

# Interacting with Families, Law Enforcement, & Funeral Homes

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## Agenda

- Best Practices with Families
- Best Practices with Law Enforcement
- Best Practices with Funeral Homes
- Best Practices with Taking Care of Yourself

### **Note:**

- *Additional information regarding the specifics of when an inquest is required, conducting a death investigation, determining cause and manner of death, and completing death certificates will be covered in the classes tomorrow morning.*
- *Further information related to inquests can be found in TJCTC's Inquests Deskbook.*

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# Best Practices with Families

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## At the Death Scene

- **You are in their territory.**
  - Their house, property or vehicle
- It is their loved one.
  - Their Child, Parent, Sibling, Grandparent
- They are in Shock.
  - Shock affects everyone differently.
  - Everyone grieves differently.

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## **Right of Parent of Deceased Person to View Body – CCP Art. 49.52**

### ***(1 of 3)***

- A parent of a deceased person is entitled to view the body before a JP or ME assumes control over the body. If the person's death occurred at a hospital or other health care facility, the viewing may be conducted at the hospital or facility.
- Once the JP/ME assumes control of the body, the parent may not view the body until they obtain the consent of the JP/ME or someone acting on their behalf.

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## **Right of Parent of Deceased Person to View Body – CCP Art. 49.52**

### ***(2 of 3)***

- The viewing must be supervised by:
  - An appropriate peace officer if law enforcement has assumed control over the body or, with the officer's consent, a person listed in the next bullet; or
  - a physician, registered nurse, or licensed vocational nurse or the JP/ME or a person acting on their behalf.

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## **Right of Parent of Deceased Person to View Body – CCP Art. 49.52 (3 of 3)**

- A parent of the deceased person may not have contact with the person's body unless the parent first obtains the consent of the JP/ME or a person acting on their behalf; and
- A person may not remove a medical device from the deceased person's body or otherwise alter the condition of the body for purposes of conducting the viewing unless the person first obtains the consent of the JP/ME or a person acting on their behalf.

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## **Communication**

- Be courteous and straightforward with the family and let them know what is going on:
  - Regarding viewing the body:
    - Prepare them for what they will see.
    - Explain to them about limiting contact/not altering anything.
    - Give everyone their private time (with the required supervision, which should be done discreetly).
  - When/how body will be able to be transported.
  - If you'll need to order an autopsy and why.
  - Updates throughout inquest process.

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## Next of Kin Decision-Maker Regarding Disposition of Remains

In Order of Priority:

1. Specific written directions from the deceased
2. The person designated in a written instrument signed by the deceased
3. Surviving spouse
4. Any adult children
5. Either surviving parent
6. Any adult siblings
7. Any executors/administrators of the estate
8. Any adult in the next degree of kinship in the order named by law to inherit the estate of the deceased

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## Restrictions on Who Can Control Disposition of Remains

- A person may not control disposition of the remains if:
  - In connection with the person's death, they have been arrested for or have had an arrest warrant issued for a crime under Chapter 19 of the Penal Code that involves family violence against the decedent; or
  - The decedent had filed an application for a protective order against the person, or a protective order has been issued against the person, including a Magistrate's Order for Emergency Protection.

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## Next of Kin Issues

- The right to decide what to do with the body passes to the next in line if a decision is not made either six days from being notified or by the 10th day after the death.
- Any dispute must be resolved by the appropriate probate court.
- If next of kin is not immediately available, the JP decides which funeral home to transport the body to (county pays) via rotation, bid process, designation by county, etc. The family can later arrange for a different funeral home at their own expense if desired.
- If no one claims the body, the JP shall determine disposition of the remains (paid by estate or county). May release the body to a “bona fide friend.”

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## Discussion #1

- Death of 11-year-old child (accident)
- Parents are divorced (bitter divorce, do not get along at all)
- Both have joint custody

***Who would you allow to view first?***

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## Discussion #2

- Foster Child Ten Years of Age
- (Dies in Foster Care)

***Do the parents have the right to view?***

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## Discussion #3

- 68-year-old male dies in the hospital ER of apparent heart attack.
- He was married to his third wife for a year.
- His adult children do not get along with his wife.

***Who has control?***

***Who gets to view?***

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## **Discussion #4**

- You decide an autopsy is needed to determine cause and manner of death.
- The family does not want an autopsy to be conducted because they don't like the idea of their loved one being "cut up."

***What do you do?***

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## **Discussion #5**

- You complete an inquest and determine that the deceased died by suicide.
- The deceased left behind a wife and 3 small children.
- The wife of the deceased calls you and asks you to change the suicide determination because they won't get their insurance money and they'll lose their home.

***What do you do?***

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# Best Practices with Law Enforcement

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## Equal & Independent Investigations

- The justice of the peace has equal and independent investigation rights. - CCP Art. 49.03.
- A judge must wait until law enforcement is finished with an investigation before directing the body to be moved, but law enforcement also may not move the body or the surroundings (unless it is an emergency like a car collision blocking a roadway) until getting permission from the judge. – CCP Art. 49.05(c),(e)
- **REMEMBER:** Your objective is to determine the cause and manner of the deceased. Your investigation should not go outside what is necessary to make this determination.

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## **Working with Law Enforcement**

- Law enforcement's investigation and the JP's inquest investigation will be taking place simultaneously.
- It is important to coordinate as needed so that both investigations may move efficiently and effectively.
- It is a good idea to build a positive working relationship with local law enforcement agencies, so there is no confusion or conflict when the judge and agency have to work at the same death scene.

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## **Discussion #6**

- What are strategies for building a positive working relationship with law enforcement?
  - In general?
  - When at a death scene?

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## **Discussion #7**

- Arrived on the scene of 43-year-old male who had committed suicide at his parents' house in front of his parents.
- Evidence showed it was a suicide (gun still in hand), but the body was facing the wrong direction, and blood spatter was not matching the story that the parents were telling.

***Can the JP question law enforcement on what they have found regarding whether it was a suicide?***

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## **Best Practices with Funeral Homes**

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## What the JP Needs to Know

- Did next of kin request a funeral home (who/when?) or do you need to contact one according to county policy?
- What funeral home is coming?
- Is the person who arrives a funeral director or a funeral assistant? ***Why does this matter?***

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## What the Funeral Home Needs to Know

- Location of the body.
- If the removal is going to be difficult (size/condition of the body, etc.).
- If an autopsy is needed/where the body should be transported to.
- Information about the family:
  - Who is on the scene?
  - Who is the next of kin?
- Any special requests.

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## Important Tip

- Pay attention to any issues that arise regarding the way the body is removed. Help prevent problems/do damage control where necessary.
- A problematic removal can change the whole scene and how the family reacts to the JP, Law Enforcement, and the Funeral Home.

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## Best Practices with Taking Care of Yourself

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## Take Care of Yourself

- We are not superheroes.
- Every case does affect us, and they can take a cumulative toll on our mental health.
- It is ok to talk to someone.
- It is ok to be emotional.

For help and resources handling judicial related stress, please visit the State Bar of Texas' confidential Texas Lawyers Assistance Program. The program is open to all judges including non-attorneys:  
<https://www.tlaphelps.org/judges>.

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## Wrap Up!

What are three takeaways you have from this class?

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