
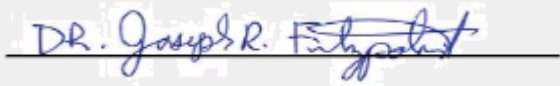


<b>POLICY TITLE: PRISONER DEATH</b>		<b>PAGE 1 OF 8</b>
<b>POLICY NUMBER: 18.21</b>		
<b>CHAPTER 18: HEALTH CARE SERVICES</b>		
	<b>STATE of MAINE</b> <b>DEPARTMENT OF CORRECTIONS</b>  <b>Approved by Commissioner:</b> 	<b>PROFESSIONAL STANDARDS:</b>  <b>See Section VII</b>
<b>EFFECTIVE DATE:</b> August 15, 2003	<b>LATEST REVISION:</b> July 17, 2017	<b>CHECK ONLY IF</b> APA [ ]

**I. AUTHORITY**

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. Sections 1403 and 3040-A.

**II. APPLICABILITY**

All Departmental Adult Facilities

**III. POLICY**

It is the policy of the Department of Corrections in the event of a prisoner death to ensure the appropriate notifications are made, to evaluate, if appropriate, the circumstances surrounding the death, to make provision for the proper disposition of the body, and to distribute as appropriate the prisoner's funds and personal property items.

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**V. ATTACHMENTS**

None

## VI. PROCEDURES

### Procedure A: Death of a Prisoner in the Physical Custody of Department Staff

1. Only the facility physician, physician assistant, or nurse practitioner or qualified emergency medical services personnel may make the determination that a prisoner has died at a correctional facility. Only qualified emergency medical services or hospital personnel may make the determination that a prisoner in the physical custody of Department staff has died outside a correctional facility.
2. Until a determination of prisoner death has been made as set out above, trained facility staff shall initiate emergency life saving measures unless the prisoner is decapitated, has dependant morbidity, or rigor mortis has set in. Once initiated, non-medical staff may not discontinue emergency life saving measures except at the direction of qualified facility medical staff or upon transfer of responsibility to qualified hospital or emergency medical services personnel. Facility medical staff shall direct the discontinuation of emergency life saving measures if a determination of death has been made as set out above or if the prisoner has a current Department approved Advance Directive or a physician's order to not resuscitate (DNR order), unless it appears to be a suicide attempt or the result of other self-injurious behavior.
3. Once the determination of death has been made as set out above, facility medical staff (or, if the death of a prisoner in the physical custody of Department staff has occurred outside a correctional facility, the security staff) shall immediately inform the Shift Commander that a death has occurred and whether the death appears to have been of natural causes.
4. If the death might have been by suicide or otherwise might not have been of natural causes, the death scene shall not be disturbed. The prisoner's body shall not be disturbed and the area shall be considered a potential crime scene in accordance with Departmental Policy (AF) 13.9, Emergency Situations, General Guidelines.
5. The Shift Commander shall immediately:
  - a. notify the duty officer;
  - b. notify the Chief Administrative Officer, or designee, who shall notify the Commissioner, or designee, and the Department's legal representative in the Attorney General's Office; and
  - c. ensure the prisoner's identity is confirmed by the taking of fingerprints, to be thereafter filed in the prisoner's administrative record, and by other appropriate means.
6. The facility duty officer shall ensure that the State Police and the Office of the Medical Examiner are notified.

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7. If the death might not have been of natural causes, the facility duty officer shall ensure that the facility investigator and the Department's Director of Operations are notified as soon as possible.
8. The Chief Administrative Officer, or designee, shall notify by the next business day:
  - a. the Department's Director of Classification, or designee;
  - b. the Department's Director of Victim Services, or designee;
  - c. the facility classification staff; and
  - d. the facility business office staff.
9. The facility classification staff shall document the fact of the prisoner's death in CORIS.
10. In the case of prisoner death at a correctional facility, the facility physician, physician assistant or nurse practitioner making the determination of death or, if death was determined by emergency medical services personnel, the most qualified facility medical staff shall document the death in the prisoner's health care record, including the evidence supporting death, the time of the death, the circumstances surrounding the death, any emergency life saving measures taken, and, if possible, the apparent cause of death. If the death is determined by emergency medical services personnel, facility medical staff shall also obtain a copy of their documentation for inclusion in the prisoner's health care record.
11. If the death of a prisoner in the physical custody of Department staff occurs outside the correctional facility, the security staff shall document the circumstances surrounding the death, any emergency life saving measures taken, and any other actions taken, including, but not limited to, efforts to obtain the assistance of emergency medical services personnel or hospital personnel. The facility medical staff shall obtain a copy of any documentation by emergency medical services personnel or hospital personnel for inclusion in the prisoner's health care record.
12. In any case of the death of a prisoner at a correctional facility or otherwise in the physical custody of Department staff, a printed copy of the health care record shall be made by facility health care staff, with a notation as to who printed the copy and when. The original record shall be sealed, secured, and delivered to the Chief Administrative Officer, or designee. If any additional health care document is found or received after the record has been printed, it shall be labeled as to the date and circumstances of its discovery or receipt and forwarded to the Chief Administrative Officer, or designee.

**Procedure B: Mortality Review for the Death of a Prisoner in the Physical Custody of Department Staff**

1. The facility Health Services Administrator (HSA), or designee, shall complete an initial mortality review within thirty (30) days of the death of a prisoner at the correctional facility or otherwise in the physical custody of Department staff,

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which shall include a review of the prisoner's health care record and a copy of the Post-Mortem Report, if available.

2. In completing the initial mortality review, the HSA, or designee, shall include a consideration of the events leading up to the death, including any health care interventions. The HSA, or designee, shall look for any emerging patterns that might be relevant to the death.
3. The HSA, or designee, shall present the initial mortality review at a Mortality and Morbidity meeting.
4. If the prisoner death was by suicide, the Department's Director of Behavioral Health shall conduct a psychological autopsy for consideration at the meeting.
5. The HSA, or designee, shall ensure appropriate Department and facility health care staff attend the meeting and may invite other staff as appropriate. Other staff may provide input at the meeting.
6. After the Morbidity and Mortality meeting, the HSA shall complete a written initial mortality report, including any relevant input from other staff.
7. Any pending information not included in the initial report that is received at a later date (e.g., toxicology results) shall be incorporated into a final report. If no other information is pending that would be relevant to the death, the initial report shall stand as written with a notation to this effect.
8. The final report or the initial report noted to constitute the final report shall be forwarded to the Department's contract health care services provider, the Department's Health Services Coordinator, the facility Chief Administrative Officer, or designee, and the Commissioner, or designee.
9. The prisoner's health care record and the mortality report(s) shall be maintained in a secure location at the facility for seven (7) years following the prisoner's death unless otherwise advised by the Attorney General's Office. At the end of that time period, the record and reports shall be handled in accordance with Policy 18.9, Health Care Records.

**Procedure C: Death of a Prisoner Not in the Physical Custody of Department Staff**

1. When any Department staff are informed by any person of the death of a prisoner not in the physical custody of Department staff (e.g., while on furlough or work release or in the custody of a deputy sheriff or jail staff or prison staff from another jurisdiction), the staff shall immediately inform the Shift Commander that a death has occurred.
2. The Shift Commander shall notify:
  - a. the duty officer; and

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- b. the Chief Administrative Officer, or designee, who shall notify the Commissioner, or designee, and the Department's legal representative in the Attorney General's Office.
3. The Commissioner, or designee, shall take the appropriate steps to verify the prisoner's death and to ensure, if applicable, that the appropriate criminal justice agencies have been notified of the death.
4. Once the death has been verified, the Chief Administrative Officer, or designee, shall notify by the next business day:
  - a. the Department's Director of Classification, or designee;
  - b. the Department's Director of Victim Services, or designee;
  - c. the facility classification staff; and
  - d. the facility business office staff.
5. The facility classification staff shall document the fact of the prisoner death in CORIS.

**Procedure D: Disposition of the Prisoner's Body**

1. The Unit Manager of the prisoner's housing unit, or other staff designated by the Chief Administrative Officer, shall be responsible to notify the prisoner's emergency contact(s) as listed in CORIS about the prisoner's death. However, unless an emergency contact is a spouse or one of the relatives listed in 2 below, the contact shall not be allowed to claim the body of the prisoner, the prisoner's funds or the funds or personal property items.
2. The Unit Manager of the prisoner's housing unit, or other staff designated by the Chief Administrative Officer, shall be responsible to notify the prisoner's spouse, if any, and, if there is no spouse, then at least one of the following in this order: child(ren), parent(s) or legal guardian, if applicable, sibling(s), or other nearest relative.
3. The staff shall also confirm whether the person notified intends to claim the prisoner's body (after the Medical Examiner's Office releases the body, if applicable). If the person states an intention to claim the body, the staff shall inform the person that claiming the body also includes assuming financial and other responsibility for the final disposition of the body, including cremation or burial.
4. The staff shall document contact or efforts to make contact and any decisions made as a result of the contact in CORIS.
5. If the body is claimed, the Chief Administrative Officer, or designee, shall make arrangements with the funeral director or the Medical Examiner's Office, as applicable, for the body to be released to that person.

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6. If none of the above persons wishes to claim the body, one of the following shall occur, as determined by the Chief Administrative Officer, or designee:
  - a. cremation of the body and delivery of the remains to an appropriate person, unless the prisoner has indicated an objection to cremation in writing, the nearest relative objects to cremation, or the prisoner is known to be a member of a religion that prohibits cremation;
  - b. cremation of the body and burial of the remains at the pauper's gravesite, unless the prisoner has indicated an objection to cremation in writing, the nearest relative objects to cremation, or the prisoner is known to be a member of a religion that prohibits cremation;
  - c. burial of the body in the pauper's gravesite; or
  - d. donation of the body to a medical school, if the prisoner gave advance written permission.
  
7. The Department shall not pay for or use prisoner funds to pay for a memorial service or arrange a memorial service, except that the Chief Administrative Officer, or designee, may allow a memorial service at the facility to be attended by prisoners, staff, volunteers, and student interns only.

**Procedure E: Disposition of Prisoner's Funds and Personal Property Items**

1. The duty officer shall arrange to have the prisoner's personal property items immediately secured, inventoried using the Prisoner Property Inventory form (Attachment B to Department Policy (AF) 10.1, Prisoner Allowable Property), packed and delivered to the facility property room or other designated location for storage, unless the area in which the property is located is considered a potential crime scene or the facility duty officer or correctional investigative officer determines that the property might relate to an investigation of the death.
  
2. If the area in which the property is located is considered a potential crime scene or the facility duty officer or correctional investigative officer determines that the property might relate to an investigation of the death, then the relevant property items shall be secured as evidence in accordance with Department Policy (AF) 14.16, Preservation of Evidence.
  
3. Upon notification of a prisoner's death, the facility business staff shall transfer all funds in the prisoner's phone account to the prisoner's general account and cease processing prisoner-initiated expenditures, but shall continue to collect and disburse funds for obligations as provided in the Collection Priority List (Attachment A) in Department Policy 2.12, Prisoner and Resident Accounts.
  
4. If a personal representative has been appointed by a probate court to administer the prisoner's estate upon death, the funds in the prisoner's general account and personal property items not secured as evidence shall be turned over to the personal representative upon the presentation to the facility Chief Administrative Officer, or designee, of the court order of the appointment and verification of the personal representative's identity.

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5. The representative shall be told in writing of any obligations still owed by the prisoner to persons or agencies outside the Department, including, but not limited to, court-ordered restitution, court fines and back taxes, as well as any outstanding funeral director's bill.
6. If no probate court-appointed personal representative has come forward, once thirty (30) days have passed since the prisoner's death, the funds in the prisoner's general account and personal property items not secured as evidence, up to a maximum value of \$20,000.00 for both the funds and property items, shall be turned over to any person who produces to the facility Chief Administrative Officer, or designee, a sworn affidavit that states the following:
  - a. the value of the entire estate less liens and encumbrances does not exceed \$20,000;
  - b. thirty (30) days have elapsed since the death of the decedent;
  - c. no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction; and
  - d. the person making the affidavit is entitled to the funds and other property.
7. The person presenting the affidavit shall be told in writing of any obligations still owed by the prisoner to persons or agencies outside the Department, including, but not limited to, court-ordered restitution, court fines and back taxes, as well as any outstanding funeral director's bill.
8. If no probate court-appointed personal representative has come forward and if no affidavit has been produced, once sixty (60) days have passed since the prisoner's death, the balance of the funds in the prisoner's general account shall be used toward the payment of the funeral director's bill, if not already paid by the family or other outside source, up to a maximum of \$1000.00.
9. If no probate court-appointed personal representative has come forward and if no affidavit has been produced, once sixty (60) days have passed since the prisoner's death, the balance of the funds in the prisoner's general account up to a maximum of \$1000.00 minus any amount that has been used toward the payment of the funeral director's bill, as well as any personal property items, shall, if claimed, be turned over to the prisoner's spouse, if any, and, if there is no spouse, then one of the following in this order: child(ren), parent(s) or legal guardian, if applicable, sibling(s), or other nearest relative.
10. The spouse or other relative shall be told in writing of any obligations still owed by the prisoner to persons or agencies outside the Department, including, but not limited to, court-ordered restitution, court fines and back taxes.
11. If funds in the prisoner's general account are disbursed under paragraphs 8 and/or 9, the maximum that may be disbursed in total is \$1000.00.
12. In the event there are personal property items to be turned over, the Chief Administrative Officer, or designee, shall make arrangements to have the

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property items picked up or mailed, with any mailing costs to be deducted from funds in the prisoner's account, if any.

13. In any situation not covered above, the Department's legal representative in the Attorney General's Office shall be contacted for further instruction, including, but not limited to, when:
  - a. a document that purports to be the prisoner's will is found or produced;
  - b. there is a question about a court order of appointment of the personal representative;
  - c. there is a question about an affidavit;
  - d. there is an affidavit but the value of the personal property items and the funds exceeds \$20,000.00;
  - e. there is more than one relative who might be entitled to and is claiming the prisoner's funds or personal property items, e.g., no spouse and more than one child asking for the funds;
  - f. \$1000.00 has been disbursed from the prisoner's account under paragraphs 8 and/or 9, but there still remain funds in the account; or
  - g. there has been no claim made for the prisoner's funds and/or personal property items and more than ninety (90) days has passed since the prisoner's death.
  
14. Personal property items or funds of a deceased prisoner shall not be treated as abandoned without consultation with the Department's legal representative in the Attorney General's Office.

**VII. PROFESSIONAL STANDARDS**

**ACA:**

- ACI - 4-4395** There is a process by which the individuals designated by the inmate are notified in case of serious illness, serious injury, or death, unless security reasons dictate otherwise. If possible, permission for notification is obtained from the inmate prior to need.
  
- ACI - 4-4425** Authorities having jurisdiction are promptly notified of an offender's death. Procedures specify and govern the actions to be taken in the event of the death of an offender.
  
- 4-ACRS-7D-14** Authorities having jurisdiction are promptly notified of an offender's death. Procedures specify and govern the actions to be taken in the event of the death of an offender.

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