



THE TEXAS INVESTIGATOR

A Primer on International Investigations

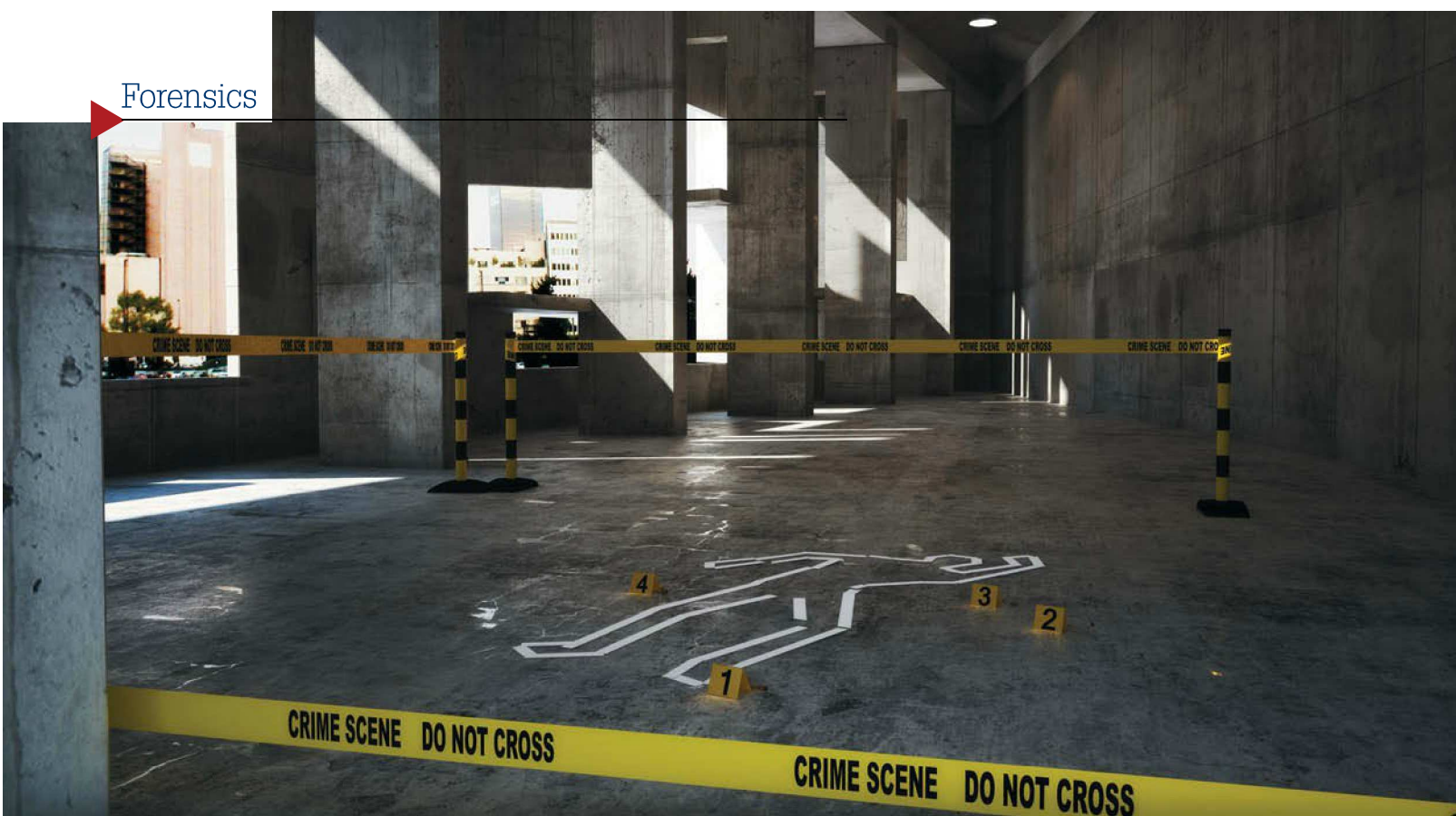
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The Question and Investigation of *Fatal and Non-Fatal Injury and Causation*

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WHEN SHOULD YOU, AS A private investigator, be consulted or seek consultation on a case? When the crime or wrong involves a series of events resulting in non-fatal or fatal injury(ies) — serious bodily injury (SBI) or death:

- Violent death (or SBI)
- Sudden or unexpected death (or SBI)
- Unattended death (or SBI)
- In-custody death (or SBI)

These are serious incidents that may result in serious criminal charges or be a cause of action in a civil or administrative action.

- Fractions of an inch or an alteration in an event, or series of events, may be the only difference between a serious bodily injury or death.
- Death investigation is not limited to homicide — an assault is a personal injury that requires similar investigative principles.

- Any component of death investigation can be applied to serious bodily injury investigation — from the chain of events leading to the injury and/or death, to the mechanisms of injury or death.

The majority of deaths are natural deaths with a diagnosed medical condition (i.e., cancer, congenital defect) or cause of death determined by medical history (i.e., diabetes, cardiac history). These will not typically be autopsied forensically. However, autopsies are often neglected because the cause of death is “obvious.” This is frequent in motor vehicle collisions and even some “suicides” that are “obvious.” One common type of case that investigators are tasked with investigating is the motor vehicle collision. This may involve a fatality or serious bodily injury, or both; and may involve criminal, civil or probate litigation — or all of the above,

and even worker compensation cases.

Let’s take a look at how changes in events and different evidence may change not only the cause and manner of death, but also the type of litigation and investigation you may find yourself involved in.

AN UNCOMPLICATED MOTOR VEHICLE COLLISION

Joe Citizen, an 82-year-old male, is driving home from a wedding reception when he fails to obey a stop sign at a t-intersection and continues into an irrigation ditch.

He experiences serious injuries and is pronounced dead at the scene. The coroner responds to the scene, and, after assessment and multi-agency investigation, determines that he died of multiple blunt force injuries due to impact with the opposing ditch bank at high speed, due to the loss of control of the vehicle.

For our purposes, acknowledge that law enforcement will investigate the incident and draw blood (most state laws require ethyl alcohol testing of all deceased persons of motor vehicle collisions), and it will be reported that he was not intoxicated. What considerations are there for cause and manner of death?

Natural, accident or suicide (homicide could happen, but this is an uncomplicated example)?

- Medical (natural) may include cardiac event, diabetic reaction or stroke prior to and causing the loss of control; or, even death, then causing loss of control. The latter would be natural; the former

is important, and an autopsy may or may not answer the question.

As an example, one scenario could be that Mr. Citizen had a cardiac event and died, causing the collision that consequently killed his wife. In this example, Mr. Citizen died first, and his surviving wife (excluding any provisions of a will) inherits from him. Further, his double indemnity insurance clause does not apply due to the natural death.

Mrs. Citizen died second, due to injuries from the collision caused by her now-deceased husband. Her inheritance, preceded by Mr. Citizen's, (again, excluding any provisions of a

not uncommon), an autopsy would be unnecessary.

CIVIL, CRIMINAL AND PROBATE LITIGATION

The above scenarios are simplified and not uncommon. In reality, these may be complex events, which, to those traumatized, are more than just trivial information that can define an event; they define an outcome and can define their future. These types of incidents should be investigated the same for accuracy in cause and manner of death. From the point of this determination, and all factors involved, the tasks will then be specific to the nature of the assignment: 1) civil plaintiff or defense; 2) criminal prosecution and defense; 3) probate and hereditary issues; 4) work related benefits; and 5) insurance benefits. There are a variety of common and uncommon examples and an exponential number of incomes that are dependent on the evidence and interpretation of it.

Facts and evidence may have similar effects to be considered in other types of injuries and death. These may also include a fatality or serious bodily injury, or both, and may involve criminal, civil or probate litigation — or all of the above, and even worker compensation cases. Let's take a look at some additional scenarios to see how important the investigative fact finding process is. These changes in events and different evidence may also change not only the cause and manner of death, but also the type of litigation and investigation professional investigators find ourselves involved in.

WRONGFUL DEATH - HOMICIDE OR JUSTIFIABLE SELF-DEFENSE?

The decedent was found outside his residence, deceased, with two gunshot wounds. Responding family members found two neighbors approximate to the decedent. By report, the neighbors were returning to their home when they observed the decedent being aggressive towards them. At that time, one neighbor retrieved his firearm, discharging three times and striking the decedent twice; the first shot was reported to be a warning shot.

Responding law enforcement personnel initially investigated the incident as self-defense. However, independent review

*The value of the **complete and competent investigation** is realized through the evidence and determination of an appropriate cause of action or defense.*

still accident, but now there is a known cause of loss of control.

- Suicide may include previous suicidal ideation exacerbated by an event at the wedding reception and knowledge that the intersection could cause the collision and his own death.

Mechanical issues with the vehicle?

Although not determined at autopsy, perhaps the vehicle had a malfunction causing the incident or a malfunction that could have prevented his death (i.e., airbag deployment). This may not change the death certificate, but it may impact the family emotionally, as well as insurance benefits. This may also be cause for legal action if the autopsy findings demonstrate that the driver, by way of actions or medical history, did not contribute to the incident.

A DOUBLE FATALITY COMPLICATES THE INCIDENT

To the above scenario, let's add that Joe's wife was with him and also died as a result of the collision. They each had two children of previous marriages, both were preceded in death by their spouses and they married late in life.

In addition to the above, of importance is who died first — due to hereditary and insurance concerns. Scene investigation

will) transfers to her biological children. Further, her double indemnity insurance clause does apply due to her death by accident.

As can be seen, death — and motor vehicle collisions — can be complicated by what is seemingly unimportant. The above scenarios could likely have been answered only by autopsy. Although plausible, it cannot be conclusive that Mr. Citizen did/did not have a cardiac event due only to his medical history.

What about criminal cases, such as if Mr. Citizen were intoxicated, negligent with his health, etc.? Let's take another look at our scenarios involving Mr. and Mrs. Citizen. They have survived the collision and were hospitalized with well-documented treatment and injuries. After three to four days, one or both are deceased. This would still be a coroner's case; an autopsy would not be necessary as the incident and subsequent treatment, care and demise are documented in the medical records.

If either survived the collision and were discharged from the hospital to a rehabilitation center, and then died of pneumonia (not uncommon), an autopsy would also be unnecessary. If they are released from the rehabilitation center to home with an expected death (also



noted discrepancies in facts and reported information: 1) the vehicle incident position and final resting position; 2) trajectory of the ejected shell casings relative to likely and less likely positions of the neighbors and the decedent; and 3) positions of neighbors.

The empirical evidence with the series of events, as described by the neighbors, were inconsistent with the evidence of the official investigation. Specifically, the following findings present reasonable concerns that the findings of the official investigation are inconsistent with the evidence of the same. This includes the position of the decedent at the time of firearm discharge, position of the shooter at the time of discharging the firearm, position of the second neighbor at the time of the discharges of the firearm, and the position of the vehicle at the time of the discharges of the firearm and its final resting position. Of primary concern, due to being unsupported by the reviewed evidence, was the position of the shooter.

- Inconsistent statements of the neighbors, together and individually, as to the actions of the decedent, location of the decedent at firearm discharge, and number of shots fired;
- Wound trajectories are inconsistent with the statements of the neighbors, together and individually, as to the actions and location of the shooter at the time of firearm discharge;
- Location of the spent shell casings are inconsistent with the statements of the neighbors, together and individually, as to the actions and position of shooter at the time of firearm discharge;

- Wound trajectories are inconsistent with the statements of the neighbors, together and individually, as to the actions and position of the decedent at the time of firearm discharge; and
- Locations of the spent shell casings are inconsistent with the statements of the neighbors, together and individually, as to the actions and position of the decedent at the time of firearm discharge.

WRONGFUL DEATH - NURSING HOME ELDER DEATH

The funeral home notified the county coroner's office of this death with suspicious evidence of injury. Although the death had been reported as required to the coroner's office, the injuries and consequential circumstances were not. Investigation revealed that the coroner's office was given false information by the decedent's nurse. Upon notification by the funeral home, an autopsy and thorough investigation were completed.

The records reflected that the underlying incident was the result of another unsupervised patient forcibly shoving the decedent backwards, causing her to fall and hit her head after landing supine. Her complaints of severe pain continued in the days following, including comfort care pain protocol. Vicodin was ordered, as was an increase in dosage and frequency of morphine. There was some noted concern of oxygen saturation levels below "adequate" and nearing "inadequate."

This death was clearly exacerbated by the incident and the consequential

required comfort care protocol. There were also found issues of improper incident documentation, corrective follow-up, family and health board notifications, resident monitoring, and enhanced staff training for handling these situations and residents.

Specific to the circumstances of death, the increased narcotic analgesics due to the incident and severe pain led to the inability of the decedent to maintain adequate oxygen saturation levels. This exacerbated the inability to metabolize the administered morphine, resulting in the elevated morphine levels found in postmortem toxicology. Investigation also determined that there was inadequate supervision, including staff-to-resident ratio, in the activity room at the time of the incident. There was no previous reported history of intra-resident physical altercations or deaths with unusual or suspicious circumstances. However, there were similar past occurrence reports that included issues of oxygen therapy, bowel movement checks and care, intra-resident abuse, etc.

Independent investigation concurred with the official ruling of accident due to morphine toxicity as a result of a fall. Had the injuries not been observed and reported by the funeral home, this death would have been ruled natural due to dementia, as the medical records prior to the incident supported.

SUSPICIOUS DEATH – HOMICIDE OR SUICIDE?

The decedent, a law enforcement officer, was found by officers of an overlapping jurisdiction. The official investigation was conducted by the decedent's employing agency, which had jurisdiction. No independent official agencies were involved.

Review of the provided photographs, records and reports provided several concerns, beginning with the perfect and symmetrical position in which the decedent was found (supine) with his shotgun. The decedent had one injury, which was immediately fatal, as a result of a contact penetrating shotgun slug wound entering under the chin and traversing to exit the top of the head. There were multiple discernible wounds unanswered by the conclusion of suicide. Specifically,

in the act of a self-inflicted gunshot wound, there is no plausible explanation for the injuries and pressure patterns to the respective dorsal and palmar surfaces of both hands. Moreover, the decedent's uniform and gear had indications of being involved in a physical altercation and on the ground prior to death.

Personal effects and items from his utility belt were strewn about the decedent, almost circular and at varying distances. His duty weapon was found several yards from him, over a chain-link fence topped with barbed wire. His backup weapon, on an ankle, was also removed.

Investigation determined that the shotgun was not in a final resting position consistent with having been discharged by the decedent, in any conceivable position of the decedent, and then coming to rest as found. The angle of the entrance wound, and wound path, are inconsistent with the

in a manner of an upright position, with the muzzle of the shotgun pressed against the underside of his chin, the shotgun being held by another unknown person, and discharged by the unknown person. The finding of suicide by self-inflicted extraoral gunshot wound is inconsistent and not plausible based upon the documented information, facts and evidence reviewed. Investigation reveals that this incident presents concern of homicide concurrent with a physical confrontation.

SUSPICIOUS DEATH – ACCIDENT OR NEGLIGENCE IN CIRCUMSTANCES

The decedent, a male in his early 20s, was transported by ambulance to the emergency room, presenting with an apparent illicit multi-drug overdose. After autopsy, and negative toxicology, his death was ruled natural due to specified heart disease.

would remain plausible. Circumstances of the death include the consideration of the cause of death as “positional asphyxia due to an immobilizing restraint and multi-drug toxicity,” and the manner of death as accident. To be further investigated is the peri-mortem “hog tying” restraining of the hands to the ankles following a “sleeper hold” to incapacitate the decedent and cease an episode of drug induced hyper-erratic behavior and possible excited delirium.

THE ROLE OF THE PROFESSIONAL INVESTIGATOR

The complexities of fatal and non-fatal incidents is founded on the same principles as all other fact-finding investigations. Prepare by collecting all available information, inquire through an effective investigative process, analyze the information provided and determined in the course of the investigation, document the evidence in the series of events and consequences, and report your findings to the client via a verbal or written communication as appropriate.

The value of the complete and competent investigation is realized through the evidence and determination of an appropriate cause of action or defense. From simple assault to homicide and wrongful death or other negligence, the investigative process may involve criminal, civil or probate litigation, and even worker compensation cases. Investigative findings may support or refute all or part of the official findings, as well as answer questions and begin the process of closure for the families. ●

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decedent lying on the ground and his head also resting on the ground, and particularly without any consequential projectile defect to the underlying pavement.

The possibility that the decedent staged his own death as a suicide to appear as a homicide was considered. However, the physical evidence did not support this.

The expert reconstruction, conducted by a former employee of the investigating agency, only concentrated on the final resting position of the decedent. This was deficient and inconclusive based upon the physical evidence. Factors that were not considered in the whole included the position of the decedent at discharge, angle of the shotgun at discharge, and angle of the decedent's head at discharge. Each possibility presented in this reconstruction was unfounded upon further study and evaluation.

It was determined that the official investigation was deficient concerning the circumstances of the cause and manner of death. It was further concluded that the scene, specifically placement of the shotgun on the decedent, was staged. It was also concluded that the decedent was

Prior to calling 9-1-1, friends reported that he had taken multiple illicit drugs, including ecstasy and psilocybin mushrooms — both of which are not in routine autopsy toxicology and have accelerated metabolic properties in blood specimens. Moreover, persons involved in the incident and reporting did not relate pertinent information to law enforcement, and the investigation was limited until after the autopsy, with subsequent findings not reported to the forensic pathologist. Of importance was that two friends bound the decedent by his hands and feet, and then together, lying him prone on the floor. This was done in an attempt to calm him down and keep him restrained. After being observed in respiratory arrest, 9-1-1 was called.

Investigation determined that the official investigation was deficient due to appropriate follow-up and incomplete statements by the decedent's friends. An independent medical opinion was not pursued by the family to review the official cause of death related to heart disease. However, in the absence of the incident circumstances in this otherwise unexplained death, this medical diagnosis