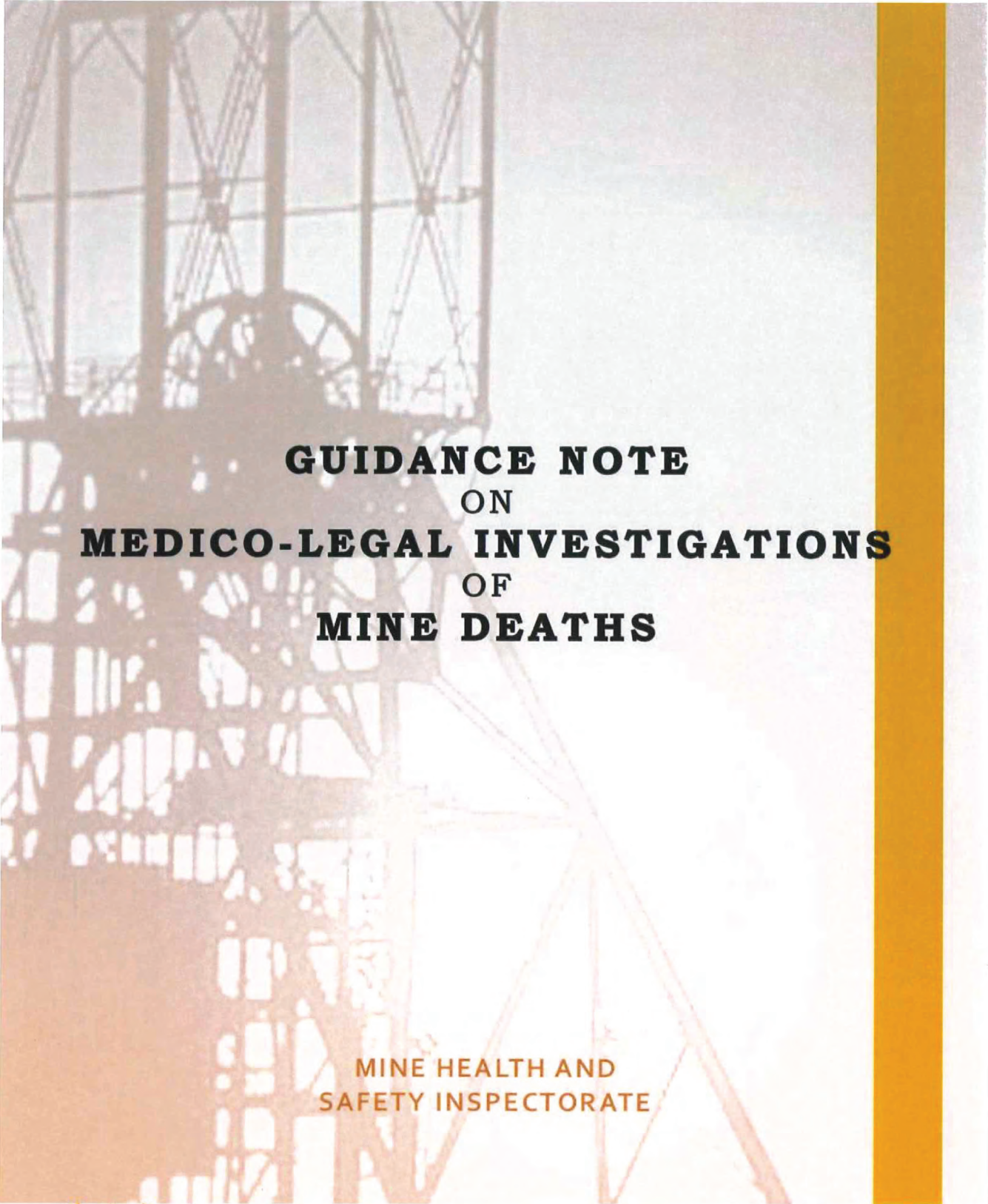


DEPARTMENT OF MINERAL RESOURCES**NO. 651****10 MAY 2019****MINE HEALTH AND SAFETY ACT, 1996 (ACT NO 29 OF 1996)****GUIDANCE NOTE ON MEDICO-LEGAL INVESTIGATIONS OF MINE DEATHS**

I, **DAVID MSIZA**, Chief Inspector of Mines, under section 49 (6) of the Mine Health and Safety Act, 1996 (Act No. 29 of 1996) and after consultation with the Council, hereby issues the guidance note on medico-legal investigations of mine deaths in terms of the Mine Health and Safety Act, as set out in the Schedule.


DAVID MSIZA**CHIEF INSPECTOR OF MINES****SCHEDULE**



GUIDANCE NOTE ON MEDICO-LEGAL INVESTIGATIONS OF MINE DEATHS

**MINE HEALTH AND
SAFETY INSPECTORATE**



mineral resources

Department:
Mineral Resources
REPUBLIC OF SOUTH AFRICA

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| REFERENCE NUMBER: | DMR 16/3/2/3-A9 |
| LAST REVISION DATE: | First edition |
| DATE FIRST ISSUED: | First edition |
| EFFECTIVE DATE: | 31 March 2019 |

DEPARTMENT OF MINERAL RESOURCES

MINE HEALTH AND SAFETY INSPECTORATE

**GUIDANCE NOTE
ON MEDICO-LEGAL INVESTIGATIONS
OF MINE DEATHS**



CHIEF INSPECTOR OF MINES

mineral resources

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Mineral Resources
REPUBLIC OF SOUTH AFRICA

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PART A: THE GUIDANCE NOTE

1. FOREWORD

The Guidance Note originates from the need to provide clarity on the process that must be followed for deaths that require a medico-legal **autopsy**.

The Guidance Note is intended to assist and give guidance to all stakeholders regarding their roles and responsibilities in cases of natural, unnatural or uncertain mine death.

This Guidance Note sets out good practice and should be read in conjunction with the current and relevant regulatory framework on medico-legal post mortem investigations and does not constitute a specific and/or separate protocol.

Stakeholders are advised to make full use of this document which represents the collective efforts of various stakeholders.

2. LEGAL STATUS OF THE GUIDANCE NOTE

This Guidance Note has been compiled specifically with a view to provide guidance to all relevant stakeholders regarding their roles and responsibilities with regards to medico-legal examinations and investigations of deaths (natural and unnatural) in the South African mining industry. The Guidance Note sets out good practice and must be read and interpreted within the existing legal framework on medico-legal investigations.

This Guidance Note will assist in determining whether the mining related activities may have contributed to the cause of death.

3. THE OBJECTIVE OF THE GUIDANCE NOTE

The objective of this guidance note is to improve the understanding of the legal obligations that relate to medico-legal autopsies and to clarify the roles and responsibilities associated with the handling of deaths that occur in the mining industry.

4. DEFINITIONS

- 4.1 **"Autopsy"** means the post mortem dissection of a body so as to determine the cause of death and the nature of injuries or diseases which may be present.
- 4.2 **"Designated facility"** means a medico-legal mortuary or laboratory especially designed for the medico-legal death investigation process under the auspices of the department of Forensic Pathology Services.
- 4.3 **"Forensic Pathology Officer"** means a person appointed by the department to provide a **medico-legal investigation of death** service within their scope of practice.
- 4.4 **"Investigating Officer"** means a member of the **South African Police Service** appointed in terms of the South African Police Service Act, 1995 (Act No. 68 of 1995) or an employee of the Independent Police Investigative Directorate appointed in terms of the Independent Police Investigative Directorate Act, 2011 (Act No. 1 of 2011),

designated as an **Investigating Officer** to investigate the cause and circumstance of death of a particular person.

- 4.5 **"Medical practitioner"** means a person registered as a **medical practitioner** in terms of the Health Professions Act, 1974 (Act No. 56 of 1974).
- 4.6 **"Medico-legal investigation of death"** means the investigation into the circumstances, manner and possible causes of death which are or may have been due to unnatural causes as defined.
- 4.7 **"Medical Inspectorate"** means the Medical Inspector and mine inspectors for occupational medicine.
- 4.8 **"Natural death"** means deaths that are due entirely to natural diseases, and are not precipitated by any other event.
- 4.9 **"Post mortem examination"** means an examination of a body, with the purpose of establishing the cause and circumstance of death and factors associated with the death, and in the context of these regulations, for medico-legal purposes.
- 4.10 **"South African Police Service"** means the police service established in terms of the South African Police Service Act, 1995 (Act No. 68 of 1995).
- 4.11 **"Unnatural death"** for the purposes of the **medico-legal investigation of death**, the following shall be deemed to be deaths due to unnatural causes:
- (a) any death due to physical or chemical influence, direct or indirect, or related complications;
 - (b) any death, including those deaths which would normally be considered to be a death due to natural causes, which may have been the result of an act, or omission of act, which may be criminal in nature;
 - (c) any death as contemplated in Section 48 of Health Professions Amendment Act 29 of 2007. The death of a person undergoing, or as a result of, a procedure of a therapeutic, diagnostic or palliative nature, or of which any aspect of such a procedure has been a contributory cause, shall not be deemed to be a death from natural causes as contemplated in the Inquest Act, 1959 (Act No. 58 of 1959), or the Births, Marriages and Deaths Registration Act, [1963 (Act No. 81 of 1963)] 1992 (Act No. 51 of 1992); and
 - (d) where the death is sudden and unexpected, or unexplained, or where the cause of death is not apparent;

5. ACRONYMS AND ABBREVIATIONS

| | |
|-------------|--|
| AIDS | Acquired Immunodeficiency Syndrome |
| CIoM | Chief Inspector of Mines |
| DMR | Department of Mineral Resources |
| FPS | Forensic Pathology Services |
| HIV | Human Immunodeficiency Virus |
| IoM | Inspector of Mines |
| MHSA | Mine Health and Safety Act |
| MHSI | Mine Health and Safety Inspectorate |
| NIOH | National Institute for Occupational Health |

| | |
|--------------|--|
| SAPS | South African Police Services |
| ODMWA | Occupational Diseases in Mines and Works Act |
| OMP | Occupational Medical Practitioner |

6. MEMBERS OF THE TASK TEAM

This guidance note was prepared by members of the Task Team, which comprised of:

| | |
|----------------|---------------------|
| Dr. D Mokoboto | (State) Chairperson |
| Ms. M. Hlapane | (State) |
| Dr. Z Eloff | (Employers) |
| Mr. A Letshele | (Labour) |

7. BACKGROUND INFORMATION

The mining industry experiences various challenges with regards to the handling of investigations of deaths.

These are (amongst others):

- (a) Uncertainties regarding the roles and responsibilities of stakeholders, mentioned in item 9 below, in an event of death.
- (b) A significant proportion of deaths in the mining industry is complex and requires specialists' skills when performing medico-legal **post mortem examinations**.
- (c) Sudden deaths have been reported, where there is no associated accident or occurrence.
- (d) The manner in which the post-mortem process is handled by:
 - the employers; and
 - the State's Forensic Pathology Service (**FPS**).
- (e) Timeous processing and submission of a **post mortem examination** report to facilitate the conclusion of the **MHSI** investigations in terms of section 11 (5) and 60 (1) of the **MHSA**.

It is important that all stakeholders co-operate in the collection of any relevant information or evidence to ensure that all aspects relevant to a death within the mining industry are considered during an investigation.

8. RELEVANT ACTS AND OTHER STATUTORY PROVISIONS.

The Guidance Note should be read in conjunction with the following legislations that govern how deaths should be handled in South Africa.

It is important that the following legislations, regulating the performance of **post mortem examinations**, are known and understood:

| | ACT | PARTICULARS OF THE ACT |
|---|---|---|
| 1 | Mine Health and Safety Act No.29 of 1996, as amended | <ul style="list-style-type: none"> Provides for the employer notifying the Principal Inspector of any accident or occurrence that results in death [section 11 (5B) (c)]. Provides for no disturbance to the site where death or injury occurred [section 11 (8)]. Initiation of investigations and inquiries in case of death of a person on a mine [section 60(1) and 65] Allows for other legislation regulating the holding of an inquest or other inquiry into a death [section 65 (4)]. Section 64(1) and 72 state the requirement for the written report of recommendations and remedial action following from investigation and inquiry. |
| 2 | Occupational Disease in Mines and Works Act No 78 of 1973, as amended | <ul style="list-style-type: none"> Provides that if employees who worked in mines or works die, their cardio-respiratory organs must be sent to the NIOH. Permission from the family to remove such organs is needed in the case of natural death. If the post mortem is being done under the provision of another Act (for example the Inquest Act,) the cardio-respiratory organs may be removed and forwarded to the NIOH. |
| 3 | Inquest Act No 58 of 1959 | <ul style="list-style-type: none"> Provides for the duty to report any death due to causes other than natural [section 2 (1)]. Provides the procedure which must be followed in cases of unnatural deaths [section 3]. The body may be exhumed if already buried [section 4]. Consent of the relatives for autopsy is not required. An inquest into the cause of death. |
| 4 | The Regulations Regarding the Rendering of Forensic Pathology Service (GN R636, GG 30075) of the National Health Act 61 of 2003 | <ul style="list-style-type: none"> A post mortem examination may be done to determine the cause of death in cases of suspected contagious diseases. Provides for removal and transportation of bodies, medico-legal post-mortem examinations, practitioners authorised to observe post-mortem. Provides for medico-legal investigation of specific categories of unnatural deaths [section 36 (1) (3)]. |
| 5 | Health Professions Amendment Act No 29 of 2007, | <ul style="list-style-type: none"> Provides that deaths under the influences of or contributed to by an anaesthetic are unnatural. [section 48]. |
| 6 | Births and Deaths Registration Act No 51 of 1992 | <ul style="list-style-type: none"> Defines conditions under which a medical practitioner may or may not issue a death certificate for natural causes [sections 14, 15, 16 and 17]. |
| 7 | Criminal Procedures Act No. 51, 1977, as amended | <ul style="list-style-type: none"> Provides for an officer of the State officially concerned in the investigation of the case receiving, from the authorised person, a written statement which incorporates relevant medical |

| | ACT | PARTICULARS OF THE ACT |
|----|-------------------------------|---|
| | | opinions or comments upon the post mortem findings or the clinical or other evidence in the case. |
| 8 | National Health Act chapter 8 | <ul style="list-style-type: none"> Provides the control of use of blood, blood products, tissue and gametes in humans. |
| 9 | Section 64 of the MHSA | <ul style="list-style-type: none"> Reports on investigations. |
| 10 | Section 72 of the MHSA | <ul style="list-style-type: none"> Inquiry records and reports. |

9. ROLES AND RESPONSIBILITIES OF STAKEHOLDERS

When a death occurs on the mine premises, the roles and responsibilities of stakeholders are as follows:

9.1 Employer

- (a) The employer should notify the Principal Inspector of Mines, health and safety representatives and the **SAPS**.
- (b) The employer should initiate a section 11 (5) investigation.
- (c) The employer must take part in the investigation conducted in terms of section 11 (6) and 60 (1) of the **MHSA** if so directed by the PloM.
- (d) The employer should ensure that the following steps be taken:
 - i. barricading of the accident scene;
 - ii. taking of names of witnesses and/or survivors;
 - iii. noting in writing the observations of the accident scene;
 - iv. taking photographs of undisturbed scene; and
 - v. making note of environmental conditions.
- (e) The employer should bring the death to the attention of the **OMP** or any **medical practitioner**, as soon as possible, who must certify the death.

9.1.1 Medical Practitioner

- (a) A **medical practitioner** (this may also be the **OMP**) must examine the body and indicate if the likely cause of death was due to natural or unnatural causes.
- (b) The **medical practitioner** should declare death to be natural only if:
 - i. they are familiar with or has access to the deceased's medical records;

- ii. the deceased was known to have a medical condition that was likely to be the cause of death; and
 - iii. after they have been made fully conversant with the circumstances surrounding the death, including the environmental conditions.
- (c) If a death of any person admitted to a hospital from a mine has occurred following admission for a disease, and the death is deemed to be due to natural causes, the **medical practitioner** completes the death certificate and no further investigation is required.
- (d) If the cause of death is natural, the **medical practitioner** should complete a death notification certificate (BI 1663) or Department of Home Affairs (DHA) 1663. A copy of this form should be handed to the next-of-kin or funeral undertakers. If a **medical practitioner** is uncertain or is of the opinion that the death was due to causes other than natural, he/she shall not issue the above-mentioned form and shall inform a police officer and Forensic Pathology Services. (See Annexure 2 on certification of death and **unnatural deaths**).
- (e) In uncertain and unnatural cases, a **medical practitioner** must submit with the body or as soon as possible, all information pertaining to the deceased that may be relevant for medico-legal examinations.
- (f) All anaesthetic associated deaths when handed over to **FPS** should be accompanied by form D28 and GW7/24 (anaesthetic forms) which explains the anaesthetic management and follow up during the procedure before death.
- (g) All forms of intubation, venous lines, drips, catheters and surgical packs should be left in situ as they will be assessed during **autopsy**.
- (h) No **medical practitioner** may perform a **post mortem examination** on the body of a deceased person, unless it is specifically done in terms of the Inquests Act (i.e. within the formal framework of **medico-legal investigation of death** and with the full involvement and consent of the **SAPS**).
- (i) The only exception is when a certificate (form BI 1663), confirming exclusively natural causes of death, was issued before a **post mortem examination** was performed. In this event, a **post mortem examination** may be carried out in terms of the Chapter 8 of the National Health Act, 2003 (Act 61 Of 2003) and can only be done with the expression of prior consent of the next of kin or where the deceased has consented to such an examination prior to his/her death.
- (j) Arrange for removal of cardiorespiratory organs in line with **ODMWA**. Ensure that consent was given by employee or relatives to remove lungs and heart.

9.1.2 Occupational Medical Practitioner

The **OMP** should:

- (a) Assist the **medical practitioner** who completes the death certificate with relevant information (e.g. medical surveillance data, environment where the body was found, etc.) where required.
- (b) Submit, with the body or as soon as possible, all information pertaining to the deceased that may be relevant to the medico-legal examinations, as per Mine Accident Scene Form (Annexure 4).
- (c) Participate in the investigation (section 11(5) of the **MHSA**).
- (d) Assist the **Medical Inspectorate** with any information that may be required.

9.2 Department of Mineral Resources

9.2.1 The Chief Inspector of Mines refer to **MHSA**.

9.2.2 The Principal Inspector of Mines

- (a) The PloM must ensure that an inspection in loco is carried out as part of Section 60 of the **MHSA** investigation. It is advisable to take sworn statements from witnesses wherever possible. If from the investigation there is suspicion of an irregularity falling outside the ambit of the **MHSA**, the PloM must report the matter to the police. The provisions of the **MHSA** dealing with death in mines should be explained to the police when necessary.
- (b) The PloM must ensure the following:
 - i. The requirements for reporting of any deaths at mines are complied with as per the **MHSA**.
 - ii. All inspectors clearly understand what is expected of them when accidents are reported.
 - iii. The **Medical Inspectorate** participates in the investigation, when necessary.
 - iv. The recommendations and remedial action from Section 64 and 72 reports are vigorously followed up to prevent/minimise recurrence.
 - v. There is continuous symbiotic communication between the **SAPS** stations and DMR regional offices concerning all mine deaths. The purpose of this is to ensure that no death happens without being investigated due to claims that it is not mining related.
 - vi. If the findings of the **post mortem examination** link the death to activities and conditions at a mine, then the **MHSI** should consider

these activities and conditions during the statutory investigation and inquiry under the **MHSA**.

- vii. If there is uncertainty about whether the accident is mine related or not, the matter is referred to the **CloM** for a ruling.

9.2.3 The Inspector of Mines and Medical Inspector

- (a) The Inspectorate must offer assistance as may be required by the National Prosecuting Authority, **SAPS** and magistrates in the inquest that may follow.
- (b) Before an inspection in loco is conducted, the Inspector needs to co-ordinate arrangements with the relevant persons, e.g. mine managers, union representatives and necessary mining experts. This should be done to prevent unnecessary delays and possible re-inspections later.
- (c) The **Medical Inspectorate** can communicate with the **OMP** to gather medical information that may be considered important to the investigation.
- (d) The **Medical Inspectorate** can request a post mortem report from the **SAPS Investigating Officer** and can communicate with the authorised person at the Forensic Pathology Service who performed the post mortem to obtain any relevant information regarding the **post mortem examination**.

9.3 South African Police Services

- (a) The **SAPS** must investigate all deaths due to unnatural and/or uncertain causes, and open an inquest docket (section 2 of the Inquest Act, Act No 58 of 1959, as amended).
- (b) The **SAPS** to notify the Forensic Pathology Services, complete a SAP 180 form and arrange for a medico-legal **post mortem examination** to be conducted.

9.3.1 Forensic Pathology Service

- (a) The relevant Member of the Executive Council of a province must, within national policy and in terms of these regulations, ensure that a Forensic Pathology Service is established and managed within the department.
- (b) The Service contemplated includes, but is not limited to:
 - i. where appropriate, commencing with a scene of death investigation in consultation with the **Investigating Officer** and or appropriate **South African Police Service** member who is on the scene, which includes but is not limited to, taking notes, questioning family and other witnesses, examining the death scene and photographing the deceased or any exhibit or specimens;
 - ii. obtaining any information that is relevant to the medico-legal investigation of a death, including medical and social history, records, as well as taking witness statements;

- iii. taking responsibility for the collection of a body and removal from the scene;
- iv. taking responsibility for the custody of a body from the scene of death until released for burial or cremation, and the processes attached thereto;
- v. taking into custody, thoroughly documenting and maintaining evidence and specimens relating to a body and any associated items or articles at all times;
- vi. assisting, as far as is possible, with the process of identification of the deceased;
- vii. conducting a post mortem investigation, including external and internal examination of a body and retaining of material, tissue or fluids for evidentiary or diagnostic purposes;
- viii. requesting and conducting appropriate special investigations;
- ix. providing medico-legal reports, chain of custody statements, expert testimony and opinions;
- x. archiving documents, specimens and related materials;
- xi. collecting, reviewing and analysing related data; and
- xii. providing information and advice to health or other government authorities or departments.

9.3.1.1 Referral of unnatural cases

All cases of unnatural death as defined in these regulations must be referred to the Forensic Pathology Service.

9.3.1.2 Death scene

The Service is responsible for attending and participating in the death scene investigation, which may include, but is not limited to:

- (a) Managing a request for forensic pathology service response.
- (b) Assessing the scene of death in a given situation, this may include any private, public or business premises, vessel, train, motor vehicle, aircraft where death has occurred for the purposes of conducting a comprehensive death scene investigation.
- (c) Performing forensic pathology activities associated with the scene of death in terms of relevant scope of practice including:

- i. Declaring death in the following obviously dead cases - decapitation, gross mutilation, putrefaction, and charring.
- ii. Examining the body on scene and recording of the incident for the purposes of forensic investigation which includes but may not be limited to photography, sketching, and documentation.
- iii. Interviewing any relevant party including the next of kin and recording medical history and relevant information.
- iv. Obtaining medical records of the deceased from any party or source where relevant.
- v. Assess, handle, collect, preserve and record evidence in line with forensic pathology service procedural requirements.

9.4 Procedure

The summary of steps to be followed in the event of a death in the mining industry is in Annexure 1.

9.4.1 Death of an employee

Reporting to the MHSI about the death

As stipulated in Section 60 (1), any accident or occurrence at a mine that results in the death of a person must be investigated.

In the event of a death, the employer, is required to get a **OMP/medical practitioner** to certify the death.

The **OMP/medical practitioner** should take into account the circumstances surrounding the death, as provided by the employer, as well as the occupational and medical history of the deceased in determining whether the death is due to natural, unnatural or uncertain causes. Should the **OMP/medical practitioner** decide that death is due to natural causes, a death notification certificate (BI1663) should be completed.

In cases where the **medical practitioner/OMP** determines the death as unnatural or uncertain, the **medical practitioner/OMP** must notify the **SAPS** who will open a docket and notify the Forensic Pathology Services. Should the **SAPS** refuse to open a docket or fail to refer the case to the **FPS**, the **medical practitioner** should refer the matter to the **FPS**, the regional medicine inspector and copy the Chief Specialist Forensic Pathologist. A record of this referral must be kept for future reference. The **FPS** must be requested to respond in writing to such referrals.

An authorised person will conduct the post mortem and provide a report (**FPS 007**) to the **SAPS Investigating Officer** who will complete the investigation. The **SAPS Investigating Officer** must give a copy of the post mortem report to the **Medical Inspectorate** of the DMR for the purposes of completing the Section 60 (1) investigation.

- i. Declaring death in the following obviously dead cases - decapitation, gross mutilation, putrefaction, and charring.
- ii. Examining the body on scene and recording of the incident for the purposes of forensic investigation which includes but may not be limited to photography, sketching, and documentation.
- iii. Interviewing any relevant party including the next of kin and recording medical history and relevant information.
- iv. Obtaining medical records of the deceased from any party or source where relevant.
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An authorised person will conduct the post mortem and provide a report (**FPS 007**) to the **SAPS Investigating Officer** who will complete the investigation. The **SAPS Investigating Officer** must give a copy of the post mortem report to the **Medical Inspectorate** of the DMR for the purposes of completing the Section 60 (1) investigation.

9.4.2 Death in a hospital

Once a death occurs, a **medical practitioner** must determine if the death is natural, unnatural or uncertain. The medical and occupational history of the deceased should be taken into account in reaching this decision. If the death is due to natural causes, the **medical practitioner** must complete a notification of death certificate (BI 1663).

If a death has occurred in a hospital and is deemed to be due to unnatural causes – i.e. as result of or due to complications that developed following a mine accident or as contemplated in Health Professions Amendment Act 29 of 2007, section 48 (anaesthetic death) - the medical doctor shall not complete the death notification form (BI 1663) and should follow the procedure for unnatural causes of death.

If the death is unnatural/uncertain, then the process for unnatural/uncertain deaths, described above, should be followed.

10. MEDICO-LEGAL ASPECTS TO BE CONSIDERED

10.1 Performance of medico-legal post mortem examinations

A **post mortem examination** must only be conducted at a **designated facility** or at an institution to which the Service has referred the body.

10.1.1 Practitioners authorised to conduct or assist with **post mortem examination**

- (a) A **post mortem examination** must only be performed by an authorised **medical practitioner** who has been appointed in the Service for such purposes.
- (b) Assistance at a **post mortem examination** may only be rendered by authorised **forensic pathology officers** who have been appointed in the Service such purposes, within their scope of practice.
- (c) An authorised **medical practitioner** may consult with other qualified professionals and request such professionals to participate in the **post mortem examination** and contribute to the further examination of such a body.
- (d) A student or trainee personnel in the Service may participate in a **post mortem examination**, but only under the direct guidance and supervision of an authorised person.
- (e) A **forensic pathology officer** may remove a specimen or exhibit from the deceased under the instruction and supervision of an authorised **medical practitioner**.
- (f) Where necessary, an authorised **medical practitioner** may authorise the removal of a fluid or tissue specimen by a forensic pathology officer or by a member of the **SAPS** Victim Identification Centre, prior to such removal.

- (g) During the performance of **post mortem examinations**, the forensic pathology officer may perform eviscerations and organ removals under the supervision of an authorised **medical practitioner** and assist him or her with such **post mortem examination** and perform certain functions connected therewith, as contained within their scope of practice and job descriptions.

10.2 Performance of medico-legal post mortem examinations

In the medico-legal investigation of unnatural and/or uncertain deaths, medico-legal **post mortem examinations** should only be carried out by **FPS** pathologist/forensic practitioners who have been appointed by the province for this purpose and who work in association with the police in a given area or region.

10.3 Who may be present at medico-legal examinations?

In terms of Section 3 (5) of the Inquest Act, the only persons who may be present at a *medico-legal examination* are:

- (a) A policeman
- (b) Any other **medical practitioner** nominated by any person who has satisfied the magistrate, within whose area of jurisdiction such examination takes place, that he/she has a substantial and peculiar interest in the matter of the examination.
- (c) Any other **medical practitioner** nominated by the state appointed **FPS** pathologist/forensic practitioner conducting the examination.
- (d) The state appointed pathologist/forensic practitioner conducting the examination.

10.4 The completion of reports on Medico-Legal post mortem examinations

(Form **FPS** 007)

(Chapter 6 of National Code of Guidelines of Forensic Pathologists in South Africa)

- (a) The completed form or report must be handed to the **SAPS Investigating Officer** investigating the circumstances of death.
- (b) Reports must be as detailed as possible in legible handwriting, but preferably typewritten on a word processor using the form **FPS** 007 as a template.
- (c) It is desirable that photographs of the body are taken of all the injuries present at the time of the **post mortem examination**.
- (d) The appointed state **FPS** pathologist/forensic practitioner should complete form GW7/15 in all cases, regardless of whether the death was due to natural or unnatural causes, and hand the reports to the **SAPS Investigating Officers**.
- (e) No copies of form GW7/15 or any information concerning the **post mortem examination** may be divulged to any person except to Government Officials which may require this for the purposes of:
 - i. The Inquest Act, 1959 (Act No 58 of 1959)

- ii. The Mine Health and Safety Act, 1996 (Act no 29 of 1996)
 - iii. The Occupational Health and Safety Act of 1993 (Act 85 of 1993)
 - iv. Occupational Disease in Mines and Works Act of 1973 (Act No 78 of 1973)
 - v. The Compulsory Motor Vehicle Insurance Act of 1972 (Act No 56 of 1973)
 - vi. The Prisons Act, 1959 (Act No 8 of 1959)
 - vii. The Aviation Act, 1962 (Act No 74 of 1962)
 - viii. The Criminal Procedure Act, 1977 (Act no 51 of 1977)
 - ix. The Surgeon-general Act of South Africa Defence Force
- (a) In all other cases, persons requiring information must be referred to the **SAPS Investigating Officer** or magistrate who may issue a copy of the report. **Note that attorneys** are not Government Officials and must obtain a copy via the magistrate.

NOTE:

More details on the confidentiality of medico-legal reports are in Annexure 3.

10.5 Occupational Diseases in Mines and Works Act requirements

- (a) The removal of the cardio-respiratory organs of persons who fall under the Occupational Diseases in Mines and Works (ODMWA) Act No. 78 of 1973, is not a medico-legal function, and where the removal of these organs is required in terms of the Act, such removal must not interfere with the post-mortem investigations (if required).
- (b) The cardio-respiratory organs must be removed, with the consent of the family, and forwarded to the **NIOH**. The results of the **NIOH autopsy** examination must be sent to the Medical Bureau of Occupational Diseases (MBOD) for certification and possible compensation in the event that occupational disease is diagnosed. This applies to all mineworkers including contractor employees.

11. CAUSES OF DEATHS

11.1 Primary cause of deaths

The primary medical cause of death is described as the disease or injury, which initiated the train of morbid events leading directly or indirectly to death.

11.2 Contributing cause or condition

The contributing cause or condition is not the primary cause of death but contributes to the death being earlier than otherwise expected. Here, causation is relevant e.g. diabetes mellitus, coronary arteriosclerosis.

11.3 Predisposing causes or conditions

Predisposing or underlying conditions or causes may lead to a particular event. They may be closely related to the contributing cause or condition and often cannot be distinguished from it. Alcohol and barbiturate (sleep inducing drugs) ingestion, epileptic fits and psychological conditions are examples of predisposing or underlying conditions which may cause an accident in which the subject is injured. Even if these conditions cannot be determined at a **post mortem examination** they must be borne in mind.

11.4 Precipitating causes or conditions

These are conditions which causes something to happen immediately or cause the immediate development of a particular illness.

11.5 Terminal cause of death

The terminal cause of death is usually the result of a complication which occurs. A person with a head injury (the primary medical cause) often develops bronchopneumonia (the terminal cause).

11.6 Exclusive (sole) cause of death

The exclusive or sole cause of death is a cause where no contributing or other factors play a role. This cause is the primary medical cause of death where, for instance, a person receives a stab wound into the aorta and dies. In this case there can be no doubt as to the cause of death.

NOTE:

The investigation of death as a result of environmental conditions (such as heat illnesses) may be difficult to evaluate from a technical and/or medico-legal perspective. It is advisable therefore that the **post mortem examination** be conducted as a matter of urgency after death and that emphasis be given to all available medical information and circumstantial history.

12. HUMAN IMMUNODEFICIENCY VIRUS AND ACQUIRED IMMUNODEFICIENCY SYNDROME

Note should be taken that the presence of **HIV** and **AIDS** is not to be regarded as an automatic cause of death. All deaths following a mine injury should be investigated irrespective of the **HIV** status of the deceased.

13. ALLEGED SUICIDE CASES

Every year the South African mining industry experiences a number of suicides. The following will provide some guidance regarding evidence that must be gathered to enable the **CioM** to make a ruling in respect of whether the particular incident is a mine accident or not.

One must not lose sight of the fact that a suicidal person usually sends out signals of distress and whenever possible these need to be followed up to obtain a better picture of the situation.

13.1 Main reasons for committing suicide. These include but are not limited to the following:

- Major Depression
- Alcohol abuse
- Drug abuse
- Debts (financial problems)
- Marital problems
- Job loss
- Health problems including mental problems (medical records)
- Perceived rejection

13.2 Some main methods adopted to commit suicide: These include but are not limited to the following:

- Hanging (most common)
- Jumping from heights, into excavations
- Drowning

13.3 Some evidence which can be followed up:

- Suicide notes or personal letters (may not always be present).
- Statements from colleagues, friends or relatives regarding the personal problems faced by the person or admissions made.
- Evidence of financial difficulties and a plea for urgent assistance to colleagues, friends, relatives or employer.
- Clothing neatly stacked with cap lamp and hard-hat removed.
- A number of reported deaths have occurred shortly before the termination of work contracts or before onset of leave.

When recommending that a death be classified as a suicide, the **Investigating Officer** must bear in mind that an error in classification can have severe social, legal and financial ramifications. With that in mind, the **Investigating Officer** must endeavour to completely understand the suicide by familiarising him/herself with the risk factors, the methods and the entire scenario, as well as the presence of myths and falsehoods.

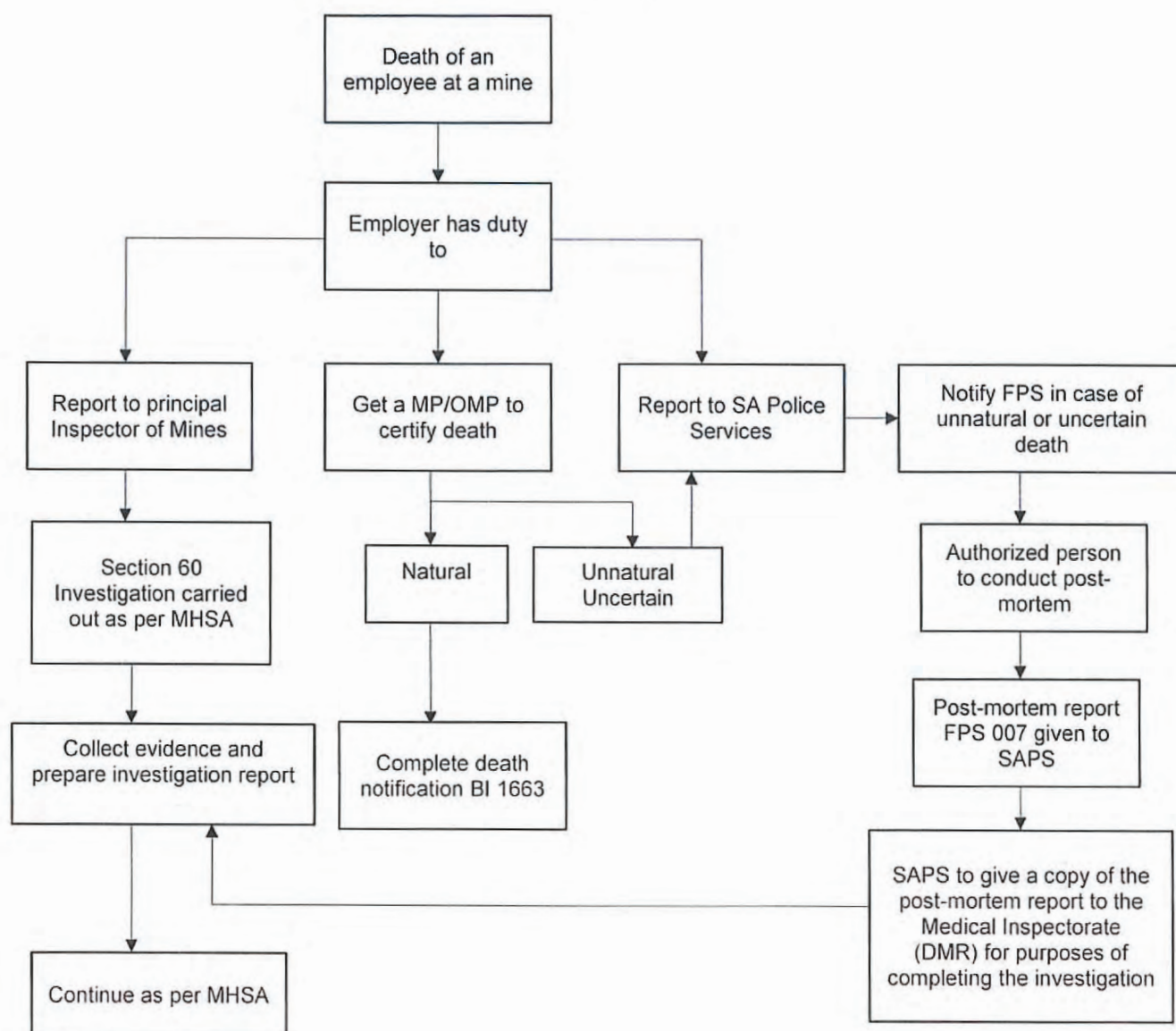
13.4 Suspected substance abuse (alcohol and drugs)

As a matter of course, blood samples should be taken for alcohol and substance tests.

NOTE:

In all cases the completed inquiry, together with the recommendations of the **IoM**, must be forwarded to the **CloM** to make the final ruling.

ANNEXURE 1: Guidance note for **medico-legal investigation of deaths** in the mining industry
Roles and responsibilities of stakeholder



ANNEXURE 2: Certificate by medical practitioner

1. In terms of the Births and Deaths Registration Act, a certificate (Notification / Register of Death / Stillbirth - BI 1663) stating the cause of death, must be issued promptly where appropriate.
2. The Births and Deaths Registration Act states that:
 - (a) Section 15(1) Where a **medical practitioner** is satisfied that the death of any person who was attended before his death by the **medical practitioner** was due to natural causes, he shall issue a prescribed certificate stating the cause of death.
 - (b) Section 15 (2) A **medical practitioner** who did not attend any person before his death but after the death of the person examined the corpse and is satisfied that the death was due to natural causes, may issue a prescribed certificate to that effect.
 - (c) Section 15 (3) If a **medical practitioner** is of the opinion that the death was due to other than natural causes, he shall not issue a certificate mentioned in subsection (1) or (2) and shall inform a police officer as to his opinion in that regard.
 - (d) Section 17 (1) After an investigation as to the circumstances of a death due to other than natural causes in terms of section 3 of the Inquests Act, 1959... the **medical practitioner** concerned shall, as soon as he is satisfied that the corpse concerned is no longer required for the purposes of an examination mentioned in the said section 3, issue a prescribed certificate to that effect and deliver it to the police officer concerned.
 - (e) Section 17 (2) After the certificate referred to in subsection (1) has been issued, the police officer concerned, or any person contemplated in section 4, as the case may be, may, on the basis of the said certificate, complete the prescribed death register, without stating a cause of death, and the police officer concerned or the person contemplated in section 4, as the case may be, may issue the prescribed burial order authorising burial.
3. The Inquests Act, 58 of 1959, provides for the holding of inquests in cases of deaths due to other than natural (unnatural) causes. Sections 2 and 3 deals with the duty to report deaths and the investigation of the circumstances of certain deaths. The Inquests Act states:
 - (a) Section 2 (1) Any person who has reason to believe that any other person has died and that the death was due to other than natural causes, shall as soon as possible report accordingly to a policeman, unless he has reason to believe that a report has been or will be made by any other person.
 - (b) Section 3(1) Subject to the provisions of any other law providing for an investigation of the circumstances of any death, any policeman who has reason to believe that any person has died and that such a person has died from other than natural causes, shall:

- i. Section 3 (1) (a) investigate or cause to be investigated the circumstances of the death or alleged death.
- ii. Section 3 (1) (b) report or cause to be reported the death or alleged death to the magistrate of the district concerned, or to a person designated by the magistrate.
- iii. Section 3 (2) If the body of the person who has allegedly died from other than natural causes is available, it shall be examined by the district surgeon or any other **medical practitioner**, who may, if he deems it necessary for the purpose of ascertaining with greater certainty the cause of death, make or cause to make an examination of any internal organ or any part or any of the contents of the body, or any other substance or thing.
- iv. Section 3 (3) For the purposes of any examination mentioned in subsection (2):
 - Section 3 (3) (a) any part or internal organ or any of the contents of a body may be removed there from.
 - Section 3 (3) (b) a body or any part, internal organ, or any part of the contents of a body so removed there from may be removed to any place.
- v. Section 4 A body which has already been interred may, with the permission of a magistrate or attorney-general within whose area of jurisdiction it has been interred, be disinterred for the purpose of any examination mentioned in subsection (2).

ANNEXURE 3: Confidentiality of medico-legal post mortem findings and reports

1. Section 212 of the Criminal Procedures Act, 1977, provides for the handing in of reports on **post mortem examinations** in affidavit form in court. It is advisable that all such reports be in affidavit form since, especially in preparatory examination, these reports may be handed in without the authorised person having to appear in court.
2. If requested to do so by an officer of the State officially concerned in the investigation of the case or in presenting evidence of the case before a court, the authorised person may furnish him/her with a written statement which incorporates relevant medical opinions or comments upon the post mortem findings or the clinical or other evidence in the case. Preferably the case should be referred to a regional **FPS** consultant.
3. No copies of Form **FPS** 007 (the post mortem report) may therefore be divulged to any other person except to the **SAPS** and the Courts, after which official bodies, who may require this in terms of a stipulation of any Act, may obtain copies of the **post mortem examination** reports through the **SAPS** investigation officers or regional magistrates.
4. In all cases, persons may be referred to the relevant **SAPS Investigating Officer**, magistrate or Director of Public Prosecutions, who may issue a copy of the report. It is important to note that private attorneys, family members and insurance companies do not represent official bodies and must obtain a copy of the report via the **SAPS Investigating Officer** or the magistrate, even in cases of motor vehicle accidents. authorised person is requested to fill out forms for insurance purposes, cremation, etc. it is advisable to only certify on the forms supplied that a medico-legal **post mortem examination** has been performed, stating the reference number of the report and date of the examination, and that a copy of the report may be obtained from the relevant magistrate or to issue the relevant **FPS** Form. This information is always regarded to be confidential and such forms should be sealed appropriately.
5. In cases of notifiable conditions under the National Health Act of 2003 (Act No 61 of 2003), the relevant notification must be done.
6. No information (verbal or otherwise) regarding the investigation and outcomes of a case should be divulged by any person other than the authorised person, at his/her discretion, as per section 20(4) of the Inquests Act 58, 1959.
7. Any requests by the media for any information relating to cases, must be referred to the facility manager or authorised person, who must refer it to the Provincial Department of Health.

ANNEXURE 4: Referral letter - Mine related deaths**REFERRAL LETTER - MINE RELATED DEATHS****SECTION A: Details of investigator**

Name of the investigator: _____

Contact details: _____
TELEPHONE NUMBER

E-MAIL ADDRESS

Name of mine: _____

Physical address: _____

Date of incident: ____/____/____
YEAR MONTH DAYEstimated time/date of death: ____:____ ____/____/____
HOUR MINUTES YEAR MONTH DAYDate and time of collection of body by: ____/____/____ ____:____
YEAR MONTH DAY HOUR MINUTES**SECTION B: Deceased particulars**Sex: Male ☐ Female ☐

Age: _____ ID/Passport no: _____

Rigor Mortis: ☐ Hypostasis/Lividity: ☐ Body Temperature: _____ °C

Type of work employed in: _____

SECTION C: Conditions at site of incidentUnderground: ☐ Surface: ☐

Suspected cause of injury/death:

1. Electrical discharge / Electrocution

Circumstances: _____

2. Entrapment

Circumstances: _____

3. Explosions

Circumstances: _____

4. Fall

Circumstances: _____

Height: Moving vehicle: Other: **5. Burns**

Circumstances: _____

Flame: ☐ Liquid: ☐ Chemical: ☐ Gas: ☐ Other: **6. Thermal Stress**

Ambient temperature: _____ °C

Circumstances: _____

7. Transport: Tram / Lifts / Vehicle / OtherSingle accident: ☐ Frontal impact: ☐ Operator: ☐Multiple accidents: ☐ Side impact: ☐ Passenger: ☐Roll over: ☐ Rear impact: ☐ Pedestrian: ☐

Circumstances: _____

8. Gassing / poisoning

Suspected gas/es: _____

Circumstances: _____

9. Sudden Death / Suicide / Unknown

Circumstances: _____

SECTION D: Signatures

Rank of the investigating officer: _____

Signature of investigator: _____

Date: _____ / _____ / _____
YEAR MONTH DAYTime: _____ : _____
HOUR MINUTES