Approved by NPCC, Chief Coroner and Coroner’s Society of England and Wales.

NPCC/HWG: PRACTICE ADVICE FOR DEALING WITH SUDDEN UNEXPECTED DEATH AND THE MEDICAL INVESTIGATION

This revised document has been published in a draft format as an interim product due to the development of Authorised Professional Practice (APP). It replaces Chapter 11 Pathology in ACPO (2006) Murder Investigation Manual. In order to support fair access to learning and development this document can be provided in alternative formats.

This advice document relates to the investigation of the death of adults. Separate practice advice can be found for the investigation into the death of children at the following link:

https://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwjOgM
KMrp7SAhVDOBQKHbGQBQFFggcMAAA&url=http%3A%2F%2Flibrary.college.police.uk%2Fdocs%2Facpo%2FACPO-guide-to-investigating-child-deaths-2014.doc&usg=AFQjCNFMZLtS60esG0ZnQrM6844X9mjw-Q&sig2=Oya5I3dZogEV7mnJTdYgSw

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1 INTRODUCTION

This guidance provides advice on dealing with the initial stages of a sudden and unexplained death; for those cases where a decision is made that medical assistance is required; and on the role and provision of forensic pathology assistance in police death investigations. Dealing with the death of a human being is one of the most fundamental of police roles, and one that over the years has brought much criticism to the police service in England and Wales.

The system of death investigation in England and Wales essentially fits into one of three pathways. The first and most common is a death which is anticipated due to ill health and where a medical doctor is able to issue a Medical Certificate of the Cause of Death (MCCD). If a doctor is unable to issue a certificate because they had not recently been treating the deceased or the death was unexpected, the case is referred to a coroner for investigation. This will usually involve the police and/or the coroners officer attending the scene of the death and completing an investigation on behalf of the coroner. If the outcome of that initial investigation is that the death is not suspicious, and there is no third party involvement, the coroner will continue with the investigation often assisted by the police, which may involve the appointment of a non-forensic hospital ‘histopathologist’ conducting a post mortem examination to assist with the medical cause of death. If, however the outcome of the police investigation is that the case is suspicious, the police take on primacy in the investigation. In consultation with the police, the coroner will appoint a Home Office Registered Forensic Pathologist to conduct the post mortem examination. The two disciplines of normal non-forensic post mortems and forensic post mortems are very different. Therefore, if the outcome of that initial police investigation is flawed and the decision by the police is that the case is not suspicious, there will be no forensic examination of the body and a potential homicide could be missed.

A report published by the Forensic Science Regulator in December 2015

highlights the potential to ‘miss’ a homicide. In order to reduce the likelihood of such an eventuality, it is essential that the police service deal with death in a systematic and professional manner.

Forensic pathology is an essential element in most suspicious death and homicide investigations. Senior investigating officers (SIOs) require a clear knowledge of how pathology can assist the investigation, and of the varied issues that are associated with the discipline.

Home Office Registered Forensic Pathologists (HORFP’s) are appointed in each suspicious death case by the Senior Coroner for the relevant district, in consultation with the local Chief Officer of Police. In such cases, the pathologist receives a statutory fee from the coroner as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>For making a post-mortem examination and reporting the result to the coroner</td>
<td>£96.80</td>
</tr>
<tr>
<td>For making a post-mortem examination involving additional skills and reporting the result to the coroner</td>
<td>£276.90</td>
</tr>
</tbody>
</table>

The police also pay the pathologist a case fee as a professional expert witness.

Forensic pathology in England and Wales is overseen by the Home Office Pathology Delivery Board (PDB), which is responsible for the maintenance of the Home Office Register of Forensic Pathologists, and issues connected with the medical investigation of death in police cases.

2 ACTIONS: SCENES OF SUDDEN AND UNEXPLAINED DEATH

Police involvement in a sudden and unexplained death will usually commence with a call into the command and control centre. This may lead to the deployment of an officer to the scene where the body lies. Please note that if the case is the death of a child, each force will have its own policy based upon the national guidance. This is an important phase of the investigation and it is essential that the call handler ensures that the following actions are completed:

i) Caller details are obtained;
ii) Location of the body is ascertained;
iii) Establish if an ambulance has been deployed;
iv) Establish who is present with the body;
v) Ensure intelligence checks are made in respect of the deceased and the address at which the body is located;
vi) Risk assessment is undertaken prior to deployment of resources;
vii) Deployment of resources is made in accordance with force procedures;
viii) Language use when deploying officers is non-judgemental and unbiased in order that the attending officer does not pre-judge whether the death is suspicious or not.

The overriding priority for the attending officer is firstly their own health and safety, and secondly to preserve life. The person may not in fact be dead, so whether or not life is extinct will need to be established. The officer should consider first aid and other life saving measures as a priority. They should also confirm with the control room whether an ambulance has been deployed. If there is any doubt as to whether the person is dead, an ambulance should be deployed. A FME/nurse/police surgeon should not normally be called unless they are suitably trained to deal with potential crime scenes.

If the case appears to be non-suspicious, the General Practitioner who has treated the deceased within 14 days of death may attend and issue a Medical Certificate of the Cause of Death form (MCCD). Once this has been issued, there may be no further need for police involvement other than security of any property.

If a MCCD cannot be issued, the case will have to be referred to the coroner for investigation, but it may also be a ‘suspicious’ death, so therefore the attending police officer will need to conduct the following enquiries:

a) Note what is seen and what the officer does (consider Body Worn Video/notes sketch etc.)
b) Assess body – injuries/trauma/evidence of burning?
c) Sign of break in/disturbance/alcohol/drugs (including paraphernalia).
d) Search scene for other bodies/offender present or hiding?
e) Establish if the deceased was vulnerable
f) Intelligence checks on deceased and on property
g) Identify witnesses
h) Consider the death as suspicious until identified otherwise
i) If third party involvement is suspected, protect the scene and set up a cordon. Call for assistance and maintain a scene log.
j) **ABC – Assume nothing; Believe nobody; Challenge everything!**
k) Ensure a supervisor is informed as well as Crime Scene Investigators.

Death Investigation in England and Wales

3 INITIAL RESPONSE AND PRE POST MORTEM ACTIONS

3.1 Confirmation of Death
**Note:** It is a fundamental responsibility of the police to preserve life; and first attending officers should not assume that a person is dead unless the circumstances are plainly obvious to the non-medically qualified. If there is any doubt whatsoever, an ambulance should be summoned immediately.

Obvious examples that may not require the attendance of a medical professional to pronounce death would be a decapitated or badly decomposed body; multiple body disruptive trauma; where a body is severely burnt or has been subjected to prolonged submersion or has been predated by animals (so that the body is missing essential parts).

Once a body has been discovered and a violent or unnatural death is suspected, or the cause of the death is unknown or the deceased died while in custody or otherwise in state detention; it *must* be reported to the senior coroner for that district as it is that coroner’s duty to investigate all deaths of this nature, under **Part 1, Chapter 1, Coroners and Justice Act 2009**

http://www.legislation.gov.uk/ukpga/2009/25/part/1/chapter/1

The SIO is responsible for reporting to the coroner/coronor’s officer immediately that an investigation is underway. Under the provisions of **Part 1 Chapter 1, Section 15, Coroners and Justice Act 2009**. A senior coroner may now direct a body to be removed to any suitable place (subject to certain restrictions), within the coroner’s area or elsewhere for the purpose of conducting a post mortem examination under section 14 of the Act. In many forces the coroner’s officer has an important role to play in this regard. The SIO should therefore consult with the coroner or coronor’s officer if there is a requirement for a body to be removed to a particular mortuary for a specific purpose.

The use of a non-HORFP may lead to a homicide being missed or could lead to the loss of vital forensic trace or DNA evidence transferred to the deceased from the offender. See page 58 of the following document at **http://criminology.research.southwales.ac.uk/media/files/documents/2014-11-17/Homicide_Journal_9.2_Nov_2014.pdf**

In the initial stages of an investigation, the SIO must ensure the following:

- Details of all persons who have attended the scenes/victim are recorded (recording them in the Crime Scene Attendance Log);
- Separate medical practitioners should be used for victim(s) and suspect(s) examinations in order to avoid cross-contamination issues;
Police Practice Advice for Dealing with Sudden Unexpected Death and the Medical Investigation

- Details of all treatment and drugs administered to the victim are recorded and relayed to the pathologist (prior to the post mortem examination, where possible);
- Details of any drugs (both prescription and non-prescription) or alcohol found at the crime scene(s) are recorded and relayed to the pathologist;
- The victim’s medical records are obtained and made available to the pathologist prior to the post mortem examination;
- Any possibility of hazards suspected to have caused the death are communicated to those at risk; and
- Wishes of the next of kin relating to the transplant of organs, which may require careful consideration depending on the cause of death.

(See Scott, I. (2010) Organ and Tissue Donation Opportunities during Police Investigations into Suspicious Deaths or Fatal Road Traffic Collisions, The Journal of Homicide and Major Incident Investigation, Volume 6, Issue 1.)

4 CRIME SCENE ATTENDANCE

The HORFP may be requested to attend a crime scene, along with other specialists (according to their relevant expertise) under the following circumstances or for the following reasons:

- To gain a better understanding of the crime scene;
- Cases involving multiple stabbings, mutilation or shootings involving multiple shots;
- Complex scenes, e.g. a buried body or the attempted destruction of a body by fire;
- Where there are multiple scenes and/or multiple deaths;
- Circumstances where samples are required to be taken in situ, e.g.;
  - sexual offences
  - weapons embedded in the body
  - entomological evidence exists (this is best performed by an entomologist);
- Where advanced decomposition has occurred;
- To advise on removal of the body (see 3.1 Strategy Content).
4.1 Briefing the Pathologist

Prior to an attendance at the crime scene the SIO, Deputy SIO or delegated person must fully brief the pathologist. This should be done in writing where possible and ensure the needs of the investigation are clearly communicated. The following key areas should be included in the briefing:

- Identity of the deceased, if known;
- History of the deceased - including the medical history of the victim, drugs found at the scene and actions taken or developments since the discovery of the body;
- Timescales concerning the finding of the body, the last sighting and any other significant times which may impact upon an estimation of the time of death;
- Any additional information received from other experts if appropriate;
- Initial evidence from witnesses;
- Scope and priorities of the investigation;
- Any special evidential expectations and requirements of the scene examination and post mortem examination; and
- Circumstances of the scene and death so that potential experts who may assist the pathologist are discussed and assessed with the pathologist.

It must be borne in mind that the expert opinion of the forensic pathologist as to the cause of death is often contextually based upon other circumstances and other evidence.

At the briefing the pathologist, in liaison with the SIO, CSM and other experts, will evaluate the available information and identify:

- Health and safety issues and related risk assessment at the crime scene;
- Evidential issues raised by the circumstances of death and how these issues are best approached;
- Risk of contamination posed by the circumstances of the case, and the measures that are required to prevent such contamination;
- How the examination of the scene and body should be approached;
- The best location for the post mortem examination and, if possible, an approximate time of arrival at that location.
- Whether it is believed the post mortem examination should be conducted under ‘high risk’ conditions
Pathologists should make a detailed, dated and timed record of the briefing.

Pathologists must record full details of the scene and the body, and document both their own actions and those of others that may be significant to their examination.

4.2 Taking Specimens

It is essential that no specimens are taken from the body until there has been consultation between the pathologist, SIO, CSM and other forensic experts. Samples at the scene should be taken under section 19 of PACE 1984, but if the body is not in ‘premises’ as defined by section 23 of PACE Act 1984, consideration should be given to take the samples under Common Law. See section 23 of PACE below.

http://www.legislation.gov.uk/ukpga/1984/60/section/23

Legal advice has been sought regarding powers of seizure from the body which can be found here;


Common law powers should be used if PACE does not apply. If any material from the body is to be retained and/or preserved, the coroner must be informed in writing.

Where there is a concern that trace evidence may be shed or contaminated by manipulation of the body into the body bag, it may be advisable to remove some or all of the clothing at the scene. All specimens should be taken using only equipment supplied or approved by the CSI. If clothing is to be cut, only instruments supplied by the CSI should be used. This process should be included in any specific strategy relating to body removal.

When deciding what material may be relevant in any particular case, taking samples from the following areas should be considered:

- Tapings or adhesive tape lifts from exposed body surfaces, uppermost surfaces of clothing and known or suspected contact areas;
- Comblings of head, beard, moustache and pubic hair;
• Plucked hairs from the above sites (additional hair samples may be needed if there is objective evidence of chronic drug use);
• A swab or swabs from the mouth, teeth, genitalia, and any injured or moist surface areas of the body, specifically bite marks;
• Tapings from the hands where any foreign material is recognised; and
• Scrapings from underneath the fingernails of each hand, or fingernail cuttings.
• Washing of nasal passages for pollen deposits (in consultation with a forensic botanist).

Where the death may be related to firearms or explosives, samples must be taken from hair and hands using only the appropriate, specific sampling kits approved by the relevant forensic service provider.

If the pathologist is unable to attend or is delayed and it is agreed that removal of the body is essential; for example, because of the locality or adverse weather conditions, the SIO should consult with the CSM to ascertain the most appropriate course of action. When a scene has not been attended by the HORFP, photographs, video recordings and other imaging techniques may be useful in the subsequent briefing of the pathologist.

4.3 Removal of the Body

When a scene has been assessed and the removal of the body authorised by the coroner and approved by the SIO, the CSM, with assistance from the pathologist (if appropriate), will usually supervise this. If trace evidence has not been collected at the scene, bags may be placed over the deceased’s hands before the body is removed. If the head is bagged, it must be remembered that any open wound is likely to shed blood into the bag during transit. This may obscure such details as the direction of dried bloodstains and make it difficult to collect trace evidence. It is therefore advisable to examine the head for such material at the scene where possible, and to photograph it, prior to bagging.

The CSM has the delegated responsibility of the SIO for ensuring continuity of the body. The CSM must designate an officer to accompany the body from the crime scene to the mortuary, and to identify the body to the pathologist.

On arrival at the mortuary, the body should remain undisturbed, still in its wrapping or body bag, until the pathologist arrives to undertake the
examination. This is to maintain the integrity and continuity of the body, i.e., that the body at the mortuary is the body from the scene. It is important that the deceased is not placed in a refrigerator if the body temperature needs to be taken to assist with the estimation of the post mortem interval, i.e., the time since death.

5 VICTIM IDENTIFICATION

In the majority of cases, the identity of the victim will be known and they can be positively identified by a relative or friend at an appropriate time. Identification should usually be made by two independent people for the purpose of corroboration. Viewing before a post mortem examination should be considered by the SIO on a case by case basis but should normally be avoided unless there is an important investigative need. This is to reduce the possibility of contamination or destruction of trace evidence and to assist the timeliness of the post mortem examination. Viewing the deceased is facilitated by the family liaison officer (FLO) through the coroner’s officer.

Where the identity of a victim is unknown, it is of paramount importance to discover this as soon as possible. On occasions, the body may be mutilated or have been concealed for such a time that post mortem changes make recognition impossible. The detailed examination of the deceased for evidence of identity is a specialised task for the pathologist and other experts.

The following primary methods may assist in identifying the victim where the body is decomposed, dismembered or otherwise unsuitable for visual identification:

- Fingerprints;
- Dental records;
- DNA profiling (see below)

In addition, secondary identification methods can be used:
- Tattoos, scars and other unusual marks;
- Property and clothing;
- Jewellery;
- Facial reconstruction.

For further advice see Civil Contingencies Disaster Victim Identification APP
https://www.app.college.police.uk/app-content/civil-contingencies/disaster-victim-identification/
When skeletal remains are found, information can usually be provided concerning:

- Whether the remains are actually bones;
- Whether the bones are human;
- The sex of the person;
- The age of the person;
- The height of the person;
- The race of the person.

After the 2004 Tsunami, legislation was amended to allow for the National DNA Database (NDNAD) to be utilised as a tool for identification of a deceased person. There are also two other databases available for this purpose; they are the vulnerable person’s database and the national missing person’s database.

In cases of unidentified bodies and mass fatalities, the SIO should ensure the pink Interpol Disaster Victim Identification form is completed in consultation with the designated force Senior Identification Manager (SIM). The designated force SIM should also use the Interpol processes for circulating details of unidentified bodies, if applicable.

For investigations relating to bodies or body parts washed up along the coastline, consideration should be given to the possibility that such remains may have come from one of several sea burial grounds, sited on the UK’s coastal areas (currently there are three: off the Needles at the Isle of Wight, Coast of Sussex and Northumbrian Coast; although only the Isle of Wight site is currently active). In these cases it is recommended that early contact be made with the National Crime Agency’s (NCA) Missing Persons Unit (MPB). The Marine Management Organisation (MMO) issue licences for sea burials and may be able to provide assistance.


It is anticipated that in the future, a searchable database of persons who have provided a DNA sample, as a condition of the licensing regulations relating to this mode of burial will be held by the Missing Persons Unit. Once this facility is operational, the potential to identify or eliminate such remains at the early stages of an investigation will be an invaluable investigative tool for the SIO. All enquiries relating to this subject should be addressed to the NCA Missing Persons Unit: http://www.nationalcrimeagency.gov.uk/contact-us/contact-the-
missing-persons-bureau, Tel: 0800 234 6034; Email: UKMPU@nca.x.gsi.gov.uk

For advice on the recovery of multiple bodies and body parts from scenes, including (if deployed) the role of the Senior Identification Manager (SIM), see Civil Contingencies Disaster Victim Identification APP https://www.app.college.police.uk/app-content/civil-contingencies/disaster-victim-identification/

In all instances the SIO should ensure the victim’s family is kept informed of developments, provided with the Victim’s Family Pack if available and given appropriate support.

6 DEVELOPING THE PATHOLOGY STRATEGY

6.1 STRATEGY CONTENT

There are a number of issues that must be addressed in relation to pathology:

- Notifying the coroner, who will appoint a pathologist to undertake the post mortem examination in consultation with the police (see Part 3, Regulation 12 The Coroners (investigations) Regulations 2013 http://www.legislation.gov.uk/uksi/2013/1629/regulation/12/made
- Consideration of health and safety and staff welfare arrangements.
- Assessing the value of a pathologist’s attendance at the crime scene or access by remote visual means;
- Liaising with the pathologist throughout the investigation;
- Removal of the body, including:
  - what actions must be performed prior to its removal;
  - supervising the removal of the body;
  - continuity of the body from the scene to the mortuary;
  - identifying the body to the pathologist, prior to the post mortem examination (or establishment of continuity if identity is unknown);
• Deciding who should attend the post mortem examination and/or scene, including specialists;

• Providing the correct resources at the post mortem examination to deal with exhibits, samples and the taking of photographs;

• Forensic post mortem examinations must take place in a mortuary which is licensed by the Human Tissue Authority (HTA), (see Human Tissue Act, 2004). This includes temporary mortuaries.

http://www.legislation.gov.uk/ukpga/2004/30/contents

The mortuary must be suitably equipped for the conduct of forensic post mortem cases. The Forensic Science Regulator is in the process of developing standards for mortuary facilities in England, Wales and Northern Ireland, which will appear in future updated versions of this APP when published.

• Family liaison considerations presented by the post mortem examination;

• Potential for an additional examination of the body or relevant material, i.e., the second or ‘defence post mortem examination’.

• Consideration of the legal issues that may arise during the forensic medical examination of a foetus. A foetus which is born alive becomes a living person independent from its mother. Where the foetus does not survive until birth or is still born it has not lived and, as a result, has not died. This means that the coroner, in England and Wales, has no jurisdiction over a foetus or still born child. It also means that any medical or scientific examination of the remains does not amount to a post mortem examination. Any examination should normally be carried out in the same circumstances and to the same standards as would apply to a deceased infant. The police powers to seize and examine, or order the examination of, evidence can be applied to a foetus or still born child.

The position in Northern Ireland is different and the coroner has jurisdiction.

• Release of the body;

• Issues surrounding seizure and retention of Human Tissue (see 11 Exhibits);
• Additional considerations in relation to child death investigations.

These issues and any additional elements of the forensic strategy must be logged in the Policy File and continuously reviewed.

7 IMPLEMENTING THE STRATEGY

7.1 KEY ROLES

Pathology plays an essential role in forming the forensic strategy. The following professionals are key to this process:

Home Office Registered Forensic Pathologists (HORFP’S) (England and Wales)/ Consultant Forensic Pathologist (Scotland)/ State Pathologist (Northern Ireland), plus paediatric and other organ specific pathology specialists (e.g. neuro eye and bone pathologists etc.) who assist the forensic pathologists in their investigations.

The SIO may draw on the expert assistance of a HORFP on a number of areas, including:

• Advising on the removal of the body to the mortuary;
• Assisting with the identification of the victim;
• Assessing the size, physique and previous health of the victim;
• Determining the cause, mode and potential time of death where possible;
• Obtaining and recording evidence, including advising on detailed photographic evidence of external and internal injuries;
• Providing advice on the possible type and dimensions of any weapon;
• Setting the post mortem examination findings in context with the initial crime scene assessment;
• Assisting the SIO with early lines of enquiry;
• Contributing to the forensic strategy;
• Contributing to the decision-making process throughout the inquiry as appropriate.
• Advising on the use of cross sectional imaging of the body prior to the autopsy.

Strategies relating to crime scene management and the collection and analysis of forensic evidence are inextricable from pathology. The SIO will need to take account of all of the foregoing when developing, reviewing and managing the forensic strategy.

HORFP’s can advise on health and safety issues in conjunction with the Crime Scene Manager (CSM) at the scene, and within the post mortem examination room or mortuary. It is established good practice that HORFP’s conduct post mortem examinations in all suspicious death cases. However, if a non-Home Office registered pathologist undertakes a post mortem examination of a suspicious death, they are expected to comply with the Code of Practice and Performance Standards for Forensic Pathology in England, Wales and Northern Ireland

At Common Law, physical control over the body rests with the coroner, and after consultation with the ‘chief officer of police’ under Regulation 12 of The Coroners (Investigations) Regulations 2013, the coroner should appoint a ‘suitable practitioner’ (HORFP), in accordance with Regulation 11 of the Regulations, to conduct a post mortem examination as soon as reasonably practicable in cases where a homicide offence is suspected in connection with the death.

Where the police have notified the coroner (in accordance with Regulation 12) that a homicide offence is suspected in connection with the death, the coroner must notify the police of the date time and place at which the post mortem examination is to be made, and a police representative may attend the post mortem examination.

Under Regulation 13 (3) and 13 (3) (4), the police are also entitled to be represented at the post mortem examination by a medical practitioner. See http://www.legislation.gov.uk/uksi/2013/1629/regulation/13/made

7.2 Coroner’s Officer

It is essential that the enquiry team establish early liaison with the coroner through the coroner’s officer, in order to obtain the necessary
authority to conduct the post mortem examination and have a HORFP appointed.

A designated coroner’s officer, who works directly to the coroner only, should be responsible for producing the necessary file relating to identification, which will allow the coroner’s investigation to be conducted. This ensures that action is taken to satisfy the coroner that all examinations are completed before the body can be released. The SIO shall liaise with the coroner in order to facilitate the release of the body when no further examination is required by the prosecution and defence.

### 7.3 Other Roles

If the circumstances of the case require additional expertise to support the pathological examination, such as a paediatric, or organ specific pathologist (such as a neuropathologist), it is the responsibility of the HORFP to make appropriate recommendations to the SIO, Crime Scene Manager/Crime Scene Coordinator and/or CSI and coroner.

In addition to medical experts, the SIO may also (in consultation with the HORFP), consider contacting the National Crime Agency’s (NCA) National Injuries Database (NID) Specialist Operations Centre for advice and guidance on **0345 000 5463** or emailing them on mcis@nca.pnn.police.uk (for pnn users), or mcis@nca.x.gsi.gov.uk (for non pnn users).

In all cases where additional experts are used for pathology related investigations, the original pathologist should be consulted, and all necessary steps taken to ensure that there is continuity. (see **Forensic Science Regulator’s Guidance Legal Issues in Forensic Pathology and Tissue Retention.** [https://www.gov.uk/government/collections/fsr-legal-guidance](https://www.gov.uk/government/collections/fsr-legal-guidance))

The pathologist is responsible, in consultation with the coroner and the SIO, for advising on the need for such additional examinations / investigations.

The use of radiological examination and or CT and MRI scans must be considered in consultation with the HORFP in cases of suspected non-accidental injury in children and in all deaths involving firearms or explosives. It can also be of considerable assistance in the examination of badly burnt or decomposed bodies and may be appropriate in other instances, e.g., sharp wounds where knives have impacted on bone.
Skeletal surveys are considered mandatory for the investigation of unexplained child deaths.

Whilst it is appreciated that CT scanning facilities may not be universally available, in such cases as they are, they may assist the investigation for the following reasons:

1. It allows external and internal features to be captured (within the limits of CT scanning) prior to any invasive procedures. This provides a permanent record that can be reviewed at any time in the future (so called virtual exhumation) by properly interested persons.
2. These features can be used at a later date for the presentation of pathology matters within a court setting by use of 2D and 3D images including movies.
3. It permits the documentation of the presence of external and internal injuries that can be identified with CT.
4. It permits the identification of some pre-existing natural disease. To establish this will require the use of enhanced scanning with angiography and ventilation. This would include the identification of infective diseases such as Tuberculosis prior to opening a body.
5. It identifies the location of foreign bodies on and in the body.
6. It can assist to identify a potential cause of death and permit some postulation upon a potential mechanism of death.
7. It can potentially be used to assist in the estimation of post mortem interval (time of death), although the current evidence base for this is at a basic level and should not be relied upon as sole evidence in this field of practice.
8. It can be used to assist the identification of an individual.
9. It can be used to assist the taking of biological samples by needle such as toxicology, microbiology and histology.

Where available, MRI should be reserved for children.

The limitations of CT imaging are:

1. Will not be able to be used to document the nature or location of bruises or abrasions on the surface of the body. An external examination is required for this.
2. Will not be able to demonstrate the path of (for example) a stab wound or projectile to the same level as an invasive examination.
3. It can identify the location of a bruise in the internal structures although this is not to the same level currently as that of an examination by eye.

4. Whilst CT scanning may identify a potential cause of death, this may not be the cause of death.

When contrast is used with CT then toxicology, microbiology and other such samples should be taken prior to contrast injection. Contrast injection does NOT affect subsequent DNA samples including blood samples used for DNA identification.

7.4 Other Specialists

Depending on the nature of death, the SIO should also consider (in consultation with the pathologist, Crime Scene Manager and coroner), inviting additional specialists to attend the post mortem examination. Examples of specialists who might be considered by the SIO include, but are not restricted to:

- Odontologist;
- Biologist;
- Botanist
- Medical illustrator (decomposed bodies);
- Toxicologist;
- Ballistics expert;
- Entomologist;
- Anthropologist;
- Other pathology disciplines such as paediatricians and neuropathologists.

Regulation 13 of The Coroners (investigations) Regulations, 2013 provides for the police to attend the post mortem examination. In addition to the professional resources outlined in 4.1 Key Roles, the SIO and the coroner will also need to consider whether any additional persons should attend. However, it should be noted that this is for the coroner to authorise, under Regulation 13, previously mentioned.

Formal identification of the body is normally undertaken by a member of the deceased’s family by viewing the body. The coroner has discretion to allow others to attend under regulation 13 of The Coroners (Investigations) Regulations 2013: and it should also be noted, that a suitably qualified medical practitioner may be nominated by the deceased’s next of kin, or personal representative to represent them at the post mortem examination under Regulation 13.
There may be occasions when the coroner (in accordance with the provisions of Regulation 13 (3) and (4)), consents to persons other than those involved in the police investigation to be ‘represented’ at the post mortem examination by a medical practitioner, or if the person is a medical practitioner, to attend the post mortem examination in person.

Although there is no definition of what ‘represented’ means, in practical terms, it is suggested that on most occasions, it would be sufficient for the representative to view proceedings from a suitable viewing gallery or area within the autopsy room. This will enable the HORFP and assisting police staff and other specialists to conduct the post mortem examination in a non-crowded environment and will help to minimise health and safety and biohazard risks inherently associated with being present at a post mortem examination and prevent any potential compromise to the police investigation.

In situations where it is known that ‘representatives’ other than those involved in the police examination will be attending the post mortem examination, it may be useful to discuss with the HORFP and coroner beforehand, the reason for their attendance, and from where they will be expected to view the proceedings. The ‘representative’ can then be suitably briefed on this before the post mortem examination commences.

Although the personnel attending a post mortem examination will vary depending on the nature of the case being investigated, it is suggested that they will typically consist of:

- The HORFP
- SIO or Deputy
- Anatomical Pathology Technologist (APT)
- Crime Scene Manager (CSM)
- CSI personnel
- Police photographer
- Exhibits officer
- Other forensic experts

The SIO should consider whether or not they ought to attend the post mortem examination in person but should always appoint a senior member of the management team to attend if they are unable to do so or decide not to. This will ensure that the SIO is always directly involved if there are interpretational issues or findings that could significantly alter the course of the investigation.
In some cases, the SIO may wish to send their deputy, who must be comprehensively briefed regarding their role and the evidential issues. The SIO or their nominee should attend at the start and the end of the post mortem examination to be briefed by the pathologist.

An exhibits officer will be required to record details of all exhibits retained, including human tissue.

8 MAINTAINING CONTACT WITH THE PATHOLOGIST

The role of the pathologist is not limited to the post mortem examination. There may be regular contact between the investigation team and the pathologist throughout the investigation; including at certain decision-making points, with the Crown Prosecution Service (CPS). This is particularly the case when evidence relevant to the injuries or cause of death becomes available from witnesses, scientists or the offender as the investigation progresses.

Effective and documented communication between the SIO, coroner and pathologist is essential. As soon as the case has been referred to the CPS, details of the CPS lawyer should also be provided to the coroner.

Photographs of the scene and, relevant scientific results from a post mortem examination e.g. toxicology results, must be relayed to the pathologist as soon as possible, along with any other issues relating to the injuries or cause of death that become apparent during the investigation.

9 TIME AND CAUSE OF DEATH

Evidence of the time of death based on factual evidence, such as when the victim was last seen, or when they were found dead, tends to be more accurate than that based on the condition of the body and the immediate environment. Any estimates not based upon independent verifiable fact should be treated with caution. Such estimates may be liable to error. However, temperature readings may be more reliable for estimating time since death in the early post mortem interval stage. The following document outlines the issues with estimating a time of death interval.

A pathologist is more likely to provide a range of times during which death is most likely to have occurred. Even an approximate time of death can be invaluable in narrowing investigation and evaluation parameters or providing information for the suspect and witness interview strategy. It is, therefore, important that the SIO obtains from the pathologist some indication of the time period within which death has occurred.

Uncollected mail and newspapers may give an indication of the approximate time and date of death. The condition of the environment, the presence of food and dirty dishes, as well as cell site information and data communications via passive data generators (such as mobile phones, computers and other devices) can also be useful indicators. Consideration should be given to developing and using timelines to assist in determining the facts.

Forensic analysis of alcohol levels, which can be provided by the force’s forensic provider, may also be useful. Blood alcohol levels may assist either solely or in combination with other methods in providing an estimate for the time of death in the early post mortem interval phase. Alcohol back-calculations in Road Traffic Collision cases are well established and based on sound data. Similar conclusions about the time that has elapsed since drinking can be drawn in fatal cases, but certain factors need to be considered that could affect the alcohol levels seen, e.g. if victim had diabetes, or died of hypothermia or in the process of decomposition.

Where the contents of a last meal are unusual or have distinctive ingredients, which may tie in with a known meal, this can assist in establishing a time of death by confirming sightings from a potential witness. However, the physiological behaviour of the digestion system varies and estimating the time of death using stomach contents emptying has to be assessed with great caution due to the many variables that could affect the rate of emptying. Stress as well as a head injury can slow down or stop the digestion process. Should the SIO require a forensic expert to establish time since death, this should be discussed with the pathologist initially.


[http://criminology.research.southwales.ac.uk/media/files/documents/2013-10-31/Volume_6_Issue_1_Spring_2010-HJ_Spring_10_final_locked_12.05.10.pdf](http://criminology.research.southwales.ac.uk/media/files/documents/2013-10-31/Volume_6_Issue_1_Spring_2010-HJ_Spring_10_final_locked_12.05.10.pdf)
The cause and/or manner of death may be a pivotal factor in an allegation of homicide. It is, therefore, essential that the SIO fully understands the cause of death identified by the pathologist, and the reasons for coming to this conclusion. The SIO must be prepared to draw on material generated by the investigative team to assist or challenge the pathologist’s conclusions.

The cause of death should be included in the pathologist’s report and explained in both plain English and in medical terms.

10 THE POST MORTEM EXAMINATION

The mortuary used for a forensic post mortem examination will be determined by the coroner who authorises the post mortem examination and must be licensed by the Human Tissue Authority.


The purpose of the post mortem examination is to establish the identity of the body, cause of death, the extent and nature of the victim’s injuries and the presence of any natural disease; to collect evidence and to make a factual record of the findings relevant to the circumstances of the death. Furthermore, the pathologist may offer opinion concerning what may have happened at the scene, and when and how death might have occurred.

The pathologist must record full details of the post mortem examination and document the processes they have adopted. These records are disclosable to another pathologist who may be appointed by the coroner to conduct a second or defence post mortem examination.

There may be occasions when a deceased person on whom a post mortem examination is to be carried out, is known or suspected to be infected by a dangerous virus, which would represent a serious risk to the health and safety of those present at the examination. Examples of such viruses include the viral haemorrhagic fevers (e.g. Ebola) Smallpox, Lassa fever and the like. A detailed list of dangerous pathogens and other agents is provided by the Health and Safety Executive at;

In such cases, the SIO should be guided by the pathologist regarding any special precautions which need to be taken. As a general rule however, it is recommended that post mortem examinations in such cases should be avoided.

10.1 Sample Types

The SIO, following discussion with the pathologist and CSM, determines the exact requirements for obtaining samples for the investigation of crime, based on the initial crime scene assessment and available information. Samples may include:

- Anal, vaginal, oral, penile, and in special circumstances, nasal swabs;
- Fingernail cuttings;
- Head and pubic hair (toxicology/trace evidence);
- Blood and urine (toxicology)
- Stomach contents (toxicology/time of death);
- Sample of blood taken at the time of admission to hospital;
- Swabbing of exposed fractures for foreign debris, eg, head fractures;
- Tissue sections for histology;
- Bile (in special circumstances);
- Ocular fluid (toxicology, in special circumstances – time of death);
- Liver, lung, brain, fat tissue (in special circumstances). (The Forensic Science Regulator is currently developing guidance for cadaveric sampling).

10.2 Lawful Seizure

The main sources of law relating to powers of seizure at a post mortem examination by police are provided under section 19 of PACE, or less frequently used common law powers (see 6.2 (Taking Specimens)), used to seize evidence relative to the investigation of crime. In rare cases it may be necessary to use a Section 8 PACE warrant.

As section 19 of PACE can only be used when a constable is lawfully on premises, seizure of items when not on premises can be made using common law powers.

The coroner must be kept informed in writing when material is taken from the body during a post mortem examination. In the police investigation
of suspicious death cases, as with all criminal investigations, it is essential that the appropriate lawful power of seizure is used to enable continued lawful retention of evidence by the police and to bring it under the purview of such legislation as the Criminal Procedures and Investigations Act 1996 for disclosure purposes.

A single list of all material retained at the post mortem examination, regardless of under which authority it is taken (i.e. police or coronial), should be produced and provided to the SIO, pathologist and the coroner. This list must be updated if material is returned to the body or next of kin, sent for further examination or returned to the coroner. The list must form a comprehensive history of the material, which is auditable and from which the provenance of the material can be ascertained. This includes material taken at any subsequent post mortem examinations.

Material taken by the pathologist at a post mortem examination on behalf of the coroner (although there are no clear coronial powers stated in legislation, the MoJ view is that coroner’s powers of seizure at post mortem are ‘inferred’) may subsequently be seized under police powers if required and the conditions set by PACE are met.

Human tissue seized under police powers can be lawfully retained under section 22 of PACE Act 1984 (see http://www.legislation.gov.uk/ukpga/1984/60[section/22] or common law and will automatically engage police obligations of retention and disclosure to the Criminal Procedure and Investigations Act, 1996 (CPIA). (See 35 Retention of Material After Post Mortem Examination).

In summary, it is advised that PACE is used to seize all exhibits from the deceased at the scene (if on premises) and at the post mortem examination. If the deceased is not in premises, Common Law police powers should be used (see 6.2 (Taking Specimens)).

For further information on the powers of seizure and retention of material at post mortem examinations see Forensic Science Regulators Guidance – ‘Legal Issues in Forensic Pathology and Tissue Retention’


11 EXHIBITS
Weapons and other items found at the scene will need to be assessed by the CSM, SIO and pathologist before the body is transferred to the mortuary if the weapon is still in situ within the body. The SIO should also consider the potential risks of taking recovered weapon exhibits to the mortuary due to cross-contamination issues.

Exhibits **must** be properly packaged to avoid contamination and to ensure continuity but should also where possible be clearly visible. A packaged knife must allow the width and length to be measured. A photo taken of the weapon in-situ (with and without scales) must be taken. This photograph should be available for viewing by the pathologist prior to the commencement of any post mortem examination.

Other material may be of mutual interest to the pathologist and the investigative team. It should, therefore, be preserved either at the crime scene or during the post mortem examination. Examples of such articles include:

- Ballistic projectiles;
- Extraneous items such as hairs, fibres, blood or semen on the body or clothing;
- Ligatures (do not cut or undo the knot);
- Needles.

The SIO should ensure that:

- All items/samples are seized using police powers and exhibited and reviewed after the post mortem examination;
- If items/samples are retained, the reasons must be clearly documented. They may be released to the coroner for the coronial investigation and then reviewed for disposal or seizure or retained for an unsolved criminal investigation and/or disposed of, taking into consideration the next of kin’s wishes. The family should be informed after the conclusion of the investigation or the end of the criminal process in accordance with the CPIA and force policy.

**11.1 Recording the Post Mortem Examination**

The pathologist, in consultation with the SIO and other experts, must make a record of all injuries and assess their significance. A trained photographer should be used at the direction of the pathologist and SIO. The Forensic Science Regulator is producing minimum standards for digital imaging at post mortem examinations.
Visual images, including video, particularly of a specific process, can be useful in facilitating the review of a post mortem examination. In particular, they can:

- Create as near a complete record of the processes as possible;
- Facilitate further examination of the body in its original state;
- Assist the process of a second post mortem examination;
- Assist the SIO and the investigation team in understanding crucial elements of the post mortem examination in specific cases;
- Record the removal of ligatures and other devices from the body, where possible. Such a visual recording might also assist a virtual reconstruction, where deemed appropriate.


The following general principles apply to post mortem photography:

- Photographs at the post mortem examination should be taken under the direction of the pathologist;
- All individual/groups of injuries should be photographed with a scale;
- Photographs should be taken at an angle of ninety degrees to the injury or group of injuries;
- In addition to directed photos, the SIO may request more specific photographs;
- Where the identity of the victim is unknown, photograph the victim’s clothing, tattoos, marks and unusual scars. Care must be taken when photographing clothing in the mortuary because of the dangers of contamination. Clothing can always be described in detail at the post mortem examination and photographed after the conclusion.
- Copies of any photographs taken should be made available to the coroner.

External examination of the body may reveal surface fragments of material, such as flakes of paint, glass fragments, fibre, blood, semen or hairs embedded in wounds. Foreign material may also be present under the fingernails and may include hairs, fibres, skin fragments and blood
from the possible suspect. It is essential that these items are correctly photographed, seized, packaged, labelled and retained.

The body should be photographed while fully clothed and particular attention paid to injuries and damage to the clothing. Care must be taken when removing clothing from the victim, as valuable evidence may be altered or destroyed. Undressing the body should only take place in the presence of the pathologist. All clothing should be fully searched, and any items found, photographed and properly exhibited.

Body maps may be used to record the position of injuries, marks, scars and any other distinguishing features. It is important that only one set of contemporaneous notes (with or without diagrams) is taken and produced by the pathologist.

Consideration should also be given to using specialist photography and alternative light sources to enhance specific injuries (seek advice from the CSM or CSI). If there are a number of bruises or other injuries, it is good practice that the pathologist gives each an identifying number when photographed for ease of reference. All photographs taken and notes and diagrams (body maps etc.) made at the post mortem examination may be disclosable under the CPIA 1996. This includes any photographs taken by the pathologist themselves.

12 THE POST-MORTEM EXAMINATION REPORT

When the post mortem examination is complete, the pathologist will produce a written report for the coroner. Under Part 3, Regulation 16, of The Coroners (Investigations) Regulations 2013, the pathologists report shall not be supplied to anyone else, including the SIO, without authorisation from the coroner. Once the coroner has agreed, a section 9 Criminal Justice Act 1967 statement will be provided to the police. In practice however, coroners usually consent to the pathologist providing the SIO with a copy of the report.

When the report is received, the coroner will provide copies of it to all those having a proper interest, including the SIO and any person who has been charged in connection with the death (and to their legal advisers). Any photographic or video recording taken at an examination will also be made available by the police. The deceased’s next of kin should also be advised that the report is available unless the next of kin is thought to be a suspect in the death.
The report should be produced as soon as possible (subject to receipt of all supporting sub-speciality pathology and other medical and scientific reports) within an agreed timescale. Some aspects of the post mortem examination which require further specialist pathological examination such as examination of the brain may take a considerable time to complete and could delay the final report.

The pathologist should be supplied with a record of all the exhibits taken with their relevant exhibit numbers at the completion of the post mortem examination so that an accurate reference can be made to them in the post mortem report.

See **Forensic Science Regulator’s Guidance (2012) Legal Issues in Forensic Pathology and Tissue Retention**

In order to utilise the information revealed in other aspects of the post mortem examination, the SIO should ask the pathologist to provide a rapid interim account in writing to the coroner within fourteen days of the post mortem examination. (See **Code of Practice and Performance Standards for Forensic Pathology in England, Wales and Northern Ireland**).

The SIO should however be aware that the results of any subsequent tests may significantly alter the findings contained in any interim or preliminary report, and that the conclusions of the final report could differ from earlier ones provided.

In complex cases, the pathologist should provide the coroner and SIO with a provisional timetable for the production of the final report. When the post mortem examination report is expected to be delayed, the SIO should liaise with the coroner and pathologist. Additionally, in order to assist the courts and CPS with case management (in accordance with the Criminal Procedure Rules), SIO’s should ensure that the CPS is informed at the earliest possible opportunity, concerning any anticipated delays in respect of the forensic pathology evidence, using the appropriate MG Form.

The SIO, or deputy SIO, should discuss the findings with the pathologist at the time of the post mortem examination. It is essential that the SIO ensures that the pathologist is kept up to date with any investigative
developments, even after the report has been provided to the coroner and agreement has been given for it to be supplied to the SIO. If information subsequently revealed by the investigation impacts on the conclusions contained in the post mortem examination report, the pathologist should produce a supplementary report incorporating that information and any revised conclusions.

The post mortem examination report should include:

- The information the pathologist received in advance of the post mortem examination.
- Those present during the post mortem examination.
- Confirmation that the data justifying the decisions and actions taken at the examination of the scene and the body have been retained.
- Details of all investigations made either personally or by submission to a laboratory or sub speciality expert for a report.
- Conclusions drawn and an explanation for them. Where unusual features are found but are concluded not to be relevant, the pathologist must explain why the finding has been discounted.
- The reasoning why a particular explanation is favoured where findings are open to alternative explanations.
- The reasoning that supports the conclusions, detailing all the material drawn on to support that reasoning, including reference to pertinent and current literature.
- All samples that have been retained by the pathologist, whether or not these have been assigned police exhibit references.
- Any other information required under the Crown Prosecution Service guidance on expert witnesses' obligations on disclosure (Annex K of the CPS Disclosure Manual)
  http://www.cps.gov.uk/legal/d_to_g/disclosure_manual/annex_k_disclosure_manual/

See also Part 19 of the Criminal Practice Directions and the Criminal Procedure Rules (regarding expert witnesses and the legal requirements that must be covered in an expert’s report).
13~INTERPRETING~POST~MORTEM~EXAMINATION~RESULTS

The~post~mortem~examination~findings~represent~a~vital~component~of~the~investigative~process.~It~is~important~for~the~SIO~to~consider~the~significance~of~the~findings,~i.e.~the~interpretative~facts~of~the~post~mortem~examination,~for~example,~by~asking~‘What~does~this~injury~mean?’

The~pathologist~will~contribute~to~the~interpretation~of~the~post~mortem~examination~results~by:

- Attending~conferences~called~by~the~police~or~the~CPS~to~discuss~the~post~mortem~report~and/or~other~issues~involved~in~the~case;
- Explaining~clearly~all~the~findings~and~their~interpretation~in~the~context~of~the~case;
- Considering~alternative~explanations,~testing~alternative~hypotheses,~drawing~conclusions~and~giving~advice~based~on~the~facts~of~the~case~and~established~scientific~principles;
- Stating~what~is~required~before~additional~conclusions~can~be~drawn,~and~requesting~those~requirements~are~fulfilled~before~any~further~opinions~are~given;
- Identifying,~clarifying~and~summarising~areas~of~agreement~and~disagreement;
- Requesting~feedback~to~determine~whether~those~involved~in~the~investigation~understand~the~outcomes~of~the~consultations.

The~SIO~may~wish~to~explore~the~following~issues:

- **Cause~of~Death**~–~which~injury~was~responsible~for~death?~If~there~are~multiple~injuries,~which~one~was~the~fatal~injury?~Significance~of~injuries?~Degree~of~force~used?~What~medical~intervention~was~involved~if~any?

- **Time~of~Death**~–~this~is~useful~for~setting~‘Relevant~Time’,~for~enquiry~parameters,~e.g.~to~assist~with~a~period~of~time~to~review~for~CCTV~footage.~However,~as~previously~mentioned,~it~should~be~borne~in~mind~that~the~various~methods~suggested~to~estimate~post~mortem~interval~are~vast,~and~therefore~a~testament~to~the~inherent~inaccuracy~of~the~methodologies~used~in~this~area.

- **Toxicology**~–~is~there~evidence~of~victim~drug~abuse?~Was~the~victim~drugged~or~intoxicated?~Stomach~contents~may~give~evidence~of~lifestyle~or~sequence~of~events.
• **Level of Attack** - likely to give an indication of the mode of attack, the degree of force used and over what period. Was the victim capable of ‘fight or flight’? What was the likelihood of the offender being injured? Was there evidence of post mortem violence?

• **Injury Analysis** - number and type of injuries. How were the injuries caused? Evidence of defence wounds? Timing of injuries in relation to time of death? Evidence of gratuitous violence? Were injuries caused before or after death? Are injuries consistent with accounts of witnesses? Is there evidence of bodily contact, e.g. bites and scratches? Consideration should also be given to exploring the support and advice offered by the National Injuries Database, accessed via the NCA Specialist Operations Centre, (http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/specialist-capabilities/major-crime-support, or 0345 000 5463)

• **Body Deposition Site** - evidence that the deposition site was not the murder site?

• **Disguise Cause** - attempts by the offender to disguise the cause of death.

• **Sexual Motivation** - is there evidence of sexual interference, such as: rape, oral sex, shaving pubic hair (due to occupational, and/or ethnic/cultural reasons), penile penetration, clothing removal and semen deposits? However, the absence of such evidence does not preclude a sexual element.

• **Weapon Analysis** - type of weapon used, number of weapons, weapon found at the scene?

• **Victimology** – hate crime considerations, general health of the victim, sexual orientation, evidence of recent assaults.

• **Size and Physique of Victim** - evidence of the victim being restrained before death? Is it likely that the victim could have posed a threat after being injured? The position of defence wounds may assist.

**14 DEFENCE AND SECOND POST MORTEM EXAMINATIONS**
A coroner, at the request of the defence and in the interests of justice, will usually agree for a further post mortem examination to be conducted by another pathologist. However, where no offender has been identified or charged, a second, independent post mortem examination can be conducted allowing the release of the body if appropriate within 28 days of the discovery of the body in anticipation of any future defence requirements. This will help to facilitate the early release of the body (see Home Office Circular 30/1999 Post Mortem Examinations and the Early Release of Bodies (a copy can be supplied by the Forensic Pathology Unit at the Home Office – pathology@homeoffice.gov.uk).

Any report prepared for a solicitor acting for a defendant is likely to be a legally privileged document and not available to the police, however coronial practice does vary, and some coroners may choose to disclose the defence report to the police. This practice is to be encouraged as a difference of opinion between the first and second pathologist can be more speedily resolved assisting the defence, prosecution and the coronial inquiry.

The coroner will not usually object to a further post mortem examination being conducted for family members or other persons charged with having caused or contributed to the death, provided that such further examinations are conducted in the interests of justice and without undue delay, with proper notice being given to the coroner. The coroner may request that multiple requests for further post mortem examinations be conducted jointly.

Whenever a post mortem examination is required on behalf of the defence, details of the pathologist acting on behalf of the defence should be provided to the coroner without delay as this will assist in the early release of the body. It may be useful to visually record (by video) the initial post mortem examination if a second post mortem examination will not take place for whatever reason.

Second post mortem examinations may be conducted by a non-HORFP. Such pathologists must adhere to the same standards as a HORFP. Defence solicitors will need to establish, for example, the nature of the wounds and cause of death. They will also need to examine the first post mortem examination report, photographs and any other relevant items. Investigators should ensure that this documentation is available, subject to the coroner’s prior approval. The original pathologist should whenever possible to be present to discuss their findings at the first post mortem examination. Also, the SIO or a representative and a photographer should also be in attendance.
As above, a copy of a second post mortem examination report produced on behalf of the coroner at the request of the defence may not be provided to the police. This report is intended for the defence should someone be charged at a later date.

The coroner may decide to provide the police with a copy of the report from any second post mortem examination that they request in the absence of any charged suspects, and coroners may request additional post mortem examinations if there are significant differences of opinion between the first and the second post mortem examination. The coroner will retain the second report, and if an arrest in connection with the death is subsequently made, they will provide a copy of this to the defendant or their legal representatives.

There are mixed opinions amongst coroners regarding whether second and subsequent post mortem examination reports should be shared with the police or retained by the coroner and served only on the defence in cases where a defendant has been charged. However, it would seem reasonable that in the event of a conflict between the first post mortem and subsequent examinations, the coroner should consider ordering another post mortem examination in the interests of justice and to settle the true cause of death (see Dorries, 2014, p.140).

On occasions, samples from the body are sent by the forensic pathologist to a pathologist acting for the defence. The forensic pathologist should seek permission from the SIO to do this, and mechanisms should be in place to ensure that such samples are returned to facilitate disposal in an appropriate manner. Forensic pathologists should also be mindful of the requirements under Part 3, 14 (1) of The Coroners (Investigations) Regulations 2013 to notify the coroner of material that they preserve, and of provisions in the Human Tissue Act 2004.

There may be occasions when the pathologist acting for the defence wishes to send human tissue for examination to an expert outside of the jurisdiction. It should however be noted that the export of evidence can give rise to particular problems:

- The material will be outside the control of the police or coroner on whose authority it is held.
- The material is no longer under the control of the courts in this jurisdiction.
• It will be difficult to supervise the actions of those in possession of the material.
• The risk of the material being lost is increased.
• The maintenance of continuity will be more difficult.
• The material will be subject to the laws of the country to which it is exported, and this creates a risk of satellite litigation

It is therefore recommended that human tissue is not exported outside of the UK jurisdiction.

All human tissue should be accounted for and capable of audit.

15 RELEASE OF THE BODY

Home Office Circular 30/1999 Post Mortem Examinations and the Early Release of Bodies (see above)

relates to the release of bodies in cases involving suspicious death. This circular states that, subject to the interests of the criminal justice system, it is the responsibility of all agencies to treat the early release of the body as a priority.

This is now reinforced under Part 5, Regulation 20 of The Coroners (Investigations) Regulations, which states that a coroner must release the body for burial or cremation as soon as is reasonably practicable; and that where this cannot be done within 28 days, the coroner must notify the next of kin or personal representative of the deceased of the reason for the delay.

http://www.legislation.gov.uk/uksi/2013/1629/regulation/20/made

It should also be a priority for the SIO and FLO to help the family to cope with their grief. Consideration should be given to cultural and religious beliefs held in certain communities, e.g. Muslim and Jewish faiths, that burial should occur within twenty-four hours and in any case as soon as practicable following death. However, the requirements of the CJS must override family wishes.

There may be a natural resistance from some communities regarding a post mortem examination. This could be based on cultural or religious beliefs that the body should be left intact following death.
These matters require a sensitive response from the SIO, who should bring them to the attention of the coroner. Further information in respect of this is available from the Equality and Human Rights Commission. (See https://www.equalityhumanrights.com/en).

The SIO and the coroner should be proactive in pursuing an early resolution of all post mortem examinations and ensure that the conclusion of the body examination process has been communicated effectively to the family via the coroner’s officer and the FLO in order to allow for the funeral to take place as soon as possible.

The SIO in consultation with the coroner should consider the following issues when contemplating the release of a body:

- Whether the identification of the victim is in dispute;
- The evidential value of retaining the body;
- The needs of the investigation;
- The need for a defence or second post mortem examination when the identity of the offender is unknown.

The coroner will not usually release the body unless all those having a proper interest confirm in writing that they have no objection to the body being released. The coroner will then notify their intention to release the body, in writing, to all such persons who have not yet confirmed their interest.

If the SIO advises the coroner that a person is likely to be arrested within twenty-eight days of the discovery of the homicide, they will not release the body until the person is charged, or until the expiration of that period - whichever is the shorter. The coroner will serve, on any person who is charged, a copy of the report of the initial examination and any records of it. However, it should be noted that in practice there can be a considerable period of time before this can be done. The HORFP may have to await the outcome of specialist investigations before he or she can complete his or her report. It may be possible, initially, (to facilitate performance of the second post mortem examination) only to release the provisional findings of the forensic pathologist.

Where the coroner is initially informed that a person may be charged within twenty-eight days of the discovery of the homicide and it subsequently appears unlikely that any person will be so charged, the SIO should inform the coroner at the earliest opportunity.

Families will want to know details of when the deceased will be released for the funeral and subsequent burial or cremation. The FLO should
facilitate this request through the coroner’s officer after consultation with the SIO. The coroner has lawful control of the body and ultimately the decision for release rests with them, and so the SIO should ensure that the coroner is consulted and advised about the progress of enquiries.

Families should be asked if they wish to wait to receive the body complete (this could take a long time), or if they would prefer the body to be returned speedily. However, they should be made aware that some material from the body may be preserved for further examination or evidential reasons for many months or years. For example, if examination of the brain is necessary, it may be in excess of six weeks before a report is available. In paediatric cases delays may be even longer.


16 RETENTION OF MATERIAL AFTER POST MORTEM EXAMINATION

SIOs should be aware that material taken from the body and seized as part of a criminal investigation (under section 19 of PACE or under common law), is subject to the same level of continuity as any other police exhibit. Because such material may go to specialists and will be out of direct police control, the SIO must ensure that the specialists who handle the exhibit maintain its integrity and continuity.

The statutory duty to inform the relevant persons about what material has been preserved lies with the coroner. In accordance with Part 3, Regulation 15 of The Coroners (Investigations) Regulations, the coroner is also responsible, inter alia for notifying the chief officer of police or prosecuting authority, of any period for which the coroner requires material to be preserved or retained under regulation 14(4) of the Regulations. http://www.legislation.gov.uk/uksi/2013/1629/regulation/15/made

Although the Human Tissue Act 2004 does not apply to criminal justice samples (by virtue of section 39 of that Act), the Home Office and the Human Tissue Authority advise that the principles of the Act and relevant code of practice should be followed.

The SIO must be confident of:
• A lawful power to seize;
• A lawful purpose to examine;
• Clear policy for disposal;
• The fact that the coroner has been informed in writing of all material preserved as provided by Part 3, Regulation 14 of The Coroners (Investigations) Regulations 2013. http://www.legislation.gov.uk/uksi/2013/1629/regulation/14/made


The SIO should consider whether an image or histological samples is sufficient when deciding whether to retain human tissue during the police investigation, subsequent trial or appeal.


The CPIA 1996 states that any material obtained in the course of a criminal investigation, and which may be relevant to the investigation should be retained until the end of criminal proceedings and following completion of any appeals procedure. In general terms, this may be interpreted as the release from detention of a person convicted of homicide.


1. That a debrief takes place at the end of each suspicious death or homicide inquiry to decide on the question of tissue retention. This should involve as appropriate the police, coroner and the pathologist and be
documented in a recoverable form. This need not be a physical meeting, but clear decisions need to be made in consultation by whatever means concerning the retention and disposal of human tissue.

2. In cases where it is determined following post mortem examination that the death is not suspicious and there is no further police investigation, a clear process should be followed between the police and the coroner to ensure material is suitably dealt with.

It is often the case that where a death is initially considered suspicious, the post-mortem examination reveals it is not. When a decision is made not to pursue a criminal investigation a discussion will be held between the coroner and the SIO regarding the tissue already taken from the body using police powers. In such cases a clear policy needs to be agreed with the coroner on whether the seized material is required for coronial purposes, or whether the tissue can be returned to the body prior to burial or cremation. (See Recommendation 2 – ACPO (2012) Report on the Human Tissue Audit).

3. SIO’s must review the retention of material, samples seized and the continuity of exhibits periodically during the investigation of a suspicious death/homicide and specifically at the stage when the body of the deceased is being released to relatives and at the post-trial debrief. Material should not be disposed of without prior consultation with the coroner who may require material for the purpose of their duties at an inquest and, when appropriate, with the CPS.

There needs to be close communication between the police, the coroner, the pathologist and the CPS with regard to the disposal of material. In consultation with the coroner, the SIO should review the continued retention of material and samples seized periodically during the investigation and specifically at the post-trial debrief.

4. Forces are advised to adopt a policy whereby there are periodical reviews of retained material as reliance cannot be made on those originally investigating homicide cases due to turnover and retirements of staff.

Force Review Teams should be tasked with implementing this recommendation.

17 DISPOSAL OF MATERIAL HELD ON THE AUTHORITY OF THE POLICE
The police investigating homicide cases are sometimes required to retain evidence, which include human tissue for much longer periods than in coroner’s cases. An approach must, therefore, be adopted that:

- Allows an effective means of dealing with retained evidence;
- Does not place an undue burden on police resources; and
- Respects the wishes of the family of the deceased.

Material may also be held for a considerable period and officers must be aware that it may be inappropriate to return the material to the family after such a period.

In order to avoid previous problems where human tissue has been retained without proper authority or purpose, a formal and documented debrief should take place between the SIO, coroner, pathologist and where relevant the CPS. This debrief need not necessarily be a physical meeting but could be a conversation or correspondence in whatever form to ensure that all interested parties agree to the disposal or retention strategy. Decisions made at this debrief stage should be documented in a recoverable form. (Recommendation 1 – ACPO (2012) Report on the Human Tissue Audit).

It is good practice at the beginning of an investigation into a death, to issue a Major Incident Room (MIR) standard (some refer to ‘perennial’) action to deal with seized tissue at the end of the enquiry. This stands as a reminder as the tissue could be required for many months or even years.

In respect of the disposal of pregnancy remains, which may have been retained in connection with a criminal enquiry, although the seizure will have been made under the relevant provisions of PACE, disposal in these extremely sensitive cases should be conducted following (where possible, and dependant on the circumstances of the case) the spirit of the HTA ‘Guidance on the disposal of pregnancy remains following pregnancy loss or termination’ publication.

17.1 Categorisation of Material held by the Police from post mortem Examination

Material held by the police can be divided into three categories as per the Forensic Science Regulator’s Guidance: Legal Issues in Forensic Pathology and Tissue Retention.
Category 1 - material taken at the post mortem examination which would not generally be considered part of the body, e.g., scrapings, fingernails, hair, stomach contents; however, under the Human Tissue Act 2004, ‘relevant material’ is anything that contains human cells, so the Act includes the above examples.

Category 2 - samples of human tissue which are not a significant part of the body, e.g., small tissue samples, blocks slides etc; and

Category 3 - samples of human tissue that incorporate a significant part of the body, e.g., organs, limbs etc. (Please note that organs such as the eyes are normally placed in a wax block and constitute a whole organ).

The appropriate method of disposal when the material is no longer required would depend on its category.

Blood samples, stomach contents and vitreous fluid are not normally returned to the family but should be disposed of appropriately.

Disposal methods

The following categorisation, drawn from Forensic Science Regulator’s Guidance Legal Issues in Forensic Pathology and Tissue Retention may assist police in making decisions as to disposal of human material in suspicious death cases;

Category 1 - in all cases this material would be disposed of by incineration.

Category 2 - where the family have expressed the view that they would like material to be returned the following approach should be adopted:

If disposal is within five years of the post mortem examination and the family are still contactable they should be contacted, and an offer of return made.

If the disposal is more than five years from the post mortem examination the material should be disposed of by incineration subject to the issues raised below.
In the event of material being returned to the family, advise them in writing of any (biohazardous) risks involved, and suggest that the return is best handled through an undertaker.

Where the family or next of kin have made it known they want the material to be disposed of (without receiving the material back), this should be done by incineration. Where requests have been made for material to be retained for research purposes, it may not be considered appropriate to allow police exhibits to be used because of possible adverse interest. Research by forensic pathologists may, however, be justified on a case-by-case basis.

If the family or next of kin request that human tissue or contaminated items of clothing etc. be returned; they should be warned of the potential health and safety implications associated with this. However, if they insist, and there are no public health issues, the material should be returned, and a signed disclaimer obtained.

Where the next of kin have not previously expressed a wish about the disposal of material, the SIO should decide whether seeking their views would cause them disproportionate distress.

If the next of kin cannot be contacted, or it is not appropriate to return the material, or a decision has been made that contact would cause disproportionate distress, the material should be disposed of by incineration.

**Category 3** - where the family have expressed the view that they would like material to be returned the following approach should be adopted:

If disposal is within five years of the post mortem examination and the family are still contactable an offer of return should be made.

After five years a balance must be struck between the significance of the material and the time from the post mortem examination. The more significant the material the longer the period it would be appropriate to contact the family.

If the material is to be disposed of, arrangements should be made for cremation or incineration as appropriate.

In the event of material being returned to the family, it is sensible to advise the family of any risks involved, and to suggest that the return is handled through an undertaker.
Where the next of kin have not previously expressed a wish about the disposal of material, the SIO should decide whether seeking their views would cause them disproportionate distress.

If the next of kin cannot be contacted, or it is not appropriate to return the material, or a decision has been made that contact would cause disproportionate distress, the material should be disposed of by incineration.

**Incineration**

Incineration facilities can be provided by the local hospital which will incinerate material in a dignified and appropriate manner. The coroner’s officer or Trust will be able to advise on the process to be followed.

**Cremation**

Cremation can only take place when regulated by the Cremation (England and Wales) Regulations 2008, and the cremation of body parts is only permitted following authorisation by a medical referee at a crematorium. See: [http://www.legislation.gov.uk/uksi/2008/2841/contents/made](http://www.legislation.gov.uk/uksi/2008/2841/contents/made)

In order for a medical referee to authorise cremation, an application must have been made using Form 2 contained at Schedule 1 of the Cremation (England and Wales) 2008 Regulations, and evidence must be produced that the material was removed for a post mortem examination and is no longer required. Applications are usually made by the next of kin or executor to the deceased but can be made by any near relative over the age of 16. If it is not possible to contact the next of kin or any near relatives, the application can be made by any other person as long as the medical referee is satisfied that they are the correct person to make the application. See: [http://www.legislation.gov.uk/uksi/2008/2841/schedule/1/made](http://www.legislation.gov.uk/uksi/2008/2841/schedule/1/made)

A funeral director will normally facilitate this process, but it may not be possible to pursue cremation if all the relevant information is not available or the medical referee is not satisfied that there is a suitable applicant.

It is not envisaged that a religious ceremony would occur if the religion is not known and an inappropriate ceremony would cause more offence than none. For further information see Legal issues relating to forensic pathology and tissue retention – Police and Coroners approach to forensic pathology

The ashes should be given to the person who applied for the cremation (usually the next of kin, executor for the deceased or a near relative) but if the applicant does not want the ashes, or the cremation was applied for by someone other than the next of kin, the cremation authority can scatter the ashes in a garden of remembrance at the crematorium, in compliance with Regulation 30 of the Cremation (England and Wales) Regulations 2008 (see: http://www.legislation.gov.uk/uksi/2008/2841/regulation/30/made)

18 REFERENCES

Legal


Equivalent Northern Ireland (NI) Legislation

• Police and Criminal Evidence (Amendment) (NI) Order 2006.
• Cremation (Belfast) Regulations (NI) 1961.

**Police**


• ACPO (2012) *A Guide to Investigating Child Death*


• [https://polka.pnn.police.uk](https://polka.pnn.police.uk) - National Injuries Database community

**Medical**

• Forensic Science Regulator’s Standards for Facilities Employed for “Forensic” Post mortem Investigations (England, Wales and Northern Ireland) V0.61 2012.

• Forensic Science Regulator’s *Guidance (2012) Legal Issues in Forensic Pathology and Tissue Retention V1.33*.

• Faculty of Forensic and Legal Medicine: *Recommendations for the Collection of Forensic Specimens*. January 2012.

• Home Office Circular 30/1999 *Post Mortem Examinations and the Early Release of Bodies*.

• Whitwell H, Kolar A, Thorne K, Harvey P; *Mason’s Forensic Medicine for Lawyers (Sixth Edition)* Bloomsbury 2015

11.2 FURTHER READING

**Legal**


• Human Tissue Act Procedure amended 2010

• Law Commission Final Consultation Paper on Forensic Experts

**Police**


Police Practice Advice for Dealing with Sudden Unexpected Death and the Medical Investigation


- ACPO/FSS sample retention document (F21) – ACC Cheshire Lead

Medical

- FPSG-290310-4 post mortem Seizure
- Guidance for Retention of Brain and Spinal Cord V3

19 UPDATE VERSION NUMBER

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