

<p style="text-align: center;"><b>STATE OF VERMONT</b> <b>AGENCY OF HUMAN SERVICES</b> <b>DEPARTMENT OF CORRECTIONS</b></p>	<p style="text-align: center;"><b>Death Response and Review</b></p>		<p style="text-align: center;"><b>Page 1 of 10</b></p>						
<p style="text-align: center;"><b>CHAPTER: HEALTH SERVICES</b></p>	<p style="text-align: center;"><b>#353</b></p>	<p><b>Supersedes:</b> #353, dated 06/10/2021</p>							
<p><b>Local Procedure(s) Required:</b> No  <b>Applicability:</b> All staff (including contractors and volunteers)  <b>Security Level:</b> “B” – Anyone may have access to this document.</p>									
<p><b>Approved:</b></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%; text-align: center;"><u>SIGNED</u></td> <td style="width: 33%; text-align: center;"><u>08/13/2024</u></td> <td style="width: 33%; text-align: center;"><u>08/29/2024</u></td> </tr> <tr> <td style="text-align: center;">Nicholas J. Deml, Commissioner</td> <td style="text-align: center;">Date Signed</td> <td style="text-align: center;">Date Effective</td> </tr> </table>				<u>SIGNED</u>	<u>08/13/2024</u>	<u>08/29/2024</u>	Nicholas J. Deml, Commissioner	Date Signed	Date Effective
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**PURPOSE**

This policy establishes the procedures that Department of Corrections’ (DOC) shall follow when responding to, and reviewing, the death of an individual who is under the custody or supervision of the DOC.

**AUTHORITY**

18 V.S.A. §§ 5205, 9700 et seq.; 26 V.S.A. §§ 1441, 1443; 28 V.S.A. §§ 124, 803, and 808(e); 33 V.S.A. § 2301.

**POLICY**

The DOC’s policy is to prioritize the dignity of all individuals under the custody or supervision of the DOC. To that end, the DOC is committed to ensuring staff respond to the death of an incarcerated or supervised individual with compassion and respect. This shall include the prompt notification to the designated emergency contact, when appropriate, ensuring proper processing and release of an individual’s remains, and the returning/processing/disposing of any funds or

personal property. It is further the policy of the DOC to ensure that all deaths are reviewed with the utmost care, in accordance with best practices.

This policy outlines the DOC's responsibility regarding advanced directives and when a death occurs. DOC staff shall follow the procedures, in accordance with the contracted health services provider's clinical policy and guidance on palliative care.

## **GENERAL PROCEDURES**

### **A. Advanced Directives**

1. An advance directive is a written record executed pursuant to 18 V.S.A. § 9703, that may include appointment of an agent, identification of a preferred primary care clinician, instructions on healthcare desires or treatment goals, and anatomical gifts, final arrangements of incarcerated individual's remains and funeral goods and services.
2. The DOC shall ensure that the contracted health services provider offers opportunities for incarcerated individuals to retain control over their own end-of-life decisions using advance directives and do not resuscitate (DNR) orders.
3. The contracted health services provider shall:
  - a. Offer incarcerated individuals the opportunity to discuss and complete an advance directive during their initial and subsequent annual exams, at the Chronic Illness Clinic, upon admission to an Infirmary, or any time an incarcerated individual requests to do so;
  - b. Review advance directives with the incarcerated individual, in accordance with the prevailing standard of care;
  - c. Store properly executed advance directives in the incarcerated individual's Electronic Health Record (EHR);
  - d. Submit all completed advance directives to the Vermont Advanced Directive Registry; and
  - e. Regularly supply up-to-date advance directive information to the DOC's Health and Wellness Division.
4. The DOC shall maintain the incarcerated individual's designated emergency contact in the Offender Management System (OMS), in accordance with booking procedures.

## **B. Death of an Incarcerated Individual in a Vermont Facility**

1. A qualified emergency services worker, physician, or medical examiner may pronounce an individual's death. DOC facility staff and contracted nursing staff shall not pronounce a death of an incarcerated individual.
2. Once the death of an incarcerated individual is pronounced:
  - a. The Superintendent, or designee, shall:
    - i. Make efforts to confirm whether the designated emergency contact is also a victim/survivor. If the designated emergency contact is a victim/survivor, the Superintendent, or designee, shall make efforts to confer with the Victim Services Director, or designee before communicating with them; and
    - ii. Ensure the designated emergency contact is notified of the individual's passing. The Superintendent, or designee, shall make all reasonable efforts to reach a designated emergency contact within a 24-hour period before the DOC may publicly identify a decedent.
  - b. The Correctional Facility Shift Supervisor (CFSS) shall assign a staff member to preserve and secure the scene. The assigned facility staff shall:
    - i. Restrict access to the area to assigned DOC staff and healthcare personnel operating in their official duties until the area is released by the Medical Examiner, law enforcement, or other designated investigating authority; and
    - ii. Follow the specific procedures on access logs, and the preservation of a crime scene and evidence, in accordance with the policy on crime scene preservation and evidence collection. If the preservation of a crime scene requires that the individual remain in a place where their body is visible to staff or incarcerated individuals, the assigned staff member shall photograph or videotape the scene and then immediately cover the individual's body with a clean sheet.
3. After the scene is preserved and secured, the assigned facility staff shall:
  - a. Follow the facility notification requirements, in accordance with the facility standard operating procedure on incident reporting;
  - b. Create an incident in OMS and enter the date of the incarcerated individual's death, in accordance with the OMS technical guide; and
  - c. Enter the date of the incarcerated individual's death in the alerts tab

of their OMS record.

4. As much as possible, incarcerated individuals present at the time of an unexpected death, or who may have information about such death, shall be separated from each other until after they have been interviewed by the investigating authority.
5. If the Vermont State Police (VSP) proceed with a criminal investigation, the Superintendent shall provide them with access to the facility, as needed.
6. The Correctional Investigations Unit (CIU) shall serve as the point of contact between the DOC and any investigators from the Department of Human Resources (DHR) or law enforcement, and follow any reporting procedures, in accordance with Section D, Internal Reviews of an Incarcerated Individual's Death in a Vermont Facility.
7. The Health Services Administrator (HSA) and Superintendent, or designee, shall ensure that all facility staff and incarcerated individuals affected by a death are offered services and support.
  - a. For staff, this may include the use of peer support, grief counselors, mental health personnel, or other designated personnel.
  - b. For incarcerated individuals, this may include access to an Open Ears Coach and counseling provided by the contracted health services provider, or access to other supports including religious services.
8. The incarcerated individual's EHR, OMS, and FOCUS record shall be retained, in accordance with the applicable records retention schedule.
9. The assigned DOC staff member shall follow the OMS record maintenance procedures, in accordance with the OMS technical guide.
10. The Superintendent, or designee, or Facilities Director, or designee shall notify the incarcerated individual's designated emergency contact to begin arrangements for the processing and release of the incarcerated individual's remains, in accordance with the procedures described in Section E, Processing and Release of an Incarcerated Individual's Remains.

**C. Death of an Incarcerated Individual During Transport or in a Hospital**

1. Whenever a DOC staff member suspects that an incarcerated individual is experiencing a medical emergency during a DOC transport, they shall immediately:
  - a. Call 911 for assistance and initiate appropriate medical response

- until they are relieved by emergency medical services; and
- b. Notify the CFSS.
- 2. If the individual passes away while experiencing a medical emergency during a DOC transport, DOC staff shall follow the notification requirements, in accordance with the facility standard operating procedure on incident reporting.
- 3. When an incarcerated individual is transported to a hospital in a different county, or State, than the facility in which they are housed, other DOC staff (e.g., facility staff local to the hospital, field staff, Central Operations Team members) may provide courtesy coverage. However, the staff at the originating facility shall remain responsible for ensuring that the incarcerated individual's emergency contact is informed of the circumstances, as appropriate.
- 4. When an incarcerated individual passes away in a hospital, and after the appropriate medical staff pronounce and record a time of death:
  - a. DOC staff shall:
    - i. Follow the notification requirements, in accordance with the facility standard operating procedure on incident reporting; and
    - ii. End security coverage. The hospital will assume custody over the individual's remains.
  - b. The Superintendent, or designee, or Facilities Director, or designee shall notify the incarcerated individual's designated emergency contact to begin arrangements for the processing and release of the individual's remains, in accordance with the procedures described in Section E, Processing and Release of an Incarcerated Individual's Remains.
- 5. If the individual passes away in an out-of-state hospital, DOC staff shall follow the applicable laws of the state of jurisdiction.

**D. Internal Reviews of an Incarcerated Individual's Death in a Vermont Facility**

- 1. When there is a death of an incarcerated individual in a DOC facility:
  - a. The facilities shall gather and provide all pertinent documentation to the CIU so that they can complete an independent investigation.
  - b. The CIU shall investigate and document their facts and recommendations in a final report, in accordance with the policy on investigations.
  - c. The Health and Wellness Division Director, or designee, shall ensure

that:

- i. The contracted health services provider completes a mortality review within 30 days of the death unless otherwise agreed to by the contractor and the DOC. The DOC may extend this period, and notify the contractor of the extension, if a law enforcement investigation is required or other circumstances necessitate an extension;
  - ii. The DOC's contracted health services monitor shall provide an independent review of deaths of incarcerated individuals, when requested;
  - iii. The Health and Wellness Division completes a medical care review within 30 days of receipt of the two reviews outlined above and, if an autopsy is required, within 30 days of the autopsy report;
    - a) If the Health and Wellness Division does not receive the following within 90 days of the incarcerated individual's death, the Health and Wellness Division Director, or designee, shall notify the Commissioner, or designee, of the delay in writing:
      - 1) The autopsy report, if required;
      - 2) Mortality review, or
      - 3) Contracted Health Services Monitor's review
    - b) This notification shall indicate the cause of any delay along with anticipated date(s) for report(s) completion; and
  - iv. All findings of clinical misconduct are reported to the governing entity (e.g., the Office of Professional Regulation or Medical Practice Board) by the Medical Contractor or the Health and Wellness Division.
2. A team of DOC staff including representatives from the CIU, the Health and Wellness Division, and Facility Operations Division shall meet to review all findings and implement recommendations, as needed. This shall occur within 30 days of the completion of the medical review and CIU investigation.
  3. All medical reviews and specific sections of the CIU report related to protected healthcare information, that may be used to evaluate and improve the provision of health services or to determine that such services met the applicable standard of care, shall be confidential.

## **E. Processing and Release of an Incarcerated Individual's Remains**

1. The designated emergency contact is responsible for arranging the removal of the incarcerated individual's remains from the specified location (e.g., hospital, facility, medical examiner's office) to a funeral home.
2. The DOC shall arrange, and fund, the transportation of an incarcerated individual's remains to a funeral home if they pass away in an Out-of-Ste facility (OOS).
3. Once a designated emergency contact receives the incarcerated individual's remains, they are responsible for any costs that result from a burial or funeral services.
4. If the designated emergency contact refuses to claim the incarcerated individual's remains from the specified location (e.g., hospital, facility, medical examiner's office), the Superintendent, or designee, shall ask for a refusal in writing.
  - a. The Superintendent, or designee, shall store the written refusal as an attachment in their Offender Local Record and OMS record.
  - b. If a written refusal is not provided, the Superintendent, or designee, shall store documentation of the request for a written refusal in the incarcerated individual's Offender Local Record and as a contact note their record in OMS.
5. When a Superintendent, or designee, cannot locate the designated emergency contact, the DOC may release the remains to a licensed funeral director. In these circumstances, DOC staff shall document their efforts to locate an emergency contact in the incarcerated individual's Offender Local Record and as a contact note in OMS.
6. If a designated emergency contact is not listed, a designated emergency contact cannot afford to cover the costs of a burial, or the designated emergency contact refuses to claim the individual's remains, the DOC shall contact any other known identified individual, or family member, to arrange for the burial. If the DOC cannot locate any other known identified individual, or family members, the DOC shall arrange, and fund, the burial at the DOC's designated burial grounds. All contact, or attempted contact, with any other known appointee, or family member, shall be recorded in the incarcerated individual's Local Record and in the contact note in OMS.

**F. Disposition of an Incarcerated Individual's Personal Property**

1. At the time of the incarcerated individual death notification, the Superintendent, or designee, shall arrange for the individual's personal effects to be transferred to their designated emergency contact.
2. If the designated emergency contact is unwilling, or unable, to claim the individual's personal effects from the facility, the Superintendent, or designee, shall, within seven calendar days, mail them a certified letter advising that they have 90 calendar days to claim the property.
3. If the designated emergency contact has not claimed the incarcerated individual's personal effects within the 90 calendar days, the Superintendent, or designee, shall dispose of the effects, in accordance with the policy on the handling of personal property in Vermont Correctional Facilities.

**G. Death of an Incarcerated Individual in an Out-of-State Facility**

1. The DOC Out-of-State (OOS) Unit shall be responsible for responding to, and reviewing, the death of an incarcerated individual in an OOS facility.
2. Upon notice of the death of an incarcerated individual housed in an out-of-state facility, the DOC OOS Unit shall immediately:
  - a. Follow the facility notification requirements, in accordance with the facility standard operating procedure on incident reporting;
  - b. Review the investigation reports from the OOS facility. If the OOS facility refuses to conduct their own review, the CIU shall complete a review, in accordance with guidance from the DOC legal unit; and
  - c. Coordinate with the CIU who shall conduct an internal investigation. If the CIU determines that a DOC internal investigation is required:
    - i. The OOS Unit shall request that the OOS facility conducts a comprehensive administrative investigation of the case; and
    - ii. The CIU shall document the facts and recommendations in a final report and provides a complete account of the incarcerated individual's death, in accordance with the policy on investigations. This review may include a meeting of appropriate DOC staff to review and make recommendations for further action or propose changes to law, policy, or practice;
3. As soon as practicable, and in compliance with the laws of the state with jurisdiction, the OOS unit shall arrange for transportation of the incarcerated individual's remains to Vermont. The OOS unit may arrange



for the transportation of the incarcerated individual's remains to an alternative destination.

- a. The DOC shall pay for all costs to transfer the remains.
  - b. If a designated emergency contact is not listed, a designated emergency cannot afford to cover the costs of a burial, or the designated emergency contact refuses to claim the individual's remains, the DOC shall contact any other known identified individual, or family member, to arrange for the burial. If the OOS cannot locate any other known individual, or family members, they shall arrange, and fund, the burial at the DOC's designated burial grounds.
  - c. Follow the processing, and the disposition of any funds or personal property procedures described above.
  - d. The OOS staff shall document their contact details in the incident in the record in OMS.
4. The incarcerated individual's EHR, OMS, and FOCUS record shall be retained, in accordance with the applicable records retention schedule.

#### **H. Death of a Supervised Individual**

1. When the DOC field staff are notified of a supervised individual's death, they shall:
  - a. Follow the notification requirements, in accordance with the field standard operating procedure on incident reporting.
    - i. Law enforcement will notify the designated emergency contact; and
    - ii. The Victim Services Director, or designee, shall notify any victim/survivor, in accordance with the field standard operating procedure on incident reporting;
  - b. Complete an incident report within the supervised individual's OMS record;
  - c. Review the supervised individual's record and complete the required form in OMS;
  - d. Submit the completed form to the Field Services Director; and
  - e. Document the individual's release, in accordance with the OMS technical guide. DOC field staff shall inform the court when a supervised individual passes away while they are on probation. DOC field staff shall not release them from DOC's custody in OMS until

the court sends a court order discharging the individual from supervision.

2. The Health and Wellness Division Director, or designee may request the DOC's contracted health services monitor to provide an independent review of deaths of supervised individuals.
3. The Field Services Director shall:
  - a. Assess any documentation compiled by the DOC field staff during their initial review; and
  - b. Determine whether the death requires an investigation by the CIU.
4. The CIU shall investigate when:
  - a. The supervised individual has been released from supervision fewer than 31 days prior to the date of death; or
  - b. The supervised individual was residing at transitional housing that is funded, operated, or overseen by the DOC.
5. After the CIU's investigation concludes, the CIU shall issue a report that includes recommendations and provides a complete account of the supervised individual's death in accordance with the policy on investigations. This review may include a meeting of appropriate DOC staff to review and make recommendations for further action or propose changes to law, policy, or practice.
6. The supervised individual's EHR, OMS, and FOCUS record shall be retained, in accordance with the applicable records retention schedule.

#### **I. Death of an Individual Who Absconds**

1. If a supervised individual absconds to another state and the individual is detained on a DOC warrant but passes away while awaiting extradition:
  - a. The DOC Extradition Unit shall prepare and forward all relevant documentation to the designated executive leadership and PREA and Constituent Services Unit Staff; and
  - b. The PREA and Constituent Services Unit staff shall facilitate the return of the individual's remains on a case-by-case basis.
2. If DOC staff are notified of an individual's death who absconds while under the supervision of the DOC, staff shall follow the response and review procedures, in accordance with Section H, Death of a Supervised Individual.