COPP 8.3 Death of a Detainee

Youth Detention Centres

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| --- |
| Principles and StandardsIn the context of the following:[Australian Human Rights Commission National Principles for Child Safe Organisations, 2018](https://dojwa.sharepoint.com/sites/intranet/department/standards/Pages/ops-standards.aspx)Policies and Procedures document how the organisation is safe for children and young people.Risk management strategies focus on preventing, identifying and mitigating risks to children and young people.Staff and volunteers understand their obligations on information sharing and recordkeeping.[Australasian Youth Justice Administrators Standards, 2009](https://dojwa.sharepoint.com/sites/intranet/department/standards/Pages/ops-standards.aspx)Principles of procedural justice are applied.Privacy and confidentiality rights are protected.Physical resources support safe and positive environments for staff, children and young people.Management of emergencies and critical incidents prioritise the protection of life. |

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# Scope

This Commissioner’s Operating Policy and Procedure (COPP) applies to all Youth Detention Centre (YDC) Custodial Officers and staff involved in the management following a detainee’s death.

# Policy

The Superintendent shall have in place an Emergency Management (EM) Plan, associated with serious medical emergencies including an apparent death.

Following the death of a detainee, the EM plan procedures shall ensure appropriate supports and assistance are offered to the deceased’s family, other detainees and staff who are affected by the incident.

This COPP commences on confirmation of life extinct by medical staff or paramedics.

The scene of death and items which may be potential evidence are to be managed as a crime scene in accordance with [[SMF-PRO-004 Physical Evidence Management](https://dojwa.sharepoint.com/sites/security-intelligence/security-response/srsoperationalguidance/SMF-PRO-004_Physical%20Evidence%20Management.pdf).](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-security.aspx)

All aspects of the subsequent management of the death of a detainee shall occur in a manner that treats the deceased detainee and their family with dignity, humanity, respect and consideration to cultural and religious requirements.

The death of a detainee is classified as a critical incident. Incident notification and reporting procedures shall occur in accordance with [COPP 8.1 – Incident Reporting](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/bhdc-copps.aspx) and additional requirements set out in this COPP.

It is the responsibility of the Superintendent/Officer in Charge (OIC) following the death of a detainee, to ensure the Western Australian Police Force (WAPF) and the Operations Centre (OPCEN) are immediately notified.

The Operations Centre will notify the Deputy Commissioner and/or Duty Deputy Commissioner, who will in turn, notify the Commissioner (Corrective Services). The Deputy Commissioner is responsible for the development of a briefing note for the Commissioner to notify the Minister as soon as practicable.

Where a death has occurred in a place other than a Youth Detention Centre, the Department remains responsible for the deceased.

The death of a detainee is a reportable death, in accordance withthe *Coroners Act 1996*, and requires that the State Coroner is immediately informed.

The Department’s Performance Assurance and Risk (PAR) Directorate has responsibility for the independent review of all reportable detainee deaths. A report is prepared for the coroner to assist his/her investigation in accordance with the requirements of the *Coroners Act 1996*. The report will detail the Department’s custodial management, supervision and care of the detainee while in custody and outline how the Department has, or will, address any identified areas for improvement.

The Department’s Health Services (HS) and/or Mental Health, Alcohol and Other Drugs (MHAOD) shall provide medical reviews and reports as requested by the PAR Directorate or State Coroner.

The death of a detainee is a notifiable incident, in accordance with the *Work, Health and Safety Act 2020*[[1]](#footnote-1), and requires that:

* WorkSafe is immediately notified
* written notification to WorkSafe is provided within 48 hours and
* the incident site is preserved until a WorkSafe inspector arrives or directs otherwise.

# Death of a Detainee at a YDC

### The Officer in Charge (OIC) at the scene will immediately notify the Superintendent. In the absence of the Superintendent, the Deputy Superintendent shall be informed.

### The Superintendent is responsible for the management of the deceased detainee and the scene, in accordance with procedure [SMF-PRO-004 Physical Evidence Management](https://dojwa.sharepoint.com/sites/security-intelligence/security-response/srsoperationalguidance/SMF-PRO-004_Physical%20Evidence%20Management.pdf), until authority is handed over to the WAPF. If the Superintendent is not on site, he/she shall proceed to and remain at the YDC (unless impracticable due to distance or illness, in which case the next most senior officer shall attend) until all relevant duties and actions are complete.

### On confirmation of life extinct, the following immediate notification procedures shall be undertaken:

|  | Procedure | Responsibility  |
| --- | --- | --- |
|  | Notify the Superintendent. | OIC |
|  | Notify the OPCEN (operationscentre@justice.wa.gov.au) in accordance with [COPP 8.1 – Incident Reporting](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/bhdc-copps.aspx). | Superintendent/OIC  |
|  | Notify the relevant Deputy Commissioner  | Superintendent/OIC  |
|  | Notify the WAPF of the death by contacting 000 or 131444. | Superintendent/OIC |
|  | Notify Director Health Services (HS), Director Medical Services/Director MHAOD and YDC Medical Practitioner  | Superintendent/OIC  |
|  | Identify and arrange a location for staff from the People, Culture and Standards Division to conduct drug and alcohol testing of any officer(s), where applicable.  | Superintendent/OIC  |
|  | Notify relevant internal and external stakeholders of the death, in accordance with approved OPCEN incident notification procedures, including immediate notification to the:* Deputy Commissioner and/or Duty Deputy Commissioner
* WorkSafe Commission and
* Coroner
 | OPCEN |

### The Superintendent/OIC shall appoint an Incident Controller to oversee management of the death in custody incident.

### The Incident Controller shall nominate a Custodial Officer (Assigned Custodial Officer) who was not directly involved with the incident leading up to the death to manage the area until handed over to the WAPF.

### If a Custodial Officer is not available (outside of the incident), the Incident Controller will outline the reasons on an incident report and the subsequent actions taken.

### The Superintendent/OIC shall ensure that the incident control facility is activated and the YDC EM Plans are complied with.

### The Superintendent shall include in the local EM Plan procedures the location of privacy screens, ensuring they are easily accessible to promptly screen the deceased from view.

### No person shall move or remove the deceased or interfere with the place in which the death occurred except to ensure the safety of employees or other persons.

### With the exception of responding officers, the scene shall be secured (i.e., vehicles and cells) and access only granted on the authority of the Superintendent/OIC.

### Where the scene is an open space, the area shall be cordoned off and screened from view, using privacy screens or alternative means as practicable.

### A chronological record (in accordance with the [incident/crime scene entry & exit log](https://dojwa.sharepoint.com/%3Aw%3A/r/sites/security-intelligence/security-response/_layouts/15/Doc.aspx?sourcedoc=%7BD460C6EB-4DFA-4DAB-97D1-4D97F9C8466D%7D&file=SMF-TOO-015%20Incident%20or%20Crime%20Scene%20Entry%20%26%20Exit%20Log.docx&action=default&mobileredirect=true)) of any persons entering or leaving the area shall occur until authority is handed over to the senior investigating WAPF.

### The Superintendent shall ensure that all relevant Close Circuit Television (CCTV) footage, Body Worn Camera (BWC) footage, cell calls, and radio transmissions are collated and preserved.

### Detainees shall not be able to recover any property from the scene until the cell has been released to the Superintendent by the WAPF and/or WorkSafe inspector.

### The following procedures shall be undertaken to secure and record entry to the scene until handed over to the WAPF:

|  |  |  |
| --- | --- | --- |
|  | Procedure | Responsibility  |
|  | Assign a Custodial Officer (Incident Controller), not directly involved with the incident, to manage the scene. | Superintendent/OIC |
|  | Assign a Custodial Officer to compile a [incident/crime scene entry & exit log](https://dojwa.sharepoint.com/%3Aw%3A/r/sites/security-intelligence/security-response/_layouts/15/Doc.aspx?sourcedoc=%7BD460C6EB-4DFA-4DAB-97D1-4D97F9C8466D%7D&file=SMF-TOO-015%20Incident%20or%20Crime%20Scene%20Entry%20%26%20Exit%20Log.docx&action=default&mobileredirect=true). | Superintendent/OIC |
|  | Secure and preserve the scene as a crime scene. | Assigned Custodial Officer  |
|  | Take note of person/s present at the scene, with the information to be added to the [incident/crime scene entry & exit log](https://dojwa.sharepoint.com/%3Aw%3A/r/sites/security-intelligence/security-response/_layouts/15/Doc.aspx?sourcedoc=%7BD460C6EB-4DFA-4DAB-97D1-4D97F9C8466D%7D&file=SMF-TOO-015%20Incident%20or%20Crime%20Scene%20Entry%20%26%20Exit%20Log.docx&action=default&mobileredirect=true). | Assigned Custodial Officer  |
|  | Remove persons away from the scene who are not immediately required to assist. | Assigned Custodial Officer  |
|  | Identify detainees who may be suspects or witnesses to the incident and provide the WAPF with these details.The following shall occur:1. place the detainee(s) in separate cells under strict observation to ensure they are unable to converse with one another. Custodial Officers shall be mindful that the detainees could be traumatised and may require additional observation and support.
2. ensure any suspects cannot remove or wash evidence (such as body fluids etc.) until the senior investigating WAPF Officer has interviewed them.
 | Assigned Custodial Officer  |
|  | Screen the area from public view, in addition to cordoning off the area to preserve the scene. | Superintendent/OIC |

### The following procedures shall be undertaken by the Custodial Officer assigned to maintain the crime scene log:

|  | Procedure | Responsibility  |
| --- | --- | --- |
| 1. | Use the same clock to record the time of events throughout the record. | Assigned Custodial Officer  |
| 2. | Record chronologically any persons entering or leaving the area (names and times). |
| 3. | Following advice from the OIC to conclude the record, conduct a time check on any other clocks used to record events by other Officers.Make a note on the record of any differences in time. |

### The following procedures shall be undertaken to ensure the notification of the deceased detainee’s next of kin/caregiver is able to occur formally (refer to section 7.1) and not from secondary sources:

|  |  |  |
| --- | --- | --- |
|  | Procedure | Responsibility  |
| 1. | Immediately disable the detainee telephone system. | Superintendent/OIC |
| 2. | Cease use of the detainee video link where it is being used for detainee visits. |
| 3. | Maintain shutdown of the telephone system until confirmation that the deceased’s next of kin/caregiver has been notified, or until determined otherwise by the Superintendent/OIC. |

* + 1. The following notification procedures shall be undertaken within 24 hours of confirmation of life extinct:

|  | **Procedure**  | **Responsibility** |
| --- | --- | --- |
| 1. | Notify Principal Psychologist, Youth Justice Psychological Services via telephone | Superintendent/OIC |
| 2. | Notify the Work Health and Safety Team and the Employee Welfare Services (email: WHSTeam@justice.wa.gov.au) | Superintendent/OIC |
| 3. | Notify Manager, Aboriginal Visitors Scheme (where the detainee is Aboriginal) via telephone. | Superintendent/OIC |
| 4. | Notify relevant YDC Chaplain (where indicated on the reception history sheet) via telephone. | Superintendent/OIC |
| 5. | Notify the Information Release and Litigation Management team (email: Informationrelease@justice.wa.gov.au) to enable any responses to detainee location queries.  | Superintendent/OIC |

## Death of a Detainee at Perth Children’s Court

### The OIC at the scene will immediately notify emergency services by calling 000.

### The OIC at the scene will immediately notify the Superintendent. In the absence of the Superintendent, the Deputy Superintendent shall be informed.

### The OIC of the custody centre shall inform the court of the incident and all movements to and from the custody centre are to cease.

### On confirmation of life extinct by emergency services the OIC of the custody centre is to follow all directions by the Superintendent or the WAPF.

### The area is to be cordoned off and secured as directed by the WAPF.

### Evacuation of any remaining detainees is to be conducted under the authorisation of the WAPF.

### All other procedures are to be followed as per section 3 (Death of a Detainee at YDC) of this COPP.

# Death of a Detainee in a Hospital or Hospice

### The Superintendent is not required to attend an external location where a death occurs at a hospice or hospital.

### The Superintendent/OIC shall ensure, where the detainee was under officer escort/supervision at the time of death, officers in attendance are provided appropriate guidance and support. A copy of this COPP shall be included in the Hospital Escort Bag to assist staff in these circumstances.

### The hospital or hospice are to be advised in writing that in the event of a detainee’s death the Superintendent shall be informed immediately and that:

1. the death will be managed and investigated in accordance with the *Coroners Act 1996*.
2. the hospital or hospice are to leave the deceased and any equipment in situ until the attendance of the WAPF.
3. the escorting officer/s shall remain with the deceased until such time as a handover has been conducted with the WAPF, except in exceptional circumstances refer to section 4.2.
4. the investigating WAPF Officer/s will attend the hospital or hospice and release the scene following investigation.

### On notification by the hospital or hospice of a detainee’s death, notification and reporting procedures shall occur as per procedures in section 3.1.3.

### Where a detainee dies in a hospice, notification of the next of kin shall be in accordance with section 7.

### Where a death has occurred in a hospital or hospice the following procedures will apply until handover with the WAPF has occurred:

|  |  |  |
| --- | --- | --- |
|  | **Procedure** | **Responsibility**  |
| 1. | The escorting Officer shall create a record in the escort log and/or occurrence book, to record the time of death and the time of certification of death | OIC of the escort |
| 2. | Notify the OPCEN of the detainee’s death. | OIC of the escort/ Ventia Control |
| 3. | Notify the local WAPF of the death. | OIC/Superintendent or Ventia Control |
| 4. | The escorting officers are to maintain security of the deceased and scene until handover with the WAPF, except in exceptional circumstances refer to section 4.2. | OIC of the escort |
| 5. | On arrival of the WAPF, the OIC shall hand over control and access to the scene in accordance with section 9. | OIC of the escort |
| 6. | The OIC shall record the time of handover, name of Officer and obtain a signature in the occurrence book/escort log. | OIC of the escort |
| 7. | The OIC shall notify the Superintendent/OPCEN that handover has taken place with the WAPF. | OIC of the escort |
| 8. | The Superintendent/OIC shall record the time of death on TOMS and appoint an Incident Controller to oversee management of the death in custody incident. | Superintendent/OIC |

## Withdrawal of escorting officers from a hospital or hospice in exceptional circumstances

### The Superintendent shall request approval from the relevant Deputy Commissioner to withdraw escorting officers from a hospital or hospice, prior to handover to the WAPF, in the following exceptional circumstances:

### detainee has been granted Prerogative of Mercy

### detainee’s charges have been adjourned or dismissed by the court (no legal warrant)

### detainee’s sentence or parole has concluded

### where approved organ donation is to occur

### other exceptional circumstances as approved by the Deputy Commissioner.

### The following procedures shall apply:

|  |  |  |
| --- | --- | --- |
|  | **Procedure** | **Responsibility**  |
|  | Notify the relevant Deputy Commissioner | Superintendent |
|  | Notify the OPCEN | Superintendent/OIC |
|  | Notify the local WAPF of the time of withdrawal | Superintendent/OIC |
|  | Ensure the detainee has been discharged from TOMS, where applicable. | Superintendent/OIC |
|  | Notify the escorting officers of the withdrawal | Superintendent/OIC |
|  | Notify Ventia Control where applicable | Superintendent/OIC  |
|  | The escorting officer shall record the time of withdrawal. in the escort log and/or occurrence book | OIC of the escort |
|  | Notify the Officer in Charge of the Ward (hospital or hospice staff) of the withdrawal of escorting officers | OIC of the escort |

# Death of a Detainee Prior to Arrival at YDC

### The following procedures shall be undertaken in the event the death occurs prior to a detainee’s arrival at the YDC:

|  |  |  |
| --- | --- | --- |
|  | Procedure | Responsibility  |
|  | Ensure the security and safety of any other detainees being transported.  | OIC of the escort |
|  | Secure and preserve the scene as a crime scene until handover to the WA Police Force. | OIC of the escort |
|  | Notify the Superintendent. | OIC of the escort |
|  | Notify the OPCEN of the detainee’s death. | Superintendent/OIC |
|  | Notify the WAPF by contacting 000 or 131444. | Superintendent/OIC |
|  | Identify and arrange a location for the People, Culture and Standards Division to conduct drug and alcohol testing of any officer/s, where applicable.  | Superintendent/OIC |
|  | Complete a reception intake on TOMS to enable incident reporting procedures to occur. | Reception Officer  |
|  | Notify relevant internal and external stakeholders of the death, in accordance with approved OPCEN incident notification procedures, including immediate notification to the:* Deputy Commissioner and/or Duty Deputy Commissioner
* WorkSafe Commission and
* Coroner
 | OPCEN |

# Death of a Detainee as a Result of an Industrial Accident

### Where the death of a detainee occurs as a result of an industrial accident the notification and reporting procedures shall occur as per procedures for the death of a detainee within a YDC (section 3) and the following additional procedures shall also apply:

|  | Procedure | Responsibility  |
| --- | --- | --- |
|  | Immediately notify WorkSafe on the incident/accident reporting line: Telephone: 1800 678 198 | Superintendent/OIC |
|  | Record the position and condition of all items and any plant equipment or vehicles moved, for safety reasons or to facilitate the attempted rescue of the deceased, including video or photographs where possible. |
|  | Notify the Department’s Work, Health and Safety (WHS) team: Telephone: 9264 6367Email: WHSTeam@justice.wa.gov.au |
|  | Notify Safety and Health Representatives at the YDC. |
|  | Complete all workplace incident reporting and investigation requirements in conjunction with the WAPF, WorkSafe and the Department’s WHS team. |

#

# Notifications and Reporting

## WAPF notification to next of kin

### The WAPF are responsible for notification of the death of a detainee to the next of kin.

### If the next of kin is in custody in a WA prison, the YDC Superintendent/OIC shall still notify the WAPF and ascertain the most expedient method of notification (i.e. the Superintendent of the next of kin’s prison to carry out the notification).

### The Superintendent/OIC shall contact the Australian Federal Police who can assist with the notification process if the next of kin is located in another country.

### To facilitate the next of kin notification without delay, the Superintendent/OIC shall provide to the WAPF:

|  |  |  |
| --- | --- | --- |
|  | Procedure | Responsibility  |
|  | The name and address of the next of kin as shown on the deceased detainee’s TOMS record. | Superintendent/OIC |
|  | The Superintendent’s name as the contact for members of the deceased detainee’s family seeking further information. |
|  | Further details of any alternative contact persons registered at the time of the detainee’s reception, where WAPF cannot locate or make contact with the next of kin. |

### The Superintendent shall, prior to submission of the Superintendent’s Report, verify that the WAPF have notified the next of kin. If this has not occurred, the reason for non-notification is to be recorded in the report.

## Reporting and additional notifications

### [COPP 8.1 – Incident Reporting](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/bhdc-copps.aspx) outlines the incident notification and reporting requirements.

### The officer(s) discovering the death, and any other staff or contractors involved shall provide a written report on the death (including relevant details concerning the death) to the Superintendent before ceasing duty. The *Death in Custody Incident Report* template on TOMS shall be completed, which has Part A and B sections.

### Part A requires officers and staff to follow the normal incident report format and to provide a detailed description of events. Part B deals with supplementary information and TOMS prompts require a number of questions to be answered. If the answer to any of the prompts is ‘yes,’ further relevant details are to be provided. Officers and staff are to answer questions in Part B as best as possible with information they are personally aware of, without searching documents or records (WAPF and/or PAR Directorate shall do this).

### Officers and staff shall prepare TOMS incident reports independent of each other, refer to [COPP 8.1 – Incident Reporting](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/bhdc-copps.aspx). The Superintendent shall nominate an officer to monitor the process. The officer monitoring the preparation of incident reports must be, where practicable, someone who was not involved with discovering the deceased detainee or the events that immediately followed.

### Where access to the TOMS profile of the deceased is restricted, officers are to submit reports, via e-mail, to Intelligence Services, with a copy sent to the Superintendent.

### The PAR Directorate review the circumstances of all reportable deaths. Details of the review and reports will be provided to the Commissioner and Director General, and a report prepared for the Coroner.

### Further information regarding the review process and subsequent coronial inquest management process can be obtained from the PAR Directorate.

### Officers and staff are only permitted to disclose information concerning the circumstances surrounding a detainee’s death to persons acting in an official capacity. No officer or staff member shall make any comment to the media, other persons or agencies.

### The senior investigating WAPF Officer is the only person authorised to make comment to the media. Any enquiries for staff comment by the media shall be directed to the Department’s Strategic Communications Branch.

### The Superintendent shall, as soon as practicable and after the WAPF have notified the next of kin, notify Superintendents at all prisons the name of the deceased. This is to enable the identification of family members or significant others, within the prison system, which may be impacted and informed of the death.

### The Superintendent shall ensure notifications in writing are made at the earliest convenience (see [Appendix B: Additional Notifications and Reporting](#_Appendix_B:_Additional)) in the case of the death of:

1. a state detainee (or joint state/federal detainee)
2. a federal detainee (or joint state/federal detainee).

### The Deputy Commissioner Young People shall, in response to a death of a detainee, coordinate the preparation of written communications to the Minister for Corrective Services (Ministerial Briefing).

### Corrective Services shall, in response to the death of a detainee, coordinate the preparation of written communications to the:

1. State Solicitor’s Office
2. Coroner’s Office[[2]](#footnote-2) (with advice that further information will follow)
3. National Deaths in Custody Program (with completed reporting template); and
4. WorkSafe Commissioner (all deaths in custody)
5. Office of the Inspector of Custodial Services (OICS).

### The Director Medical Services shall coordinate the preparation of a Briefing Note. This shall be provided to the Office of the Commissioner within 3 days of the death.

### Further medical/health investigation or communications shall occur in accordance with Health Services policy and procedures and the requirements of the Coroner’s Office.

# Detainee Property

### The Superintendent shall obtain clearance from the Coroner’s Office prior to the release of a deceased detainee’s personal effects. A Consular Officer is entitled to take provisional custody of all documents, money and personal effects belonging to a deceased foreign national detainee, where no relative or next of kin representative is nominated in Australia.

# Handover of Records and Crime Scene(s) to WA Police Force

### All deaths in custody are reportable deaths and result in a coronial inquest. These deaths are investigated by the WAPF Coronial Investigations Unit on behalf of the Coroner.

### The Superintendent shall ensure all records, with the exception of medical records, relating to the deceased detainee are collated and secured until seizure by the WAPF (see [Appendix A: Records which WAPF may require](#_Appendix_A:_Records)). Medical records must be returned to Health Information Management Services for compilation into the record prior to seizure by WAPF.

### Subject to the incident reporting requirements, the Superintendent shall not permit any officer to make any manner of written entry upon any document, file, record or other correspondence relating to the deceased once that detainee is examined by a medical officer and life is pronounced extinct and duly recorded on the detainee’s medical file.

### Medical staff can make additions to the medical record after life is pronounced extinct. The occurrence book and other written records shall be securely held until the scene is handed over to the WAPF.

### The PAR Directorate may request and be provided with additional information and records beyond those required by the WAPF.

### The Superintendent shall ensure a receipt book (C103) is held at the YDC and used in all cases where documents are removed from the YDC as a result of an investigation.

### The following procedures shall apply for the management and release of records related to the deceased detainee:

|  | Procedure | Responsibility  |
| --- | --- | --- |
|  | Create a record of all documents and exhibits seized, identifying where they were seized and the Officer/s who did so. | Superintendent/OIC |
|  | Make copies of all records (other than those accessible on TOMS) to be handed over to the WAPF and place in an envelope and mark as ‘confidential.’ All records which can be provided electronically, should be copied onto an encrypted USB. Provide copies of all records, not available on TOMS, to the PAR Directorate for the purposes of preparing a report for the coroner (also via encrypted USB where possible). Encrypted USB devices can be purchased via email to ServiceDesk.If copies cannot be made, a request should be made to the WAPF to forward copies of the documents after seizure. |
|  | Place all seized documents and exhibits in plastic bags and label with:1. the relevant YDC
2. name of unit
3. type of document.
 |
|  | Secure all items until handed over to the senior investigating WAPF Officer conducting enquiries into the death. |
|  | Obtain receipts for any documents or exhibits taken by the WAPF. |
|  | A photocopy of the receipt shall be made and placed in a confidential envelope and then sealed and securely stored. |
|  | Arrange for a copy of the receipt slip identifying what documents (including copies of records held on TOMS) were provided to the WAPF to be sent to the PAR Directorate at RiskAndAssurance@justice.wa.gov.au. |

### On arrival of the WAPF, the Superintendent/OIC shall hand over control and access to the scene.

### The WAPF shall be informed if the deceased was a foreign national. The WAPF will make arrangements for the appropriate Embassy/Consulate to be notified.

### Names of detainees known to have been within the vicinity of the scene of death and/or may have witnessed the incident shall be provided to the WAPF.

### Restrictions on the scene shall apply until such time as the WAPF Officer/s investigating the death authorise removal of the body, and control of the place of death reverts back to the Superintendent.

### With approval from the WAPF, Chaplains are to be allowed access to the deceased detainee, prior to removal of the body.

1. **WorkSafe Investigations**
	* 1. All deaths in custody are notifiable incidents and will be investigated by WorkSafe as deemed necessary by the WorkSafe Commission[[3]](#footnote-3).
		2. The OPCEN shall provide WorkSafe with the contact details of the Superintendent/OIC, where the death in custody occurred, to enable direct contact between WorkSafe and the relevant prison and to arrange WorkSafe’s attendance on site.
		3. The Superintendent/OIC, following the WAPF’s investigation and so far as is reasonably practicable, shall ensure the preservation of the incident site to enable the assigned WorkSafe inspector to conduct their investigation.
		4. Preservation of the incident site does not prevent any action needed to:
* assist an injured person
* remove a deceased person
* make the site safe or to minimise the risk of a further notifiable incident, or
* facilitate a police investigation.
	+ 1. The incident site cannot be resumed for use or for other internal investigation purposes until WorkSafe has concluded their investigation and informed the Superintendent of such.

# Support Services – Family and Detainees

## Contact with next of kin and booked visitors

### Following verified contact by the WAPF with the next of kin, the Superintendent shall promptly contact or arrange for contact to be made (at a reasonable hour) with the next of kin, to offer condolences and a face-to-face meeting. Where a detainee is managed under the care of Child Protection Family Services, this agency shall be contacted immediately. Assistance from the relevant Chaplain or detainee support services (e.g., Aboriginal Visitors Scheme (AVS)) may be sought.

### Initial contact with the next of kin shall include:

1. details of the [Bereavement Assistance Program](https://www.wa.gov.au/search-results.html?q=bereavement+assistance+program#gsc.tab=0&gsc.q=bereavement%20assistance%20program&gsc.page=1) offered by the Department of Communities (Note: financial assistance to meet funeral costs cannot be provided retrospectively by the Department of Communities, requiring prompt application for consideration).
2. where the deceased detainee was Aboriginal, information advising of arrangements able to be made to inform the Aboriginal Legal Service of Western Australia (ALSWA) to independently review the management of the death in custody.

### Where a meeting is requested by the next of kin, the Superintendent shall:

1. arrange a meeting venue, which may be at the YDC, a neutral venue or the home of the next of kin, where appropriate
2. ask whether the next of kin would like a counselling service to attend the meeting and make such arrangements as required
3. establish whether transport assistance is required and, if so, offer to pay costs of attendance, including transport from a remote location, at the YDC’s expense.

### The purpose and procedure for meeting with the next of kin should include the following:

|  | Procedure | Responsibility  |
| --- | --- | --- |
|  | Offer condolences in person. | Superintendent |
|  | Provide factual information (only) about the death and the respective roles of the WAPF and Coroner. |
|  | Make any necessary arrangements for transport and access to the body of the deceased. |
|  | Provide an introduction, or referral to the Coronial Court and the Coronial Counselling Service.  |
|  | If the YDC is remote from the place of the detainee’s arrest advise that the Department will pay reasonable costs for the return of the body to an agreed location within WA.  |
|  | Provide a written list of all property held at the YDC. Advise that approval of the Coroner and senior investigating WAPF Officer is required before the property can be released. |
|  | Provide written advice that the WAPF may approve certain items not required for investigation purposes, to be released to the next of kin (i.e., clothes or personal items for the deceased's burial). |
|  | Arrange to pass on to the WAPF any request for identified items and advise that approved items will be released accordingly: i.e. collected by the next of kin, or alternatively, arrangement by the YDC for return of property at the Department’s expense. (See also [COPP 4.1 - Property](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/bhdc-copps.aspx)). |

### In the event that the next of kin does not wish to immediately meet in person, the Superintendent shall:

1. offer an opportunity for contact at a later time
2. provide information in writing, which would have been provided at the face-to-face meeting, in terms of support and the release of property.

### The Superintendent shall ensure every effort is made to promptly contact any booked visitors once notification of the next of kin has been confirmed and documented. A check must be made and any booked social and/or official visitor notified of the death, if not already notified. Assistance to establish contact may be sought from other business areas (i.e. AVS) or contracted service providers, if necessary.

## Death of an Aboriginal Detainee

### Where the detainee was of Aboriginal descent, the next of kin shall be advised that the Superintendent can arrange for the ALSWA to be informed. The purpose of informing ALSWA is to action the protocols developed to independently review an Aboriginal death in custody.

### In the event that the next of kin requests that ALSWA be advised, the following protocols are to be implemented:

|  | **Protocols** |
| --- | --- |
|  | Members of the family or their legal representative will be permitted access to the scene of death after completion of the initial investigation and when the scene is no longer required to be kept secure for the Coroner, or senior investigating WAPF Officer, WorkSafe inspector or the YDC’s authorities for any other purpose. |
|  | The Superintendent/OIC shall ensure that in the event of the death occurring in a cell, the cell shall be sealed for 2 days (unless otherwise advised by the State/local Coroner, or the senior investigating WAPF Officer or WorkSafe inspector). This is to allow the legal representatives of the family sufficient time to organise (through the Coroner or the senior investigating Police Officer) a supervised inspection of the cell by an independent forensic expert. |
|  | The independent forensic expert together with the legal representatives of the family, and the Coroner or senior investigating WAPF Officer may inspect the cell or place of death before the family of the deceased. The family of the deceased and representatives of the ALSWA may then join these persons. |
|  | Two officers of ALSWA (or other representative of the family of the deceased) may be allowed to inspect the scene of death (and any exhibits) in the company of the supervising officer of the Coroner or senior investigating WAPF Officer (or their nominee). The ALSWA officers may be accompanied by a direct member of the family and/or an independent forensic expert unless the coroner or the senior investigating WAPF Officer otherwise directs. |
|  | Access to the scene of the death and related exhibits are to be at a time suitable to the routine and security of the YDC. During this inspection, no discussion is to take place between detainees and members of the family or their legal representative. |

## Detainee support services

### At the discretion of the Superintendent, available YDC support services (e.g. Aboriginal Welfare Officer, AVS; Youth Justice Psychological Services) can be called in to assist officers manage issues and provide support to detainees following a death in custody. Appropriate persons should be consulted in consideration of cultural and religious requirements to be observed in managing issues for specific detainee cohorts.

# Staff Debrief and Support Services

### The management of post incident debriefs, and staff support is set out in [COPP 8.1 – Incident Reporting](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/bhdc-copps.aspx).

### The Superintendent shall notify the site based staff support coordinator and [Employee Welfare](https://dojwa.sharepoint.com/search/Pages/results.aspx?k=employee%20welafare&ql=3081#k=employee%20welfare) to ensure the support needs of Custodial Officers and staff directly/indirectly dealing with a death in custody are assessed and supports put in place where required.

### There should be a delay between the initial employee support options being actioned and the operational debrief; they should not be convened directly adjacent to each other.

### A formal operational debrief is not to take place until all incident reports relating to the death are complete. Where necessary, practical and reasonable, staff members involved in managing the death of a detainee will be provided the option to complete the remainder of their shift in a different location or unit as to where the incident occurred.

### The Superintendent shall ensure staff who are required to attend a Coroner’s inquest are provided with Department support.

# Coroner’s Findings

### When requested, the Deputy Commissioner shall coordinate provision of a report to the Minister for Corrective Services in response to the coroner’s recommendation(s). The report shall include comment as to any action taken or proposed as a result of the recommendation(s).

# Annexures

## Related COPPs and documents

**COPPs**

* [COPP 4.1 – Property](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/bhdc-copps.aspx)
* [COPP 8.1 – Incident Reporting](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/bhdc-copps.aspx)

**Documents**

* [SMF- DIR- 003 Physical Evidence Management](https://dojwa.sharepoint.com/sites/security-intelligence/security-response/srsoperationalguidance/SMF-PRO-004_Physical%20Evidence%20Management.pdf)
* [Staff Drug and Alcohol Testing Procedures](https://dojwa.sharepoint.com/sites/intranet/department/standards)

## Definitions and acronyms

| Term | Definition  |
| --- | --- |
| At-Risk Management System (ARMS) | The At-Risk Management System is the Department's multi-disciplinary suicide prevention strategy for offenders. The tri-level system includes:* Primary prevention - strategies to create physical and social environments in the YDC that limits stress on detainees.
* Secondary prevention - strategies to support detainees at statistically higher risk of self-harm or suicide.
* Tertiary prevention - strategies aimed directly at individuals identified as at risk of self-harm or suicide.
 |
| Aboriginal Legal Services of Western Australia (ALSWA) | Community based Aboriginal and Torres Strait Islander legal organisation which provides legal aid services to Aboriginal and Torres Strait Islander peoples. |
| Aboriginal Visitors Scheme (AVS) | The Aboriginal Visitors Scheme (AVS) comprises of Aboriginal staff who visit prisons and YDC’s around the state, providing support and counselling to Aboriginal people in custody. |
| CCTV | Closed Circuit Television |
| Commissioner’s Operating Policy and Procedure (COPP) | COPPs are policy documents that provide instructions to staff on how the relevant legislative requirements are implemented. |
| Coroner | Includes the State Coroner and Deputy State Coroner appointed under s.6 and s.7 of the *Coroners Act 1996.* |
| Crime Scene  | The area associated with a suspected crime from/in which physical evidence may be obtained. This can include structures, rooms, open areas, vehicles and cells. |
| Critical Incident | Critical incidents are incidents where the consequences to staff and / or detainees are so significant that a heightened level of notification and / or communication is required.They are events that may:* Involve a serious security breach
* Place staff or detainees under significant risk
* Place the security of the YDC under significant risk
* Involve the serious injury or death of any person on the YDC property
* Generate significant public or media scrutiny.
 |
| Custodial Officer | An officer with custodial functions, appointed under section 11(1) of the *Young Offenders Act 1994*; or a person who is appointed under section 11(1a)(a) as a custodial officer. This includes but is not limited to Youth Custodial Officers, Unit Managers and Senior Officers.  |
| Detainee | Means a person who is detained in a detention centre as defined in s.3 of the *Young Offenders Act 1994*. |
| Deputy Commissioner (DC) | The positions designated by the Commissioner as responsible for the management of the Adult Male Prisons, Adult Women’s Prisons and Young Person’s Directorates within the Corrective Services Division of the Department of Justice. |
| EM | Emergency Management |
| Exhibits | Items of evidence removed from a scene for the purpose of investigation. |
| Evidence | Items or things which may be used to determine the facts associated with a particular incident or to prove or disprove a fact in a court of law. Physical evidence may not be visible to the naked eye and may be such as fingerprints, footprints, footwear, impressions or items from which a person’s DNA may be established, that may need to be recorded, compared and analysed.  |
| Foreign national | A detainee who is a citizen of a country other than Australia. |
| HS | Health Services |
| Life Extinct | A clinical assessment process undertaken to establish that life is extinct. By evaluating cardiac output, neurological signs and respiratory status, using a standard regime of clinical assessment tools, a registered medical practitioner or registered nurse can generally establish that life is extinct. |
| Medical Officer | An officer of the Department who is registered under the *Health Regulation National Law (Western Australia)* referred to in s.179 (1) of the *Young Offenders Act 1994* |
| Medical Staff | Collective term for Medical Practitioner, Medical Officers and Registered Nurses. |
| Notifiable Incident | As defined in s.35 of the *Work, Health and Safety Act 2020*, a notifiable incident is:* The death of a person
* A ‘serious injury or illness’, or
* A dangerous incident.

‘Notifiable incidents’ may relate to any person – employee, contractor, visitor, member of the public or volunteer. |
| Officers and Employees of Particular Classes | The following descriptions of classes of officers and employees are prescribed for the purpose of s 11(1a)(b) of the *Young Offenders Act 1994*, and r. 49(2) of the *Young Offenders Regulations 1995*:(a) Medical staff persons who have undergone medical, nursing or health training and hold qualifications indicating successful completion of that training.(b) Teaching staff persons who provide recreation or sports supervision, teachers, vocational trainers and social trainers.(c) Program support staff counsellors, program facilitators and librarians.(d) Centre support staff cleaning staff, laundry staff, gardening staff, vehicle driving staff, maintenance staff and hairdressers. |
|  |  |
| Officer in Charge (OIC) |  The officer, as designated by the Superintendent or their delegate, who is at the relevant time the Officer in Charge of a Youth Detention Centre. |
| OSH | Occupational Safety and Health |
| Western Australian Police Force (WAPF) Officer | A person appointed under Part I of the *Police Act 1892* to be a member of the Police Force of Western Australia |
| Serious Medical Emergency | Instances where a person is observed by an Officer to be:* apparently unconscious; or
* non-responsive to verbal command; or
* non-responsive to the usual physical checks relating to suspected casualty.
 |
| Staff | Any person or officer of the Department of Justice, Corrective Services, including a Public Service Officer, Youth Custodial Officer or an employee of a particular class; and any contractor who provides services to the Department of Justice. |
| Superintendent | In accordance with s. 3 of the *Young Offenders Act 1994, ‘*The person in charge of a detention centre’ |
| Total Offender Management Solution (TOMS) | An electronic database used by the Department of Corrective Services to record and manage comprehensive information relating to prisoners and detainees. |
| Youth Detention Centre (YDC) | A gazetted detention centre declared by the Minister to be a detention centre to accommodate male and female, remanded or sentenced detainees. Refer to s.13 of the *Young Offenders Act 1994*. |

## Related legislation

* *Coroners Act 1996*
* *Police Act 1892*
* *Young Offenders Act 1994*
* *Young Offenders Regulations 1995*

# Assurance

It is expected that:

* The Youth Detention Centres will undertake local compliance in accordance with the [Compliance Manual](https://dojwa.sharepoint.com/search/Pages/results.aspx?k=operational%20compliance&ql=3081).
* The relevant Deputy Commissioner will undertake management oversight as required.
* Operational Compliance Branch will undertake checks in accordance with the [Operational Compliance Framework](https://dojwa.sharepoint.com/search/Pages/results.aspx?k=operational%20compliance&ql=3081).
* Independent oversight will be undertaken as required.

# Document Version History

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Version no | Primary author(s) | Description of version | Date completed | Effective date |
| 1.0 | Operational Policy | Approved by the A/Director Operational Policy Compliance and Contracts | 7 July 2020 | 3 August 2020 |
| 2.0 | Operational Policy | Approved by the Commissioner Corrective Services | 3 December 2020 | 29 December 2020 |
| 3.0 | Operational Policy | Approved by the Commissioner Corrective Services | 13 January 2021 | 18 January 2021 |
| 4.0 | Operational Policy | Approved by the Commissioner Corrective Services | 28 June 2022 | 28 June 2022 |
| 5.0 | Operational Policy | Endorsed by the Assistant Commissioner Women and Young People | 9 November 2023 | 18 December 2023 |
| Approved by the Deputy Commissioner Operational SupportCM Ref: D23/958935 | 15 November 2023 |
| 6.0 | Operational Policy | Approved by the Commissioner for Corrective ServicesCM Ref: D24/61412 | 05 January 2024 | 11 January 2024 |
| 7.0 | Operational Policy | Approved by the Assistant Director Operational PolicyCM Ref: D24/388286 | 3 April 2024 | 5 April 2024 |
| 8.0 | Operational Policy | Approved by the Deputy Commissioner, Operational SupportCM Ref: D24/1041848 | 4 December 2024 | 5 February 2025 |
| 9.0 | Operational Policy  | Approved by the Deputy Commissioner, Operational SupportCM Ref: D24/927396 | 1 February 2025 | 5 February 2025 |

# Appendix A: Records which WAPF May Require

This list is not exhaustive:

* Warrants (where applicable)
* Offender in Custody File
* Unit File
* Gate Occurrence Book
* CCTV recordings
* Body camera footage (where available)
* PTS records
* Unit Records and Occurrence logs
* Escort logs
* Cell Call Records
* Handover and Debrief Book
* At Risk Management System Forms and detainee Risk Assessment Group Minutes
* Support and Monitoring System (SAMS) Forms and SAMS Case Conference Minutes
* Medical Records (Requested through Health Information Management Services)
* Aboriginal Visitors Scheme Contact Forms and ‘Confidentials’
* Relevant Records held by ACCESS
* Photographs
* Detainee’s personal correspondence.

# Appendix B: Additional Notifications and Reporting

|  |  |
| --- | --- |
| Notification requirements | To |
| State Detainee (or joint state/ federal detainee) | Supervised Release Review Board Telephone: (08) 9423 8700Email: srrb@justice.wa.gov.au |
| Federal Detainee (or joint state/ federal detainee) | Principal Government LawyerFederal Offenders UnitCriminal Justice Branch, ACTTelephone: (02) 6250 6127Fax: (02) 6250 5920 |

1. S.38 and s. 39(1) *Work, Health and Safety Act 2020* [↑](#footnote-ref-1)
2. S180(1) Young Offenders Act 1994 [↑](#footnote-ref-2)
3. s.38 and s.39 *Work Health and Safety Act 2020* [↑](#footnote-ref-3)