

Public Comment Deadline 18-Oct-2021

ASB BPR 160, Best Practice Recommendation for Initial Response at Scenes by Law Enforcement Officers

#	Section	Type of Comment	Comments	Proposed Resolution	Final Resolution
9	N/A	T	The strength and intent of the original document has been removed by reducing it from a standard to a "best practices". Crime scenes can and have been compromised by first responders (however they be named) when they have failed to secure a scene and preserve evidence. Consequently, the first responders can either set the stage for a successful and thorough investigation or provide all the reasonable doubt fodder needed for a difficult presentation of the facts. Unequivocally this document needs to be a standard. The CSIR sub-committee of OSAC has identified the necessary actions for first responders, based on experience, and represents a sine quo non of what first responders need to do. The CSIR subcommittee of OSAC is concerned with the lack of communication between our task group and the ASB prior to this document being released for public comment. Substantial change were made to this document without any discussion or communication with the authoring OSAC subcommittee. The CSIR subcommittee thoroughly rejects the change of what was intended to be a standard into a best practice, especially in the absence of prior communication or rationale	Restore the document to a standard; restore all original "shall"s	Reject: There is no doubt that the success of any forensic investigation begins with the response by first responders. I believe the focus of the ASB is to create standards for forensic service providers while providing best practices guidance for those individuals (law enforcement, fire, and EMS). First responders in most instances are faced with numerous issues when responding to a scene. Many of those issues are directly related to personal safety and in averting personal injuries to responders.
1	Foreward	E	Word "standard" in second paragraph	Change "finalized as a standard" to appropriate document type	Accept Change made to Best Practice Recommendation
2	3	E	NOTE under 3.4 seems to go with 3.2	Move NOTE to proper location	Reject: Note is located in section 3.2
10	3	T	removal of the definition of "scene preservation" - this definition is necessary because it is essential for first responders to actively prevent scene/evidence contamination/alternation	Restore the definition of "scene preservation" - The intentional act of refraining from any activity that may alter a scene or anything contained within the scene.	Reject: See 3.6.
28	3.8	T	3.8 scene investigation "Application of the scientific method to the examination of a scene..." The scientific method as properly defined IS NOT used in scene examinations. Scientific methods are being used and should be reflected in this definition.	3.8 scene investigation Application of scientific methods to the examination of a scene to locate, document, collect, and preserve items of potential evidentiary value.	Accept
11	4	T	Change of "Requirements" to "Recommendations" - this reduces the effectiveness of this document	Restore to "Requirements"	Reject: This document is a best practice recommendation, so it is appropriate for this section to remain "Recommendations"
12	4.1.1	T	Change of "...first responding LEO to a scene <u>shall</u> take all reasonable actions..." to " <u>should</u> take" reduces the effectiveness of this document.	Restore to "shall"	Reject: This is appropriate. It allows for latitude for a first responding officer.
13	4.1.2	T	Change of "...an exchange of information <u>shall</u> take place..." to " <u>should</u> take place" reduces the effectiveness of this document.	Restore to "shall"	Reject: This is appropriate. It allows for latitude for a first responding officer.
3	4.1.2	E	word "a" missing from third line	Change to "the scene to a designated person"	Accept
14	4.1.3	T	Change of "...any actions taken... <u>shall</u> be documented" to " <u>should</u> be documented" reduces the effectiveness of this document	Restore to "shall"	Accept with modification: Sentence modified to the following: "Any actions taken and any known changes to the scene should be documented and shall be relayed during the course of the scene investigation to those responsible for the investigation."
4	4.2	E	First paragraph doesn't make sense once clause is removed	Possibly add word "they" before should	Accept
15	4.2	T	Change of "Upon arrival of the first responding LEO(s)... <u>shall</u> :" to " <u>should</u> :" reduces the effectiveness of this document.	Restore to "shall"	Accept with modification: Section modified to separate out the procedures to a) shall, b) should, c) should.

16	4.2.a)	T	In the original document, the first point in this series stated, "assume the scene is a crime scene, until determined otherwise. Removing this concept entirely from the document negates an important aspect of scene investigation. IF first responders are dispatched to a scene, and IF investigators are being called to assess/investigate said scene, it stands to reason there is suspicion a crime may have been committed. Treating a scene as a crime scene affords the most narrow perspective and the highest level of prudence in matters of evidence preservation, identification, documentation, collection and interpretation. Treating a suspicious scene as a crime scene sets the tone for the best level of investigation, and should the matter under consideration be deemed non-criminal, it is easier and preferable to de-escalate the investigation.	Restore the original wording and placement. Furthermore, it would serve the intent of the document better by restoring the original note after 3.8 (definition of "scene")	Reject with modification: Note added back to definition of "scene" (3.7). For section 4.2: The intent of the document is for the LEO to treat all scenes as a crime scene until otherwise determined consistent with the modified definition. The sections are modified to separate out the procedures to a) shall, b) should, c) should.
17	4.2.d)	T	Removal of "make a reasonable attempt to document any vehicles leaving the scene." - reduces the information collected that could be important to the investigation later	Restore "make a reasonable attempt to document any vehicles leaving the scene."	Reject: Vehicle portion of the section was merged into item c).
18	4.3	T	Change of "LEO(s) shall take reasonable precautions to ensure safety" to "should" reduces the effectiveness of this document.	Restore to "shall"	Accept with modification: "shall" in first sentence restored, and "(including self)" added to clarify the safety of the LEO. "self" also added to section 4.2 to make consistent with 4.3.
19	4.4	T	Change of "The initial responding officer(s) shall ensure that medical attention is provided with minimal contamination of the scene and that appropriate PPE is worn while providing medical attention." to "should ensure" and the deletion of the phrase pertaining to PPE reduces the effectiveness of this document and minimizes safety practices.	Restore to "shall"	Reject: Safety of the first responders and persons needing medical attention needs to be the priority. Second sentence added for clarification of the actions of EMS personnel.
20	4.5.1	T	Change of "Assessments shall be made" to "should" reduces the effectiveness of this document	Restore to "shall"	Reject: Multiple circumstances may arise upon arrival on the scene, so the requirement is not appropriate.
5	4.5.2	E	reassessments should be singular	Change to reassessment	Accept
6	4.6	E	Possible missing word after "and/or"	Change to "and/or have the potential"	Accept
7	4.6	E/T	Letters c, d, f, and g are reiterating the opening paragraph of 4.6; letter f is very similar to letter c and letter g is similar to letter d	Reword the section to ensure there is not overlap of tasks responding LEOs should do, if each letter is a different task consider rewording so that is more clear	Accept with modification: Section c, e and f have been updated.
22	4.6		Change of "The initial responding LEO(s) shall make a reasonable effort to:" to "should" reduces the effectiveness of this document and minimizes the importance of the actions described thereafter, actions, that if not taken and enforced jeopardize the overall scene investigation.	Restore to "shall"	Reject: This document is a best practice recommendation, so it is appropriate for this to remain a "should".
21	4.6		Change of "Once an assessment of the scene has been made, responding LEO(s) shall establish boundaries in order to control crowds and/or to restrict access into areas which may have the potential of containing evidence." to "should establish perimeters" reduces the effectiveness of this document and weakens the need and importance of preventing (by boundaries) unauthorized personnel from entering the scene.	Restore to "shall," and restore "boundaries."	Reject: This document is a best practice recommendation, so it is appropriate for this to remain a "should". "Perimeters" is the term currently used in Forensic Science text books, so it is appropriate to keep it consistent with current text terminology.
29	4.6	E	Movement throughout the scene should be limited to only necessary actions and by authorized personnel only.	Movement throughout the scene should be limited to only necessary actions by authorized personnel.	Accept
23	4.6 (d)	T	Removal of "provided that such actions are documented" and addition of "If reasonable" - physical barriers are necessary to demarkate and secure the scene. Any alternation, such as setting up physical barriers, moving items to create barriers, must be documented.	Restore "provided that such actions are documented" and change "If reasonable" to "If practicable"	Reject with modification: This sentence has been deleted, Section 4.1.3 now has additional requirements for the documentation of the scene.
8	4.7.1	E	Consider and possibly seem to mean the same thing in this sentence. Whether the item ends up being evidentiary in nature or possibly evidentiary in nature you are considering it to be evidentiary in nature to begin with until you have gathered additional contextual information	Reword to say "considered evidentiary"	Accept
24	4.7.2	T	Change of "Physical evidence and scene conditions shall be preserved" to "should" reduces the effectiveness of this document and weakens the need to preserve evidence and scene conditions.	Restore to "shall"	Reject: This is appropriate. It allows for latitude for a first responding officer.

25	4.8	T	The use of "should" rather than "shall" throughout the paragraph reduces the effectiveness of this document with the exception of the final sentence. The final sentence is an expansion on the original wording and is awkward.	"The initial responding LEO(s) at the scene shall provided a detailed scene briefing to the investigator(s) assuming control of the scene. The initial responding LEO(s) shall also record the date, time, name(s) to whom the scene control was relinquished. Responding LEO(s) shall ensure scene and/or personnel security is present before assuming other duties.	Accept with modification. Second sentence moved to start of paragraph. "Shall" restored to "The initial responding LEO(s) at the scene shall provide a scene..." sentence. And last paragraph deleted as it is outside the scope of this document.
26	4.9	T	The use of "should" rather than "shall" throughout the paragraph reduces the effectiveness of this document.	Restore "shall" instead of "should"	Accept with modification: "shall" in first sentence restored. The other "should" statements are appropriate to allow for latitude for the first responding officer.
27	4.9.e)	T	The use of "should" rather than "shall" reduces the effectiveness of this document.	Restore "shall" instead of "should"	Reject with modification. The list is preceeded by "The following should be documented" which dictates that the list items do not need a shall or should statement. Section modified to read: "e) Alterations to the scene, either observed or described to the LEO, to include what was moved and by whom."