Pursuant to 16 C.F.R. § 1025.43(f), Complaint Counsel respectfully submits an Offer of Proof and accompanying unredacted versions of the Report of Investigation of the Virginia Department of Health’s Office of the Chief Medical Examiner, previously identified during Complaint Counsel’s August 7, 2023 examination of Elizabeth Phillips as JX-12A and JX-12B (Exhibits 1 & 2). Versions of these documents were admitted into evidence on August 7, 2023 as JX-12A(1) and JX-12B(1), with redactions of certain content relating to “circumstances reported by third parties and third-party notes regarding placement on a pillow,” pursuant to this Court’s August 2, 2023 Order Deferring Decision on Complaint Counsel’s Motion In Limine To Admit In-Depth Investigation Reports (“August 2 Order”). The documents without the redactions imposed by the August 2 Order, JX-12A and JX-12B, contain evidence concerning a fatal incident involving the Podster and provide relevant information about the product’s use and how it poses a Substantial Product Hazard.

Pursuant to the Commission’s Rules of Practice that govern this proceeding:

1 JX-12A and JX12A(1) contain additional redactions of Personal Identifiable Information.
When an objection to proffered testimony or documentary evidence is sustained, the sponsoring party may make a specific offer, either in writing or orally, of what the party expects to prove by the testimony of the document. . . . Written offers of proof or of rebuttal, adequately marked for identification shall accompany the record and be available for consideration by any reviewing authority.

16 C.F.R. § 1025.43(f).

Thus, Complaint Counsel submits this Offer of Proof so that JX-12A and JX-12B shall accompany the record in this proceeding without the redactions imposed by the August 2 Order. Accordingly, pursuant to 16 C.F.R. § 1025.43(f), Complaint Counsel requests that the attached exhibits, previously marked for identification as JX-12A and JX-12B, “shall accompany the record and be available for consideration by any reviewing authority.”

Dated this 8th day of August, 2023

Respectfully submitted,

/s/ Thomas J. Mendel

Gregory M. Reyes, Supervisory Attorney
Thomas J. Mendel, Trial Attorney
Brett Ruff, Trial Attorney
Michael J. Rogal, Trial Attorney

Division of Enforcement and Litigation
Office of Compliance and Field Operations
U.S. Consumer Product Safety Commission
Bethesda, MD 20814
Tel: (301) 504-7220

Complaint Counsel for
U.S. Consumer Product Safety Commission
CERTIFICATE OF SERVICE

I hereby certify that on August 8, 2023, I served Complaint Counsel’s Offer of Proof Regarding Report of Investigation, Virginia Department of Health, Office Of The Chief Medical Examiner on all parties and participants of record in these proceedings as follows:

By email to the Secretary:

Alberta E. Mills
Secretary
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814
Email: AMills@cpsc.gov

By email to the Presiding Officer:

Judge Michael G. Young
Presiding Officer and Administrative Law Judge
Federal Mine Safety and Health Review Commission
1331 Pennsylvania Ave., N.W., Ste. 520N
Washington, DC 20004-1710
Email: myoung@fmshrc.gov
cjannace@fmshrc.gov

By email to Counsel for Respondent:

Oliver J. Dunford
Pacific Legal Foundation
4440 PGA Blvd., Suite 307
Palm Beach Gardens, FL 33410
Email: ODunford@pacificlegal.org

John F. Kerkhoff
Frank D. Garrison
Jessica L. Thompson
Pacific Legal Foundation
3100 Clarendon Boulevard, Suite 610
Arlington, VA 22201
Email: JKerkhoff@pacificlegal.org
FGarrison@pacificlegal.org
JLThompson@pacificlegal.org

/s/ Thomas J. Mendel

Thomas J. Mendel
Complaint Counsel for
U.S. Consumer Product Safety Commission
EXHIBIT 1
JX-12A
Decedent is NON-RESIDENT of City/County of Death

Commonwealth of Virginia
Department of Health
Office of the Chief Medical Examiner
CENTRAL DISTRICT
400 EAST JACKSON STREET RICHMOND, VA 23219

REPORT OF INVESTIGATION

Decedent:

<table>
<thead>
<tr>
<th>First Name</th>
<th>Middle Name</th>
<th>Last Name</th>
<th>Suffix Sr., Jr., III, etc.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

SSN

Home Address: VICTORIA, VA 23974

Age: 3 Months

DOB: [Day] [Month] [Year]

Sex: FEMALE

Last Known Occupation: NONE

Race: WHITE

Hispanic?: NO

Marital Status: NEVER MARRIED

MEDICAL EXAMINER AUTHORITY: SUDEN IN APPARENT GOOD HEALTH

Police Notified: YES

Inspector: LUNENBURG COUNTY

Phone: (434) 688-4452

Jurisdiction: LUNENBURG COUNTY SHERIFF'S DEPARTMENT

<table>
<thead>
<tr>
<th>DATE (M/DD/YY)</th>
<th>TIME (24h)</th>
<th>LOCATION</th>
<th>CITY/COUNTY</th>
<th>BY WHOM</th>
</tr>
</thead>
<tbody>
<tr>
<td>10/25/2021</td>
<td>[Time]</td>
<td>VCU COMMUNITY MEMORIAL</td>
<td>MECKLENBURG COUNTY, VA</td>
<td>OTHER</td>
</tr>
<tr>
<td>10/25/2021</td>
<td>[Time]</td>
<td>211 OLD MANSON ROAD</td>
<td>LUNENBURG COUNTY, VA</td>
<td>NOT WITNESSED</td>
</tr>
<tr>
<td>10/25/2021</td>
<td>[Time]</td>
<td>VCU COMMUNITY MEMORIAL</td>
<td>MECKLENBURG COUNTY, VA</td>
<td>OTHER</td>
</tr>
<tr>
<td>10/25/2021</td>
<td>[Time]</td>
<td>VCU COMMUNITY MEMORIAL</td>
<td>MECKLENBURG COUNTY, VA</td>
<td>DR. WENTZEL</td>
</tr>
</tbody>
</table>

Cause of Death: SUDEN UNEXPECTED INFANT DEATH WITH UNSAFE BEDDING AND POSITIONING

Manner of Death: UNDETERMINED

This case was reviewed by:

16-Feb-2022 1412
RENEE ROBINSON
Name of Assistant Chief Medical Examiner

12-Feb-2022 1124
CARLETON, LESLIE
Name of Reviewing Medicolegal Death Investigator
MEDICAL HISTORY

- Known known: I alcoholism  □ cirrhosis  □ hepatitis  □ drug abuse  □ asthma  □ bronchitis  □ emphysema
- Neurological disorder (cause): ____________________________  □ cancer  ____________________________  □ diabetes  □ hypertension  □ atherosclerosis
- Stroke  □ Psychiatric diagnosis (specify): ____________________________  □ depression  □ dementia (specify): ____________________________
- Recent trauma (specify): .................................................................  □ Hip fracture
- Acute infections (specify): .................................................................  □ HIV/AIDS  □ COPD  □ obesity  □ Influenza
- Other (specify): 

Treating MD: ____________________________  Phone: ____________________________

Hospitalizations (when/where):

Medications:

Tax requested: Y EN

Summary of Circumstances:
The decedent is a 3-month, premature female who was discovered deceased in her sleeping area. She was transported to the Office of the Chief Medical Examiner, Central District, for examination.

At autopsy, no overt traumatic or natural disease processes are noted, and additional studies are negative for significant findings. Patchy anterior liver consistent with prone positioning at time of death, and by report, the decedent was in a pack and play on a soft doughnut-shaped pillow.

This case is reviewed in conference with OCMF pathologists, with consensus on cause and manner of death.
REPORT OF AUTOPSY

DEPARTMENT OF HEALTH
OFFICE OF THE CHIEF MEDICAL EXAMINER
400 EAST JACKSON STREET
RICHMOND, VIRGINIA 23219

File #: 22-2021-102
Date/Day/Time: 10/26/2021, Tuesday

DECEDED

AutoP.SV Authorized by: Dr. Renee Robinson, MD, Medical Examiner for Lunenburg County.

Removal service tags: Dr. Renee Robinson, MD

Rigor: Absent
Livor: Purple-pink (non-blanching)
Distribution: Regional Posterior torso, left lateral, head, and posterior neck, low anterior pelvis, anterior neck
Age: 3-months, 2 days
Race: White Sex: Female
Length: 61 cm
Weight: 14 lbs.

External examination: The body is that of a well-developed, well-nourished female infant whose appearance is consistent with the given age of 3-months, 2 days. Crown heel measures 61 cm in length (75th percentile for age/length and 75th percentile for weight/length) and weighs 14 lbs. (90th percentile for age/weight). Crown rump measures 42 cm. Inner-canthal measurement is 3 cm; outer is 8 cm. Intra-mammary distance is 10 cm. The right palm/third digit measures 4.5 cm and 3 cm, respectively; the left palm/third digit measures 4 cm and 3 cm, respectively. The right foot/great toe measures 7.5 cm and 1.5 cm, respectively. Head circumference is 40.5 cm (50th percentile for circumference/age). Chest circumference is 37 cm. Abdominal circumference is 36 cm. Anterior fontanelle measures 3 cm.

Sclerae, bulbar and palpebral conjunctiva are unremarkable. There is no ocular, facial, or mucosal petechiae. The nose and lips are unremarkable. The right and left ear is generally unremarkable. The mouth is unremarkable. There are no lesions about the lips or buccal mucous membranes and the frenulae are intact. The decedent is edentulous in keeping with age. The tongue is normal in size and the palate is intact. The neck is unremarkable.

The torso is unremarkable. The right and left upper and lower quadrant of the abdomen demonstrates green discoloration. External genitalia are those of a normally developed infant female. External genitalia, perineum, and anus are unremarkable.

Extremities are well-developed and symmetrical without deformities. Fingernails and toenails are generally short, of equal length, and generally clean. Pedal surfaces are smooth and clean.

MARKS OF THERAPY/INDICATIONS OF ORGAN DONATION: Endotracheal tube; anterior chest, EKG lead pads, left anterior lower leg, intravenous line.

RADIOGRAPHIES: Lodox imaging is obtained and does not demonstrate any foreign radiodensities or overt bony abnormalities.

HISTORY: Discovered deceased in sleeping area.

FINAL ANATOMIC DIAGNOSES:
I. Normal infant female
II. Cultures, (see separate microbiology reports)
   a. Nasal swab negative for respiratory pathogens, including Sars-Cov-2 (COVID-19)
   b. CSF, negative for pathogens
   c. Blood culture, positive for mixed flora including pseudomonas aeruginosa, haemophilus influenza, gram positive cocci (likely contaminants)
III. Toxicology negative for substances tested, and vitreous electrolytes/glucose non-contributory (see separate toxicology and lab reports)
IV. Central nervous system within normal limits
V. Negative inborn errors of metabolism screen (see separate genetic report).
VI. Radiologic skeletal survey negative for overt abnormalities
VII. Heart, within normal limits
VIII. Unsafe bedding (placed on doughnut-shaped soft pillow) with patchy anterior livor noted
IX. Lungs, chronic bronchitis

Cause of Death: Sudden unexpected infant death with unsafe bedding and positioning

Final Report: 2/11/2022

The facts stated herein are true and correct to the best of my knowledge and belief.

Signature of Pathologist: Renee Robinson, MD

Date & Time Signed: 2/11/2022

Place of Antemortem: Richmond City

JX-12A -Page 3 of 16

Confidential - Subject to Protective Order CPSC0010552
GROSS DESCRIPTION

INTERNAL EXAMINATION & SEROUS CAVITIES:
The body is opened with the standard Y-shaped incision. The pleural and peritoneal surfaces are smooth and glistening, and no excess pleural or peritoneal fluid is identified. The diaphragms are intact. The organs maintain their normal interrelationships. No appreciable adhesions are noted in any body cavity.

HEART:
The heart weighs 26 grams (expected, 23-49g) and has a normal distribution of the coronary arteries. The heart is right dominant. The coronary ostia are patent. The myocardium is homogenous, red-brown, and firm without pallor, hemorrhage, or softening. The ventricular walls are within normal limits. The endocardial surfaces and four cardiac valves are unremarkable. Ductus and foramen ovale are closed.

AORTA:
The arch of the aorta is normally formed and is unremarkable.

NECK ORGANS:
The thymus occupies its usual mediastinal location and weighs 40 grams (expected, 8-58). It is of the usual shape and pale pink. On section, it has the usual prominent lobulation. Hyoid bone and larynx are intact. There is no extravasated blood in the prevertebral cervical fascia; dry layered neck dissection is performed.

LUNGS:
The upper airways contain no debris or foreign material. Laryngeal mucosa is smooth and unremarkable with no petechiae. The right and left lungs weigh 61 grams and 45 grams respectively (expected, right 40-18g and left 38-80g). Pleural surfaces are smooth and shiny. Pulmonary arteries contain no emboli. Major bronchi are unremarkable. Sectioning of lungs reveals pink, crepitant parenchyma with no focal consolidation or cavitory lesions.

LYMPH NODES:
No enlarged lymph nodes are noted in any of the internal lymph node groups.

LIVER:
The liver is of the usual shape, and weighs 228 grams (expected, 135-343g). Glisson's capsule is smooth and glistening. Parenchyma is dark reddish-brown with no accentuation of markings or focal discoloration.

GALLBLADDER:
The gallbladder is in the normal position with a tan-red to tan-green serosal surface and contains bile. There is no bile stasis and no dilatation of the bile duct tree. The gallbladder mucosa is velvety red and unremarkable.

SPLEEN:
The spleen weighs 24 grams (expected, 9-33g) and has a smooth, glistening capsule and a firm, dark red cut surface, and appears enlarged.

PANCREAS:
The pancreas is located in the normal position and unremarkable on external and serial cross sectioning examination.

ADRENAL GLANDS:
The adrenal glands lie in their normal positions and are unremarkable on external and serial cross sectioning examination.

GI TRACT:
Esophageal mucosa is gray-white and smooth with normal longitudinal folds. There is normal demarcation of cardia and esophagus. The stomach contains minimal mucoid white material. Rugae are normally prominent. Pylorus is well-demarcated. The large intestine maintains mucoid green stool. The appendix is present.

KIDNEYS:
The right and left kidneys weigh 19 grams and 18 grams, respectively (expected, right 10-36g and left 11-37g). Subcapsular surfaces are smooth and delineated from the medullary pyramids. Calyces, pelvises and ureters are unremarkable.

BLADDER:
The ureters maintain uniform caliber and drain into an unremarkable bladder contains no urine.

GENITALIA:
The vagina is intact with no gross pathology. The cervix, uterus, fallopian tubes, and ovaries are within normal limits.

BRAIN & MENINGES:
Scalp and skull are unremarkable. Dura, falx and sinuses are intact. There are no epidural, subdural or subarachnoid collections of blood or exudate. The brain weighs 668 grams (fresh; expected, 518-890g). Cerebral hemispheres are symmetrically well developed and show a normal convolutional pattern. There is no evidence of pressure phenomenon. Vessels at the base of the brain are in normal anatomic relations and the brain stem is normally formed. Cerebellar hemispheres are symmetrically well-developed and show a normal pattern of foliation. Pituitary is unremarkable.

The brain and dura are cut fresh and are negative for significant findings, externally and on cut section.

The orbital roof is removed bilaterally, and the eyes/optic nerves are inspected in situ, and are without trauma.

The petrous bone overlying the internal auditory meatus is removed and the canals inspected; unremarkable.

A posterior neck/back dissection is performed and is unremarkable. The spinal cord is inspected and and is
unremarkable.

MUSCULOSKELETAL: The vertebrae, clavicles, sternum, ribs, and pelvis are without fracture. The musculature is distributed and unremarkable. The bone marrow of the ribs is uniformly red, granular and otherwise unremarkable.

MICROSCOPIC SECTIONS:
HEART: Within normal limits
LUNGS: Chronic bronchitis with prominent intraparenchymal lymphoid follicles.
KIDNEYS/ADRENAL GLANDS: Within normal limits
THYMUS: Within normal limits
PANCREAS: Within normal limits
SPLEEN: Congestion, within normal limits
LIVER: Within normal limits
THYROID: Within normal limits, parathyroid within normal limits
GENITOURINARY: Within normal limits
GASTROINTESTINAL: Within normal limits
UPPER AIRWAY: Submucosal chronic inflammation with some areas of margination
CNS: Within normal limits (frontal lobe, midbrain, hippocampus, meninges, spinal cord histologically mal-oriented

OTHER LAB PROCEDURES:
Photo ☑ Micro ☑ Toxicology ☑ X-Ray ☑ Fingerprints ☑ Dental ☑ DNA ☑ GSR ☑ PERK ☑ HIV ☑ Hepatitis ☑ Bacteriology ☑ Virology ☑ Accelerants ☑ Other ☑

DISPOSITION OF EVIDENCE:
TOXICOLOGY - Heart blood.
OCME - Heart blood, iliac blood, purple top tube of blood, bile, liver.
INVESTIGATOR - None.
FUNERAL HOME - Clothing.

SUMMARY:
The decedent is a 3-month, day infant female who was discovered deceased in her sleeping area. She was transported to the Office of the Chief Medical Examiner, Central District, for examination.

At autopsy, no overt traumatic or natural disease processes are noted, and additional studies are negative for significant findings. Patchy anterior livir consistent with prone positioning at time of death, and by report, the decedent was in a pack and play on a soft doughnut-shaped pillow.

This case is reviewed in conference with OCME pathologists, with consensus on cause and manner of death.

As with all death investigations, opinions expressed herein are amenable to change should new, reliable, and pertinent information come to light.

The Virginia Vital Events and Screening Tracking System provides five manners of death including: natural causes, accident, suicide, homicide, and undetermined. The manner of death is a forensic determination by the pathologist predicated upon the totality of the known evidence and circumstance surrounding the death; it is not a legal determination of criminal or civil responsibility of any person(s) for the death.

CAUSE OF DEATH: Sudden unexpected infant death with unsafe bedding and positioning.

MANNER OF DEATH: Undetermined.
Reporting Form

INVESTIGATION DATA

Sex: ☑ Female

Race: ☑ White

Infant's Primary Residence Address:
Address: ____________________________
City ___________ Zip ___________

WITNESS INTERVIEW

Are you the usual caregiver? ☑ Yes ☑ No

Tell me what happened:

Describe:

Did you notice anything unusual or different about the infant in the last 24 hrs? ☑ No ☑ Yes ☑ Describe:

Did the infant experience any falls or injury within the last 72 hrs? ☑ No ☑ Yes ☑ Describe:

When was the infant LAST PLACED? ____________ ____________ ____________

When was the infant LAST KNOWN ALIVE (LKA)? ____________ ____________ ____________

When was the infant FOUND? ____________ ____________ ____________

Explain how you knew the infant was still alive.

Where was the infant placed, last known alive, found (circle P, L, or F in front of appropriate response)?

P L F Bassinet
P L F Bedside co-sleeper
P L F Car seat
P L F Chair
P L F Cradle
P L F Crib
P L F Floor
P L F In a person's arms
P L F Mattress/box spring
P L F Mattress on floor
P L F Playpen
P L F Portable crib
P L F Stroller/carriage
P L F Stroller/carriage
P L F Swing
P L F Waterbed
P L F Other
### WITNESS INTERVIEW (cont)

1. **In what position was the Infant LAST PLACED?**
   - [ ] Sitting
   - [ ] On back
   - [ ] On side
   - [ ] On stomach
   - [ ] Unknown

2. **Was this the Infant’s usual position?**
   - [ ] Yes
   - [ ] No

3. **What was the Infant’s usual position?**
   - [ ] Sitting
   - [ ] On back
   - [ ] On side
   - [ ] On stomach
   - [ ] Unknown

4. **In what position was the Infant LKA?**
   - [ ] Sitting
   - [ ] On back
   - [ ] On side
   - [ ] On stomach
   - [ ] Unknown

5. **Was this the Infant’s usual position?**
   - [ ] Yes
   - [ ] No

6. **What was the Infant’s usual position?**
   - [ ] Sitting
   - [ ] On back
   - [ ] On side
   - [ ] On stomach
   - [ ] Unknown

7. **In what position was the Infant Found?**
   - [ ] Sitting
   - [ ] On back
   - [ ] On side
   - [ ] On stomach
   - [ ] Unknown

8. **Was this the Infant’s usual position?**
   - [ ] Yes
   - [ ] No

9. **What was the Infant’s usual position?**
   - [ ] Sitting
   - [ ] On back
   - [ ] On side
   - [ ] On stomach
   - [ ] Unknown

### Face Position

10. **FACE position when LAST PLACED?**
    - [ ] Face down on surface
    - [ ] Face up

11. **FACE position when LKA?**
    - [ ] Face down on surface
    - [ ] Face up

12. **FACE position when FOUND?**
    - [ ] Face down on surface
    - [ ] Face up

### Neck Position

13. **NECK position when LAST PLACED?**
    - [ ] Hyperextended (head back)
    - [ ] Flexed (chin to chest)
    - [ ] Neutral
    - [ ] Turned

14. **NECK position when LKA?**
    - [ ] Hyperextended (head back)
    - [ ] Flexed (chin to chest)
    - [ ] Neutral
    - [ ] Turned

15. **NECK position when FOUND?**
    - [ ] Hyperextended (head back)
    - [ ] Flexed (chin to chest)
    - [ ] Neutral
    - [ ] Turned

### Other

16. **What was the Infant wearing?**
    - [ ] Infant/child blanket
    - [ ] Infant/child comforter (thick)
    - [ ] Adult comforter/duvet
    - [ ] Adult blanket
    - [ ] Sheets
    - [ ] Blanket
    - [ ] Pillow
    - [ ] Rubber or plastic sheet
    - [ ] Other, specify:

**Bedding UNDER Infant**

<table>
<thead>
<tr>
<th>Bedding</th>
<th>None</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Receiving blankets</td>
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<tr>
<td>Infant/child blankets</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Infant/child comforters (thick)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Adult comforters/duvet</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Adult blanket</td>
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<tr>
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<tr>
<td>Pillows</td>
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<td></td>
</tr>
<tr>
<td>Rubber or plastic sheet</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Bedding OVER Infant**

<table>
<thead>
<tr>
<th>Bedding</th>
<th>None</th>
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<td>Blanket</td>
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<tr>
<td>Pillow</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rubber or plastic sheet</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Other, specify:**

17. **Who of the following devices were operating in the infant's room?**
    - [ ] None
    - [ ] Apnea monitor
    - [ ] Humidifier
    - [ ] Vaporizer
    - [ ] Air Purifier
    - [ ] Other

18. **What was the temperature of the infant's room?**
    - [ ] Hot
    - [ ] Cool
    - [ ] Normal
    - [ ] Other

19. **Which of the following items were near the infant’s face, nose, or mouth?**
    - [ ] Bumper pads
    - [ ] Infant pillows
    - [ ] Positional supports
    - [ ] Stuffed animals
    - [ ] Toys
    - [ ] Other

20. **Which of the following items were within the infant's reach?**
    - [ ] Pacifier
    - [ ] Nothing
    - [ ] Other

21. **Was anyone sleeping with the infant?**
    - [ ] Yes
    - [ ] No

22. **Name**
    - [ ] Age
    - [ ] Height
    - [ ] Weight
    - [ ] Location in Relation to Infant
    - [ ] Impaired (Intoxicated, tired)

23. **Was there evidence of wedging?**
    - [ ] No
    - [ ] Yes

24. **When the infant was found, was she:**
    - [ ] Breathing
    - [ ] Not breathing

25. **If not breathing, did you witness the infant stop breathing?**
    - [ ] No
    - [ ] Yes
What had led you to check on the infant?

Describe infant's appearance when found.

a) Discoloration around face/nose/mouth
b) Secretions (foam, froth)
c) Skin discoloration (tirr mortis)
d) Pressure marks (pale areas, blanching)
e) Rash or petechiae (small red blood spots on skin, membranes, or eyes)
f) Marks on body (scratches or bruises)
g) Other

What did the infant feel like when found? (Check all that apply.)

- Warm to touch
- Cold to touch
- Rigid, stiff
- Unknown
- Other

Did anyone else other than EMS try to resuscitate the infant?

Who?

Please describe what was done as part of resuscitation:

Month Day Year

Military Time

Has the parent/caregiver ever had a child die suddenly and unexpectedly?

Yes

No

Source of medical information:

- Doctor
- Other healthcare provider
- Medical record
- Family
- Other

In the 72 hours prior to death, did the infant have:

a) Fever
b) Excessive sweating
c) Lethargy or sleeping more than usual
d) Fussiness or excessive crying
e) Decrease in appetite
f) Vomiting
g) Choking
h) Crib death
i) Stool changes
j) Difficulty breathing
k) Apnea (stopped breathing)
l) Cyanosis (turned blue/gray)
m) Seizures or convulsions
n) Other, specify:

In the 72 hours prior to death, was the infant injured or did she have any other condition(s) not mentioned?

No

Yes

Describe:

Possible ear infection, kept getting right ear

In the 72 hours prior to the infant's death, was the infant given any vaccinations or medications?

(Include any home remedies, herbal medications, prescription medicines, over-the-counter medications.)

Name of vaccination or medication

Dose last given

Date given

Approx. time

Reasons given/

1

2

3

4
At any time in the infant's life, did she have a history of?

- Allergies (food, medication, or other)
- Abnormal growth or weight gain/loss
- Apnea (stopped breathing)
- Cyanosis (turn blue-gray)
- Sclerotic or convulsions
- Cardiac (heart) abnormalities
- Metabolic disorders
- Other

Did the infant have any birth defects (a)?

Describe:

Describe the two most recent times that the infant was seen by a physician or health care provider:

(Include emergency department visits, clinic visits, hospital admissions, observational stays, and telephone calls)

First most recent visit
- Date
- Reason for visit
- Action taken
- Physician name
- Hospital/clinic
- Address
- City, ZIP

Second most recent visit
- Date
- Reason for visit
- Action taken
- Physician name
- Hospital/clinic
- Address
- City, ZIP

What was the infant's length at birth?

- Inches

What was the infant's weight at birth?

- Pounds

Compared to the delivery date, was the infant born on time, early, or late?

- On time
- Early - How many weeks early?
- Late - How many weeks late?

Was the infant a singleton, twin, triplet, or higher gestation?

- Singleton
- Twins
- Triplet
- Quadruplet or higher gestation

Were there any complications during delivery or at birth? (emergency c-section, child needed oxygen)

- No
- Yes

Are there any alerts to pathologist? (previous infant deaths in family, newborn screen results)

- No
- Yes

Confidential – Subject to Protective Order
On what day and at what approximate time was the infant last fed?

Month Day Year: 10/25/2004 Monday 08:30 AM

What is the name of the person who last fed the infant?

Mother

What is their relationship to the infant?

Mother

What foods and liquids was the infant fed in the last 24 hours (include last fed)?

- a) Breast milk (one/both sides, length of time)
- b) Formula (brand, water source - ex. Similac, tap water)
- c) Cow's milk
- d) Water (brand, bottled, tap, well)
- e) Other liquids (tea, juices)
- f) Solids
- g) Other

Was a new food introduced in the 24 hours prior to the infant’s death?

☐ No ☐ Yes □ Describe (ex. content, amount, change in formula, introduction of solids)

Was the infant last placed to sleep with a bottle?

☐ Yes ☐ No □ Skip to question 2 below

Was the bottle propped? (i.e., object used to hold bottle while infant feeds)

☐ No ☐ Yes □ What object was used to prop the bottle?

What was the quantity of liquid (in ounces) in the bottle?

4 ounces

Did death occur during? ☐ Breast-feeding ☐ Bottle-feeding ☐ Eating solid foods ☐ Not during feeding

Are there any factors, circumstances, or environmental concerns that may have impacted the infant that have not yet been identified? (ex. exposed to cigarette smoke or fumes at someone else’s home, infant unusually heavy, placed with positional supports or wedges)

☐ No ☐ Yes □ Describe concerns:

Information about the infant's birth mother:

First name: [redacted]

Last name: [redacted]

Date of birth: [redacted]

Address: [redacted]

City: [redacted]

State: [redacted]

ZIP: [redacted]

How long has the birth mother been a resident at this address?

2 years

At how many weeks or months did the birth mother begin prenatal care?

Unknown

Where did the birth mother receive prenatal care? (Please specify physician or other health care provider name and address.)

Physician/provider: [redacted]

Hospital/district: [redacted]

Address: [redacted]

Phone: [redacted]
4. During her pregnancy with the infant, did the biological mother have any complications? (ex. high blood pressure, bleeding, gestational diabetes)
   □ No  ☑ Yes  Specify: high blood pressure, diabetes

5. Was the biological mother injured during her pregnancy with the infant? (ex. auto accident, falls)
   □ No  ☑ Yes  Specify: Specify

6. During her pregnancy, did she use any of the following?
   a) Over the counter medications
      Unknown  No  Yes  Daily consumption  Unknown  No  Yes  Daily consumption
   b) Prescription medications
      ☑ Yes  No  Daily consumption  ☑ Yes  No  Daily consumption
   c) Herbal remedies
      Unknown  No  Yes  Daily consumption  Unknown  No  Yes  Daily consumption

7. Currently, does any caregiver use any of the following?
   a) Over the counter medications
      Unknown  No  Yes  Daily consumption  Unknown  No  Yes  Daily consumption
   b) Prescription medications
      ☑ Yes  No  Daily consumption  ☑ Yes  No  Daily consumption
   c) Herbal remedies
      Unknown  No  Yes  Daily consumption  Unknown  No  Yes  Daily consumption

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INCIDENT SCENE INVESTIGATION

1. Where did the incident or death occur?
   Avonhurst Road

2. Was this the primary residence?
   ☑ Yes  □ No  □ Skip to question 3 below

3. Is the site of the incident or death scene a daycare or other childcare setting?
   ☑ Yes  □ No  □ Skip to question 7 below

4. How many children were under the care of the provider at the time of the incident or death? 5 (under 18 years or older)

5. How many adults were supervising the child(ren)? 2 (18 years or older)

6. What is the license number and licensing agency for the daycare?
   License number: ____________________________
   Agency: ____________________________

7. How long has the daycare been open for business?

8. How many people live at the site of the incident or death scene?
   ☑ Yes  □ No  □ Skip to question 8 below
   Number of adults (18 years or older) 2
   Number of children (under 18 years old) 5

9. Which of the following heating or cooling sources were being used? (Check all that apply.)
   ☑ Central air  □ Gas furnace or boiler  □ Wood burning fireplace  □ Open window(s)
   ☑ A/C window unit  □ Electric furnace or boiler  □ Coal burning furnace  □ Wood burning stove
   ☑ Ceiling fan  □ Electric space heater  □ Kerosene space heater  □ Other  □ Specify
   ☑ Floor/table fan  □ Electric baseboard heat  □ Other  □ Specify
   ☑ Window fan  □ Electric (radiant) ceiling heat  □ Other  □ Specify
   □ Unknown

10. Indicate the temperature of the room where the infant was found unresponsive:
    Thermostat setting  ____________  Thermostat reading  ____________  Actual room temp.  ____________  Outside temp.  ____________

11. What was the source of drinking water at the site of the incident or death scene? (Check all that apply.)
    ☑ Public/municipal water source  □ Bottled water  □ Other  □ Specify
    □ Well  ☑ Unknown

12. The site of the incident or death scene has: (Check all that apply)
    ☐ Insects  ☑ Mold growth  □ Presence of alcohol containers
    ☑ Smoky smell (like cigarettes)  ☑ Pets  □ Presence of drug paraphernalia
    ☑ Dampness  ☑ Peeling paint  □ Other  □ Specify
    ☑ Visible standing water  □ Rodents or vermin

13. Describe the general appearance of incident scene: (ex. cleanliness, hazards, overcrowding, etc.)
    Cluttered, approx 6 inside cats, 1 ferret
**INVESTIGATION SUMMARY**

1. Are there any factors, circumstances, or environmental concerns about the incident scene investigation that may have impacted the infant that have not yet been identified?

**Arrival times:**
- Law enforcement at scene: 11:29
- DSI at scene: 
- Infant at hospital: 12:14

**Investigator's Notes**

- Indicate the task(s) performed.
  - Additional scene(s)? (forms attached)
  - Disaster reenactment/scene re-creation
  - Photos or video taken and noted
  - Materials collected/evidence logged
  - referral for counseling
  - EMS run sheet/report
  - Notify next of kin or verify notification
  - 911 tape

If more than one person was interviewed, does the information differ?
- No
- Yes
  - Detail any differences, inconsistencies of relevant information: (ex. placed on sofa, last known alive on chair.)

**INVESTIGATION DIAGRAMS**

1. Scene Diagram:

2. Body Diagram:
SUMMARY FOR PATHOLOGIST

Investigator Information: Name: [Name]  Agency: [Agency]  Phone: [Phone]

Investigation: [Date]  Pronounced Dead: [Date]

Infant's Information: Last: [Last Name]  First: [First Name]  M. [Middle Initial]  Case #: [Case Number]

Sex: [Male]  [Female]

Date of Birth: [Day] / [Month] / [Year]  Age: [Age]

Race: [White]  [Black/African American]  [Asian/Pacific Islander]  [Am. Indian/Alaskan Native]  [Hispanic/Latino]  [Other]

Indicate whether preliminary investigation suggests any of the following:

- Asphyxia (ex. drowning, wedging, choking, nose/mouth obstruction, re-breathing, neck compression, immersion in water)
- Sharing of sleeping surface with adults, children, or pets
- Change in sleeping condition (ex. unaccustomed stomach sleep position, location, or sleep surface)
- Hypothermia/Hyperthermia (ex. excessive wrapping, blankets, clothing, or hot or cold environments)
- Environmental hazards (ex. carbon monoxide, noxious gases, chemicals, drugs, devices)
- Unsafe sleeping conditions (ex. couch/sofa, waterbed, stuffed toys, pillows, soft bedding)
- Diet (ex. solids introduction etc.)
- Recent hospitalization
- Previous medical diagnosis
- History of acute life-threatening events (ex. apnea, seizures, difficulty breathing)
- History of medical care without diagnosis
- Recent fall or other injury
- History of religious, cultural, or ethnic remedies
- Cause of death due to natural causes other than SIDS (ex. birth defects, complications of preterm birth)
- Prior sibling deaths
- Previous encounters with police or social service agencies
- Request for tissue or organ donation
- Objection to autopsy
- Pre-terminal resuscitative treatment
- Death due to trauma (injury), poisoning, or intoxication
- Suspicious circumstances
- Other alerts for pathologist's attention

Any "Yes" answers should be explained and detailed.

Brief description of circumstances:

[Provide brief description here]

Pathologist Information:

Name: [Name]  Agency: [Agency]

Phone: [Phone]  Fax: [Fax]

[Signature]
. Slept in plunger @ home.  
Slept on memory pillow for elevation.  
No feus.  
No one played computer here.
got here a about 9 or so
played in my arms and with me
till about 10-10:30 laid down for nap
Checked on alot. Husband checked about
11 and seen ______ was on side
but looked normal. Moved her up on
straw on ______ pillow and then noticed
pail and screamed for me and we
started CPR while i dialed for the called
911. Continual till squad got here

10/25/12
12:10 pm
I noticed on the kids playing and laughing. I noticed she was on her side in the pillow. I look up to grab the back of the pillow. I notice her looking pale and started to check her breathing. She was unconscious. I immediately went into the living room with my wife and she started CPR. We called 911 while doing CPR and continued until squad got here.
EXHIBIT 2
JX-12B
(filed in camera)