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Document  
Title: Medicolegal Death Investigation: Terms and Definitions  
*Please use a separate row for each proposed revision and justification.*

Comment #	Document Section	Type of Comment	Current Document Wording	Proposed Revision	Revision Justification	<i>For Working Group and Consensus Body use only, not to be completed by commenter.</i>
		E-Editorial T-Technical				Final Resolution
2	2.2 accident	T	Unexpected or not reasonably foreseen death that results from an event or happening.	Consider changing the definition to "Unexpected or not reasonably foreseen death due to conduct that was not intentional or reckless."	The provided definition is overly general and does not adequately define the elements of an accident. It's crucial to specifically narrow in on the actions that cause an accidental death to occur. It goes beyond mere intent, but also whether they posed an unjustifiable risk of harm to others.	accept with modification; tied it to an event or happening with injury or toxicity.
3	2.2 accident	T	It is unclear what constitutes an "event" or "happening" (and whether these are meant to be synonymous). Also, the words "unexpected or not reasonably foreseen" states the same thing twice--if a death was not reasonably foreseen it would be unexpected. This change is not necessary because redundancy doesn't hurt, but it's not the best either.	Reframe definition in terms of "intent" so as to be consistent with NAME guidelines. Perhaps something like, "An unexpected death resulting from a force external to the decedent that cannot be characterized as homicide." Also, remove the redundancy if the subcommittee agrees one is redundant.		accept with modification; tied it to an event or happening with injury or toxicity.
5	2.3 autopsy	T	More thinking is needed about "next of kin" since some people die with no known next of kin leaving someone who is not kin as the person having "the closest regally recognized relationship " to the decedent. This relationship may be established after the deceased's death to enable management of the estate.	At a minimum since "kin" implies a blood or adoptive relationship in ordinary parlance, one might want to add at the end, including, in the absence of blood or adoptive relations a person who was the legally recognized guardian of the deceased at the time of death.		No redlined revisions to this section. Does not need to be addressed.
7	2.4 cause of death	T	Medical opinion of the disease or injury that resulted in a person's death.	Consider changing the definition to "Medical opinion of the disease(s) or injury(ies) that contributed to a person's death, and opine as to which are proximate and which are the cause in fact."	The provided definition appears to be restrictive by allowing only one possible disease or injury to be proclaimed the cause of death. A more inclusive definition that takes into consideration a range of situations, including those with primary and secondary causes, would be more appropriate.	No redlined revisions to this section. Does not need to be addressed.
8	2.5 certification	T	"Qualified" doesn't necessarily mean that an agency is "authorized" in that jurisdiction.	Perhaps "legally authorized" or just "authorized" is a better term than "qualified".		accept with modification. We agree qualified is not the correct term, but agreed that accredited is, because in the context of MDI certification is conferred by accredited bodies (FSAB and ACGME)
1	2.18 homicide	T	The provided definition appears to be restrictive by allowing only one possible disease or injury to be proclaimed the cause of death. A more inclusive definition that takes into consideration a range of situations, including those with primary and secondary causes, would be more appropriate.	Consider changing the definition to "Death as a result of a volitional act or act of omission (e.g., injury, poisoning, gross neglect of a child) committed by another person to cause fear, harm, pain, restraint, or death..."	This definition is also limiting in its ability to account for complex scenarios. We are particularly concerned with the application to deaths that occur in custody or while one is being taken into custody where restraints are used. In such instances, an officer may argue that the goal was not to cause fear, harm, or death, but simply gain control over a situation. Instituting additional objectives will help encompass diverse circumstances.	accept with modification

4	2.22 manner of death	T	Classification system based on the circumstances under which death occurred and any available postmortem findings, as known to the MDI authority at the time of certification; usually consists of accident, homicide, natural, suicide, and undetermined. Manner of death classification is a statutory function of the medicolegal death investigation authority, as part of death certification for purposes of vital statistics and public health, and does not imply a legal or judicial conclusion.	Consider changing the definition to "...Manner of death classification is a statutory function of the medicolegal death investigation authority, as part of death certification for purposes of vital statistics and public health, and does not and may not be used to prove a legal or judicial conclusion."	Although it is stated here that manner of death "does not imply a legal or judicial conclusion," it is necessary to emphasize this given that the definition of medicolegal is "of or relating to both medicine and law." To highlight that appropriate use in the judicial setting is beyond the scope of this document, consider making this disclaimer stronger.	accept with modification
6	2.35 undetermined	T	The word "available" implies that investigators should consider information indiscriminately. We also wonder whether the definition should accommodate circumstances where some manners of death but not all have been eliminated. Thus the manner of death might be undetermined as between accidental and homicide but it might be clear that it had no medical cause.	Change "available" to "relevant". Also, the word "when" must be cut for the sentence to make grammatical sense. Maybe adding something like, "A finding that the manner of death is undetermined does not mean that some manners of death cannot be ruled out" to the clause would help.		Accept with modification: All available information must be considered in order to determine what is relevant.
9	Ballot Comment		While the revisions in this draft are an improvement, they do not yet adequately address some of the concerns raised by the initial draft. My concerns in particular are: 2.2 accident (manner of death). This new definition of accident is defined too broadly. Under this definition, police killings by restraint would be deemed an accident because police could argue that they did not reasonably foresee death from a restraint. This needs to be tightened so that accident includes only those events in which a volitional act was a but-for cause of death that the actor could not have reasonably avoided. 2.4 cause of death. This language needs to be tightened. It's not clear what is meant here-- primary cause? secondary cause? proximate cause? Perhaps revise to state "Medical opinion of the disease or injury that was the proximate cause of a person's death." 2.18 homicide (manner of death). This definition is too narrow. It would exclude death from police restraint because police could argue that restraint is not an act or omission "to cause fear, harm or death." This could be remedied by adding to this list "pain or submission by restraint." 2.22 manner of death. This definition should be strengthened as follows: "Manner of death classification is a statutory function of the medicolegal death investigation authority, as part of death certification for purposes of vital statistics and public health, and [strike the word "and"] which [add the word "which"] does not and may not be used [the words "and may not be used" are added] to imply a legal or judicial conclusion.			Accident, manner of death and homicide have all been changed.
10	Ballot Comment		I'm voting No principally to echo the above concern with the definitions and terms used to describe "manner of death". I agree that the use of non-medical and non-scientific information to make what is essentially a legal determination should not be in the purview of medical examiners.			Manner of death has been updated.