Preserving evidence when a “reportable death”\(^1\) occurs in a health care setting

**Purpose of the guidelines**
These guidelines are intended to help health care staff and first response police officers decide what steps need to be taken to preserve evidence when a death has occurred in a hospital or other medical facility. Staff and police should consider the factors listed below. If in doubt about any aspect, health care staff or police should consult with a coroner or forensic pathologist.

**In principle**
When deciding what interference with a death scene in a medical setting should occur and what instruments, equipment and specimens should be seized, those managing the facility and the investigators must try to balance three competing priorities:

- the forensic needs of the investigation,
- the need for the hospital or medical facility to continue to treat other patients, and
- the sensitivities of the family and their need to have contact with the deceased in the least distressing condition.

The greater the likelihood that a crime has occurred or seriously deficient practice has contributed to the death, the greater the emphasis that must be given to the interests of the investigation. In these rare cases in which criminal or civil proceedings are likely, continuity of the chain of possession and strict proof of events leading to the death can justify an operating theater or hospital ward being treated as a crime scene.

In most other cases, the needs of the facility to have free access to operating theatres etc should be given priority. In most cases, the cause of death and the factors that contributed to it can be established from witness statements, medical records and notes, instrument settings etc making the isolation of the scene unnecessary.

In all cases, the needs of the family to have contact with the deceased should be considered and the desirability of cleaning the body to make such viewing less traumatic should only be over ridden if the need to preserve evidence justifies it.

**In practice**

**Preserving the scenes of death**

\((a)\) **Scenes of homicides, etc resulting from an incident within a health care facility**

Scenes of death that involve, or may involve, homicides, suspicious deaths, suicides or accidents **resulting from an incident within the facility itself should be preserved** for

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\(^1\) These guidelines are only meant to apply to deaths covered by the *Coroners Act 2003* s8(3)(d) “the death was not reasonably expected to be the outcome of a health care procedure.” Violent or suspicious deaths that just happen to occur in a hospital should be treated in the same way as any other violent or suspicious death.
examination by police, in exactly the same way as if the death had occurred in the general community.

Careful scene preservation is in the best interest of the health facility. For example, thorough and independent scene examination in a suicide may deflect unjustified criticism from a psychiatric unit.

As in the community, if the patient has been removed elsewhere for treatment and dies, or is likely to die, the scene of the incident (not the scene of death) should be preserved for examination.

(b) **Scenes of “medical adverse events”**

Deaths from “medical adverse events” are rarely of sufficient complexity to warrant preservation of the scene for examination by police or other experts. The key question is whether examination of an intact scene might help understand what happened.

In most reportable deaths that occur in health care settings, scene preservation is unnecessary and undesirable because of disruption to the health care facility. For example, operating theatres in which deaths have occurred generally do not require preservation for inspection by police.

However, medical equipment at (or from) the scene must be preserved for independent examination if this may help understand the cause or circumstances of a reportable death. Medical equipment still attached to the body raises special issues and is considered next.

**Preserving medical equipment attached to the body**

This includes items entering the body (e.g. canulae, lines, ET and NG tubes, catheters drains) and devices attached to these (e.g. drip bags, syringes, drain bottles and bags, urine bags).

The general rule is that medical equipment attached to the body must remain in place for the pathologist to examine as part of the autopsy whenever a deceased has been undergoing medical treatment at the time of death, regardless of the health care setting.

The reason is that, even though such items are often irrelevant to the investigation, it is difficult to predict which will be needed and in which cases. Generally, it is just as easy for items to be described, removed, examined where necessary, and discarded in the mortuary as elsewhere.

Exceptions can be made to the general rule – if removal is documented in the medical records (a sketch is useful), or in a report to the coroner and pathologist; AND if justified by the following:

- To attempt resuscitation or other medical treatment –**this is always an over-riding priority**
- To make the body safe to handle (e.g. removal of a needle)
• To meet the request of a family member wishing to view the deceased before autopsy without unsightly equipment such as an NG tube or airway, **unless a problem such as incorrect positioning may have contributed to death in which case the tube should be left in place**

The following questions should be considered before removing equipment, ideally in consultation with an independent professional (e.g. senior nurse, anesthetist or forensic pathologist):

• Could the item itself have caused or contributed to death (e.g. ET tube in the esophagus, infusion pump delivering medication incorrectly)?

• What are the alternatives to complete removal (e.g. defer viewing until after autopsy when the deceased may be more presentable anyway; or cut an NG or ET tube just inside the body leaving the tip in situ)?

• Could independent examination of the equipment, either in situ or after removal, assist the investigation (e.g. to document the settings, or check for faults)?

### Preservation of other evidence in a health care setting

(a) **Preserving clothing and jewelry**

Examination of clothing (and sometimes jewelry) can assist the pathologist and police reconstruct events (e.g. by inspecting knife or bullet holes). Clothing removed to allow resuscitation should be placed in a bag accompanying the body to the mortuary. Jewelry (and other valuables) removed in the health care facility should be documented and returned to the family in accordance with the facility’s own procedures. However, in homicides, suspicious deaths and deaths in custody, items still on the body at the time of death should be left in situ for examination in the mortuary.

(b) **Preserving other non-medical items attached to the body**

Items such as a noose used for self-inflicted hanging and a knife still protruding from the body should be preserved in situ wherever possible. If removed to allow medical treatment or for safety reasons, the items should be documented in the medical records and preserved separately for the police and pathologist to examine (e.g. in a bag accompanying the body).

(c) **Preserving trace evidence, blood stains, etc on the body**

Generally, vital resuscitation attempts irretrievably contaminate any trace evidence on the body, especially on the face. Cleaning the face to allow viewing by the family is therefore usually permissible. In alleged sexual assaults, however, the genital area should not be disturbed prior to forensic examination. Consult a forensic pathologist if in doubt.

(d) **Preserving injuries**

Although medical treatment is always a priority, injuries possibly due to an assault should ideally be preserved intact for the pathologist to examine. For example, examination of
penetrating injuries (e.g. knife and firearm wounds) is critical to the reconstruction of events, and surgical incisions should avoid such wounds where possible.

(e) Preserving pathology samples to assist the coroner’s investigation

Some pathology samples may need to be preserved for transfer to the forensic pathologist, toxicologist or other expert for separate examination. Examples include blood (or other samples) taken at the time of hospital admission as these may offer the best evidence of intoxication with alcohol, drugs or poisons at the time of an incident; and anatomical pathology specimens relevant to the autopsy, such as an excised bullet wound, traumatically ruptured spleen, or placenta in a peri-natal death. Admission samples should never be disposed of in cases where there is any real likelihood that the patient may die.

(f) Take blood samples when adverse reaction to anaesthetics or drugs may be involved

Deaths that may be due to an anaphylactic reaction or other form of hypersensitivity to a drug, anaesthetics or any other agent are reportable. In such cases, blood should be taken from the body for testing within 4 hrs of death for tryptase and any other testing that may shed light on the cause of death. Police should therefore immediately contact the local coroner (and if that can’t be done the state coroner) to obtain consent for this to happen. The blood should then be stored in clean glass vials and refrigerated immediately. The form 1 should note the location of these samples.

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