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**ATTORNEY GENERAL**  
**LAW ENFORCEMENT DIRECTIVE NO. 2004-2**

**TO:** Colonel Joseph R. Fuentes, Superintendent, Division of State Police  
All County Prosecutors  
AAG Vaughn L. McKoy, Director, Division of Criminal Justice

**FROM:** Peter C. Harvey, Attorney General

**DATE:** October 8, 2004

**SUBJECT: JOINT CRASH INVESTIGATIVE PROTOCOL -  
DIVISION OF STATE POLICE & COUNTY PROSECUTORS**

Motor vehicle and vessel crashes involving one or more fatalities and/or serious injuries require a thorough and complete investigation by experienced law enforcement personnel. In order to accomplish that goal, full and complete cooperation between the investigating law enforcement officers at the scene, and the prosecutors, who are responsible for any criminal prosecution arising from the investigation, is essential.

Each County Prosecutor's Office in this State has established their own local procedures and protocols regarding the investigation of motor vehicle and vessel crashes involving one or more fatalities and/or serious injuries. Those procedures and protocols are followed by the municipal and county police and law enforcement agencies within each county. However, coordination and compliance with twenty-one separate investigative procedures and protocols, by the Division of State Police, has proved to be problematic.

In an effort to address this issue, the New Jersey County Prosecutors Association, at the request of the New Jersey Prosecutors Crash Investigators Association, reviewed fatal and serious injury



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accident investigation protocols from the various counties to determine if a single investigative protocol could be established for the Division of State Police to use with all County Prosecutors. The New Jersey County Prosecutors Association subsequently approved the attached Joint Crash Investigative Protocol, to be applicable to the Division of State Police, all County Prosecutors and the Director of the Division of Criminal Justice, and submitted it to the Attorney General for consideration.

After a careful review, it has been determined that the Joint Crash Investigative Protocol - Division of State Police & County Prosecutors, as submitted by the County Prosecutors Association, reflects the appropriate roles of the Division of State Police, as the initial investigating law enforcement agency, balanced against the ultimate responsibility of each County Prosecutor and the Director of the Division of Criminal Justice, for the prosecution of any crimes arising from an investigation. Accordingly, it has been determined that the issuance of an Attorney General Law Enforcement Directive is the appropriate mechanism to implement this Joint Crash Investigative Protocol for the Division of State Police and County Prosecutors.

**THEREFORE, I, PETER C. HARVEY**, Attorney General of the State of New Jersey, by virtue of the authority vested in me by the Constitution of the State of New Jersey, and the Criminal Justice Act of 1970, *N.J.S.A. 52:17B-97 et seq.*, hereby **DIRECT** that the attached Joint Crash Investigative Protocol is an Attorney General Law Enforcement Directive (No. 2004-2). This Attorney General Law Enforcement Directive **SHALL BE ADHERED TO** by the Division of State Police, all County Prosecutors and the Division of Criminal Justice in all investigations of motor vehicle or vessel crashes involving one or more fatalities and/or serious injuries. To the extent it is necessary, Standard Operating Procedures of the Division of State Police **SHALL BE MODIFIED** to conform to this Attorney General Law Enforcement Directive.

jk

Attachment: Joint Crash Investigative Protocol - Division of State Police & County Prosecutors

- c. AAG Daniel Giaquinto, Director, Office of State Police Affairs  
AAG Jessica S. Oppenheim, Chief, Prosecutors Supervision & Coordination Bureau,  
Division of Criminal Justice  
DAG Thomas J. Fiskens, Assistant Bureau Chief,  
Prosecutors Supervision & Coordination Bureau, Division of Criminal Justice  
DAG Stephen H. Monson, Prosecutors Supervision & Coordination Bureau,  
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**ATTORNEY GENERAL LAW ENFORCEMENT DIRECTIVE NO. 2004-2**  
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- I. Attorney General Law Enforcement Directive No. 2004-2, Joint Crash Investigative Protocol - Division of State Police & County Prosecutors.
- A. Attorney General Law Enforcement Directive No. 2004-2, Joint Crash Investigative Protocol - Division of State Police & County Prosecutors, (hereafter: “Joint Crash Investigative Protocol”) has been issued by the Attorney General of the State of New Jersey, under authority of the Attorney General, pursuant to the Criminal Justice Act of 1970, *N.J.S.A. 52:17B-97 et seq.*
- B. The Division of State Police, all County Prosecutors and the Division of Criminal Justice, shall adhere to this Joint Crash Investigative Protocol, where the Division of State Police functions as the initial investigating law enforcement agency at any motor vehicle and/or vessel crash involving a fatality or fatalities and/or serious injury or injuries.
1. This Joint Crash Investigative Protocol is not intended to supplant, override or invalidate any existing investigative protocols or procedures established by any County Prosecutor or County Prosecutor’s Office with respect to investigations by Fatal Accident Investigation Units in any County Prosecutor’s Office or operating under the authority of any County Prosecutor, to investigate motor vehicle or vessel crashes involving a fatality or fatalities and/or serious injury or injuries.
- C. The Constitutional and statutory authorities granted to the Attorney General, the Director of the Division of Criminal Justice and the twenty-one County Prosecutors of the State of New Jersey, dictate that the division of authority, and ultimate responsibility, for the investigation of a motor vehicle and/or vessel crash involving a fatality or fatalities and/or serious injury or injuries, is exclusively within the jurisdiction and authority of the prosecuting authority.
- D. Attorney General Law Enforcement Directive No. 2004-2, Joint Crash Investigative Protocol - Division of State Police & County Prosecutors, reflects the appropriate role of the Division of State Police, as an initial investigating law enforcement agency, balanced against the ultimate responsibility of each County Prosecutor and the Director of the Division of Criminal Justice, for the prosecution of any crimes arising from such an investigation.
- E. If there is a disagreement between the New Jersey State Police, as the initial investigating law enforcement agency, and the County Prosecutor’s Office, or

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Director of the Division of Criminal Justice, or their respective designees, as defined in this Attorney General Law Enforcement Directive, regarding how the investigation should proceed; the investigation shall proceed as directed by the County Prosecutor or the Director of the Division of Criminal Justice, where the Division of Criminal Justice has intervened or superseded a County Prosecutor.

1. A County Prosecutor or the Director of the Division of Criminal Justice, may, in the exercise of their discretion, delegate the decision to resolve a disagreement regarding how an investigation under this Attorney General Directive should proceed to an Assistant Prosecutor, Assistant Attorney General or Deputy Attorney General functioning in a management or supervisory capacity within their respective offices.

F. For the purposes of this Joint Crash Investigative Protocol:

1. Unless otherwise defined in this Attorney General Directive, “County Prosecutor” shall mean, and include, any County Prosecutor or acting County Prosecutor of the State of New Jersey, or in those cases where the Attorney General has intervened or superseded the County Prosecutor, pursuant to *N.J.S.A. 52:17B-106* or *-107(a)*, the Director or acting Director of the Division of Criminal Justice.
  - a. Included in this definition, is any Assistant County Prosecutor functioning as a designee of a County Prosecutor, or Assistant Attorney General or Deputy Attorney General, functioning as a designee of the Director of the Division of Criminal Justice.
2. “Division of State Police” shall mean and include all duly appointed sworn members of the New Jersey Division of State Police.
3. “Criteria case” is an investigation of a motor vehicle or vessel crash in which there is one or more fatalities and/or serious injuries, and one or more of the Evaluation Criteria in this Joint Crash Investigative Protocol is, or are, present.

II. Notification Criteria

- A. The procedures and policies contained in this Joint Crash Investigation Protocol shall be followed in ALL cases, including those involving a police pursuit by any

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police or law enforcement officer or officers (municipal, county, Division of State Police, bi-State law enforcement agencies, or other State governmental law enforcement agencies) where the Crime Scene Investigation Unit or Fatal Accident Unit, of the Division of State Police is called to respond:

1. To a crash scene involving a motor vehicle or vehicles or vessel or vessels, and;
2. There is serious bodily injury and/or death to one or more persons.

III. Evaluation Criteria - Criteria Case

- A. The Evaluation Criteria in this Joint Crash Investigation Protocol shall be utilized in every case to determine if the County Prosecutor classifies the case as a “Criteria Case.”
- B. The Division of State Police shall immediately notify the County Prosecutor’s Office, of the county in which the crash occurred, when one or more of the following evaluation criteria are applicable.
  1. These evaluation criteria shall be used by the County Prosecutor, Director of the Division of Criminal Justice or their designees to evaluate the possibility that the cause of the serious bodily injury and/or death crashes involving a motor vehicle or vessel may be due to criminal conduct.
- C. Evaluation Criteria. As much information as possible pertaining to the investigation of these evaluation criteria shall be provided to the County Prosecutor’s Office upon notification when:
  1. There is a death and/or serious injury, to one or more persons.
    - a. Persons includes the operator of any motor vehicle involved, passenger in any motor vehicle involved, or a pedestrian.
  2. There is a surviving driver/operator, or a question exists as to who was the driver or operator.
  3. And it is known, or suspected, that any of the following conditions are present.

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- a. Alcohol or drug involvement.
- b. Excessive speed (above the speed limit or too fast for existing conditions.)
- c. Hit and run
- d. Two or more moving violations
- e. A revoked or suspended driver
- f. A pursuit where the pursued party causes death or serious injury.\*
- g. An emergency vehicle is involved or was responding to an emergency call.\*
- h. Multiple fatalities or serious injuries to more than one person.
  - (1) Persons includes the operator of any motor vehicle involved, passenger in any motor vehicle involved, or a pedestrian.
- i. Purposeful use of a vehicle or vessel to inflict death or injury
- j. Any other evidence of reckless operation.

IV. County Prosecutor's Response

- A. Based on an assessment of how the facts relate to the above Evaluation Criteria, the representative(s) of the County Prosecutor's Office, at their sole discretion, may choose to respond and designate the matter as a Criteria Case.
  - 1. In such a case, the procedures set forth in this Joint Crash Investigative

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\* If a New Jersey Division of State Police vehicle is involved the New Jersey Attorney General's Guidelines, "New Jersey Police Vehicular Pursuit Policy," rev. 12-2001, or, if subsequently revised or superceded, the most recent version of this Policy, shall apply.

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Protocol will govern the manner in which the investigation is conducted.

V. Joint Crash Investigation Procedures & Protocols

A. On-Scene Liaison.

1. An on-scene liaison for each crash shall be established between the Division of State Police Troopers, at the scene, and the County Prosecutor's Office.
2. An on-going dialog with respect to all aspects of the investigation will be maintained between the Division of State Police and the County Prosecutor's Office.
3. The course of the investigation will be governed by the merits of the case.

B. Designated Liaisons

1. Each County Prosecutor's Office shall have a designated liaison to coordinate with each Division of State Police, Troop Command, functioning within the jurisdiction of that County Prosecutor's Office.
2. Each State Police Troop Commander shall designate a liaison to each County Prosecutor's Office within the patrol responsibility area of that State Police Troop Command to address any on-going issues that arise between the Division of State Police and the County Prosecutor regarding joint crash investigations.

C. At Scene Management

1. Management, at the scene, will be jointly administered between the Division of State Police crash investigation supervisor/representative and the ranking representative of the County Prosecutor's Office.
  - a. The County Prosecutor's Office Fatal Accident Investigation Unit may, at the sole discretion of the County Prosecutor or his/her designee, provide assistance to the Division of State Police crash investigator(s) with the roadway and vehicle factors phase of the investigation.



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- b. Assistance shall also be provided with other investigative tasks such as interviewing and the taking of statements from drivers, passengers, witnesses, and victims, as needed.

D. Specific Tasks for Criteria Cases

1. Scene Security

- a. The Division of State Police will secure the scene.
- b. The Division of State Police shall provide for traffic management and detouring that may be required.

2. Photography

- a. Photographs will be taken by the appropriate personnel.
- b. At scene photographs may include the following.
  - (1) Around the clock of the scene.
  - (2) Around the clock of the vehicle.
  - (3) Interior of the vehicle.
  - (4) Approach paths of vehicles at driver's eye level.
  - (5) Witness perspective, as required.
  - (6) Roadway evidence - placarded and scaled, when appropriate.
  - (7) Detailed and close up photographs, as may be required.
  - (8) Photographs should be taken to comply with photogrammetry requirements, when possible.
  - (9) High angle shots, when feasible.

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- (10) As soon as possible, photographs should be obtained of all decedents and people involved in the crash who exhibit an injury (for example, defendant, victims, etc.)
  - (a) The photographs should be taken in a manner, which does not interfere with either medical treatment or extraction efforts.
- c. Post-Scene photographs may include the following.
  - (1) Of vehicles, as required.
    - (a) May include overhead and close up details of trace evidence, as determined by the Division of State Police investigator, after consultation with the County Prosecutor's Office investigative staff.
  - (2) Of the scene, in daylight, by the next day, with photographic placards, if possible.
  - (3) Polaroid or digital photographs of vehicle in fatal and serious injury cases may be taken to be turned over to the County Medical Examiner's Office prior to autopsy, in the event of subsequent death.
  - (4) Autopsy photographs.
  - (5) As soon as possible, photographs should be obtained of all decedents and people involved in the crash who exhibit an injury (for example, defendant, victims, etc.)
    - (a) The photographs should be taken in a manner, which does not interfere with either medical treatment or extraction efforts.
- d. All original photographs should be maintained by the County Prosecutor's Office fatal accident unit and/or designated investigator or detective.

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3. Measurements, Mapping, Diagraming

- a. To be conducted by Division of State Police personnel.
  - (1) The Prosecutor's Office may assist, if requested to do so.
- b. General, after situation, map;
- c. Vehicle dynamics map;
- d. Other mapping, measurement or diagraming, as may be required upon consultation with the County Prosecutor's Office.

4. Alcohol and Drug Testing

- a. Blood samples shall be obtained in lieu of chemical breath tests, upon a probable cause determination.
- b. A urine sample may be requested, upon a probable cause determination.
- c. The County Prosecutor's Office may request consent for the taking of blood and/or urine.
- d. Specimens will be collected as soon as possible, in a medically accepted manner.
- e. When drugs are suspected, a certified DRE officer should be consulted immediately.
- f. Blood and/or urine shall be submitted to the Division of State Police Laboratory, unless otherwise specified.
  - (1) The established Division of State Police SOP on chain of custody of evidence shall be followed.
- g. All documentation concerning the submission of specimens, laboratory results, supporting test data documentation (*i.e.*, GC or MS data) and chain of custody documentation shall be promptly

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provided to the County Prosecutor's Office fatal accident unit and/or designated investigator(s) or detective(s).

5. Dynamic Testing

- a. Surface friction coefficient, acceleration testing, other as required. To be conducted by the Division of State Police Fatal Accident Investigation Unit or crash investigator.
- b. The County Prosecutor's Office may require certain testing as per the merits of the case.
  - (1) The County Prosecutor's Office Fatal Accident Investigation Unit may assist, after consultation.

6. Reconstruction Analysis

- a. At the request of the County Prosecutor's Office, a consultation with the Division of State Police will occur prior to commencing a reconstruction analysis.
  - (1) Reconstruction analysis shall be performed by the Division of State Police Fatal Accident Investigation Unit, with limited assistance from the County Prosecutor's Office Fatal Accident Investigation Unit, as may be required.
- b. The County Prosecutor's Office may request specific reconstruction analysis as may be required by the merits of the case.

7. Mechanical Examination

- a. If requested by the County Prosecutor's Office, the Division of State Police and the County Prosecutor's Office shall determine who will perform the appropriate mechanical examination.
- b. The person conducting the examination shall render a written report of his or her findings to the Division of State Police and to the County Prosecutor's Office.

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- c. The County Prosecutor shall determine if consent or a search warrant is necessary for a mechanical examination.
- d. All search warrant applications shall be made in accordance with Attorney General Law Enforcement Directive No. 2002-2, “Approval of Search Warrant Applications, Execution of Search Warrants, & Procedures to Coordinate Investigative Activities by Multiple Law Enforcement Agencies,” or, if subsequently revised or superceded, the most recent version of this Directive, [*The Division of State Police shall consult with the County Prosecutor’s Office to determine if a warrant is necessary.*]

8. Commercial Carrier Safety Unit (CCSU) Inspections/Weighing of Vehicles

- a. Commercial Carrier Safety inspections of commercial motor vehicles (trucks, buses etc.) and the weighing of all such vehicles shall be conducted by the Division of State Police, Commercial Carrier Safety Unit (CCSU), as necessary.
- b. Documentation of the inspections or weighing of vehicles are to be promptly submitted to the County Prosecutor’s Office fatal accident unit and/or designated investigator or detective.

9. Follow-Up Investigation

- a. Includes interviews, statements, search warrants, etc., shall be coordinated through the County Prosecutor’s Office and conducted by Division of State Police crash investigators and detectives, with assistance from the County Prosecutor’s Office, as may be necessary.
- b. The exchange of reports between agencies shall occur in a timely manner without the need for a subpoena or court order.

E. Debriefings

- 1. Following the at-scene phase of the crash investigation, and at other times

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as may be deemed necessary by the Division of State Police and/or the County Prosecutor's Office, a debriefing with the investigating State Police Trooper(s) and investigator(s) and/or detective(s) from the County Prosecutor's Office, and assigned Assistant Prosecutor(s) or Assistant or Deputy Attorneys General shall be conducted at a mutually agreed upon location.

2. Exchange of information, matters pertaining to the assignment of tasks, and other investigative and legal issues shall be addressed.
  - a. Division of State Police supervisors shall promptly review all investigative and related reports, in order to facilitate prompt and timely transmission of those reports to the County Prosecutor's Office.

VI. Complaints

- A. Unless otherwise instructed by the County Prosecutor's Office, the lead investigating State Police Trooper shall sign all complaints and summonses, after consultation with, and approval of, the County Prosecutor's Office.
- B. When motor vehicle summonses are issued, the Division of State Police shall:
  1. In writing, notify, the appropriate Municipal Court Administrator and the Municipal Prosecutor that the motor vehicle summonses issued in connection with the investigation of the motor vehicle or vessel crash are to be held in abeyance until all potential criminal charges have been resolved
    - a. Division of State Police shall provide a copy of the written notifications to the County Prosecutor.
  2. Promptly forward a copy of the front and back of the investigating State Police Trooper's copy of any motor vehicle summons or summonses issued in connection with the motor vehicle or vessel crash, to the County Prosecutor's Office, to be held by the County Prosecutor until all potential criminal matters are resolved.
- C. In writing, the County Prosecutor's Office shall notify the appropriate Municipal

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Court Administrator, and Municipal Prosecutor, that any motor vehicle summons or summonses issued in connection with the motor vehicle or vessel crash under investigation:

1. Shall immediately be forwarded to the County Prosecutor's Office and;
2. that until the County Prosecutor's Office advises the Municipal Court, in writing, that any criminal investigation or prosecution has been concluded or otherwise disposed of, those motor vehicle summons or summonses shall not be resolved or otherwise disposed of in the Municipal Court.

VII. Evidence

- A. All vehicles and evidence will be collected, stored and housed by the Division of State Police pursuant to State Police internal Standard Operating Procedure.
- B. The Division of State Police will submit evidence to the Division of State Police Laboratory, as required.
- C. Evidence and any reports shall be promptly made available for inspection by the County Prosecutor's Office, as may be required.
- D. No vehicles and no evidence shall be released without prior written approval from the County Prosecutor's Office.

VIII. Notification to Next of Kin

- A. Conducted by the Division of State Police pursuant to State Police internal Standard Operating Procedure.
- B. Contact information concerning the next of kin shall also be provided by the Division of State Police to the County Prosecutor's Office so as to initiate Victim/Witness services provided by the County Prosecutor's Office.

IX. Press & Media Release

- A. All press inquiries of criteria cases will be coordinated between the County Prosecutor's Office and the Division of State Police Public Information Bureau.