

INQUESTS

TEXAS JUSTICE COURT TRAINING CENTER



First Edition

April 2018

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FOREWORD

This deskbook on *Inquests (1st ed. April 2018)* represents the Texas Justice Court Training Center's ongoing commitment to provide resources, information and assistance on issues of importance to Texas Justices of the Peace and Constables and their court personnel, and continues a long tradition of support for judicial education in the State of Texas by the Justices of the Peace and Constables Association of Texas, Inc.

We hope you will find it to be a valuable resource in providing fair and impartial justice to the citizens of Texas.

Thea Whalen

Executive Director

USER NOTES

This deskbook on *Inquests (1st ed. April 2018)* is intended to offer a practical and readily accessible source of information relating to issues you are likely to encounter handling your inquest duties.

This deskbook is not intended to replace original sources of authority, such as the Code of Criminal Procedure or the Health and Safety Code. We strongly recommend that you refer to the applicable statutory provisions and rules when reviewing issues discussed in this book.

Rather than including the citations to cases in the text of the deskbook, we have listed only the case name in the text but have included the entire citation in the appendix of cases.

Please do not hesitate to contact us should you have any questions or comments concerning any of the matters discussed in *Inquests*.

Texas Justice Court Training Center

April 2018

Chapter 1: What is an Inquest?

The word 'inquest' refers to the investigation of a death.

Inquests were first used in Scandinavia in the 1000's. Most people today are familiar with the term being used in England where much of American law has its roots.

Some states use coroners or medical examiners; others use juries or prosecutors.

In Texas, the duty of performing an inquest in most counties falls on the Justice of the Peace.

Thirteen counties have medical examiners and do not use a Justice of the Peace: Bexar, Collin, Dallas, Denton, Ector, Galveston, Harris, Johnson, Lubbock, Nueces, Tarrant, Travis, and Webb.

The official definition of inquest from Texas law is: "an investigation into the cause and circumstances of the death of a person and a determination made with or without a formal court hearing, as to whether the death was caused by an unlawful act or omission." *Code of Criminal Procedure Art. 49.01(2)*



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The justice of the peace does NOT 'pronounce' someone dead. This is a common mistake. It makes sense, if you think about it – a judge should only be called when it is known that the person is in fact dead. Some of this confusion comes from the fact that a JP will need to state a time of death in the death certificate. We will talk about death certificates and what information is contained in them on [page 22](#).

A. Why does Texas Have Inquests?

Texas is a big state with a large population. But many of the people are concentrated in the counties listed above who have medical examiners. Medical examiners can be a large expense to the county and finding a qualified professional may also be a challenge in more rural areas. For Texas, an inquest process that includes justices of the peace works best for the citizens to have timely death investigations. Even though a county does not have a medical examiner, a justice of the peace may refer a case to them for their help. We will talk about how and when a justice of the peace may interact with a medical examiner on [page 14](#).



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The authority to conduct a death inquest is found in Chapter 49 of the Code of Criminal Procedure. Chapter 49 "applies to the inquest into a death occurring in a county that does not have a medical examiner's office or that is not part of a medical examiner's district." Code of Criminal Procedure Art. 49.02. Justices of the peace have authority to perform inquests only on bodies in the county where they serve, unless through a bench exchange ([see page 6](#)). Code of Criminal Procedure 49.04(a). It goes on to say that there are times that a justice of the peace must conduct an inquest and explains that JPs have an independent authority to investigate. Code of Criminal Procedure Art. 49.03 and 49.04.

Inquests are not necessarily criminal proceedings just because some of the basic law about inquests is in the Code of Criminal Procedure. The investigation into a death may become criminal, or it may simply be natural or an accident. We will explain many of the questions that come up when conducting your investigation and what resources are available.

Chapter 2: When is an Inquest Required?

The Code of Criminal Procedure outlines eight times that an inquest is required to be performed by a justice of the peace. Each of these instances will be discussed in detail. The eight deaths requiring an inquest are:

1. The person dies in prison or in jail (unless dies of natural causes and attended by a physician or lawful execution).
2. The person dies an unnatural death from a cause other than a legal execution;
3. A body (or part of a body) is found and the cause or circumstances of the death is unknown. The body may be unidentified.
4. A death that might have been caused by unlawful means (for example, murder).
5. Suicide is (or may be) the cause of death.
6. The person dies without having been attended by a physician.
7. The person dies while attended by a physician who is unable to certify the cause of death.
8. The person is a child younger than six years of age and the death was unexpected (except for a neoplastic disease) or abuse or neglect are suspected.

Code of Criminal Procedure Art. 49.04

This does not mean that an autopsy is **required** in these cases– only an investigation into the death.

A. Prisons and Jails

Individuals who die in a “penal institution” require an inquest. “Penal institution” means: “a place designated by law for confinement of persons arrested for, charged with, or convicted of an offense”. *Penal Code § 1.07 (a) (37)*. In those instances, the person in charge of that jail or prison, will contact that justice of the peace. Code of Criminal Art. 49.18.

Does the ‘penal institution’ itself have a duty to investigate a death? Yes. Generally, a report must be filed with the attorney general within 30 days of the death of the individual in custody. The report is made by the head of the law enforcement agency that housed or was holding the person when they died. The Attorney General must make the report available.

B. Unnatural Death

Unnatural death means a death that is not simply from ‘old age’ or a disease. These deaths are most commonly an accident of some sort, the most obvious being a car accident. Other instances may be an accidental overdose or drowning.

C. Unknown Cause of Death

Deaths that fall into this category are often less mysterious than the heading of this section suggests. For example, an elderly person who is found a few days after dying in their sleep technically fits this



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*Tip for Dealing with Jail
and Prison Deaths*

“Visit your TDCJ Wardens, and other penal institution leaders ahead of time to work out details of how you bring the tools you might need to complete your inquest into their facility. (These items may include: cameras, iPads or tablets, laptops, or cell phones.”

-Gary Jackson, Justice of the Peace, Potter County; Pct. 3

category. The cause of death may not be unique, but this type of death simply requires an investigation – was it a heart attack? A stroke? Congestive heart failure?

A brief discussion with family or the primary care physician may be all that it takes to come to a reasonable conclusion.

1. Body Parts and Unidentified Bodies

Sometimes only a body part remains from an accident or only part of a body is discovered. As an example, one justice of the peace performed an inquest on a head that was found in the local garbage dump. Most body parts that are found are also unidentified.

Unidentified bodies can be found anywhere but are a continual issue on the border with Mexico. If you chose to attempt to identify the body, a great resource is The University of North Texas Center for Human Identification's Forensic Services Unit.

[Click here to submit DNA:](#)

An unidentified body **may not** be cremated, and if it is buried, the “justice of the peace shall record and maintain for not less than 10 years all information pertaining to the body and the location of burial.” *Code of Criminal Procedure 49.09 (e)*. If an autopsy is ordered, certain tests must be performed. *Code of Criminal Procedure 49.10 (l)*

You must report this death to DPS and the National Crime Information Center. See [page 31](#).

D. Unlawful Means

These deaths are murder/homicide/manslaughter investigations. Law enforcement will most certainly be involved from the beginning. The district attorney may also be involved early on during the inquest procedure.

E. Suicide

Many judges are shocked at the number of suicide inquests they see. Many are clearly a suicide by the way in which the death occurred and the fact that a note or electronic message (sometimes on a computer) was left. However, there are instances where it may not be clear. For example, was an overdose intentional or by accident? It can be challenging to handle the family's expectations in these cases. Often the family does not want to believe a loved one committed suicide. They may claim the person was “happy,” or was even “doing better.”

Many people never let on what they are feeling or planning. The paradox is that the people who are most intent on committing suicide know that they have to keep their plans to themselves if they are to carry out the act,”

-Dr. Michael Miller, Assistant Professor of Psychiatry at Harvard Medical School.



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“Suddenly becoming calm after a period of depression or moodiness can be a sign that the person has made a decision to end his or her life.”

-The Cleveland Clinic Foundation

F. No Attending Physician

Many deaths are a simple heart attack or stroke. These are natural deaths that a physician *could* sign the death certificate for. However, if the individual dies at home or somewhere away from medical attention, a justice of the peace will need to be called.

G. Attending Physician Cannot Certify the Death

Often, even if a person was under the care of a doctor at a hospital or other institution, a justice of the peace may be called to perform an inquest. There are several reasons for this. The first is that the doctor cannot complete the death certificate if the death is anything but a natural death. If there is a poisoning, for example, they will not be allowed to properly categorize the cause of death in the state system (For information on death certificates, [see page 22](#)). In these cases, the justice of the peace is the correct person to decide cause and manner of death.

Another reason can be more a matter of policy. A hospital may discourage their doctors from signing death certificates. People frequently die in emergency rooms. Many hospitals do not consider these people to have been ‘admitted’ to the hospital. Without being admitted, the hospital might not have officially assigned an ‘attending physician’ and therefore would not consider the death to have occurred with a physician attending to them.



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When a hospital calls you – this is not the time to try and get technical about the law. You have a doctor who is unwilling to sign claiming that they cannot certify the death. That means that the deceased and their family is relying on you to complete the death certificate and inquest. It is true that in many cases you will simply review the medical chart completed by the doctor at the hospital and use those findings to complete the death certificate. But, it is your duty as the justice of the peace to perform this task even when it appears that a medical doctor could have done it just as easily.

"Institution" means any place where health care services are rendered, including a hospital, clinic, health facility, nursing home, extended-care facility, out-patient facility, foster-care facility, and retirement home. *Code of Criminal Procedure Art. 49.01.*

H. Child Younger than 6

Because of their age, the law requires an investigation as to the cause and manner of death, unless it is the result of a car accident. These can be complicated, particularly if there are some difficult family dynamics, and are some of the most emotional investigations for a justice of the peace to handle. *Family Code § 264.513(a)-(c) & Code of Criminal Procedure 49.04(a)(8).*



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You **must** determine if the death was unexpected or the result of abuse or neglect. If you determine that the death was either, you **must immediately** notify an appropriate law enforcement agency and, within 120 days, notify the appropriate child fatality review board. *Family Code § 264.514(b).*

See Sections 261.001 (1) & (4) of the Family Code for definitions of ‘abuse’ and ‘neglect’.

If the death is expected and is due to a congenital or neoplastic disease, an inquest is not required. You may also consider the death unexpected if caused by an infectious disease if the disease is identified using standard medical procedures, is not reportable to the Department of State Health Services under Chapter 81, Health and Safety Code, and was not caused by trauma or poisoning. *Health & Safety Code §264.514 (a).*



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What if there should have been an inquest, but the person was already buried? The Justice of the Peace may request the body or body part be exhumed (dug back up from the grave) and conduct a proper inquest. *Code of Criminal Procedure Art. 49.09(a)*

Chapter 3: Death Notification

When will you be notified of an inquest and by whom?

Most of the sections of law below will state that the justice of the peace in the precinct where the body was located will be contacted. However, most counties have a rotation or ‘on call’ system where the justices of the peace take turns being available for inquest duty. This helps ensure that there is someone who will be available and allows for better planning.

It is a Class C misdemeanor if the person is required by this article to give notice and intentionally or knowingly fails to give the notice. *Code of Criminal Procedure Art. 49.07 (d).*

Hospice Deaths

You will not be involved in most hospice deaths. If the patient was terminal, but fell, you would need to perform an inquest and sign the death certificate. But in most cases, they are attended by a physician and die of natural causes. If you are called by hospice, be sure to determine if there were other factors that contributed to the death.

Child Fatality Review Team

You may be asked by your county to serve on the child fatality review team committee. *Family Code 264.502(b).* The Department of Health Services should provide training to help the review teams carry out their duties.

How death occurred	Who notifies	Law
Attended by a physician who is unable to certify	Doctor, the hospital, superintendent or general manager of the hospital	49.04 (7) (b) & (c) Art. 49.07.
Penal institution	sheriff or other person in charge of the penal institution	Art. 49.18.
Death requiring an inquest	Peace officer	Art. 49.07.



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If a death occurred more than a year ago, it can still be recorded through the inquest process. *Health & Safety Code §193.007.*

A. What if I am not Available to Conduct an Inquest?

Texas is a large state. For many of you, your county is large in geography, but not high in population. This means that all deaths that require an inquest in your county may fall to only one or two JPs. One JP may be out of town and the other one sick or very far away from the scene of the death. In these situations, there are a couple options.

One, is that your county judge can perform the inquest. Code of Criminal Procedure Art. 49.07 (c)(1) says that the county judge should investigate the death just as a justice of the peace would with all the same authority. Within 5 days of starting the inquest, the county judge will return the information that they have gathered to the JP in the precinct where the body was found. Then that JP will complete the inquest for what the law calls 'final disposition.' TJCTC believes that means to complete the death certificate, maintain the records and make any reports necessary.

A second option is to have what is called a 'bench exchange' with other justices of the peace in neighboring counties. This allows those judges to be included in the list of who could be called if you or the other judges in your county are not available. *Government Code § 27.0545 & Code of Criminal Procedure Art. 49.07 (c)(3).*

To use this option, you will need to plan. First, reach out to the other counties to come to an agreement. Then make that agreement official by signing the bench exchange agreement for inquests.

[Click here for Inquest Bench Exchange Form](#)

Re-opening an Inquest

There may be a time that you get information from a 'credible person' AND you think the outcome may be different if re-investigated. You may reopen the inquest and take the latest information into consideration. *Code of Criminal Procedure Art. 49.041.*



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This form allows you to exchange with as many judges as will agree (simply add more signature spaces). You can also choose to use it only for selected periods of time or it can be open for a longer period. You may also use it only on specific deaths. Bench exchanges can also be used during a mass fatality (numerous deaths from the same incident) to help process the large scene. For more resources on mass fatalities, please see [page 9](#).

When an out-of-county JP conducts an inquest, they will handle it in the same manner as if your county judge conducted the inquest. The other JP must return the information they have gathered within 5 days to the JP in the precinct where the body was found.

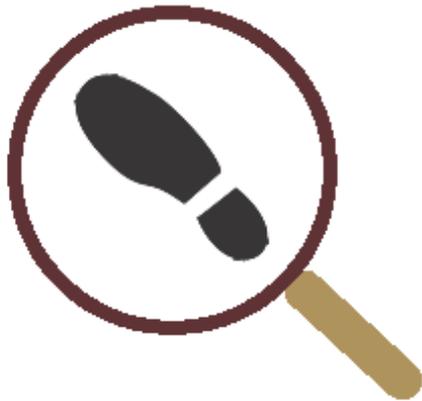
Some of you may have an 'on call' rotation and so the precinct where the death occurred may not be the judge that was on duty during that inquest. The inquest will still need to be returned to the precinct where the body was found. The law could not accommodate local schedules, so this is a consistent way to handle these cases.

[Click here to view the TJCTC article on "Inquest Bench Exchange Agreements in Practice:](#)

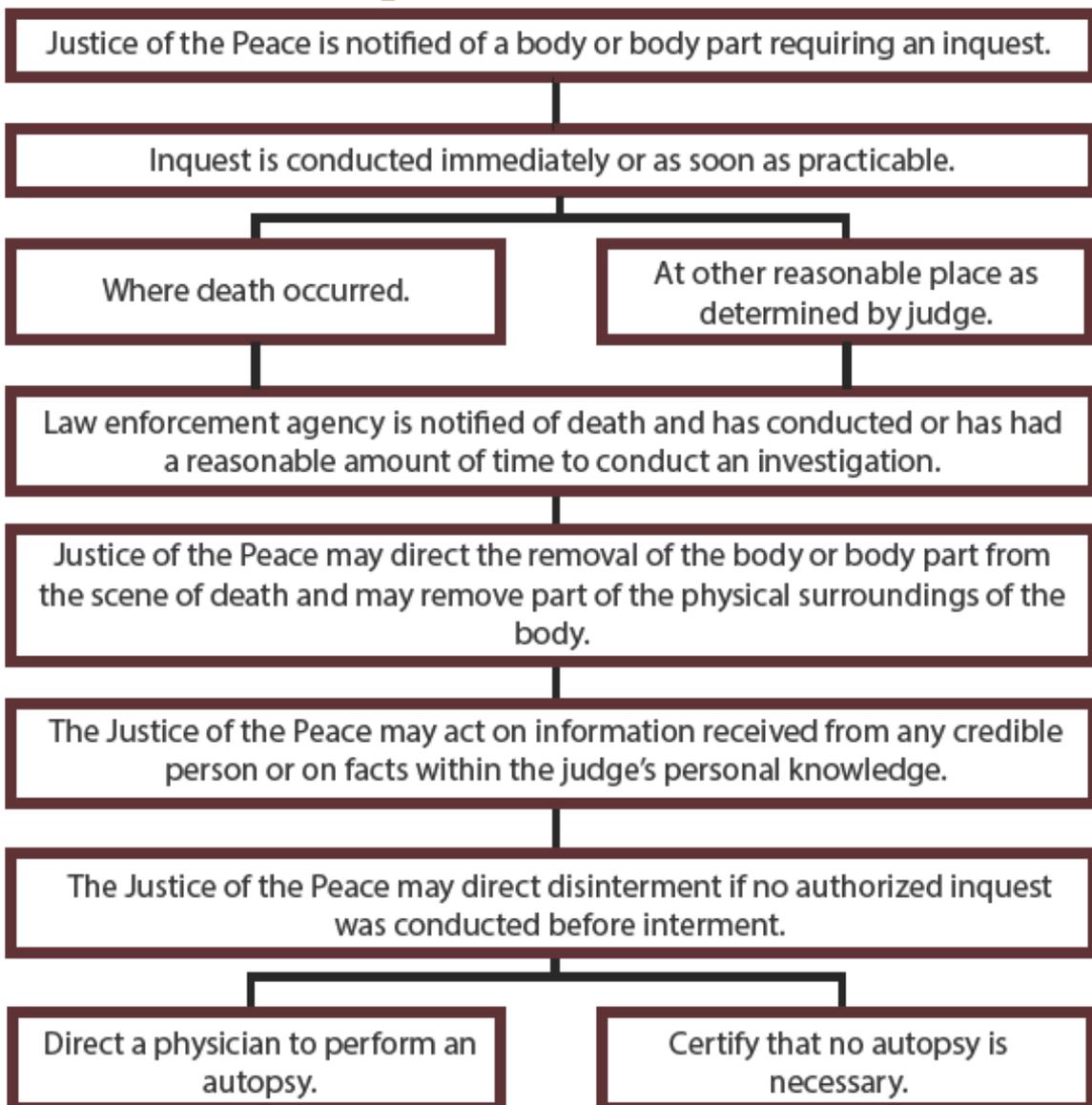


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Chapter 4: How do I Conduct an Inquest?



Inquest Procedure



A. When and Where

“A justice of the peace shall conduct an inquest immediately or as soon as practicable after the justice receives notification of the death.” *Code of Criminal Procedure Art. 49.05 (a)*.

The investigation can be where the death occurred, where the body was found, or a place the justice of the peace “determined to be reasonable”. *Code of Criminal Procedure Art. 49.05 (b)*.

The commissioner’s court shall pay a reasonable fee for the transportation of a body to a place where an autopsy can be performed if you order the body to be transported to that place. *Code of Criminal Procedure Art. 49.10(h)*.

A ‘reasonable’ place is somewhere like a funeral home. Requesting the body be brought to you at an inappropriate place, like a restaurant parking lot, is not a good practice.



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We understand that sometimes a you gather information related to the inquest electronically because of a busy schedule or a far distance. Some judges have used FaceTime to view a scene and others have used ‘apps’ to gain access to information and people. However, TJCTC’s position is that best practice does require you to attend in person.

1. Interacting with Law Enforcement

Law enforcement is often involved in an inquest. The justice of the peace has equal and independent investigation rights. *Code of Criminal Procedure Art. 49.03*.



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A JP must wait until law enforcement is finished with an investigation before directing the body to be moved, but law enforcement also may not move the body or the surroundings (unless it is an emergency like a car accident) until getting permission from the JP. *Code of Criminal Procedure Art. 49.05 (c)&(e)*.

2. Interacting with Families

i. Do I have to Let a Parent View Their Child’s Body?

The short answer is yes. It is important to note that ‘child’ in this section means under 18 years old. Once you assume control of the body during the inquest, the parents **must have your permission** to view, have contact with, remove a medical device, or alter the condition in any way of the child’s body. It must be supervised by you. *Code of Criminal Procedure Art. 49.52(a)&(b)*.



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You may designate someone (like the staff at a hospital) to act on your behalf to supervise the viewing. That individual cannot be compensated by the commissioner’s court. *Code of Criminal Procedure Art. 49.52(d)*.

3. Mass Fatalities

Mass fatalities – or death scenes with many bodies – can happen anywhere for many reasons such as a multi-vehicle accident, a small plane crash, victims from flooding, or a mass shooting.



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[Click here for the TJCTC Mass Fatality Resource Page](#)

[TJCTC Newsletter Article on Mass Fatalities and Bench Exchange Agreements](#)

[Click here for the Online Mass Fatality Module from Texas A&M University](#)

Mass Fatality Planning

- 1. Do you have the resources needed?*
- 2. Who will transport the deceased? Do they have the vehicles and equipment needed?*
- 3. Will you need other funeral homes? Have you had a conversation with these funeral homes to assist with your plan if needed? Do you have refrigeration to hold the deceased, if needed? Can your Medical Examiner handle the number of deceased that you have, or do the deceased need to be split between multiple medical examiners?*

- 1. Matt Kiely, Justice of the Peace who handled the hot-air balloon crash of July 2016 in Caldwell County*

B. The Inquest Scene

1. How do I Protect the Scene?

If the scene needs to be protected for further investigation, the justice of the peace may lock and seal the premises. This is only an option if the property was under the “sole control” of the deceased. Only a peace officer may enter this scene after sealing. The deceased’s estate can be charged any rent, utility charges, taxes or other reasonable costs while the property is under seal. It is a Class B misdemeanor to tamper or remove the seal. Code of Criminal Procedure Art. 49.22.

2. What do I do with the Items I Found at the Scene?

You will find many items at a scene, from personal items to medication, that may tend to show either the cause of the death or identity of the person who caused death. The proper way to handle these items is to either turn it over to the correct law enforcement agency for storage or provide them to the district clerk for safekeeping. Code of Criminal Procedure Art. 49.17.

Tips for Interacting with Families

“I call on my experience as a funeral director to ease families through the inquest process. These are my top four tips:

1. Speak in simple language to everyone involved

2. Explain everything to them.

I tell them exactly what is going to happen to their loved one. If and why I am ordering an autopsy, who will transport them to the Medical Examiner Office, and why law enforcement is involved. Remember, if they are in shock you may have to explain it to them repeatedly.

3. Be patient

Grief affects everyone differently. Some people are very upset, and others are cool and calm. Just be patient; if they need to vent let them vent.

4. Give everyone their private time

I allow every family the opportunity to view their loved one. I try to explain to them all about what they are going to see. If the body is going to be sent for autopsy, I explain that they are not allowed to touch the body. Sometimes if the body is going for autopsy, I will allow the family to touch the face only but give them their space to grieve with the body.”

-BJ Teer, Justice of the Peace, Hopkins County; Pct. 1



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Do not remove items and hold them at your office or otherwise dispose of them. If there are medications, handle it by Code of Criminal Procedure 49.17. If there is cash, do not count it, make a record, and keep it at your office. It is not appropriate according to the law and it leaves you exposed to the family claiming there was more money than you collected.

3. Crimes that May Occur During an Inquest

It is a Class B misdemeanor to intentionally or knowingly 'hinder' an inquest. This may mean blocking access to an inquest scene or behaving in an unruly manner that keeps the justice of the peace from performing their inquest duty. *Code of Criminal Procedure Art. 49.06.*

Individuals who are required to notify a justice of the peace of an inquest ([see chart on page 6](#)) and intentionally fail to do so commit a Class C misdemeanor. *Code of Criminal Procedure Art. 49.07 (d).*

Cremating a body subject to an inquest without the certificate from the justice of the peace is a Class B misdemeanor. *Code of Criminal Procedure 49.09 (d).*

A justice of the peace may seal the premises of the inquest. It is a Class B misdemeanor for someone other than a peace officer to remove or tamper with this seal. *Code of Criminal Procedure Art. 49.22 (d)*

4. Dealing with Death Scenes

Attending and viewing a death scene is a duty unique to justice courts. From arriving at a traffic accident to learn it is a friend to speaking with families at their darkest hour, you may need extra support.

Tips on how to handle this stressful situation from Judge Bill Gravell, Williamson County; Pct. 3:

1. Take note of your own mental health and know when you need to talk to someone.
2. Have that someone to talk to - a fellow JP, your pastor, a therapist - someone other than your spouse who may be doing their best to understand and support you but may not be able to relate.
3. Communicate with your staff. Let them know when you have had a particularly difficult inquest. Let them know it's ok to ask how you are doing. Everyone reacts to trauma differently and your mood could be affected, and your staff should know why.

For help and resources handling judicial related stress, please visit the State Bar of Texas confidential Texas Lawyers Assistance Program that is open to judges:

[Click here to visit the Texas Lawyers Assistance Program](#)

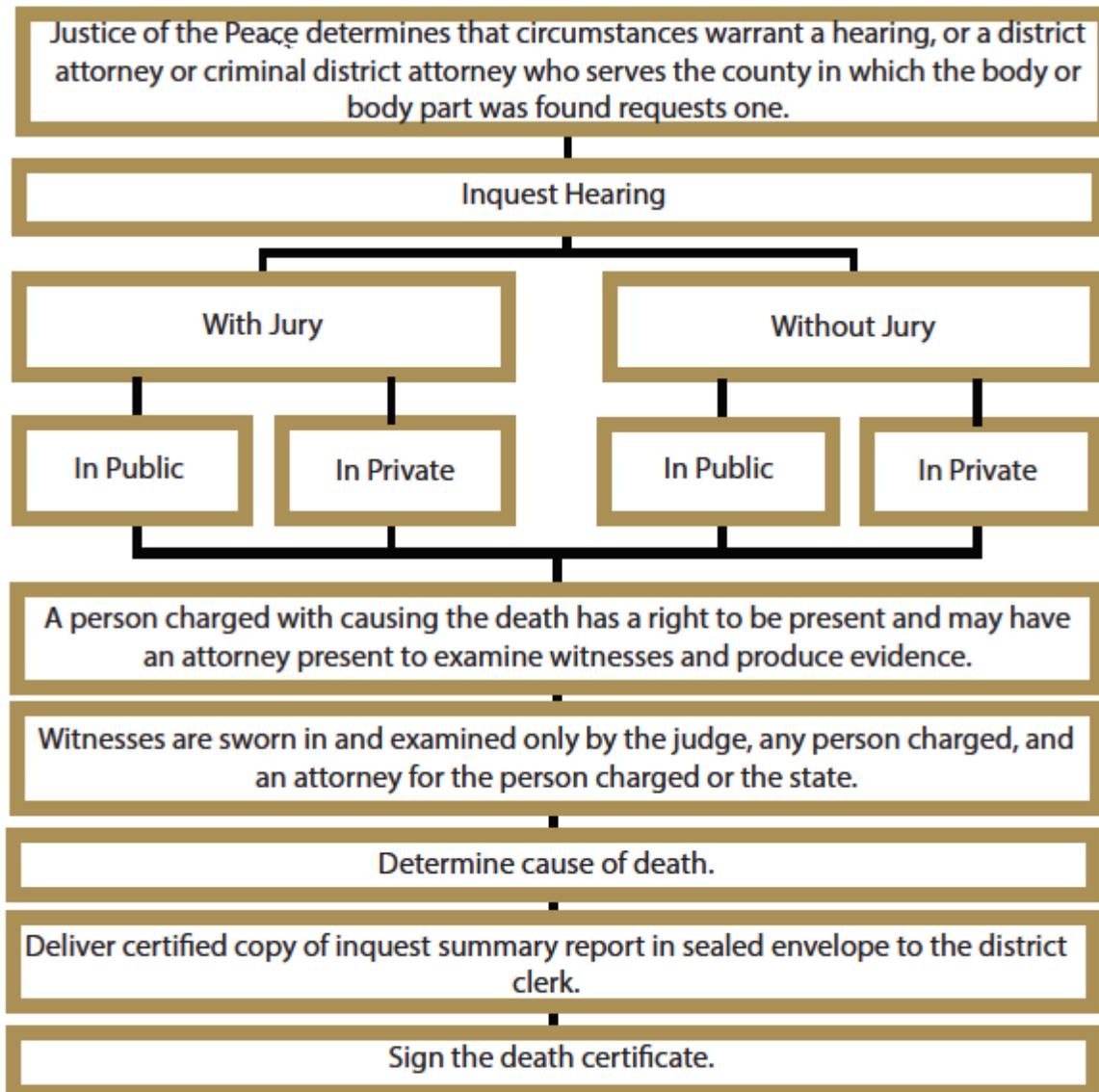


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C. Inquest Hearings



Formal Inquest Procedure



The typical inquest is completed ‘informally’ – the justice of the peace uses resources and information to determine the cause and manner of death. But sometimes the inquest needs to be conducted ‘formally’ – with a hearing. The choice to hold a hearing is up to the JP unless the District Attorney request that one be held. *Code of Criminal Procedure Art. 49.14 (a)*.

A jury may be summoned if you decide one is needed (again, unless the DA request that one be called, then you must empanel one). The jury would be composed of six people and summoned as any other jury could be in county court. *Code of Criminal Procedure Art. 49.14 (b)&(c)*.

The hearing will feel like most other hearings or trials in justice court – there will be witnesses and evidence. You would swear in any witness testifying and may subpoena a witness to make sure they appear. The only people who may question the witnesses are you, the DA, the person accused or their attorney. *Code of Criminal Procedure Art. 49.14 (e), (g) & (h)*.

You may hold someone in contempt for disrupting the proceedings, have them removed by a peace officer and fine them \$100.00 *Code of Criminal Procedure Art. 49.14 (i)*.

1. What if Someone is Suspected of Causing the Death?

While conducting an inquest, you may issue a warrant for the person suspected of causing the death if:

- “(1) the justice has knowledge that the person caused the death of the deceased;
- (2) the justice receives an affidavit stating that the person caused the death; or
- (3) evidence is presented at an inquest hearing that shows probable cause to believe the person caused the death.”

The warrant must be in the name of the State of Texas, identify the defendant, state the offense in plain language and sign it. A peace officer is to execute the warrant without delay and detain the suspect until a proper authority discharges them. *Code of Criminal Procedure Art. 49.19 & 49.20*.

After an inquest, a justice of the peace can commit a person suspected of contributing to or causing the death, require the person to post bail, and have that person report to the correct court to answer the charges. *Code of Criminal Procedure Art. 49.21*.



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How often are these tools used? Rarely if ever. Some inquest law is ‘old fashioned’. Typically, any death that would result in someone being charged with causing death would already have law enforcement and the prosecutor involved; and they will handle warrants and arrest.

Chapter 5: How to Determine Cause and Manner of Death?

Because an inquest is an independent investigation, the justice of the peace may use various resources to determine the cause and manner of death. You may review medical records and subpoena those records if they are not readily available to you. You may act on information from a credible source, which can mean asking family members and friends about the deceased. Code of Criminal Procedure 49.08



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If a justice of the peace requires an EMS “run sheet” or similar document for an inquest, the proper way to obtain the document is by issuing a subpoena. *Attorney General Opinion DM 97-033 (1997)*

A. What is an autopsy and when will I need to use one?

An autopsy is an examination of a dead body by a medical doctor trained in the field to help determine cause and manner of death. The official definition is “a post mortem examination of the body of a person, including X-rays and an examination of the internal organs and structures after dissection, to determine the cause of death or the nature of any pathological changes that may have contributed to the death.” *Code of Criminal Procedure Art. 49.01 (1)*.

Generally, the decision to perform an autopsy is up to the justice of the peace conducting the inquest. If help is needed to determine if you should order an autopsy, you may consult a county health officer or a physician. If you do consult an expert, the commissioners will need to pay a reasonable fee to the doctor. *Code of Criminal Procedure Art. 49.10 (a)*.

Once the decision is made regarding an autopsy, the justice of the peace shall either direct an autopsy to be performed or certify that an autopsy is not needed. *Code of Criminal Procedure Art. 49.10 (c)*.

There are a few limitations on the judge’s discretion to order an autopsy. An autopsy **may not** be ordered if the person dies from a communicable disease during a health disaster, or if the person died from Asiatic cholera, bubonic plague, typhus fever, or smallpox. *Code of Criminal Procedure Art. 49.10 (d)*. An autopsy **must** be ordered if the District Attorney directs the judge. An autopsy **must** be ordered for any unexpected death of a child younger than 6 or anytime abuse or neglect is suspected in the death of a child under 6 years old. *Code of Criminal Procedure Art. 49.10 (e)*.

Top 5 Best Resources of Information to Determine Cause and Manner of Death

4. Medical records (even from their medical history)
5. Samples from the body
6. Police and accident reports
7. Friends and Family statements (take your own!)
8. Criminal Records

- David Cobos, Justice of the Peace, Midland County; Pct. 2

Autopsy Approval

If an inquest is not needed, but a physician cannot locate the person with authority to approve an autopsy, they may ask the JP (or county judge or medical examiner) to give permission to perform an autopsy between 24-48 hours after death. *Code of Criminal Procedure Art. 49.3*.



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A felony prosecutor may request a justice of the peace in another county to order an autopsy on a body of a person who died in that county but was injured in the prosecutor’s county. The county where the injury occurred should cover the autopsy costs. *Code of Criminal Procedure Art. 49.10 (o)*.



You may only order an autopsy in a situation where you performed an inquest. Only individuals with expressed legal authority may order an autopsy. *Attorney General Opinion LO 97-101 (1997)*.

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Commissioners court pays for the autopsy. Commissioners court also pays any reasonable transportation fees for moving the body to the location for the autopsy to be performed. *Code of Criminal Procedure 49.10 (g) & (h) and Attorney General Opinion KP – 0083 (2016)*.



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[Click here to view the Order to Perform an Autopsy by Physician Trained in Pathology Form](#)

[Click here to view the Order to Perform an Autopsy a County Health Officer Form](#)

Autopsy Orders		
Circumstance	Mandated?	Who Pays
Your district attorney orders an autopsy	Yes	Your County
A district attorney from another county requests an autopsy	No	The Other County
A child under 6 dies and the death is determined under Section 264.514, Family Code, to be unexpected or the result of abuse or neglect	Yes	Your County
A child under 1 dies of SIDS	Yes	Your County, state reimburses \$500.00

1. Sudden Infant Death Syndrome (SIDS)

A death of child under 12 months old must be reported to you immediately. If the child died suddenly or the cause of death is unknown, you must inform the parents that an autopsy must be performed. You must notify the parents of the autopsy results. SIDS may be used as the cause of death and in those cases, the state shall reimburse the county for the autopsy costs. *Health & Safety Code § 673.003 & 673.002*

The executive commissioner of the Health and Human Services Commission must establish rules to define SIDS and outline the reimbursement process. *Health & Safety Code § 673.001(3) & 673.002(b)*.

2. Death Related to Pregnancy

Section 1001.241 of the Health and Safety Code, requires the Department of State Health Services to post guidelines on its website, once they are determined, related to:

- Determining when toxicology screenings should be performed on someone whose death was related to pregnancy.
- Determining when an inquest is needed in maternal mortality cases.
- Completing death certificates related to pregnancy.

B. What if Testing is Needed, But Not a Full Autopsy?

The justice of the peace can direct a physician to test only fluid, tissue or an organ to help determine cause and manner of death.

You may also order chemical analysis from a chemist, toxicologist, pathologist, or other medical expert. This can be used to determine if the cause of death was by the “ingestion, injection, or introduction into the body of a poison or other chemical substance.” The justice of the peace **must** order this analysis if the doctor performing the autopsy requests it. The commissioners court will pay the testing fees. *Code of Criminal Procedure Art. 49.11.*

If there is a motor vehicle accident and the driver is suspected of driving while intoxicated, then a justice of the peace may order a physician, qualified technician, paramedic, chemist, registered professional nurse, or licensed vocational nurse to take a blood sample. In any other circumstance, it must be a physician who takes the sample. *Code of Criminal Procedure Art. 49.10 (j).*

1. What if the Body is Unidentified?

A justice of the peace may order a laboratory test to determine the identity of a body. Also, “someone specially trained in identification work” could be ordered to complete tests to identify the body. If this is ordered, very specific information must be obtained. The list can be found [here](#). *Code of Criminal Procedure 49.10 (k) & (l).*

An unidentified body may not be cremated. *Code of Criminal Procedure Art. Art. 49.09 (e).*

A qualified forensic anthropologist may also be used to assist with an unidentified body. The anthropologist could help determine cause and manner of death. They must “attempt to establish whether the body or body part is of a human or animal, whether evidence of childbirth, injury, or disease exists, and the sex, race, age, stature, and physical anomalies of the body or body part.” *Code of Criminal Procedure Art. 49.10(n).*

[Click here to visit the University of North Texas Center for Human Identification’s Forensic Services Unit website.](#)

Tip for investigating the Role Prescription Drugs May Have in a Death

“A procedure I always follow at a scene if the death occurs in the home is to ask if the person was under the care of a doctor. If they are under the doctor’s care, I consult directly with the doctor and ask their opinion as to prognosis or any diseases present. Next, I examine any medications that they have been taking and count the number of pills and determine if there is a possibility that an excess amount have been taken. Then, I have a better idea if a toxicology screen is needed.”

– David Cobos, Justice of the Peace, Midland County; Pct. 2



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2. What is a Death Investigator?

Some counties have chosen to employ specially trained individuals to assist with the inquest load. These individuals are called death investigators. They are paid by the commissioners court and serve at their will. A death investigator would work on an inquest when requested by the justice of the peace. A finalized report containing activities, findings, and conclusions shall be provided to the justice of the peace within 8 hours of the death being investigated. *Code of Criminal Procedure Art. 49.23.*

Chapter 6: Transportation, Burial & Cremation

A. What happens to the Body After the Inquest?

The justice of the peace is “in charge of the body”, so when it is time to decide where the body goes, the judge sends the body to the funeral home chosen by the next of kin. How do you know who is the correct person to make that decision? There is a list, in order of priority:

1. Specific written directions from the deceased
2. the person designated in a written instrument signed by the decedent;
3. the decedent's surviving spouse;
4. any one of the decedent's surviving adult children;
5. either one of the decedent's surviving parents;
6. any one of the decedent's surviving adult siblings;
7. any one or more of the duly qualified executors or administrators of the decedent's estate; or
8. any adult person in the next degree of kinship in the order named by law to inherit the estate of the decedent.

The right to decide what to do with the body passes to the next in line if a decision is not made either 6 days from being notified or by the 10th day after the death. *Health & Safety Code § 711.002.*

1. What if no One Ever Claims the Body?

If there is not one in the list above who claims the body after an inquest, the justice of the peace shall determine how the remains are buried. If there was no inquest and no next of kin as noted above, the county shall determine burial. *Health & Safety Code §711.02*

The Anatomical Board of the State of Texas may have directives for you (your county) to notify them if an unclaimed or pauper body is part of an inquest. If you are to notify them, you follow their instruction to transport the body in the way that they have requested to allow the body to be used for the advancement of medical or forensic science. You should check with your county, or the Board, if you are unsure if this relationship exists. *Health & Safety Code § 691.023.*

You have no role in deciding what happens with a pauper burial. The commissioners court of each county shall pay for the burial or cremation of a pauper. *Health & Safety Code § 694.002(a).*

*Body Transportation:
Permission to Move*

If a family is not immediately available to make funeral arrangements, the decision is made by the JP and cost of transferring the body is a cost to the county. Counties handles this in several ways: a rotation of funeral homes, a competitive bid process, or identify a one funeral home who handles these cases. The family can later arrange to transport the body – at their expense - to their desired funeral home.



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B. What Paperwork is Needed to Transport the Body to a Funeral Home?

It is up to the funeral director to obtain the burial transit permit from the Local Registrar (which you may be, [see page 27](#)) or from the State Registrar electronically through the Vital Statistics Unit electronic death registration system. The burial-transit permit cannot be issued until a certificate of death is completed “in so far as possible”. *Title 25, Part 1, Chapter 181, Rule 181.2(b) Texas Administrative Code.*

C. Cremation

There are 2 situations that involve a justice of a peace and cremation: certification for cremation during an inquest and waiving a waiting period regardless of an inquest.

If you perform an inquest on a body, the death certificate must state that the body may be cremated. The body cannot be cremated until a funeral home receives this death certificate and a cremation authorization form from the family. *Health & Safety Code § 716.051.*

[Click here to view the Cremation Authorization Form](#)

Cremation cannot occur until 48 hours from the death. However, if a party would like that waiting period waived, they must get it waived by the justice of the peace. You are required to make this decision even if you did not perform the inquest. *Health & Safety Code §716.004(a).*

Your office must have a written policy available for the public regarding procedures for a person to waive the 48-hour waiting period and how you will ensure to process the requests quickly. The policy must also address how to place the request during and after business hours. *Health & Safety Code § 716.004.*

D. Organ donation

Organ donation is called ‘organ procurement’ in Texas law. Most inquests will not require any involvement with organ donation. If an inquest does involve organ donation, the first step is often a request from an organ donation organization. These are some of the common organizations that you may hear from: Texas Organ Sharing Alliance, Southwest Transplant Alliance, Unite 4 Life Partners, and Life Gift.

After the request, the Justice of the Peace may permit removal of the organs if: 1) it was a death requiring an inquest and, 2) proper consent listed below is given.

Body Transportation: Cost

“A commissioner court is authorized to pay the cost of transporting a body to its final destination following an autopsy ordered by a justice of the peace only if a body is not claimed for burial or is to be buried at public expense and if the Anatomical Board of the State of Texas does not require the body. Otherwise, the cost of transporting the body to its final destination is the responsibility of the person with the legal duty to inter the deceased, or that person's agent.”

-Attorney General Opinion
KP – 0083 (2016)



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In general, the individuals who may consent to organ donation are as follows:

- (1) an agent of the decedent at the time of death who could have made an anatomical gift under Section 692A.004(2) immediately before the decedent's death;
- (2) the spouse of the decedent;
- (3) adult children of the decedent;
- (4) parents of the decedent;
- (5) adult siblings of the decedent;
- (6) adult grandchildren of the decedent;
- (7) grandparents of the decedent;
- (8) an adult who exhibited special care and concern for the decedent;
- (9) the persons who were acting as the guardians of the person of the decedent at the time of death;
- (10) the hospital administrator; and
- (11) any other person having the authority to dispose of the decedent's body.

Health & Safety Code § 692A.009.



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The consent laws can become even more complicated than noted above, so if this is an issue for you on an inquest, please also review sections 692A.005, .06, .07, .08, 692A.010 and section 693.003.

Three ways the donation can happen:

1. **There was no autopsy** – the organs must be released in a timely manner to the requesting donation organization.
2. **There was an autopsy and no organs need to be withheld** - the organs must be released in a timely manner to the requesting donation organization.
3. **There was an autopsy - but it is not being performed by a medical examiner** (for example if a private pathologist was used) AND a justice of the peace decides to withhold an organ – then the JP must be at the autopsy to request testing or deny donation of the organ. If

Cremation Order Without Inquest

Some funeral homes ask the judge to sign off on ALL deaths prior to cremation – even if the judge did not perform an inquest. This is often done so that if there was a death that **should** have been reported (say a broken hip from a fall, but the person was elderly, so the 'accident' was missed) the judge may conduct an inquest. The reporting could be considered to have happened under either Article 49.05(a) or Article 49.07(a) in the Code of Criminal Procedure. If an inquest is needed, then the judge should proceed with the inquest. If no inquest is needed, then the judge can sign off on the cremation order.

donation is denied, the JP must make a written explanation to the donation organization and any consenting party listed above stating why they denied the donation of the organ. The person removing the organs in this case will need to prepare a report to file with the justice of the peace explaining the “condition of the organs removed and their relationship, if any, to the cause of death”. The same process is followed if the initial request comes from a tissue bank or an eye bank for corneal tissue.

- *If you did need to oversee an autopsy and if it is requested, the organ donation organization will have to pay for up to \$1000 of your time that will go to the county general fund to offset the costs of this duty.*



It is the family’s decision to donate or not. You should follow their wishes and only hold back an organ if it is related to the death and needed for further investigation.

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If the organs to be removed are eyes, only a physician or a dental surgeon of medical dentistry, an embalmer, or technician who has completed specific training can remove them. Health & Safety Code § 693.002 & .006



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You have immunity from civil liability for removal of an organ if the person who could have given permission under 692A.002 failed to object. [Health & Safety Code § 693.005](#)



What if someone was an organ donor and now the family refuses to donate? Family dynamics and difficult personal decisions are common after someone’s death. The role of the justice of the peace is simply to process the inquest. There is no authority or reason to become involved with the family’s wishes. Those disputes are for other courts to handle if the disagreement goes that far.

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E. Fetal Death

There may be times that you are called to a hospital or other location because a baby has died. Sometimes that child may be stillborn. If there was not a live birth, the law does not consider the child to have been ‘born’ and there would not be a birth certificate. Therefore, no death certificate would be required either because – technically, and as heartless as this may seem – there was no legal death. What would instead be required is a fetal death certificate.



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The justice of the peace should not need to be involved in these situations but can be contacted out of caution. For that reason, it is good to understand what qualifies and a live birth vs. a fetal death and when you would need to continue with an inquest.

Consenting Party Cannot be Located

If a person listed in Section 692A.009 cannot be identified and contacted within four hours after death is pronounced and the county court determines that no reasonable likelihood exists that a person can be identified and contacted during the four-hour period, the county court may permit the removal of a non-visceral organ or tissue. “Visceral organ” means the heart, kidney, liver, or other organ or tissue that requires a patient support system to maintain the viability of the organ or tissue.

-Health & Safety Code § 693.003

Organ Donation Definitions

Revised Uniform Anatomical Gift Act provides a long list of definitions that apply to the law. Any terms that were necessary in this deskbook have been explained.

For a full list of definitions, click here to be redirected to the Health & Safety Code Section 692A.002

To determine a fetal death, the length of the pregnancy does not matter.

The death must happen prior to the complete “expulsion or extraction” from its mother – in other words, it must have occurred before labor or during labor or delivery.



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These observations determine life regardless if the umbilical cord has been cut or the placenta is attached

It is a “fetal’ death if after separation, there is:

- no breath; and
- no other evidence of life
 - no beating of the heart
 - no pulsation of the umbilical cord
 - no definite movement of voluntary muscles

25 Texas Administrative Code §181.1 (10).

It is a “live birth” if after separation, the child:

- breathes; or
- shows any other evidence of life
 - beating of the heart
 - pulsation of the umbilical cord, or
 - definite movement of voluntary muscles,

25 Texas Administrative Code §181.1 (17).

If you do find yourself at the hospital interacting with the family of a stillborn child, you can notify them there is a commemorative option that allows them to officially name the child named. It is called a ‘Certificate of Birth Resulting in Stillbirth’. There is a fee and the parents need to contact the office of vital statistics. They will need to complete form VS-301:

[Click here for the VS-301 Form](#)



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There are new laws that explain how fetal tissue must be disposed of. These laws are directed only at abortion facilities. If you were called out to a miscarriage (which would not require an inquest because there was not a live birth), You have no obligation to ensure the fetal burial rule is followed. *Health & Safety Code § 697.*

If arrangements for disposition of the fetus are made through a funeral home, the funeral director should complete the fetal death certificate, with input from the institution where the delivery occurred and the attending physician and or justice of the peace. *Health & Safety Code § 193.002*

When is a JP involved in a Fetal Death?

“Generally, the physician who attended the delivery completes the cause of fetal death. The medical examiner or justice of the peace must determine the cause of fetal death if:

- Abandoned fetus, cause and circumstances of the death are unknown;
- Death believed to have been due to an accident, suicide, or homicide;
- Occurred in prison or in jail;
- No attending physician;
- Physician is unable or unwilling to certify the cause of fetal death; or
- Circumstances of the fetal death are otherwise properly referable for inquest”

-Texas Dept. of State Health Services’ Handbook on Fetal Death

Chapter 7: Death Certificate and other Records

A. What Records Do I Need to Keep?

As the justice of the peace who performs an inquest, you are the official record keeper of that inquest. The first step is that a record **must** be made of the inquest. Each one must be given a case number that is clearly numbered and indexed with other inquests and records. These records are often requested from outside parties and other government officials.

Each record must include:

- a report of the events
- proceedings
- findings and conclusions of the inquest
- any autopsy prepared in the case
- “all other papers of the case” (for example, often the JP takes photographs)



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KEYPOINT: An inquest record is subject to inspection by the public. *Government Code § 27.004(a)*



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A JP may **not** withhold an autopsy report from public inspection even if a prosecutor determines that its release could hinder a murder investigation. Texas Attorney General Opinion. JC-0542 (2002) In this instance, the prosecutor would need to get the district court to seal the record.

B. How Long Do You Keep Inquest Records?

The short answer is that the records are maintained forever.

Texas State Library and Archives Commission is a state agency that provides records retention policies. These guides (sited above) state what records need to be kept, for how long, and why. The

link to the specific schedule above for Local Government Retention Schedules; LC: Records of Justice and Municipal Court can be found here.

[Click here for the Local Government Retention Schedules; LC: Records of Justice and Municipal Court.](#)

You are only responsible for inquest records. Burial records are the responsibility of the funeral home. *Health & Safety Code § 193.009.*

Part 2: Inquest Records

Record Number	Record Title	Record Description	Total Retention	Remarks
LC2375-01	FIRE INQUEST RECORDS			
*LC2375-01a	FIRE INQUEST RECORDS	Case papers	AV	Retention Note: Case papers must be retained PERMANENTLY if not documented in a docket or record book.
LC2375-01b	FIRE INQUEST RECORDS	Docket or record	PERMANENT	
LC2375-02	INQUEST RECORDS			

Record Number	Record Title	Record Description	Total Retention	Remarks
LC2375-02a	INQUEST RECORDS	Case papers 1. Arising from inquests or inquest hearings initiated August 31, 1987 or earlier. 2. Arising from inquests or inquest hearings initiated September 1987 and after.	Destroy at option if the records exist in the District Clerk's Office. PERMANENT.	By law - Code of Criminal Procedure, art. 49.15(b). Retention Note: Prior to September 1, 1987 case papers arising from an inquest were forwarded by the justice to the district clerk. Since that date case papers are retained and become and only an inquest summary report is forwarded. The only case papers retained by a justice of the peace or other magistrate before September 1, 1987 are likely to be copies of materials forwarded. Creation and retention of copies was not required by law.
LC2375-02b	INQUESTS RECORDS	Docket or Record	PERMANENT.	By law- Code of Criminal Procedure, art 49.15(b).
*LC2375-02c	INQUEST RECORDS	Reports of injuries to the Texas Department of State Health Services	AV.	



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1. Are There Additional Records to Maintain if I Hold a Formal Hearing?

Yes. The record must include the type of information that would what occurred during the hearing. This includes:

- (1) the name of the deceased person or, if the person is unidentified, a description of the body;
- (2) the time, date, and place where the body was found;
- (3) the time, date, and place where the inquest was held;
- (4) the name of every witness who testified at the inquest;
- (5) the name of every person who provided to the justice information pertinent to the inquest;
- (6) the amount of bail set for each witness and person charged in the death;
- (7) a transcript of the testimony given by each witness at the inquest hearing;
- (8) the autopsy report, if an autopsy was performed; and
- (9) the name of every person arrested as a suspect in the death who appeared at the inquest and the details of that person's arrest.

The commissioners court shall pay a reasonable fee to a person who records or transcribes sworn testimony during an inquest hearing.

You must certify a copy of the inquest summary report and deliver the certified copy in a sealed envelope to the clerk of the district court. These records are still 'open records' despite the "sealed" language. *Code of Criminal Procedure Art. 49.15(b)*.

[Click here to view the Written Statement of Inquest Witness Testimony Form](#)

C. Death Certificates

A death certificate is required for every death. As the Justice of the Peace conducting the inquest, you will sign and date the death certificate and all orders that were part of the inquest. *Code of Criminal Procedure Art. 49.16*.

You must then certify a copy of the death certificate and provide it to the district clerk. *Code of Criminal Procedure Art. 49.15(a)*.

1. How Do I File a Death Certificate?

Death certificates are filed through the Texas Electronic Registrar (TER) system. This is a division of the Texas Department of State Health Services in the Texas Health and Human Services agency.

TER is an electronic portal. You must have specific clearance to access this and it is part of your responsibility as the Justice of the Peace to get this clearance. Specifically, only authorized individuals may access the vital statistics records. This requires a background check and fingerprinting. *Health & Safety Code § 191.071*.



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Field Service Representatives

Field Representative	Region	Phone Number	E-Mail
Derek Johnson	5S & 6	(512) 776-2530	derekjohnson@dshs.texas.gov
Mike McNutt	1, 9, & 10	(512) 776-2580	mike.mcnutt@dshs.texas.gov
Shannon Nagy	8 & 11	(512) 776-2501	shannon.nagy@dshs.texas.gov
Juanita Moshier	4, 5N, & 7	(512) 776-2342	juanita.moshier@dshs.texas.gov
Soo Teal	2 & 3	(512) 776-2534	soo.teal@dshs.texas.gov
Anthony Patterson	2 & 3	(512) 776-2503	anthonyv.patterson@dshs.texas.gov
Gaetan Carpentier	5S & 6	(512) 776-2598	mailto:gaetan.carpentier@dshs.texas.gov
Raven Wrencher	4, 5N, & 7	(512) 776-6567	mailto:raven.wrencher@dshs.texas.gov
Stephen McCandless	1, 9, & 10	(512) 776-2611	stephen.mccandless@dshs.texas.gov
Danielle Smith	8 & 11	(512) 776-3651	mailto:danielle.smith2@dshs.texas.gov

i. What if a Body is Never Found, but a Person is Missing After a Natural Disaster or Other Major Accident?

If a natural disaster or another type of incident happens, a certificate of death by catastrophe may be issued. These types of occurrences are flood, earthquake, tornado, explosion, fire, motor vehicle, train, or airplane crash involving more than one person. For this type of death certificate to issue, there must be:

- an affidavit from an individual and
- a written statement from the governmental authority that conducted the search.

If these two requirements are met, then the local registrar shall issue a certificate of death by catastrophe.

The person signing the affidavit must state that it had been 10 days since the person was last seen and they were at the scene of the catastrophe. The catastrophe was not caused by this person and a government authority has made a diligent search. The affiant does not know if the person is dead or alive and has no reason to believe that anything other than the catastrophe killed them. *Health & Safety Code 193.010 (a)*.

"Catastrophe" means the occurrence of a substantial force that causes widespread or severe damage, injury, or loss of life or property and from which it is not reasonable to assume that a person could survive. *Health & Safety Code 193.010 (a)*.



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2. When and Where Do I File the Death Certificate?

The death certificate shall be completed within 10th day after the death.



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You may not have all the information necessary. You may file it as 'pending' and then amend to complete the information.

The funeral home will file the death certificate with the local registrar (which you may be, see below) where:

- the death occurs, or
- the body is found, if the place of death is not known

Health & Safety Code §193.003.

The Department of State Health Services makes sure the death certificate asks for the information needed to keep adequate records. This information includes: correct manner to enter the date of death, social security numbers, and where the remains are located. The Department (or you, if you are a local registrar – see below) also makes sure these records are available to the public for a fee. *Health & Safety Code §193.001*

You shall make sure the personal information you are using to complete the death certificate is from someone who is competent and knows the facts. *Health & Safety Code § 193.004(a)*. Medical information shall come from the personal attending physician if the death happened while under the care of that doctor. *Health & Safety Code 193.004(a) & 193.005.*



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[Click here to view the Handbook on Death Registration from the DSHS:](#)

i. Local Registrar



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Are you your precinct's local registrar for birth and death certificates? **Most JPs are NOT.** However, you are - unless you agreed in writing to transfer the authority to the county clerk and the agreement was ratified by the commissioners court. If you are **NOT**, this section does **NOT** apply to you. If you are, please also see our Officeholding deskbook for more information on registrars. *Health & Safety Code § 191.022.*

a. Duties

You shall appoint a deputy registrar so that a registrar will always be available for the registration of births and deaths. You shall sign each report made to the department. You shall annually submit a self-assessment report to the state registrar. The department shall prescribe the information that must be included in the report to allow a thorough desk audit of a local registrar. *Health & Safety Code § 191.022.*

If you have information relating to a birth, death, or fetal death you shall supply the information to the state registrar in person, by mail if requested by the state registrar on the proper form. *Health & Safety Code §191.024.* You must send a report to the state registrar on the 10th day of every month the

original certificates registered the month before and a report of no births or deaths, if that is the case. *Health & Safety Code § 191.024 & 191.029.*

b. Fees Collected

You may collect a fee of not more than \$1 when issuing a vital statistic record. The fee may be used to preserve vital statistics records (birth, death, fetal death, marriage, divorce, and annulment records), train registrars regarding vital statistics records, and ensure the safety and security of vital statistics records. If you collect a fee for a certified copy of a birth certificate, you shall deduct 20 cents of that fee to apply to the registrar's administrative costs and remit \$1.80 of that fee to the comptroller. *Health & Safety Code § 191.0045 (h) & (i).*

c. Record Keeping

You shall secure a complete record of each birth, death, and fetal death that occurs in your jurisdiction. You must keep a copy of these certificates in the required record book. You may permanently bind duplicate reports of births and deaths. You may destroy the permanent record of births, deaths, and fetal deaths after one year from registration if you have access to electronic records maintained by the vital statistics unit and certifies to the state registrar you've compared your records to the electronic ones and none are missing. *Health & Safety Code § 191.026.*

Records cannot be amended or changed unless it is to complete or correct a record that has been shown to be inaccurate. The amendment shall be attached to the original certificate. The individual will be notified by the Department of Health Services within 30 business days if the change has been accepted. *Health & Safety Code § 191.028.*

You must provide a certified copy of a record if requested by a properly qualified applicant. *Health & Safety Code § 191.051.*

You may be contacted by the state registrar of a person's death if they were born in your precinct. You must then note their date of death on their birth certificate. *Health & Safety Code § 191.034.*

Chapter 8: Reports to other Agencies Related to Inquests

[Click here to view the TJCTC Inquest Reporting Guide:](#)

A. Injury Reporting

From the Texas Department of State Health Services:

"The mission of the Injury Epidemiology & Surveillance Branch is to improve the health of Texans by reducing morbidity and mortality resulting from unintentional and intentional injuries.

Our vision is to continually improve the surveillance of reportable events through the use of the EMS & Trauma Registries and other population-based data sources, assess Texas' EMS and trauma care



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systems utilizing epidemiological principles and public health best practices, and to share knowledge through data dissemination, presentations, and reports for the benefit of public health.”

Justices of the peace must make certain injury reports. It is best practices to report monthly, but these reports must be made within 90 days of the death. The reporting must be made through the Texas EMS & Trauma Registries. The login link is below. *Title 25 Part 1 Chp.103 § 103.6 Texas Administrative Code.*

[Click here to view the Texas EMS & Trauma Registries Webpage:](#)

Reportable injuries are:

- Submersion injuries -- The fatal or non-fatal process of experiencing respiratory impairment from submersion/immersion in liquid. *This is basically drowning. There is a specific reporting form for this type of death.*

Submersion reporting form:

[Click here to view the Submersion Reporting Form](#)

- Traumatic brain injuries (TBI)-- An acquired injury to the brain, including brain injuries caused by anoxia due to submersion incidents. *This could be a physical blow or hit to the head that caused death or a suffocation that prevented enough oxygen going to the brain and causing death, like drowning.*
- Spinal cord injuries (SCI)-- An acute, traumatic lesion of the neural elements in the spinal canal, resulting in any degree of sensory deficit, motor deficits, or bladder/bowel dysfunction. *This generally means the person was paralyzed in some way from the injury that killed them.*

Title 25 Part 1 Chp.103 § 103.2 & 103.4 Texas Administrative Code.

Some other definitions to help you understand what the DSHS is looking for:

Trauma--An injury or wound to a living body caused by the application of an external force, including but not limited to violence, burns, poisonings, submersion incidents, traumatic brain injuries, traumatic spinal cord injuries, and suffocations.

Significant trauma injuries--Other severely injured trauma patients whose injury meets the department’s inclusion criteria based on the data dictionaries and admitted to a hospital inpatient setting for more than 48 hours, or died after receiving any evaluation or treatment, or was dead on arrival, or transferred into or out of a hospital.

Suspected case--A case in which an injury is assumed, but a diagnosis is not yet made.

Title 25 Part 1 Chp.103 § 103.2 Texas Administrative Code.



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DSHS Webinars

Click here for DSHS
Webinar for Injury
Reporting Monthly
Updates



Click here for DSHS
Webinar for Injury
Reporting Helpful Links

B. TxDOT Reports

A report must be submitted to TxDOT by the 11th of every month indicating if any deaths were because of a bridge collapse or motor vehicle accident.

If there were no deaths, a report must still be made. Simply state '0' (zero)

If there were deaths, then the report needs to include:

- The name of the deceased
- If they were the passenger in the car or a pedestrian outside of the car
- The date of the accident
- The name of the county (where accident or bridge collapse occurred)
- The name of any laboratory, medical examiner's office, or facility running toxicology testing in the case
- The results of any toxicology testing

Transportation Code § 550.081(b) & (c) (1) -(4).

If toxicological lab results are not available by the date the report is due, you must state "toxicological test results unavailable" and submit a supplement to the report as soon as practicable once the lab result are available. *Transportation Code § 550.081(e).*

These reports help DPS collect data to determine if a stretch of highway is dangerous. Justices of the peace have noted that they have seen changes to their area roadways after reporting multiple deaths in the area.



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POINT

[Click here to view CR-1001 Reporting Form](#)



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C. Child Abuse

If you determine the death was unexpected or the result of abuse or neglect you must immediately notify:

- an appropriate law enforcement agency, and
- the appropriate county child fatality review team of the child's death within 120 days of the death reported to you

Family Code § 264.514(b).

D. Unidentified Person

When investigating the death of an unidentified person, you must report the death to the missing children and missing persons information clearinghouse of the Department of Public Safety and the National Crime Information Center (NCIC) by the 10th working day after the investigation began. *Code of Criminal Procedure Art. 49.04 (d).*

DPS requires a report on unidentified bodies. The report must include:

- the decedent's fingerprints;
- the decedent's hair color, eye color, height, weight, deformities, and tattoo marks; and
- other facts required for assistance in identifying the decedent.

Health & Safety Code §193.005(f).

E. Communicable Disease

"Communicable disease" means an illness that occurs through the transmission of an infectious agent or its toxic products from a reservoir to a susceptible host, either directly, as from an infected person or animal, or indirectly through an intermediate plant or animal host, a vector, or the inanimate environment. *Health & Safety Code § 81.003.*

If you conduct an inquest where you believe that the cause of death may be related to a communicable disease, you must immediately report it to the health authority in your county or the Texas Department of Health. *Health & Safety Code § 81.045(c).*

[Click here to view list of Communicable Diseases:](#)



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F. Suicide

You may – as either a ‘political subdivision (a county)’ or if you are the local registrar - enter a “memorandum of understanding” with another authorized entity to share suicide data that does not name a deceased individual.

The shared data may include:

- date of birth, race or national origin, gender, and zip code of residence
- any school or college the deceased individual was attending at the time of death
- the suicide method used by the deceased individual
- status as a veteran or member of the armed services
- date of the deceased individual's death

You or your employee is not civilly or criminally liable for participating in this exchange of information if the deceased is not named. You are also not prohibited from sharing this data as authorized by other law. *Health & Safety Code § 193.011(e) &(f).*

The suicide data you receive or provide is not confidential. An authorized entity that receives suicide data under a memorandum of understanding authorized by this section may periodically release suicide data that does not name a deceased individual to an agency or organization with recognized expertise in suicide prevention. The agency or organization may use suicide data received by the agency or organization under this subsection only for suicide prevention purposes. *Health & Safety Code 193.011(c) & (d) Health & Safety Code.*

Chapter 9: Fire Inquests

Fire inquests are extremely rare. You would become involved if you receive an affidavit made by a credible person that they think a building has been set on fire intentionally or unlawfully. The process is similar to a death inquest. Please see [Chapter 50](#) (link here) of the Code of Criminal Procedure for further reference.