

## **MEMORANDUM OF UNDERSTANDING**

Dr. Judith Varnau is the elected Coroner of Brown County, Ohio. Dwayne Wenninger is the elected Sheriff of Brown County, Ohio. Jessica Little is the elected Prosecuting Attorney of Brown County, Ohio. As parties to this agreement, all officials in cooperation wish to establish a protocol regarding the investigation of any deaths which occur in Brown County in order to effectively represent the people of Brown County and to bring those criminally responsible for deaths to justice.

**WHEREFORE**, Dr. Judith Varnau as Coroner, Dwayne Wenninger as Sheriff and Jessica Little as Prosecuting Attorney, hereby enter into and agree to this Memorandum of Understanding establishing procedures and guidelines to be followed in cases of deaths as described in Ohio Revised Code Section 313.12. As used herein and in all paragraphs except Section II(B)(5), the term “Coroner” shall mean and shall include the Coroner, the Deputy Coroner, and/or the Coroner’s Investigator.

**IT IS THEREFORE AGREED** as follows:

- I. Notification of the Coroner and Conduct at the Scene. The Coroner has jurisdiction over the body; however, the law enforcement agency in whose jurisdiction the body is found has the ultimate responsibility for the scene. If necessary, access to the body may be restricted until such time as any potential evidence in the area is properly documented and secured.
  - A. Any ambulance service, emergency squad, law enforcement officer or 911 operator shall notify the Coroner of all non-Hospice related deaths immediately upon receipt of such information or upon arrival at the scene of the death.
  - B. The law enforcement officer in charge of the scene will perform an initial scene “walk through” in order to minimize scene disturbance and to prevent the loss or contamination of physical or fragile evidence and establish scene safety. A joint scene briefing between the law enforcement officer in charge and the Coroner for initial and factual information exchange shall occur immediately thereafter at the scene. No other person shall be permitted in that scene. The initial determinations as to whether the scene shall be treated as a crime scene, whether a warrant shall be obtained, and whether the assistance of crime scene technicians from BCI or other agents of law enforcement shall be requested at the scene shall be made by the law enforcement officer in charge at the scene. If the law enforcement officer in charge and the Coroner do not agree upon the foregoing

initial determinations, such assistance as deemed necessary by either party shall be requested and the premises shall be considered a “crime scene” for purposes of this protocol. If the scene is being secured due to being determined a “crime scene” and a search warrant has been requested, the law enforcement officer in charge and the Coroner shall exit the scene and no search shall be conducted by any party until a warrant has been obtained and crime scene assistants have arrived. No scene evidence shall be disturbed. Thereafter, no other person shall be permitted in the crime scene unless authorized by the search warrant that has been secured.

1. After obtaining a warrant and upon the arrival of crime scene assistants, the Coroner along with designated law enforcement personnel will be permitted to enter the scene with crime scene assistants and the Coroner shall take charge of the body and the area reasonably within the control of the body, defined as within the normal reach of the body.
  - a. If the Coroner chooses to wait until the scene is processed to take charge of the body, no one is to disturb the body or the area within the reasonable control of the body. The law enforcement officer at the scene may obtain identification information which might be on the body only if approved by the Coroner and may disable any firearms for the safety of those at the scene, if the officer can do so without disturbing the body.<sup>1</sup> Photographs shall be taken prior to the body and the area around the body being disturbed and prior to obtaining evidence of identification or disabling any firearms. The Coroner shall be immediately notified of any collection of identification evidence or the disabling of any firearm upon arrival at the scene. The Coroner is to be notified when evidence collection has been completed and the scene will continue to be secured by a law enforcement officer until the Coroner arrives and completes his/her work at the scene. After the Coroner releases<sup>2</sup> any firearms to law enforcement from the scene, and releases the body for its removal from the death scene, the Coroner’s jurisdiction dissolves into law enforcement’s overall jurisdiction.

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<sup>1</sup> As used herein, to “disable any firearms” shall mean to “render safe any firearms that pose an imminent threat to safety to those at the scene, if the officer can do so without disturbing the body. When rendering the firearm safe the officer should attempt to handle the firearm in a way that does not destroy any trace, fingerprint, or biological evidence on the firearm.”

<sup>2</sup> Firearms released by the Coroner for delivery to law enforcement at death scenes (R.C. 313.141) are to be removed and handled by law enforcement personnel at the request of the Coroner.

- b. If the Coroner wishes to see or obtain evidence from areas other than within the reasonable control of the body, the Coroner shall be accompanied by an evidence technician or law enforcement officer so as to preserve the chain of custody of the evidence.
- c. The Coroner may take possession of items or evidence helpful or necessary to an autopsy, including but not limited to, prescription and/or illicit drugs present, the deceased's apparel and drug paraphernalia found on or in the area reasonably within control of the body, that being within the reasonable reach of the body. If the Coroner takes temporary possession of any evidence at such scene, any necessary examination shall be expeditiously concluded, the evidence delivered to the investigating law enforcement agency, which shall provide a written receipt for that evidence.
- d. In order to preserve the chain of custody and integrity of the evidence collected, the remaining evidence collected will remain with the BCI agent, or law enforcement officer in charge who collected the evidence. Any evidence collected which is not taken directly to the BCI labs by BCI agents or law enforcement officer will be stored in the law enforcement office's evidence room until such time as the evidence is submitted to BCI for testing or ordered disposed by court order.

II. Coroner and Law Enforcement Investigation and Cooperation.

- A. Unless otherwise required or prohibited by law or court order, the Coroner will determine the disposition of the body and whether an autopsy is to be performed. Trace evidence collected from the body will be provided to BCI or law enforcement pursuant to procedures adopted by the Coroner or the entity performing the autopsy, including a written receipt for any such evidence.
  - 1. If the venue is treated as a crime scene, or the cause of death is indeterminate or a homicide, the Coroner shall not release the body for final interment or cremation until one or both of the following events have occurred:
    - a. The Coroner has sent electronic notice to the Prosecutor and the supervisor or investigator of the law enforcement agency in charge and has received authorization to release the body from the Prosecutor via return electronic mail; and/or,

- b. The Coroner has spoken directly to the Prosecutor in person or via telephone and has verbally received authorization from the Prosecutor to release the body. If only this option is selected, it does not permit the Coroner to leave a message for the Prosecutor either on voice mail or in person and said conversation may be memorialized in writing via electronic mail by the Coroner and/or the Prosecutor as needed.
- B. Evidence Collection and Witness Statements. Due to the need to be in compliance with evidence collection standards regarding scientific testing, all evidence at the scene will be secured and photographed where found and collected only by crime scene technicians or law enforcement officers pursuant to the warrant. The crime scene technicians will be available to the Coroner and shall collect evidence that the Coroner deems necessary to determine mode, manner or cause of death.
- 1. The law enforcement officer in charge will assign deputies/officers to take witness statements and preserve the same either in writing or audio and/or video recording. All witness statements will be provided to the County Prosecutor. All witness statements that the Coroner deems necessary or helpful to establish mode, manner or cause of death shall be made available to the Coroner upon request. All parties shall comply with the new statement guidelines which have been established regarding the taking and recording of suspect statements which require that all suspect statements be video recorded if possible.
  - 2. Copies of any statements taken or recordings made (audio and/or video) by the Coroner will be provided to the Prosecutor and the law enforcement agency in charge upon written request in a timely manner to insure compliance with Criminal Rule 16.
  - 3. Cooperation between the law enforcement office in charge, the Coroner and the Prosecutor is required for the successful prosecution of a criminal case and determination of non-criminal, accidental or suicide deaths. To the extent permitted by law, the law enforcement officer in charge, the Prosecutor's office and the Coroner shall have a free flow of information regarding death investigations. Any party may freely consult and obtain verbal and/or written information that could benefit either agency in its cooperative pursuit of its duties, including investigative materials.

4. The Coroner and law enforcement will cooperate in the collection of evidence at a location where a death has been recorded.<sup>3</sup> Because law enforcement is typically first on the scene, law enforcement can begin collecting evidence that is outside of the area within the reasonable control of the body as defined in Section I(B)(1) above prior to the arrival of the Coroner. However, if any such evidence is collected or disturbed prior to the arrival of the Coroner, a photograph of the evidence shall be taken and a copy of the photograph shall be provided to the Coroner upon request. Law enforcement shall not disturb the body or the area within reasonable control of the body except for procuring identification and/or for safety purposes as set forth in Section I(B)(1)(a) above.
  
5. The Coroner's verdict is the legally accepted cause of death, unless or until the court of common pleas directs the Coroner to change the decision as to such cause, manner and mode of death. In cases of suspicious or violent deaths, the Coroner will provide a preliminary autopsy report to the Prosecutor and the supervisor or investigator of the law enforcement agency in charge of the investigation verbally, then in writing, or electronically as soon as one becomes available. A final autopsy report will be provided to the law enforcement agency and Prosecutor by the Coroner.

III. This Memorandum of Understanding shall remain in effect unless and until it is revoked in writing by or on behalf of the undersigned individuals.

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<sup>3</sup> All death scenes shall be approached as potential homicides until proven otherwise to preclude the potential for a loss of time-sensitive evidence. This includes what may initially appear to be a routine death scene but later turns out to be a potential homicide following the preliminary autopsy report and/or further law enforcement investigation that indicate foul play may have been involved in causing the death.