

# Death Investigations 101

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## Carl Rogers

- Ector County Medical Examiner's Office for 12 years
- Ector County Constable in 3<sup>rd</sup> term
- Texas Peace Officer for 50 years
- Worked on death investigations for about 25 years.

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## Death Investigation

- May not be “world’s oldest profession”. Not far behind.
- As early as 625 AD in England, saw need to look at deaths and determine.
- By 13th Century, England required all deaths be investigated before burial.

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## Best Practices Class

- Cannot teach you how to investigate in 2 hrs. Approach this as a refresher on BEST PRACTICES.
- Going to hit some high spots. Take what you can and apply to your situation.
- Obviously, you tailor your investigation to get what you need and what you're comfortable with signing.

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## Work with Others

- JP's have so many additional court duties other than death investigations. You may rely heavily on the law enforcement investigation.
- I have huge advantage in an ME system with 6 investigators & Admin Assistant to do nothing but focus on death investigation.
- Texas:
  - 18 counties – Medical Examiner system.
  - 234 counties – JP system.

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## Know Where You Come From

- **Do you ALL perform death investigations ??**
- **Do any of you have Death Investigators provided by your Commissioners Court ???**
- **How long have you been doing this?**
  - more than 30 yrs
  - 20 yrs
  - 10 yrs
  - Less than 5 yrs

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## Code of Criminal Procedure Ch. 49

- Gives you authority to conduct independent investigations to determine cause and manner of death.
- 49.04 **Mandates** what cases you are to conduct **inquests**.
- Be sure you are familiar with what those 8 types of cases are.
- Remember **inquest** is just another word for **investigation** --- does not **mandate** autopsy in every case.

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## Why are death investigations important? (inquests or otherwise)

- Provide **accurate information & establish facts** – cause & manner of death
- Provide public **accountability & transparency**
- Provide **closure** for families including Wills & Probate, Insurance policies, Banks & other financial matters
- Determine if an autopsy is necessary – many think every person that dies is autopsied. Not reality. Nationally, about **1 in 9 is autopsied**. Majority 15–24-year-olds.

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## Types of Inquests

- Inquest can be informal (most often) or in courtroom setting (very rare).
- Summon 6-person jury.
- You have subpoena & attachment power to ensure appearance.
- Must be courtroom hearing if requested by the DA.

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## Parents Viewing the Body

- Parents have a right to view the body (even if their child is an adult).
- This may be done prior to you getting there by LE.
- You may want to prepare them for what they will see depending on the condition of the body.
- You can allow them to do this at the funeral home or limit their physical contact with the body.

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## Autopsies – Your Call to Make (in most cases)

- Can order autopsy in any case to determine cause & manner of death.
- Family Code Sec. 264.514, SHALL order autopsy on child younger than 6 and death is determined to be unexpected or result of abuse or neglect. Must notify LE.
- SHALL order autopsy if directed or requested by the DA.
- May order toxicology collection and testing to determine intoxication or injection or ingestion of poison or chemical substance.
- May order any lab tests to determine identity of decedent.

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## JP Investigation is Independent of Law Enforcement Investigation

- 2 separate but simultaneous investigations.
- JP looking to establish cause & manner of death.
- LE is primarily interested in whether a criminal act resulted in death.
- Decedent belongs to the JP – Overall scene belongs to LE.
- LE cannot move or alter position of decedent with authorization of JP. *Tampering can result in a \$500 fine.*
- JP cannot alter the LE scene or remove the body until LE completes investigation.
- Cooperation between JP & LE is critical. Both have important jobs.

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## Protective Gear – Lights on Vehicle

- Transportation Code allows you to use red/blue lights on your vehicle.
  - Only for use at the immediate scene for your safety. *Pros & Cons?*
- Marked clothing - shirts, caps, jackets. *Pros & Cons?*

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## On-Scene Investigation – Best Practice

- Can be conducted by videoconference (suspected natural deaths only)
- WHY on-scene in-person is best
  - Cannot see scene same way virtually.
  - Lose some senses including smell, touch, maybe hearing.
  - Better to interview persons there in person.
  - Family contact more positive.

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## Use Detailed Forms – Best Practice

- Keeps all investigations consistent.
- Ensures pertinent information is gathered for the death certificate
- Provides relevant information to pathologist at autopsy.

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## Standard Case Information

- This is going to be the same or similar for everyone
- Important info includes:
  - Case #
  - Date/Times
  - Decedent name & how identified
  - Location
  - Time reported to LE/EMS
  - Time you were notified/arrived

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## When you Arrive on Scene

- Assess scene safety for physical, chemical, biological hazards.
  - Need for PPE?
- Make sure scene is secure.
- Obtain available information from LE investigators.
- Identify decedent - How identified? **Confirm ID**

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## Make Your Own Observations

- Use all your senses!
  - Consistent with information ?
  - Appearance of natural death or violent death?
  - Suspected evidence in the scene?
  - Evidence of “defensive” wounds?
  - Injuries consistent with self-inflicted? *Look for suicide note.*

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## Make Your Own Observations 2

- Death appears to have occurred at this location?
  - Rigor mortis & Livor mortis will indicate.
    - If NOT consistent – consider body was moved.
    - Blood trail, drag marks, another crime scene?
- Trace evidence. Anything unusual or out-of-place ?
- **Always** look underneath the decedent.

**Tip of the iceberg. Lot to consider. Scene will tell you what happened.**

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## Other Scene Considerations

- Scene is fully documented with photographs. You or LE. *Pros & Cons?*
- Descriptive documentation of decedent and scene.
- Position of body relative to rigor mortis & livor mortis. Consistent?
- Any evidence present in scene.
- Environment – odors, temperature, lights/tv on or off.

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## Other Scene Considerations 2

- Some injuries are visually evident – palpitate for others for crepitus or fractures.
- Collect, inventory, protect personal property – family or LE. (LE stores whether you collect or not)
- Look for RX medications & fully document, medical records, known physicians.
- Interview family, friends, who found decedent. On-scene or later.

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## Other Scene Considerations 3

- If decedent is unidentified, consider scientific means of ID using
- Fingerprints, dental, x-rays, DNA. May need to use Anthropologist (Texas State Anthropology can help – ask TJCTC for their contact)
- Circumstantial: scars/marks, tattoos, personal effects, pacemakers, orthopedic devices.

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## Who is Next of Kin?

- Specific written directions from the deceased;
- The person designated in a written instrument signed by the deceased;
- The deceased's surviving spouse;
- Any one of the deceased's surviving adult children;
- Either one of the deceased's surviving parents;
- Any one of the deceased's surviving adult siblings;
- Any one or more of the duly qualified executors or administrators of the deceased's estate; or
- Any adult person in the next degree of kinship in the order named by law to inherit the estate of the deceased.

Health and Safety Code § 711.002

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## No Next of Kin or Disputed

- Any dispute must be resolved in a court with probate jurisdiction.
- 6-day / 10-day rule if decedent is unclaimed.

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## Working with Family On-Scene

- Recognize that family is experiencing one of the worst moments of their lives.
- Be **respectful**.
- Be **patient**.
- Recognize that everyone handles grief differently. Be **patient**.
- May be in shock & not actually hear anything you are saying.
- May have to explain multiple times & again at a later time.

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## Working with Family On-Scene 2

- Good to have another family member present to assist immediate family.
- Speak to them in simple language.
- Explain everything that is going to happen to their loved one.
  - Where their loved one is going and why?
  - Whether you are ordering autopsy or not. Why?
  - Why is LE involved ?

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## Family Trust

- Family will often develop a trust with you, not with LE, because YOU are the one that is taking mom or dad, son or daughter, or mother or father.
- They will trust you to get the answers they need.

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## Working with an ME or Forensic Pathologist

- Provide as much information as possible to autopsy.
  - Include full scene & investigation report.
  - Provide scene photographs.
  - Provide available past medical history information.
  - You or LE may attend autopsy to provide 1st hand information.
  - You will **never** provide too much information to autopsy.
  - Never hesitate to ask questions of the forensic pathologist.
  - They may contact you for additional info or follow-up investigation.

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## Maintaining & Storing Inquest Records

- JPs are the official inquest record-keepers
- **What must the records include?**
  - a report of the events and proceedings,
  - findings and conclusions of the inquest,
  - any autopsy prepared in the case, and
  - “all other papers of the case”

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# Inquest Record Retention

- Inquest records should be kept indefinitely
- Local Government Retention Schedule LC: Records of Justice and Municipal Court Part 2 applies -  
**<https://www.tsl.texas.gov/slr/localretention>**  
**#LC**

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- Inquest records are generally open for inspection to the public.
- This means that if it is requested, the court must provide the record unless it has been sealed by a higher court's order
- Note, under the common law right to privacy, some personal information may be redacted (social security numbers, driver's license numbers, financial information, etc.)

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## Autopsies & Medical Records

- A judge may **NOT** withhold an autopsy report from public inspection if it is part of an inquest record. *Attorney General Opinion JC-0542*
- *If DA wants to keep it private, must get it sealed by higher court.*
- HIPAA does not apply to inquest records held by a court – courts are not covered entities.

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## Reporting Requirements

- Injury
  - Traumatic brain injuries
  - Spinal Cord injuries
  - Submersion injuries
- TxDOT
- Child Abuse
- Unidentified Person
- Communicable Diseases
- Suicide
- Aviation/Train Accidents

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## Resources

- **TJCTC Resources** – Deskbooks, Charts & Checklists, Board Questions, Legal Calls
- **Code of Criminal Procedure Chapter 49**
- **Health and Safety Code Chapter 711 & others**
- **Various Government Code Sections**
- **Family Code Chapter 264**
- **NIJ: Death Investigation Guide**