if we were all the same, they would need only one of us. So, accept what others say as being valid from their viewpoint. Work to understand why others are expressing ideas that you find disagreeable.

**6) Take a rest.**

If you notice that you are speaking more than anyone else in a meeting, stop and let others talk. You're either dominating the meeting with monologues or conducting a conversation with a minority of the participants. In either case, you're preventing the other attendees from participating.

These are but a few of the things you can do as a quorum court member to contribute to a productive meeting.

I want to discuss a few other things that I have not yet touched on. These tips are primarily for the Chair of the meeting. But, remember that could be a member of the Quorum Court in the absence of the County Judge.

- **Summarize** – After each agenda point, summarize the key decisions, opinions and actions. It's your job to make sure those decisions and actions are clearly understood and that they are moving in the right direction to accomplish the meeting's objectives. It is also a good idea, especially when there has been lengthy discussion on a complicated issue, for the Chair to summarize with clarity the question being voted on.
- **Don't be afraid to say you don't know** – Hopefully, you'll have done your research before the meeting starts but there's always a chance that someone will hit you with an issue you know nothing about. If this happens, remain calm. Use the old trick of repeating the question or using a phrase such as "that's a very interesting point". This gives you a few seconds to get your answer straight in your mind, reducing the possibility of stuttering or sounding unsure. If you don't know the answer, admit it. Say, "I wasn't aware of that particular issue, does anyone else here have any knowledge about it?" If nobody else speaks up, ask the questioner to see you after the meeting to give you some background. It could well be something important and even if it's not, you'll look good in front of your audience.
- **Thank your audience** – Always thank attendees once the meeting is finished. It is common courtesy and people appreciate it.

Here is something else that is very important – keeping a good and accurate record of the meeting. We call it "taking minutes". It's a boring job but someone's got to do it. Under Arkansas law the secretary of the Quorum Court is the County Clerk unless the court, through ordinance, decides to hire someone else from the staff of either the County Clerk or the County Judge [ACA 14-14-902(a)(1)(2)(3)(A)(B)(C)].

Taking minutes may not be the most glamorous job in the world but it's absolutely necessary to avoid conflict and mixed messages later on. Here's how to produce a good set of minutes.

Minutes need to be:

- Accurate. They must be a true record of what occurred. That means no drifting off during finer points of discussion.
- Clear and unambiguous. Minutes cannot be open to interpretation or discussion. Otherwise, they're pointless.
- Consistently structured. Decide on a structure (bullet points or numbers are the most common) and stick to it. Your minutes will be a lot easier to read and they will look a lot more professional.
- Brief. You should summarize discussions and decisions rather than attempt to get them down verbatim.

It's also vital that whoever takes the minutes understands the subject. A confused note taker will produce confused minutes. If something is not clear, ask for clarification from the speaker or the Chair. It could save a lot of time, confusion or disagreement later on.

The Association of Arkansas Counties has a Justice of the Peace Procedural Manual on their web site under "publications" that contains a Procedural Guide for Arkansas County Quorum Court Meetings. This guide is found in Chapter 6 of the manual and is recommended reading and study for every Quorum Court Justice and every County Judge.

I leave you with this last thought for a smooth and effective public meeting. The "attitude" and "temper" should be checked at the door. Arthur Gordon relates this personal story, "At a turbulent meeting once I lost my temper and said some harsh and sarcastic things. The proposal I was supporting was promptly defeated. My father who was there, said nothing, but that night, on my pillow I found a marked passage from Aristotle: Anybody can become angry – that is easy, but to be angry with the right person and to the right degree and at the right time and for the right purpose, and in the right way – that is not within everybody's power and is not easy."

***Debate – The Lost Art!***  
***By: Eddie A. Jones***  
***County Government Consultant***

Many types of debate exist – parliamentary debate, Oxford-style debate, public debate, policy debate, classic debate and the list continues. And there is a different set of ground rules for every style of debate. For this article, as it relates to good county government, I want you to think of debate in its general context – which is a method of interactive and representational argument. And, I don't use the term "argument" in a negative way but in the manner of properly and professionally discussing the various sides of an issue. Oh, by the way, there are always multiple sides to an issue and there is nearly always more than one way to solve a problem. When I have learned it has been from those who have disagreed with me. You never learn from those who always agree with you.

How many times have you seen this scenario? A citizen approaches a county justice or a county judge and asks what future action the county quorum court is going to take on a particular issue. When the elected official expressed his or her position on the issue, a position that was contrary to the citizen's, the citizen walked away. Many probably think that is the way it should work – the official's way is "the way" come what may. But, is that the way we really want it? This scenario simply reminds me that far too often many of us would prefer to only hear answers that align with or affirm our own thoughts and positions, rather than engage in a thoughtful discussion about the issue in order to understand and consider opposing views. It also reminds me of the Aesop quote, "He that always gives way to others will end in having no principles of his own."

Today's fast-paced culture helps promote a less-engaged citizenry – or at best, engaged citizenry without full knowledge of the facts. E-mail, Twitter, Facebook and news channels with constant scrolling tickers at the bottom of every television screen allow us to scan and receive information quickly, but not with in-depth knowledge about the subject matter. The truth of the matter is our fickle brains favor this simplicity by arranging information into categories to save us thinking time.....just another result of our fast-paced life style. These shortcuts that we use to make sense of the world shape our perception of it. When it comes to understanding issues, this can lead citizens, as well as elected officials, to reach conclusions about issues even when they have not been exposed to the "facts".

Here's an example: A recent sampling of the public in one area of the state showed strong opposition to studying the consolidation of 911 dispatch. This sampling of public sentiment indicated a service citizens clearly value. But it also points out that an opinion was formed prior to any in-depth dialogue about the study, which could provide an opportunity to consider options in how the service is provided.

Many issues are not fully understood by citizens or there is no immediate concern. For instance, a decision to build a law enforcement center complex and jail may elicit more citizen response, positive or negative, because it is immediate and may appear to be a simple, straightforward decision. In contrast, discussion of a long-range strategic plan that provides guidance to the county officials may appear to be too complex or too far off in the future to be of interest to the public. The lack of interest does not diminish the need for a county long-range strategic plan – but serves as an admonition to county leaders to develop a way to garner the interest and input of the citizenry. The French moralist and essayist, Joseph Joubert said, "It is better to debate a question without settling it than to settle a question without debating it."

The most interesting and influential thinker of the fifth century was Socrates, the classical Greek Athenian philosopher. He sought genuine knowledge by asking questions of his fellow citizens. He knew that these questions were hard to answer, and he thought it would be better to have people discuss the answers together, so that they might come up with more ideas. If I have learned anything in life, it is – that to ignore the facts does not change the facts. And the fact is, some people outside the county courthouse have good ideas and they need to be incorporated into the discussion when making decisions that affect all your citizens.

Deep and profound debate, as was the case in the time of Socrates, may be hard to achieve in today's world, but county government officials need to continue to encourage proper citizen participation. One of the benefits of citizen participation is an increased understanding of problems and possible solutions leading to better decisions being made. In addition, citizens need to communicate with their elected representatives with an open mind. When we are open, we give people room to release their fixed positions and consider alternatives. Remember, "There is no conversation more boring than the one where everybody agrees."

---

## ***Public Speaking is a Necessity for County Officials!***

***By: Eddie A. Jones***

***County Government Consultant***

Speech is power; speech is to persuade; to convert, to compel – so said Ralph Waldo Emerson many years ago.

Public speaking is looked upon with dreadful fear by the vast majority – even those who really need to use the medium. It's the last thing on earth that many want to do.

During my years of maturing in public office when I was faced with that fear I liked to tell myself: "I don't feel like it, I don't want to – but I'm going to do it anyway." There is something about recognizing our lack of motivation and then choosing to be responsible that helps us follow through. We have an important county message to share – both to the public and in testimony before legislative committees!

For the past 45 years the Association of Arkansas Counties has served as the statewide official voice for Arkansas county government. But, you – the county elected officials are the voice for county government in your county and many times during legislative sessions. That's why it is so important for county officials to take every opportunity given or even make your own opportunity to spread the "county message".

We need more county officials willing to go to the podium and "proclaim the message". County government has a great cause and a great message to tell. And when people understand what county government does and how it relates to them they are more willing to help.

Many times elected officials find themselves wanting to take the back seat and let someone else drive because of fear of taking the political risk of getting behind the wheel and taking the lead. If you find yourself thinking that way try to keep in mind the words of William Penn, an early champion of democracy and religious freedom. Mr. Penn said, "Right is right, even if everyone is against it, and wrong is wrong, even if everyone is for it." There is always a tactful approach even for the most controversial issues. As a county leader – you need to step forward.

Many of you probably feel that you are not capable of conveying your thoughts in a manner that would achieve the results you desire. The fact is, you will improve with practice – but you have to start first. Someone once made the profound statement, "It's not what you say but how you say it". And there's a lot of truth to it. Until you get better at the "what" at least be good at the "how". Be passionate about county government.

Of course, we should be good at the "what", too. I believe in the importance of researching the subject and then clearly and precisely making the point when the opportunity presents itself. Being a county official affords you the privilege to speak at many programs and functions – and even before legislative committees. Each opportunity to speak gives you the chance to get better at the art of public speaking.

I have had many opportunities to hone my speaking skills. Although I studied speech and public speaking in school; completed communication skills classes; spent 30 years in broadcasting interacting with a radio audience; and have given dozens of speeches during my 32 years in county government - I am rarely satisfied with my presentation. "There are always three speeches for every one you actually gave. The one you practiced, the one you gave, and the one you wish you gave." I want to learn how to better present county government. I want to be clear and concise. How about you?

You are strong and confident in other areas of your life, and you can be strong and confident as a speaker, too. You can develop skills and even learn to have fun giving engaging presentations on county government that inform, motivate and yes - even entertain.

Inspirational author Barry Neil Kaufman once wrote, "A loud voice cannot compete with a clear voice." Our success in county government does not depend on what we say or how often we say it, but rather on what our people and our legislators hear. Public speaking is vital for county officials.

## ***Being an Effective Public Speaker***

No doubt your ability to communicate more effectively will be enhanced if you know how to gather and organize information for your speech; if you learn the proper structure of a presentation; how to improve your vocal variety; how to gesture more effectively; proper body movement, facial expressions, eye contact and walking patterns; how to handle questions; and maybe as important as anything – overcoming speaker anxiety. That's quite a list – and yes, there is a lot to learn to be a good and effective public speaker. But, you have to start if you ever want to arrive.

It is a common misconception that certain people are born good speakers. Yes, some people have a gift of gab and seem natural at it. But make no mistake: Becoming a confident public speaker is achieved only by the desire to become a better speaker, followed by focused effort and a lot of practice.

Professional speakers NEVER stop practicing and honing their speaking skills. If you are like most people, you did not have a great first-time public speaking experience, and the thought of speaking in front of people scares you to death. Well, according to the Book of Lists, public speaking is the greatest of all fears – number 1 on the list! The fear of dying is number seven on the list. So, apparently most people would rather die than get up in front of a group of people to speak.

If you feel this way, you're not alone. Many professional speakers and famous presenters will freely admit to nervousness and stage fright. In fact, you need just a bit of "nervousness" to be your best – to keep you sharp and on your toes. But you have to be in control – not your nerves. Learning specific techniques to improve your public speaking can help eradicate your fear and help you succeed.

Here are some proven tips on how to control your butterflies and give better presentations:

1. **Know your material.** Know more about your subject than you include in your speech or presentation – over prepare. You may need the additional information if you open up for questions and answers. Not only should you know your material – but convey the material in an interesting way so that people retain some of what you said. Three ways to do that is use conversational language (it flows better), use humor and personal stories. Well executed humor and stories hold the power to deliver messages in an entertaining fashion and can jolt us into seeing things from a broader perspective. It can even enliven dull topics, diffuse tense situations and help the speaker connect with the audience. Once you get people laughing they're listening and you can sell your message. Just make sure your humor and stories are appropriate.
2. **Practice!** There is no magic formula for becoming a polished public speaker. Those of you who play a musical instrument know you do not become proficient without practice. I used to roll my eyes when my mom told me to practice the piano for an hour after school before I did anything else. I later came to appreciate her instruction and the time spent in practice. To learn to play the piano, you have to play the piano. To learn to speak, you have to speak. You know the old cliché "How do you get to Carnegie Hall? – Practice, practice, practice." Public speaking demands the same level of practice. And yes, you rehearse out loud. That way you hear yourself and it is easy to detect what needs to be changed.
3. **Know your audience.** Greet some of the audience members as they arrive. It is easier to speak to a group of friends than to strangers – or at least to people to whom you have made some kind of connection.
4. **Know the room.** Arrive early, walk around the speaking area and practice using the microphone and any visual aids you may be using in the presentation. [Now you know why you can greet the audience as they arrive – because you're already there checking things out.....trying to minimize any mishaps.]
5. **Relax.** Easier said than done – but RELAX! The four things I have already mentioned should help you relax. But there are additional relaxation techniques such as slow deep breathing; possibly a brisk walk to loosen up your entire body and get your blood flowing; positive self-talk; and there are many others. The very best thing in my opinion is BE PREPARED. Preparation is key to any good speech.
6. **Realize that people want you to succeed.** Audiences don't want to be bored to death. They want you to be interesting, stimulating, informative and entertaining. They're rooting for you.
7. **Don't apologize for being nervous.** Most of the time your nervousness will not show. If you don't refer to it, most won't notice. "There are only two types of speakers in the world anyway – the nervous and liars."
8. **Concentrate on your message – not the medium.** Your nervous feelings dissipate when you focus your attention away from your anxieties and concentrate on your message and your audience, not yourself.
9. **End with a memorable conclusion.** The conclusion is the final component of your speech or presentation. A speech is structured with an introduction, the body, and the conclusion. The conclusion needs to serve as a review of your message. Those listening tend to remember the last words they hear you say, so it's vital that your key message is restated in your conclusion. As you put the finishing touches on your speech, make sure your presentation comes full circle by relating your conclusion back to your introduction – tie it together. And close with a quote or a story leaving the audience with a visual image of your message. Although your conclusion is short, its significance is important. This is your last chance to drive your message home and leave a lasting impression.

### ***Big Public Speaking Mistakes***

Why is it that intelligent people end up boring their audiences? They fail to recognize that public speaking is an acquired skill that improves with practice and honest feedback. Let me share with you some of the biggest public speaking mistakes.

- **Starting with a whimper.** Do not start with a whimper – a start like the "dead-fish handshake". Start with a bang! Give the audience a startling statistic, an interesting quote, a news headline, a funny story – something powerful that will get their attention immediately.
- **Attempting to imitate other speakers.** Be yourself – although in an enthusiastic way. Authenticity is lost when you are not yourself.
- **Failing to "work" the room.** If you don't take time to mingle before the presentation, you lose an opportunity to enhance your credibility with your listeners.
- **Failing to use relaxation techniques.** If you're nervous and tense do whatever it takes – listening to music, breathing deeply, shrugging your shoulders – to relieve and release nervous tension.
- **Speaking without passion.** The more passionate you are about your topic, the more likely your audience will act on your suggestions.

- **Ending a speech with questions and answers.** It is fine and many times appropriate to have a segment of questions and answers – but, as the speaker, always have the last word. After the Q and A, tell a story that ties in with your main theme, or summarize your key points. Conclude with a quote or call to action.
- **Failing to prepare.** If you don't leave a good impression you have hurt your credibility and failed. So over prepare and rehearse well enough to ensure you'll leave a good impression! "If you don't know what you want to achieve in your presentation your audience never will." [Harvey Diamond]

### ***Testifying in a Legislative Committee or Speaking One-on-One to Legislators***

Much of what I have said already concerning Public Speaking is apropos and can be used, with some obvious modification, in testifying before a legislative committee.

The first thing to remember is that "you are the expert". If you're testifying before a legislative committee on a county government bill – you will probably know more about the subject than anyone sitting on the committee. That should reduce the "fear factor" – but don't let it make you over confident.

Here are a few things to remember when testifying before a committee at the Capitol:

- Don't speak until recognized by the chair. Once recognized introduce yourself, your office and your county. This is required and will become a part of the committee record.
- Be over prepared on the subject matter. Chance favors the prepared mind – so be prepared.
- Don't talk the bill to death. Adequately cover the merits of your bill – or the demerits if you're speaking against a bill. Remember to include a brief introduction, the body or main points pro or con, and a "zinger" but short conclusion – something for them to remember you by.....but don't take too much time.
- Committee members will many times have questions concerning the bill. Answer all questions fully and truthfully.
- In making your presentation before a committee only speak about the bill itself. Stay away from public policy debates. It is the legislature's prerogative to set and establish state policy.
- Don't argue with members or become publicly angry if they toss a few spears your way. Just catch them and go on. That works much more to your advantage. Continue to press your points in a positive manner.
- Gauge the pulse of the committee before testifying. Get to the committee room early. Talk to as many of the committee members as possible. They should know who you are and your mission before you ever sit down to testify.
- Be courteous. Yes, always be courteous – even when you are not treated with the same courtesy.
- When you're finished be sure to thank the Chair and members of the committee for the opportunity to testify.

Earlier I quoted Ralph Waldo Emerson – "Speech is power; speech is to persuade; to convert, to compel." And that is exactly what you want and need to do as county elected officials when you're making a speech; testifying before committee; or simply talking to your constituents or to legislators individually. Use your power to persuade, convert and compel them to understand county issues and to adopt them as priorities.

How do you do that? You know your stuff – and it takes time and study to get there. Remember – (1) Know your material; (2) Practice; (3) Know your audience; (4) Relax; (5) Concentrate on your message; and (6) End with a bang! Always end with a memorable conclusion!

In 1961 Oklahoma's powerful Senator Bob Kerr asked President Kennedy if he could have a few minutes of his time. Kerr was upset that JFK was going to veto the recently passed bill to bar the importation of zinc. Kerr was strongly supported by zinc manufacturers in western Oklahoma. Kennedy received him at the Oval Office with aide Mike Feldman and Ted Sorensen and said, "Bob, I'm sorry but it's a bad bill."

Mr. President, could I speak to you privately? There are a few things you may not understand about the legislation."

"Sure, Bob, but it's not going to change my mind. I've been briefed pretty thoroughly by Ted and Mike."

When Sorensen and Feldman left the room, Kerr drawled, "Mr. President, you are my leader and I will abide by your decision."

"Bob, I appreciate that."

"But, Mr. President, my people were pretty mad when Ike vetoed that same bill, and I'll have to go back to Oklahoma and spend full-time defending your action."

Again the President said, "I really appreciate that."

"But, Mr. President, you understand that means if I'm away in Oklahoma, your tax bill, which lies in the Finance Committee which I chair, will never come to the floor."

"Well, Bob – this is the first time anyone ever really explained the zinc bill to me – I'll sign it."

Like Bob Kerr, I think it is time for county officials to "really explain" the facts - proclaim the county message. You do that through confident speaking. And you become confident by doing it over and over – practice, practice, and practice some more. You persevere and become that dazzling diamond. And we all know that a diamond is simply a piece of coal that stuck to the job! It became something it did not start out to be – and you can, too. You can be a confident speaker! "Aspire to inspire before you expire!"

**A shared point of view –  
By: Eddie A. Jones  
County Government Consultant**

I have heard so many county officials say, “I’m not a politician and I’m not a leader.” Whether you realized it or not – when you took on the mantle of county constitutional officer you shouldered the responsibility of leadership! That’s right, leadership for a certain segment of county government and because of your elected status – leadership as a community leader. Dwight D. Eisenhower, President of the United States when I was a kid in the 50’s, said, “Leadership is the art of getting someone else to do something you want done because he wants to do it”. Leadership is a “learned art”. Leadership is mostly the art of doing simple things very well, including the ability to generate the desire in other people to do their best because of your leadership style.

**1. County Constitutional Officers are the elected leaders of their counties.**

As elected leaders, you are first and foremost expected to lead. After being elected, one quickly learns that leadership in the public sector is different than leadership in the private sector. Leadership in the public sector is truly a team effort. Getting elected to office is one thing – being an effective public sector leader is another.

It is imperative to lead with courage! That means speaking of the “unmentionables” – even taxes or cut backs; making the hard decisions that are known to be politically charged; and speaking the truth about everything.

Followers want leaders who will make the tough decisions and not procrastinate by studying everything to death. They want leaders of principle who take risks to stand for what is right. And they want a climate where truth is not an aberration but is the norm and is not only encouraged but expected. They want leaders who will appreciate such honesty, even about themselves.

**2. Modern day government is complex, demanding, and changing.**

Modern day county government is big business. Serving in public office is very challenging. The needs and demands for services are growing and the resources available are very limited. The laws, rules and regulations are complex and changing. The jobs of County Judge, Sheriff, County Clerk, Circuit Clerk, Treasurer, Assessor, Collector, and Coroner can be complex, demanding, changing, time consuming and often times frustrating. I believe county officials need all the help they can get.

To support and assist county officials in their complex role as leaders, over the years more and more counties have created the positions of Administrative Assistant, or Chief Deputy. One of the main functions of these positions is to help counties function more effectively.

An elected county official should be very deliberate in choosing the “second in command” for their office. Choosing a person with education in public administration and / or years of practical experience in management roles in both the public and private sector will be a great asset to the county.

It is extremely important to be able to trust your “next in command” and all those on your work force. In fact, if you cannot trust the people who work for you – you don’t need them. However, if you trust people, they usually prove you’re right. Breaking out of our natural distrust of people to trust the people who work for us will prove to be a useful and progressive change. It will let us unleash people with talent and let them rise to levels that no one had expected, simply by challenging them.

**3. Leadership starts with a positive attitude.**

Leaders deal with possibilities and hope. The first essential of leadership is to have the desire to lead and make a positive impact. A leader needs self-confidence that he or she can make a positive difference. A leader must have integrity. Like professionals who excel in other fields, I believe leaders need to study leadership to improve their overall effectiveness.

No one is born a leader. Leadership is a learned skill. Learning leadership is easier for some than for others. To quote the scripture of St. Matthew, “If the blind lead the blind, both shall fall into the ditch”. Take the time to learn through reading, through application, through leadership classes and through continuing education offered for your office in county government. Learning helps produce the confidence that every leader needs.

Most of us carry around a satchel full of childhood insecurities. You, as the leader carry that satchel of insecurities and so do those that work for you. How do you want to be treated? I think I know the answer. So, instead of tearing them down to make them into robots – show them that you trust and believe in them. Show me a leader who ignores the power of praise, and I’ll show you a lousy leader. Praise is infinitely more productive than punishment. Ovid, the Roman poet said, “A ruler [leader] should be slow to punish and swift to reward.”

Recall how you feel when your own boss (the electorate) tells you, “Good job.” Do your people and yourself a favor. Say it in person. Press the flesh. When your employees do a good job – tell them. Be an encourager. It is not only good for them, it’s good for you, too. Little things make big successes! Bill Bradley, a professional basketball player when I was in high school and later a U.S. Senator, said, “Leadership is unlocking people’s potential to become better.”

**4. Leadership simplified.**

It’s been said that most organizations are overly managed and under led. Leadership in the simplest form is moving the organization, county, or department forward from Point A to Point B. Point A being the current situation – i.e. facing reality. Where are we today? What’s working well? What’s not working well? What are we not doing we should be doing? What are we currently doing we should not be doing? What are our strengths, weaknesses, opportunities, and threats? Point B being where do we want to go? What is our mission and what are our goals?

Leadership in counties can also be looked at by referencing different levels of leadership:

- Level 4 is looking at the “big picture”: the county’s vision, goals and values, and overall culture.
- Level 3 is developing overall strategy and allocating resources to achieve the goals.
- Level 2 is the overall management of the workforce and day-to-day activities.
- Level 1 is the daily actions of the county’s employees.

Counties need leadership, energy and commitment at all levels. The best leaders take complexity and bring simplicity to it. Let’s call it focus or prioritization, but it is a quality that county leaders need to have.

#### 5. Running a county is a team effort.

All effective teams have three elements in common. Let’s call them the ABC’s of an effective team.

- A. They have clearly defined goals.
- B. They have clarified roles, responsibilities, and expectations.
- C. They have positive working relationships.

Getting results in a well-run organization consists of three steps. Step 1 is defining the goals to be achieved. Step 2 is developing action plans to achieve the goals. And, Step 3 is implementing the plans.

Who gets all this done – the leader or the team? It takes the leader and the others – which make the team. Credit should not normally go to one person. Jealousy and envy are powerful emotions and, if acted upon, can cause serious problems. Leaders must always watch out for them. A jealous leader may behave in ways that inhibit and paralyze his or her subordinates, who eventually turn off, tune out and shut down. The antidote lies in making the people who work for you know they are needed and highly valued. Help them believe in that wonderful old truism, “A rising tide lifts all boats.” A county’s success is a collective achievement.

#### 6. Improving the effectiveness of the county team.

We are all a work in progress. Improving the effectiveness of county government requires a team effort. The County Judge (the Chief Executive of the county), the other county constitutional officers (the rest of the Executive team), and the Quorum Court (the legislative arm of county government and guardian of the public purse) need to do a better job of clarifying goals and roles, and working together as a team.

The Quorum Courts need to spend more time on major issues and less time on minor issues. More time being visionary and looking at the big picture developing consensus on goals and collaborating with other units of government, and less time micromanaging.

County Constitutional Officers, Chief Deputies, and Department Heads all need to continually work on broadening leadership knowledge and improving leadership skills and focusing on carrying out policy and delivering service as determined by the state and county legislative bodies.

#### 7. Leaders have certain competencies.

The very best leaders possess two competencies: ***a resolute and unflinching focus on the purpose of the organization [county] coupled with a deep sense of humility*** – according to Jim Collins in his widely acclaimed book *Good to Great*. That’s all. The leadership competency that is valued above all others is that of discipline – self-discipline and organizational discipline to understand and to keep focused on the purpose of county government in general and your office in particular and to resolutely eschew arrogance in favor of humility. Arrogant self-promotion in a leader will always be a stumbling block for results.

Although I have talked much about the “team effort” and the “county team” – there are a couple of things that the leader needs to focus on being competent at that no one else can do. One is to **grow the next generation of leaders** for county government. Putting people in challenging and different work situations and coaching them is something only a leader can do. Be a mentor, be a teacher, and above all things be an example.

The leader should also **shape the culture of the office**. The basic assumptions of how things work here, what is important, what is valued, what differences there are between the values espoused and actually lived out by the leader – these are all elements of organization culture. It is the leader’s job to understand what the workplace culture is, how to change it if necessary, and then use that culture toward excellent performance for the service of others. The workplace culture either makes or breaks the organization. A good culture provides the impetus for employees to give their all and do their best.

#### 8. Skills and attributes of the leader.

A long list of skills and attributes of the real leader could be developed. Any list would probably include things like: consensus builder; team builder and mentor; change agent; facilitator; bearer of ethical standards; and champion of new technologies. I must mention something that many would leave off the list – but that I believe to be of utmost importance.

General Bill Creech who revolutionized the Air Force approach to quality expressed his view of how to lead people by one simple maxim: ***let your people know that you care about them, that you love them***. With it, you have great latitude for forgiveness; without it, nothing else is important in leading people. Take interest in your workers as real people – not just employees. The point is have the self-discipline to express sincere care about others. Be the kind of leader that people would follow voluntarily; even if you had no title or position.

As you answer the challenges of leadership in your county and as you continue to develop yourself as a leader, remember the words of John Maxwell, “A leader is one who knows the way, goes the way, and shows the way.” This type of leader produces other leaders by leaving behind other men and women with the conviction and will to carry on. Best of success with your journey toward improved leadership and county effectiveness.

That’s my point of view!

---

### **Coroner Training Would Benefit All Citizens**

**By: Mark Whitmore**

## AAC Chief Counsel

Will Rogers once quipped: "Even if you are on the right track you will get run over if you just sit there". The Arkansas General Assembly and the Arkansas Coroners Association have been on the move and on the right track in improving death investigations in Arkansas. In recent years the Arkansas General Assembly updated the Arkansas Code in death scene investigation and reporting: deaths, child maltreatment and adult maltreatment. The legislature has been attentive to the needs for disposition of the dead while extending the abilities for anatomical gifts and passed the "Revised Anatomic Gift Act". The 87<sup>th</sup> General Assembly sought progress in coroner training by establishing the Arkansas Coroner's Advisory Task Force Board and the board has made recommendations for the development of standards and training for proper and thorough death investigations and reports. However, needs for in-state training for coroners and deputy coroners remain unaddressed. Coroners and deputy coroners in Arkansas are responsible 24/7 for promptly responding to death investigations including crime scenes or scenes of suspicious deaths. Coroners can make a difference for families in determining the cause of death from insurance proceeds to generic predispositions of siblings.

The citizens of Pope County value the training their coroner applied. Leonard Krout noticed a sharp rise in overdoses- from two a year to as many as 12 or 14. Observing the dramatic increase in deaths from overdoses of local teenagers, young adults and adults in Pope County prompted Krout to start putting two and two together; his training led him to suspect that a local physician was over-prescribing drugs. Federal authorities began an investigation and that physician has since lost his license and been convicted.

How many lives of children and other citizens of Pope County were saved by the actions of properly trained county and federal officials in this instance alone?

You may be surprised that Pope County Coroner Krout acquired the training in forensic science necessary to competently perform his job primarily from classes out of the state of those periodically offered in Arkansas.

To date the in-state classes have been primarily through the State Crime Lab from part of their budget obtained from Paul Coverdell Forensic Science Grants. However, there are no established courses or hours of educated credits offered in Arkansas.

Kermit Channell, Executive Director of the Arkansas State Crime Laboratory, says that it is important that coroners in Arkansas have access to in-state forensic science training. However, the training provided from federal grants is limited, tenuous and must be used to train all Crime Laboratory employees, including the medical examiners. It would be extremely surprising if other states do not have established standards and provide for in-state training for their coroners and deputy coroners.

During the 2011 regular session the 88<sup>th</sup> General Assembly attended to the need for 911 dispatcher training to be available in Arkansas and passed HB 1741 sponsored by Rep. Uvalde Lindsey, Act 640 of 2011. Similarly, the 87<sup>th</sup> General Assembly adopted legislation to provide funding for jail operations and jailer training in Arkansas by virtue of passing HB 1382 sponsored by Rep. Barry Hyde, Act 209 of 2009. The public benefits from the in-state training provided for law enforcement, jailers and soon to be available for 911 dispatchers. However, there are pressing needs for in-state training and for updating our laws on cremations. HB 2175 sponsored by Rep. Darren Williams during the 2011 Regular Session sought to address these needs.

Faulkner County residents also realize that a well-trained coroner can make a difference. Over a half a dozen infant deaths occurred in Faulkner County in which most of the babies did not die from terminal illness. Faulkner County Coroner Pat Moore determined most of these disturbing infant deaths were caused by accidental overlay, or sleeping with adults. These deaths were tragic and preventable. So, Moore started a public awareness campaign and met with local medical professionals to assure that parents of newborn babies are alerted to the dangers of sleeping with babies. As a result, a new procedure has been established at a local hospital to provide this education to parents.

Furthermore, it is important that during times of crisis the dead are located and recovered with dignity. The killer tornado that hit Joplin, Missouri resulted in mishandling and misidentification of dead persons. The Arkansas Department of Emergency Management, the county Judges Association of Arkansas and the Arkansas Department of health are working together on establishing a mass fatality resource inventory and forming mutual aid agreements. This important emergency management project seeks to assure mass transit accidents such as trains, buses, planes or boats (or "white ducks") make mass casualty readiness vital. **(Mass fatality resource inventory and mutual aid agreement A.C.A. § 14-15-309)**

None of us want to think about an earthquake arising from the New Madrid Fault. Can it be said we are ready for the next mass casualty even? Coroner mass casualty training and readiness are important, yet sadly lacking.

Each year approximately 28,000 deaths occur in Arkansas. The day-to-day investigation and reporting of so many deaths is a massive undertaking that most citizens likely take for granted. Some of the deaths are the result of crime; sometimes the bodies hold the key evidence and must be exhumed to solve murder cases. Loose guidelines permitting hasty cremations are a related problem when it comes to solving a crime and perhaps bringing a murderer to justice. Nationally, cremations comprise almost 40% of the dispositions. In Arkansas the figure is about 21% and rising. Many states have passed legislation regarding cremations to assure an opportunity to conduct a proper death investigation has been afforded prior to destruction of the body and potential evidence. Arkansas has no such law! It is estimated that by 2025 that the percentage of cremations will more than double.

HB 2175 is filed by Representative Darren Williams with the Interim House Committee on City, County and Local Affairs as Interim Study Proposal 2100-024. HB 2175 seeks to make much-needed progress in providing necessary in-state training, certification of coroners and deputy coroners, mass fatality readiness, and to address issues with cremations.



It is imperative we provide our coroner and deputy coroners the tools necessary to perform their statutory duties. Please contact your State Representative and Senator and ask for their support for HB 2175.

### **A Look at deaths, funerals and cremations in Arkansas**

Most of us enjoy a little death and mayhem – when it is confined to movies and television shows like CSI New York. Who doesn't count Goth forensic expert "Abby" as one of their favorite TV characters?

But perhaps in keeping with our aversion to aging, and the idea of dying, we don't enjoy looking too deeply into the business of death. And when it comes to the work of our local coroners, we don't ask too many questions- perhaps assuming (wrongly!) that they all have Abby's tools, training and resources. The truth is, training and equipment are generally less than "state of the art". Arkansas Coroners, currently doing their best with very limited resources, would benefit tremendously from a modest baseline for in-state training. This is especially true as the popularity of cremation increases.

Dr. William L. Mason, Branch Chief/ Preparedness and Emergency Response, and Associate Director for Science as the Arkansas Department of Health's Center for Health Protection, provided AAC with some enlightening statistics on a dark subject- deaths in Arkansas.

Arkansas statistics: 27,901 deaths per year. That's 76.44 people per day, or 3.185 people per hour.

Cremations are also increasing each year. It's around 21 percent in Arkansas. Cremations in northern states are higher, but southern states are having a lot more cremations in recent years. In the 1950s, 4 percent of bodies were cremated. In 2007, the cremation increased to 35 percent of funeral nationally. By 2025 they are projected to increase by 59 percent.

Dr. Mason says he knows of only two or three home burials each year. "It's possible there are a few more where I'm not contacted, but these are rare." Some of the unknown or "Pending" dispositions may be where a "John Doe" is at the Medical Examiner's office or at a Coroner's office, and they are holding the body since no one will claim it. The death certificate still must be filed, so disposition will be "Other" and "pending" will be written on the specify line for "Other".

Removal from State usually means the body is removed from Arkansas and then buried or cremated in another state. In a few cases it will mean something else will be done to the body, per that state's law. For example, cryogenics. Also, some states have "green" cemeteries, where the body is placed upon the ground somewhere within the cemetery and allowed to naturally decay. "I believe a few states may allow Native Americans to burn the body per their culture," said Dr. Mason. "There's also buried at sea. And there's a process where cremains are shot into space, but the disposition on these would be cremation," he noted.

A few of the "Pending" dispositions could be where family is bickering, and the funeral director is stuck in the middle. This happened with the famous baseball player, Ted Williams. If a funeral director files a certificate like this hopefully s/he will correct it in the future once the family has decided on a final disposition, said Dr. Mason. Nationwide, it is expected that cremations will increase to 38% by 2010 and to 51% by 2025.

---

## ***Fraud and Ethical Lapses – There's No Place for It***

***By: Eddie A. Jones***

***County Government Consultant***

### **Working for the People is a Public Trust**

Government fraud, in essence, refers to illegal acts that intentionally divest the government of funds through deception or scams. When the government gets swindled, taxpayers pay the price.

In my opinion, government fraud is a serious crime and should be pursued to the fullest extent of the law. In many government fraud cases, both criminal and civil charges are brought against the defendant. As Thomas Jefferson said, "When man assumes a public trust he should consider himself a public property."

In the past couple of years ethics violations, criminal investigations and criminal charges have become more common in Arkansas government – both at the state and local levels. This should not be! As elected officials and employees of government you are keepers of the public trust – a public trust created by a strict code of conduct that is a part of law.

Since I have a county government background, most of what I say in this article is directed toward county officials and employees – but, in many cases would be applicable to other levels of government.

Arkansas Code Annotated 14-14-1202 establishes in law "ethics for county government officers and employees." The initial sentence of that law simply says, "The holding of public office or employment is a public trust created by the confidence which the electorate reposes in the integrity of officers and employees of county government." So, not only are county officials bound by an ethics code – but employees are, too.

This law goes on to set forth the "Rules of Conduct" and establishes the procedure for removal from office or employment. In my opinion, the breach of this "public trust" by an elected official should cause an immediate rendering of a resignation.

There is no place in government, at any level, for anything but the highest ethical standards, a strong work ethic, and a heart for service.

### **Fraud Increases during an Economic Downturn**

One of the most recent reports released by the Association of Certified Fraud Examiners (ACFE) estimated that U.S. organizations lose 5% of their annual revenues to fraud. Workplace fraud schemes occur across all types of organizations including corporations, small businesses, not-for-profit organizations and government.

I do not believe internal fraud or employee theft is widespread in Arkansas county government – because I believe that for the most part county elected officials and county employees are people of integrity. However, sadly it is not uncommon anymore to read the morning paper or hear a news report concerning an elected official or employee who has been charged with some type of fraud crime.

As a county constitutional officer, the last thing you want to have happen under your watch is theft of county funds. Some think, “It would not happen in our community.” Unfortunately, *it* happens. And, when it does occur, it can be traumatic for the community where it occurs. Therefore, to be proactive and prevent theft and fraud, it is important to have sound internal controls in place.

In an economic downturn, studies show that there is an increase in fraud. County officials play an important role in ensuring that proper internal control policies and procedures are developed and consistently implemented to protect tax dollars. You want to implement procedures that reduce the risk of theft and increase the chance of early detection. A county official that has no desire or sees no need in implementing proper internal control policies will bear watching.

It is bad enough when an employee commits fraud – but when an elected official commits fraud it is the epitome of hypocrisy. A person who runs for office has actually asked the public to vote for them – to put their trust in them. You have both a moral and legal obligation to serve with integrity. Your constituents deserve officials they can trust and depend on to always do the right thing.

### **Types of Theft and What to Watch For**

The most commonly reported offenses in the government and public administration sector, according to ACFE, were billing schemes, skimming, theft of non-cash assets, theft of cash on hand, procurement fraud, payroll fraud and expense reimbursement fraud. Sound familiar?

- In billing schemes, the person causes the government to issue a payment by submitting invoices for fictitious goods or services, inflated invoices, or invoices for personal purchases. An example would include “phantom vendors” – where a person creates a shell company and bills the employer for nonexistent services.
- “Skimming” involves taking cash before it is recorded on the books and records. An example would be an official or employee accepting payment from a customer but not recording the payment and keeping the cash.
- “Theft of cash on hand” cases refer to taking cash kept at the government office.
- “Theft of non-cash assets” include the taking or use of county property for personal use. This would include taking office supplies, janitorial supplies, equipment, postage, and the list goes on. If it is county property it is not the property of an official or employee for personal use or personal gain.
- An example of “procurement fraud” is a company using bribes to win a contract even when it did not make the lowest or best bid. Or it could include billing the county for incomplete work, inflating the cost of labor or supplies, and issuing kickbacks. [These schemes can get rather elaborate and do not seem to be as prevalent as they were in years past.]
- “Payroll fraud” includes claims of overtime or comp time for hours not actually worked, or the addition of “ghost employees” to the payroll. Payroll fraud can get very complicated and creative. There are counties that can vouch for the creativeness of payroll fraud.
- Expense reimbursement cases include filing false expense reports, claiming nonexistent meals, mileage, etc.

Theft and fraud may take several forms. It may be as simple as an official or employee writing a check to himself/herself, but recording in the county records that the check was written to a vendor. It may involve a failure to deposit all county funds into county accounts. It may involve submitting personal expenses as employee expenses, or altering invoices presented to the county for payment. The most common fraud for small organizations involves check tampering. This occurs when only one individual has access to the checkbook and also the responsibility for recording payments and/or reconciling the bank statements. Small office operations, where a limited staff can make it difficult to segregate duties, can be particularly susceptible to this type of fraud.

You may think these types of things don’t really happen – but they do! Sometimes they happen because – frankly some people are not honest. Others are in dire straits financially and they think they’ll just “borrow” a little for a while. Of course, even these normally trustworthy people have a lapse in “honesty” or they would not steal. As George Knight said, “Dishonesty is never impulsive.”

It has been said many times that we almost force our local and state officials to be dishonest because we pay them so little for what we expect from them. While this may be true anecdotally and low pay in many areas should be addressed – this situation should never be the reason for doing wrong.

### **How Fraud Happens**

An ACFE study confirmed that in fraud, the more authority a person has, the greater the loss. This makes sense because a person with more authority has greater access to resources and the greater ability to override controls in order to conceal the fraud.

The study also found a direct correlation between the length of time an employee has been employed and the size of the loss. An employee’s tenure is likely related both to trust and to opportunity. The more trust placed in an employee, the

greater the person's opportunity to commit fraud. Long-term employees may also be the most familiar with gaps in the office operations and controls, which may help them avoid detection more easily.

Of course, every organization wants to have some long-time, trusted employees – but when the public trust is at stake everyone must be accountable.

### **Procedures to Reduce the Risk of Theft**

To reduce the risk of theft, every county should implement basic safeguards. *An environment of accountability should be created.*

**Segregation of Duties.** Simply put, no official or employee should be in a position to commit an irregularity and then conceal it. To help prevent that from happening, responsibilities in financial transactions should be divided amongst more than one person, or segregated. An example of segregation of duties taken from everyday life is a movie theater, where one person sells tickets and another person collects the tickets. This separation of duties helps prevent the person selling the tickets [the one handling the money] from: (1) collecting the price of the ticket, but allowing entry without a ticket – allowing the ticket seller to pocket the ticket payment without being detected; or (2) allowing entrance without the purchase of a ticket.

Examples of incompatible duties that should be performed by separate individuals are:

- Receipting collections, posting collections and making bank deposits;
- Signing checks and reconciling the bank accounts.

Even with personnel cuts, financial duties should remain segregated. Counties may need to be creative and segregate duties by involving employees who have not previously played a role in financial transactions. For those offices with only two employees – the official and one employee – regularly switch office duties and look over each other's work. With offices with only one person – well, just remember you have been entrusted to do what is right. Don't mess it up!

**Internal Control Procedures.** Many internal control procedures are common-sense methods used to track county funds. Here are a few procedures that may help prevent thefts or allow earlier detection of thefts:

- Have checks written to the county;
- Endorse checks for deposit as they are received;
- Make daily deposits;
- Reconcile receipts with deposits;
- Contact your bank or banks to: prohibit cash withdrawals and check cashing from the county account, and be sure authorized signatures are up-to-date;
- Do not pre-sign any checks;
- Reconcile bank statements regularly. With on-line banking you can do it daily in a matter of minutes; and
- Require detailed original receipts for the reimbursement of employee expenses.

And remember, under Arkansas law, financial institutions must provide government entities either the cancelled checks or optical images of both the front and back of the checks. By comparing the cancelled checks with your financial records, discrepancies may be detected.

Internal control procedures help reduce the opportunity for fraud to be committed.

### **Red Flags in Detecting Theft and Fraud**

Theft can result from poor segregation of duties. Possible indicators of theft, or "red flags", include instances when an employee:

- Takes records home;
- Takes on duties that should be segregated;
- Works hours when others are absent;
- Refuses to take vacations or time off.

Theft can also result from noncompliance with internal control procedures. Some red flags to watch out for:

- Submitting copies, rather than original invoices for payment, may indicate that an altered document is being submitted;
- Deposits are late;
- Receipts are not reconciling with deposits;
- Checks are written out of sequence.

Most fraudsters in government are first time offenders with clean employment histories. The vast majority of fraudsters in county government had never before been charged or convicted of a fraud-related offense and had never been punished or terminated by an employer for fraud-related conduct. It is noteworthy that most who are charged with some type of theft or fraud displayed one or more behavioral red flags that are often associated with fraudulent conduct. The most commonly observed behavioral warning signs are these:

- Living beyond means;
- Financial difficulties;
- Unusually close association with vendors or customers; and
- Excessive control issues.

Situations involving cash transactions present special risks and require extra diligence. Even small offices or departments must implement basic safeguards to reduce theft.

### **Exposing Fraud**

Frauds are generally ongoing crimes that can continue for months or even years before they are detected. According to the report issued by the ACFE frauds reported lasted a median of 18 months before being detected. Some of you may remember an incident in Arkansas county government that happened a number of years ago. A county official took a large amount of money on a year-end transaction for ten years in a row before being detected by the Division of Legislative Audit. An audit procedure was put in place after that which keeps that type of fraud from going undetected.

The most common method of detecting fraud is by a tip or complaint – when another person becomes suspicious of fraudulent activity and notifies someone. Frauds are also detected by internal and external audit, internal controls, and even by accident. While external audits, such as the ones Arkansas counties are subject to by the Division of Legislative Audit, serve an important purpose and can have a strong preventive effect on potential fraud, their usefulness as a means of uncovering fraud is somewhat limited. In other words, don't rely on the audit as your primary fraud detection method. Among the most effective internal controls a workplace can employ are *job rotation* and *mandatory vacation*.

The study and report also showed that over half of the tips were from fellow employees. This reinforces the need for county government to maintain open channels of communication so employees are comfortable bringing forward their concerns. I do understand, however, that when the fraud is being perpetrated by the county official the willingness of the employee to come forward is somewhat dampened – but it is still the right thing to do.

Fraud is preventable and can be stopped through strong internal controls and internal and external audits. Fostering an atmosphere of open communication with county staff can also be a strong measure to prevent and detect fraud. I have always heard “honesty pays” – but, according to Kin Hubbard, “it doesn't pay enough to suit some people.” And because of that it behooves us all in government to spend the extra time and make the special effort to guard the public treasury in order to preserve the public trust.

### **A Special Note to County Officials**

I served as an elected county official for many years, so I understand the gargantuan responsibility – the load you must bear. Many times without proper compensation for the job and too many times without a sufficient appropriation to properly carry out the functions of your office. But you have sworn to carry out the duties of your office and to uphold the laws of this country, this state and your county. To do that you must know what the laws are.

The laws governing Arkansas county government are expansive and to know the law it takes relentless study. Learning the law and applying the law are two different things. Learning the law is attained knowledge – but it takes wisdom to apply it correctly and efficiently and impartially. It takes effort, but seek wisdom – search for it. Wisdom is simply the proper application of knowledge. Knowing the law that governs you and the laws that you are to administer in the operation of your office will keep you from making ethical missteps and be a reminder of the public trust reposed in you. As Davis Starr Jordan, founding president of Stanford University said, “Wisdom is knowing what to do next; virtue is doing it.”

Serving as an elected county official is a sacred responsibility and your personal and professional integrity should be paramount. Even if you don't get caught doing wrong – you have still done wrong and broken the trust the people have placed in you. And, as the old saying goes, “Men are not punished for their sins, but by them.” No truer words have ever been spoken than the words of Martin Luther King, Jr. when he said, “The time is always right to do what is right.”

*“Every job is a self-portrait of the person who does it. Autograph your work with excellence.”*

## **Chapter Eight – FAQs**

This section presents the FAQs (Frequently asked questions) in general and specifically for each elected position. Please refer to the Association of Arkansas Counties website for the complete answers to the questions presented. (<http://www.arcounties.org/faq/general-faqs>)

### **General FAQs:**

Do county elected officials and county employees receive retirement credit for a bonus or lump sum payment?

Who in county government is responsible for maintaining custody of the titles to county owned vehicles and equipment?

Is county government exempt from paying sales taxes?

Is a county liable for paying the normal fees to a county employee for serving as a juror or a prospective juror? If so, is the county allowed to deduct those fees from the regular salary of the county employee? Does the county have to bear all of the cost?

May a retiring county official or employee keep county health care insurance coverage upon and during retirement? Can they keep dependent coverage and is it mandatory for the county to allow retirees continued health care insurance coverage?

### **County Judge FAQs:**

Why do counties of Arkansas pay workers compensation premiums for volunteer firefighters since they are not employees of the county?

Is it correct that a county can only appropriate 90% of the anticipated revenues of the county each year and, if so, why? What happens to the 10% of the revenue that is not appropriated?

Can 911 revenues be used for anything other than equipment and salaries?

On what property can a county levy taxes? Is there a maximum amount of tax that a county can levy? Do the registered voters of a county have to approve the tax levy?

Who in county government is responsible for maintaining custody of the titles to county owned vehicles and equipment?

What does Arkansas law say about the establishment and use of the County Clerks Cost Fund?

What is the proper procedure for the establishment and use of the County Collectors Automation Fund?

Is it a requirement of law for a county to fund a county jail operation and what are some of the main sources of revenue for county jail operations?

Real property reappraisals are required to be conducted on a cyclical basis by county governments in Arkansas. What is the history of these reappraisals and how are the reappraisals paid for under current law?

What sources of revenue are produced by the Sheriff and identify any Special Revenue Funds that are used for the Sheriffs operation and how the revenue is generated for these special revenue funds?

How many years can a county legally go back to make a refund of property taxes paid in error?

How many years can a county legally go back to make a refund of property taxes paid in error?

Counties are sometimes told they cannot pay late charges or a penalty on overdue bills. Is it true that counties cannot pay penalties on bills that are past due?

The District Court system is one for which both counties and municipalities have financial responsibilities. What is the financial responsibility of county government as it concerns District Court?

What is a county's financial responsibility in the cost of the operation of a public defender's office?

Since County General funds are transferred to other county funds to supplement the operations of particular county funds, such as the Road and Bridge Fund is it legal to transfer Road and Bridge funds or money from other county funds to County General to supplement general operations?

Does the Quorum Court have any authority to add extra duties to the established duties of county constitutional officers and if so is there any limitation on that authority?

Can a quorum court set salaries of elected county officials as long as the salary is between the minimum and maximum set by the legislature even they choose to decrease the salaries?

#### **County Clerk FAQs:**

What does Arkansas law say about the establishment and use of the County Clerks Cost Fund?

Counties are sometimes told they cannot pay late charges or a penalty on overdue bills. Is it true that counties cannot pay penalties on bills that are past due?

The District Court system is one for which both counties and municipalities have financial responsibilities. What is the financial responsibility of county government as it concerns District Court?

What is a county's financial responsibility in the cost of the operation of a public defender's office?

Since County General funds are transferred to other county funds to supplement the operations of particular county funds, such as the Road and bridge fund is it legal to transfer Road and bridge funds or money from other county funds to County General to supplement general operations?

Is it a requirement of state law that the County Clerk and County Treasurer jointly reconcile the expenditures of the county each month?

#### **Circuit Clerk FAQs:**

Is a county liable for paying the normal fees to a county employee for serving as a juror or a prospective juror? If so, is the county allowed to deduct those fees from the regular salary of the county employee? Does the county have to bear all the cost?

What is the proper method for the establishment and operation of the County Recorders Cost Fund?

#### **Treasurers FAQs:**

What is excess commission and is the term actually found in Arkansas code? If so, what is the basis for calculating and distributing excess commission and who is responsible for seeing that the task is performed?

When a county receives unclaimed property proceeds from the Auditor of States office, which county fund should it be receipted to, how can the money be used, and does the county have any future liability for the unclaimed proceeds?

What funds are devoted to the Treasurers Automation Fund and what are considered legal expenditures from this fund?

What is the proper method for the establishment and operation of the County Recorders Cost Fund?

What does Arkansas law say about the establishment and use of the County Clerks Cost Fund?

What is the proper procedure for the establishment and use of the County Collectors Automation Fund?

Is it a requirement of law for a county to fund a county jail operation and what are some of the main sources of revenue for county jail operations?

Is it a requirement of law for a county to fund a county jail operation and what are some of the main sources of revenue for county jail operations?

Real property reappraisals are required to be conducted on a cyclical basis by county governments in Arkansas. What is the history of these reappraisals and how are the reappraisals paid for under current law?

What sources of revenue are produced by the Sheriff? Identify any Special Revenue Funds that are used for the Sheriffs operation and how the revenue is generated for these special revenue funds.

How many years can a county legally go back to make a refund of property taxes paid in error?

How many years can a county legally go back to make a refund of property taxes paid in error?

Counties are sometimes told they cannot pay late charges or a penalty on overdue bills. Is it true that counties cannot pay penalties on bills that are past due?

The District Court system is one for which both counties and municipalities have financial responsibilities. What is the financial responsibility of county government as it concerns District Court?

What is a county's financial responsibility in the cost of the operation of a public defender's office?

Since County General funds are transferred to other county funds to supplement the operations of particular county funds, such as the Road and Bridge Fund is it legal to transfer Road and Bridge funds to money from other county funds to County General to supplement general operations?

Can a quorum court set salaries of elected county officials as long as the salary is between the minimum and maximum set by the legislature even if they choose to decrease the salaries?

Is it a requirement of state law that the County Clerk and County Treasurer jointly reconcile the expenditures of the county each month?

#### **Assessor FAQs:**

On what property can a county levy taxes? Is there a maximum amount of tax that a county can levy? Do the registered voters of a county have to approve the tax levy?

Assessors in Arkansas receive funding from the end-of-the-year certified excess funds in the State Property Tax Relief Fund. How should these funds be handled at the county level? If the county level fund has a balance at the end of the year does it carry over?

Real property reappraisals are required to be conducted on a cyclical basis by county governments in Arkansas. What is the history of these reappraisals and how are the reappraisals paid for under current law?

**Sheriff FAQs:**

Can 911 revenues be used for anything other than equipment and salaries?

Is it a requirement of law for a county to fund a county jail operation and what are some of the main sources of revenue for county jail operations?

What sources of revenue are produced by the Sheriff? Identify any Special Revenue Funds that are used for the Sheriff's operation and how the revenue is generated for these special revenue funds?

**County Lines FAQs:**

How do I subscribe to County Lines Magazine?

How do I submit news and story ideas for County Lines, the AAC's quarterly magazine?

**Justice of the Peace FAQs:**

On what property can a county levy taxes? Is there a maximum amount of tax that a county can levy? Do the registered voters of a county have to approve the tax levy?

Is it correct that a county can only appropriate 90% of the anticipated revenues of the county each year and, if so, why? What happens to the 10% of the revenue that is not appropriated?

Can a Justice of the Peace be paid a monthly salary for serving the county as a district official? In addition to serving as Justice of the Peace, can a Justice be paid for serving as an employee of the county or for any other service performed for the position?

What does Arkansas law say about the establishment and use of the County Clerks Cost Fund?

What is the proper procedure for the establishment and use of the County Collectors automation Fund?

Is it a requirement of law for a county to fund a county jail operation and what are some of the main sources of revenue for county jail operations?

Real property reappraisals are required to be conducted on a cyclical basis by county governments in Arkansas. What is the history of these reappraisals and how are the reappraisals paid for under current law?

What sources of revenue are produced by the Sheriff? Identify any Special Revenue Funds that are used for the Sheriffs operation and how the revenue is generated for these special revenue funds.

Does the Quorum Court have any authority to add extra duties to the established duties of county constitutional officers and if so, is there any limitation on that authority?

Can a quorum court set salaries of elected county officials as long as the salary is between the minimum and maximum set by the legislature even if they choose to decrease the salaries?

**County Collectors FAQs:**



On what property can a county levy taxes? Is there a maximum amount of tax that a county can levy? Do the registered voters of a county have to approve the tax levy?

What is excess commission and is the term actually found in Arkansas code? If so, what is the basis for calculating and distributing excess commission and who is responsible for seeing that the task is performed?

What is the proper procedure for the establishment and use of the County Collectors Automation Fund?

How many years can a county legally go back to make a refund of property taxes paid in error?

How many years can a county legally go back to make a refund of property taxes paid in error?

Do personal property taxes have to be collected at the same time that real estate taxes are collected? If so, are there any exceptions?

May a newspaper charge for other parts of the required publication of delinquent taxes, such as headers and etc., in addition to the legal fees of \$1.50 per tract per insertion for delinquent real estate and \$1.25 per name per insertion for delinquent personal?

## Chapter Nine - GLOSSARY OF TERMS

**ABDOMEN**- Portion of the body between the Thorax (Chest) area and the Pelvic area.

**ABORTION** - Uterus empties itself prematurely; Criminal abortion is a willful production of a miscarriage of a woman who is pregnant, whether by administering drugs, or using instruments, or by any other means not authorized by law.

**ABRASION** - Injury in which there is a wearing away of the skin in small shreds by friction.

**ACCIDENT** - An unforeseen occurrence, especially one of an injurious character.

**ADHESIONS** - Normally found at a previous operation scar where the tissues adhere to the skin.

**ADIPOCERE** - Peculiar waxy substance formed during the decomposure of animal bodies buried in moist places. It consists principally of insoluble salts of fatty acids – also called "Grave Wax" (soap-like appearance).

**ACUTE** - Sharp or severe.

**AMNESIA** - Lack or loss of memory, especially in remembering past experiences.

**ANATOMY** - Study of the structure of the human body.

**ANESTHETICS** - A group of drugs capable of producing either localized or general loss of sensation. Example: (1) chloroform, heavy, colorless liquid with a characteristic odor and taste; (2) ether, colorless, volatile liquid with penetrating odor.

**ANEURYSM** - A sac formed by the dilation of the walls of an artery or of a vein and filled with blood.

**ANGINA** - Spasmodic pain in chest caused by sudden decrease of blood supply to the heart muscle.

**ANTE-MORTEM** - Before death.

**ANTERIOR** - The front.

**ANTIDOTE** - A remedy for counteracting a poison.

**ANTITOXIN** - A substance found in the blood serum and in other body fluids which is specifically antagonistic to some particular toxin.

**ANUS** - The distal end and outlet of the alimentary canal.

**AORTA** - The great trunk artery which carries blood from the heart to be distributed by branch arteries through the body.

**ARACHNOID MEMBRANE** - Thin covering of the brain and spinal cord.

**ARSENIC** - A medicinal and poisonous element; a brittle lustrous, gray solid with a garlic odor.

**ARTERY** - Any one of the vessels through which the blood passes from the heart to the various parts of the body.

**A.S.H.D.** - Arteriosclerotic heart disease. Hardening of the arteries (old age), or by accumulation of fat in the arteries.

**ASPHYXIA** - Suffocation.

**ASPIRATION OF VOMITUS** - Breathing or drawing in vomits into the respiratory tract, blocking same.

**ASTHMA** - Wheezing and coughing, usually caused by allergies affecting the bronchi or air passages in the lungs.

**AUTOPSY** - The internal examination of a body after death.

**BARBITURATES** - Prescribed medicines by doctors. Common in suicide by overdose.

**CADAVERIC SPASM** - Stiffening and rigidity of a single group of muscles occurring immediately after death.

**CARBON MONOXIDE (CO)** - A colorless, odorless, very toxic gas, formed by burning carbon or organic fuels.

**CARBON DIOXIDE (CO<sub>2</sub>)** - A heavy, colorless gas. Oxidation or carbon, forms in tissues and eliminated by the lungs.

**CARCINOMA (Ca)** - Cancer. This will usually be defined by the portion of the organ or body affected.

**CARDIO** - A combining form denoting relationship to the heart.

**CARDIOVASCULAR** - Pertaining to the heart and blood vessels.

**CARTILAGE** - The gristle or white elastic substance attached to articulator bone surface and forming certain parts of the skeleton.

**CASTRATION** - Removal of the gonads (primary sex organs).

**CAVITY** - A hollow place or space.

**CEREBRAL** - Pertaining to the cerebrum, which is the main portion of the brain occupying the upper part of the cranium.

**CERVICAL** - Pertaining to the neck.

**CHRONIC** - Sickness of long duration.

**CIRCULATION** - Movement in a regular course; as the circulation of the blood.

**CIRRHOISIS** - A disease of the liver, marked by progressive destruction of liver cells.

**COAGULATE** - To cause or to become clotted.

**COLON** - That part of the large intestine which extends from the cecum to the rectum.

**COMATOSE** - Unconsciousness. No response to any stimuli. NOTE: the person is not dead.

**CONGENITAL** - Existing at or dating from birth.

**CONTRECOUP** - Injury to part of the body (generally the brain) caused by a blow the opposite side - occurs frequently in falls.

**CONTUSION** - Bruise as a result of rupture of the blood vessels.

**CONVULSION** - A violent, involuntary contraction or series of contractions of the voluntary muscles.

**CORONARY** - A term applied to vessels, nerves, ligaments.

**CORPSE** - The dead body of a human being.

**CRANIOTOMY** - To operate on the head, brain surgery.

**CRANIUM** - The skull or brain pan.

**CULPABLE** - Meriting condemnation or blame.

**CYANOSIS** - Blueness of the skin, often due to cardiac malformation causing insufficient oxygenation of the blood (increase in carboxyhemoglobin)

**DECOMPOSITION** - The separation of compound bodies into their constituent principles - post-mortem degeneration of the body.

**DEGENERATION** - Deterioration.

**DELIRIUM** - A mental disorder marked by illusions, hallucinations, physical restlessness and incoherence.

**DEPRAVED** - Perverted.

**DETERIORATE** - To become worse - impairment.

**DIAGNOSIS** - The art of distinguishing one disease from another.

**DIAPHRAGM** - The musculomembranous partition that separates the abdomen from the thorax.

**DISARTICULATION** - Amputation or separation of a joint.

**DISEASE** - Any departure from a state of health: illness or sickness.

**DISINTERMENT** - Digging up a body after burial.

**DISTAL** - Remote, farthest from the center.

**DORSAL** - Pertaining to the back.

**DOTAGE** - Feebleness of mind in old age.

**DUODENUM** - The first portion of the small intestine.

**DURA MATER** - Outermost and toughest membrane covering the brain.

**DYSENTERY** - A term given to a number of disorders marked by inflammation of the intestines, and attended by pain in the abdomen and frequent stools containing blood and mucus.

**ECZEMA** - An inflammatory skin disease.

**EDEMA** - Collection of fluid in tissue, as in lungs, limbs, etc.

**E.K.G. - Electro-cardio-gram.** A device used to monitor the heart for heart disease.

**EMBALMING** - The treatment of the dead body to prevent putrefaction.

**EMBOLISM** - A blocking of an artery or vein by a clot or obstruction (usually carried by blood circulation).

**EMBRYO** - The fetus in its earlier stages of development.

**EMPHYSEMA** - Lung disease. The area of the lungs are reduced by this disease, causing wheezing and difficult breathing.

**ENCEPHALITIS** - Inflammation of the brain.

**EPIDERMIS** - The outermost layer of the skin.

**EPILEPSY** - A chronic functional disease characterized by brief seizures in which there is a loss of consciousness, with a succession of tonic or clonic-convulsions.

**EXTENUATE** - To lessen.

**EXHUME** - The disinterring or removal of a body from the grave.

**EXSANGUINATION** - To drain of blood.

**FATAL INJURY** - An injury resulting in death.

**FELONIOUS HOMICIDE** - The killing of a human being without justification or excuse.

**FEMUR** - The thigh bone.

**FETISHISM** - Association of lust with items of certain portions of the human body or with certain articles of attire.

**FETUS** - The unborn offspring of a human or an animal.

**FIBRILLATION** - Fluttering of the heart. Not controlled by motor nerve.

**FISTULA** - An abnormal passage leading from an abscess to the body surface.

**FRATRICIDE** - The act of killing one's brother.

**GANGRENE** - Death of tissue, characterized by anoxia and marked inflammation.

**HEMATOMA** - Local swelling filled with effused blood.

**HEMOPHILIA** - Blood is slow clotting or does not clot, allowing a person to bleed to death.

**HEMORRHAGE** - Heavy bleeding.

**HISTOTOXIC** - Poisonous to tissue or tissues.

**HOMICIDOMANIA** - Impulsive desire to commit murder.

**HYDROPHOBIA** - The usual common name for rabies in man.

**HYPERTENSION** - High blood pressure.

**INCISION** - A wound inflicted by an instrument with a sharp cutting edge.

**INFANTICIDE** - The act of killing an infant soon after birth.

**INFARCT** - An area of necrosis (death of a cell or group of cells) in a tissue produced by sudden arrest of circulation in a vessel.

**MYOCARDIAL INFARCTION** - An area of death in heart tissue, usually resulting from coronary thrombosis.

**NITROGLYCERIN** - Medicine to treat heart patients. Pill under tongue.

**PULMONARY INFARCTION** - An area of necrosis in lung tissue produced by sudden arrest of circulation in a vessel.

**INHALATION** - The drawing of air or other vapor into the lungs.

**INTESTINE** - The membranous tube that extends from the stomach to the anus.

**INTRA** - Prefix meaning within.

**LACERATION** - A split or tear on the skin, produced usually by blunt force.

**LATERAL** - Pertaining to a side.

**LIGAMENT** - Any fibrous, tough band which connects bones or supports viscera.

**LIGATURE** - Anything which binds or ties.

**LIVER** - The largest glandular organ situated in the upper part of the abdomen on the right side, usually of a dark red color.

**LIVIDITY** - Post-mortem discoloration due to the gravitation of blood.

**LUMBAR** - Pertaining to or near the lower region of the back.

**MASOCHISM** - Sexual perversion in which the pervert takes delight in being subjected to degrading, humiliating or cruel treatment such as flogging or choking.

**MEDIAL** - Pertaining to the middle.

**MEMBRANE** - A thin layer of tissue which covers a surface or divides a space or organ.

**MENINGITIS** - Inflammation of the meninges (thin membranous coverings of the brain).

**MISCARRIAGE** - The premature emptying of a uterus prior to 28 weeks of gestation.

**MONOMANIA** - Insanity on a single subject or class of subjects.

**MUMMIFICATION** - The complete drying up of the body as the result of burial in a dry place, or by exposure to dry atmosphere.

**MYOCARDIUM** - The heart muscle.

**NARCOMANIA** - An insane desire for narcotics or alcohol.

**NATAL** - Pertains to birth.

**NAUSEA** - Tendency to vomit; sickness at the stomach.

**NECROPHILISM** - Morbid attraction to corpses; sexual intercourse with a dead body.

**NON COMPOSITENTIS** - Not sound of mind; insane.

**OSSIFICATION** - Formation of bone or bony substance.

**OSTEITIS** - Inflammation of a bone.

**OSTEOMYELITIS** - Inflammation of bone caused by pyogenic organism.

**PANCREAS** - A large elongated gland behind the stomach.

**PAPILLARY** - Pertaining to or resembling a nipple, ridges, or grooves.

**PARALYSIS** - The loss of the power of voluntary motion.

**PARANOIA** - Mental disorder characterized by the development of ambitions or suspicions into delusions of persecution.

**PARENTICIDE** - The act of killing one's own parents.

**PERITONITIS** - Inflammation of the membrane covering the abdominal region. Serious infection of the abdomen.

**PERMEATION** - The spreading through a tissue or organ of a disease process.

**PETECHIAL HEMORRHAGES** - Hemorrhages that occur in

minute points (pinlike) beneath the skin.

**PHALANX** - Any bone of a finger or toe.

**PHONOMANIA** - Insanity marked by a tendency to commit murder.

**PNEUMATIC** - Pertaining to air or respiration.

**POSTERIOR** - The rear; behind.

**POST-MORTEM** - After death.

**POSTPARTUM** - The period following childbirth.

**PROXIMAL** - Nearest to the center.

**PSYCHOSOMATIC** - Pertaining to the mind-body relationship.

**PUBLIC** - Pertaining to the pubes (anterior pelvic bones).

**PULMONARY** - Pertaining to the lungs.

**PULMONARY EMBOLISM** - The closure of the pulmonary artery or one of its branches by an embolus.

**PUTREFACTION** - Decomposition of soft tissue by bacteria and enzymes.

**RANCID** - Having a musty, rank taste or smell.

**RESPIRATION** - The act or function of breathing.

**RESUSCITATION** - To revive, as in drownings or electrical shock.

**RETARDATION** - Delay or hindrance.

**RIGOR MORTIS** - A rigid or stiffening of the muscular tissue and joints of the body after death.

**SACRO** - Combining form denoting relationship to the sacrum.

**SCHIZOPHRENIA** - A mental disorder.

**SCLEROSIS** - Induration or hardening.

**SEMEN** - The thick, whitish secretion of the reproductive organs in the male.

**SENILE** - Pertaining to old age.

**SEPTICEMIA** - Chronic blood disease - blood poisoning.

**SORORICIDE** - Act of murdering one's own sister.

**SPASM** - Sudden, violent, involuntary contraction of a muscle or group of muscles.

**SPUTUM** - Matter ejected from the mouth; saliva and mucus.

**STAGNANT** - Failure of circulation (for example: shock, cardiac failure).

**STILL BIRTH** - Twenty-eight (28) weeks of gestation or over, and born dead.

**STRANGULATION** - Any abnormal constriction of the throat, causing a suspension of breathing.

**STROKE** - A sudden or severe attack, with rupture of the blood vessel. C.V.A. (Cerebrovascular Accident).

**SUBDURAL** - Under the dura mater, or between the dura and arachnid membranes covering the brain as in subdural hematoma.

**SUFFOCATION** - The stoppage of respiration.

**TARSUS** - The instep proper of the foot with its seven bones.

**TETANUS** - An acute infectious disease caused by bacteria which release a powerful toxin.

**THERMO** - Combining form denoting relationship to heat.

**THROMBO** - Combining form denoting relationship to a clot.

**TIBIA** - The inner and larger bone of the leg below the knee.

**TISSUE** - An aggregation of cells united in the performance of a particular function.

**TORSO** - The trunk of the body without the head or extremities.

**TOXIC** - Poisonous.

**TOXICOLOGIST** - An expert in the knowledge and detections of poisons.

**TRACHEA** - The windpipe.

**TRACHEOTOMY** - An incision into the trachea (windpipe) leading to the lungs to allow air into the passage when there is any obstruction in the mouth or throat that prevents breathing.

**TRAUMA** - A wound or injury.

**TREMOR** - An involuntary trembling or quivering.

**UMBILICAL** - Pertaining to the umbilicus (navel).

**UNCONSCIOUS** - Same as comatose. No response to any stimuli. The person is not dead.

**UREMIA** - Presence of urinary materials in the blood. The person is unable to eliminate urine.

**VASCULAR** - Pertaining to or full of vessels.

**VEIN** - A vein which conveys the blood to or toward the heart.

**VENTRICLE** - One of the two lower cavities of the heart.