DEPARTMENT OF CORRECTIONS

Policy Number: 203.230
Title: Death of an Incarcerated Offender
Effective Date: 3/5/19

PURPOSE: To provide procedures for the proper notification, investigation, and reporting of the death of an incarcerated offender under the legal custody of the department. The office of special investigations (OSI) must conduct a thorough investigation to determine the cause, manner, and circumstances surrounding the offender's death.

APPLICABILITY: Department-wide

DEFINITIONS:
Death scene – an area where a person died, including any portion of the area adjacent to the actual scene, through which the person might have passed, and where evidence might be located.

Death scene officer – a security staff person assigned to maintain the security and integrity of the death scene.

Department forensic pathology specialist – an OSI investigator who has been specifically trained to conduct death investigations within a correctional facility.

First investigating responder – an OSI investigator assigned to or located near the facility who is able to quickly respond to a death scene and begin preliminary investigation work.

Health care directive – a written, notarized document including one or more health care instructions, a health care power of attorney, or both, located in the offender's medical file. (See Policy 500.125, "Offender Health Care Directive and Power of Attorney.")

PROCEDURES:
A. Initial Response
1. Any staff who suspect or discover an incarcerated offender has died must activate the incident command system (ICS).

2. Appropriate health services staff and community medical responders must assess whether to continue life-saving measures.

3. The incident area must be treated as a crime scene regardless of the offender's condition.

B. Post-Mortem Responsibilities
The following procedures must be implemented after it has been determined the offender is deceased.
1. The watch commander must:
a) Assign a death scene officer to maintain the security and integrity of the death scene, using the Access to Death Scene Record (attached), and to ensure the area is monitored and protected;
b) Secure the offender's cell/room, unless already secured as a death scene;

c) Initiate the Death Procedure Checklist (attached), Offender Death Log (attached), and Guidelines for Offender Death (attached), and ensure their completion;
d) Notify personnel as indicated on the Death Procedure Checklist;
e) Ensure staff complete all necessary incident reports as soon and as completely as possible; unless local/state law enforcement is part of the investigation and a formal interview is requested instead of a report;
f) Assist the first investigating responder and the department forensic pathology specialist in the initial investigative steps; and
g) Arrange to have the offender's personal property collected, inventoried, and delivered to the property officer within 24 hours upon receiving authorization from the department forensic pathology specialist.

2. The death scene officer must:
   a) Identify the body, and determine the perimeters of the death scene;
   b) Secure the death scene to ensure no one is allowed into the area or to access potential evidence; and
   c) Begin a log identifying those who were in the area and those who require admittance to the area, including investigators, local law enforcement, and medical staff.

3. The first investigating responder must:
   a) Immediately respond to the death scene and ensure it has been properly determined and secured;
   b) Confirm the identification of the deceased and that efforts are in progress to locate the next of kin or those to be notified of the death per the offender's health care directive;
   c) Meet with local law enforcement; and
   d) Collect and save to an external electronic storage device all pertinent logs, files, and records, including such examples as:
      (1) Unit logs;
      (2) Medical files and mental health files;
      (3) Offender's electronic files;
      (4) Visiting lists and history;
      (5) Facility living and working assignments;
      (6) Phone records;
      (7) Names of possible witnesses;
      (8) Staff reports; and
      (9) The health care directive or other documentation specifying the deceased's post-death instructions and arrangements.

4. The facility religious coordinator or designated staff, with assistance from local law enforcement if needed, must:
   a) Consult with the department forensic pathology specialist to gather the appropriate information and notify the designated emergency contacts or next of kin (or those to be notified per the offender's notarized health care directive);
   b) Notify the legal next of kin; notification must include:
      (1) The offender's death and any circumstances that can be disclosed;
      (2) Whether a review by a medical examiner/coroner is required;
      (3) That the medical examiner/coroner is available to answer further questions regarding the deceased;

(4) That those designated can make the burial arrangements, if desired; that the state pays the current authorized amount for burial or cremation expenses to the contracted service provider; and that those designated should communicate with the warden/designee regarding the burial plan instructions and the extent of the state's involvement in the expense; and

(5) The department's need to determine if there are other known relatives/contacts who need to be notified; and

c) Maintain contact with those to be notified of the death, if necessary.

5. The department forensic pathology specialist must:

a) Respond to the scene and review and ensure the proper procedures and investigative steps are being followed;

b) Respond to all non-media departmental inquiries regarding the death and the circumstances surrounding it;

c) Contact local law enforcement and report the death so that law enforcement can make the determination if it will be involved in the investigation;

d) Contact the county medical examiner/coroner and the appropriate contracted licensed forensic pathologist, who must review the need for an autopsy;

e) Obtain and maintain custody of the offender's electronic file, medical file and other pertinent records and documentation, in keeping with records retention policies (if deemed appropriate);

f) Assume control of the offender's personal property and financial accounts pending completion of the investigation and then notify the watch commander to authorize collection, inventory, and delivery of the deceased offender's property to the property officer;

g) Scan the medical and mental health files, store those on an external electronic storage device and deliver it to health services at central office;

h) Notify the watch commander when the death scene/offender cell can be released from secured status;

i) Prepare a complete investigative report and send it to the assistant director 2 – investigations for review;

j) After the investigative report is approved, send it to the deputy commissioner of facility services for review.

k) Maintain all offender death reports in Augmented Criminal Investigation Support System (ACISS); and

l) Maintain all recorded video, audio, and photos on the OSI shared directory according to the approved retention schedule.

6. The warden/designee must:

a) Notify the assistant commissioner of facility services and other department staff as necessary;

b) If the deceased offender is a foreign national, ensure the offender's case manager notifies the foreign consular officials of the offender's death;

c) Consult with the department's communications office regarding appropriate information to be released to media;

d) Respond to non-media inquiries from outside the department regarding the death and the surrounding circumstances;

e) Provide information to those carrying out the deceased's post-death instructions and arrangements regarding burial arrangements and the disposition of offender property; and

f) Consult with the deputy commissioner of facility services, designees, and facility executive team to conduct administrative review of the circumstance surrounding the offender death to ensure:
   (1) Relevant policy and procedures are being followed;
   (2) Any staff misconduct is appropriately addressed; and
   (3) Any factors contributing to the offender death are identified and addressed through improvements to policy, procedure, or training.

7. The case manager must:
   a) Work closely with the religious coordinator to determine the next of kin or person(s) designated in the offender's health care directive;
   b) If the deceased offender is a foreign national, notify foreign consular officials (see section C.2., below); foreign consular office locations and sample fax sheets are available on the U.S. Department of State, Bureau of Consular Affairs' website;
   c) Contact the facility financial services unit and follow the procedures found in Policy 104.303, "Professional and Technical Services Contracts and Other Agreements," to prepare a contract for the mortuary services; and
   d) After notification of the next of kin is completed, notify victim services so that victim services staff can send documentation of the offender's death to individuals registered for notification. Notification can be made by sending an e-mail to victimassistance.doc@state.mn.us.

8. The property officer or appropriate staff must:
   a) Assume responsibility for the offender's personal property once the department forensic pathology specialist has released the property to the facility following investigation, hold the property for 30 days, and initiate disposition as outlined in Policy 300.100, "Offender/Resident Accounts," and according to probate code;
   b) Issue the offender's personal clothing for burial, if so directed by the warden/designee, to be delivered to the mortuary, and secure any clothing returned from the mortuary with the remainder of the offender's property awaiting disposition; and
   c) Dispose of any unclaimed property as outlined in Policy 302.250, "Offender Property."

9. Facility financial services staff must:
   a) Freeze the offender's account upon notification of death;
   b) Once a contract for mortuary services has been approved, encumber funds for the mortuary services contract. The current amount authorized for a cremation service is $900.00 and for a burial service is $1500.00;
   c) Follow the procedures outlined in Policy 300.100, "Offender/Resident Accounts," in disposition of offender's funds, once the department forensics pathology specialist has released funds to the facility; and
   d) Retain all contracts in the appropriate financial services office.

10. Records or designated staff must update the correctional operations management system (COMS) records and, if applicable, check for offender personal identification documents (such as social security card and driver's license).

11. Facility health services staff must notify appropriate medical personnel as indicated in Policy 500.220, "Health Services Death Review."

C. Special circumstances

1. In the event it is determined an offender's medical condition is terminal, the facility health services administrator, along with the treating practitioner can make the determination to register the offender as a terminal offender with the appropriate medical examiner's office. The treating practitioner completes the MNDOC Medical Examiner's Pre-Registration for Terminal Offender form. The completed form is provided to the facility special investigator and OSI deputy director of investigations. OSI staff will then register the offender as terminally ill with the appropriate medical examiner's office.

2. In the event of an offender death off facility grounds, the department forensics pathology specialist must coordinate all matters with the appropriate authorities.

3. In the event of the death of a federal offender, the warden/designee must notify a local federal agent as soon as possible for instructions. The Federal Bureau of Prisons does not pay for cremation of deceased offenders.

4. The warden's office must coordinate disposition of an offender's remains with the local authorities if the offender did not leave a health care directive or other documentation specifying the deceased's post-death instructions and arrangements and (absent such directive and/or other documentation) no one claims the body.
   a) If those notified of the death do not claim the body, the warden/designee must attempt to obtain from those notified of the death written consent to proceed with cremation. If consent cannot be obtained, the warden/designee must make arrangements for burial of the body.
   b) If the offender's next of kin, family, or person designated by the offender's notarized health care directive cannot be located, the warden/designee must arrange for burial.

5. The death of an interstate corrections compact offender must be immediately reported to the deputy compact administrator, who must coordinate the notification and the necessary arrangements with the sending state.

6. Juvenile facilities must report the offender death and known circumstances of the death within ten days to the department inspection and enforcement division using the appropriate forms.

INTERNAL CONTROLS:

A. All offender death reports are electronically stored in the augmented criminal investigation support system (ACISS).

B. All recorded video, audio, and photos are stored on the OSI shared directory in accordance with OSI records retention.

C. All contracts are retained in the appropriate finance office according to the financial services retention schedule.

ACA STANDARDS: 4-4425, 1-ABC-4E-51

REFERENCES: Policy 300.100, "Offender/Resident Accounts"

Policy 203.260, "Victim Notification"
Policy 302.250, "Offender Property"
Policy 500.220, "Health Services Death Review"
Policy 301.140, "Incident Command System"
Policy 500.125, "Offender Health Care Directive and Power of Attorney"
Policy 104.303, "Professional and Technical Services Contracts and Other Agreements"
Policy 300.100, "Offender/Resident Accounts"
Vienna Convention on Consular Relations. Article 37.
U.S. Department of State, Bureau of Consular Affairs
Minn. Stat. §§ 149A.80, subds. 1 and 2; 241.09, subds. 1 and 2; 390.11, subds. 1(6), 1a, 7 and 8; 390.152; 390.221; 390.23; 390.32, subds. 1, 5, 6, 7, and 11; 524.3-1201

REPLACES: Policy 203.230, "Death of an Offender," 8/15/17.
All facility policies, memos or other communications whether verbal, written, or transmitted by electronic means regarding this topic.

ATTACHMENTS: Death Procedure Checklist (203.230A)
Offender Death Log (203.230B)
Guidelines for Offender Death (203.230C)
Access to Death Scene Record (203.230D)
MNDOC Medical Examiner's Pre-Registration for Terminal Offender (203.230E)

APPROVED BY:
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