



# Virginia Department of Corrections

## Authority, Inspection, and Auditing

### Operating Procedure 038.4

### *Notification of Serious Injury, Illness, or Death*

#### Authority:

Directive 038, *Incident Reporting*

**Effective Date:** November 1, 2021

**Amended:** March 1, 2024

#### Supersedes:

Operating Procedure 038.4, November 1, 2018

**Access:**  Restricted  Public  Inmate

#### ACA/PREA Standards:

5-ACI-6C-02, 5-ACI-6C-16; 4-ACRS-4C-21,  
4-ACRS-7D-15; 2-CO-3B-02; 2-CO-4E-01

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## REVIEW

The Content Owner will review this operating procedure annually and re-write it no later than three years after the effective date.

*The content owner reviewed this operating procedure in September 2022 and determined that no changes are needed.*

*The content owner reviewed this operating procedure in October 2023 and determined that no changes are needed.*

## COMPLIANCE

This operating procedure applies to all units operated by the Virginia Department of Corrections. Practices and procedures must comply with applicable State and Federal laws and regulations, ACA standards, PREA standards, and DOC directives and operating procedures.

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## DEFINITIONS

**Death by Unknown Cause** - Any death of an inmate/probationer/parolee that is an unnatural death or not obviously a natural death as defined in this operating procedure

**Emergency Contact** - The person or persons designated by an inmate or CCAP probationer/parolee to be contacted in an emergency

**Immediate Family** - Inmate or CCAP probationer/parolee parents, step-parents, grandparents, lawful spouse, biological, step or legally adopted children, and biological, half, step, or legally adopted siblings; appeals regarding an individual's status as immediate family will be decided by the Facility Unit Head.

**Impending Death** - In the independent judgment of the treating physician, death of the terminally ill inmate or CCAP probationer/parolee is expected within a short period, generally a matter of days.

**Life Threatening** - A potentially fatal disease, illness or condition where there is a strong possibility that the disease, illness, condition, or situation is capable of causing death

**Natural Death** - Death of an inmate or CCAP probationer/parolee occurring from illness, disease or old age rather than by accident, or by an act of violence

**Serious Illness** - A medical condition, other than injury, which requires immediate, unplanned admission to a hospital

**Serious Injury** - An injury, including self-injury that requires urgent and immediate medical treatment and restricts the person's usual activity. Generally, a serious injury involves at least one of the following criteria:

- Broken/Fractured Bones
- 9+ Stitches
- 3rd degree burns (2nd degree is up to discretion)
- Concussion
- Extended stay in outside medical (more than 24 hours)
- Restriction to usual activity (i.e., Officer cannot work due to the injury)

Note: This is not an exhaustive list of all possible injuries that may be considered serious.

**Unnatural Death** - Homicidal, accidental, or suicidal death of an incarcerated inmate or CCAP probationer/parolee

## PURPOSE

This operating procedure establishes procedures for the timely notification of appropriate individuals in the event of serious injury, illness, or death of inmates and CCAP probationers/parolees housed in a Department of Corrections (DOC) facility. Protocols are provided for handling the remains of deceased inmates and CCAP probationers/parolees.

## PROCEDURE

- I. Facility Responsibilities for a Seriously Ill or Injured Inmate or CCAP Probationer/Parolee
  - A. All ill or injured inmates or CCAP probationers/parolees must be given expedient medical attention and if indicated, transported immediately to an appropriate medical treatment center.
  - B. For a seriously ill or injured inmate and CCAP probationer/parolee:
    1. Protection of the area of illness or injury as a possible crime scene, if appropriate
    2. Immediate notification of serious injury, as defined in this procedure, to an inmate or CCAP probationer/parolee will be reported by telephone to the Operations and Logistics Unit (OLU) Operations Center (804-372-4447); see Operating Procedure 038.1, *Reporting Serious or Unusual Incidents*. The *Vital Information for Telephone Notification of Incident* 038\_F1 may be used to gather critical facts for the initial telephone report.
    3. In life threatening situations only, notification to the inmate's or CCAP probationer's/parolee's emergency contacts in accordance with *Notification of Emergency Contact* section of this operating procedure.
    4. Filing of an Incident Report, if appropriate, as prescribed by Operating Procedure 038.1 *Reporting Serious or Unusual Incidents*.
    5. Inventory and secure the inmate's or CCAP probationer's/parolee's personal property if they are transferred, hospitalized, or deceased.
    6. Licensed Mental Health Units must report serious injury, illness, or death to the Department of Behavioral Health and Developmental Services, Department of Licensing within 24 hours of the event.
- II. Notification of Emergency Contact (2-CO-4E-01)
  - A. At intake to the DOC, each inmate and CCAP probationer/parolee should provide *Emergency Notification Information* 050\_F11; see Operating Procedure 050.1, *Offender Records Management* to identify their next of kin and other persons to be contacted in an emergency. The *Emergency Notification Information* 050\_F11 will be uploaded into VACORIS, updated as needed, and checked at each annual review to determine if the contact information is current.
  - B. If the inmate or CCAP probationer/parolee does not have an emergency contact listed or the emergency contact cannot be reached, facility staff should review DOC records, visiting records, telephone calling lists and records, and search the inmate's or CCAP probationer's/parolee's property to find next of kin or other persons they contacted recently.
  - C. When life threatening injury or life threatening illness of an inmate or CCAP probationer/parolee occurs, whether a result of accident, violence, or other causes, the inmate's or CCAP probationer's/parolee's emergency contact will be notified unless security reasons dictate otherwise. In the event of an inmate's or CCAP probationer's/parolee's death, good faith efforts will be made by designated staff to identify and to notify the next of kin as soon as practicable. If possible, permission for notification is obtained from the inmate or CCAP probationer/parolee. (5-ACI-6C-02; 4-ACRS-4C-21; 2-CO-3B-02)
    1. Notification should be made as soon as practicable upon the determination that the inmate or CCAP probationer/parolee has suffered a life threatening illness or injury or is deceased.



2. Notification of the life threatening injury or illness of an inmate or CCAP probationer/parolee should include the following:
  - a. The Facility Unit Head and the Health Authority should consult on specific cases they should report.
  - b. Notification will include information concerning visiting, if visitation is permitted.
  - c. If contact information is provided and authorized, notification of life threatening illness or injury may be made initially by telephone. If the emergency contact cannot be reached by telephone, other reasonable efforts should be made.
  - d. Voice mail should not be used to provide relevant details of the life threatening injury or illness. Staff making the notification call should leave the appropriate contact information, request a return call, and advise when they will attempt to call again.
  - e. Staff making the notification call should always exhibit ethical and professional behavior when contacting the emergency contact or family member. Staff must:
    - i. Be prepared with all known information before initiating the notification call. Relate the situation directly and in plain language.
    - ii. Do not leave messages with any person other than the designated contact.
    - iii. Be honest and objective. Relate only those details that have been verified and known to be accurate.
    - iv. Do not speculate on unknowns.
    - v. Compassion is the most important resource you bring to a notification call.
    - vi. Treat each person with respect and dignity.
    - vii. Be careful not to state any personal religious beliefs you may hold.
    - viii. Be alert for adverse reactions. The information you deliver may be upsetting.
    - ix. You may use, as a guide, the suggested phone script provided below:

Good (Evening, Morning, Afternoon), May I speak with (contact name)?

My name is (caller name) I am the (position title) at (facility name) where (inmate or CCAP probationer/parolees name), your (relationship) is currently located.

You are listed by (inmate or CCAP probationer/parolee name) as the person to contact in case of an emergency. I need to inform you of the (serious illness or injury) of (inmate or CCAP probationer/parolee name). I will attempt to keep you informed as to the condition of (inmate or CCAP probationer/parolee name) as we know more information.

He (she) is currently located at (name of hospital, address). For further information as to his (her) condition, you may call the hospital at (telephone number) or contact my office at (telephone number) for updates. Please do not go to the hospital; visitation is not allowed without prior approval from the (Warden/ Superintendent) of (facility name).

Again, I regret the (illness, injury) of your (relationship).

- f. A follow-up letter is to be sent to confirm the call. A suggested form for the letter of notification of life threatening injury or illness is:

(Mr. or Ms.) (Name of contact listed),

I regret to inform you of the (serious illness or injury) to (inmate or CCAP probationer/parolee name) your (relationship) who is assigned to (facility name). I will attempt to keep you informed as to the condition of your (relationship).

He (she) is currently located at (name of hospital, address). For further information as to his (her) condition, you may call the hospital at (telephone number) or contact my office for updates. Please do not go to the hospital; visitation is not allowed without prior approval from the (Warden/ Superintendent) of (facility name).

Again, I regret the (illness, injury) of your (relationship).



Sincerely,  
(Facility Unit Head)

III. Notification of the Death of an Inmate or CCAP Probationer/Parolee

- A. COV §32.1-283, *Investigation of deaths; obtaining consent to removal of organs, etc.; fees* requires that in addition to notifying the emergency contact, the facility will make good faith efforts to identify and to notify the next of kin of the decedent. Identity of the next of kin, if determined, will be provided to the Chief Medical Examiner upon transfer of the body.
- B. The Facility Unit Head or designee should make notification of the death of an inmate or CCAP probationer/parolee.
- C. Staff making the notification call should always exhibit ethical and professional behavior when contacting the emergency contact or family member. Staff must:
1. Be prepared with all known information before initiating the notification call. Relate the situation directly and in plain language.
  2. Do not leave messages with any person other than the designated contact.
  3. Be honest and objective. Relate only those details that have been verified and known to be accurate.
  4. Do not speculate on unknowns.
  5. Compassion is the most important resource you bring to a notification call.
  6. Treat each person with respect and dignity.
  7. Be careful not to state any personal religious beliefs you may hold.
  8. Be on alert for adverse reactions. The information you deliver may be upsetting.
  9. You may use, as a guide, the suggested phone script provided below.

Good (Evening, Morning, Afternoon), May I speak with (contacts name)?

My name is (callers' name) I am the (position title) at (facility name) where (inmate or CCAP probationer/parolee name), your (relationship) is currently located.

You are listed by (inmate or CCAP probationer/parolee name) as the person to contact in case of an emergency. I need to inform you of the death of (inmate or CCAP probationer/parolee name). Your (relationship), (inmate or CCAP probationer/parolee name) passed away on (date and time). Please accept our condolences for your loss.

(Inmate or CCAP probationer/parolees name) remains have been released to (name of contracting mortuary, address and phone number of mortuary). They will be expecting your call for further instructions for the final disposition of (inmate or CCAP probationer/parolees name). If not claimed within 48 hours, disposition must be made as provided by law. Please notify (contract mortuary) whether you will provide instructions. You may contact the Medical Examiner's Office at (XXX) XXX-XXXX if you have questions regarding the cause of death of your (relationship).

I will attempt to keep you informed as we learn more information. You will receive a follow up confirmation letter containing the information I just shared with you and which will contain additional resources.

Again, I extend our condolences in the passing of your (relationship).

10. The Facility Unit Head must send a follow-up letter of confirmation of death within one working day. The format for the letter should be similar to the sample provided below:

(Mr. or Ms.) (Name of contact listed),

It is with regret that I must inform you of the death of (inmate or CCAP probationer/parolee



name) your (relationship). He (she) passed away at (time) on (day, date).

(Inmate or CCAP probationer/parolee name) remains are currently at (funeral home, morgue, or medical examiner's office). They will be expecting your call for further instructions for the final arrangements for (inmate or CCAP probationer/parolee name). If not claimed within 48 hours, disposition must be made as provided by law. Please notify (contract mortuary) whether you will claim the remains. You may contact the Medical Examiner's Office at (XXX) XXX-XXXX if you have questions regarding the cause of death of your (relationship).

We will be forwarding to you in a separate mailing a guide to community resources that you may find useful.

You may contact (name of Counselor) at (inmate or CCAP probationer/parolee name) previously assigned facility, (name of facility/ telephone number) to provide information in relation to securing (inmate or CCAP probationer/parolee name) property and closing out any accounts.

Again, please accept our condolences to you and other family and friends of (inmate or CCAP probationer/parolee name).

Sincerely,

(Facility Unit Head)

11. A copy of all letters of notification will be retained in the inmate's or CCAP probationer's/parolee's facility record and the institution's administrative files and will be uploaded in to VACORIS as an external document. A notation of any phone calls, including who was notified or if no one answered, will be made in the inmate's or CCAP probationer's/parolee's case notes file in VACORIS.

D. The responsibility for notification of next of kin following the death of an inmate or CCAP probationer/parolee is dependent upon their assigned facility at the time of death.

1. Death at a DOC Operated Hospital Security Ward (VCU/MCV Secure Care)
  - a. When a death occurs at the security ward, the notification call will be made by the attending physician or the Secure Care Assistant Warden.
  - b. The Secure Care Assistant Warden/designee will contact the Facility Unit Head of the inmate's or CCAP probationer's/parolee's assigned facility to provide pertinent information and to advise that the next of kin has been notified.
  - c. It will be the responsibility of the inmate's or CCAP probationer's/parolee's assigned facility to provide pertinent information to the family in relation to securing property and closing out any accounts.
  - d. Appropriate notifications will be made as detailed in Operation Procedure, 038.1, *Reporting Serious or Unusual Incidents*.
2. Death at a Local Hospital - The Facility Unit Head or Administrative Duty Officer at the inmate's or CCAP probationer's/parolee's assigned facility will ensure that the emergency contact/next of kin is notified.
3. For those inmates who have been transferred to and decease at the Deerfield Medical Unit, Fluvanna Medical Unit, the Greensville Medical Unit, or the Powhatan Medical Unit regardless of the previously assigned facility, it will be the responsibility of the respective Facility Unit Head (Deerfield/Fluvanna/Greensville/Powhatan) to assure notification of the emergency contact/next of kin.

IV. Special Visits for Impending Death

- A. The immediate family of an inmate or CCAP probationer/parolee facing impending death as defined in this operating procedure may be considered for a special visit in accordance with Operating Procedure 851.1, *Visiting Privileges*.



- B. Inmates assigned to Security Levels 4, 5, 6, or S are not eligible to have an impending death special visit unless approved by the Regional Operations Chief.
- C. If the inmate or CCAP probationer/parolee is housed at a facility and is not physically able to attend a visit in an area normally used for special visits, arrangements should be made for a bedside visit in an appropriate area such as infirmary or medical observation unit.
- D. In the event of impending death of an inmate/probationer/parolee who housed at a hospital, permission may be granted for a special visit for members of the immediate family.
  - 1. Inmates or CCAP probationers/parolees are not normally allowed to receive visitors, including hospital staff, not directly involved in the inmate's or CCAP probationer's/parolee's care.
  - 2. The Facility Unit Head or Administrative Duty Officer, in the Facility Unit Head's absence, may authorize hospitalized inmates or CCAP probationers/parolees to receive visits from immediate family members.
  - 3. In all cases, the judgment of the attending physician or other recognized medical authority may overrule the decision to authorize a special visit by the immediate family. Hospital policy will take precedent over DOC operating procedures.
  - 4. Visitation approvals should be for specific members of the inmate's or CCAP probationer's/parolee's immediate family to visit on a specific time and date. Visits should not exceed one hour or other limitations based on hospital policy.
  - 5. Identification and dress requirements for hospital visits will be the same as for institution visits.
  - 6. Searches of visitors must be conducted in accordance with Operating Procedure 445.4, *Screenings and Searches of Persons*
  - 7. Visitors are not allowed to bring any items to the inmate or CCAP probationer/parolee or leave any items in the inmate's or CCAP probationer's/parolee's room.
  - 8. Purses, vehicle keys, coats, hats, and other such items should be placed in an area out of inmate, CCAP probationer/parolee, and visitor reach and under the supervision of Corrections Officers.
  - 9. The inmate or CCAP probationer/parolee may be allowed a hug and a kiss with each visitor on arrival and departure of the visitors. No contact other than holding hands should be allowed during the visit.
  - 10. No more than two adult visitors may be allowed in the inmate's or CCAP probationer's/parolee's room at any time. The Facility Unit Head or Administrative Duty Officer will determine the number of minor children allowed to visit at any one time.
  - 11. Corrections Officers will closely monitor all visits.
  - 12. Disruptive, unruly, or individuals who display behavior inconsistent with Operating Procedure 851.1, *Visiting Privileges*, will have their visit terminated. Due to the sensitive nature of the visit, the Facility Unit Head or Administrative Duty Officer is responsible for making notification to the family member that their visit is terminated.

V. Pronouncement of Death (2-CO-4E-01)

- A. When an inmate or CCAP probationer/parolee death occurs, the facility physician, if available, will pronounce death.
- B. If the facility physician is not available, the local Medical Examiner should direct the facility as to where the body will be pronounced.
- C. Under the following circumstances, a registered nurse employed by DOC (including contract medical providers) can pronounce death: (Per COV §54.1-2972, *When person deemed medically and legally dead; determination of death; nurses' or physician assistants' authority to pronounce death under certain circumstances* all the following criteria must be met.)





1. The nurse is directly involved in the care of the patient.
2. Death has occurred.
3. The patient is under the care of a physician.
4. Death has been anticipated.
5. The physician is unable to be present within a reasonable time to determine death.
6. There is a valid Do Not Resuscitate order for the patient who died.

D. Once death has been pronounced, any restraints will be removed from the body. Under no circumstances will a body be transported or transferred to the Medical Examiner with handcuffs or leg irons.

VI. Facility Responsibilities after Death of an Inmate or CCAP Probationer/Parolee (5-ACI-6C-16)

A. When an inmate or CCAP probationer/parolee death occurs, the Facility Unit Head, or Administrative Duty Officer if the Facility Unit Head is unavailable, should insure proper handling of the body in accordance with this operating procedure and timely notification of required parties.

B. When an inmate or CCAP probationer/parolee death occurs at the facility and there is suspicion of drug overdose, the Facility Unit Head, or Administrative Duty Officer if the Facility Unit Head is unavailable, will contact the Regional Operations Chief (ROC) or Regional Administrator to determine if a portable mass spectrometer will be used on the hands of the inmate or CCAP probationer/parolee.

1. The ROC will ensure a portable mass spectrometer is available and is in proper operating condition in their region.
2. The ROC will ensure that appropriate numbers of regional staff are trained in the operation of the portable mass spectrometer.
3. The mass spectrometer scan must be done prior to the fingerprinting of the deceased.
4. The results from any portable mass spectrometer will be included with the incident report or incident report addendum.

C. If an investigation is warranted, a deceased inmate's or CCAP probationer's/parolee's body should not be moved, fingerprinted, or tagged until released by the investigator.

1. Exceptions may be made when the death has occurred in an area containing other inmates and CCAP probationers/parolees who cannot be easily secured.
2. When it cannot be determined if the inmate or CCAP probationer/parolee is actually deceased, the person may be moved as necessary for medical care.

D. Following verification of a death, the facility should protect the site of discovery and surrounding area as a possible crime scene.

E. The following authorities will be notified of the inmate's or CCAP probationer's/parolee's death: (5-ACI-6C-16; 4-ACRS-7D-15)

1. Immediately notify the Operations and Logistics Unit (OLU) Operations Center (804-804-372-4447). See Operating Procedure 038.1, *Reporting Serious or Unusual Incidents*. The *Vital Information for Telephone Notification of Incident 038\_F1* may be used to gather critical facts for the initial telephone report.
2. In the event of apparent or actual suicide, notify the Chief of Mental Health and Wellness Services no later than the next working day.
3. The Health Services Director and Chief Physician will be notified by email and a copy of the incident report will be sent via e-mail or FAX.
4. As soon as sufficient details are available, but within three hours, notify the inmate's or CCAP probationer's/parolee's emergency contact.

5. Submit an Incident Report, if required by Operating Procedure 038.1, *Reporting Serious or Unusual Incidents*.
  6. Make appropriate entries in VACORIS to update the inmate's or CCAP probationer's/parolee's status.
- F. A Toe Tag should be affixed to the right, large toe of the deceased indicating the individual's full name, number, facility where death occurred, what infectious diseases, if any, the deceased was known to have had immediately prior to death, and the signature of the individual preparing the toe tag.
1. At the time of transferring the body of a dead inmate or CCAP probationer/parolee to the Medical Examiner's Office or to a funeral home, they will be notified if the inmate or CCAP probationer/parolee has any one or more infectious diseases as defined by 12VAC5-90-90 F, *Regulations for Disease Reporting and Control, Those required to report*. At the time this operating procedure was written, the following conditions were included:
    - Creutzfeldt-Jakob disease
    - Human immunodeficiency virus infection
    - Hepatitis B
    - Hepatitis C
    - Monkeypox
    - Rabies
    - Smallpox
    - Syphilis, infectious
    - Tuberculosis, active disease
    - Vaccinia, disease or adverse event
    - Viral hemorrhagic fever
    - Any active communicable disease
  2. Notification should be made by writing on the dead person's toe tag that the person had, immediately prior to death, one of the diseases specified.
  3. Notification of infectious diseases should also be made verbally prior to releasing the body of the deceased to the Medical Examiner, funeral home, or transport service.
  4. Each facility is responsible for purchasing Post Mortem Hospital Body leak proof bags and toe tags for identification and transport of the deceased inmate or CCAP probationer/parolee.
- G. The Facility Unit Head of the facility responsible for notification of the emergency contact will also be responsible for making notification to the Virginia State Police of the inmate's or CCAP probationer's/parolee's death in the event assistance is required for timely notification of the family. The Virginia State Police will not be contacted or requested to conduct or assist in any investigation. The Director, upon his determination, may request an investigation by the Virginia State Police.
1. The Special Investigations Unit (SIU) has sole authority to conduct investigations into unnatural death; homicide, accident, or suicide and/or death by unknown causes of inmates or CCAP probationers/parolees, see Operating Procedure 030.4, *Special Investigations Unit*.
  2. Obtain a set of fingerprints
    - a. If the death is an unnatural death or death by unknown cause, Facility staff will request that the Medical Examiner provide one set of fingerprints of the deceased inmate or CCAP probationer/parolee.
      - i. DOC staff MUST NOT fingerprint a deceased inmate or CCAP probationer/parolee in an unnatural death or death by unknown cause unless the Medical Examiner's Office declines to provide fingerprints.
      - ii. If the death is an unnatural death or death by unknown cause, DOC staff should place the deceased inmate's or CCAP probationer's/parolee's hands in clean paper bags (one bag for each hand) prior to transportation to the Medical Examiner.

iii. At no time will plastic bags be used as a substitute for paper bags.

b. If the death is a natural death, the facility is responsible for obtaining fingerprints. Each facility should have access to trained facility staff and equipment for fingerprinting deceased inmates or CCAP probationers/parolees.

3. A *Death Notice SP-172 038\_F2*, will be completed in its entirety.

4. As soon as they are both available, the *Death Notice* and the fingerprints will be forwarded together to: Department of State Police, Central Criminal Records Exchange, P. O. Box 27472, Richmond, Virginia 23261-7472.

H. Inventory and secure the inmate's or CCAP probationer's/parolee's personal property.

I. Distribute the inmate's or CCAP probationer's/parolee's funds and personal property in accordance with Operating Procedure 802.1, *Inmate or CCAP Probationer/Parolee Property*.

1. If necessary, DOC will arrange and pay for delivery of the deceased person's personal belongings left in their care, to the designated contact.

2. The deceased person's estate, which may also include their funds remaining in the person's 'Inmate Trust Account', may be subject to taxation.

3. The timing for the release of personal belongings may vary based on the circumstances.

4. In order to secure a receipt for mailed property, the parcel will be sent "return receipt requested".

## VII. Transfer of the Body

A. Per COV §32.1-283, the death of any inmate or CCAP probationer/parolee incarcerated in a DOC facility will be investigated by the Medical Examiner.

B. The facility will contact the District Office of the Chief Medical Examiner; see Attachment 1, *Medical Examiner Districts* for instructions on contacting the correct Medical Examiner's office.

C. The District Office of the Chief Medical Examiner will instruct that the body be transported to the District Office of the Chief Medical Examiner for further examination (including autopsy) or that the body may be released to a funeral home as determined by the emergency contact/next of kin or the facility if no one claims the body.

D. The DOC does not require an autopsy. The facility physician or Chief Physician may request one, but the decision rests solely with the Medical Examiner.

E. If the body is sent to a District Office of the Chief Medical Examiner, it must be accompanied by a copy of relevant information from the inmate's or CCAP probationer's/parolee's Health Record.

F. Bodies should be transported in a Post Mortem Hospital Body leak proof bag with appropriate tags.

G. The facility should make arrangements with a local funeral home or a transport service for transfer of the body. The facility may transport the body if a vehicle is available that is designed for the purpose and properly equipped with a gurney, stretcher, or cot.

H. Per COV §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 inmate or CCAP probationer/parolee and until the death certificate is available, the body cannot be released to the family.

I. Per COV §32.1-309.2 B, *Disposition of unclaimed dead body; how expenses paid* in the case of an inmate or CCAP probationer/parolee who has been received into a DOC facility and died prior to release, whose body is unclaimed, the DOC will bear the reasonable expenses for cremation or other disposition of the body.

1. The facility to which the deceased was assigned will procure the services of a local funeral service for disposition of the remains by cremation.



- a. The facility will be responsible for all reasonable expenses associated with the transportation, cremation, and disposal of ashes.
  - b. If the DOC pays for cremation, the ashes should be disposed of instead of given to the family.
  - c. COV §32.1-309.2 E *Disposition of unclaimed dead body; how expenses paid* and COV §64.2-512, *Funeral expenses* provide for seizure of assets from the deceased person's estate out of which burial expenses can be paid, either in whole or in part.
  - d. Under this law, the Trust Account balances for a deceased inmate or CCAP probationer/parolee could be used to help pay certain costs if his body was unclaimed.
2. In the case of a person who has been received into the state correctional system and died prior to his release and whose claimant is financially unable to pay reasonable expenses of disposition, the expenses will be borne by the county or city where the claimant resides. The locality may submit a claim against the inmate's or CCAP probationer's/parolee's account for reimbursement of costs incurred by the locality.
  3. When a decedent's next of kin indicates they will claim the body, the Facility Unit Head or designee should check with the Medical Examiner's office within 30 days of notification to emergency contact/next of kin to determine if the body has been claimed.
    - a. If not claimed in 30 days after release by the Medical Examiner, the Facility Unit Head or designee should contact the emergency contact/next of kin to determine the circumstances. The emergency contact/next of kin should be advised to contact local or city authorities where the claimant lives if the reason is financial.
    - b. The emergency contact/next of kin should be advised that they are responsible to determine the disposition of remains and that if appropriate arrangements are not completed within 30 days, the DOC will complete disposition.
    - c. The emergency contact/next of kin should be requested to inform the facility designee with contact information of the party who will be arranging for disposition.
    - d. If the emergency contact/next of kin is not going to arrange for claim of the body, an attempt should be made to obtain documentation of this decision and then proceed as for an unclaimed body.
    - e. If unable to notify the decedent's next of kin despite good faith efforts, the Facility Unit Head or designee will document such efforts and notify the primary law enforcement agency for the locality who will then attempt to notify the decedent's next of kin. If the primary law enforcement agency for the locality is unable to identify and notify the decedent's next of kin within ten days of initial contact by the DOC, the Facility Unit Head or designee will proceed with disposal of the decedent's remains as unclaimed in accordance with COV §32.1-309.2 and this operating procedure.
  4. After notification to the emergency contact/next of kin of the need to arrange disposition of the remains, the Facility Unit Head/designee should continue to check with the Medical Examiner's office as appropriate to assess status of disposition of remains. If disposition of remains has not been completed within 30 days, the Office of Health Services should be notified and the Facility Unit Head/designee should proceed with completion of disposition of remains as an unclaimed body.

#### VIII. Health Records/Office of Health Services Investigation/Reports

- A. Upon receiving information of an inmate's or CCAP probationer's/parolee's death, the DOC Chief Physician or designee will contact facility medical staff and obtain current, pertinent information regarding circumstances of death.
- B. The facility physician and nurse will make a summary medical note in the Health Record to include antecedent causes of death, if known; medical diagnosis; last time seen by medical personnel; any inmate's or CCAP probationer's/parolee's complaint; current medications and other pertinent information.
- C. After closing out the Health Record, it should be delivered immediately to the Office of Health Services,



attention Chief Physician or designee.

- D. The Office of Health Services will collect all pertinent data, (i.e., Incident Reports, health records, autopsy reports, etc.), for review by the Chief Physician or designee. The Chief Physician or designee will prepare a report of his findings for the Chief of Corrections Operations.
- E. The Office of Health Services will keep a log of all deaths. All background data on inmate or CCAP probationer/parolee deaths will be kept on file in the Office of Health Services.
- F. The Chief Physician or designee should review/discuss inmate and CCAP probationer/parolee deaths at physicians' meetings. The facility physician where the death occurred may be required to discuss circumstances and associated health care.

IX. Medical Certification Portion of Death Certificate for Released Inmate or CCAP Probationer/Parolee

- A. In accordance with COV §32.1-263, when the Medical Examiner has refused jurisdiction for an inmate or CCAP probationer/parolee who dies after release from a DOC facility and the facility physician is the last physician to furnish medical care, the facility physician is responsible for completing and signing the medical certification portion of the Death Certificate.
- B. The medical certification will be completed and signed in black or dark blue ink, and returned to the funeral director within 24 hours after notification of the death.
- C. In the absence of the facility physician or with their approval, the certificate may be completed and signed by the following:
  - 1. Another DOC affiliated physician
  - 2. A physician assistant supervised by the physician
  - 3. A nurse practitioner practicing as part of a patient care team as defined in COV §54.1-2900
  - 4. Chief Physician
  - 5. Individual to whom the physician has delegated authority to complete and sign the certificate if death is due by natural causes and if such individual has access to the medical history of the case.
- D. If the death is a natural death and a death certificate is being prepared in accordance with COV §54.1-2972, and the individual designated to sign the certification is uncertain about the cause of death, they will use their best medical judgement to certify a reasonable cause of death or contact the health district physician director in the district where the death occurred to obtain guidance in reaching a determination as to the cause of death and document the same.
- E. An individual designated to sign the certification, who in good faith, signs a certificate of death or determines the cause of death will be immune from civil liability, only for such signature and determination of causes of death on such certificate, absent gross negligence or willful misconduct.
- F. If the cause of death cannot be determined within 24 hours after death, the medical certification will be completed as provided by regulations of the Board of Medicine and the funeral director will be given notice of the reason for the delay.

X. Notification of the Death of a Foreign National

- A. At the time of initial intake, the county of origin of a foreign national must be established.
  - 1. This responsibility rests with the initial DOC reception facility.
  - 2. The county of origin information will be documented in VACORIS.
- B. Upon the death of a foreign national, the inmate's or CCAP probationer's/parolee's consular officials must be notified.
- C. Notification to consular officials to should be made as soon as practicable, no later than 72 hours after the



inmate's or CCAP probationer's/parolee's death.

D. In the event of death, efforts are to be made to contact consular officials outside of normal hours.

E. If a voice message is left on an answering machine, a follow-up call during normal business hours to ensure that it was received should be made. The voice message should only leave contact information and a request that the call be returned.

XI. *Virginia Department of Corrections Bereavement Guide for Family and Friends* (Attachment 2)

A. At the occurrence of an inmate's or CCAP probationer's/parolee's death, the Facility Unit Head or designee makes notification to the deceased inmate's or CCAP probationer's/parolee's next-of-kin or emergency contact informing them of the death.

B. A follow up notification letter is also to be sent to the deceased's designated contact.

C. A copy of Attachment 2, *Virginia Department of Corrections Bereavement Guide for Family and Friends* is to be included with the letter of notification.

XII. Staff Training

A. The Academy for Staff Development (ASD) will provide training based on this operating procedure.

B. This training will place emphasis on facility administrative and supervisory staff demonstrating an understanding of the processes defined in this operating procedure and ensuring that all staff are conscious of the need to be empathic in their dealings with the family and friends of the deceased.

## REFERENCES

COV §32.1-263, *Filing death certificates; medical certification; investigation by Office of the Chief Medical Examiner*

COV §32.1-283, *Investigation of deaths; obtaining consent to removal of organs, etc.; fees*

COV §32.1-309.2 B, *Disposition of unclaimed dead body; how expenses paid*

COV §54.1-2972, *When person deemed medically and legally dead; determination of death; nurses' or physician assistants' authority to pronounce death under certain circumstances*

COV §64.2-512, *Funeral expenses*

COV §54.1-2900, *Definitions*

12VAC5-90-90 F, *Regulations for Disease Reporting and Control, Those required to report*

Operating Procedure 030.4, *Special Investigations Unit*

Operating Procedure 038.1, *Reporting Serious or Unusual Incidents*

Operating Procedure 050.1, *Offender Records Management*

Operating Procedure 445.4, *Screenings and Searches of Persons*

Operating Procedure 802.1, *Inmate or CCAP Probationer/Parolee Property*

Operating Procedure 851.1, *Visiting Privileges*

## ATTACHMENTS

Attachment 1, *Medical Examiner Districts*

Attachment 2, *Bereavement Guide for Family and Friends*

## FORM CITATIONS

*Vital Information for Telephone Notification of Incident* 038\_F1



*Death Notice SP-172 038\_F2*

*Emergency Notification Information 050\_F11*

