
THE POLICE CHIEFS' ASSOCIATION
CONTRA COSTA COUNTY, CALIFORNIA



PROTOCOL FOR
LAW ENFORCEMENT INVOLVED
FATAL INCIDENTS
2023

Dedication

The Contra Costa County Police Chiefs' Association dedicates this manual to the memory of Contra Costa County Deputy District Attorney Robert Hole who passed away in August of 2012. For over 30 years, Bob held the unique position of "investigative prosecutor" (a term he coined, and which aptly fit).

In the early 1980's Bob recognized that one of the most important functions for the county's law enforcement agencies was the investigation of Officer-Involved Shootings, and other law enforcement actions which resulted in death or serious injuries to either officers or civilians. Working in conjunction with the Police Chiefs Association, Bob was instrumental in establishing a county-wide policy to investigate these cases which to this day are known as "Protocols." For the next three decades, Bob directed hundreds of such investigations at all hours of the day and night, in all parts of the county, and in all types of weather. He was a meticulous taskmaster, and he ensured that every possible investigative avenue was explored.

Every year there is an average of 20 or so "Protocols," the majority of which are Officer-Involved shootings. Bob was always the first to respond to protocol investigations, and he was always the last to leave. Bob literally "Wrote the Book" on the investigation of such cases, and he had more experience in this unique area than virtually any other person in the entire state. Bob's mentoring of law enforcement on probes of this nature will ensure that our county will benefit for decades to come.

Bob's systems approach to such investigations proved to be extremely effective and it ensures that many of the county's most sensitive cases are thoroughly investigated by very experienced investigators working with a deputy district attorney. The "Protocol" concept has since been copied nationwide.

Bob also taught classes on Search Warrants, Search and Seizure, and on Officer-Involved Shooting investigations. Thousands of investigators, officers, and deputies attended his courses. Literally hundreds of investigators throughout California had Bob's cell phone number, and he made it clear that he was available to offer advice at any hour of the day or night, and he did so on hundreds of occasions.

Bob was cantankerous, opinionated, and never at a loss for words. With Bob you always knew where you stood, and he was never afraid to ask the tough questions, or point out the deficiencies in the investigative efforts. Bob was the ultimate mentor who was totally committed to his profession, and his personal quest for justice. His contributions to the county cannot be overstated.

Paul Mulligan
District Attorney's Office
Chief of Inspectors (Retired 2021)

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HISTORY OF THE PROTOCOL

Ref 1

In the 1970's and early 1980's, the number of law enforcement related civilian fatalities increased around the country and in Contra Costa County during arrests, vehicle pursuits, and other types of law enforcement activity. At the same time, more law enforcement officers were killed while on duty as the result of both attacks on them, and as the result of auto accidents. Not only were the numbers of civilian and officer fatalities rising; but the incidents drew greater scrutiny from both inside and outside of law enforcement. The impact of such incidents was widespread, both in terms of legal and societal consequences. As a result, the investigation of such cases became considerably more complicated, and challenging.

In early 1982 the members of the Contra Costa County Police Chiefs' Association recognized these trends, and collectively concluded that the interests of everyone would best be served by a standardized system to investigate law enforcement involved fatal incidents throughout Contra Costa County. The members wanted a fair and thorough investigative process which would promptly gather all the relevant facts of each incident while simultaneously recognizing the legal rights and responsibilities of the involved individuals and agencies. In addition, for the first time the process was designed to address the emotional needs of those involved.

It was very important to the Chiefs that these investigations were viewed as being highly credible and impartial. From the beginning, the Chiefs favored using a multi-agency system for the Criminal Investigation of such incidents and they soon decided that all agencies investigating each fatal incident would have equal standing and authority within the investigative process. They believed this would produce the best and most credible investigative product, would maximize the use of investigative resources and skills, and would provide the impartiality that was critical to the integrity of the process.

To establish the new investigative system, a collaborative effort by officials representing all the County's law enforcement agencies began in 1982. The first step was a lengthy and intense meeting with the county's chiefs which helped identify and define many of the issues and expectations for the new system. In the beginning of the process, there was often heated debate among the chiefs on various issues and approaches, as many held very strong opinions as to how the Protocol process should work.

The first draft of the proposed new Protocol was then distributed countywide to be reviewed by a wide variety of personnel in various ranks and assignments in all the County's law enforcement agencies. These reviews resulted in many suggestions, criticisms, and comments. At a subsequent Chiefs' meeting the collective input was considered, after which the second draft was created and again distributed to all agencies. This evolutionary process continued through several more drafts, ending two years after it began when the ninth draft was unanimously approved and implemented in March of 1984. That document, which became commonly known as "The Protocol," was formally titled the "Officer-Involved Fatal Incident Protocol."

That first version of the Protocol contained some revolutionary provisions which drew

skepticism from outsiders. One was the broad range of fatal incidents to which the Protocol process applied, and another was the clear delineation of the three investigative formats. The most radical was the provision that an *ad hoc* multi-agency task force would conduct the Criminal Investigation of each incident, and that all involved agencies would have equal standing in the management of the investigations. The past three decades, and hundreds of investigations later, have shown the skeptics were wrong; those provisions (among others) are the principal reasons for the Protocol's well-acknowledged and lasting success.

The original 1984 Protocol edition was superseded in November 1989 and March 1991 by two slightly revised editions which contained a few substantive changes that clarified and strengthened previous editions. The Protocol's title remained unchanged.

The 2007 version was created through the same collaborative and evolutionary process that was used to create the original Protocol. It contained significant changes, and included a number of enhancements to various previous provisions to clarify, strengthen and build upon the 1984 Protocol's solid and enduring foundation. That version was formatted and reorganized to make its content more accessible and readable. The Table of Contents had considerably more detail (its Section D also serves as a substitute for an Index), and it referred readers to both a page number and a Reference Number (abbreviated "Ref") indicating where each topic can be located. For cross-referencing purposes, Reference Numbers were added throughout the Protocol's text to guide readers to other relevant provisions. The Protocol's title has been changed from "Officer-Involved Fatal Incident Protocol" to "Law Enforcement Involved Fatal Incident Protocol" because:

1. not all peace officers are referred to as "officers"
2. the Protocol also applies to non-sworn employees of law enforcement agencies in some situations
3. some fatalities occur in connection with law enforcement activities and operations rather than from the conduct of any specific law enforcement individual(s).

Substantively, the fourth edition of the Protocol:

1. extended the application of the Protocol to a broader range of law enforcement involved fatalities, and provided for investigative participation by out-of-county law enforcement agencies.
2. created investigative personnel resource pools of Crime Scene Investigators (CSIs), Vehicle Collision Investigators, and Protocol Investigators.
3. enhanced the structure of the Protocol's multi-agency criminal investigative system
4. contained six very useful Attachments:
 - an expanded *Patrol Supervisors' LEIFI Checklist for Shootings and Generic Incidents*
 - a *Patrol Supervisors' LEIFI Checklist for Fatal Vehicle Collisions*

-
- a *Supervisors' LEIFI Checklist for Custodial Institutional Deaths*
 - a *CSI Checklist - Before the Crime Lab Arrives*
 - an *Autopsy Evidence Collection Checklist*
 - a Sheriff/Coroner's Office document entitled *Death Investigation Roles of the Coroner and Law Enforcement Agencies*

Very significantly, the fundamental elements of the original Protocol were retained, and some were enhanced, through the revisions. Among them:

1. the need for high quality investigations
2. the establishment of three investigative formats (Criminal, Administrative and Civil Litigation), each having its own specified goals and investigative procedural rules and each its own staffing;
3. the recognition and explanation of the rights and authorities of the Criminal and Administrative formats and of the law enforcement personnel with whom they have investigative contact;
4. the designation of the Sheriff's Crime Lab to process, collect, document, and examine physical evidence; and
5. the use of public Coroner's Inquests following fatal incidents to inform the public, the media, and the decedent's family of the facts of each incident.

Since 1984, in excess of 350 cases have been investigated under the Protocol format. While the majority of those cases involved fatalities and were therefore investigated under the Protocol's mandatory invocation provision, a significant number of investigations were performed under a provision that allows agencies to request that a Protocol investigation be initiated on a variety of non-fatal law enforcement involved incidents - even in some incidents where no injuries at all were involved.

Deputy District Attorney Bob Hole was the author of the original 1984 Protocol, the revised versions in 1989 and 1991, and the 2005-2007 fourth edition. Five members of the Police Chiefs' Association constituted a Protocol Revision Committee that collaborated with Bob Hole on the fourth edition. Those members were then Chief Ron Ace of Concord (who was also the Chairman of the Chiefs' Association until his retirement from the Concord Police Department in May 2005); then Chief Dave Cutaia of Martinez (Chairman of the Chief's Association from May 2005 to May 2006); then District Attorney Robert Kochly; then Chief Doug Krathwohl of San Pablo; and then Sheriff Warren Rupf. Gratitude is extended to Lana Fisher of the Information Technology Office of the City of Concord who formatted the Protocol's fourth edition, and to Debbie Peña, Executive Secretary to then Concord Police Chief David Livingston, who did the proofreading.

In adopting the 2007 edition, the Chiefs' Association recognized and expressed its appreciation to the members of the 1984 Chiefs' Association, all of whom were responsible for the creation of this very successful system. The "1984 Chiefs" created a model with high standards, and they provided clear guidelines as to when the process should be initiated by an agency. Some set aside personal or institutional egos and territorialism for the ultimate benefit of everyone. They had the foresight to create and adopt Protocol provisions which

would still be valid and in use more than three decades later, and would still be fully supported by the county's law enforcement executives. The beneficiaries of their efforts have been the residents and the law enforcement personnel and agencies of Contra Costa County, and many other jurisdictions inside and outside of California which adopted various forms of the Protocol format.

In August of 2014, the manual was revised. The key addition was the adoption of a policy by the Police Chiefs' Association concerning when an officer involved in a critical incident was allowed to view a recording of the event. The chiefs also formally recognized Deputy District Attorney Robert Hole's by dedicating the manual to him.

In August of 2023, the manual was revised for a sixth time. The key changes are to the Privileged Communication and District Attorney sections.

MEMBERS OF THE CONTRA COSTA COUNTY POLICE CHIEFS' ASSOCIATION

Ref 2

The substantive changes in this sixth edition of the Protocol manual were approved by the members of the Chiefs' Association in August 2023. The years following the Chiefs' names below indicate when the various Chiefs approved each edition of the Protocol. The year "1984" identifies the "founding" Chiefs who were responsible for the creation and implementation of the first Protocol.

Antioch Police Department

Acting Chief Joe Vigil 2023
Chief Allan Cantando 2014
Chief Jim Hyde 2007
Chief Mark Moczulski 2005
Chief Len Herendeen 1984

Bay Area Rapid Transit District Police Department

Acting Chief Kevin Franklin 2023
Chief Kenton Rainey 2014
Chief Gary Gee 2005, 2007
Chief Harold Taylor 1984

Brentwood Police Department

Chief Tim Herbert 2023
Chief Mark Evenson 2007 and 2014
Chief Mike Davies 2005
Chief James Frank 1984

California Highway Patrol, Contra Costa (Martinez) Office

Captain Ben Moser 2023
Captain Chris Costigan 2014

Captain Jim Cahoon 2005, 2007
Captain Ron Oliver 1984

Clayton Police Department

Chief Richard McEachin 2023
Chief Chris Thorsen 2014
Chief Dan Lawrence 2007
Chief Gary Knox 1984

Concord Police Department

Chief Mark Bustillos 2023
Chief Guy Swanger 2014
Chief David Livingston 2005, 2007
Chief George Straka 1984

Contra Costa Community College District Police Services

Chief Ed Carney 2023
Chief Charles Gibson 2007, 2014
Chief Joseph McKeown 1984

Contra Costa County District Attorney

District Attorney Diana Becton 2023
District Attorney Mark A. Peterson 2014
District Attorney Robert Kochly 2005, 2007
District Attorney William A. O'Malley 1984

Contra Costa County Probation

Chief Esa Ehman-Krause 2023

Contra Costa County Sheriff

Sheriff David Livingston 2014, 2023
Sheriff Warren Rupf 2005, 2007
Sheriff Richard Rainey 1984

East Bay Regional Park District Police Department

Interim Chief Joseph Kreins 2023
Chief Tim Anderson 2005, 2007, 2014
Chief Larry Olson 1984

El Cerrito Police Department

Chief Paul Keith 2023
Chief Sylvia Moir 2014
Chief Scott Kirkland 2005, 2007
Chief Patrick Reeve 1984

Hercules Police Department

Chief Joe Vasquez 2023

Chief Bill Goswick 2014
Chief Fred Deltorchio 2005, 2007
Chief Russell Quinn 1984

Kensington Police Department

Chief Mike Gancasz 2023
Chief Greg Harman 2014
Interim Chief Brown Taylor 2007
Chief Barry Garfield 2005
Chief Jack Christian 1984

Martinez Police Department

Chief Andrew White 2023
Interim Chief Eric Ghisletta 2014
Chief Dave Cutaia 2005, 2007
Chief Jack Garner 1984

Moraga Police Department

Chief Jon King 2023
Chief Robert Priebe 2014
Chief Mark Ruppenthal 2005, 2007
Chief Larry Olson 1984

Oakley Police Department

Chief Paul Beard 2023

Pinole Police Department

Chief Neil Gang 2014, 2023
Chief Jim Rose 2005, 2007
Chief Theodore Barnes 1984

Pittsburg Police Department

Chief Steve Albanese 2023
Chief Brian Addington 2014
Chief Aaron Baker 2005, 2007
Chief Leonard Castiglioni 1984

Pleasant Hill Police Department

Chief Scott Vermillion 2023
Chief John Moore 2014
Chief Peter Dunbar 2007
Acting Chief John Moore 2005
Chief James Nunes 1984

Richmond Police Department

Chief Bisa French 2023

Chief Chris Magnus 2007, 2014
Acting Chief Terry Hudson 2005
Chief Earnest Clements 1984

San Pablo Police Department

Chief Ron Raman 2023
Chief Lisa Rosales 2014
Chief Joseph P. Aita 2007
Chief Douglas Krathwohl 2005
Chief David Sylstra 1984

San Ramon Police Department

Chief Denton Carlson 2023
Chief Joe Gorton 2014
Chief Scott Holder 2007

Walnut Creek Police Department

Chief Jamie Knox 2023
Chief Thomas Chaplin 2014
Chief Tom Soberanes 2005, 2007
Chief Karel Swanson 1984

A. PROLOGUE

Ref 3

Fatal incidents involving law enforcement personnel and law enforcement operations place extraordinary demands upon law enforcement agencies and their personnel. In addition to the knowledge, skill and resources required to investigate civilian homicide cases, Law Enforcement-Involved Fatal (LEIFI) incidents present unique and often difficult legal, technical, and social complexities and challenges.

Many LEIFI cases attract considerable attention and scrutiny from family members, segments of the public, the news media, and from various civilian and governmental organizations, institutions, and agencies. Occasionally, such incidents will spark riots or other disturbances resulting in significant injuries or deaths to civilians or law enforcement, looting, and extensive property damage.

The right of the public to know what occurred often requires a meticulous balancing of such rights against investigative necessities, and also a consideration of the privacy rights of the individuals involved in such cases.

Some members of the public are skeptical or distrustful of the ability of Law Enforcement Agencies (LEAs) to investigate incidents involving employees of their own departments. This is one of the key reasons why such investigations must be impartial, and viewed as true “fact finding missions” regardless of where the facts take the inquiries.

Some of our country’s persistent and profound social problems often are significant

factors in encounters between law enforcement and civilians. These factors may include, but are not limited to, mental health issues and the availability of treatment; poverty; actual and presumed biases; scarcity of governmental resources; use of intoxicants; the proliferation of deadly weapons, illegal drugs, and criminal street gangs; and the propensity of people to resort to violence to address problems.

LEIFI incidents may result in negative social, civil, administrative and/or criminal law consequences for law enforcement agencies and officers, but the possibility of such consequences cannot be allowed to inappropriately affect the pursuit of the truth that is the ultimate goal of the investigation of all LEIFI incidents.

During the Criminal, Administrative and Civil Litigation investigations of LEIFI incidents, the rights and obligations of Law Enforcement Personnel (as the result of statutes, case law and employment agreements) must be reconciled with the law enforcement officers' personal rights and obligations under the federal and state constitutions, statutes and case law. This can be a significant investigative complication not encountered during law enforcement's investigations of purely civilian conduct. Further, investigations that are purely civilian often do not include the many difficult technical nuances present in LEIFI incidents that must be addressed through exhaustive investigations.

Unless resolved in advance, confusion and even conflict can occur among the involved officers and agencies due to a variety of factors including unfamiliarity with the Protocol process; unawareness of the LEIFI guidelines and the three separate investigative functions; individual and/or institutional personalities; training; prior experience; and limited resources. Issues involving the management of the investigation can delay and compromise in-progress investigations and may have long-term detrimental effects upon both the instant and future LEIFI incidents.

Because these and other demands and complications exist, the Protocol was developed and has been periodically updated by the Contra Costa County Police Chiefs' Association to serve as a guide for the investigation of law enforcement involved fatal incidents in Contra Costa County.

B. SUMMARY OF THE PROTOCOL'S MAJOR PROVISIONS

Ref 4

This Protocol applies to incidents within Contra Costa County in which:

1-fatalities of civilians occur "actually or conceivably as a result of" (defined in REF 8) conduct of law enforcement personnel, or "actually or conceivably as a result of" law enforcement operations or activities.

2-fatalities of law enforcement personnel which occur "actually or conceivably as a result of" conduct of another person or which occur while on-duty (with some specific exceptions). When incidents fit within any of those categories, use of this Protocol is mandatory. For other incidents involving law enforcement personnel or activities that do not meet the mandatory criteria, involved Member Agencies can optionally invoke

the Protocol. Affiliate Protocol Members and Participating *ad hoc* Agencies (i.e., law enforcement agencies which are not members of the Chiefs' Association) may request that Member Agencies invoke the Protocol process for incident(s) which occurred in their respective jurisdiction(s).

Three investigative formats (designated the Criminal Investigation, the Administrative Investigation, and the Civil Litigation Investigation) are defined and differentiated by their goals, staffing and procedural authorities. The latter two investigations are performed by the Employer Law Enforcement Agency, that is, the agency whose operation, activity or employee is involved in the fatality. The Criminal Investigation is performed by an *ad hoc* Multi-Agency Task Force (MATF) (Ref 157) staffed by investigators from the (1) Employer Agency, (2) the Venue agency within whose territorial jurisdiction the incident occurred, (3) the District Attorney's Office, (4) the Sheriff's Criminalistics Laboratory, (5) involved out-of county Employer LEAs in the capacity of Affiliate Protocol Members (Ref 57) or Participating *ad hoc* Agencies (Ref 58), and (6) other agencies as needed. Within each *ad hoc* MATF, the Venue Agency(ies), Employer Agency(ies) and the District Attorney, and their investigators, have equal investigative authority and standing.

Due to the nature of Criminal Investigation and its possible consequences, it is required to adhere to the most stringent standards for acquiring its investigative products (such as physical evidence, statements, and observations). As a result, the Criminal Investigation has investigative priority over the other two formats. The other two formats have full and timely access to the Criminal Investigation's products and are free to investigate for their own purposes as long as it does not conflict with the Criminal Investigation.

The Protocol provides many procedural guidelines for the conduct of the Criminal Investigation and some for the Administrative Investigation.

Law Enforcement Personnel have the right to be represented and/or supported by an attorney or someone else during Protocol investigations. They may choose to provide statements, physical evidence and other relevant material and information to Criminal Investigators and/or Administrative Investigators consensually, or they may choose to provide such material and information to Administrative Investigators only when compelled to do so under the authority of the Lybarger/Garrity/Kalkines cases (Ref 52).

After each LEIFI, a public Coroner's Inquest will normally be held to present the facts of the incident to the public, the news media, the decedent's family, and other interested parties.

C. POLICY

Ref 5

The Chief Executive Officers ¹ of the law enforcement agencies of Contra Costa County, acting together as the Contra Costa County Police Chiefs' Association, continue to

¹ The term "Chief Executive Officers" refers to the Chiefs of Police of Contra Costa County's various cities, towns, and districts; the elected Sheriff; the elected District Attorney; and the Captain of the California Highway Patrol's Contra Costa Office.

strongly believe that justice for everyone is best served by ensuring that Law Enforcement Involved Fatal Incidents occurring within Contra Costa County are investigated under the provisions of this Protocol system. It is the policy of the Contra Costa County Police Chiefs' Association, and of its individual Chief Executive Officer members, that such incidents shall be investigated under the provisions of this Protocol with professionalism, objectivity, fairness, thoroughness, compassion, and adherence to legal rights.

While this Protocol represents the understanding and agreement among Member Agencies and Affiliate Protocol Members about how Law Enforcement Involved Fatal Incidents are to be investigated, this Protocol is neither a statute, ordinance nor regulation and it is not intended to increase the civil or criminal liability of Members, Affiliate Protocol Members and Participating *ad hoc* Agencies or their employees, and it shall not be construed as creating any mandatory obligations to, or on behalf of, third parties. Members, Affiliate Protocol Members and Participating *ad hoc* Agencies expect that its provisions will be followed when Protocol incidents occur but it is anticipated that agencies may make modifications, which will not affect the Protocol's basic principles, to meet agency requirements and the expectations of each affected community.

All investigations will comply with state and federal statutes.

D. DEFINITIONS AND ABBREVIATIONS

Ref 6

1. "Actors". See "LEA Actors" at Ref 48.

Ref 7

2. "Actually or conceivably a factor"
"Actually or conceivably a result"

Ref 8

b

These phrases define the nexus that is required for mandatory Protocol invocation purposes between

- civilian deaths **and** either the conduct of a "Law Enforcement Person" **or** the operations or activities of a Law Enforcement Agency. **REF 69-81**
- deaths of anyone from vehicle collisions **and** either the conduct of a "Law Enforcement Person" **or** the operations or activities of a Law Enforcement Agency. **REF 82-93**
- deaths of LEOs **and** the conduct of a person or law enforcement operations or activities. **REF 94-103**
- specified on-duty and off-duty deaths of Non-Sworn Personnel **and** the conduct of another person **or** the operations or activities of a Law Enforcement Agency. **REF 104-113**
- Deaths of anyone from the crash or operation of aircraft or watercraft under control of a Law Enforcement Person. **Ref 114**

As used in these phrases, the word "**conceivably**" means "possibly, believably, credibly, plausibly or feasibly" and the word "**factor**" means an "element, fact or circumstance".

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3. “**ad hoc**”. As used in the Protocol, this Latin term means “for the specific purpose, case, or situation at hand and for no other”. In the Protocol it does not have its alternative meaning which is “improvised and often impromptu”. Ref 9
 4. “**Administrative Investigation**.” This type of investigation is performed by Employer Agencies for administrative (i.e., non-criminal) purposes. See Refs 150, 301-315 for specifics. Ref 10
 5. “**Administrative Investigators**”. These investigators are assigned by the Employer LEA(s) to conduct Administrative Investigations. Ref 11
 6. “**Affiliate Protocol Members**”. These are out-of-county LEAs which have accepted an invitation to participate in Protocol investigations of future LEIFI incidents involving those LEAs which occur in Contra Costa County. See Ref 118 for details. Ref 12
 7. “**Case Managers Team**”. The Criminal Investigation of each Protocol incident is led by an *ad hoc* Case Managers Team composed of one lieutenant level official from each of the MATF agencies involved in the investigation. See details at Ref 169. Ref 13
 8. “**Civil Litigation Investigation**”. This type of investigation is performed by or for LEAs in anticipation of possible civil law suits. See details at Ref 316. Ref 14
 9. “**Civil Litigation Investigators**”. These investigators are employed by, or function on behalf of, involved LEAs for the purpose of conducting Civil Litigation Investigations. Ref 15
 10. “**Criminal Investigation**”. These investigations, performed by MATFs, are conducted to determine whether or not anyone committed a crime during Protocol incidents. See details at Refs 149, 154-300. Ref 16
 11. “**Criminal Investigators**”. These investigators are assigned to the *ad hoc* MATFs by the Venue LEA(s), the Employer LEA(s), involved out-of county LEAs in the capacity of Affiliate Protocol Members or Participating *ad hoc* Agencies, the District Attorney’s Office and assisting LEAs, to conduct the Criminal Investigations of each incident. Ref 17
 12. “**Detention**”. A detention occurs during a person’s contact with law enforcement personnel whenever a reasonable and innocent person would believe he/she is not free to either leave or to otherwise disregard the police authority and go about his/her business. Detention is accomplished by exertion of police authority that is less than an arrest but is more substantial than a simple contact or consensual Ref 18

encounter. For further definition, see *The Peace Officers Legal Sourcebook*², Section 2, Search And Seizure, Persons, III. Detentions and Stops, A. Definition and Purpose.

13. **“Duty Status”**. See definitions at Refs 42-46. Ref 19

14. **“Employer Agency”**. This is the LEA by whom the involved Law Enforcement Personnel (Actors and Witnesses) are employed or affiliated. In many cases, the Venue Agency is also the Employer Agency. Ref 20

15. **“Fatality”** is synonymous with “death” and means Ref 21
 - a. death has been pronounced or is obvious beyond doubt, or Ref 22

 - b. there is probable cause to believe (Ref 61) the person will die. Ref 23

16. **“Law Enforcement-Involved Fatal Incidents” (LEIFIs) summarized definition:** Ref 24

This term refers to incidents occurring within Contra Costa County which involve law enforcement operations or personnel in which “fatalities” (Refs 21-23) occur to civilians or law enforcement personnel under specified circumstances. A summary of those circumstances follows immediately below; see Refs 68-115 for details.

 - a. **Fatalities of civilians** which are “actually or conceivably a result of” (Ref 8) either: Ref 25
 - 1) conduct of LEOs (either on-duty or off-duty), or of on-duty Non Sworn Personnel, **or** Ref 26

 - 2) law enforcement operations or activities of any type, and specifically including fatalities while under detention, arrest, custody; attempts to detain, control or arrest; and fatalities occurring within 48 hours of a person’s release from arrest or custody. See Ref 79 for an exception. Ref 27

 - b. **Fatalities of LEOs, civilians and on-duty Non Sworn Personnel** which are “actually or conceivably a result of” (Ref 8) vehicle collisions which are “actually or conceivably the result of” conduct of LEOs or on-duty Non Sworn Personnel or of law enforcement operations or activities. Ref 28

 - c. **Fatalities of LEOs**, whether “on-duty” or “off-duty”, and “on-duty” Reserve LEOs, which are “actually or conceivably a result of” (Ref 8) conduct of another person or which occur while on-duty or during law enforcement operations or activities (with exceptions listed at Refs 98-101). Ref 29

² This publication, written and regularly updated by the California Attorney General's Office, is distributed to all California law enforcement agencies and is also available for purchase by agencies and individuals. For more information refer to the Attorney General's website: <http://ag.ca.gov/publications/index.php#lawenforcement>.

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- d. **Fatalities of Non Sworn Personnel** which occur or are caused while “on-duty” and which are “actually or conceivably as a result of” conduct of any other person, or from other circumstances while on-duty, and during law enforcement operations or activities (with exceptions). Ref 30
- e. **Fatalities of anyone** caused by the crash or operation of aircraft or watercraft which is under operational control of Law Enforcement Personnel. Ref 31
17. **“Law Enforcement Person” and “Law Enforcement Personnel”**. These terms encompass the people in the categories below. Ref 32
- a. **“Law Enforcement Officers”** (the plural is **“LEOs”** and the singular is **“LEO”**). These are sworn peace officers including those who work part-time or on per diem, and those on sick, disability or disciplinary leaves or on vacation at the time of their involvement in a Protocol incident. Ref 33
- Reserve LEOs are in this category when they are “on-duty” (Refs 102, 112) but are categorized as “Non Sworn Personnel” when “off-duty”. Ref 34
- b. **“Non Sworn Personnel”**. This term refers to non-peace officer LEA personnel and others who are so closely associated with LEAs in other roles that some Protocol incidents involving them warrant application of the Protocol. Ref 35
- 1) Examples of people in this category: Ref 36
- a) non-peace officer personnel who are employed full time, part time, or temporarily by LEAs, in the following illustrative positions: (1) civilian jailers and other civilian custodial staff such as cooks, teachers, maintenance; (2) medical personnel; (3) security personnel; (4) civilian crime lab, evidence and property room personnel; (5) dispatchers; (6) civilian pilots and crew members of law enforcement owned or operated aircraft or watercraft; (7) civilian technicians, mechanics and fleet staff; (8) civilian managers, analysts and planners; (9) traffic and parking control personnel; (10) non-peace officer Community Service Officers; (11) LEA animal control personnel; (12) clerks, secretaries and receptionists; (13) facility and equipment personnel; (14) civilian Public Information Officers; (15) non-peace officer employees of the District Attorney’s Office including prosecutors and support staff; (16) non-peace officer staff of the Coroner’s Division; (17) non-peace officer trainers and their staff; (18) paid cadets and interns; (19) members of the clergy . This category does not include outside vendors and their employees who are performing work for LEAs or within LEA facilities, or employees of the LEA’s parent governmental entity (e.g. town, city, county, state or federal). Ref 37

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- b) volunteers performing non-paid service to LEAs under the supervision of a LEA, such as civilians, auxiliary officers, former peace officers or other former LEA employees volunteering their services, Volunteers In Police Service (VIPS), Explorer Scouts, non-paid interns and cadets, and Search and Rescue personnel who are neither sworn peace officers or Reserve LEOs. Also included are people serving as volunteers performing job functions listed in Ref 37. Ref 38
 - c) informants. For Protocol purposes, informants are categorized as “Non Sworn Personnel” who are “on-duty” only when they are working under the supervision and control of a LEO. At other times they are “off-duty” and are therefore categorized as civilians. Ref 39
 - d) visitors in LEA facilities and passengers of LEOs or “on-duty” Non Sworn Personnel. Ref 40
 - e) Reserve LEOs are in this category when they are “off-duty” (Ref 34) but are classified as LEOs when they are “on-duty”. (Ref 102,112) Ref 41
 - c. Duty status Ref 42
 - 1) “On-duty” for Protocol purposes, includes Ref 43
 - a) the usual and common definitions used in law enforcement for “on-duty”, and Ref 44
 - b) occasions when the Law Enforcement Person is actually, purportedly or apparently acting for a law enforcement purpose at the time of the incident, when he/she would otherwise normally be considered to be “off-duty”. (See Ref 39 for a specific provision regarding informants.) Ref 45
 - 2) “Off-duty” for Protocol purposes are those times when neither 1-a (Ref 44) nor 1-b (Ref 45) apply. Ref 46
 - 18. “**LEA**”. This acronym means “Law Enforcement Agency”. Ref 47
 - 19. “**LEA Actors**”. These are Law Enforcement Personnel whose conduct was “actually or conceivably a factor” (Ref 8) in a fatality. Ref 48
 - 20. “**LEA Witnesses**”. These are Law Enforcement Personnel who have knowledge of the circumstances of a Protocol incident but whose conduct was not “actually or conceivably a factor” (Ref 8) in the fatality. Ref 49
 - 21. **LEIFI**. This acronym means “**Law Enforcement-Involved Fatal Incident**” (“**LEIFIs**” is the plural). (See Refs 24-31 for summary definition and Refs 68-115 for details.) Ref 50

22. “LEO” and “LEOs”. These acronyms mean “Law Enforcement Officer” and “Law Enforcement Officers” respectively. Ref 33 Ref 51

23. ***Lybarger***³/***Garrity***⁴/***Kalkines***⁵. These appellate court cases (hereafter referred to collectively as ***Lybarger***) address and resolve the legal and investigative conflicts that are created when public employees (including Law Enforcement Personnel) invoke their Constitutional rights (such as “taking the 5th” Amendment) during investigations conducted by their public agency employers. The courts recognize that these employers have legitimate and sometimes very urgent need to obtain information from their employees concerning work-related matters, so they allow public agency employers to legally compel their employees to answer employment-related questions by threatening to take significant disciplinary action against them (which usually involves job termination) if they do not comply. In such situations, the cases hold, employees’ Constitutional rights are sufficiently respected and protected by court decisions that prohibit compelled evidence of any type from being used in criminal proceedings against the person from whom it was compelled. California law allows employers to discipline employees who refuse to answer when compelled to do so, but only if (1) they have been ordered to answer; and (2) they have been told that the resulting compelled information cannot be used against them in criminal proceedings; and (3) the questions are sufficiently related to employee job performance or fitness for duty. Statements made under administrative compulsion can be used administratively against the employee if the statements are false or incomplete or if they contain admissions of wrongdoing. Further, compelled statements can usually be used against the employee in civil lawsuits. Ref 52

In January 2007, a California Court of Appeal decision (*Spielbauer vs. County of Santa Clara*, 146 Cal. App. 4th 914) ruled that the *Lybarger* procedure does not provide legally sufficient assurance to employees that their administratively compelled incriminating statements will not be used against them in any subsequent criminal case in which they are defendants, and therefore employees who refuse to give such statements cannot be terminated for insubordination. The decision said that, without new legislation, only the grant or offer of formal “use immunity” granted by the courts is legally sufficient. However, that decision was vacated on May 9, 2007, by the California Supreme Court when that Court granted a petition to review the DCA’s decision, leaving the *Spielbauer* decision without any legal effect. Thus, the *Lybarger* case remains the controlling authority on this issue until and unless the California Supreme Court and/or the Legislature decide otherwise.

24. “**Major Case Page Numbering System**”. This is the method used in Protocol investigations for numbering the pages of police reports and their attachments. See details at Ref 299. Ref 53

25. “**MATF**”. This acronym refers to the *ad hoc* **Multi Agency Task Forces** which perform the Criminal Investigations of LEIFIs. Each MATF is composed of Criminal Investigators from the involved Venue Agency(ies), the Employer Agency(ies), involved out-of county Employer LEAs in the capacity of Affiliate Protocol Members Ref 54

³ *Lybarger v. City of Los Angeles*, 40 C3d 1822 (California Supreme Court, 1985)

⁴ *Garrity v. New Jersey*, 385 US 493 (United States Supreme Court, 1967)

⁵ *Kalkines v. United States*, 473 F2d 1391 (United States Court of Claims, 1973)

or Participating *ad hoc* Agencies, the District Attorney’s Office, and assisting agencies. For incidents involving traffic collisions, the assigned Protocol Collision Investigators are also members of the MATFs. See Ref 157.

26. **“Members”, “Affiliates” and “Participating *ad hoc*” LEAs”** Ref 55
- a. **“Members”**, also referred to as “Member Agencies”, are the Law Enforcement Agencies whose chief officers are members of the Contra Costa County Police Chiefs’ Association, all of which have chosen to join this Protocol agreement. Ref 56
- b. **“Affiliate Protocol Members”** are LEAs which are not Contra Costa LEAs (and whose Chiefs therefore are not “Members” of the Contra Costa County Police Chiefs’ Association) which have chosen in advance, upon invitation, to join this Protocol agreement so they will have Employer Agency status in Protocol investigations of future incidents in which those LEAs or their Law Enforcement Personnel are involved. Ref 118 Ref 57
- c. **“Participating *ad hoc* Agencies”** are LEAs which are neither “Members” nor “Affiliate Protocol Members” but, when they or their Law Enforcement Personnel are involved in Protocol incidents in Contra Costa County, they choose at that time upon invitation on a case-by-case basis to participate as Employer Agencies in Protocol investigations of such incidents. Ref 119 Ref 58
27. **“Non Sworn Personnel”**. See definition at Refs 35-41. Ref 59
28. **“Participating *ad hoc* Agencies”**. See definition at Ref 58. Ref 60
29. **“Probable Cause”**. The Protocol definition of this standard of proof is the equivalent of that used so commonly in criminal law i.e., the totality of facts and circumstances, of a reasonably trustworthy nature, known to the decision maker, which are sufficient to warrant a person of reasonable caution or prudence to believe whatever point is at issue. This standard is found in Protocol provisions which define “fatality” (Ref 21-23), which pertain to murder and non-vehicular manslaughter cases involving “off-duty” Law Enforcement Personnel (Refs 72, 96, 180), which apply to certain deaths in custody (Ref 79) and to deaths of Law Enforcement Personnel in solo traffic collisions (Ref 93). Ref 61
30. **“Protocol Case” and “Protocol incident”**. These terms refer to an incident that is or was investigated, or will be investigated, or should be investigated, under the provisions of this Protocol, whether by mandatory or optional invocation. Ref 62
31. **“Protocol Collision Investigators”**. These are investigators from law enforcement agencies and from the private sector who are qualified to investigate vehicle collisions (and vehicle movement in non-collision incidents) as members of the MATF investigations of Protocol cases. See Refs 189-192 for details. Ref 63

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- 32. **“Protocol Collision Investigators Group”**. This is a staffing pool of pre-selected Protocol Collision Investigators from various Member LEAs who are potentially available to join MATF investigations of Protocol cases involving LEAs other than their own when their assistance is needed by the MATF or by an LEA participating in the MATF investigation. See details at Refs 193-202. Ref 64

 - 33. **“Protocol CSI Group”**. This is a staffing pool of pre-selected Crime Scene Investigators from various Member LEAs who are potentially available to join the MATF investigations of Protocol cases involving LEAs other than their own when their assistance is needed by the Crime Lab. See Ref 212 for more details. Ref 65

 - 34. **“Protocol Investigators’ Group”**. This is a staffing pool of pre-selected investigators from various Member LEAs who are potentially available to join MATF investigations of Protocol cases which involve LEAs other than their own when their assistance is needed by the MATF or by a LEA participating in the MATF investigation. See Ref 167 for details. Ref 66

 - 35. **“Venue Agency”**. The Venue LEA is/are the one(s) within whose geographical jurisdiction the Protocol incident occurs. Only Members of the Contra Costa Police Chiefs’ Association can be Venue Agencies. See Refs 170-179 for Venue Agency Determination in Particular Situations. Ref 67

E. “LAW ENFORCEMENT-INVOLVED FATAL INCIDENTS” “(LEIFIs)” - MANDATORY Ref 68

Law Enforcement-Involved Fatal incidents (LEIFIs) are “fatalities” (Refs 21-23) of civilians and of Law Enforcement Personnel which occur in Contra Costa County under any of the circumstances listed below. Fatalities which met the criteria listed below shall be investigated under this Protocol, i.e., they are **mandatory Protocol cases**, the criteria for which are:

- 1. **Incidents fatal to civilians** in which (a) the conduct of a “Law Enforcement Person” or (b) the operations or activities of an LEA, is/are “actually or conceivably a factor” (Ref 8) in the fatality. Ref 69
 - a. Conduct of Law Enforcement Personnel: Ref 70
 - 1) LEOs (Ref 51) who are either “on-duty” (Refs 42-45) or “off-duty” (Ref 46). Ref 71
 - a) Special rule for some murder or non-vehicular manslaughter cases: Ref 72
When there is probable cause to believe (Ref 61) that a “Law Enforcement Person” (Ref 32+) is either a murder or non-vehicular manslaughter victim or suspect, and when it appears that the fatality was not during an “on-duty” (Refs 42-45) event for either involved person, the Venue Agency, if it is not also the Employer Agency, has the option, after consultation with the District Attorney’s Office, of investigating the incident itself without utilizing the Protocol. Determining the Venue Agency shall be on the same basis as in any civilian homicide case. The same provision is at Refs 96, 180.

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- 2) Reserve LEOs only when “on-duty” (Ref 34). Ref 73
 - 3) “Non Sworn Personnel” (Refs 35-41) only when “on-duty” (Refs 43-45). Ref 74
 - b. Law enforcement operations or activities of any type in which a fatality occurs, such as these examples: Ref 75
 - 1) during attempts by LEOs, “on-duty” Reserve LEOs or by “on-duty” Non Sworn Personnel to detain, arrest or gain physical control of a person. Ref 76
 - 2) while the person is under “detention” (Ref 18), arrest or physical control by LEOs, “on-duty” Reserve LEOs or by “on-duty” Non Sworn Personnel. Ref 77
 - 3) while the person is in custody including, for example, in the field, in vehicles, sally ports, holding cells, jails, interview rooms, court facilities, or medical facilities. Ref 78
 - a) Exception: Excluded from mandatory Protocol investigations are post-booking deaths of prisoners which occur in jails, hospitals or other facilities while prisoners are under the care of LEA-provided medical personnel for diagnosed diseases or conditions which have been known and monitored and/or treated by the LEA’s medical care provider prior to death, but only when the deaths were medically expected and when there is probable cause to believe (Ref 61) that custodial suicide, trauma, accident, or use of intoxicants was not involved. Ref 79
 - 4) fatalities occurring within 48 hours after the decedent’s release from detention, arrest or custody. Ref 80
 - a) Qualification: Such fatalities are mandatory Protocol cases only if any LEA categorized in Refs 175 to 179 conclude(s), based upon evaluation of the circumstances after law enforcement’s awareness of the fatality, that the fatality is “actually or conceivably a result” (Ref 8) of something that occurred during the decedent’s recently-ended detention, arrest or custody. In each specific case, any or all the LEAs within the listed categories may elect to participate in these Protocol investigations. Ref 81
 - 2. **Vehicle collisions: Incidents fatal to anyone from vehicle collisions** which are “actually or conceivably a result of” (Ref 8) collisions of one or more vehicles with something or someone, when (a) the conduct of on-duty or off-duty LEOs, on-duty Reserve LEOs or on-duty Non Sworn Personnel, or (b) the operations or activities of law enforcement, are “actually or conceivably a factor” (Ref 8) in the result. For incidents to be within this category it is not necessary that vehicles operated by Law Enforcement Personnel collide with anything or anyone, nor is it necessary for a vehicle pursuit to be involved. Examples of included situations are: Ref 82

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- a. routine or normal driving Ref 83
 - b. emergency response driving Ref 84
 - c. training Ref 85
 - d. pursuits Ref 86
 - e. driving with intent to catch up to another vehicle for the purpose of identifying it or its occupants, or for surveillance purposes. Ref 87
 - f. fatalities which occur very soon after Law Enforcement terminates pursuits before stopping the target vehicles when it appears from the manner of driving and the close time and distance proximity of the collision to law enforcement vehicle(s) that the drivers of the pursued vehicles who directly or indirectly caused the fatalities (including to himself/herself) were still driving in apparent attempt to evade the LEOs or to avoid being stopped or identified. Ref 88
 - g. fatalities caused by vehicle collisions “actually or conceivably the result of” (Ref 8) utilization of law enforcement attempts, techniques or equipment to stop or alter the course of vehicles. Examples include pursuits, stationary or rolling road blocks, check-points, barricades, ramming, precision immobilization technique (PIT maneuver), in-line active vehicle containment, tire deflation devices, etc. Ref 89
 - h. attempts by Law Enforcement Personnel, with or without use of vehicles driven by them, to slow, redirect or stop vehicles for purposes of traffic control. Ref 90
 - i. fatalities of passengers of LEOs or of “on-duty” Reserve LEOs or “on-duty” Non Sworn Personnel, such as ride-alongs, victims, witnesses, injured people, stranded motorists, etc. Ref 91
 - j. fatalities in which law enforcement gunfire directed at a person or at a vehicle is “actually or conceivably a factor” (Ref 8) in the collision’s occurrence. Ref 92
 - k. excluded: solo traffic collisions in which driver LEOs, “on-duty” Reserve LEOs or “on-duty” Non Sworn Personnel are the decedents and only occupants of the involved vehicles and when there is probable cause to believe (Ref 61) that no other people or occupied vehicles were involved in the collisions or in their causation. Ref 93
- 3. Incidents fatal to LEOs** Ref 94
- a. in which the conduct of another person is “actually or conceivably a factor” (Ref 8) in the fatality, whether the victim LEO is “on-duty” or “off-duty” at the time of the incident, and whether or not there was a law enforcement purpose for the conduct Ref 95

of either party. (This category includes the fatality of one LEO caused by another LEO).

- 1) Special rule for some murder or non-vehicular manslaughter cases: When there is probable cause to believe (Ref 61) that a “Law Enforcement Person” (Ref 32+) is either a murder or non-vehicular manslaughter victim or suspect, and when it appears that the fatality was not during an “on-duty” (Ref 43-45) event for either involved person, the Venue Agency, if it is not also the Employer Agency, has the option, after consultation with the District Attorney’s Office, of investigating the incident itself without utilizing the Protocol. Determining the Venue Agency shall be on the same basis as in any civilian homicide case. The same provision is at Refs 72, 180. Ref 96

- b. which occur “on-duty”, or when law enforcement operations or activities (including training) are “actually or conceivably a factor” (Ref 8) in the result, even when there is no indication that the conduct of another person is “actually or conceivably a factor”. Ref 97

- 1) Exception: LEO fatalities from the causes and circumstances listed below are not mandatory Protocol cases unless criminal conduct (including the LEO’s) is “actually or conceivably a factor” (Ref 8) in the fatality: Ref 98
 - a) deaths from apparent natural physiological causes such as heart attacks. Ref 99

 - b) accidental deaths caused by weather and other natural events such as floods, mud or land or rock slides, earthquakes, tornadoes, tsunamis, lightening, high winds, falling trees, etc. Ref 100

 - c) accidental deaths caused by falling, drowning, fire, smoke, hyperthermia (heat stroke), electrocution, exposure to the toxins including those from insects, structure collapse, being struck by falling objects, and animals. Ref 101

- c. which occur to “on-duty” Reserve LEOs (Ref 34) with exceptions listed in Refs 98-101. Ref 102

- d. “off-duty” suicides of LEOs are mandatory Protocol cases only when the conduct of another person is “actually or conceivably a factor” (Ref 8) in the death. Ref 103

4. **Incidents fatal to Non-Sworn Personnel:** Ref 104
 - a. “On-duty” (Ref 43-45) when the fatality is “actually or conceivably the result of” (Ref 8) the following: Ref 105
 - 1) conduct of another person. Ref 106

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- 2) other circumstances while “on-duty”, or during law enforcement operations or activities, including training. Ref 107
 - a) exception: “on-duty” fatalities to Non Sworn Personnel from the causes and circumstances listed below are not mandatory Protocol cases unless criminal conduct is “actually or conceivably a factor” (Ref 8) in the fatality: Ref 108
 - 1. deaths from apparent natural physiological causes such as heart attacks. Ref 109
 - 2. deaths apparently caused by weather and other natural events such as floods, mud or land slides, earthquakes, tsunamis, lightening, tornadoes, falling trees, high winds, etc Ref 110
 - 3. accidental fatalities apparently caused by falling, drowning, fire, smoke, electrocution, exposure to toxins, being struck by falling objects, including during search and rescue attempts. Ref 111
 - b. Fatalities of “on-duty” Reserve LEOs are considered to be the same as fatalities of regular LEOs (Ref 34). Ref 112
 - c. “Off-duty” fatalities of Non-Sworn Personnel are not mandatory Protocol cases. Ref 113
 - 5. **Aircraft and watercraft deaths: Incidents fatal to anyone** which are “actually or conceivably a result of” (Ref 8) the **crash or operation of an aircraft** (whether in the air or on the ground) or **watercraft**, which at the time of the incident is under the operational control of Law Enforcement Personnel. Ref 114
 - 6. See **Chart** entitled “**Duty Status Criteria For Mandatory Protocol Invocation**” on the following page: Ref 115

Duty Status Criteria for Mandatory Protocol Invocation

when “*conduct of a law enforcement employee*” (Refs 69-74, 82, 95, 105-106) is the required nexus between a fatality and law enforcement’s possible causal relationship to it. This chart is not applicable when the required nexus is “*the operations or activities of a Law Enforcement Agency*” (Refs 69, 75-81, 82-93, 97-103).

		Actor the individual whose conduct was “actually or conceivably a factor” (Ref 8) in the fatality				
		Civilian	LEO on duty	LEO off duty	NSP on duty	NSP off duty
Decedent	Civilian	This is a civilian homicide, not an LEIF	Mandatory	Mandatory but exception	Mandatory	Optional
	LEO on duty	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory
	LEO off duty	Mandatory but exception	Mandatory	Mandatory but exception	Mandatory	Mandatory but exception
	NSP on duty	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory
	NSP off duty	Optional	Mandatory	Mandatory but exception	Mandatory	Optional

“**LEO**” means a Law Enforcement Officer, i.e., a sworn peace officer. **Ref 33.**

“**NSP**” means Non Sworn Personnel of a Law Enforcement Agency. **Refs 35-41.** Reserve officers are categorized as LEOs when they are “on-duty” but are considered Non Sworn Personnel when “off-duty”. See duty definitions below.

“**On-duty**” means (1) when actually “on-duty”, or (2) when acting actually, apparently or purportedly for a law enforcement purpose when otherwise off-duty (**Refs 43-45**). “Off-duty” means at other times (**Ref 46**).

“**Mandatory but exception**” means these are mandatory Protocol cases except when there is “probable cause” (**Ref 61**) to believe that the LEO or NSP is either the victim or suspect in a murder or non-vehicular manslaughter and when it appears that the fatality was not during an “on-duty” (see definition above) event for either involved party. In such cases the Venue Agency, if it is not also the Employer Agency, has the option, after consultation with the District Attorney’s Office, of investigating the Incident itself without utilizing the Protocol. **Refs 72, 96,180.**

F. LEIFI INCIDENTS INVOLVING NON-MEMBER (OUT-OF-COUNTY) LEAS Ref 116

1. The activities or operations of out-of-county LEAs, or the conduct of their Law Enforcement Personnel, may result in LEIFI incidents that occur within Contra Costa County. For Protocol purposes non-Member Agencies fall within one of the classifications below: Ref 117
 - a. **Affiliate Protocol Member:** The Chiefs' Association may invite selected out-of-county LEAs to become Affiliate Protocol Members. LEAs that accept will have full participation as Employer Agencies in future Protocol investigations of LEIFI incidents involving their personnel or their activities and operations that occur in Contra Costa County. Ref 118
 - b. **Participating *ad hoc* Agency:** Out-of-county LEAs which are not Affiliate Protocol Members may be invited by the Case Managers Team (Ref 169) to be a Participating *ad hoc* Agency when involved in an LEIFI incident in the County. If it agrees, it will have full participation as an Employer Agency in that Protocol investigation. Ref 119
 - c. Out-of-county LEAs that are neither Affiliate Protocol Members nor Participating *ad hoc* Agencies will not have a full participatory role in Protocol investigations of incidents involving their personnel or their operations or activities in the County, although some accommodation may be made by the Case Managers Team regarding their involvement in the Protocol investigations of each incident. Ref 120
2. LEAs, including out-of-county LEAs in any capacity, may conduct their own Administrative and Civil Litigation investigations of Protocol incidents as they wish but those investigations shall not be conducted in conflict or competition with the Criminal Investigation (Refs 308, 316). Ref 121
3. See Refs 125-146 for the optional invocation provisions applicable to Affiliate Protocol Members and Participating *ad hoc* Agencies. Ref 122

G. INVOKING THE PROTOCOL Ref 123

1. Automatic and Immediate (“mandatory”) Invocation: Ref 124

Upon the occurrence of each “Law Enforcement Involved Fatal Incident” (defined in summary at Ref 24-31 and in detail at Refs 68-115) this Protocol is automatically and immediately effective. Prompt notification to appropriate LEAs and officials is the responsibility of the Venue Agency(ies).

2. Optional Invocation: Ref 125

This Protocol may be optionally invoked for incidents involving law enforcement personnel or LEA activities and operations which are not included within the

definition of “Law Enforcement Involved Fatal Incidents” (Refs 68-115) if possible criminal conduct of anyone involved in the incident is an issue that should reasonably be determined. Neither death nor bodily injury is a pre-requisite to optional invocation under this category, thus the Protocol may be invoked for incidents involving any type of potential crime, including but not limited to: property and person crimes; integrity crimes; crimes against the government or the justice system; contraband crimes; crimes against public health, safety or peace; threat crimes; and state civil rights crimes.

- a. **Member Agencies:** each Member Agency of this Protocol, when in the capacity of a Venue Agency or Employer Agency, may optionally invoke this Protocol for incidents of the type described above (Ref 125). Upon these optional invocations, incidents will be investigated under the provisions of this Protocol. Ref 126

- b. **Affiliate Protocol Members (Ref 118) and Participating *ad hoc* Agencies (Ref 119)** may request that the optional invocation provision of this Protocol be utilized for incidents involving their personnel or their law enforcement operations or activities occurring within the County, but the decision to optionally invoke the Protocol must be made by a Member Agency who has Venue or Employer Agency status concerning the incident. Upon these optional invocations, the incidents will be investigated under the provisions of the Protocol with the Affiliate Protocol Members and Participating *ad hoc* Agencies having investigative roles in the Protocol investigation, as would be the case with a mandatory invocation. Ref 127

- c. Examples of optional invocation situations: (Also see decision-making factors at Refs 133-143.) Ref 128
 - 1) Fatalities to civilians or to Law Enforcement Personnel which are outside the definition of “Law Enforcement Involved Fatal Incidents” (Refs 68-115). Ref 129

 - 2) Incidents involving physical injuries which are not “fatal”. Refs 21-23 Ref 130

 - 3) Other sensitive events involving LEAs operations or activities or their personnel where the issue of anyone’s possible criminal conduct should reasonably be determined. Ref 131

- d. The District Attorney may decline to participate in optional invocations. Declination would most likely occur when it appears to the District Attorney that the possibility of criminal conduct is either absent or not sufficiently high to warrant the District Attorney’s participation in the Protocol investigation, or when it lacks the necessary resources to participate. The District Attorney will not investigate, nor participate in another LEA’s investigation of, matters which are purely of an Administrative or Civil Litigation nature. Ref 132

- e. These factors may be relevant to those considering optional invocations: Ref 133

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- 1) Injuries to an involved person have not resulted in death, and imminent death is not then medically expected, but the LEA wants a Protocol investigation to begin immediately despite the medical prognosis. **Ref 134**
 - 2) The LEA lacks the resources, experience and/or personnel to conduct a proper and timely Criminal Investigation by itself. **Ref 135**
 - 3) Circumstances concerning the incident cause the LEA to have a special need to utilize the Protocol to ensure a thorough, impartial and credible Criminal Investigation. **Ref 136**
 - 4) The personnel, or the operations and activities, of multiple LEAs are involved in the incident. **Ref 137**
 - 5) One or more other LEAs may be affected by the results of the investigation. **Ref 138**
 - 6) The LEA may be concerned about an actual or perceived conflict of interest which a Protocol investigation could minimize. **Ref 139**
 - 7) The involvement of a notable person in the incident may actually or perceivably have a negative impact upon the ability of the LEA to properly conduct a credible investigation by itself. **Ref 140**
 - 8) The incident is connected to another matter which is being or was investigated as a Protocol case. **Ref 141**
 - 9) The incident is factually and/or legally complicated, or involves many people. **Ref 142**
 - 10) For other articulated reasons the LEA believes that the interests of justice would be best served by utilizing the Protocol. **Ref 143**
- f. When in doubt about optionally invoking on a specific case, it is usually advisable to promptly invoke so a Protocol investigation can start immediately. Subsequently, if the facts or the perceptions of the incident change after the investigation begins, the Protocol investigation can be terminated by mutual agreement and the involved agency(ies) may complete the investigation as they consider appropriate. **Ref 144**
 - g. In lieu of invoking the Protocol in optional situations, the involved LEA(s) may, of course, unilaterally investigate the incident or may seek investigative services from other LEAs as they choose. **Ref 145**
 - h. If the Employer Agency could use the optional invocation provision for a specific incident but has declined to do so, a displeased Law Enforcement **Ref 146**

Person who is an Actor (**Ref 48**) in the incident or who is otherwise involved in it in a substantial way may ask his/her Employer Agency, directly or through his/her attorney or other representative, to reconsider the decision and take into account the person's desire for optional invocation. If the LEA is still not convinced that optional invocation is appropriate, it is suggested that the LEA, the involved person (directly or through his/her legal or other representative) and the District Attorney's Office promptly hold a three-way discussion to resolve the matter.

H. INVESTIGATIVE AGENCIES, FORMATS AND RESPONSIBILITIES

Ref 147

1. Three types or formats of investigations are available for LEAs to use for Protocol incidents. Each of the three has a distinct purpose: Ref 148
 - a. A **Criminal Investigation** is performed to determine whether or not any of the involved individuals did or did not commit a crime. (See **Ref 154-300** for specifics about this format.) This format is always utilized but the other two are at the discretion of the involved LEAs. Ref 149
 - b. An **Administrative Investigation** may be performed to (1) determine if involved Law Enforcement Personnel acted within the LEA's policies, procedures, training, and orders; (2) determine if and how the LEA can improve any aspect of its operations (i.e., a quality control analysis); and (3) provide information about the incident to the LEA's leadership for other management purposes. See **Refs 301-315** for specifics about this format. Ref 150
 - c. A **Civil Litigation Investigation** may be performed to prepare the LEA, its parent government, and usually its employees, to defend against civil claims or civil lawsuits that may arise from Protocol incidents. See **Ref 316** for specifics about this format. Ref 151
2. To ensure that each of these three different investigations have the best opportunity to achieve their respective purposes, to conform to and benefit from the different legal procedural rules applicable to each, and to avoid problems that result from investigators crossing back and forth between investigative formats in the same case, **separate investigations** must be performed for each of these investigative purposes. Each investigation must use its own investigators, each investigates for its own purposes, and each follows the investigative procedural legal rules applicable to it. Ref 152
 - a. The Criminal Investigation can and will share its information freely with the other two investigative formats (**Ref 164**) but the converse is not true. The Administrative Investigation generally cannot share any information with the Criminal Investigation that was obtained directly or indirectly as a result of a Lybarger (**Ref 52**) admonition, however exceptions may occasionally apply, so consult a knowledgeable prosecutor or legal advisor if this issue arises. To preserve a primary advantage of using the Civil Litigation Investigation, the Ref 153

sharing of its investigative product with the other two formats may need to be significantly restrained; confer with the LEA's civil litigation attorney or risk manager.

3. **The Criminal Investigation** Ref 154
- a. The Criminal Investigation has investigative priority over both the Administrative Investigation and the Civil Litigation Investigation. The latter two formats may take whatever investigative action they wish when the Case Managers Team (Ref 169) determines that the Criminal Investigation would not be compromised by such actions. Regarding interviews with anyone, in most cases this means that once the Criminal Investigation has finished its interview with a person, or the person declines to be interviewed by the MATF investigators, the other investigative formats are free to interview that person as they wish. Ref 155
 - b. It begins immediately after a LEIFI has occurred. Ref 156
 - c. It is performed by Criminal Investigators supplied by the Venue LEA(s), the Employer LEA(s) (including involved out-of county LEAs in the capacity of Affiliate Protocol Members or Participating *ad hoc* Agencies), and the District Attorney's Office. The Protocol Investigators Group (Ref 167), the Protocol Collision Investigators Group (Ref 193) and other LEAs and personnel may be utilized as needed. These investigators are formed into an *ad hoc* **Multi-Agency Task Force ("MATF")** for each LEIFI investigation. Ref 157
 - d. The Sheriff's Crime Lab (Ref 211) is responsible for physical evidence. See Ref 203 concerning use of the Crime Lab for vehicle collision cases. Ref 158
 - e. Venue and Employer LEAs (including Affiliate Protocol Members and Participating *ad hoc* Agencies) and the District Attorney's Office are co-equal within MATF investigations. Ref 159
 - f. The goal of the Criminal Investigation is to develop all available relevant information about the Protocol incident so a subsequent determination about the presence or absence of criminal liability on the part of anyone involved in the incident can be properly made. Specifically, it investigates: Ref 160
 - 1) whether or not conduct of anyone involved in the incident is prohibited by California criminal law, and if criminal conduct did occur: Ref 161
 - a) determine who is responsible for that conduct; and Ref 162
 - b) determine the degree of the crime(s); the existence of any factual or legal defenses; and the presence or absence of any factors which would mitigate or aggravate punishment for such crime(s). Ref 163

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- g. Its entire investigative product will be promptly shared with all LEA(s) participating in the MATF and with other LEAs as appropriate for their uses, including use in any Administrative or Civil Litigation Investigations they may conduct. While the Criminal Investigation does not directly address Administrative or Civil Litigation concerns, its investigative product is often very relevant to issues those other investigative formats may address. **Ref 164**
- h. The Criminal Investigation is required to follow the rules of law that apply to all criminal investigations, i.e., those established and defined by the federal and state constitutions, federal and state statutes, and case law. **Ref 165**
- i. It is performed in a manner that provides both the appearance and the reality of a thorough, fair, complete, and professional investigation that is free of conflicts of interest. **Ref 166**
- j. **Protocol Investigators' Group:** **Ref 167**
- Investigators from Member Agencies and Affiliate Member Agencies who are experienced and skilled in Protocol investigations may be invited to join the Protocol Investigators Group. Thereafter, when their investigative expertise and experience is needed, members of this Group may be called upon to join MATF investigations of incidents in which their LEAs are neither a Venue nor Employer Agency. (Of course investigators may participate in MATF investigations of incidents in which their LEA is a Venue or Employer Agency whether they are members of this Group or not.) To be eligible for membership in this Group, there must be an adequate indication from the investigator, as well as from his/her LEA, that the investigator is potentially willing and available to assist in such investigations. The District Attorney's Office selects the members for this Group and maintains the list of its members. Decisions to call upon Group members for assistance on specific Protocol incidents, and selection of specific investigators to be used, shall be made by the Case Managers Team (**Ref 169**).
- k. For each incident, the MATF investigators will be assigned as appropriate to investigative teams by the Case Managers Team. The number of teams utilized will depend upon the specific circumstances of each incident, the number and complexity of investigative tasks to be performed, how rapidly various tasks must be performed, and upon the availability of personnel resources. Normally each team will consist of one criminal investigator from each of the MATF agencies. The MATF agencies may elect to participate or not participate on various teams and in various aspects of the MATF's investigation as they consider appropriate. **Ref 168**
- l. **Case Managers Team:** **Ref 169**
- Each MATF investigation is led by an *ad hoc* Case Managers Team. Each of the MATF agencies will contribute one person to this team. Generally, the

officials assigned to this Team should hold the approximate rank of lieutenant, or if holding lesser rank, should be given lieutenant-level authority by their agencies for their participation on this Team.

These individuals should be experienced and knowledgeable in LEIFI investigations, should have supervisory authority over investigators from their respective agencies and should have sufficient knowledge and authority to make a variety of decisions pertaining to the MATF investigation of the incident on behalf of their agencies and to implement those decisions.

As members of the Case Managers Teams, they will become aware of issues that may affect their LEAs which are collateral to or outside the realm of the Criminal Investigation. They will need both the authority and the management perspective of a lieutenant-level individual to properly address those issues.

Officials assigned to the Case Managers Team work together as a team and the members are co-equal. While their primary function is to work with each other to manage and coordinate the Criminal Investigation, occasionally one or more members may need to perform some Criminal Investigative functions. See **Refs 228-236** regarding criteria for selecting Criminal Investigators and Case Managers.

- m. Venue Agency Choices in Particular Situations: **Ref 170**
- 1) When a Protocol incident occurs in part in two or more jurisdictions, or if it occurs on the boundary of two jurisdictions (per the definition of California Penal Code §782), or at a location where the boundary is not readily ascertainable or is in dispute, the Venue Agency(ies) shall be:
Ref 171
 - a) the Employer Agency if the LEA Actor (**Ref 48**) is employed by either boundary LEA; or **Ref 172**
 - b) both boundary agencies if LEA Actors are employed by both; or **Ref 173**
 - c) the LEA which has the greater interest in the case by virtue of having the predominant police involvement in the LEIFI or by virtue of having had the majority of acts leading up to the fatality occur within its jurisdiction. **Ref 174**
 - 2) For detention, arrest and institutional custodial fatalities, the following LEAs may be Venue and/or Employer Agencies and may participate in the Protocol investigations of such incidents as they decide: **Ref 175**
 - a) the LEA having custody of the person at the time his/her distress was first discovered. **Ref 176**
 - b) the LEA(s) having territorial jurisdiction to investigate the death or **Ref 177**

any event which may have caused or contributed to it.

- c) the LEA which had actual custody at the time of the fatality. **Ref 178**
- d) an LEA which surrendered the detainee, arrestee or prisoner into the possession of another LEA. **Ref 179**
- 3) Special rule for some murder or non-vehicular manslaughter cases: **Ref 180**

When there is probable cause to believe (**Ref 61**) that a “Law Enforcement Person” (**Ref 32+**) is either a murder or non-vehicular manslaughter victim or suspect, and when it appears that the fatality was not during an “on-duty” (**Refs 43-45**) event for either involved person, the Venue Agency, if it is not also the Employer Agency, has the option, after consultation with the District Attorney’s Office, of investigating the incident itself without utilizing the Protocol. Determining the Venue Agency shall be on the same basis as in any civilian homicide case. The same provision is at **Refs 72, 96**.
- 4) When an “on-duty” LEO is an Actor (**Ref 48**) in a Protocol incident that occurs within the jurisdiction of another Member LEA, and when that LEO was apparently “on-duty” (as defined in **Refs 43-45**) at the time of the Protocol incident, the Venue Agency may elect to relinquish its Venue Agency role in the Criminal Investigation to the Employer Agency if both LEAs agree. The Employer LEA would then act as both the Venue and the Employer LEA for purposes of the Protocol investigation. The same option applies when the nexus between the fatality and the non-Venue LEA is its operations or activities. **Ref 181**
- 5) Protocol incidents occurring within the jurisdiction of Districts: **Ref 182**

The LEAs of the East Bay Regional Park District (EBRPD), the Bay Area Rapid Transit District (BART), and the Contra Costa Community College District shall be Venue Agencies for incidents occurring within their jurisdictions. Other LEAs, such as the Sheriff’s Office and city police departments may, at their option, also be Venue Agencies for incident investigations when they have concurrent jurisdiction over such incidents, or when they are Employer Agencies, or when requested by the involved District.
- n. When a Venue or Employer Agency lacks sufficient investigative resources to perform its role in a Protocol investigation, or when it believes it is more appropriate for another LEA to participate in the investigation in its place, it has these options: **Ref 183**
 - 1) Obtain investigators from the Protocol Investigators Group to staff MATF positions which would otherwise be staffed by the LEA’s own personnel. These borrowed officers would work on behalf of the requesting LEA as **Ref 184**

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- if they were employed by it.
- 2) Obtain Criminal Investigators directly from one or more other Member Agencies. These borrowed officers would work on behalf of the requesting LEA as if they were employed by it. Ref 185

 - 3) Inform the Case Managers Team that it lacks sufficient personnel to staff its normal positions on the MATF. If the Case Managers Team believes more investigators are necessary to fill those positions, it can obtain them from the Protocol Investigators Group or elsewhere. Those investigators would then work as MATF investigators under the Case Managers Team but would not work as if they were employed by the requesting Agency. Ref 186

 - 4) Relinquish its criminal investigative responsibility to another Member Agency which is willing to substitute itself into the position the requesting LEA would otherwise have had on the MATF. Ref 187

 - o. Vehicle collision fatalities: Ref 188
 - 1) **Vehicle Collision Investigators:** Fatalities associated with vehicle operations (as defined in Refs 82-93) shall be investigated by one or more well qualified vehicle collision investigator(s) working as members of the MATFs investigating those incidents. The Case Managers Team will determine which of the following collision investigators shall be used:
 - a) members of the **Protocol Collision Investigators Group**. Refs 193-202 Ref 190

 - b) members of a **California Highway Patrol Multidisciplinary Accident Investigation Team** ("MAIT"). For Protocol purposes this category includes active MAIT members as well as CHP officers who are former MAIT members who have retained their qualifications and are in good standing. Ref 191

 - c) other qualified vehicle collision investigators (not from Refs 190-191) selected by the Case Managers Team. Ref 192

 - 2) **The Protocol Collision Investigators Group** is composed of vehicle collision investigators from law enforcement agencies and from the private sector who have been pre-selected to perform Protocol investigations of traffic collision incidents and other selected Protocol incidents which involve vehicle movement. Ref 193
 - a) A qualifications committee, appointed by the Chiefs' Association and meeting as necessary, will screen interested investigators and will establish the membership of the Group. The listing of qualified Ref 194

investigators in this personnel pool will be maintained by the District Attorney's Office and shall be updated as necessary.

- b) The qualifications for membership in the Protocol Collision Investigators Group are:
 - 1. successful completion of a California POST (or equivalent) approved Traffic Accident Reconstruction (TAR) course or an Advanced Traffic Collision Investigation course. **Ref 196**
 - 2. a demonstrated sufficient quantity of practical field experience, including the identification, documentation, collection and interpretation of collision physical evidence, and interviewing. **Ref 197**
 - 3. previous qualification as an expert witness on the subject in court and/or in approximately equivalent non-courtroom proceedings, or a showing that he/she is capable of being so qualified. **Ref 198**
 - 4. evidence that he/she keeps current with the subject. **Ref 199**
 - 5. familiarity with, and acceptance of, this Protocol's method of conducting investigations and willingness to work within its MATF format. **Ref 200**
 - 6. an adequate indication from the investigator, as well from his/her LEA, that the investigator is potentially willing and available to assist in such investigations. **Ref 201**
- c) the Case Managers Teams will select the members of the Protocol Collision Investigators Group to be utilized for individual Protocol cases. **Ref 202**
- 3) The assigned vehicle collision investigators may be assisted by other vehicle collision investigators (even if not from MAIT or from the Protocol Investigators Group) working under their/his/her supervision. For scene measuring, diagramming, photography, videography and evidence collection, assistance may also be provided by Crime Lab personnel, forensic scene diagrammers or mappers, Crime Scene Investigators, or by other LEA personnel. On-scene collaboration with the Sheriff's Crime Lab regarding the identification, documentation, collection and laboratory analysis of physical evidence is encouraged. **Ref 203**
- 4) One or more vehicle collision investigators from the Employer Agency cannot investigate the incident alone; at least one other qualified vehicle collision investigator from another agency must jointly investigate. **Ref 204**
- 5) If additional experts are needed they shall be selected by the MATF's Case Managers Team after consultation with the assigned vehicle collision investigators. **Ref 205**

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- 6) The Case Managers Team will determine the responsibility for the quality control review of investigative reports written by members of the Protocol Collision Investigators Group on a case by case basis. Ref 206
- p. First Responders' Scene Responsibilities, Procedures and Checklists Ref 207
- 1) After Protocol incident scenes are tactically stable, each LEA is responsible for immediately securing scene(s) within their territorial jurisdiction and for effectively and appropriately managing the numerous first responder tasks that need to be performed. Before the Crime Lab arrives and before the MATF investigation begins, this responsibility may be shifted by mutual consent of the involved LEAs, and it may be modified later by the Case Managers Team. Ref 208
- 2) The scope of the first responders' scene-related tasks is shown in the content of four Checklists which are Attachments to this Protocol and are listed below. Three of them apply to the most common types of incidents (shootings, vehicle collision fatalities and institutional custodial fatalities) and the fourth is a checklist to guide CSIs (and others) before the Crime Lab arrives. While these Checklists contain many specific directions and suggestions, no Checklist can anticipate everything that needs to be done, therefore sound judgment must be exercised because some tasks will need to be performed which are not on the Checklists and some deviations from the Checklists will occasionally be appropriate. For some incidents it will be appropriate to utilize all or portions of several Checklists. Ref 209
- **Patrol Supervisors' LEIFI Checklist - Shootings and Generic Incidents.** Attachment A on Pages 50-62.
 - **Patrol Supervisors' LEIFI Checklist - Fatal Vehicle Collisions.** Attachment B on Pages 63-69.
 - **Supervisors' LEIFI Checklist - Institutional Custodial Deaths.** Attachment C on Pages 70-76.
 - **CSI Checklist: Before the Crime Lab Arrives.** Attachment D on Pages 77-79.
- q. Physical Evidence Responsibility: Ref 210
- 1) The Contra Costa Sheriff's Criminalistics Laboratory (the **Crime Lab**) has the responsibility for processing scenes and physical evidence in most Protocol cases (Ref 158). This includes: documenting the scene(s) and their contents; locating, collecting, preserving and analyzing physical evidence; conferring with LEIFI investigators; writing reports; and testifying as needed. See Ref 203 for the Crime Lab's role in vehicle collision cases. Ref 211

2) The **Protocol CSI Group**

Ref 212

This Group is established to assist individual Member Agencies, the MATF investigators, and/or the Crime Lab, with evidence and scene processing aspects of Protocol investigations. Members of this Group are LEA employees, either peace officers or not, for whom there is adequate indication from the CSI as well from his/her LEA that the CSI is potentially willing and available to assist with physical evidence work on Protocol cases on an as-needed basis. Qualifications for membership in this Group will be determined by the Director of the Crime Lab who shall also maintain and update the list of Group members as necessary.

- 3) In rare Protocol cases, very little physical evidence work may need to be performed in the field. In those cases the Crime Lab need not be utilized to process the scene(s) or to collect evidence if all the members of the Case Managers Team agree. If any member of the Case Managers Team does not agree, the Crime Lab shall be used.

Ref 213

a) When the Crime Lab is not utilized in such cases, the MATF may utilize members of the Protocol CSI Group, but the Group member(s) who selected may not all be employed by the Employer Agency.

Ref 214

b) If the Case Managers Team is inclined toward not using the Crime Lab to process specific scenes, it should consider that criminalists who are later asked to do forensic reconstructions may be at a disadvantage if they did not perform the scene processing themselves or were not present when it was being done.

Ref 215

- 4) The Crime Lab may request that MATF Agencies furnish personnel (whether CSIs or not) to assist it with scene and evidence work. Furnished personnel will work under the direction of the Crime Lab. MATF investigators designated by the Case Managers Team may also be assigned to scene or evidence tasks; their work may be performed under the direction of the Crime Lab or not, as the Case Managers Team and the Crime Lab jointly decide. The primary considerations in this decision are whether the Crime Lab has already completed its searching and processing before the MATF investigators begin to search, and what type of evidence the MATF investigators will be seeking.

Ref 216

- 5) If an employee of the Crime Lab is involved in a Protocol incident as an "LEA Actor" (Ref 48) or as a victim⁶, at least one physical evidence

Ref 217

⁶ Criminalists of the Contra Costa County Sheriff's Criminalistics Laboratory are Deputy Sheriffs who are sworn and armed peace officers. If the Crime Lab employs any civilian criminalists in the future this provision (Ref 217) will still apply.

specialist designated by the Case Managers Team and not affiliated with the Sheriff's Office will be actively involved in processing physical evidence with Crime Lab personnel. Members of the Protocol CSI Group may be used for this purpose.

- 6) Prior to the final relinquishment of pivotal scenes: Ref 218
 - a) MATF investigators and scene processors should brief each other and jointly walk-through the scene(s) to further their mutual understanding of the physical evidence aspects of the incident and its relationship to testimonial information, as well as to assess the need for further scene work. Ref 219
 - b) Management staff, Administrative Investigators and Civil Litigation Investigators of the involved MATF agencies will be given scene walk-throughs and scene briefings if they desire. Ref 220

- 7) In some cases the Crime Lab and the Case Managers Team may determine that customized procedures are necessary for tagging evidence items, documenting collected items on evidence lists, and/or storing collected evidence. Such procedures will be jointly determined by them on a case-by-case basis. Ref 221

- r. Notifications Ref 222

Promptly upon identifying an event as a Protocol case, the Venue Agency/Agencies shall make notifications as promptly as possible to:

 - 1) intra-departmental personnel as required by each agency's procedures; Ref 223
 - 2) other involved and affected LEAs if not yet aware; Ref 224
 - 3) the District Attorney's Office, directly or through Sheriff's Dispatch; Ref 225
 - 4) the Sheriff's Crime Lab; Ref 226
 - 5) the Coroner's Office upon confirmation of a fatality. This notification must be made promptly but removal of the remains will not occur until authorized by the Crime Lab and the Case Managers Team. Refer to Attachment F, ***Death Investigation Roles of the Coroner and Law Enforcement Agencies*** on Page 97+ for more details. Ref 227

- s. Selection of MATF investigators and Case Managers Ref 228

The complexities and challenges of LEIFI investigations demand that well qualified investigators be assigned to the MATFs by their LEAs. It is most important that members of the Case Managers Team, as well as the primary

investigator from each LEA, be well qualified and carefully selected. The best available people should be selected for those assignments. The following qualifications are important:

- 1) Experience in Protocol investigations, homicide investigations, non-homicidal crimes against persons, (or vehicular collisions, when applicable) is especially helpful. Ref 229
 - 2) Ability to effectively interview people of various backgrounds. Ref 230
 - 3) Good working knowledge of physical evidence collection and preservation techniques, an appreciation of the abilities and limitations of physical evidence and scientific analysis of it, and an understanding of the inter-relationship between physical evidence and other types of evidence, especially testimonial accounts of participants and witnesses. Ref 231
 - 4) Good knowledge of police operational procedures and the criminal justice system. Ref 232
 - 5) Good understanding and personal acceptance of this Protocol. Ref 233
 - 6) Excellent report writing and communication skills. Ref 234
 - 7) For Case Managers, good organizational and supervisory skills. Ref 235
 - 8) Possess deserved professional respect of those with whom he/she works for being competent, thorough, objective, fair and honest. Ref 236
- t. Interviewing Law Enforcement Personnel Ref 237
- 1) Law Enforcement Personnel have the same rights and privileges regarding Criminal Investigation interviews that other citizens have. Ref 238
 - 2) Criminal Investigations of Protocol incidents must adhere to legal rules that apply to all criminal investigations (Ref 165). One of the most basic of these rules is that statements (as well as physical evidence) cannot be used in criminal proceedings against people from whom they have been unconstitutionally coerced. Because Criminal Investigations must acquire testimonial and physical evidence through methods that ensure admissibility in potential criminal prosecutions, MATF interviewers must usually not even attempt to obtain statements or physical evidence from Law Enforcement Personnel by using direct or indirect coercion; specifically, in most situations, they must not utilize the authority of the Lybarger cases (Ref 52) to obtain non-consensual (i.e. involuntary) statements (or physical evidence) from LEA Actors (Ref 48). Any exception in individual cases to this very significant limitation must be jointly approved in advance by the District Attorney's Office and by the

LEA(s) which employ(s) the involved Law Enforcement Person prior to a Lybarger admonition being given ⁷.

- 3) To ensure the voluntariness of interviews, MATF interviewers may advise Law Enforcement Personnel interviewees of the following: Ref 240
- a) The interviewee is not in custody and is free to leave at any time (if true). Ref 241
 - b) The interviewee is not required to participate in the MATF interview and is not obligated to answer any questions asked by MATF investigators. Further, no punitive action can be taken by the Employer Agency against the interviewee if he/she exercises the right against self-incrimination when speaking to MATF investigators. Ref 242
- 4) Miranda is applicable if and when the interview becomes a custodial interrogation, as Miranda case law prescribes. Ref 243
- 5) Law Enforcement Personnel have the right to consult with representatives and/or support people prior to interviews and to have them present during Criminal Investigation interviews. Representatives are usually lawyers or officials of peace officers' associations or labor unions, while supporters are usually spouses, co-workers, friends, or members of the clergy. Ref 244
- a) Privileged communications: Ref 245
- Under California statutes, "private communications" (as defined in the statutes) between individuals (including Law Enforcement Personnel) and the categories of representatives and supporters listed below can be kept confidential (i.e. privileged against compelled disclosure) only when the applicable statutory criteria are met.
- Lawyer ⁸ Ref 246
- The California Evidence Code provides that the content of "**confidential communications**" between people and their lawyers can be kept confidential if the communication meets several other statutory criteria. Among them: the communication must have been made within the lawyer/client

⁷ The policy of the United States Justice Department does not allow federal LEAs to grant Lybarger-type "use immunity" to employees in return for administratively compelled statements or other evidence without the prior consent of the Justice Department. U.S. Attorney's Manual Chapter 9-23.140; 28 C.F.R. § 0.175; 18 USC § 6004; and Attorney General's memorandum of June 4, 1980.

⁸ **Lawyer:** California Evidence Code §§950-962. See §952 for the criteria for confidential communications.

relationship and it must have been made in confidence, meaning that no third parties were present except those present as a legitimate agent of the lawyer.

- Physician ⁹, Psychotherapist ¹⁰, Member of the Clergy ¹¹ Ref 247

These professionals infrequently act as representatives for Law Enforcement Personnel during interviews but often support them later in other ways. Confidential communications between individuals and these professionals may also be protected from disclosure. The statutory criteria for confidentiality differs slightly for each category so refer to the statutes for details.

- Spouse ¹² Ref 248

Confidential communications between husband and wife are privileged when the communication was made in confidence between the spouses while they were husband and wife, but some exceptions apply. Refer to the statutes for details.

- Law Enforcement Peer Support and Crisis Referral Services Program¹³

Communications between an LEA involved in a LEIFI and a peer support team member may or may not be confidential. Consult a legal representative and/or refer to the relevant statutes for details.

- b) Non-privileged communications: Ref 249

Communications made to others who are not within the categories above, such as to peace officer association representatives, non-lawyer labor union representatives, co-workers, significant others, friends, companion officers, sequestering officers are not privileged under California law except when such people are present and acting as legitimate agents of the person's lawyer, physician, psychotherapist or member of the clergy.

- c) Representatives should be allowed to consult privately about the facts of the incident with only one Law Enforcement Person at a time. Ref 250

⁹ **Physician:** California Evidence Code §§990-1007. See §992 for the criteria for confidential communications.

¹⁰ **Psychotherapist:** California Evidence Code §§990-1007. See §1012 for the criteria for confidential communications.

¹¹ **Member of the Clergy:** California Evidence Code §§1030-1034. See §1032 for the criteria for confidential communications.

¹² **Marital communication:** California Evidence Code §§980-987

¹³ **Law Enforcement Peer Support:** California Government Code §§8669.1-8669.7

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- 6) The Peace Officers' Bill Of Rights (California Government Code §3300 et seq) is formally titled the Public Safety Officers Procedural Bill of Rights. **Ref 251**
- a) This statute is abbreviated in the Protocol as POBR. **Ref 252**
- b) POBR has virtually no restrictive effect upon most interviews conducted by MATF interviewers with Law Enforcement Personnel for the following reasons: **Ref 253**
1. POBR is applicable to "Public Safety Officers" which Government Code §3301 defines as all California peace officers (LEOs) with a few minor exceptions not relevant to this Protocol. POBR is not applicable to Law Enforcement Personnel who are not peace officers, i.e. people who are referred to in the Protocol as Non Sworn Personnel. (Some LEAs grant their Non Sworn Personnel rights and benefits that are the same as or similar to those accorded to "public safety officers" by POBR.) **Ref 254**
 2. When referring to the questioning of LEOs, POBR exclusively uses the term "interrogation" instead of the word "interview". Although these terms may be synonymous to some people, they are not synonymous for Protocol purposes. MATF investigators usually conduct interviews (not interrogations) with LEOs and other Law Enforcement Personnel (and with nearly all civilians) and do not utilize many of the techniques which are typical of police interrogations ¹⁴. **Ref 255**
 3. POBR applies to "interrogations" of LEOs who are "under investigation". In most Protocol investigations, the subject of the MATF's investigation is not the Law Enforcement Personnel but the entire incident. Law Enforcement Personnel are usually interviewed as victims or witnesses to the incidents (**Ref 267**). **Ref 256**
 4. POBR does not apply to interviews with LEOs who are being "interrogated" by LEAs other than their Employing Agency. **Ref 257**

In rare situations where there is a desire to avoid any possible complication or restriction this provision might impose on MATF interviews, Employer Agencies might withdraw their interviewers from MATF interviews.

¹⁴ One explanation of the differences between interviews and interrogations is found in the training materials and literature of John E. Reid Associates.

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5. POBR does not apply to “interrogations” of LEOs, even when conducted by their Employing LEA, when the “investigation is concerned solely and directly with alleged criminal activities”. **Ref 258**
6. POBR applies to “interrogations” of LEOs who are under investigation if the “interrogation” could lead to punitive action. **Ref 259**
- Since Protocol investigations are Criminal Investigations, not Administrative Investigations, the possibility that “interrogations” could lead to punitive action is usually beyond the intention, knowledge, scope and interest of the MATF investigators. In most cases the LEO/ interviewee and his/her representative know more about the possibility of punitive Administrative action than the MATF interviewers. If the LEO and his/her representative believe that punitive Administrative action could result from the LEO’s participation in the MATF interview, the LEO has these options: (1) decline the MATF interview; (2) agree to be interviewed by MATF interviewers but avoid discussing aspects of the incident that might be administratively incriminating; (3) attempt to resolve possible administrative issues prior to the MATF interview; and (4) elect, with the advice of his/her attorney, to give a complete voluntary statement to MATF investigators despite the possibility of administrative punitive action, believing that doing so is in his/her best interest. **Ref 260**
7. In those few instances when the “interrogation” restrictions of paragraphs a,b,c,d,e,g,h,i of POBR §3303 might apply to MATF interviews of LEOs, those interviews are usually conducted in a manner that complies with those statutory requirements. **Ref 261**
8. Since interviews with MATF investigators are voluntary, Law Enforcement Personnel have the power to decline to be interviewed at all, and/or to negotiate acceptable conditions for interviews. **Ref 262**
9. MATF interviews of LEOs are normally preceded by a statement that informs them that the interviews are conducted on a consensual and voluntary basis and are NOT conducted under the compulsion of the Lybarger cases, except in rare cases when a witness Law Enforcement Person might be administratively compelled by his/her LEA to cooperate with MATF: see **Ref 239**. Interviewees are also clearly informed whether or not the interview is a custodial interrogation within **Ref 263**

the meaning of the Miranda cases.

- c) POBR §3304(a) permits heads of LEAs to order their LEOs to cooperate with Criminal Investigations being performed by other agencies and provides that an LEO's failure to comply with such orders may result in a charge of insubordination. When applicable, interviewees may be advised of this provision by their Employer. However, Law Enforcement Personnel must usually not be compelled by threats of administrative punitive action (or otherwise) to answer questions of MATF interviewers which would be criminally self-incriminating. Also see Refs 52, 237-242, 312-313. Ref 264
- 7) Interviews will be conducted separately. Ref 265
- 8) Interviews will normally be fully recorded ¹⁵ by MATF investigators. Interviewees and/or their representatives may also record. Ref 266
- 9) Interviewees will be considered as witnesses or victims unless the circumstances dictate otherwise. (Ref 256)
- 10). The initial interview of an officer involved in a LEIFI should occur before the officer has reviewed any audio/video recordings of the incident. An involved officer will have an opportunity to review recordings after the initial statement has occurred, and he/she can be re-interviewed if either the officer or members of the investigating team believe it is necessary. Investigators should be mindful that audio/video recordings have limitations and may depict events differently than the events recalled by involved officers. If an investigator shows any audio/video recording to an Involved Officer after the initial interview, the investigator should admonish the Involved Officer about the limitations of audio/visual recordings. Ref 267
- 11). The following is an example of an admonition that might be given in such situations:
- *In this case, there is recorded evidence that you will have an opportunity to view after you have given your initial statement. Recorded evidence has limitations and may depict the events differently than you recall, and it may not depict all of the events that you saw or heard. Recordings have a limited field of view and may not capture events normally seen by the human eye. The "frame rate" of the recording may limit the camera's ability to capture movements normally seen by the human eye. Lighting as seen on the recording may be different than that which is seen by the human eye. Recordings are two-dimensional and may not capture depth, distance, or positional orientation as well as the human eye. Remember, the video evidence is intended to assist your*

¹⁵ Audio and/or video recordings may be made using analog and/or digital equipment but digital is preferred.

memory and your ability to recall and describe the incident.

- u. Intoxicant Testing of Law Enforcement Personnel Ref 268
 - 1) Law Enforcement Personnel have the same rights and privileges that civilians have regarding intoxicant testing. When MATF investigators determine that a Law Enforcement Person's state of sobriety or intoxication is relevant to their investigation, they have these options: Ref 269
 - a) Obtain blood, breath and/or urine (Ref 279) samples through valid consent. Ref 270
 - b) Obtain blood, breath and/or urine (Ref 279) samples Incidental To Arrest. Ref 271
 - c) Obtain a search warrant for biological samples if they have probable cause to do so. Ref 272
 - d) In traffic incidents, utilize California Vehicle Code §23612 (implied consent) when applicable. Ref 273
 - e) When an arrestee refuses to submit to collection of samples sought Incidental To Arrest, attempts may be made to obtain blood samples for intoxicant testing in accordance with case law ¹⁶. When the collection of blood or other biological samples is authorized by a Search Warrant, the use of reasonable force to obtain the evidence may be authorized by the Search Warrant. Ref 274
 - 2) An Administrative representative of the Employer Agency will be promptly notified (usually by its representative on the Case Managers Team) if the MATF does not seek or obtain biological samples for intoxicant testing. After the MATF investigators have had the opportunity to obtain samples, the Employer Agency may then seek to obtain administrative samples for its use. Ref 275
 - a) The legal authority for the Employer Agency to obtain samples includes (1) valid consent, and (2) ordering employees to provide the samples utilizing the authority of the Lybarger (Ref 52) cases. Ref 276

¹⁶ As used here, "case law" refers to California and federal appellate cases that authorize peace officers to use *reasonable force* to obtain blood samples from non-compliant arrestees. To be reasonable, the amount of force *must not shock the conscience* and the sample *must be taken in a medically acceptable manner*. The leading case is Schmerber v. California (1966) 384 U.S. 757; 16 L.Ed.2d 908; 86 S.Ct. 1826.

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- b) Some LEAs have blanket provisions in their General Orders or Policy And Procedure Manuals requiring intoxicant testing after specified events, while others make such decisions on a case-by-case basis. Ref 277
- 3) Toxicology test results from biological samples obtained by MATF investigators are available to Administrative and Civil Litigation Investigators. Ref 278
- 4) Blood is best for alcohol testing while urine is best for drug screening. Optimally, samples of both should be obtained for most complete results. Breath testing for alcohol yields less meaningful results. Ref 279
- 5) Samples should be collected promptly after incidents for most meaningful results. Ref 280
- 6) Whether or not the MATF or the Employer Agency have obtained samples for toxicological testing, Law Enforcement Personnel may have their own samples collected for toxicology testing by a qualified person or facility of their choice. Such requests will be promptly honored but the taking of samples, their storage and chain of custody, and their subsequent testing will be the responsibility of the individual Law Enforcement Person and/or their agents and not the MATF or the Employer Agency. Ref 281
- v. Autopsies Ref 282
- 1) For information about the Coroner's Office in general, and about autopsies specifically, see Attachment F, ***Death Investigation Roles of the Coroner and Law Enforcement Agencies*** on Page 97. Ref 283
- 2) The extensive ***Autopsy Evidence Collection Checklist*** (Attachment E on Page 80) will assist evidence collectors, working with the pathologist at autopsy, in discovering, documenting and processing body conditions and physical evidence, as well as in collecting and preserving autopsy evidence. Ref 284
- 3) At least one member of the Case Managers Team, a member of the MATF's primary investigative team, and a representative of the District Attorney's Office will attend the autopsies. Other MATF Investigators may also attend. Ref 285
- 4) MATF investigators and the Crime Lab will brief the autopsy pathologist prior to the autopsy, incorporating all information known by the investigators and by the physical evidence processors which may be relevant to the pathologist's examination of the decedent and to the determination of the cause, manner and means of death. It is very Ref 286

important that investigators and evidence processors who are very knowledgeable about relevant case facts be involved in these briefings.

- 5) For LEIFI autopsies conducted in Contra Costa, and for autopsies conducted in other counties where the pathologists agree, the Crime Lab has the responsibility for physical evidence. Ref 287
- a) Exception: For vehicular collision fatalities, the Protocol Collision Investigators have that responsibility with assistance, if appropriate, from the Crime Lab or other qualified physical evidence processors. Ref 288
- 6) Although the Coroner's Office has authority to determine who attends autopsies, it is usually advisable to allow legitimate professionals who have been retained by or for the decedents' families to attend. Examples are licensed medical doctors, licensed private investigators, and recognized professional criminalists. Ref 289
- w. The District Attorney's Office Ref 290
 - 1) The District Attorney's Office has the following roles in Protocol cases: Ref 291
 - a) Participate as a coequal investigating agency in the MATFs with the Venue and Employer Agencies and with assisting LEA(s). Ref 292
 - b) Assist and advise MATF investigators and others on various criminal law and investigatory issues which may arise, such as: (1) search and seizure, including consensual searches; (2) interviewing including Miranda, voluntariness of statements and interview content; (3) detentions and releases; (4) decisions to arrest, including evaluation of probable cause; (5) elements of crimes; (6) legal defenses; (7) immunity issues; (8) sharing of information between the various investigative formats; (9) physical evidence matters; (10) investigative strategy and tactics; (11) sources for acquiring information and investigative resources; (12) methods to compell and preserve testimonial information including use of the Grand Jury; (13) crime charging matters; and (14) recognition and resolution of other criminal law issues. Ref 293
 - c) Upon completion of the Criminal Investigation, analyze the facts of the incident and apply the relevant law to determine whether or not criminal laws were violated. Prosecute or decline to prosecute as appropriate. For fatal incidents, the final analysis usually occurs after the Coroner's Inquest.
 - d) Following the Coroner's Inquest, the District Attorney's Office will issue a written report with legal analysis, or pursue criminal charges against one or more of the involved parties. Ref 294

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- 2) The District Attorney's Office has its own separate investigative authority and may perform independent investigations of incidents, separate from the MATF or any other investigations, when deemed appropriate by the District Attorney or his/her designee. Ref 295

 - x. MATF reports and documents. Also see Refs 344-350. Ref 296
 - 1) All Criminal Investigators will write reports documenting their participation in MATF investigations. Ref 297

 - 2) The Case Management Team will assign or delegate investigative tasks and responsibilities as well as the responsibility for which investigators within each MATF team will be responsible for documenting the team's investigative activity. Ref 298

 - 3) **The Major Case Page Numbering System** Ref 299

The Case Managers Team will designate an MATF investigator to assemble and disseminate all MATF reports and documents. All MATF agencies will submit one legible copy of each page of its reports and other documents to the designated investigator but will maintain possession of their originals.

 - 4) Prompt completion, submission and distribution of reports is essential. All MATF and assisting agencies and investigators will strive for report completion and distribution within 30 days after each Protocol incident. Ref 300

 - 4. **The Administrative Investigation** Ref 301
 - a. In addition to its participation in the MATF's Criminal Investigation of Protocol incidents, involved LEAs may also wish to conduct investigations of Protocol incidents for their own administrative (non-criminal law) purposes. Such purposes include: Ref 302
 - 1) **Internal Affairs:** to determine whether or not its employees violated LEA regulations, orders or training instructions. Ref 303

 - 2) **Agency Improvement / Quality Assurance:** to examine the adequacy and functioning of its policies, procedures, programs, operations, training, equipment and personnel, to confirm their efficacy or to identify needed improvements. Ref 304

 - 3) **Accountability and Communications:** to meet LEA management's responsibility of informing and discussing the facts of incidents with people outside the LEA such as those in the LEA's parent government, other LEAs, other government agencies, risk managers, insurance Ref 305

carriers, the public, decedents' families, the news media, etc.

- 4) **Civil Claims and Litigation:** to prepare the LEA for claims and/or civil litigation that may be filed. (Some LEAs utilize the Administrative Investigation for this task if they don't utilize the separate Civil Litigation Investigation format.) **Ref 306**
- b. The initiation of Administrative Investigations and the extent of those investigations are at the discretion of Employer Agencies. **Ref 307**
- c. LEAs may conduct Administrative (and Civil Litigation Investigations - **Ref 316**) as they wish but not in conflict or competition with the Criminal Investigations. Similar provisions are at **Refs 121, 316**. **Ref 308**
- d. Employer Agencies needing investigative assistance to perform Administrative Investigations may seek advice and/or obtain investigators from other LEAs or from other sources. Those investigators would perform, or help perform, the Administrative Investigations under the authority and direction of the Employer LEA. **Ref 309**
- 1) Legal and investigative advice on conducting Administrative Investigations may be obtained from the LEAs' legal advisors (county counsel, city attorney, Chief's attorney, associations to which the Chief or the LEA's parent government belongs, etc.), from other LEAs or from elsewhere. **Ref 310**
- 2) The District Attorney's Office may be contacted for advice concerning criminal law matters (**Ref 293**) related to Administrative Investigations but it does not otherwise give legal advice on Administrative Investigations. It does not perform Administrative Investigations for other LEAs nor does it participate in them. **Ref 311**
- e. Any evidence or information that was administratively compelled (**Refs 52, 239**) from Law Enforcement Personnel shall not be revealed in writing, orally or otherwise to Criminal Investigators or to any member of the District Attorney's Office without prior approval of the District Attorney's Office. This prohibition applies to interview statements, physical evidence (including biological samples taken from Law Enforcement Personnel and the results of their testing), police reports or witness statements, scene re-enactments, and other information including investigative leads. Some exceptions to this prohibition (**Ref 239**) may apply. **Ref 312**
- 1) Products of the Administrative Investigation that were not acquired directly or indirectly through administrative compulsion (i.e. *Lybarger*) are subject to disclosure to Criminal Investigators and the District Attorney's Office. Confer with the District Attorney's Office prior to disclosure. **Ref 313**
- f. Upon being notified of Protocol incidents, Employer Agencies should **Ref 314**

consider assigning at least one LEO to represent the Employer LEA's Administrative interests for the first 6 to 12 hours of the MATF's investigation. This investigator should respond at the same time that MATF investigators do, should attend the MATF's briefings and observe the scenes and physical evidence, and be thoroughly knowledgeable about the MATF's investigative product and progress. He/she should be alert for, and brief LEA management on, matters of Administrative (and Civil Litigation if tasked) interest and should be prepared to advise upon or make acute Administrative Investigative decisions and to begin an active Administrative Investigation if and when assigned to do so. This investigator can also serve as a MATF contact with the Employer Agency for certain personnel matters.

- g. The MATF will promptly and periodically brief Administrative Investigator(s), as requested, about its investigative products and progress. Administrative Investigators will have access to MATF briefings, the scene(s), physical evidence, and interviewees' statements and all other material. Ref 315

5. The Civil Litigation Investigation Ref 316

In anticipation of possible civil claims and civil lawsuits, a separate Civil Litigation Investigation may be performed by involved LEA(s). These investigations are performed under the direction of, and on behalf of, lawyer(s) who would represent the LEA and its parent governmental body (and often LEA employees) in the event a civil claim or lawsuit is filed against them. Risk Management personnel are often also involved. Investigators for this format are usually supplied by the involved LEA or its parent government, or they may be from the private sector. Certain privileges, such as the Attorney/Client privilege ¹⁷ and the Attorney Work Product privilege ¹⁸ may apply to its investigative results. Civil Litigation Investigators have access to MATF briefings, the scene(s), physical evidence, and to all the MATF's investigative products.

LEAs may conduct Civil Litigation Investigations as they wish but not in conflict or competition with the Criminal Investigations. The same provision is at Refs 121, 308.

I. GUIDELINES FOR INFORMATION RELEASE TO THE PUBLIC AND NEWS MEDIA Ref 317

1. The public's right to know what occurred must be balanced with the investigative requirements of the three different investigative formats (Criminal, Administrative and Civil Litigation) and with the rights of involved and affected individuals and/or the public. Ref 318
2. As in all other law enforcement contexts, great care must be taken to ensure that intentionally or recklessly misleading, erroneous or false statements are not made. Ref 319

¹⁷ California Evidence Code §915

¹⁸ California Code of Civil Procedure §§2018.030 (a) and (b).

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3. Agencies and individuals who are not well informed and not intimately involved with the progress and results of the MATF investigations should not make statements to the press or public about that investigation. **Ref 320**
4. Regarding specific agencies: **Ref 321**
- a. Venue Agency(ies) **Ref 322**
Unless the involved LEAs otherwise agree, Venue Agencies have the responsibility for making press releases about the facts of the incident and MATF's investigation of it for the first 48 hours.
- b. Employer Agency(ies) **Ref 323**
When the Employer Agency is not also the Venue Agency, fewer problems will arise, especially within the first 48 hours of the investigation, if the Employer Agency limits its comments to the following:
- 1) The employer-employee relationship; **Ref 324**
- 2) Factual material revealed by the Employer Agency's own Administrative and/or Civil Litigation Investigations of the incident; **Ref 325**
- 3) Information that has been cleared for release by the MATF. **Ref 326**
- c. The Crime Lab **Ref 327**
Its press releases should usually be confined to general information about the laboratory's role and functions, scientific facts and principles, and testing procedures. Specific results of searching, testing and analysis should generally not be released without clearance from the MATF's Case Managers Team unless release of information is considered necessary to publicly correct information which the Crime Lab considers to be incorrect or misleading.
- d. The Coroner's Office **Ref 328**
Information generally should be limited to the following:
- 1) General information about the functions of the Coroner's Office. **Ref 329**
- 2) Autopsy findings, including the condition of decedent, the cause, manner and mode of death and toxicology test results, but only after the MATF agencies have received this information. **Ref 330**
- 3) The identity of those present at the autopsy and the identity and affiliation of the pathologist and other experts used by the Coroner. **Ref 331**
- 4) The general nature of further medical testing or medical investigation to **Ref 332**

be performed.

- 5) Information obtained directly by Coroner's investigators from medical sources, the decedent's family members, participants, witnesses or others, and the general nature of further investigation to be done by Coroner's investigators. Ref 333

- 6) Any information which was obtained by the Coroner's Office from MATF investigators or from the involved agencies should generally not be released by the Coroner's Office without clearance from the MATF's Case Managers Team. Ref 334

5. If the Case Managers Team determines that the release of specific information would materially jeopardize the MATF's investigation, it shall notify the agencies possessing it about the hazards of releasing it. Ref 335

6. Interruptions to MATF investigations and investigators will be minimized if LEAs assign individuals to be Public Information Officers who are not MATF investigators. Ref 336

7. Releasing the identities of LEA Actors (Ref 48) and LEA Witnesses (Ref 49) to the news media and the public is often a sensitive issue. Before making such disclosures, the involved MATF agencies should: (1) determine if there are investigative reasons or personal safety reasons for delaying release of the identities, and (2) confer with the involved employees and their representatives about the timing and content of such releases. Ref 337

J. CORONER'S INQUESTS

Ref 338

1. For general information about the role of the Coroner's Office, see Attachment F, ***Death Investigation Roles of the Coroner and Law Enforcement Agencies*** on Page 97. Ref 339

2. A public Coroner's Inquest will normally be held after the Criminal Investigation of each fatal incident is completed. Because evidence at Inquests is received under penalty of perjury, Inquests are a valuable mechanism for informing the public, decedents' families, the news media, and other interested parties of the facts of LEIFI cases. They also provide another opportunity to develop further information about such Incidents. Ref 340

By Protocol agreement, Coroner's juries are utilized for these Inquests. By statute¹⁹ Inquest verdicts include findings regarding (a) the name of the decedent; (b) the time and place of death; (c) the medical cause of death; and (d) whether the death was by natural causes, suicide, accident, or death at the hands of another other than by accident.

¹⁹ California Government Code §27504

While the Coroner’s hearing officer has the discretion to determine which witnesses will testify, it is the Protocol’s general intention that all Law Enforcement Personnel who were Actors (Ref 48) and Witnesses (Ref 49) to the incident be subpoenaed, as well as citizens who are believed to have relevant personal knowledge.

3. In a limited number of cases, where the facts of an LEIFI incident are very clear and law enforcement’s role was obviously appropriate, Inquests may not be necessary. In other cases, the filing of criminal charges against someone in connection with the Protocol incident may provide an adequate opportunity for public access to the facts of the Incident. In either case, the Sheriff/Coroner, and the Police Chief(s) of all involved LEAs, and the District Attorney would have to all agree that an Inquest is not needed. Ref 341
4. Not less than 96 hours prior to the beginning of Inquests, Law Enforcement Personnel who are subpoenaed to testify shall be given access to a copy of any recording(s) or a transcript(s) of their own MATF investigative interviews. Ref 342
5. In addition to the Protocol’s provisions for Inquests, California Government Code §27491.6 provides that the Coroner shall hold an Inquest if requested to do so by the Attorney General, the District Attorney, the Sheriff, City Prosecutor or City Attorney, or a Chief of Police in the county where the Coroner has jurisdiction. Ref 343

K. REPORTS AND EVIDENCE Ref 344

Also see Refs 296-300 for other provisions concerning MATF reports.

1. Material created and collected by the MATF investigation, as well as by the Crime Lab, Coroner and other agencies and investigators, will be made available in a timely manner to involved LEAs and other appropriate LEAs. Ref 345
2. Such material includes: Ref 346
 - a. Reports written by MATF personnel, and reports and documents collected by them from other sources. Ref 347
 - b. Access to physical evidence. Ref 348
 - c. Photographs and diagrams. Ref 349
 - d. Audio and video recordings. Ref 350
3. When the Case Managers Team and the District Attorney’s Office conclude that physical evidence collected by the MATF no longer needs to be retained for criminal law purposes, the involved LEAs shall be notified of that decision. At that time, responsibility for the continued custody and preservation of physical evidence may shift by mutual agreement to the Employer Agency if it believes Ref 351

continued retention is appropriate for potential for Administrative and/or Civil Litigation purposes.

PATROL SUPERVISORS' LEIFI CHECKLIST SHOOTINGS AND GENERIC INCIDENTS

1. **Emergency life saving measures are the first priority.**
 - A. First aid
 - B. Consider need for more EMS resources: fire; additional ambulances; medical helicopter.
2. **Request** (enroute if possible) **additional personnel, equipment** and other **resources** as needed for Patrol Division's scene management responsibilities. Make requests promptly then periodically review situation for further needs. Consider the need for:
 - A. **More Patrol Officers** for LEIFI Incident and/or Patrol responsibilities not connected with the LEIFI Incident:
 1. Borrowing LEOs from other jurisdictions; mutual aid.
 2. Calling in next Patrol shift early and/or delaying release of current shift.
 3. Recalling off-duty LEOs.
 4. Reserve officers, parking/traffic control officers, etc.
 - B. **More Patrol Supervisor(s)** to assist with LEIFI scene(s) and/or Patrol responsibilities not connected with the LEIFI Incident
 - C. **Traffic control:** (1) personnel; (2) flares, barricades, traffic advisory or warning signs, scene tape; (3) traffic detours; (4) notification to Public Works, other LEAs, CHP, CalTrans, etc. if major traffic disruption will occur.
 - D. **Translators** for victims, witnesses and canvassing.
3. **Ensure** (enroute if possible) that **notifications are made** about the LEIFI (by your Dispatcher, a designated LEO, or other) to:
 - A. **Your LEA's personnel** per your LEA's procedures, including as appropriate:
 1. **Chain of command**—management and supervisors.
 2. **Criminal Investigators** (Homicide or Crimes Against Persons, and other relevant investigative specialties).
 3. **CSIs** - for immediate scene needs and/or to assist Crime Lab.

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4. **Vehicle Collision Investigators**—for immediate scene needs and/or to work with designated Protocol Collision Investigators.
 5. **I. A.** (Administrative Investigators) and/or **Civil Litigation Investigators**.
 6. **Press Information Officer**.
 7. **Community Relations Officers**.
 8. **Representatives for involved LEOs:** POA officials (Police Officers' Association, the Deputy Sheriffs' Association (DSA) etc.
 9. **Peer Support**, Trauma Team, or other supportive personnel for traumatized law enforcement personnel.
- B. **Other LEA(s)** whose employees are involved in the Incident (if not already aware).
 - C. The **District Attorney's Office** (either directly or through the Sheriff's Office Dispatcher).
 - D. The **Crime Lab**.
 - E. The **Coroner's Office** upon a death. This is a preliminary or courtesy notification; body removal by the Coroner will be made at the direction of MATF investigators.
4. **Anticipate receiving many inquiries** via cell phone from various officials needing more information after they are notified about the LEIFI. They will require phone briefing, then more details upon their arrival at the scene.
 5. **Consider** the need to:
 - A. **Check the field(s) of gun fire** for injured people and evidence.
 - B. Arrange **additional lighting** for scene(s).
 - C. Establish a **Command Post** (mobile command vehicle or other type).
 - D. **Assign a scribe** to record actions taken.
 - E. **Designate a Press Information Officer** if LEA has no designated PIO.
 - F. Establish a **news media area**.
 - G. **Shield the public's view** of unpleasant, distracting, or investigation-hampering sights.

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PATROL SUPERVISORS' LEIFI CHECKLIST
Shootings and Generic Incidents**

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- H. **Assign an LEO to write the police report** on the event which started the LEIFI. (In many cases an investigator assigned to the MATF will write this report.)
6. Determine which LEO(s) and supervisor(s) have **responsibility for performing routine police work** in the rest of your jurisdiction while attention and resources are involved with LEIFI.
7. **Assign an LEO with a recording device to ride in the ambulance or helicopter** when a person is transported to a hospital. Purposes:
- A. **Physical evidence tasks:** (1) recognize, locate, secure and protect it properly so its value is not diminished; (2) maintain chain of custody; (3) report its discovery to a supervisor, investigator or physical evidence processor.
- B. **Custody of the injured person** if he/she has been or might be arrested.
1. Prevent escape.
 2. Prevent destruction of evidence.
 3. Protect that person.
 4. Adjust or remove physical restraints for medical purposes as necessary and if safe.
 5. Prevent unauthorized contacts.
 6. If the injuries are fatal, maintain the chain of custody on the body until relieved.
- C. **Safety** of EMTs/paramedics, hospital staff and other patients
- D. Provide **aid and comfort to injured Law Enforcement Personnel**; protect the person, physical evidence and property belonging to the person or LEA.
- E. **Document any statements made** by the person, especially spontaneous statements (California Evidence Code §1240), dying declarations (California Evidence Code §1242), contemporaneous statements (California Evidence Code §1241); or statements of then-existing or previous mental or physical state (California Evidence Code §§1250-1251), and those made in connection with medical attention. In most cases the LEO should **not** attempt to interview the person unless directed to do so by investigators.
- F. Provide **information to medical** personnel as relevant for medical treatment and obtain information **from medical** personnel relevant to the investigation.
1. **Identify medical personnel**, including EMTs, paramedics and Emergency Room

**ATTACHMENT A
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- staff involved.
 2. **Serve as the contact for LEIFI investigators** calling for information about the injured person, physical evidence, people present, etc.
 3. **Obtain copies of EMS and medical reports** if then available to law enforcement.
- G. **Contacts with the injured person's family** and friends at the hospital, and with witnesses.
1. **Identify** people.
 2. Serve as the **contact for LEIFI investigators** who may want information about the LEIFI or the injured person from these people, or may want assistance to arrange personal contacts with them.
 3. Collect and preserve **information they give**.
 4. Occasionally there may be a need to **keep the peace** at the hospital.
8. **Protect sensitive investigative information.** Use caution on radio broadcasts and cellular phone use.
- A. Be aware of the technical and investigative capabilities of the news media, including zoom lenses, long range microphones, use of concealed recording devices and transmitting microphones, night vision cameras, access to public and news media records and files, and aggressiveness in interviewing civilian witnesses.
9. **Scene(s): Immediately identify and secure.** Establish a perimeter for each a sufficient distance away to safeguard evidence, law enforcement personnel and operations. In some circumstances an inner and outer perimeter are appropriate. Adjust scene boundaries as necessary as more information becomes available. Establish and maintain true control of the scene.
- A. **Multiple scenes** are often involved, such as
1. Location(s) of the body or injured person.
 2. Location(s) where injuries occurred or where force was used.
 3. Vehicles: LEO's; suspect's; struck by gunfire; involved in collision.
 4. Residences.
 5. Location of personal property.

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6. Location where crimes or incidents connected to the LEIFI or the injured/ deceased person were committed prior to the fatal Incident.
 - a. Location of victims and witnesses of the crimes.
 - b. Location of evidence of those crimes.
 7. Hospital where the injured person was taken.
 8. Location of involved weapon evidence such as firearms (and bullets, casings, magazines); knives, etc.
 9. Routes (vehicle or pedestrian) taken by LEIFI participants.
10. **Protect scene(s) and their contents.** No alterations shall be made to scenes, and no items shall be moved inside scenes or removed from scenes, without prior approval of the MATF and the Crime Lab, unless absolutely necessary for public or officer safety, for preservation of evidence, for emergency medical reasons, or for other very compelling reason.
- If some alteration of a condition, or movement or removal of an item without prior approval is necessary, the removal must be witnessed and documented. Document the identity of the person making the change and the person who authorized it, the reason for the change, the identity of the official who witnessed the change, and the time of change of condition. When possible, these actions shall be photographed or video recorded. Extreme care must be taken to avoid compromising any physical evidence.
- A. **Evidence contamination** may occur from movement, alteration, removal, or addition of items. Especially subject to contamination are fingerprints, footprints, blood, trace evidence, cigarette material, bullets and casings, firearms, lights and light switches, vehicle positions and vehicle conditions.
 - B. **Medical aid debris** - leave in place.
11. **Access to the scene(s) must be strictly limited** to only those officials who must enter for an investigative, medical, or other emergency purpose.
- A. A **single access point**, chosen to avoid contamination of evidence, should be used in most cases.
 - B. When not necessary for patient care efforts, **entry and re-entry by EMS personnel** (fire and ambulance) should be restricted to the absolute minimum necessary to perform needed duties, especially after the patient has been removed from the scene.
 - C. **Do not allow the news media to enter** crime scenes.

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- D. Only MATF investigators can authorize crime scene entry for the following:
1. Representatives of Law Enforcement Personnel including attorneys or police association representatives.
 2. Civilian review board personnel.
 3. LEAs' civil attorneys.
 4. LEAs' Risk Management representatives.
12. A **written scene log** must be established as quickly as possible. Use pre-printed forms when possible.
- A. Promptly and very diligently **reconstruct who was inside the scene before the scene log was started**. List by name, affiliation, and contact information as appropriate. Include:
1. Law enforcement personnel.
 2. Ambulance and fire department personnel.
 3. Civilians (witnesses, victims, bystanders, residents, passersby, suspects).
 4. News media personnel.
- B. Identify and list **everyone who enters the scene after the log is started**, including their names and agency affiliation, the times of their entries and exits, and the reasons for entry.
13. **Discharged firearms in possession of LEOs**
- A. When an involved **LEO still has personal possession of a weapon** he/she used in the Incident, normally the supervising patrol officer at the scene should promptly and discretely (i.e., in private, out of view of the public and other LEOs) consensually obtain possession of the weapon. Exigent circumstances may justify a seizure if consent is denied. If handled indelicately, the process of collecting the weapon can have an unfair and very damaging impact on the LEO and may also create negative and false impressions on members of the public who see it.
- If already holstered when the supervisor does this, side arms must not be removed from their holsters. Obtain the entire gun belt.
- Only qualified LEOs should handle special weapons such as sub-machine guns, MP-5s, etc.
- B. **Side arms should be replaced** as quickly as possible if the LEO so wishes unless reasons dictate otherwise.

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- C. The person **collecting any weapon must document** its readily visible general description, condition and appearance, and the details of any trace evidence adhering, to the extent these observations can be made without removing a firearm from its holster or otherwise compromising physical evidence. The location where the weapon or instrument was first observed by the supervising patrol officer, and the identity of the person or location from which the weapon or instrument was received, shall also be recorded.
1. In firearms cases, also make note of whether the firearm is cocked, has its safety on or off, has its hammer back, any apparent jamming of either fired or unfired ammunition; the location and position of the weapon's magazine(s) (e.g., fully or partially inserted, completely separate from the firearm, missing, etc.), to the extent possible without removal of the weapon from its holster.
 - a. If the firearm is obviously jammed, no attempt shall be made to unload the weapon or clear the jam.
 - b. If the firearm is cocked (or if a semi-automatic pistol cannot be determined to be cocked or not), the safety may be put ON, but this act must be documented. If the firearm's hammer is back, it may be lowered, and that fact must be noted.
 2. Anyone receiving a weapon or instrument from another person, or obtaining it otherwise, shall **note its serial number** if readily visible without removing the weapon from its holster or otherwise compromising physical evidence, and shall maintain the chain of evidence.
 3. Otherwise, **weapons and instruments will not be disturbed** in any way. They shall not be handled by anyone other than the official who obtains them and he/she shall handle them minimally to preserve the exact state of the weapon or instrument when received.
 4. The collected weapons or instruments shall be **transferred to the Crime Lab staff** as soon as practicable, along with the information required above.
 5. If the supervising patrol officer at the scene was an Actor or Victim in the Incident, the responsibility for security and/or collection of weapons and instruments shall rest with an uninvolved supervisor or the next-in-line uninvolved LEO at the scene. This may also be done by an uninvolved investigator.
 6. Normally twelve rounds of the same type(s) of ammunition fired by LEOs will be collected later by the MATF investigators or physical evidence processors from each shooting LEO. When possible, another source will be used if the LEO has insufficient similar rounds remaining.
 7. The Crime Lab understands that prompt return of LEO's firearms is important, so it endeavors to complete examinations as soon as possible.

When examinations of LEO's firearms are completed, the Crime Lab will notify the

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MATF which will then determine whether each firearm will be retained for criminal investigation purposes.

When the MATF decides against long term retention of a firearm for Criminal Investigation purposes, it will notify the Employer LEA (usually via the Administrative Investigators) of that decision. From that time, the disposition of the weapon is at the discretion of the Employer Agency which has the option of keeping it for Administrative Investigation purposes and/or for Civil Litigation purposes. When the Employer Agency no longer desires to maintain custody of the weapon, it shall decide upon its disposition.

14. **If another weapon or instrument was involved**, promptly see to the **security and/or collection** of such items as follows:
 - A. If the area is secure, such items shall be left in place and undisturbed. Consider stationing a guard.
 - B. If the area is not secure, decide whether the weapons can be safely left in place with a guard stationed if necessary, or whether prompt removal is necessary. If such items must be moved or removed for protection, they should be photographed or video recorded in place first and the removal witnessed.
15. **Check the firearms and ammunition of all LEOs** who were present at the time of the LEIFI shooting incidents. This will ensure that all discharged firearms are identified and collected, as well as to identify weapons which were not fired. This includes back-up firearms and those inside vehicles. Detailed documentation is essential.
16. Prior to the Crime Lab's arrival, **physical evidence at risk** of being compromised in any way must be promptly and effectively observed and documented, then collected promptly if absolutely necessary, otherwise protect it for subsequent Crime Lab collection. Examples include evidence which is endangered by:
 - A. Its adherence to live participants (such as bloodstains, gun shot residue, and some other types of trace evidence).
 - B. Crowds, vehicular traffic, the weather (wind, rain, snow, dew, sunshine, or heat), sprinklers, evaporation or melting, fire, animals, or insects.
 - C. Electrical power being turned on or off (e.g., computer information).
 - D. Being recorded over (e.g., contents of audio or video recordings, certain telephone call data).
 - E. Being erased or deleted.
 - F. Peoples' normal activities.

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17. All **officers must conduct themselves with appropriate decorum**. They may be closely watched by the media, residents of the neighborhood, people associated with the decedent, members of police oversight groups, family, and others.
 18. Separately ask the Involved and Witness LEOs **“What happened”**?
 - A. **Miranda** applies only to custodial interrogations.
 - B. **If the LEO answers freely** and without being ordered (Lybarger) to do so, there are no legal restrictions on the scope of the conversation.
 1. Seek information relating to (a) exigent circumstances; (b) public safety; (c) crime scene management issues (d) capture of outstanding suspects; and (e) a summary of the incident for briefing investigators and management.
 2. Many LEOs want to volunteer much more information than the patrol supervisor needs for the above purposes. This may be psychologically beneficial to some LEOs and may be very informative for the LEA, but the patrol supervisor may not have time to listen to it all and it may be difficult for the supervisor to later accurately document what the LEO said.
 3. Try to mark relevant positions which the LEO identifies.
 - C. **If an LEO from your LEA refuses to answer unless ordered** to do so:
 1. Determine if the necessary and urgent crime scene functions (listed below under b-1) can be performed without obtaining compelled information from LEA Actors, such as by using only what you have learned or expect to learn from other sources such as non-Actor LEOs, civilian witnesses, physical evidence, dispatch recordings, other audio or video recordings, etc.
 - a. If you do not absolutely need involuntary information from an LEA Actor to perform critical crime scene functions, do not compel the LEO to give a statement or answer your questions. Investigators will attempt to interview the LEO later.
 - b. If the LEO's information is absolutely necessary to the performance of critical crime scene functions, give the LEO a Lybarger admonition.
 1. Compelled answers must be limited to critically needed information concerning public **safety, exigent circumstances, and scene management**.
 - a. Examples of information to obtain:

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Shootings and Generic Incidents**

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1. Injured **people who may need medical attention**
 2. **Suspect information**, such as identity, crimes committed, flight information, vehicle, level of hazard, probable cause for arrest, etc.
 3. **Crime scene(s)** identity, location, and size.
 4. **Physical evidence** identity and location, and information relating to preservation of evidence.
 5. **Weapons**, including who fired, the number of shots, the direction(s) of fire, the current location of weapons, etc.
 6. The identity of people who were involved in the Incident as **actors, victims, and witnesses**.
- b. Do not compel information for these purposes:
1. To determine if the LEO committed a crime.
 2. To determine possible Internal Affairs violations.
 3. To obtain information to brief LEA investigators or management (other than information for reasons listed in paragraph "a" (above)).
- D. **Treat the involved LEOs appropriately** (as well as everyone else).
1. Ask about their physical and emotional condition and any needs.
 2. Isolate and protect them from the news media, the public in general, hostile people, and well-meaning but intrusive or inappropriate comments or questions by other officers.
 3. It is psychologically important to have a Companion Officer remain with involved LEOs at the scene as well as at the LEA facility where they will be taken.
 - a. Companion Officer is a generic term used to describe an LEO who accompanies and supports another LEO. A Companion Officer may be a member of a Peer Support Team, Trauma Team, or Crisis Intervention Team, but need not be.
 - b. In choosing Companion Officers for LEOs, solicit the wishes of the involved LEO(s). Select individuals who are a good fit with specific LEOs, otherwise the benefits of using Companion Officers are lost and discomfort may result.
 4. Suggest that involved personnel call home when appropriate.

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PATROL SUPERVISORS' LEIFI CHECKLIST
Shootings and Generic Incidents**

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- E. **Order the LEOs not to talk to others** about the case other than their attorneys and assigned investigators.
 - F. **Don't give legal advice.**
 - G. **Prepare to document** LEOs' information accurately.
 - 1. Methods:
 - a. The supervisor writes a written report.
 - b. MATF Investigators may interview the supervisor instead.
 - 2. Accuracy and completeness are very important.
19. Make **radio broadcasts** on outstanding suspects, vehicles, witnesses, evidence items, etc.
20. Collect **perishable evidence** (e.g., GSR) from shooter(s) and victim(s) before they are taken from the scene if doing so does not cause a medically detrimental delay.
21. **Transporting** and "**sequestering**" the Involved and Witness **LEOs**:
- "**Sequester**" means to remove or withdraw into protection; isolate; set apart from others; seclude.
- A. LEOs who were present at the scene at the time of the Incident, whether Actors or Witnesses, will be relieved of their duties at the scene as promptly as possible and shall be sent to their own LEA facility unless other suitable and agreeable arrangements are made for them (such as another LEA facility or a hotel). Companion Officers will accompany these people either in a group or individually. LEOs who are either Actors and/or distressed Witnesses should be driven by others to their destinations and should not be permitted to drive until they are ready to do so.
 - B. Collect perishable evidence before transporting.
 - C. If circumstances prohibit simultaneous removal of all Involved and Witnessing officers from the scene, Actors and distressed individuals should be relieved first. Some Witness officers may be needed temporarily for scene security until they can be relieved.
 - D. Uninvolved Companion Officer(s) should remain with the sequestered LEOs (except during confidential conversations with a physician, lawyer, psychotherapist, clergyman, or spouse), either in a group or individually, until they can be interviewed.
 - 1. Functions of Companion Officers:
 - a. Provide companionship and emotional support.
 - b. Ensure the sequestered officers have privacy.

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- c. Accommodate LEOs' needs for food, exercise, rest, sleep, clothing change.
 - d. Assist with notification to close family members, attorney and/or POA representative.
 - e. Refresh the LEOs' knowledge about upcoming investigative procedures.
 - f. Ensure the integrity of each LEO's later statements to investigators.
- E. Involved and Witness officers must **not discuss the case** among themselves, with Companion Officers, or with others, except their lawyers and the Investigators.
- F. LEOs should be sequestered in locations which are **quiet, private, of suitable size, not emotionally negative** and which are **away from areas where Investigators are working**. Rest rooms, telephone access, non-alcoholic beverages, food, or snacks should be nearby or provided. Conference rooms, meeting rooms, libraries, and break rooms often work well, but interview or interrogation rooms, the Chief's Office and the Internal Affairs Office are usually not satisfactory.
- G. While awaiting interviews, Involved and Witness LEOs should be encouraged to relax and to carefully reflect upon what occurred. For their own use they **may wish to make notes** about the Incident which may be helpful during consultations with their attorneys and during interviews with MATF investigators.
22. **Locate, identify, detain, statementize and sequester witnesses** as well as possible.
- A. Prompt, aggressive and thorough efforts are needed.
 - B. LEOs should interview them and then obtain statements from each which (1) detail their knowledge, or (2) clearly document their claim to have no knowledge of the Incident. This may be the only interview that will ever be possible with some witnesses. Audio recordings are best, followed by written and signed statements, followed by the officer taking notes and writing a comprehensive and accurate report of a non-recorded interview.
 - C. When there are many witnesses, it may be necessary to triage them to determine the order of Patrol interviews.
 - D. Identify witnesses thoroughly.
 - E. Try to sequester witnesses who give patrol officers significant information pending formal interviews with MATF investigators.
23. **CSIs** (and other qualified personnel) can perform valuable functions at LEIFI scenes prior to

**ATTACHMENT A
PATROL SUPERVISORS' LEIFI CHECKLIST
Shootings and Generic Incidents**

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- the Crime Lab's arrival, after which they may be asked to assist Crime Lab personnel.
- A. For immediate CSI duties, see the **CSI Checklist – Before the Crime Lab Arrives**, Attachment D on Page 77.
 - B. OK to photograph and/or video until the Crime Lab arrives *without disturbing, contaminating, or collecting*. Photos of the crowd may be useful.
- 24. Plan and then start an **area canvass** to find more witnesses, relevant vehicles, weapons, evidence, routes of travel, or people.
 - 25. Consider need to arrange for short-term **assistance for civilians** who are emotionally traumatized or displaced by the Incident.
 - 26. Consider **needs of your personnel**: relief, food, water, shelter, restrooms.
 - 27. **Debrief your Patrol officers** to determine what they have learned, what they have accomplished, and what remains to be done.
 - 28. **Collect your information** and your thoughts and **prepare to present your detailed and specific information to a briefing** of investigators, crime scene processors, and LEA management and supervisors.

**ATTACHMENT A
PATROL SUPERVISORS' LEIFI CHECKLIST
Shootings and Generic Incidents**

Reduced Size Pocket Version

Patrol Supervisors' LEIF Checklist for Shootings and Generic Incidents

1. **Emergency life saving** is first priority.
2. Enroute if possible **request needed additional resources:**
 - ◆ more patrol cops ◆ equipment ◆ traffic control ◆ translators, etc.Make prompt decisions then review as necessary.
3. **Notifications:** ◆ to your LEA's command staff, detectives, CSIs, vehicle collision investigators, IA, PIO, POA, Peer Support ◆ other LEAs if involved or effected ◆ DA ◆ Crime Lab ◆ Coroner.
4. **Expect many inquiries** by cell phone from notified officials.
5. **Consider:** ◆ checking field of fire ◆ additional lighting ◆ Command Post ◆ record actions taken ◆ designate a PIO? ◆ news media area ◆ shielding public's view ◆ who writes original report?
6. Determine LEO and supervisor **responsibility for non-LEIF duties elsewhere.**
7. Assign **LEO with tape recorder to ride ambulance** or helicopter with injured person for: ◆ physical evidence ◆ custody of person ◆ safety of EMS & hospital people ◆ aid, comfort & protection for injured LEO ◆ document statements made by the person ◆ information to & from medical personnel ◆ contacts with person's family & witnesses.
8. **Protect sensitive information.** Caution on radio broadcasts & cell phones. Use hardwire or personal contact when confidentiality is needed.
9. **Scenes: Immediately identify and secure all scenes.** Have multiple scenes? Establish & maintain true control. Consider inner & outer perimeters. **Big perimeters.** Adjust boundaries as necessary.
10. **Protect scene & contents.** No alteration or removal of items without approval of MATF & Crime Lab unless absolutely necessary for officer or public safety, evidence preservation, emergency medical reasons, or other very compelling reason. Necessary changes must be witnessed & documented. Inspect items, vehicles and people leaving. Use extreme caution to avoid compromising evidence. Determine and document scene changes.
11. **Strict control of scene access.** ◆ single safe ingress/egress point ◆ limit EMS entry/exit to minimum after patient is removed ◆ no news media inside scenes ◆ MATF OK needed for LEO reps, civilian reviewers, civil attorneys, risk management.
12. **Scene log:** ◆ diligently reconstruct who was inside scene(s) before log was started ◆ all entries & exits made after log is started.

13. **LEO's discharged firearms** in possession: ◆ normally in the field promptly & discretely obtain weapon and holster with gun belt ◆ replace LEO's sidearm if appropriate ◆ minimal manipulation – OK to engage safety or lower hammer if really necessary ◆ don't open or disturb its condition ◆ document readily visible details - model and serial number, trace evidence & condition ◆ transfer to Crime Lab.
14. **Other weapons involved?** Secure in place and guard if necessary. Collect if necessary if area not secure.
15. When LEO(s) shot: **check firearms & ammunition of all LEOs present** at shooting. Collect discharged weapons. Document all accurately.
16. **Physical evidence at risk:** Promptly observe & document, then collect only if absolutely necessary.
17. All LEOs must act with **proper decorum.** Many people are watching.
18. The **"What happened?" question.** ◆ Treat everyone appropriately ◆ Ask each Actor & Witness LEO separately ◆ **Miranda** only if custodial interrogation ◆ voluntary statements are usually given ◆ if not, don't **Lybarger** unless absolutely necessary for public safety, exigent circumstances or crime scene management ◆ order LEOs not to talk except to their reps and to investigators ◆ don't give legal advice ◆ prepare to document their information accurately.
19. **Radio broadcasts** on wanted suspects, witnesses, vehicles, etc.
20. **Collect perishable evidence** from shooters and injured people before they are transported if not medically detrimental.
21. **Transporting & sequestering** involved and witness LEOs ◆ send with uninvolved Companion LEOs to their own LEA facility unless another suitable & agreeable location (e.g. other LEA, hotel) is chosen ◆ have perishable evidence collected first ◆ remove Actors and distressed witness LEOs first ◆ LEOs not to talk about case ◆ sequester appropriately ◆ encourage them to make notes to prepare for interviews.
22. **Witnesses:** locate, fully identify and "statementize", then detain & sequester if appropriate.
23. **CSIs** and others: ◆ Use CSI Checklist ◆ OK to photograph/video and document detail without disturbing, contaminating or collecting, until Crime Lab arrives ◆ crowd photos?
24. **Area canvass** and search for more witnesses, relevant vehicles, weapons, dropped evidence or clothing, route of travel, etc.
25. Need for **short-term assistance for affected civilians?**
26. **Needs of LEA personnel:** relief, food, water, shelter, restrooms.
27. **Debrief your personnel** on their task results and progress.
28. **Prepare yourself to brief investigators** and others with specific and detailed information. Collect case information and your thoughts.

ATTACHMENT A PATROL SUPERVISORS' LEIFI CHECKLIST Shootings and Generic Incidents

PATROL SUPERVISORS' LEIFI CHECKLIST

FATAL VEHICLE COLLISIONS

This Checklist is a guide to help Patrol Supervisors manage patrol officers' response to vehicle collision incidents where Contra Costa County's "**Law Enforcement Involved Fatal Incident Protocol**" has been or will be invoked. It also has some application to non-Protocol collisions.

1. **Enroute** to collision scene(s)
 - a. **By radio, establish control of vehicular and pedestrian traffic**, then modify as needed upon arrival and throughout operation.
 - Establish **detour routes** for public travel when practical.
 - b. **Anticipate personnel needs** at collision site(s) and elsewhere; request more LEA personnel promptly.
2. Approach to scene(s):
 - a.) All responders to scan for various **hazards** and **criminal threats** to anyone. Avoid or eliminate/mitigate hazards.
 - b. All responders to **treat collision scenes as crime scenes**.
 - c. Involved vehicles: lights, siren, engine, switches/controls, interiors = see Section 8(a)
3. Emergency **medical / life saving**
 - a. Ensure **adequate emergency medical response** is already present or is enroute.
 - b. Ensure **first aid** is provided as appropriate.
 - c. Confer with Fire Dept. on **need for additional ambulance, medical helicopter**, etc.
 - d. Consider **searching area** (bushes, fields, ravines, in water, over fence, etc.) for other **involved vehicles, people**.
4. Identifying and handling **the parties**
 - a. **Differentiate suspects, victims, and witnesses**, then have them identified, secured, separated, and sequestered as appropriate.
 - b. Suspects: Check for **probable cause** and/or outstanding warrants; **search for safety**; consider blood alcohol (**B/A**) **testing**; other **physical evidence**; **spontaneous and/or medical statements**;

- c. Witnesses: see Item #8 below.
 - d. **Radio broadcasts** for outstanding suspect(s), vehicle(s), witnesses, evidence.
5. Re-evaluate need for **additional LEA personnel** throughout operation.
6. Ensure appropriate **notifications are made** (per Protocol and LEA policies), including:
- a. Other involved and affected LEAs.
 - Investigation of the Incident will be performed by the Protocol's Multi-Agency Task Force (MATF).
 - b. Command duty officer.
 - c. Specialized investigative units or investigators per LEA policy.

The MATF's Case Managers Team will coordinate the selection and callout of Protocol Collision Investigators).
 - d. District Attorney's Office.
 - e. The LEA's own collision investigator(s) (other than Vehicle Collision Investigators selected by the Case Managers Team).
 - f. Crime Lab and/or/CSIs as appropriate.
 - g. LEA's Press Information Officer.
 - h. Public Works, CalTrans or others for barricades, traffic diversion, traffic signal devices, lighting, traffic advisory or warning signs, spilled material, roadway structural damage, downed signage, downed trees.
 - i. Public utility company for water, gas and/or electrical problems.
 - j. CalTrans and/or CHP if regional traffic impact is expected.
 - k. A representative of the Police Officers' Association (POA), the Deputy Sheriffs' Association (DSA) etc., to support involved LEOs.
7. **Prepare yourself to brief responding officials** on arrival; expect many cell phone calls.
8. **Witnesses**
- a. Promptly locate and adequately identify. **Collision witnesses are very mobile and do not remain long at collision scenes.**
 - b. Include people who stopped to **render aid.**

**ATTACHMENT B
PATROL SUPERVISORS' LEIFI CHECKLIST
Fatal Vehicle Collisions**

- c. **Initial statements** to be taken by patrol officers.
 - d. Significant witnesses must also be interviewed by Vehicle Collision Investigators working with the MATF. Arrange for them to wait or transport to suitable location.
 - e. Have **medical and fire responders identified**.
 - f. Be alert for anyone who may have **photographed or video recorded the** scene before responding officers' arrival. Try to ID who made them and attempt to access the images.
9. Immediate **physical evidence** concerns: (Also refer to the CSI Check list.)
- a. Involved vehicles: Caution for delayed air bag deployment
 - 1. **All involved vehicles:**
 - If possible before vehicles are altered for rescue, etc., have someone carefully document (photos are best) for each vehicle: in or out of gear; seatbelt use; radio(s) on or off; lights and signals on or off; wipers on or off; other interior controls; ignition and keys; cell phone and computer and other possibly relevant factors in cabin.
 - 2. **Emergency vehicles involved:**
 - If necessary for safety, OK to cut off power to vehicle after carefully documenting (photos are best) whether lights and siren were activated, and exact configuration of their controls/switches.
 - Otherwise, don't turn off LEA vehicle lights (including Code 3). OK to turn off siren but document per above paragraph.
 - If vehicle lights are off, do not turn them on.
 - 3. Non emergency involved vehicle(s): if necessary for safety OK to carefully enter and turn off engine(s) and/or disengage gear(s).
 - b. Consider evidence on people to be transported or leaving scene(s), especially if **perishable**.
 - c. Assign someone to **photograph the scene(s)** and/or **people** before any potential alteration or departure.
 - d. **Leave all evidence items in place** unless in imminent danger; stop any scene clean up unless it is necessary to eliminate an immediate hazard.
 - All gear, equipment and property is to be left in place in and on involved vehicles, including LEA or LEO vehicles.

**ATTACHMENT B
PATROL SUPERVISORS' LEIFI CHECKLIST
Fatal Vehicle Collisions**

- e. **Tow truck(s)** should not be used to tow or move vehicles until MATF investigators approve, but OK to use for emergency rescue.
 - f. Be alert for stationary **video cameras** that may cover area.
 - g. Try to **obtain consent** from involved but non-suspect civilians **for B/As** and have samples taken promptly.
 - h. Unless under arrest, **B/As for involved LEOs** will be decided by MATF investigators and/by Administrative Investigators from the Employer LEA.
10. Assign **officer with tape recorder** to ride in **ambulance or helicopter** with injured persons for: See ***Patrol Supervisors' LEIFI Checklist for Shootings and Generic Incidents***, Item 7 for more specifics.)
- a. Physical evidence
 - b. Custody of arrestee and prevent unauthorized contacts.
 - c. Release from law enforcement restraints if necessary for treatment.
 - d. Safety of Emergency Medical Services and hospital personnel.
 - e. Aid, comfort, and protection for injured LEO.
 - f. Document statements made: spontaneous; in response to medical questions; dying declaration.
 - g. Guard deceased body; chain of custody.
 - h. Information to and from medical personnel.
 - i. Contacts with family, witnesses.
11. **Scene control** issues
- a. Identify and secure all scenes, including:
 - 1) crash site(s), including minor collisions.
 - 2) vehicle pursuit route.
 - 3) foot chase route(s).
 - 4) original substantive crime scene (e.g. robbery, murder, manslaughter, theft, etc.).
 - 5) involved vehicles of LEAs or LEOs.

**ATTACHMENT B
PATROL SUPERVISORS' LEIFI CHECKLIST
Fatal Vehicle Collisions**

- “non contact” LEA vehicles must be kept in place and safe from alteration for processing by Vehicle Collision Investigators.
- 6) suspect(s) vehicle(s).
 - 7) victim vehicle(s).
 - 8) location of body or injured people.
- b. Scene perimeter(s): make sufficiently large to protect people and evidence.
 - 1) Consider possibility of evidence in **pre-impact** and **post-impact** zones. Evidence may be some distance from the point-of-impact.
 - c. Establish ingress/egress routes for personnel safety and evidence integrity.
 - 1) Limit movement inside scene(s) by fire and ambulance personnel not necessary for patient care.
 - d. Have crime scene log started. (See ***Patrol Supervisors’ LEIFI Checklist for Shootings and Generic Incidents*** for more details.)
 - 1) Strictly limit access.
 - e. Determine what changes to scene have occurred; have changes documented (what, who, why).
 - f. Consider need for shielding to prevent public viewing of disturbing or distracting sights and to improve safe traffic movement.
 - g. Requests by non-involved people to leave and/or remove vehicles from inside crime scene; decide on case-by-case basis. Adequately document identity of the people and vehicles (photos are best), inspect vehicles to ensure non-involvement, chalk location of those vehicles before movement.
12. LEOs, whether Actors or Witnesses:
- a. Determine their condition.
 - b. Ask “**What Happened?**” to each separately. See the separate ***Patrol Supervisors’ LEIFI Checklist for Shootings and Generic Incidents*** for more details about asking this question.
 - c. Have them transported to their own LEA unless other agreeable arrangements are made.
 - d. Assign Companion Officer(s). See the separate ***Patrol Supervisors’ LEIFI Checklist***

**ATTACHMENT B
PATROL SUPERVISORS’ LEIFI CHECKLIST
Fatal Vehicle Collisions**

for Shootings and Generic Incidents for more details.

- e. Have LEOs sequestered pending MATF contact.
- 13. Establish Incident Command Post and/or staging area if needed.
 - a. Consider establishing news media area.
- 14. Neighborhood or area canvas, as appropriate.
- 15. If the Incident also involves a Law Enforcement Involved Shooting, also use the ***Patrol Supervisors' LEIFI Checklist for Shootings and Generic Incidents***.
- 16. Protect sensitive information: consider using land line phones/cell phones.
- 17. Do not search dead body(ies) or make notifications to next of kin.
- 18. Consider need to remind LEOs to act with proper decorum.
- 19. Debrief your officers: what they have done and learned about the Incident and what needs to be done.
- 20. Prepare yourself to brief investigators. You will need considerable **detailed and specific information**.
- 21. **Logistics.**
 - a. Consider personal needs of LEOs at scene: fluids, meal, restrooms, shelter, breaks. etc.
 - b. Rotation of scene personnel.
 - c. Responsibility for law enforcement service elsewhere, and supervision of it.

See Reduced Size Pocket Version on the next page.

REDUCED SIZE POCKET VERSION

PATROL SUPERVISORS' CHECK-LIST LEIF FATAL VEHICLE COLLISIONS	
<ol style="list-style-type: none"> 1. Enroute to collisions: <ol style="list-style-type: none"> a. Establish scene control via radio. <ul style="list-style-type: none"> • Establish alternate routes for public travel if necessary. b. Anticipate manpower needs for scene(s) and elsewhere. Request more if needed. 2. Approach to scene(s): <ol style="list-style-type: none"> a. Scan for hazards and criminal threats. Avoid, mitigate or eliminate them. b. Collision scenes are crime scenes (for all responders). c. Involved vehicles: lights, siren, engine, controls/switches, interiors = see Section 8(a) 3. Emergency medical and life saving. <ol style="list-style-type: none"> a. Ensure adequate EMS response is on-scene or enroute. b. Ensure first aid is provided as appropriate. c. Confer with EMS on need for additional ambulance, medical helicopter. d. Consider area search for more involved vehicles, people in bushes, fields, ravines, in water, over fence, etc). 4. Identifying and handling the parties: <ol style="list-style-type: none"> a. Differentiate suspects, victims and witnesses: identify, secure, separate, sequester. b. Suspects: P/C to arrest for on-view? Warrants? Search for safety. B-A testing; other physical evidence. Spontaneous and/or medical statements. c. Witnesses: see Item #7 below. d. Radio broadcast for outstanding suspect(s), vehicle(s), witnesses, evidence. 5. Re-evaluate need for additional LEA personnel throughout operation. 6. Ensure appropriate notifications are made (per Protocol and LEA policies) to: <ol style="list-style-type: none"> a. Other involved or affected LEAs. b. Command duty officer. c. Investigative units or investigators. (T/C investigation will be performed by the Protocol's MATF) d. District Attorney's Office. e. LEA collision investigators if desired. f. Crime Lab/ and CSIs as appropriate. g. LEA's Press Information Officer. h. Public Works. CalTrans or others for barricades, traffic diversion, traffic signal devices, lighting, warning signs, spilled material, roadway structural damage, downed signs, or trees. i. Utility company for gas and/or electrical problems. j. CalTrans and/or CHP if regional traffic impact is expected. k. POA/DSA representatives. 7. Prepare to brief responding officials on arrival; expect many cell phone calls. 8. Witnesses <ol style="list-style-type: none"> a. Promptly locate and fully identify. Collision witnesses don't remain long at scenes. b. People who stopped to render aid. c. Patrol officers to take initial statements from all witnesses. d. Significant witnesses must later be interviewed by MATF investigators. e. Identify medical and fire responders. f. Photos or videos made by anyone before officers' arrival? ID maker and get images. 9. Immediate physical evidence concerns. Also see CSI Checklist. <ol style="list-style-type: none"> a. Involved vehicles: caution for delayed air bag deployment <ol style="list-style-type: none"> 1. All involved vehicles: <ul style="list-style-type: none"> • Before alteration for rescue, document if possible (photos best) in/out of gear; seat-belt use; radios on/off; lights & signals on/off; wipers on/off; other controls; cell phone, computer, other factors in cabin. 2. Emergency vehicles: <ul style="list-style-type: none"> • If needed for safety, OK to cut off power after documenting (photos best) whether lights and siren were activated, and configuration of their controls and switches. • Otherwise LEA lights stay on (especially Code 3). OK to turn off siren after documenting. 	<ol style="list-style-type: none"> <ol style="list-style-type: none"> • If vehicle lights are off, do not turn them on. 3. Non emergency vehicles: OK to turn off engine or disengage gears for safety. b. Evidence on people leaving scene(s) (especially perishable)? c. Photograph scene(s) and/or people before any potential alteration or departure. d. Leave evidence in place unless imminent danger; stop scene clean-up unless to eliminate immediate hazards. <ul style="list-style-type: none"> • All gear, equipment and property is to be left in place in and on all vehicles, including involved LEA or LEO vehicles. e. Tow truck(s) should not be used to tow until MATF investigators approve but OK for emergency rescue. f. Be alert for stationary video cameras that may cover area. g. Try to obtain consent for B-As from involved but non-suspect civilians. <ul style="list-style-type: none"> • Unless under arrest, B-As for involved LEOs will be decided by MATF and/or Employer LEA. 10. Officer with tape recorder to ride in ambulance with injured for: ► Physical evidence; ► Custody of arrestee and prevent unauthorized contacts; ► Release from handcuffs; ► Safety of EMS and medical personnel; ► Aid, comfort and protection for injured LEO; ► Document statements made: spontaneous; in response to medical questions; dying declaration; ► Guard deceased body, chain of custody; ► information to and from medical personnel; ► Contacts with family, witnesses 11. Scene control issues <ol style="list-style-type: none"> a. Identify and secure all scenes, including: ► Crash site(s), including minor collisions; ► Vehicle pursuit route; ► Foot-chase route(s); ► Original substantive crime scene (e.g. 211, 187, 192, 10851, etc.); ► Involved LEA or LEO vehicles; ► Non contact LEA vehicles must be kept in place for processing by MATF; ► Suspect(s) vehicle(s); ► "Victim" vehicle(s); ► Location of body or injured people. b. Scene perimeter(s) must be sufficiently large. <ol style="list-style-type: none"> 1. Consider evidence in pre-impact and post-impact zones. Evidence scatters. c. Establish ingress/egress routes for safety and for evidence integrity. <ol style="list-style-type: none"> 1. Limit scene movement by EMS personnel not necessary for patient care. d. Have crime scene log started. Strictly limit access. e. Determine what changes to scene have occurred; have changes documented (what, who, why). f. Need to shield any of scene from public view? g. Non-involved people and/or vehicles wanting to leave crime scene perimeter: decide on case-by-case basis. Document (photo?) identity of the people and vehicles, inspect vehicles to ensure non-involvement, chalk location of those vehicles before movement. 12. Involved LEOs, whether Actors or Witnesses: <ol style="list-style-type: none"> a. Determine their condition. b. Ask "What Happened?" c. Transport to their own LEA unless they agree otherwise. d. Assign Companion Officer(s). e. Have LEOs sequestered pending MATF contact. 13. Establish Incident Command Post and/or staging area and news media area if needed. 14. Neighborhood or area canvass needed? 15. Law Enforcement Involved Shooting involved? – see Patrol Supervisors' Checklist for Law Enforcement Involved Shootings. 16. Protect sensitive information - consider using land-line or secure phones. 17. Dead body(ies): don't search or make notifications to next of kin. Notify Coroner but body removal is MATF's decision. 18. LEOs to act with proper decorum. 19. Debrief your officers. 20. Prepare to brief MATF investigators; detailed and specific information needed 21. Logistics: <ol style="list-style-type: none"> a. Meal/break relief for LEOs. b. Rotate scene personnel. c. Responsibility for law enforcement service elsewhere and supervision of it.

This Checklist was created through the efforts and collaboration of the following individuals:

Sgt. Marty Birch, Richmond Police Department; Sgt. Chris Childs, California Highway Patrol; Lt. David Chilimidos, Concord Police Department; Officer Mark Covington, Walnut Creek Police Department; Lt. Dave Fox, California Highway Patrol; Sgt. Darrel Graham, Concord Police Department; Sgt. Lee Hendricson, Richmond Police Department; DDA Bob Hole, Contra Costa District Attorney's Office; Lt. Rob Patrick, California Highway Patrol; Sgt. Mike Perry, Pittsburg Police Department; and the California Highway Patrol's Golden Gate Division MAIT team led by Sgt. John Blencowe.

ATTACHMENT B PATROL SUPERVISORS' LEIFI CHECKLIST Fatal Vehicle Collisions

SUPERVISORS' LEIFI CHECKLIST

INSTITUTIONAL CUSTODIAL DEATHS

Contra Costa County's "Law Enforcement Involved Fatal Incident Protocol" applies to most institutional custody deaths.

This Checklist is to assist Custodial Institutional Supervisors manage the initial response to deaths of people in the custody of LEA custodial institutions, whether such deaths occur within county or city jails, holding rooms, court facilities, transportation vehicles, medical facilities, interview rooms, or elsewhere. The tasks listed below are typically performed in the interval between the discovery of the death (or discovery of the person's medical distress which is expected to result in death), and the time the Protocol's Multi-Agency Task Force's investigation begins.

- This Checklist is not primarily intended to apply to deaths which occur prior to the time arrestees enter a custody facility for the purpose of custodial processing, although portions of it may be useful in those situations.
- It applies to all institutional deaths occurring by accident, suicide or at the hands of another and it applies to some "natural physiological deaths".

Because nearly all deaths in custodial institutions are of inmates, this Checklist does not directly and specifically address the deaths of non-inmates (e.g., Law Enforcement Personnel or civilians) in custodial environments because these deaths occur so infrequently.

Abbreviations

- MATF = Multi- Agency Task Force.
- LEIFI = Law Enforcement Involved Fatal Incident. Under Contra Costa County's LEIFI Protocol, this term includes most deaths which occur in custodial institutions.
- LEA = Law Enforcement Agency
- LEO = Law Enforcement Officer

Protocol Invocation

The death, or imminent death, of a person who is in institutional custody in Contra Costa County is a mandatory Protocol case, except custodial deaths which were medically expected and were caused by previously diagnosed medical conditions (such as cancer, AIDS, a heart condition, emphysema, etc.), and which were being treated by institutional medical personnel, provided that institutional suicide, trauma, accident, or use of intoxicants was not involved. **Protocol Ref 79.**

Protocol investigations are also performed on some deaths which occur within 48 hours of the person's release from a Contra Costa custodial facility. **Protocol Refs 80-81.**

The Protocol contains an optional invocation provision allowing LEAs to initiate a Protocol investigation of Incidents which are not mandatory Protocol cases (even those in which death is

not involved). Make the optional invocation decision promptly. When invoking, quickly notify the appropriate officials within your LEA and outside your LEA.

1. **Life saving efforts** are the first priority.
 - a. **Immediate life saving efforts by first responders** - first aid, CPR, etc.
 - Reminder: unless death is pronounced by competent medical authority, immediately cut down hanging inmates if it is safe to do so and not wait for photos, a supervisor, medical assistance, etc.
 - b. Ensure **notification to institutional medical staff** (EMTs, paramedics, nurses, doctors, nurse practitioners and physicians' assistants).
 - c. Ensure **notification to the fire department and/or ambulance**.
 - d. If medical transport to an outside facility is needed, assign an **LEO to accompany the patient** in the same vehicle for these purposes: (See ***Patrol Supervisors LEIFI Checklist for Shootings and Generic Incidents*** Item 7 for more details on these points.)
 - 1) Physical evidence protection.
 - 2) Custody of inmate.
 - 3) Aid, comfort, protection.
 - 4) Spontaneous statements, statements during medical treatment, dying declarations.
 - 5) Information to and from medical personnel.
 - 6) Potential contact with witnesses and family at hospital.
 - 7) Identification of EMTs, Paramedics and ER staff.
 - e. Consider that the inmate or area may pose a health hazard such as from chemicals or a communicable disease.
2. **Security:**
 - a. **Lock down** involved incident areas (not just the specific Incident scene) as appropriate for: (1) institutional security; (2) personnel safety (staff, inmates, and civilians) (3) evidence protection; and (4) investigative procedures.
 - b. If a completed or attempted **escape** is involved, follow LEA's procedures.
 - c. Consider **need to close the facility** to new inmates and to visitors.
 - d. Consider **blocking all inmates' phone calls**.
3. If **deadly force was used** by law enforcement personnel, also refer to the separate ***Patrol Supervisors LEIFI Checklist for Shootings and Generic Incidents***.

**ATTACHMENT C
SUPERVISORS' LEIFI CHECKLIST
Institutional Custodial Deaths**

4. Promptly **request additional LEA personnel** as needed, for:
 - a. Security: **scene(s) protection, lockdown procedures, cell searching** for weapons or contraband (when necessary for custodial security purposes, not as part of the LEIFI investigation), sequestering people.
 - b. **Assisting investigators**: access and escorting, inmate movement for interviews, etc.
 - c. Handling **non-LEIFI duties** in the rest of the facility.
 - d. Consider need for **more supervisory staff** for the LEIFI and/or routine detention duties.

5. **Notifications**
 - a. Chain of the LEA's Command.
 - b. PIO.
 - c. LEA's Civil Litigation investigators and/or Risk Manager.
 - d. Notification about Protocol invocation to:
 1. District Attorney.
 2. Crime Lab.
 3. Coroner.
 4. Any other LEA(s) if recently involved in the inmate's arrest or transportation.
 5. POA/DSA representatives for involved personnel per LEA procedure.
 - e. Notification of facility's closure to other potentially affected LEAs.
 - f. MATF investigators will make death notifications to next of kin.
 1. Exception: When a verified family member learns that his/her inmate relative has a medical problem in the jail and then either telephones or makes a personal visit to the facility to check, notification should be made at that time by a suitable official.
 - g. Anticipate receiving phone requests for more information from officials who are notified of the Incident.

6. **Incident scene(s) and physical evidence: Treat involved scene(s) as Crime Scenes.**
 - a. **Limit access** to scenes to only those officials who must enter.
 - b. Have **photos** taken of involved inmate(s), scene, medical response, etc. as promptly as possible. Be careful not to disturb evidence.
 - c. **Remove and/or sequester other inmate(s)** from scene(s) and/or area(s) as necessary

**ATTACHMENT C
SUPERVISORS' LEIFI CHECKLIST
Institutional Custodial Deaths**

- for security, evidence protection, interviewing, and emotional concerns.
- This may be difficult in small jails. More officers may be needed for sequestering, and transferring to other facilities may be necessary.
- d. Consider need and authority for **prompt searching of inmates** being removed from the scene or area of the Incident.
- e. Initiate a **Crime Scene log**.
- f. Are there **secondary scene locations** inside and outside the institution such as:
1. Cell(s) where the inmate had recently stayed.
 2. Booking.
 3. Sally port.
 4. Holding cells or areas.
 5. Interview or visiting rooms.
 6. Medical treatment rooms and facilities.
 7. Areas involved in escape or an attempt.
 8. Recreation or eating area.
 9. Law enforcement vehicle(s) which transported inmate to jail and/or medical facility.
 10. Arrest scene.
 11. Ambulance.
 12. Court areas.
 13. Other vehicles, residence, business.
- g. Caution for **health hazards**, such as chemical agents (OC spray, etc.), biological materials.
- h. Ensure **relevant evidence is safeguarded**: instruments, weapons, and/or evidence. Include items that may be even possibly relevant. Examples:
1. Medical paraphernalia. **DO NOT COLLECT OR DISCARD** – leave in place.
 2. Intoxicants (alcohol, drugs, chemicals, etc.).
 3. Medications.
 4. Containers for medications and intoxicants.
 5. Law enforcement restraints.
 6. Law enforcement weapons including impact, electronic, chemical.
 7. Inmate weapons.
 8. Ligatures and their source material.
 9. Documents such as notes and letters and especially suicide notes (i.e., anything that shows inmate's state of mind including inmate's reading material).
 10. Biological matter such as blood, vomit, urine, and fecal material, on floors, walls, furniture, clothing, and bedding, etc.

ATTACHMENT C
SUPERVISORS' LEIFI CHECKLIST
Institutional Custodial Deaths

11. Inmate's clothing which was removed from him/her during medical efforts.
 12. Foods and beverages and their containers and wrappings, especially in inmate's housing area.
 13. Trace evidence:
 - a) Fingerprints.
 - b) Footprints.
 - c) Suspicious substances.
 14. Inmate's personal property stored by the facility.
 15. Other property of the inmate:
 - a) If in cell = leave undisturbed.
 - b) Elsewhere (such as in booking) = locate, identify the container, safeguard, and hold for investigators.
 16. Any video or audio recordings or photos made of the Incident?
7. Refer **press inquiries to PIO** or other official specified by LEA procedures.
8. Determine which **people are relevant to investigation** of the Incident, then: (a) get their identities; (b) determine their roles in the Incident; (c) know the end of shift time for staff members; (d) obtain a summary of what they know about the Incident in preparation for briefing (see # 11-a below).
- a. **Sequester** involved and witnessing persons (see sections b and c immediately below for examples)
 - b. **Jail staff** and involved LEOs (whether assigned to the institution or not):
 - 1) Separately ask involved staff "What happened?" for these purposes:
 - a) Managing the Crime Scene(s) and physical evidence
 - b) Identifying and handling any Exigent Circumstances
 - c) Ensuring safety of people and property
 - d) Briefing MATF investigators and others

This information is usually provided consensually by staff members. Do not compel this information through Lybarger unless absolutely necessary. (See **Patrol Supervisors LEIFI Checklist for Shootings and Generic Incidents** for more details.)
 - 2) Anticipate holding some involved staff members past shift end for interviews (especially custody staff and medical personnel).
 - 3) Have staff listen for comments from inmates about the Incident.
 - 4) Have staff try to collect intelligence material from inmate sources about the Incident and the decedent.
 - c. **Inmates**
 - 1) Have relevant inmates screened for injuries, involvement, and any knowledge of

**ATTACHMENT C
SUPERVISORS' LEIFI CHECKLIST
Institutional Custodial Deaths**

Incident.

- a) Medical or mental health attention as appropriate.
 - b) Consider moving inmates to other areas pending MATF interviews.
 - c) Special consideration to inmates who may have had recent contact with involved inmate.
 - d) OK to take brief patrol-type statements from inmates with significant information. (MATF investigators will re-interview those inmates later, as well as other inmates who were not interviewed by staff.) It is often important to determine where each inmate was when the Incident occurred. Audio recordings may be very useful, especially if surreptitiously done.
 - e) Consider delaying transfers and releases of inmates pending custodial staff's consultation with MATF investigators.
- 2) Sensitive areas (such as death scene, body, etc.) should not be viewable by inmates. Inmates should not view even a covered body. Cover windows, erect screening or move inmates to other locations. Try to prevent inmates from hearing official conversations about the Incident.
 - 3) Sequester appropriate inmates for MATF interviews
- d. **Medical staff /EMS/fire department.** Have all identified and their duty stations and contact information ascertained.
 - e. **Civilians**, such as janitors, trades and repair people, inmates' visitors.
9. OK to have **photos** taken but don't compromise any physical evidence. MATF and Crime Lab will do scene and evidence processing.
 10. Assign an **LEO to write reports** (criminal and/or administrative) required by LEA procedures. Usually, an MATF investigator from the custodial LEA will write any crime report that is necessary.
 11. **Preparation for the MATF investigation:** A Supervisor will have a major role in briefing the investigators.
 - a. For **briefing MATF investigators** and others:
 - 1) Collect detailed information about the Incident and about the inmate from staff and documents including:
 - a) Chronology of Incident.
 - b) Information on inmate's condition (alive? prognosis? presence or absence of trauma?).
 - c) Observations and actions of staff members.
 - d) What staff members have learned from inmates and from other interviews.
 - e) Inmate's history in the institution.
 - f) Language difficulties requiring interpreter(s).

ATTACHMENT C
SUPERVISORS' LEIFI CHECKLIST
Institutional Custodial Deaths

- g) Actions taken pursuant to this Checklist.
- 2) Collect, review, and have copies made of relevant documents, including:
- a) Inmate's complete booking file, including arrest records. Records of the inmate's prior incarceration in the facility may also be needed. (Note: copies must be made for investigators of ALL documents in the file.)
 - b) History of the inmate's movement and housing inside the institution.
 - c) List of who has visited inmate, and of who is authorized to visit.
 - d) Disciplinary or other Incident records on the inmate.
 - e) Any history of telephone calls made by inmate.
 - f) Inmate's institutional medical records (if obtainable). If not obtainable, try to ensure their integrity until they can be obtained by legal process (such as consent, coroner's subpoena, search warrant, court order, etc.).
 - g) Inmate's classification documents.
 - h) Separation logs.
 - i) Observation checklist or log.
 - j) Computerized Incident history (if any).
 - k) Copy of Dispatcher recordings of relevant radio and telephone traffic.
 - l) Roster of inmates in relevant housing areas and room/bunk assignments.
 - m) Listing of LEA staff (sworn, non-sworn, medical, etc.) involved in Incident and the response to it.
 - n) Housing unit's event log or notebook (computerized or handwritten).
 - o) Logs or printouts showing relevant entries into controlled areas (whether handwritten, computerized, or by card readers).
- b. **Notify front counter/lobby** personnel to expect arriving investigators.
- c. Arrange **adequate rooms for MATF** briefing and operations.
- 1) Chart paper, broad tip marking pens, tape to attach paper to walls.
 - 2) Telephone access (if possible).
12. Consider **emotional impact** of Incident on staff and inmates. Take appropriate action.
13. **Meals** for staff, investigators and inmates may be needed during the investigation.

This Checklist was created by a committee consisting of:

Sergeant Dimitri Barakos, Antioch Police Department; Commander Scott Daly, Contra Costa Sheriff's Office; Captain Greg Gilbert, Contra Costa Sheriff's Office DDA Bob Hole, Contra Costa District Attorney's Office; Sergeant Garrett Voerge, Concord Police Department; Lt. Pat Welch, Antioch Police Department

**ATTACHMENT C
SUPERVISORS' LEIFI CHECKLIST
Institutional Custodial Deaths**

CSI CHECKLIST

BEFORE THE CRIME LAB ARRIVES

Pending arrival of the Crime Lab, certain physical evidence tasks should be performed by early responding officers to protect the evidentiary value of physical evidence and conditions at the scene(s). Preferably these officers have had CSI or evidence technician training. The quality of the physical evidence that will ultimately be collected by the Crime Lab often depends upon prompt and effective action by LEA personnel who are at the scenes shortly after LEIFI Incidents occur.

- **Extreme caution must be used by all personnel (including CSIs and Evidence Technicians) to avoid contaminating, altering, or removing evidence at the scene, and to avoid creating artifacts.**
 - **Crime Lab personnel are usually available to consult with on-scene personnel via cellular phone while they are enroute to the scene. Obtain their phone numbers through the Sheriff's Dispatch Center or from District Attorney personnel investigating the Incident.**
1. Take immediate steps to **secure the scene(s)** and to **control scene access** and routes. (This must be done in conjunction with the Venue Agency's patrol supervisor who is in charge at the scene.)
 2. **Record transient detail** through photographs, videos, note taking, and/or sketches to document items, conditions, actions, and observations which are likely to change before the Crime Lab arrives. Examples:
 - a. General appearance of the scene and surrounding area prior to darkness falling, the arrival of a storm, start of heavy commute traffic, etc.
 - b. Location and condition of weapons.
 - c. Location of bullet casings.
 - d. Condition of relevant people (injuries, clothing, actions, appearance, etc).
 - e. Blood drops, flow, or spatter patterns.
 - f. Location/condition of other biological evidence.
 - g. Location and condition of involved vehicles (including LEA vehicles).
 - h. Operation of lighting and other features of relevant vehicles, including patrol car emergency equipment (Code 3 equipment), hazard warning lights, loud radio.
 - i. Other vehicles in the area (possibly involved, belonging to witnesses or victims, etc.).
 - j. Doors (open, opened partially, closed).
 - k. Lighting (man-made and natural).
 - l. Windows, blinds, curtains, and shutters (open or closed).

-
- m. Weather conditions.
 - n. Traffic conditions (if relevant).
 - o. Skid marks, collision debris and the extent of debris scatter field, impact and gouge marks, vehicle fluids on ground.
 - p. **“Artifacts.”** As used here, these are artificial changes of an item or condition caused by something that is extraneous to the Incident, i.e., something that was not present when the Incident occurred and had no direct bearing upon the Incident’s occurrence.
Examples:
 - 1. Results of emergency medical efforts, including the movement of an injured person, movement of furniture, cutting or total removal of clothing, creating or obliterating foot tracks, dropping or smearing of blood, removal of doors or gates, abandonment of medical debris, turning lights on or off.
 - 2. Weather.
 - 3. Water from sprinkler systems, dew, river, or stream flow.
 - 4. Arrest, struggle, and/or removal of suspect.
 - 5. Animal (especially dog) or insect activity.
 - 6. Clean up efforts.
 - 7. Vehicle movement or change in the vehicle’s condition (such as turning off emergency equipment).
 - 8. People walking inside scene.
 - 9. Evaporation.
 - 10. Items dropped, such as gum, cigarette butts, matches, food wrappers and containers, scrap paper, hair.
 - 11. Shoe prints, tire prints.
 - 12. Evidence items changed by being picked up, stepped on, kicked.
 - q. People present at the scene, including crowds (if relevant).
- 3. If possible, **collect Gunshot Residue** samples from gunshot victim(s) and shooters who are being transported from the scene. Use Gunshot Residue collection kits. Other types of trace evidence may also need to be collected, as stated in #4.
 - 4. When necessary, **protect** if possible (and **collect if absolutely necessary**), any **evidence which is in imminent danger** of being lost, destroyed, or contaminated. Examples include footprints, blood drops, expended bullets or shell casings, vehicles, vehicle tire tracks, items which will be blown away by wind or washed away by rain, firearms or valuables which are subject to theft, trace evidence on people leaving the scene, etc. Consider the ambulance and Emergency Room as locations of evidence which may need protection.
 - 5. **Scene log:** Help **ensure that a written log is started** to adequately record every entry and exit at the scene. Information must include identity of each person, their agency or other affiliation to the case or scene, the time(s) of entry and exit, and the reason for entry. (Refer to ***Patrol Supervisors LEIFI Checklist for Shootings and Generic Incidents*** for more details.)

**ATTACHMENT D
CSI CHECKLIST
Before The Crime Lab Arrives**

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- a. The log must include the names and identifying information of everyone (police, fire, and ambulance personnel; civilian passersby, victims, witnesses; etc.) who entered the scene prior to the log being started, whether they are still present or have already left the area. (Contact may later be needed with those people to obtain elimination shoe prints or fingerprints, or to ask about certain observations and actions.)
 6. Take full length (stand-up, head-to-toe, and of all sides) color **photographs of involved people** (officers and civilians). Pay particular attention to wounds, damaged clothing, trace evidence, etc. and document them with close-up photographs.
 7. Assist the scene supervisor or investigators in the documentation and/or collection of **LEOs' firearms**, duty belts, and/or clothing, if these items are being collected at that time and place.
 8. As needed, assist in the collection of **blood or urine** from LEOs or others.
 9. Document the **position of participants and witnesses** at the scene as revealed by them during initial scene explanations.
 10. Make a **preliminary sketch** of easily visible aspects of the scene without entering the scene (unless OK'd by MATF investigators or by the Protocol-designated evidence collectors). Do not take measurements or do anything else that might contaminate the scene. Use a straight edge and make the sketch in correct proportion but not necessarily to scale.
 - a. MATF investigators will probably ask for another sketch which shows scene landmarks but which does not show evidentiary detail at the scene (such as the location of a body, blood, gun(s), bullets, etc.). Copies of these sketches will be used primarily by investigators during interviews.
 11. When the Crime Lab arrives, they will assume responsibility for processing the scene.
 - a. **Brief them** in detail on what you have observed and done and on any evidence processing you believe should receive priority attention.
 - b. Confer with them on the immediate **disposition of evidence** you collected.
 - c. Qualified officers may be asked to **assist the Crime Lab** with preparation of diagrams, processing of latent and patent prints, photography, logging of measurements and photographs and evidence, scene lighting, transportation of evidence and other duties. They will be working under the direction of the Protocol-designated evidence collectors.

This Checklist was originally created in 1984 by John Patty of the Contra Costa Sheriff's Criminalistics Laboratory. This 2007 revision was written by Crime Lab Director Paul Holes and Deputy District Attorney Bob Hole.

**ATTACHMENT D
CSI CHECKLIST
Before The Crime Lab Arrives**



**ATTACHMENT D
CSI CHECKLIST
Before The Crime Lab Arrives**

AUTOPSY EVIDENCE COLLECTION CHECKLIST

CONTRA COSTA COUNTY

Decedent's Name _____ Coroner Case No. _____

LEA and Case No. _____ CSI/Criminalist(s) _____

Autopsy Date _____ Pathologist _____ Lab No. _____

Use notes:

- A. This guide corresponds with the procedures followed in Contra Costa County, and it is organized to follow those procedures sequentially. Modifications may be necessary for use in other jurisdictions. In many jurisdictions the pathologist and his/her staff collect and document all evidence at autopsy, while in other jurisdictions the police investigators and/or CSIs or criminalists do much of that work.
- B. Use a separate fresh copy of this guide for each autopsy.
- C. Prior to each autopsy, review this guide to determine which steps will be relevant to that specific case. Place a Checkmark (✓) in the "To Do" column beside each step that is applicable. When each step has been completed, place a checkmark in the "Done" column.
- D. You may make notations on this document.

To do Done

<u>To do</u>	<u>Done</u>	1	2	3	4	5	6	7	8
✓	___								
___	___								
___	___								
✓	___								
___	___								
___	___								
___	___								
___	___								
___	___								

A. PREPARATORY TO AUTOPSY

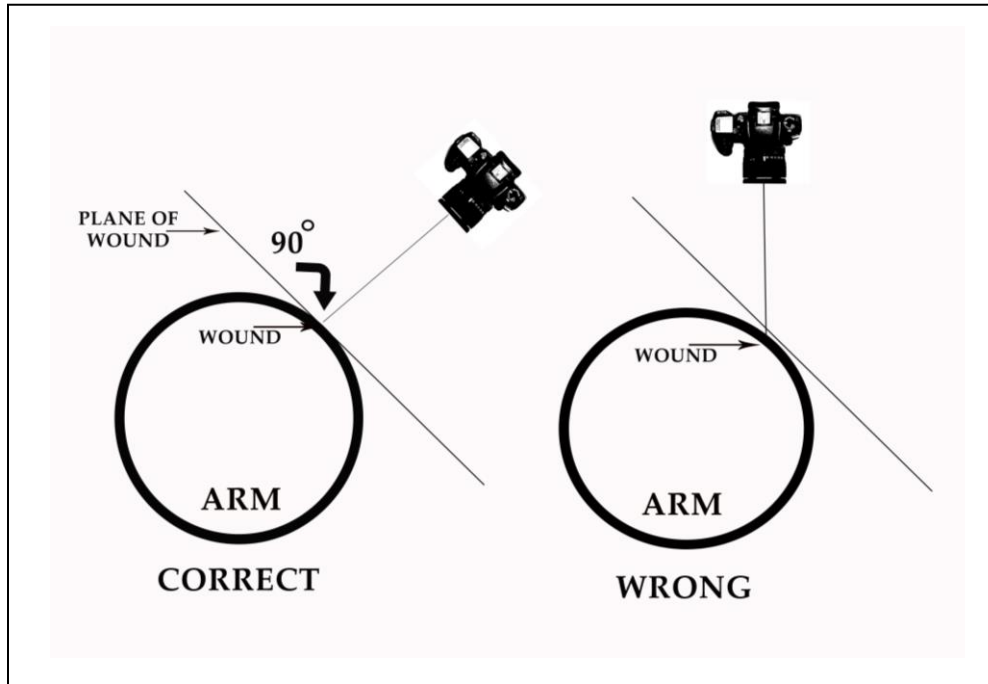
1. Bring to autopsy: Decedent's clothing; OTC and RX medications; weapons or objects which may have marked the body; relevant photos. Also see the Contra Costa County Sheriff/Coroner's document entitled ***Death Investigation Roles of The Coroner and Law Enforcement Agencies.***
2. Arrive at morgue at least ½ hour before scheduled autopsy time.

B. PRE-AUTOPSY PROCESSING OF BODY

- Many of these procedures may be performed prior to the pathologist's arrival but they must be done without disturbing the body or clothing.
1. Ensure that trace evidence is not compromised when x-rays are taken.
 2. Without moving or undressing body, conduct a visual examination, and do head to toe photography before subsequent undressing, washing, evidence removal or removal of medical therapy devices. Ensure complete body coverage. Use good lighting. Use magnifying glass and/or stereo microscope if appropriate. See Item #12 regarding trace evidence.
 - a. Use normal and close-up lenses as appropriate.

___ ___ 9 b. To confirm or determine the decedent's identity, or for other immediate investigative needs, take digital or other instant photos of face and/or identifiable body features. Delay this until Item #146 if cleaning is needed before presentable ID photos are taken.

___ ___ 10 c. **Note regarding photography:** When photographing wounds and marks on any body surface (but especially on curved surfaces) at any stage of the autopsy, it is essential to position the camera perpendicular (i.e., at 90 degrees) to the plane of the wound or mark, and to aim the lens directly into the center of the wound or mark.



___ ___ 11 3. Examine the body and clothing using good lighting and magnification if necessary. Make written notes and/or sketches of the condition of the body and clothing, relevant positions, location of observable evidence, body or clothing defects which appear significant, and possible "artifacts" (see Item #123 for artifacts).

___ ___ 12 4. Examine carefully for trace evidence which undressing or body clean-up will disturb.

___ ___ 13 a. Use good lighting and magnifying glass.

___ ___ 14 b. Trace evidence types (examples):

___ ___ 15 1. Soil

___ ___ 16 2. Vegetable/vegetation matter.

___ ___ 17 3. Blood. Remember that blood on the decedent may be from the decedent or from someone else (such as the suspect).

ATTACHMENT E
Autopsy Evidence Collection Checklist

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|-----|-----|----|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| ___ | ___ | 18 | 4. | Hair (human, animal) |
| ___ | ___ | 19 | a. | Loose hairs: collect with new comb and/or clear tape lift and/or tweezers. Package into a paper bundle and then place into a paper envelope. |
| ___ | ___ | 20 | b. | Hair standards from the body will be collected later at Item #183+. |
| ___ | ___ | 21 | 5. | Fibers |
| ___ | ___ | 22 | 6. | Glass |
| ___ | ___ | 23 | 7. | Grease, oil |
| ___ | ___ | 24 | 8. | Gunshot residue. Collection of GSR will be done later at Item # 70+. |
| ___ | ___ | 25 | 9. | Face powder, lipstick (decedent's or from another person) |
| ___ | ___ | 26 | 10. | Semen |
| ___ | ___ | 27 | 11. | Visible prints (finger, shoe, tire, etc). See Items # 46-56 for collection |
| ___ | ___ | 28 | 12. | Paint |
| ___ | ___ | 29 | c. | Document trace evidence by photography and sketching prior to collecting. (Collection is immediately below at Item #30.) Consider macro photography. |
| ___ | ___ | 30 | d. | Collection methods. If removal of clothing may disrupt important trace evidence, ask that clothing be cut off carefully, avoiding wounds, defects, GSR patterns, blood on clothing, or other evidence. |
| ___ | ___ | 31 | 1. | Collect by gloved hand or clean/new fine tip forceps. |
| ___ | ___ | 32 | 2. | Tape lifts. Use clean tape. To store, suspend tape pieces inside closed containers made of clear glass or plastic, or to inside of clean plastic bags. |
| ___ | ___ | 33 | 3. | Swabs |
| ___ | ___ | 34 | a. | If only a small quantity of material exists, concentrate stain by collecting it on tip of cotton swab using small amount of water. Distilled water is preferable. |
| ___ | ___ | 35 | b. | If stains are at multiple sites on body, collect from many areas using separate swabs for each stain. |
| ___ | ___ | 36 | c. | Label each swab or their individual containers, showing case number and collection site of each swab. |
| ___ | ___ | 37 | d. | Air dry swabs if possible before packaging. Must not contaminate one swab with another. |
| ___ | ___ | 38 | e. | Control swabs are necessary – collect one from each area where a |

ATTACHMENT E
Autopsy Evidence Collection Checklist

stain sample is collected. (Controls are swabs of unstained surfaces adjacent to each stain site.)

- ___ ___ 39 e. Hands, fingernails
- ___ ___ 40 1. Examine with good lighting and a magnifying glass or stereo microscope. ONLY IF no trauma is present, collect and package trace evidence from hands and nails. If trauma is present, delay collection until pathologist's approval.
- ___ ___ 41 2. Fingernail cuttings: delay collection if trauma present. Cut nails with clean instrument.
- Clean the cutter with bleach before and after using.
 - Collect and package clippings from the right hand separately from clipping from the left hand.
- ___ ___ 42 3. Examine for, photograph, and consider subsequent collection of broken nails if possibly relevant to case.
- ___ ___ 43 4. Fingernail scrapings (only if nails are too short to clip): use clean/new wood-tipped device such as toothpick. Package the scrapings in clean paper with pharmaceutical folds. Use a separate device for each hand.
- ___ ___ 44 5. Remember to look between all fingers.
- ___ ___ 45 f. On clothing: Collect loosely adhering trace evidence which may be dislodged.
- ___ ___ 46 g. Prints on cadaver's body surface (e.g., fingerprints, shoe prints, tire prints, etc.)
- ___ ___ 47 1. Bloody: After you are certain that good close-up (macro) photos have been taken of prints one-to-one, both with and without scale, consider use of a blood reagent to develop or enhance bloody prints, smears, or stains. CONTACT LAB for advice or assistance.
- ___ ___ 48 2. Other visible prints (e.g., grease): contact Lab for advice.
- ___ ___ 49 3. Latent fingerprints on the body: if latent fingerprints are a possibility the body should not be refrigerated.
- ___ ___ 50 a. Photography: (See Item #10 regarding photos of curved surfaces.) Take good close-up (macro) photos of prints, one-to-one, with and without scale.
- ___ ___ 51 b. Methods of developing, lifting and/or photographing: CONTACT LAB.
- ___ ___ 52 1. Electrostatic lifting of dust prints.
- ___ ___ 53 2. Iodine fuming with silver plate lifting. Photograph the silver plate lifts.
- ___ ___ 54 3. Super glue fuming.

ATTACHMENT E
Autopsy Evidence Collection Checklist

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- ___ ___ 55 4. Magna brush with metal powder.
 - ___ ___ 56 5. Sampson Lift Method. (Contact Lab for details.)
 - ___ ___ 57 h. Alternative light sources (ALS):
 - Use ALS and/or black light (ultra-violet) exam of body and clothing before wash-up and clothing removal.
 - ___ ___ 58 1. View in dark using protective lenses to protect your eyes.
 - ___ ___ 59 2. Be sure the pathologist is shown anything you find, prior to further processing.
 - Photograph (see Item #10 regarding curved surfaces) significant findings such as healing wounds, trauma, stains, trace evidence, etc., under the ultraviolet light. Contact Lab for photography method.
 - ___ ___ 60 3. Sketch.
 - ___ ___ 61 4. Outline any luminescent stains with a permanent ink marker for exam under normal light. Photograph marked areas under room light or with flash.
 - ___ ___ 62 5. Swab luminescent stains as described in Items #33-38.
 - ___ ___ 63 6. Obtain control swabs as described in Item #38.
 - ___ ___ 64 i. Gunshot cases
 - ___ ___ 65 1. Gunshot residue (GSR) may help determine:
 - ___ ___ 66 a. Proximity of decedent's body or clothing to the muzzle or to the side of a discharged firearm.
 - ___ ___ 67 b. Orientation (positioning) of various body parts to the firearm at the time of discharge.
 - ___ ___ 68 c. If the decedent fired a gun.
 - ___ ___ 69 d. Type of ammunition fired.
 - ___ ___ 70 2. GSR on body surfaces:
 - ___ ___ 71 a. If GSR was not previously collected from the body at the scene prior to removal of the body to the hospital or morgue (as is preferable), the body should not be refrigerated prior to GSR collection at the morgue.
 - ___ ___ 72 b. Photograph (see Item #10) regarding photography of curved surfaces) any visible GSR with and without scale. Some of your photos must show 100% of the GSR pattern.
 - ___ ___ 73 c. Consider tracing visible gun powder particle pattern on clear acetate sheets.

ATTACHMENT E
Autopsy Evidence Collection Checklist

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- ___ ___ 74 d. Collect visible and invisible GSR.
 - ___ ___ 75 1. Use magnifying glass or stereo microscope (one is located at the Morgue) to look for non-obvious GSR.
 - ___ ___ 76 2. Consider tape lifting but do not do tape lifting on areas that might be processed for latent prints.
 - ___ ___ 77 3. Use adhesive SEM disks for back of hands, palms, and other surfaces as appropriate.
 - ___ ___ 78 3. GSR on clothing:
 - ___ ___ 79 a. Photograph with and without scale.
 - ___ ___ 80 b. Remove garment later (at Item #124+) and package it without disturbing GSR.
 - ___ ___ 81 4. Photograph wounds and the immediately surrounding GSR pattern(s) with scale. Describe in notes. Have area around wound shaved if necessary.
 - ___ ___ 82 5. Collect dry residue from wound site(s). Look for tattooing.
 - ___ ___ 83 6. With pathologist's approval, swab interior of wound for GSR. Consider swab of wound track.
 - ___ ___ 84 7. Have hair shaved from wound site. Look for tattooing.
 - ___ ___ 85 8. Collect shaved hair for later Lab exam for GSR and shattering.
 - ___ ___ 86 9. Photograph wound after shaving and cleaning, with and without scale. Consider one-to-one photography to show specific detail.
 - ___ ___ 87 10. Take additional photographs of all wounds after cleanup.
 - ___ ___ 88 j. Explosives cases:
 - ___ ___ 89 1. Dynamite is often tagged with small multi-layer chips. Use a magnet placed inside a new plastic bag to collect these.
 - ___ ___ 90 2. Using swabs with wooden or paper shafts, moisten swab with acetone and swab relevant areas. Air-dry the swabs and place in plastic or glass containers. Wear rubber gloves.
 - ___ ___ 91 3. Collect control swabs from body areas which are not contaminated by the explosive.
 - ___ ___ 92 4. Bite marks:
 - ___ ___ 93 a. Examine suspected bite areas with ultraviolet light. Wear protective lenses to avoid damaging your eyes. Photograph positive areas using the black light for illumination. Call Lab for advice about this photography.

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Autopsy Evidence Collection Checklist

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| ___ | ___ | 94 | b. Swab the bite mark area for possible saliva using a swab moistened with a small amount of distilled water. To concentrate the saliva on the swab, use only the tip of the swab. |
| ___ | ___ | 95 | c. Obtain control swab(s) in same manner as evidence swabs. See Item #38. |
| ___ | ___ | 96 | d. Label swab(s) and air-dry. See Item #s 36-38. |
| ___ | ___ | 97 | e. Photograph suspected bite marks, with and without scale, in color (and in black and white if using film). (Color digital photos can later be converted to black and white using Photoshop.) Take macro (one to one) photos in addition to standard photos at normal range. |
| ___ | ___ | 98 | f. Photograph suspected bite marks in color, with and without scale. Take macro (one to one) photos in addition to standard photos at normal range. If using a digital camera, ensure the camera settings are at a high enough resolution to allow for adequate enlargement and image enhancement without loss of image quality. |
| ___ | ___ | 99 | g. Cast bite marks with Mikrosil casting putty. |
| ___ | ___ | 100 | h. Have the pathologist excise the bite mark at autopsy. It should then be frozen and retained. Store in formalin to preserve tissue shape (Formalin is OK because DNA is not needed from the tissue). |
| ___ | ___ | 101 | 5. X-rays. If x-rays will be taken at autopsy, use care not to disturb trace evidence. With the pathologist, examine any autopsy or hospital x-rays, MRIs or CT scans for: |
| ___ | ___ | 102 | a. Bullets, knife tips, wound paths, bone, and metal fragments. (Keep in mind that some people have old bullets in their bodies from previous Incidents.) |
| ___ | ___ | 103 | b. Broken bones. |
| ___ | ___ | 104 | c. Old fractures which have healed (especially relevant in child abuse, spousal and elder abuse cases). |
| ___ | ___ | 105 | d. Photograph significant x-rays while they are on the x-ray viewer using the viewer's light but no flash. Be sure x-rays are retained (usually by the Coroner's Office). |
| ___ | ___ | 106 | 6. Ligatures/hangings |
| ___ | ___ | 107 | a. Photograph ligature in place on the body if it has not already been removed. |
| ___ | ___ | 108 | b. Pathologist should determine tightness and exact orientation. |
| ___ | ___ | 109 | c. Pathologist should cut the ligature a distance away from the knot, |

ATTACHMENT E
Autopsy Evidence Collection Checklist

then tie those newly cut ends together with string or wire to clearly identify ends which were cut at autopsy. Be careful not to contaminate ligature with sources of DNA, especially blood or other body fluids/tissue from the decedent, as someone else's DNA may be present on ligature.

- ___ ___ 110 d. Preserve ligature for non-victim DNA, prints and trace evidence.
- ___ ___ 111 e. With ligature on an absolutely clean surface, photograph ligature after removal from body. Be sure to include the knot.
- ___ ___ 112 f. Photograph the skin surface previously beneath the ligature, especially any furrows, marks, fingernail scrapings, etc., with and without scale.
- ___ ___ 113 g. If decedent apparently tried to loosen the ligature, check fingernails for tissue from neck. If found, photograph, then follow Item # 39+ for collection.
- ___ ___ 114 h. Tape-lift the area previously beneath the ligature for trace evidence.
- ___ ___ 115 i. Consider tape-lifting hands for hairs and fibers (especially fibers from the ligature).
- ___ ___ 116 7. Photography of other markings, trauma, and conditions, with and without scale. Consider use of various lighting techniques, filters, and different films. Examples:
 - ___ ___ 117 a. Writing on skin, including faint tattoos.
 - ___ ___ 118 b. Stains and smears.
 - ___ ___ 119 c. Footwear impressions.
 - ___ ___ 120 d. Blood flows, patterns, or spatter: photograph blood patterns with and without a scale. If removal of clothing may disrupt important bloodstain evidence, ask that clothing be cut off carefully to avoid any wound defects, GSR patterns, blood stains on clothing, or other evidence. Avoid contaminating the clothing with additional blood from the victim as clothing is removed.
 - ___ ___ 121 e. Lividity. This photography is especially relevant if the fixed lividity is inconsistent with the position of the body when found. Show scene photos of body's position to the pathologist.
- ___ ___ 122 8. Decomposing body: Collect representative samples of all the **various types** of insects on the body, and for each type, collect samples of each of their **stages of life** (e.g., eggs, larvae, pupae, and adults). An entomologist may be able to use this evidence to help determine time of death.
- ___ √ ___ 123 9. CAUTION FOR ARTIFACTS: At all stages of the autopsy, be alert for

ATTACHMENT E
Autopsy Evidence Collection Checklist

post-mortem artifacts. These are conditions, marks, items, and substances which are present on the body or clothing, but which were made, left, or deposited during medical procedures, transportation or handling of the cadaver, during morgue procedures or evidence processing, or even during the autopsy itself. They have nothing to do with the cause and circumstances of the person's death, but because they are in fact present, they cannot be ignored and must be documented. Their origin must be accounted for if possible to avoid possible subsequent misinterpretation. Confer with the pathologist about identifying them and their sources and about how to best document them.

Some examples of artifacts: the presence on the body of fingerprint ink or powder caused by fingerprinting the cadaver; impressions on the torso caused by EKG pads; medical incisions (such as cut-downs for catheters or drainage tubes) or needle marks made during life saving efforts; blood or hair transferred onto the body from the autopsy table, from dirty equipment or supplies, or from someone attending the autopsy; glove impressions on the skin left when handling the body; impressions on the body made by the autopsy table, the gurney or backboard or by tie downs; incisions made in the skin during the autopsy; and blood on a previously clean body surface which flowed from an autopsy incision.

- ___ ___ 124 **C. REMOVAL OF CLOTHING AND CLEAN UP OF BODY – done only at the pathologist's direction**
- ___ ___ 125 1. Photograph the layer-by-layer undressing of the body.
- ___ ___ 126 2. Clothing is to be removed intact, if possible, without cutting or tearing. If cutting is necessary, cut to avoid any wounds, defects, GSR patterns, blood on clothing, or other evidence. Record what cutting was done.
- ___ ___ 127 3. Collect all clothing and footwear. Collect clothing in a manner to avoid losing, disturbing, contaminating, or cross-contaminating evidence.
- ___ ___ 128 4. Air-dry wet items before packaging if possible.
- ___ ___ 129 5. Clothing with important blood patterns, biological stains or other significant evidence should be separately sandwiched between sheets of clean butcher paper before each item is folded and separately packaged.
- ___ ___ 130 6. Package each item separately in paper bags (not plastic).
- ___ ___ 131 7. The clothing should be cautiously and thoroughly searched for evidence and personal items.
- ___ ___ 132 8. Determine which items of decedent's personal property at the morgue should be collected and retained as evidence. Remember that items not collected for evidence will be released to the next-of-kin or disposed of by the Coroner's Office.
- ___ ___ 133 a. Examples: clothing, jewelry, wallet or purse, address books, money, notes, cell phones.
- ___ ___ 134 b. Consider photographing or photocopying items you elect not to collect as

ATTACHMENT E
Autopsy Evidence Collection Checklist

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- evidence as they might later have value as evidence or investigative leads.
- ___ 135 9. Possible sexual assault:
 - ___ 136 a. The pathologist will examine body orifices for trauma and for evidence.
 - ___ 137 b. Swabs and smears: Vaginal, rectal, and oral. The pathologist will do the swabbing of body orifices, then will transfer collected material to glass microscope slides. Multiple swabs are required. Label the slides and swabs. Air-dry the slides and swabs before packaging. If pertinent, request esophageal, vaginal, cervical, and uterine swabs.
 - ___ 138 c. Examine the body for seminal stains, especially on external genitalia and thighs. Also look for foreign material or encrustation. Use ultraviolet light to aid. Photograph first, then collect possible stains with swabs or otherwise.
 - ___ 139 d. Swab breasts/penis for saliva.

Perform blind swabs of areas the offender may have mouthed or licked, such as neck, lower abdomen, fingers, external genitalia, external anal, inner thighs, and toes. (Blind swabs are swabs that are collected from areas even though one does not see any foreign material present.) These swabs are collected from areas in case there is foreign material present that cannot be seen, such as saliva stains.
 - ___ 140 e. Obtain control swabs from areas adjacent to areas from which evidence was collected on swabs.
 - ___ 141 f. Tape-lift pubic area, followed by combing of pubic hair with clean combs. Wrap the comb or brush into a clean paper towel and place into a paper envelope.
 - ___ 142 g. Obtain hair standards from decedent later in autopsy at Item #183+.
 - ___ 143 10. Ensure that only new sponges and scrub pads are used to clean body.
 - ___ 144 11. Collect debris washed from body if appropriate for the case.
 - ___ 145 12. Before continuing the photography, dry body surfaces to avoid reflections on the photos from photo flash and room light. Be sure clean towels are used.
 - ___ 146 13. Be sure the height and weight of the body is taken and is accurate and is not simply taken from driver's license or other ID.
 - ___ 147 **D. PROCESSING OF UNCLAD AND CLEANED BODY**
 - ___ 148 1. Complete photographic coverage of the body, head to toe, front and back.
 - ___ 149 a. Use normal and close-up lenses as appropriate.
 - ___ 150 2. Take portrait of face for identification and courtroom purposes.
 - ___ 151 a. In these identification photos, minimize wounds, distortions, instruments, other bodies, and unpleasant background. Make the facial pose as natural and life-like as possible. Fill the frame with the face. Take front and profile views.

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Autopsy Evidence Collection Checklist

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- ___ ___ 152 b. Take digital or other instant photos for immediate identification if needed, if not already done at Item #9.

 - ___ ___ 153 3. Wounds (including defense wounds):
 - ___ ___ 154 a. Photographs – See Item #10 regarding curved surfaces.
 - ___ ___ 155 1. If gunshot or stab wounds are numerous, consider numbering the wounds on the skin, with pathologist’s concurrence. When photographing wounds, be sure to include the wound number marked on the skin in each wound photograph. Alternatively, the pathologist may only number the wounds on his/her diagram of the body; you should use these for photo referencing and/or to correlate wounds to collected evidence such as projectiles.
 - ___ ___ 156 2. Photograph wounds in relation to other wounds and in relation to body landmarks.
 - ___ ___ 157 3. Photograph wounds one-to-one if possible, with and without scale. Close-up photographs are especially important: (a) when there may be an issue about entry or exit wound determination; (b) when the wound is or may be a shored exit; (c) to show trace evidence in a wound, (d) to show tissue bridging or its absence; (e) to show directionality of the force causing the wounds; (f) to show any pattern to the wound(s); (g) to show characteristics of the weapon or object that caused the wound.
 - ___ ___ 158 4. When photographing bruises, use a Kodak color scale (or similar) to ensure accuracy of bruise colors on color photos.
 - ___ ___ 159 5. For admissibility of photos in court, exclude unnecessary blood, incisions, surgical instruments, internal organs, genitalia, and other bodies. However, **do not** limit your photos to only those that will be admissible in court. Ensure full photographic documentation of the body.
 - ___ ___ 160 6. Photograph penetrating wounds with probes placed by the pathologist. Photos of in-place probes will also be taken at the completion of the autopsy, after the body is sewn up at Item # 225.
 - ___ ___ 161 a. Trace evidence must be collected from wounds before probing.
 - ___ ___ 162 b. Probes will be used only when the pathologist believes they are useful in establishing wound trajectory. The pathologist, not a Criminalist or CSI, will place probes.
 - ___ ___ 163 c. Photograph each probe in place, as follows:
 - ___ ___ 164 1. Place a large protractor at the base of the probe to show the angle.
 - ___ ___ 165 2. Use a normal lens, not a wide angle. Set focal length to 50mm.
 - ___ ___ 166 3. Use the smallest possible lens aperture to obtain the greatest depth of field.

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___ ___ 167

4. The entire visible length of the probe must show in each photograph, along with the skin surface it penetrates.

___ ___ 168

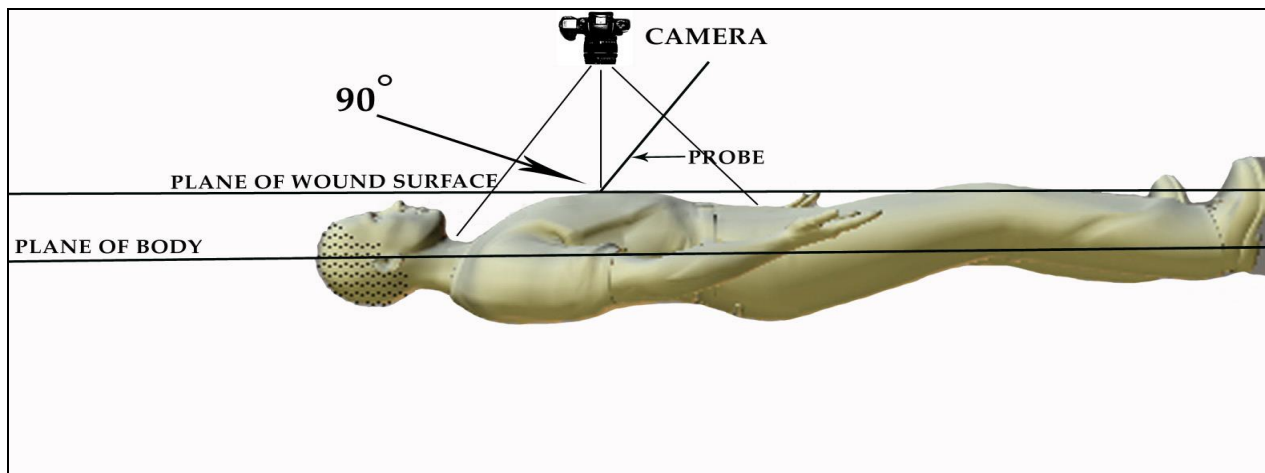
5. Probes may be more visible when photographed against a clean solid background, such as a sheet, blanket, towel, or even clean surgical scrubs. Light-colored backgrounds may reflect too much light – consider using light blue or green colored fabric.

___ ___ 169

6. Photograph each probe from at least three angles which are 90 degrees apart, as follows:

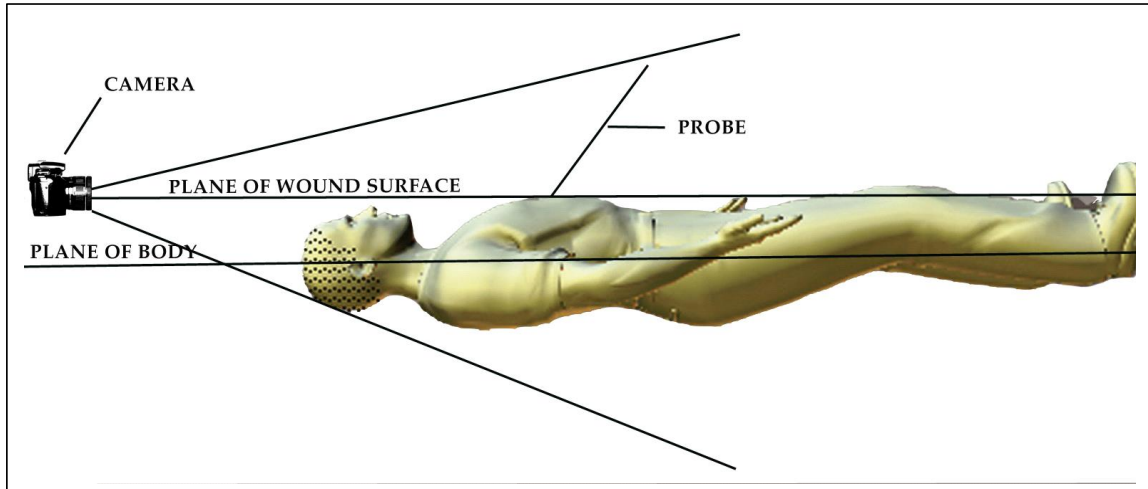
___ ___ 170

a. Perpendicular to the wound surface, that is, 90 degrees to the wound surface. For example, for an anterior chest wound (graphic below), the perpendicular view would be from directly and straight above the wound, with the camera pointing straight downward to the center of the wound, showing the wound and the visible full length of the probe. A photograph looking straight down the probe towards the body should also be taken.



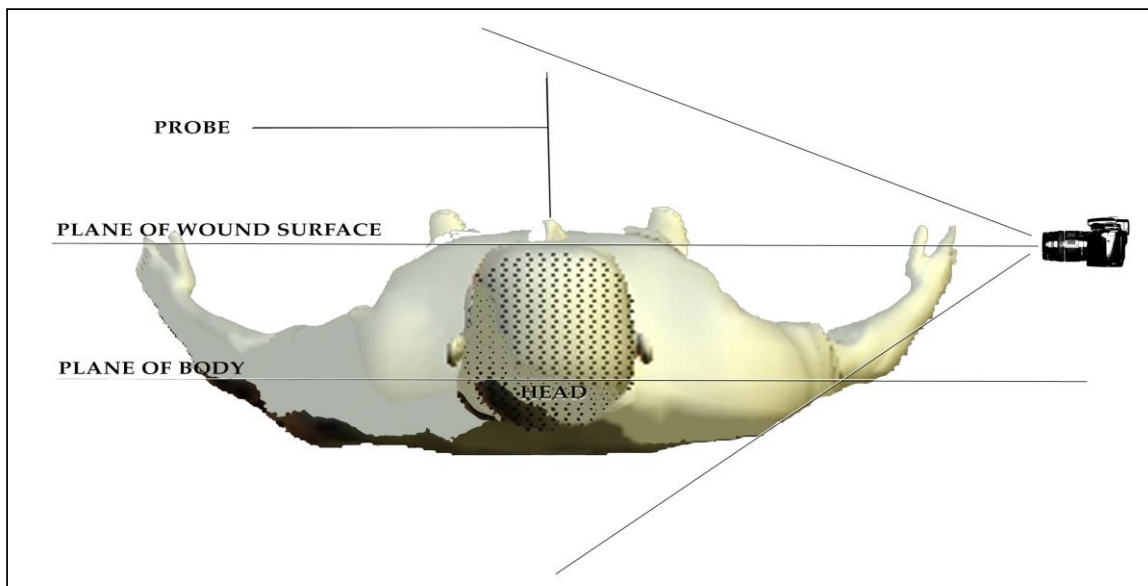
171

- b. From the body's head or feet, with the camera at the level of the visible wound surface, shoot toward the body's opposite end, showing the full length of the visible portion of the probe.



172

- c. From the body's right or left side, with camera at the level of the visible wound surface, shooting toward the body's opposite side, showing the full length of the visible portion of the probe.



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Autopsy Evidence Collection Checklist

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- ___ ___ 173 d. For entry-exit-reentry situations: If a bullet passed through one part of the body (e.g., a forearm) and then passed into or through another (e.g., the chest), or if that is a possibility, have the pathologist position the body parts as they would have been when hit by the bullet, then photograph from the different angles described above.
- ___ ___ 174 7. Photograph gunpowder stippling (tattooing) with and without scale. Consider using a plastic overlay.
- ___ ___ 175 8. Photograph each shotgun pellet pattern in its entirety, with and without scale. Consider using a plastic overlay.
- ___ ___ 176 b. Diagramming:
- ___ ___ 177 1. Obtain a copy of the pathologist's diagram of the body for your use. If not available, use standard pre-printed body diagrams to locate wounds. Strictly adhere to the pathologist's wound numbering.
- ___ ___ 178 2. Make written notes of wound(s), including appearance, color, pattern, location, size, and assigned numbers if any.
- ___ ___ 179 c. Measurements:
- ___ ___ 180 1. For wounds, whether from gunshot, knife, blunt force, vehicle impact, etc:
- Obtain a copy of the pathologist's diagram, and/or
 - Make notes of the pathologist's measurements of all wounds, using distance from heels or top of head, as well as from the body's mid-line.
- ___ ___ 181 2. In cases of questioned suicides where long guns are used, obtain the pathologist's measurements of the length of decedent's arms.
- ___ ___ 182 3. In cases of hot water bathtub burns, obtain height of water marks on the body.
- ___ ___ 183 4. Hair standards
- ___ ___ 184 a. Body hair: obtain 10-20 hairs from following areas, depending upon facts of the case: pubic, facial, chest.
- ___ ___ 185 b. Head hair: collect at least 20 hairs from each of the following areas: right and left sides, front, back, top. If facial hair is present perform the same collection procedure trying to obtain at least 20 hairs from the moustache, chin, side of face, and neck.
- ___ ___ 186 5. Teeth impressions. If the decedent may have left teeth marks on another person or on an object, a forensic odontologist should photograph the decedent's teeth and take dental impressions. The intact jaws may be collected and retained by the pathologist or odontologist.

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Autopsy Evidence Collection Checklist

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- ___ ___ 187 6. Photograph any identifying marks on the body, such as tattoos, unique scars, and any unique body features. This is especially important if the decedent has not yet been identified. Consider photographic filters to make some tattoos more legible. After photographing tattoos on decomposed or burned bodies, have the pathologist rub off the outer layer of the skin as this will often reveal much more detail.
- ___ ___ 188 **E. DURING THE AUTOPSY**
- ___ ___ 189 1. Photograph evidence items as they are found.
- ___ ___ 190 2. Photograph specific injuries and relevant body features and conditions.
- ___ ___ 191 3. Photograph specific findings that the pathologist says are medically significant.
- ___ ___ 192 a. Keep in mind that absence of a specific condition or a specific type or location of trauma may be very significant. (E.g., the decedent had not been struck in the head as someone may have claimed.)
- ___ ___ 193 b. In cases involving strangulation or neck holds, photograph the presence or absence of hemorrhaging, bone fractures and other signs of neck trauma.
- ___ ___ 194 c. If the decedent was dismembered, be alert for tool marks on the cut ends of bones. Photograph the cut ends with direct as well as oblique lighting, then obtain the cut ends of the bones. If not possible, make casts of them.
- ___ ___ 195 4. Blood samples: The pathologist will collect blood samples from the heart or from an uncontaminated blood vessel.
- Depending upon the types of testing that is desired for collected blood, different blood preservatives must be used. Vacutainer tubes for blood collection have different colored caps to show what type of preservative is inside: PURPLE capped tubes are used for blood which will be tested for genetic markers, and GREY capped tubes are used for drug and alcohol testing.
- ___ ___ 196 a. For DNA or typing:
- √ ___ 197 1. Obtain blood in all cases for this purpose.
- ___ ___ 198 2. In decomposition cases, collect bone samples and/or teeth for DNA reference samples. Avoid bones that have been on the downside of the body during decomposition, or which have been exposed to a moist external environment.
- ___ ___ 199 3. Refrigerate ASAP in an evidence locker.
- ___ ___ 200 4. Submit to the Laboratory ASAP.
- ___ ___ 201 b. For toxicology:
- √ ___ 202 1. Blood should be collected in all cases for toxicology testing.
- ___ ___ 203 2. The Coroner's Office will submit this sample for toxicology testing, along with other appropriate body fluids and tissue.

ATTACHMENT E
Autopsy Evidence Collection Checklist

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- ___ ___ 204 5. Gunshot evidence
 - ___ ___ 205 a. Carefully collect, and separately package, bullets, bullet jacketing, shotgun pellets and wadding. Collect as many shotgun pellets as possible. Do not handle projectiles with forceps and do not place any markings directly onto any of these items.
 - ___ ___ 206 b. If the bullet has no visible adhering trace evidence (such as glass, fabric, wood, vegetation, etc.), wash body fluids from bullets with a very gentle stream of cold water, being very careful to catch and preserve any trace evidence that might be present. Don't let the bullet go down the drain!
 - ___ ___ 207 c. Consider having the entry and exit wounds excised and retained by the pathologist. This is important in cases where there may be a question about differentiation of entry and exit wounds.
 - ___ ___ 208 6. Teeth and dentures - if relevant to the case
 - ___ ___ 209 a. Retain broken portions of teeth or dentures, and/or make castings of fractured tooth surfaces.
 - ___ ___ 210 b. If teeth are broken, note direction of the fracture and the angle of the broken teeth.
 - ___ ___ 211 c. Collect broken dentures for matching with pieces that may be found elsewhere.
 - ___ ___ 212 7. Drug overdoses:
 - ___ ___ 213 a. Ask that non-medical needle puncture sites be excised and retained.
 - ___ ___ 214 b. Consider having the nose swabbed.
 - ___ ___ 215 8. Patterned impressions in bone (such as by a hammer with a checkered striking surface, a hatchet, a pipe, etc): have the pathologist excise and retain the bone.
 - ___ ___ 216 9. Ask the pathologist to check stomach contents, as appropriate, for:
 - ___ ___ 217 a. Swallowed items, such as gum, jewelry, controlled substances and/or their packaging, broken teeth, paper.
 - ___ ___ 218 b. What type of food was ingested before death. (In some cases there may also be a limited possibility of determining how long before death the food had been eaten.)
 - ___ ___ 219 **F. AFTER AUTOPSY**
 - √ ___ 220 1. Note regarding taking of the decedent's fingerprints:

Criminalists, CSIs, and police evidence technicians must obtain their own set of fingerprints and palm prints from the decedent in every criminal case. Fingerprints taken by the Coroner's Office are for a different purpose and may not be suitable for all Laboratory comparisons.

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Autopsy Evidence Collection Checklist

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- ___ ___ 221 a. Fingerprints: Take full set including fingertips and edges on all criminal cases.
- ___ ___ 222 b. Palm prints: take in all cases. Always include the heel of the hand and the wrist.
- ___ ___ 223 c. Desiccated or decomposed fingers: Contact the Laboratory.
- ___ ___ 224 d. Take footprints if appropriate to the case.
- ___ ___ 225 e. Take photographs of probes placed by the pathologist into penetrating or perforating wounds AFTER the body is sewn back up. (These photos are in addition to photos of the probes taken previously at Item #s160-172.)
- ___ ___ 226 f. Consider having body held (e.g., for at least 24 hours) for reasons such as:
- further development of bruises
 - further crime scene work that may be needed due to some autopsy finding
 - information from expected interviews or interrogations
 - evaluation of decedent's rolled fingerprints (especially on decomposing bodies)
 - need for (further) dental examination
 - need for a forensic anthropologist
- ___ ___ 227 2. All evidence items must be properly marked and packaged according to local Laboratory requirements and accepted practices.
- ___ ___ 228 3. If you retain personal property items of the decedent which you collected at the morgue, you must sign for them on a Coroner's form.

Written by:

- Paul Holes, Director of the Costa County Sheriff's Criminalistics Laboratory
- Members of the Contra Costa County Sheriff's Criminalistics Laboratory
- Bob Hole, Deputy District Attorney, Contra Costa County

Originally prepared in 1988
Revised in 2002, July 2005, May 2007

ATTACHMENT E
Autopsy Evidence Collection Checklist

**CONTRA COSTA COUNTY
SHERIFF- CORONER**



**DEATH INVESTIGATION ROLES
OF THE
CORONER AND LAW ENFORCEMENT AGENCIES**

Coroner's Division
1960 Muir Road
Martinez, CA 94553
(925) 313-2850
Fax (925) 313-2886

ATTACHMENT F
Death Investigation Roles of the Coroner and LEAs

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A. INTRODUCTION

The Coroner is an administrative officer within County government whose position was created by California statutes to determine the cause and circumstances of certain statutorily defined deaths which occur within the County. In Contra Costa, as in 42 of California's other 58 counties, the Coroner is also the county Sheriff. By state statute, the Coroner is not required to be a medical doctor, and in fact, none of the 43 Sheriff/Coroners in California are medical doctors. Coroners perform the investigative and administrative aspects of death investigations by using civilians and/or peace officers staff members but they employ licensed physicians, most of whom are board-certified forensic pathologists, to perform post-mortem medical examinations (autopsies) and to provide the medical expertise and testimony as necessary. The Coroner also has some ancillary duties.

Law enforcement agencies are often involved with the discovery of deaths. They perform criminal investigations on many deaths, especially homicides and other cases where crimes have been, or may have been, committed. This means that for many death cases, the Coroner's Office and law enforcement agencies have complementary but potentially intersecting investigative roles which can cause needless confusion and conflict. The information below is provided to avoid that.

B. PRIMARY ROLE OF THE CORONER

The Coroner's primary duty is to **determine the cause, manner and means** of certain deaths which are specified by California Government Code §27491. Generally those deaths are by homicide, suicide, accident, and deaths which are unexplained or medically unattended. When a death falls within one of those categories, it is "**reportable**" and is "**a Coroner's case**".

Only "**reportable deaths**" are within the Coroner's jurisdiction. The categories of reportable deaths (from California Government Code §27491) are summarized below:

1. **violent, sudden, or unusual** deaths.
2. **unattended** deaths which occur in the continued absence of a physician for twenty days or more. The decedent has no recent medical history which documents medical problems that could have caused death.
3. deaths related to (or following) known or suspected **self-induced or criminal abortion**.
4. deaths known or suspected to be from:
 - a. **homicide**
 - b. **suicide**
 - c. **accidental poisoning**
5. deaths known or suspected as resulting, in whole or in part, from or related to, **accident or injury**, either old or recent.
6. deaths due to:
 - a. **drowning**
 - b. **fire**

-
- c. **hanging**
 - d. **gunshot**
 - e. **stabbing**
 - f. **cutting**
 - g. **exposure**
 - h. **starvation**
 - i. **acute alcoholism**
 - j. **drug addiction**
 - k. **strangulation**
 - l. **aspiration**
 - m. **suspected Sudden Infant Death Syndrome**

- 7. deaths caused by **criminal means**, in whole or in part.
- 8. deaths associated with known or alleged **rape**, or **crime against nature**.
- 9. deaths occurring **in prison** or while **under sentence**.
- 10. deaths known or suspected due to **contagious disease** and constituting a public hazard.
- 11. deaths from **occupational diseases or hazards**.
- 12. deaths of **patients in mental hospitals** operated by State Department of Mental Health and serving the mentally disabled.
- 13. deaths of **developmentally disabled patients** in state hospitals operated by the State Department of Developmental Services.
- 14. deaths occurring under circumstances affording **reasonable grounds to suspect death was caused by the criminal act of another**.
- 15. deaths **reported by physicians or other persons** with knowledge of death for inquiry by the Coroner.

C. ADDITIONAL CORONER'S DUTIES

The decedent's identity

Another duty of the Coroner is to establish and confirm the decedent's identity for legal and other purposes. This may be done by visual identification, photographic comparison, fingerprint comparison, unique body markings or conditions, dental comparison, DNA, x-ray comparison, or by personal effects.

Notifications

The Coroner is required to make reasonable attempts to locate the family of the decedent after taking custody of the dead body. Government Code §27471.

The Coroner's Office takes this responsibility very seriously and strives to ensure that death notifications are promptly, compassionately, and supportively made to the legal next-of-kin, whether notification is

made by a member of the Coroner's staff, by a law enforcement officer or another official, or by someone at the request of an official.

Notifications can be difficult following any type of death but they are often especially difficult following sudden and unexpected deaths.

When possible, the Coroner's Office will have its investigators make local death notifications. Law enforcement agencies may wish to make death notifications in selected death cases they investigate because they can also provide the family with some explanation of the case circumstances and can attempt to obtain needed information. Law enforcement agencies must promptly notify the Coroner's Office if they wish to do this so the Coroner's Office won't attempt to make notification. After the law enforcement agency has made the death notification, the person who made it shall immediately notify a Coroner's investigator that the notification has been made and shall provide: (1) the name of the person receiving the notification, as well as his/her address, age, phone number and relationship to the decedent; (2) the identity and affiliation of the person making the notification; and (3) the time, date and place of notification.

Safeguard Property

The Coroner is responsible for safeguarding the property of the decedent. In some cases this involves taking actual possession of property and safekeeping it pending other disposition, and in other cases the property may be left in place with a Coroner's seal affixed to safeguard it. In many cases a legal next-of-kin simply takes responsibility for the property.

Uniform Anatomical Gift Act

The Coroner assists with the implementation of the Uniform Anatomical Gift Act (Health and Safety Code §7150) and with lawful utilization of organ and tissue transplantation procedures. Government Code §7491.44. et al.

Training

The Coroner's Office participates in scientific and medical research, training, and education. Government Code §27491.45.

Death Review Boards

The Coroner's Office participates in mandated and other Medical Reviews such as Child Death Review and Domestic Violence Death Review.

Coroner's Inquests

The Coroner has discretion to conduct Coroner's Inquests, and must hold Inquests if requested to do so by the Attorney General, the District Attorney, the city prosecutor or city attorney, or a chief of police of a city in the county. Inquests may be with or without a jury, at the Coroner's discretion. Government Code §27491.6.

- **Inquests on Law Enforcement Involved Fatal Incidents**

The vast majority of Inquests in the County are held following deaths which involve law enforcement personnel or law enforcement operations or activities.

By its own policy, and pursuant to the county-wide Contra Costa Law Enforcement Involved Fatal Incident Protocol (which has been in effect since 1984), the Contra Costa County Sheriff/Coroner's Office holds Inquests following most deaths which involve law enforcement personnel or law enforcement operations or activities. These Inquests are open to the public, are conducted by a private attorney acting as the hearing officer for the Coroner's Office, and are held in front of a jury of citizens randomly selected from the Superior Court jury pool.

In addition to the statutory purposes for holding Inquests, Inquests are held on these cases to provide the public, the news media, and various interested parties with information about such incidents through sworn testimony of participants, witnesses, and investigators. Inquest testimony also provides another opportunity for investigators and decision-makers to acquire more information about the incidents.

- **Other Inquests**

The Coroner occasionally holds Inquests on other types of cases when considered appropriate or when requested under Government Code §27491.6. These Inquests are usually conducted by the Coroner's Office Commander or his/her designee and are held without a jury. Government Code §27491.7

- **Inquest Verdicts**

Government Code §27504 requires the Inquest jury, or the hearing officer if no jury is used, to render a verdict on the following matters:

- the name of the deceased
- the time and place of death
- the medical cause of death
- whether the death was by (1) natural physiological causes, (2) suicide, (3) accident, or (4) the hands of another person other than by accident (i.e., homicide).

Government Code §27504 provides that Inquest findings shall not include, nor shall they make any reference to, civil or criminal responsibility on the part of the deceased or any other person.

D. LEVELS OF CORONER'S INVESTIGATIONS

Depending upon the type of each death and the circumstances of it, the Coroner's Office performs its role using one of five standardized levels of investigation. In Contra Costa County, these levels are known as:

1. Full Coroner's Case
2. Inspection
3. Not Brought In
4. Co-Sign
5. Brief Case

Levels 2 through 5 are used primarily for natural physiological deaths which occur following treatment by physicians, and are occasionally used in traumatic deaths. Homicides, suicides, and most other traumatic deaths are handled as Full Coroner's Cases, as are all Law Enforcement Involved Fatal Incidents (as that term is defined in the Contra Costa Law Enforcement Involved Fatal Incident Protocol).

For Full Coroner's Cases, the Coroner's Office **determines the cause, manner and means** of deaths using information obtained from multiple sources:

- Reports by Coroner Investigators and/or law enforcement officers.
- Reports by emergency medical responders.
- The decedent's previous medical history.
- Photographs, clothing, and objects associated with the death.
- A forensic medical autopsy performed by a forensic pathologist. In addition to the autopsy examination, autopsies may include x-rays, toxicology and other laboratory testing, and microscopic examination of tissue. Experts in relevant medical sub-specialties, or in forensic fields such as odontology, entomology, and anthropology, are sometimes utilized.

E. LAW ENFORCEMENT'S REPORTING OF DEATHS

1. The initial report:

Law Enforcement agencies who have charge of a deceased person's body must immediately notify the Coroner's Office. (This requirement also applies to others, such as funeral directors and physicians.) Violation of this requirement is a misdemeanor. Government Code §27491, Health and Safety Code §102850.

The Coroner's 24-hour phone number is **925-313-2850**. **If no answer, call Sheriff's Dispatch at 925-646-2441**

- **Initial Telephone Summary (I.T.S.)**

Law enforcement's initial notification to the Coroner's Office should include a summary of the information which is then available, including the identity of the law enforcement agency and, if known, the decedent's name, location of the body, circumstances of the death, special problems anticipated in body removal, etc. (See sample of the I.T.S. form on Page 111.)

2. Continuing obligation to provide information:

To properly perform its statutory responsibilities, the Coroner's Office must be promptly and fully informed in each case of all the facts and physical evidence that relate to (1) the cause, manner and means of death; (2) the identity of the decedent; (3) identity of next-of-kin; and (4) information concerning any notification of the death to next-of-kin that has already been made. Law enforcement agencies have an on-going obligation to provide this information to the

Coroner's Office. This obligation starts with the initial notification of the death and continues even after the autopsy is completed. Most of the needed information is collected by the assigned Coroner's investigator(s) from law enforcement officers, but often the forensic pathologist needs specific and updated information directly from law enforcement officers, as well as access to some physical evidence, at the time of autopsy.

F. CORONER'S RESPONSE AFTER NOTIFICATION

After being notified of a reportable case by a law enforcement agency which is conducting a criminal investigation of the death, the law enforcement agency may request the Coroner to delay removal of the body until sufficient investigation and evidence processing can be performed. A Coroner's investigator may elect to come to the scene for a brief inspection or for photography and to collect preliminary information. (Government Code §27491.2) The Coroner's Office then will usually not make removal until after it receives a follow-up notification that the law enforcement agency is ready for body removal.

When the reportable death is one for which a criminal investigation will not be performed by the law enforcement agency, a Coroner's deputy will usually respond promptly following the initial notification to investigate and make body removal without a follow-up call requesting removal.

Whether the law enforcement agency handles the death as a criminal case or not, the Coroner's Office requests that a law enforcement officer maintain the **chain of custody** on the body (and the scene of death if the body hasn't been removed from it) until a Coroner's deputy arrives to make removal.

G. CORONER'S DUTY TO NOTIFY LAW ENFORCEMENT

When the Coroner's Office determines that reasonable grounds exist to suspect that a death has been caused by a criminal act of another person, it is required to immediately notify the law enforcement agency having jurisdiction over the matter (if that agency is not already aware). Notification shall be made by the most direct communication available. The notification shall include the name of the deceased person (if known), the location of the remains, and other information received by the coroner relating to the death including any medical information of the decedent that is directly related to the death. Information from the Coroner cannot include any information contained in the decedent's medical records which relates to another person unless that information is relevant and directly related to the decedent's death. Government Code §27491.1.

H. LEGAL RESTRICTIONS REGARDING THE BODY, ITEMS ON IT AND ITEMS WITHIN THE DECEDENT'S ESTATE

1. THE STATUTES AND THEIR EFFECT:

- **Misdemeanor crime:** the body shall not be disturbed or moved from the position or place of death without permission of the coroner or the coroner's appointed deputy. (This applies whether or not notification to the Coroner has been made, and it applies to everyone including law enforcement officers, firefighters, and emergency medical personnel.) Violation of this provision is a misdemeanor. (Government Code §27491/2(b)).

Exception for Exigent Circumstances: If, prior to the Coroner's arrival, it is urgently and clearly necessary (i.e., exigent circumstances exist) for a peace officer to move or disturb a body (e.g., to prevent it from being consumed by fire, lost in a body of water, damaged by traffic, etc.) permission must first be sought from the Coroner's Office either by telephone or by radio. If contact cannot be made quickly, the Coroner's Office hereby grants permission to move the body only as minimally necessary to avoid the immediate harm. See Section 2 below regarding searching for or removing any items from the body.

- **Misdemeanor crime:** any person who searches for or removes any papers, moneys, valuable property, or weapons constituting the estate of the deceased from the person of the deceased or from the premises, prior to arrival of the coroner or without the permission of the coroner, is guilty of a misdemeanor. 27491.3(c).
- **Statutory Exception:** Peace officers may search the person or property on or about the person of the deceased, whose death is due to a traffic accident, for a driver's license or identification card to determine if an anatomical donor card is attached. If a peace officer locates such an anatomical donor card which indicates that the deceased is an anatomical donor, the peace officer shall immediately furnish such information to the coroner having jurisdiction. Government Code §27491.3(d). "Peace officer," as used in this subdivision, means only those officers who are designated in Penal Code §§830.1 and 830.2. (27492.3(d)).
- **Law enforcement's right in criminal cases to process the body and collect evidence:** At the scene of any death, when a police investigation or criminal prosecution may ensue, the Coroner shall not further disturb the body or any related evidence until the law enforcement agency has had reasonable opportunity to respond to the scene if their purposes so require and they so request. Custody and control of the body shall remain with the Coroner at all times. Reasonable time at the scene shall be allowed by the Coroner for criminal investigation by other law enforcement agencies, with the time and location of removal of the remains to a convenient place to be determined at the discretion of the coroner. Government Code §27491(3) (c).

2. PROCEDURES FOR LAW ENFORCEMENT IN CRIMINAL CASES

- **Evidence from the body prior to body removal**

When necessary for immediate investigative needs, law enforcement officers may search for and remove weapons, wallets, papers, money, and valuables from the body (see the paragraph immediately below regarding removal of other types of evidence from the body) but **must seek permission of the Coroner's Office before doing so**. Permission may be sought in person, by telephone, or by radio. Examples of necessity include: (A) urgent need to identify the decedent; (B) protection of evidence from loss or contamination (such as from the weather, from movement and/or removal of the body, or from crowds); and (C) obtaining probable cause information. When permission is obtained, or if contact with the Coroner's Office cannot be reasonably made, such items may be removed from the body to satisfy the immediate need. Great care must be taken to preserve the condition of the body, the evidentiary value of removed items, to prevent contamination, and to maintain the chain of custody. Items removed from the body shall not be removed from the immediate location of the body without the express permission

of the Coroner's Office.

Exigent Circumstances: Evidence on the body, such as loose hairs, fibers, vegetation, blood, gunshot residue, etc., may only be removed from the body **without the prior permission of the Coroner's Office** when necessary to protect it from loss or contamination which could be caused by the removal and transportation process, by the weather, or otherwise. Evidence which can safely be left on the body for later observation and collection at the autopsy shall be left in place for the pathologist's inspection.

Fingerprint exemplars may be taken from the body's fingers by law enforcement agencies without the Coroner's approval when there is an immediate and urgent need to identify the decedent which cannot be satisfied by postponing fingerprinting until the after removal of the body. These conditions must be met:

1. There can be no trauma to the areas of the fingers or to portions of the hands which will have to be manipulated.
 2. The fingers and hands must be adequately photographed before being disturbed.
 3. The hands and fingers must first be examined for trace evidence, such as gunshot residue. If trace evidence is found, it must be photographed and collected prior to fingerprinting.
- **Evidence not on the body** which is within the decedent's estate or is at the decedent's premises:

Searching for and removing items present at the place of death but which are (1) not on the body and (2) not within the decedent's estate, is **not controlled by statutes applicable to the Coroner's function**. Officers are responsible for assuring the lawfulness of all searches and seizures they perform as determined by standard search and seizure rules.

Items such as weapons, wallets, papers, money, and valuables, at decedent's premises which are not on the body which have evidentiary value to the investigating agency may be inspected and collected by the investigating agency without the prior approval of the Coroner's Office. However, these items shall not be removed from the scene without the Coroner's express approval.

Statutory exception: The search for and the removal of evidence from a decedent's estate which is conducted under authority of a search warrant is not subject to Government Code §§27491.3(c) and (d) and does not require approval of the Coroner.

3. PROCEDURES IN SUICIDE CASES

- **Suicide notes and related writings**

If the death is believed to be suicidal and the law enforcement agency will not conduct a criminal investigation of it, any note, letter or document apparently written by the

deceased which may tend to indicate the decedent's intention to take his own life, including directions for disposition of his property or the disposal of his remains shall be delivered to the Coroner's Office (Government Code §27464). By long-standing policy in Contra Costa County, the seizure of these documents shall be done by the Coroner's Office. Copies will be then made available to any interested law enforcement agency upon request. Originals will be available for Criminalistics examination. If the law enforcement agency conducts a criminal investigation of the death in the belief that it involved criminal conduct, the note evidence may be collected by that agency, with a copy provided to the Coroner's Office.

- **Suicide implements**

If the death is believed to be suicidal and the law enforcement agency will not conduct a criminal investigation of it, implements used in the suicide shall be collected by the Coroner's Office. If the law enforcement agency conducts a criminal investigation of the death in the belief that it involved criminal conduct, implements may be collected by that agency.

I. SAFEGUARDING THE DECEDENT'S PROPERTY

- The Coroner may take charge of any and all personal effects, valuables, and property of the deceased at the scene of death or related to the inquiry and hold or safeguard them until lawful disposition thereof can be made. The coroner may lock the premises and apply a seal to the door or doors prohibiting entrance to the premises, pending arrival of a legally authorized representative of the deceased.

However, this shall not be done in such a manner as to interfere with the investigation being conducted by other law enforcement agencies. Government Code §27491.3(a).

- Any property or evidence related to the investigation or prosecution of any known or suspected criminal death may, with knowledge of the coroner, be delivered to a law enforcement agency or district attorney, receipt for which shall be acknowledged. Government Code §27491.3(b)

J. AUTOPSIES

1. Rules for attendees

- a. Attendance at an autopsy by persons other than Coroner's Division personnel is subject to the approval of the Coroner (Government Code §27491.4.) The number of people attending an autopsy must be kept to a minimum due to space limitation, evidentiary considerations, and the need to eliminate distractions.
- b. People attending are required to sign a Coroner's Office Autopsy Permission Form.
- c. No audio or video recordings of an autopsy are allowed without the express prior permission of the Coroner's Division Commander and the pathologist.
- d. Photographs may be taken of remains at the morgue only for official use by the

Coroner's Office or a law enforcement agency, or for purposes of forensic pathology, or for use in medical or scientific education or research. They may not be taken for personal purposes. All photographs taken at the morgue are subject to discovery by the Coroner's Office and by involved law enforcement agencies, and are subject to discovery in administrative, civil, and criminal proceedings.

- e. Law enforcement personnel attending an autopsy are present to give information to the pathologist, to observe and understand the findings, to collect and record evidence, and/or for training purposes. The extent of their participation will be governed by the pathologist.
- f. Those attending must adhere to the Coroner's safety rules in order to minimize exposure to biohazards. These rules include wearing protective clothing. Different standards may apply to those who will be in contact with the body versus those who will only be viewing the autopsy.
- g. Autopsy attendees are strongly urged to use great diligence to ensure that any notes and diagrams they make of the pathologist's findings and opinions are accurate and are not in conflict with the pathologist's findings, report, and diagram(s). Attendees usually need not create their own diagrams as the pathologist will usually give investigators a copy of any diagram(s) he/she makes at the completion of the autopsy.

2. ***Autopsy Evidence Collection Checklist***

An *Autopsy Evidence Collection Checklist* is available at the morgue and as an Attachment to the Law Enforcement Involved Fatal Incident Protocol to help guide CSIs and investigators through autopsy evidence collection procedures. Its use is encouraged, especially for those who are not well experienced in such procedures.

3. **Before the pathologist's arrival**

- a. Until the pathologist has inspected the body and given approval, the body at the morgue shall not be disturbed nor its condition altered in any of the following illustrative ways:
 - Movement or removal of clothing.
 - Movement or removal of any weapon or object.
 - Fingerprinting.
 - Collection of hair standards.
 - Collection of gunshot residue associated with wound sites.
 - Clipping or scraping of fingernails.
 - Washing or cleaning.
 - Removal of medical devices from the body.
- b. Without the pathologist's approval, trace evidence may be collected from areas of the body that are not directly involved with trauma and which are easily accessible without moving or turning the body. Exception: do not collect gunshot evidence without the pathologist's approval.

-
- c. Photography of the body, without disturbing it, is encouraged.
4. Informing the forensic pathologist

a. **Investigative information:**

When the law enforcement agency is aware of information that may be relevant to the Coroner's determination of the cause, manner and means of a person's death that has not previously been adequately communicated to a Coroner's investigator, that information must be promptly transmitted to a Coroner's investigator prior to autopsy or during it, or it must be provided directly to the pathologist by a knowledgeable officer at autopsy.

b. **Items for the pathologist's inspection:**

Below is a list of types of items that should be present at the Coroner's Office for inspection by the pathologist at the time of autopsy. These may be brought by an investigating law enforcement agency, by evidence collectors or by Coroner's investigators. In unusual cases, where bringing items to the morgue is not practical, arrangements must be made with the pathologist for other timely inspection.

Extreme care must be taken to prevent the contamination of any evidence that is brought to the morgue for the pathologist's inspection. Items must be absolutely protected from contamination at the autopsy, especially transfers of biological material from the autopsy process to evidence items. Latent fingerprints and trace evidence on displayed items may also be at risk. Proper pre-packaging of items will help avoid problems, as will physical separation of items from the autopsy process. Clean paper is available at the morgue for use in displaying items.

1. **Weapons and objects** which may have come into contact with the body of the decedent, such as:
 - a. Firearms
 - b. Cutting and stabbing instruments
 - c. Blunt force objects, such as rocks, clubs, furniture, footwear
 - d. Tools
 - e. Adequate photographs of items and their surfaces which may have contacted the decedent's body but which cannot be displayed to the pathologist at autopsy, such as the portion(s) of a vehicle which struck the decedent, a fence or tree trunk the decedent fell against, etc.
 - e. Ligatures, bindings, and other restraint devices.
2. **Clothing.**
 - a. Articles of clothing which are known or suspected to have been worn by the

decedent at the time of death and/or at the time of injury. This includes inner and outer clothing, footwear, and jewelry. The pathologist's examination of clothing worn by gunshot victims is often relevant to the determination of muzzle-to-body distances and to the body's possible positions when it was struck.

- b. If the decedent was hospitalized prior to death, be sure to include decedent's clothing that came with him/her to the hospital.

3. **Medications, poisons, and intoxicants.**

Law enforcement and Coroner's investigators must make diligent efforts to locate and collect any medications, poisons and/or intoxicants (and their containers) which could relate to the cause of death and/or to autopsy toxicology testing. These items may be found in the decedent's clothing, vehicle(s), residence, or elsewhere. When medication or poison containers are found, they shall be brought to the autopsy. Exception: This does not apply to medications directly administered by medical professionals. Neither these medicines nor their containers need be brought to autopsy.

4. **Hospital and other medical evidence:**

Blood and urine samples collected from the decedent by medical personnel during medical treatment prior to blood transfusions and the administration of medications are important in some cases. Law enforcement personnel who are aware that such samples were collected can help assure their later availability by asking medical personnel to retain those samples for the Coroner to pick up.

Medical records and body scans from medical providers can also be very important.

Coroner's personnel will collect these items from medical providers, using a Coroner's subpoena when necessary.

During their investigation of death cases, law enforcement personnel should be alert for information about the decedent's prior medical history and the identities of medical service providers. This information should be provided to a Coroner's investigator for appropriate follow-up.

If an item would normally be displayed to the pathologist, but cannot be brought to the morgue, photographs, sketches, diagrams, or a detailed description must be available at the time of autopsy.

K. ATTACHMENT – Initial Telephone Survey - see next page

This document was prepared by Sergeant Chris Forsyth
of the Contra Costa Sheriff/Coroner's Office

ATTACHMENT – The INITIAL TELEPHONE SUMMARY form

INITIAL TELEPHONE SUMMARY

CORONER case No: _____

NATURAL ACCIDENTAL SUICIDE HOMICIDE FETAL BRIEF

DATE & TIME REPORTED: _____ **DATE & TIME OF DEATH:** _____

PERSON REPORTING: _____ **DEPT:** _____ **PHONE:** _____

INVEST. AGENCY & OFFICER: _____ **AGENCY CASE #** _____

NAME OF DECEASED: _____

ADDRESS: _____ **PHONE:** _____

SEX: ____ **RACE:** ____ **DATE OF BIRTH:** _____ **AGE:** ____ **SSN:** _____

PLACE OF DEATH: _____ **LOCATION OF BODY:** _____

PLACE OF DEATH ADDRESS: _____

NEXT OF KIN: _____ **RELATIONSHIP:** _____

ADDRESS: _____ **PHONE:** _____

NOTIFIED: ____ **BY WHOM:** _____ **HOW:** _____

PRONOUNCED BY: _____ **DEPT:** _____ **PHONE:** _____

REGULAR PHYSICIAN: _____ **DATE LAST SEEN:** _____

ADDRESS: _____ **PHONE:** _____

MEDICAL RECORD NUMBER: _____ **MEDICAL HISTORY:** _____

MEDICATIONS: _____

DC TO BE SIGNED BY: _____ **CORONER'S HOLD:** _____

CAUSE OF DEATH: _____

CONTRIBUTING CAUSES: _____

OPERATIONS/DATES: _____

SYNOPSIS: _____

_____ **F.D.O.C:** _____

DEPUTY ASSIGNED: _____ **COURTESY PICKUP:** _____