

GENERAL DISTRIBUTION

WEST VIRGINIA
DIVISION OF CORRECTIONS
& REHABILITATION

NUMBER: 456.01

EFFECTIVE DATE: 18 October 2024

SUBJECT: DEATH IN CUSTODY

POLICY DIRECTIVE

PURPOSE:

To provide the actions to be taken in the event of the death of an offender in the custody of or being supervised by the Division of Corrections and Rehabilitation.

REFERENCE:

WV Code §61-12-8; ACA Expected Practices 5-ACI-6C-02 and 16, 5-ALDF-4D-12 and 30, 3-JDF-4C-45, 4-JCF-4C-43, 1-JDTP-3B-19, and 2-CO-4E-01; and National Commission on Correctional Healthcare (NCCHC) §§P-A-09, J-A-09, and Y-A-09.

RESPONSIBILITY:

Superintendents are responsible for ensuring the requirements of this Policy Directive are included in applicable Post Orders.

CANCELLATION:

Any previous written instruction on the subject including DCR Policy Directive 456.01, dated 12 July 2023.

APPLICABILITY:

All facilities, youth reporting centers, and work units within the Division of Corrections and Rehabilitation (DCR). This Policy is available for general distribution.

DEFINITIONS:

None.

POLICY:

1. Upon verification of a deceased offender by a qualified medical professional, the county coroner shall be notified. If contact cannot be established, the WV Office of the Chief Medical Examiner can be contacted at 304-558-6920. The notification will include the

following information: offender's name, OID#, date of birth, social security number, time of death, location of deceased, and circumstances of death.

- A. The following records will be released to the coroner/medical examiner:
 - 1. The offender's medical records;
 - 2. Incident reports pertaining to the event; and
 - 3. Name and contact information for the offender's emergency contact/next of kin.
 - B. Transfer of physical custody of the deceased offender to the coroner/medical examiner shall be documented (**Attachment #1**) and the receiving agency shall be required to sign accepting custody of the deceased. Signed forms will be uploaded to Offender Information System (OIS) Document Management.
- II. The Shift Commander shall ensure the following actions are taken, including, but not limited to:
- A. Appropriate notifications to facility leadership and the DCR Corrections Emergency Operations Center (CEOC).
 - B. Prompt notification to the offender's emergency contact by designated staff. In the case of juvenile offenders, this notification shall be made to the offender's parent or legal guardian unless the facility has official documentation showing that the parent or legal guardian is not to be notified.
 - 1. Staff making the notification call should always exhibit ethical and professional behavior and be prepared with all known information before initiating the call. Do not speculate on unknowns. Compassion is the most important resource to bring to the notification call.
 - 2. Voice mail or messages with relevant details regarding the death should not be left. Staff may leave the appropriate contact information, request a return call, or advise when they will attempt to call again.
 - 3. Designated staff will ensure the Bereavement Guide for Family and Friends (**Attachment #2**) if provided to the emergency contact in the most expedient method possible.
 - C. Notification of the incarcerating authority.
 - D. Efforts to secure all property of offender for final disposition.
 - E. Check the alerts in OIS and if the offender is registered with the Human Gift Registry program, take appropriate actions in accordance with Policy Directive 456.03.

- III. Should the circumstances of the death appear to be accidental, deliberate and/or the result of a crime, all procedures will be followed to secure and preserve the scene and notify appropriate investigative personnel and law enforcement.
- IV. For all offender deaths, the Superintendent or designee shall complete a written report within twenty-four (24) hours of the offender's death to the Commissioner through his/her chain of command, which includes at a minimum:
 - A. Offender's identifying data (name, OID#, race, sex, age, date of birth, place of birth, social security number);
 - B. Offense(s), court jurisdiction, court/conviction status, sentences/terms, release or parole status;
 - C. Circumstances of crime;
 - D. Medical history; and
 - E. Circumstances of death including location, time, and date and cause of death (if known at that time).
- V. The CID investigator assigned to the facility will also be notified of all offender deaths, including offenders who were in DCR custody upon transfer to an outside medical facility and were released from custody but passed away prior to their discharge from the medical facility and those offenders whose death occurred while on furlough.
- VI. In adult facilities, the Records Clerks or designee shall complete the Death in Custody Reporting Act Form which is required by the U.S. Department of Justice, Bureau of Justice Statistics and send to the Director of Records and Interstate Compact in Central Office or designee.
- VII. When an offender dies in the custody of DCR and there is no family member willing to claim and bury/cremate the body, the Superintendent/designee shall have the authority and is hereby permitted to make a contractual agreement with a local funeral home for the purpose of burying or cremating the remains (whichever is the least expensive). All unclaimed remains will be sent to Huttonsville Correctional Center and Jail (HCC&J) for burial.
- VIII. The facility Medical Director will provide a written morbidity and mortality review report within thirty (30) days of the death to the Superintendent. The report will also be timely updated once the final autopsy report is issued. In the event of an offender suicide, a psychological autopsy will also be performed by the mental health provider. The agency physician will also complete an independent written morbidity and mortality review.
- IX. A meeting with the Superintendent or designee, the facility Medical Director and other relevant healthcare and facility staff will be conducted after the submission of the facility Medical Director's report to facilitate discussion of the circumstances surrounding the

death, staff response and appropriateness of clinical care provided (if applicable). The agency physician may also attend the meeting.

- X. **Instructions Concerning Offenders Supervised by Parole Services:** In the event of the death of an offender under supervision of Parole Services, the supervising Officer shall notify his/her Regional Director who will notify the Director of Records and Interstate Compact or designee in Central Office. The offender's status will not be changed until the death is verified by receipt of a certified death certificate.
- XI. **Instructions Concerning Youth Reporting Centers (YRC):** In the event of the death of a participant, designated staff shall notify local law enforcement, the county coroner, the center director and the DCR CEOC. Designated staff shall also make prompt notification to the participant's parent or legal guardian.

ATTACHMENT(S):

- #1 Release of Deceased Offender
- #2 Bereavement Guide for Family and Friends (8 pages) (to be printed in color)

APPROVED SIGNATURE: William K. Marshall III Oct. 18, 2024
William K. Marshall III, Commissioner Date

WV DIVISION OF CORRECTIONS & REHABILITATION

RELEASE OF DECEASED OFFENDER

Date: _____ Time: _____

The physical custody of _____ (Offender's Name and OID#)
is hereby released from _____ (Name of Facility)
to _____ (Name and Agency of
Representative Taking Custody) in accordance with Division of Corrections and Rehabilitation Policy
Directive 456.01.

Signature of Representative Taking Custody

Agency

Signature of Releasing Officer/Staff Member



West Virginia
Division of Corrections and Rehabilitation
Bereavement Guide
for Family and Friends

Introduction

The West Virginia Division of Corrections and Rehabilitation (WVDCR) understands that it can be a difficult and emotional time when a family member dies in a correctional facility. 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.

This guide will provide you with:

- Information on WVDCR's notification process following a death in custody.
- Information on WVDCR's staff and the help they can provide to guide you through what to do next (e.g., respecting religious rituals, claiming the body, making funeral arrangements).
- A brief understanding of the different scenarios surrounding a death in custody.
- An explanation of WVDCR'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 a facility staff member who can assist you to understand what happens next, and answer some of your questions. There may be times however where WVDCR is unable to share certain information right away, due to privacy laws or pending investigations.

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

Notification

WVDCR 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 WVDCR are asked to identify a designated contact (emergency contact, personal representative or next-of-kin) who WVDCR can call in the event of an emergency. WVDCR determines whom to contact in the event of a death in custody based on whom the deceased person has named a designated contact.

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

Should additional people contact WVDCR 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 WVDCR not contact anyone, but this could happen. An example of a situation where this may happen is where an individual has been estranged from their family.

If you are the designated contact, WVDCR will notify you regardless of the cause of death. Every WVDCR facility has a process in place to make sure that this is done as soon as practicable. Typically, WVDCR will contact you by telephone the same day the death occurs. They will also provide you with contact information for the facility staff members on site. Understanding this news can result in many questions; a facility 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 WVDCR.

After WVDCR 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 offender 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 facility 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 order 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 WVDCR 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 facility 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 follow time-sensitive traditions or cultural and/or religious requirements, you should immediately tell the facility staff member. If timing is not a factor, you may make the arrangements following release of the deceased person's body.

Medical Examiner:

State law requires when an offender in a public institution dies, the WV Chief Medical Examiner or his/her designee or the county medical examiner or coroner in the county where the death occurs be notified. Upon notification, the Chief Medical Examiner or his/her designee or the county medical examiner/coroner shall take charge of the body and any objects or articles which, in his or her opinion, may be useful in establishing the cause or manner of death. Reports from final autopsies and toxicology results may take several months to be completed. Further questions regarding the timing of these reports may be directed to the West Virginia Chief Medical Examiner's Office at (304) 558-6920.

Obtaining a Death Certificate:

West Virginia is not an "open record" state. Certificates will only be issued to next of kin or to people with a legal right to the certificate. If you have questions concerning the right to obtain a copy of a death certificate, please contact WV Vital Registration at (304) 558-2931. An *Application for Copy of West Virginia Death Certificate* and additional information is provided at the end of this guide.

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 with transporting the deceased person's body to a funeral home in their hometown or that of the next-of-kin, funds from the offender's trustee account will be used. Funeral costs must be covered by the next-of-kin or the deceased person's estate. Facility staff can provide you with information about local funeral homes.

Veterans' burial allowances (sometimes called "Veterans death benefits") may be available to families of veterans to help cover burial, funeral, and transportation costs. Contact your nearest Veterans Affairs (VA) regional office for eligibility information.

Disposition of Unclaimed Body:

When a person's body is unclaimed, the WVDCR will bear the reasonable expenses for disposition of the body.

Personal Belongings:

The WVDCR will arrange for the deceased person's personal belongings left in their care to be given to the designated contact. The timing for the release of personal belongings may vary based on the circumstances.

Each state has rules and laws about dealing with wills and estates. WVDCR encourages you to seek independent legal advice and suggests you call a lawyer or the Legal Aid of West Virginia helpline at (866) 255-4370. This would ensure you get the proper assistance with questions you may have about the deceased person's estate, especially if he or she had personal belongings or assets in the community to be given away. In situations where the deceased person did not have a will, state law will determine how the estate is to be handled.

Circumstances of Death in Custody

There are two scenarios under which an individual could pass away in the care of custody of WVDCR. 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. WVDCR 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. WVDCR reviews all deaths, and when necessary, they are investigated.

Health care records (medical information) may be released by the contractual health care provider upon submission of an appropriate release signed by the offender's personal representative.

Death Due to Natural Cause

A death due to natural cause can happen when there is a terminal illness, medical complication, or cardiac arrest. A mortality review is conducted in the case of a natural death. This includes a review of the deceased person's health care. The review looks into the events, overall care, quality of life and the clinical care the person received before death.

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 or county medical examiner will determine the circumstances around the death. An internal investigation will also be conducted.

So why do an investigation?

A prompt, impartial and effective investigation is essential for ascertaining the cause of death. The investigation helps to protect the interests of all parties involved, including next of kin. There are several reviews and reports that can be completed after an individual's death in WVDCR 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 facility staff member may not be able to give you all the information you are looking for. This 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 facility at risk, jeopardize any lawful investigation, and/or compromise the dignity of the deceased person.

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

Community Resources

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

- National Grief Hotline: 1-800-445-4808
- Grief Recovery After a Substance Passing (GRASP) Wheeling Chapter
Contact Person: Shelley Rohrig
namigreaterwheeling@namiwheeling.org
(304) 905-0635
Meeting Info: 1st Tuesday of each month at 5:30
- Grief Recovery After a Substance Passing (GRASP) Huntington Chapter
Contact Person: Rikki Abbott
rikkidawn@hotmail.com
(304) 416-2244

- Mountain Hospice Bereavement Services
Belington, WV
(304) 763-7789
- The Compassionate Friends
Charleston Chapter
Hodges Road
Charleston, WV 25314
aprkv@gmail.com
(304) 546-5342
Meetings held virtually
- Bereaved Parents of the USA – Eastern Panhandle
12107 Back Creek Valley Road
Hedgesville, WV 25427
(304) 754-4936
- West Virginia Family Grief Center
361 Scott Avenue
Morgantown, WV 26508
(304) 282-4935
wecare@wvfgc.org

Conclusion

When someone dies under WVDCR'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.

In addition to facility staff available to assist you, if you have additional concerns or questions that you would like assistance with, please contact:
Secretary to Medical Director of Correctional Healthcare
Telephone: 304-558-2036

Attachment: Application for Copy of West Virginia Death Certificate (2 pages)



Application for Copy of West Virginia Death Certificate

Please print except where signature is required.

The following pertains to information that would be found on the certificate being requested.

Name of person on the certificate

Date of Death

First Middle Last Month/Day/Year

City _____ County _____ State _____ Sex: Male Female

The information below pertains to the person requesting the certificate.

Requestor's Relationship: Parent Guardian or agent Grandparent

Child of decedent Spouse

Other (Describe) _____

Making false statements and misuse of vital records will result in criminal and civil penalties pursuant to WV Code §16-5-38.

Signature (Required) Printed Name (Required)

Reason for request: _____

Enclosed is \$ _____ for _____ copies at \$12.00 per copy.

Please send check or money order. Please do not send cash.
Make checks payable to: Vital Registration

Send copies to: Print your address below.

() _____
Area Code Your daytime telephone number:

City State Zip E-Mail address

Submit form with check or money order to:

Vital Registration
Room 165
350 Capitol Street
Charleston, WV 25301-3701

Telephone: (304) 558-2931

Death records are confidential and not open to the general public, except for those that are at least 50 years old.

Who is entitled to obtain records:

- Informant listed on the death certificate;
- Parents/grandparents;
- Adult children/grandchildren;
- Adult siblings;
- Spouse; and
- Legal representatives (proof of legal representation also required).

Proof of relationship may also be required.

All requests must be accompanied by a valid ID as listed below. The acceptable documents listed may change without prior notice. For mail requests, a photocopy of the document is sufficient, please do not send the original.

Submit one (1) document from the primary list OR two (2) documents from the secondary list.

Primary Documents

- DMV-issued driver's license unexpired or expired for not more than five years;
- DMV-issued learner's/instruction permit unexpired or expired for not more than five years;
- DMV-issued photo identification card (excluding child ID cards) unexpired or expired for not more than one year;
- Current Photo ID card, (school and employment). Check Cashing Cards are not acceptable;
- Unexpired U.S. military ID card of an active duty or retired member (ID cards of military dependents are not acceptable as primary identity documents);
- U.S. Passport unexpired or expired for not more than five years;
- West Virginia Criminal Justice Agency Offender Information Form; or
- United States Probation Offender Information Form

Secondary Documents (Require two of below selections)

- Social Security Card
- A utility bill (phone, electric, gas, water, etc.) with your name and current address;
- Automobile registration with your name and current address;
- Automobile insurance card with your name and current address;
- Voter's Registration Card with your name and current address;
- Checking account deposit slip or bank statement stating name and current address;
- Paycheck stub or a W-2 form with your name and current address;
- U.S. Selective Service Card;
- U.S. military discharge papers (form DD214);
- Health care insurance card;
- Unexpired welfare/social services identification card with photo, issued by a municipality;
- Unexpired weapons or gun permit issued by federal, state or municipal government; or
- Veterans' Universal Access Identification Card.