

VIRGINIA DEPARTMENT OF CORRECTIONS

Bereavement Guide for Family and Friends



November 1, 2021



Introduction

The Virginia Department of Corrections (VADOC) understands that it can be a difficult and emotional time when a family member or friend dies in prison. As a family member or friend, you may have been named by the deceased person as their designated contact in the case of an emergency.

The guide will provide you with:

- Information on VADOC's notification process following a death in custody;
- Information on VADOC's Staff and the help they can provide to guide you through what to do next (for example respecting religious rituals, claiming the body, making funeral arrangements);
- A brief understanding of the different scenarios surrounding a death in custody;
- An explanation of VADOC's role, policies and any investigative processes; and
- Guidance on how you can get the information you are seeking.

This document was written to help you through this time. It gives you resources and contacts to consult, and offers help in making immediate decisions following the death. It will also help you to establish contact with an Institutional Staff member who can assist you to understand what happens next, and answer some of your questions. There may be times however where VADOC is unable to share certain information right away, due to privacy laws or pending investigations.

VADOC staff will make every effort to assist you at this difficult time; however, neither this guide nor VADOC staff should be considered as a replacement for getting advice from your personal attorney, financial advisor, spiritual leader, funeral home director, or grief support within the community.

Notification

VADOC is very concerned when someone dies and as an agency seeks to respect the deceased person's end-of-life wishes. All individuals under the care and custody of VADOC are asked to identify a designated contact (emergency contact, personal representative or next-of-kin) who VADOC can call in the event of an emergency. VADOC determines whom to contact in the event of a death in custody based on whom the deceased person has named a designated contact.

In some cases, a person who is in the care and custody of VADOC may choose to identify different people to be contacted for different situations. VADOC understands that situations like this can create problems among family and friends; however, VADOC respects the direction provided by the individual who is in their care and custody and therefore will notify the named contact person on file. This information is updated annually by the inmate or CCAP probationer/parolee in accordance with VADOC Operating Procedure 830.1, *Institution Classification Management*.

If there is no designated contact, VADOC staff will attempt to contact one person who would be considered as next-of-kin. A common place VADOC may look for the name of next-of-kin is the deceased person's visitor list.

Should additional people contact VADOC for information, we will continue to respect privacy laws and procedures while providing some basic information. It is rare where the deceased person asked that in the event of their death VADOC not contact anyone, but this does happen. An example of a situation where this may happen is where an individual has been estranged from their family. The VADOC is required by Code of Virginia to make a good faith effort to identify and to notify the next of kin in case of an inmate's or CCAP probationer's/parolee's death, even in cases where no contact person has been selected by the deceased person.



If you are the designated contact, VADOC will notify you regardless of the cause of death. Every VADOC institution has a process in place to make sure that this is done as soon as practicable. Typically, VADOC will contact you by telephone the same day the death occurs. They will also provide you with contact information for the Institutional Staff member on site. Understanding this news can result in many questions; an Institutional Staff member will reach out to you the following day. They will give you as much information as possible and can schedule an alternate time to talk and address any follow-up questions that you may have. In addition to the phone calls, you will also receive information in writing from the VADOC.

After VADOC has notified you, a news release may also be issued with general information about the person's death. The type of information that will be shared beyond the individual's name could include: where they were incarcerated, their age and the crime for which the inmate or CCAP probationer/parolee was incarcerated and their sentence. In addition, the news release may also state that appropriate notifications are being or have been made and that circumstances around the incident are under review.

Making arrangements

Deceased person's final wishes:

If you are the deceased person's designated next of kin or designated Emergency Contact, the Institutional Staff member can share with you any end-of-life wishes that the deceased person may have expressed, such as a Do Not Resuscitate Order (DNR) or a willingness to participate in an organ donor program, religious rituals and funeral arrangements or if they have given someone their power of attorney. Having this information may help you to make your decisions about any final arrangements.

Cultural or Religious Rituals:

The deceased person may have expressed wishes to VADOC staff regarding any cultural or religious rituals or affiliations they would like honored. As the deceased person's designated next of kin or designated Emergency Contact, the Institutional Staff member will share this information with you to assist in respecting the deceased person's end-of-life wishes.

If you know the deceased person's spiritual or cultural practices follows time-sensitive traditions or cultural and/or religious requirements, you should immediately tell the Institutional Staff member. If timing is not a factor, then you may make the arrangements following the release of the deceased person's body.

Medical Examiner - District Offices:

The Medical Examiner's staff understand the uncertainties that accompany a death. Their website contains a lot of information and can help a family member with questions they may have.

Next of kin may call the district office and speak with the office staff or pathologist. Families wishing to visit the office and speak directly with the pathologist should make an appointment beforehand to make certain the pathologist will be available. If you need to contact the Virginia Medical Examiner's office, please call them directly.

- Central District 804-786-3174
- Northern District 703-530-2600
- Tidewater District 757-683-8366
- Western District 540-561-6615

For additional information from the Medical Examiner's office, please use the following links:
<http://www.vdh.virginia.gov/medical-examiner/information-for-family-and-friends/faqs/>
<http://www.vdh.virginia.gov/content/uploads/sites/18/2016/04/fam.pdf>

**Obtaining a Death Certificate:**

Per Code of Virginia §32.1-263, *Filing death certificates; medical certification; investigation by Office of the Chief Medical Examiner* the Medical Examiner will issue the death certificate for the deceased incarcerated person and until the death certificate is available, the body cannot be released to the family.

Next of kin and others legally entitled to obtain the death certificate may obtain copies from the Registrar in the city or county of death or from the Division of Vital Records in Richmond, Virginia. You can get general information from the Virginia Office of Vital Records at (804) 662-6200 or by visiting <http://www.vdh.virginia.gov/vital-records/>.

Funeral:

The designated contact, next-of-kin, or an otherwise authorized person may claim the body and take responsibility for funeral arrangements, however only after the Medical Examiner allows the release.

In the event that there is a cost associated to transporting the deceased person's body to a funeral home in their hometown or that of the next-of-kin, funds from the Inmate's Trust Account will be used. Funeral costs must be covered by the next-of-kin or the deceased person's estate. The Institutional Staff can provide you with information about local funeral homes.

Disposition of Unclaimed Body:

Per Code of Virginia §32.1-309.2 B, *Disposition of unclaimed dead body; how expenses paid*, when a person's body is unclaimed, the Department of Corrections will bear the reasonable expenses for disposition of the body. It is very important to note if disposition of the remains has not been completed by next of kin within 30 days, VADOC will complete disposition. Once the VADOC has incurred the expense for the disposition of the body the family will no longer be able to take possession of the body or ashes.

Personal belongings: VADOC will arrange and pay for delivery of the deceased person's personal belongings left in their care, to the designated contact. The deceased person's estate, which may also include their funds remaining in the person's 'Inmate Trust Account', may be subject to taxation. The timing for the release of personal belongings may vary based on the circumstances.

VADOC does its best to carry out the deceased person's end-of-life wishes; however, each state has rules and laws about dealing with wills and estates. VADOC encourages you to seek independent legal advice and suggest you should call a lawyer or someone at the Legal Aid Society in the state you live. This will ensure you get the proper assistance with questions you may have about the deceased person's estate, especially if they had personal belongings or assets in the community to be given away.

In situations where the deceased person has passed and did not have a will, state law where they were in custody will determine how the estate is to be handled.

Detailed information regarding personal property and required forms can be found on the Virginia Department of Corrections' public website at <https://vadoc.virginia.gov/about/procedures/documents/800/802-1.pdf>.

Pursuant to COV §64.2-601, *Payment or delivery of small asset by affidavit et seq.*, if 60 days have elapsed and there has been no application for the appointment of a personal representative, for estates valued at \$50,000 or less all personal property and money in the inmate's or CCAP probationer's/parolee's account may be released to any individual who can prove by affidavit that they are the beneficiary under the will,



or if none, the next of kin. The claimant should submit the *Small Estate Affidavit* form, available from Institutional Staff to the facility holding the personal property or money.

Circumstances of death in custody

There are two scenarios under which an individual could pass away in the care and custody of VADOC. They are death by natural causes and death by non-natural causes. Information may be shared differently for each situation, as there are different processes involved in reviewing them.

Certain information is available to you as the designated contact or next-of-kin, such as whether the death was expected or unexpected and if the cause of death was due to natural or unnatural causes. VADOC understands that you will want to know what happened to cause the death. In most situations, the circumstances around a death in custody are related to natural causes. However, there are times when an individual dies in custody due to a non-natural cause. VADOC reviews all deaths, and when necessary they are investigated.

Death due to natural cause

A death due to natural cause can happen when there is a terminal illness, medical complication, or cardiac arrest. When a death is due to natural cause, VADOC conducts a review.

Death due to non-natural cause

A death due to non-natural cause is when a death is sudden or there may have been trauma, injury, overdose, or suicide. In these cases, a state medical examiner will determine the circumstances around the death. An internal investigation will also be conducted.

In some cases, a death may occur while an individual is in a hospital. An autopsy may be required under circumstances where the cause of death may not be known.

So why do an investigation?

There are several reviews and reports that can be completed after an individual's death in VADOC's care and custody. The availability of a report is often dependent on a variety of circumstances, such as the required time to complete a review, respecting privacy laws, pending investigations and the receipt of the Medical Examiner reports.

In some cases, the Institutional Staff member may not be able to give you all the information you are looking for, specifically if the person who died did not provide consent to share the information around their health or death. This also may happen if certain information needs to be withheld because it could put the safety of any person at risk, put the security of the institution at risk, jeopardize any lawful investigation, and/or compromise the dignity of the deceased person.

Investigations tell the circumstances leading to the death and also lay out the actions taken at the time of death. The reports may not always be readily available, as in some cases investigations take a considerable amount of time to complete and some information in the reports may also be subject to privacy laws.

You can receive a copy of certain VADOC reports by putting forth a request to the VADOC's Administrative Compliance Manager, FOIA@vadoc.virginia.gov, once the investigation is complete. Copies of reports associated with the Medical Examiner's Office will be released pursuant to Code section §32.1-283, *Investigation of deaths; obtaining consent to removal of organs, etc.; fees* and other relevant state laws.



Community Resources

We also want to help you find support resources in your community, such as the following, which you may find helpful:

- Angel Wings Medical Transportation: 757-701-0808
- Assisting Families of Inmates: 804-643-2401
- Full Circle - Grief Resources - <http://fullcirclegc.org>
- Grief Recovery Helpline: 1-800-445-4808
- Grief Organizations & Grief Camps - <https://moyerfoundation.org/national-bereavement-resource-guide/resources/>
- The Compassionate Friends - www.compassionatefriends.org
- Grief Recovery After a Substance Passing - www.grasphelp.org
- National Alliance for Grieving Children - <http://nationalallianceforgrievingchildren.org>
- National Hospice and Palliative Care - www.nhpco.org
- American Psychiatric Association - Referrals to psychiatrists in your area – www.psych.org
- American Psychological Association - Referral to psychologist in the area – www.apa.org
- National Association of Social Workers - Referral to social workers in your area – www.socialworker.org
- Virginia CARES: 540-342-9344
- Virginia CURE - www.vacure.org/
- **Dial 911** for Emergency services
- **National/International Resource** - Elisabeth Kubler-Ross Foundation – www.ekrfoundation.org

Interpretation/Translator Services

- Richmond, Virginia: (804)269-9185 or <http://richmondtranslator.com/>
- Northern Virginia - Alexandria Translations: (703) 799-7606 or alexandriatranslations.com
- Nationwide service - Indy Translations – <http://indytranslations.com>

Conclusion

When someone dies under VADOC's custody, the staff is committed to helping family and friends receive information needed to make decisions. The death of a family member involves many difficult, practical and emotional issues with which you might need assistance. We hope that these referrals have been helpful to you.