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PASSAIC COUNTY PROSECUTOR'S OFFICE

**Notification and Investigation Protocol for
the Fatal Investigations Unit**



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INDEX

<i>I. INTRODUCTION</i>	<i>PAGE 3</i>
<i>II. NOTIFICATION REQUIREMENTS</i>	<i>PAGE 4</i>
<i>III.METHOD OF NOTIFICATION.....</i>	<i>PAGE 5</i>
<i>IV.RESPONSIBILITES OF REPORTING AGENCIES.....</i>	<i>PAGE 5</i>
<i>V. INVESTIGATIVE RESPONSIBILITIES.....</i>	<i>PAGE 7</i>
<i>VI.COMPLAINTS AND MOTOR VEHICLE SUMMONSES.....</i>	<i>PAGE 9</i>
<i>VII. DEBRIEFINGS AND CASE MANAGEMENT</i>	<i>PAGE 10</i>
<i>VIII. MEDIA INFORMATION</i>	<i>PAGE 10</i>
<i>IX.RELEASE EVIDENCE</i>	<i>PAGE 11</i>
<i>X. INVESTIGATIVE REPORTS</i>	<i>PAGE 11</i>
<i>XI.RELEASE OF REPORTS.....</i>	<i>PAGE 11</i>

I. Introduction

The Constitutional and statutory authorities granted to the Attorney General, the Division of Criminal Justice and the twenty-one County Prosecutors of the State of New Jersey, dictate that the division of authority and ultimate responsibility for the investigation of homicides and suspicious deaths is exclusively within the jurisdiction of the prosecuting authority. Therefore, this Passaic County Prosecutor's Office Notification and Investigation Protocol for the Fatal Investigations Unit is designed to reflect the appropriate role of the Local Law Enforcement Agency, as the initial investigating law enforcement agency, balanced against the ultimate responsibility of the Passaic County Prosecutor's Office Fatal Investigations Unit. Homicide, Vehicular, and suspicious death investigations shall be conducted jointly by the Prosecutor's Office and the appropriate Local Law Enforcement Agency. This means that all investigative procedures and initiatives must be coordinated between the Prosecutor's Office and the Local Agency concerned.

If there is a disagreement between the initial investigating agency, and members of the Passaic County Prosecutor's Office regarding how a homicide, vehicular, or suspicious death investigation should proceed, the investigation shall proceed as directed by the County Prosecutor or her designee, usually a Chief Assistant Prosecutor or Senior Assistant Prosecutor functioning in a management or supervisory capacity within the Passaic County Prosecutor's Office.

This Notification and Investigation Protocol is intended to supersede any previously designed and implicated notification and investigation protocols that may have been in effect prior to this date.

For the purposes of this Investigative Protocol:

1. "County Prosecutor" shall mean and include any County Prosecutor or Acting County Prosecutor of the County of Passaic, or in cases where the Attorney General

has intervened or superceded the County Prosecutor, pursuant to N.J.S.A. 52:17B-106 or 107(a), the Director or Acting Director of the Division of Criminal Justice.

- a. Included in this definition, is any Assistant County Prosecutor functioning as a designee of the Passaic County Prosecutor.
2. “Local Law Enforcement Agency” shall mean and include all duly appointed sworn members of a state, county, or municipal police department, sheriff’s department, or campus police department.

II. Notification Requirements:

The Passaic County Prosecutor’s Office Fatal Investigations Unit shall be **immediately** notified by the investigating Local Law Enforcement Agency in the following instances:

- a) All apparent homicides
- b) All suspicious or unattended deaths
- d) All suicides
- e) All in custody deaths
- f) All suspected overdose deaths
- g) All deaths resulting from a fire
- h) All deaths resulting from a motor vehicle collision
- i) All motor vehicle collisions where a police officer (on or off duty) is a driver and any party suffers bodily injury¹.

If any doubt or uncertainty concerning the nature of death exists in the mind of the police officer who discovers the body, or the detective who responds to the scene of such discovery, that doubt should be resolved in favor of immediate notification of the Prosecutor’s Office.

Upon receiving the required notification, the PCPO On-Call Detective will determine 1) if a PCPO On-Call FIU Detective will be responding to the scene and, 2) the degree of involvement the PCPO Investigative staff will have in the investigation. This determination will be made on a case-by-case basis. The above criteria does not preclude local police departments

¹ Bodily injury is defined as: “physical pain, illness or any impairment of physical condition.” N.J.S.A. 2C: 11-1(a).

from pre-established reporting requirements which mandate they contact the PCPO, the Medical Examiner, the New Jersey State Police, and the Division of Motor Vehicles when required.

The Passaic County Prosecutor's Office does **NOT** need to be notified regarding any suspicious fire or motor vehicle collision that is **NOT expressly delineated in this section. Investigations regarding ALL suspicious fires and motor vehicle collisions not delineated in this section shall be the responsibility of the local agency.**

All legal advisor calls regarding cases subject to mandatory notifications under Section II of this Protocol shall be addressed to the Assistant Prosecutor in Charge of the PCPO Fatal Investigations Unit or their designee. If any legal advisor assistance is requested in any case involving a fire or motor vehicle collision that is not specifically listed in Section II of this Protocol, the officer seeking legal assistance should contact the Assistant Prosecutors assigned to that agency's legal advisor list.

III. Method of Notification:

A. Normal weekday hours (8:45 AM to 4:30 PM): Contact the Passaic County Prosecutor's Office at (973) 837-7754 or (973) 881-4800 and ask to speak to a member of the Fatal Investigations Unit. You must speak with PCPO personnel. Do not leave a message.

B. After hours, weekends and holidays: Contact the Passaic County Sheriff's Office Communications Division at (973) 389-5951 and request that they contact the on-call detective assigned to the Fatal Investigations Unit of the Passaic County Prosecutor's Office. An on-call member of the PCPO FIU will return your call.

IV. Responsibilities of Reporting Agencies:

A. Pursuant to N.J.S.A. 26:6B-10, whenever a local police department or any law enforcement officer discovers a homicide, suicide, or suspicious death, the Prosecutor's Office must be notified immediately.

B. When the reporting agency is advised that a member of the Passaic County Prosecutor's Office Fatal Investigations Unit is responding to the scene, the reporting agency will continue to secure the scene pending the arrival of the FIU Detective. Once the Detective(s)

arrive at the scene, the FIU Detective will assist the Local Law Enforcement Agency with the scene investigation and any other investigation as required.

C. Whenever a body is found in any vehicle, home, office, apartment or any other building or structure, and homicide is suspected or the circumstances surrounding the death are suspicious, the Local Law Enforcement officers initially responding to the scene should make a prompt warrantless entry and complete inspection of the entire premises to ascertain whether there are any other victims or persons on the premises.

If any persons are located, they should be immediately removed from the premises. The officers making this initial inspection should take particular note of the condition of the premises, of the body of the deceased and of any evidence of foul play which is in plain view. They may not, however, extend their search into areas where persons could not be secreted or hiding, such as drawers, cabinets, etc. Potential evidence which is seen during the initial inspection should not be touched or removed unless there is a possibility that it will be lost, destroyed or removed before a search warrant can be obtained.

If there are any persons on the premises who require medical attention, law enforcement officers may remain and attend to those persons. Any additional law enforcement or medical personnel necessary to treat those persons may enter the premises for this purpose alone.

After the initial inspection, all law enforcement officers will leave the premises, secure them and prevent any person from re-entering, except the medical personnel responding to pronounce the victim dead, until the Lead Detective(s) assigned to the investigation arrives at the scene. It is thus the primary responsibility of the municipal officers initially responding to preserve the crime scene. Under no circumstances should the scene be disturbed by the entry or milling about by persons, or by touching or removing objects at the scene or even by removing the body.

It is the responsibility of the Prosecutor's Office Detective, after obtaining legal advice from the Assistant Prosecutor assigned to the Fatal Investigations Unit, to decide whether a search warrant or consent to search is necessary. Subsequent to acquiring any necessary authorization to do so, the scene can then be thoroughly searched in an orderly and scientific manner.

Vehicles which appear to be connected in some way to a homicide or suspicious death should also be secured, but shall not be processed or searched until the assistant prosecutor assigned to the Fatal Investigations Unit is consulted.

V. Investigative Responsibilities

A. Local Law Enforcement Agency:

1. Preserve scene by closing roadways whenever feasible. Conduct detours as required.
2. Secure scene by preventing unauthorized and unnecessary personnel from entering. A scene log will be maintained documenting all parties who enter and exit.
3. Locate, identify and document any and all witnesses, and sequester all parties and witnesses either on scene or at a secure location. If there is a reasonable articulable basis to believe that one or more persons should be investigated for criminal conduct or the issuance of a motor vehicle summons, those persons should be detained for the length of time necessary to conduct such investigation.
4. Death notifications must be conducted by the Local Law Enforcement Agency in a timely fashion in compliance with Attorney General Guidelines.
5. Seizure of victim's clothing at the hospital to which the victim was transported will be the responsibility of the Local Law Enforcement Agency, with the assistance of the assigned FIU Detective or FIU Assistant Prosecutor if necessary.
6. Provide for the secure storage of all physical evidence.
7. Provide for submission of all evidence to the New Jersey State Police Laboratory or other designated laboratory within a timely fashion.
8. Secure and receipt personal property of victims.
9. During fatal motor vehicle collision investigations, create a scaled scene diagram utilizing a computerized forensic mapping program and complete an accident reconstruction report whenever possible.
10. During fatal motor vehicle collision investigations, arrange for the towing and storage of involved vehicles when needed.
11. Initiate and sign motor vehicle summonses in cases involving fatal motor vehicle

collisions. (See also, Section VI on page 9 of this Protocol)

12. In cases involving a fatal motor vehicle collision, complete and file the NJTR-1 Report.

13. In Fatal Fire Investigations, the Local Fire Official, which includes any Fire Department Personnel, City Inspector, or any other local official trained in conducting fire investigations, shall assist with technical investigations and conduct origin and cause determinations and complete all corresponding fire reports.

B. Crime Scene Investigation Unit:

1. Copies of all photographs taken by the responding Crime Scene Detective must be made available to the Prosecutor's Office within 24 hours.
2. All evidence will be collected, packaged and documented by the Crime Scene Detective and turned over to the investigating detectives at the completion of the scene investigation.
3. All reports associated with the Crime Scene Investigation shall be made available to the Prosecutor's Office within 24 hours. No crime scene processing shall be commenced until the arrival of the Lead Detective(s) assigned to the investigation.

C. Passaic County Prosecutor's Office Fatal Investigations Unit:

1. Make notification to Passaic County Sheriff's Office Crime Scene Unit and request their assistance with the crime scene investigation when necessary.
2. A Detective from the FIU shall coordinate with the PCSO Crime Scene Investigation Unit to ensure a member of law enforcement attends autopsies as required and secures any and all evidence from the medical examiner's office. Such evidence will include:
 - hair samples
 - blood DNA card
 - clothing
 - identification and other personal effects
 - ballistics evidence
 - copies of photographs taken by the Medical Examiner
3. Facilitate and coordinate the assistance of any other special services that may be required from any other County, State, or Federal Agency.

4. Assist in conducting video recorded interviews of suspect(s), as well as witness interviews/statements.
5. Maintain regular contact with the Fatal Investigations Unit Assistant Prosecutors to provide updates on the progress of the investigation and for legal guidance, including but not limited to;
 - a. Prepare affidavits for Communication Data Warrants
 - b. Prepare affidavits for Consensual Interceptions
 - c. Assist with preparing Court orders for buccal swabs
 - d. Assist with telephonic warrants for blood samples
 - e. Assist with legal guidance as needed
 - f. Conduct at scene and follow-up investigations
 - g. Attend autopsy or designate personnel to attend as required
 - h. Prepare case material for Grand Jury presentation
 - i. Analyze physical evidence
 - j. Obtain outside experts as required
 - k. Prepare case material for trial.

VI. Complaints And Motor Vehicle Summonses

All complaints arising out of a homicide, fatal fire, or fatal motor vehicle investigation will be signed by the Local Law Enforcement Agency. However, NO criminal complaint shall be issued in connection with a homicide, fatal fire, or fatal motor vehicle collision case without conferring with and obtaining the PRIOR written approval of the assigned Fatal Investigations Unit Assistant Prosecutor in accordance with the Passaic County Prosecutor Law Enforcement Directive On Criminal Justice Reform (Revised October 3, 2022).

Additionally, exclusive jurisdiction of any motor vehicle collision involving death, where at a minimum, a motor vehicle summons is issued, lies with the Superior Court, unless and until a Superior Court Judge orders a remand to the Municipal Court. Therefore, all original motor vehicle summonses (either the hard copy or a print out of the eticket) on these cases are to be made available to the assigned PCPO FIU Detective within 24 hours of issuance. Additionally, the Municipal Court shall be notified of the transfer of said motor vehicle summonses to prevent

scheduling in Municipal Court, as well as to prevent Double Jeopardy issues. It is the responsibility of the local/municipal police department to contact and advise the court clerk/administrator as to the investigative status of the case. It will be the responsibility of the lead detective from the Prosecutor's Office, who is assigned the investigation, to make sure that the motor vehicle summonses were handled correctly, including whether the motor vehicle summons should be forwarded to the Passaic County Prosecutor's Office. No criminal complaint should be issued on cases involving a death without conferring with and obtaining prior approval by the on-call Assistant Prosecutor.

VII. Debriefings and Case Management Review

Debriefing conferences conducted between detectives from the Prosecutor's Office and the Local Law Enforcement Agency investigating the homicide, fatal fire, or fatal motor vehicle collision will be conducted at various intervals during the investigation for purposes of evaluating the merits of the case and to discuss other pertinent investigative issues. It shall be the responsibility of the Prosecutor's Office detectives to ensure that the local law enforcement agency is apprised of case developments, and to arrange pre-trial conferences as are necessary. It shall also be the responsibility of the Local Law Enforcement Agency to advise the Passaic County Prosecutor's Office of any case developments known by that Agency.

VIII. Media Information

Executives and members of all local law enforcement agencies shall NOT issue press releases or make public statements about any investigations, arrests, charges or prosecutions related to a suspicious death, fatal fire, fatal motor vehicle collision or the Attempt to commit (NJSA 2C:5-1), the Conspiracy to commit (NJSA 2C:5-2) and the commission of the following crimes:

- a. Murder – including Felony Murder (NJSA 2C:11-3);
- b. Aggravated Manslaughter (NJSA 2C:11-4a);
- c. Manslaughter (NJSA 2C:11-4b);
- d. Death by Auto or Vessel (NJSA 2C:11-5)

e. Strict Liability for Drug Induced Deaths (NJSA 2C:35-9)

All media inquiries related to the above enumerated cases shall be referred to the Passaic County Prosecutor's Office.

IX. Release of Evidence

No evidence collected in a homicide, suspicious death, fatal fire, or fatal motor vehicle collision investigation shall be released without first obtaining written approval for such release by an Assistant Prosecutor assigned to the FIU.

X. Investigative Reports

All investigative reports shall be completed and filed jointly. This will ensure uniformity as well as the full sharing of investigative information between the Local Law Enforcement Agency concerned and the Prosecutor's Office Fatal Investigations Unit. The completed overall investigative report shall be submitted for review by the Prosecutor's Office no later than 45 days following the filing of a criminal complaint related to any of the investigations subject to this Protocol.

XI. Release of Reports

In cases falling under this Protocol, the local agency shall notify the Assistant Prosecutor in charge of the PCPO FIU of any requests for information received by the local agency through a request for discovery, a subpoena, a court order, and/or a request made pursuant to the Open Public Records Act. Each agency shall respond accordingly to such requests consistent with applicable New Jersey statutes, court rules, court orders, and/or Attorney General Guidelines or Directives.