COPP 13.2 Death of a Prisoner

Prisons

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| --- |
| Principles As referenced in the[Guiding Principles for Corrections in Australia, 2018](https://dojwa.sharepoint.com/sites/intranet/department/standards/Pages/ops-standards.aspx):  2.3.13 Appropriate and timely notifications are made in the event of a prisoner’s death, life threatening injury or illness, admission to hospital or transfer to a mental health facility.  2.3.14 Immediate notification is made to the family (or other such nominated persons) and the appropriate Aboriginal Legal Service in the event of an Aboriginal and Torres Strait Islander person’s death. |

# Contents

[1 Scope 3](#_Toc189644208)

[2 Policy 3](#_Toc189644209)

[3 Death of a Prisoner within a Prison 5](#_Toc189644210)

[4 Death of a Prisoner in a Hospital or Hospice 8](#_Toc189644211)

[4.2 Withdrawal of escorting officers from a hospital or hospice in exceptional circumstances 9](#_Toc189644212)

[5 Death of a Prisoner Prior to Arrival at a Prison 10](#_Toc189644213)

[6 Death of a Prisoner as a Result of an Industrial Accident 11](#_Toc189644214)

[7 Notifications and Reporting 11](#_Toc189644215)

[7.1 WA Police Force notification to next of kin 11](#_Toc189644216)

[7.2 Reporting and additional notifications 12](#_Toc189644217)

[8 Prisoner Property 14](#_Toc189644218)

[9 Handover of Records and Crime Scenes to WA Police Force 14](#_Toc189644219)

[10 WorkSafe Investigations 16](#_Toc189644220)

[11 Support Services – Family and Prisoners 16](#_Toc189644221)

[11.1 Contact with next of kin and booked visitors 16](#_Toc189644222)

[11.2 Death of an Aboriginal person 18](#_Toc189644223)

[11.3 Prisoner support services 18](#_Toc189644224)

[12 Staff Debrief and Support Services 19](#_Toc189644225)

[13 Coroners Findings 19](#_Toc189644226)

[14 Annexures 20](#_Toc189644227)

[14.1 Related COPPs and documents 20](#_Toc189644228)

[14.2 Definitions and acronyms 20](#_Toc189644229)

[14.3 Related legislation 24](#_Toc189644230)

[15 Assurance 24](#_Toc189644231)

[16 Document Version History 24](#_Toc189644232)

[Appendix A: Records Which WA Police Force May Require 26](#_Toc189644233)

[Appendix B: Additional Notifications and Reporting 27](#_Toc189644234)

[Appendix C – Death of a Prisoner Discharge Procedure 28](#_Toc189644235)

# Scope

This Commissioner’s Operating Policy and Procedure (COPP) applies to all prisons administered by or on behalf of the Department of Justice (the Department).

It also applies to any organisation contracted to the Department under the *Court Security and Custodial Services Act 1999* (Part 2, Division 2, Section 18), for the provision of custodial services.

# Policy

Superintendents shall have in place an Emergency Management (EM) Plan for their prison, associated with serious medical emergencies including an apparent death.

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

This COPP commences on confirmation of life extinct by medical staff or paramedic. The scene of death and items which may be potential evidence are to be managed as a crime scene in accordance with procedure [SMF-PRO-004 Physical Evidence Management](https://dojwa.sharepoint.com/sites/security-intelligence/security-response/srsoperationalguidance/SMF-PRO-004%20Physical%20Evidence%20Management.pdf).

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

The death of a prisoner is classified as a critical incident. Incident notification and reporting procedures shall occur in accordance with [COPP 13.1 – Incident Notifications, Reporting, and Communications](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-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 prisoner, to ensure the Western Australian Police Force (WAPF) and the Operations Centre (OPCEN) are immediately notified.

The OPCEN will notify the relevant directorate Deputy Commissioner and/or the Duty Deputy Commissioner, who will in turn, notify the Commissioner (Corrective Services)[[1]](#footnote-1). The relevant directorate Deputy Commissioner is responsible for the development of a briefing note for the Commissioner[[2]](#footnote-2) to notify the Minister as soon as practicable[[3]](#footnote-3).

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

Escorting officers must continue to remain with the deceased until such time as handover with the WAPF has officially occurred and have assumed responsibility for the deceased.

The death of a prisoner 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 prisoner 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 prisoner 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 Service (MHAOD) shall provide medical reviews and reports as requested by the PAR Directorate or State Coroner.

The death of a prisoner is a notifiable incident, in accordance with the *Work, Health and Safety Act 2020*[[4]](#footnote-4), 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 Prisoner within a Prison

### Where the death occurs in a prison, the Superintendent is responsible for the management of the deceased prisoner and the scene, in accordance with procedure [SMF-PRO-003 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 prison (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. | Officer in Charge (OIC) |
|  | Notify the OPCEN (operationscentre@justice.wa.gov.au) in accordance with [COPP 13.1 – Incident Notifications, Reporting, and Communications](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx). | Superintendent/OIC |
|  | Notify the WAPF of the death by contacting 000 or 131444 | Superintendent/OIC |
|  | Notify the Contract Manager, where the death occurs at a private prison or during escort by a contractor under the Court Security and Custodial Services (CS & CS) contract. | Superintendent/OIC |
|  | Notify the Director Health Services (HS), Director Medical Services,Director MHAOD and Medical Practitioner at the site or on call. | 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:   * relevant directorate Deputy Commissioner or Duty Deputy Commissioner outside of business hours * 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 Prison Officer (Assigned Prison Officer) who was not directly involved with the incident leading up to the death to manage the scene of the death until handed over to the WAPF.

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

### 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.

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

### A chronological record (in accordance with the [incident/crime scene entry and exit log](https://dojwa.sharepoint.com/:w:/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 WAPF.

### The Superintendent shall ensure that all relevant Closed Circuit Television (CCTV) footage, cell calls and radio transmissions are downloaded and preserved.

### Prisoners 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 Prison Officer (Incident Controller), not directly involved with the incident, to manage the scene. | Superintendent/OIC |
|  | Assign a Prison Officer to compile a crime scene log. | Superintendent/OIC |
|  | Secure and preserve the scene as a crime scene. | Assigned Prison Officer |
|  | Take note of person/s present at the scene, with the information to be added to the [incident/crime scene entry and exit log](https://dojwa.sharepoint.com/:w:/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 Prison Officer |
|  | Remove persons away from the scene who are not immediately required to assist. | Assigned Prison Officer |
|  | Identify prisoners who may be suspects or witnesses to the incident and provide the WAPF with these details.  The following shall occur:   1. place them in separate cells under strict observation to ensure they are unable to converse with one another. Prison Officers shall be mindful that the prisoners 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 Prison 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 Prison Officer assigned to maintain the [incident/crime scene entry and exit log](https://dojwa.sharepoint.com/:w:/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):

|  | Procedure | Responsibility |
| --- | --- | --- |
| 1. | Use the same clock to record the time of events throughout the record. | Assigned Prison 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 prisoner’s next of kin is able to occur formally (refer section 7.1) and not from secondary sources:

|  |  |  |
| --- | --- | --- |
|  | Procedure | Responsibility |
| 1. | Immediately disable the Prisoner Telephone System (PTS). Where there is no PTS, access to telephones by prisoners shall be restricted. | Superintendent/OIC |
| 2. | Cease use of the prison video link where it is being used for prisoner visits. |
| 3 | Maintain shutdown (or restricted access) of PTS and prison video link until confirmation that the deceased’s next of kin have been notified, or until determined otherwise by the Superintendent. |

### The following notification procedures shall be undertaken within 24 hours of confirmation of life extinct:

|  | Procedure | Responsibility |
| --- | --- | --- |
| 1. | Notify Manager, Psychological HS responsible for that prison. | Superintendent/OIC |
| 2. | Notify the Work Health and Safety Team and the Employee Welfare Services (email: [WHSTeam@justice.wa.gov.au](mailto:WHSTeam@justice.wa.gov.au)) | Superintendent/OIC |
| 3. | Notify Manager, Aboriginal Visitors Scheme (where the prisoner is Aboriginal). | Superintendent/OIC |
| 4. | Notify relevant prison Chaplain (where indicated on the reception history sheet). | Superintendent/OIC |
| 5. | Notify the Information Release and Litigation Management team (email: [Informationrelease@justice.wa.gov.au](mailto:Informationrelease@justice.wa.gov.au)) to enable any responses to prisoner location queries. | Superintendent/OIC |

# Death of a Prisoner 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 prisoner was under officer supervision at the time of death, officers in attendance are provided appropriate guidance and support. A copy of this COPP and [COPP 6.2 Prisoners with a Terminal Medical Condition](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx) 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 prisoners’ death the prison Superintendent/OIC 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 investigating WAPF Officer/s.
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 prisoner’s death, notification and reporting procedures shall occur as per procedures for the death of a prisoner within a prison (section 3.1.2).

### Where a prisoner dies in a hospice, notification of the next of kin shall be in accordance with [COPP 6.2 - Prisoners with a Terminal Medical Condition](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx).

### Where a prisoner dies 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 Superintendent/Ventia Control where applicable. | OIC of the escort |
| 3. | Notify the OPCEN of the prisoner’s death. | OIC of the escort/ Ventia Control |
| 4. | Notify WAPF of the death. | OIC/Superintendent or Ventia Control |
| 5. | Notify the Contract Manager, where the death occurs during escort by a contractor under the CS & CS contract. | Ventia Control |
| 6. | The escorting officers shall maintain security of the deceased and scene until handover to the WAPF, except in exceptional circumstances refer to section 4.2. | OIC of the escort |
| 7. | On arrival of the WAPF, the OIC shall hand over control and access to the scene in accordance with section 9 of the COPP. | OIC of the escort |
| 8. | 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 |
| 9. | The OIC shall notify the Superintendent/OPCEN/Ventia Control that handover has taken place with the WAPF. | OIC of the escort |
| 10. | 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:

a) prisoner has been granted Prerogative of Mercy

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

c) prisoner’s sentence or parole has concluded

d) where approved organ donation is to occur.

e) 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 WAPF of the time of withdrawal | Superintendent/OIC |
|  | Ensure the prisoner has been discharged from TOMS, where applicable (see [Appendix C – Death of a Prisoner Discharge Procedure](#_Appendix_C_–)). | Superintendent/OIC |
|  | Notify the escorting officers of the withdrawal | Superintendent/OIC |
|  | Notify Ventia Control where applicable | Superintendent/OIC |
|  | Notify the Officer in Charge of the Ward (hospital or hospice staff) of the withdrawal of escorting officers | OIC of the escort |
|  | The escorting officer shall record the time of withdrawal. in the escort log and/or occurrence book | OIC of the escort |

# Death of a Prisoner Prior to Arrival at a Prison

### The following procedures shall be undertaken in the event the death occurs prior to a prisoner’s arrival at the prison but after transfer into custody of a representative of the Department (ie prison staff or contractor):

|  |  |  |
| --- | --- | --- |
|  | Procedure | Responsibility |
|  | Ensure the security and safety of any other prisoners being transported. | OIC of the escort |
|  | Secure and preserve the scene as a crime scene until handover to the WAPF. | OIC of the escort |
|  | Notify the OPCEN of the prisoner’s death. | OIC of the escort |
|  | Notify the Superintendent of the prison the prisoner was to be allocated to. | Operations Centre |
|  | Notify the Contract Manager, where the death occurs during escort by a contractor under the CS & CS contract. | Operations Centre |
|  | Notify the WAPF of the death by contacting 000 or 131 444. | Superintendent/OIC |
|  | The escorting officer/s shall maintain security of the deceased and scene until handover with the WAPF. | OIC of the escort |
|  | Arrange for drug and alcohol testing of the officers undertaking the escort, in accordance with [Staff Drug and Alcohol Testing Policy](https://dojwa.sharepoint.com/search/Pages/results.aspx?k=staff%20drug%20and%20alcohol%20testing%20policy&ql=3081) and [Staff Drug and Alcohol Testing Procedures](https://dojwa.sharepoint.com/search/Pages/results.aspx?k=staff%20drug%20and%20alcohol%20testing%20policy&ql=3081#k=staff%20drug%20and%20alcohol%20testing%20procedures). | Superintendent/OIC |
|  | Complete a reception intake on TOMS to enable incident reporting procedures to occur. | Reception Officer (Allocated Prison) |
|  | Notify relevant internal and external stakeholders of the death, in accordance with approved OPCEN incident notification procedures, including immediate notification to the:   * relevant directorate Deputy Commissioner and/or Duty Deputy Commissioner * WorkSafe Commission and * Coroner | OPCEN |

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

### Where the death of a prisoner occurs as a result of an industrial accident the notification and reporting procedures shall occur as per procedures for the death of a prisoner within a prison (section 3.1.2). The following additional procedures shall also apply:

|  |  |  |
| --- | --- | --- |
|  | Procedure | Responsibility |
| 1. | Immediately notify WorkSafe on the incident/accident reporting line:  Telephone: 1800 678 198 | Superintendent/OIC |
| 2. | 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. |
| 3. | Notify the Department’s Work, Health and Safety (WHS) team:  Telephone: 9264 6367  Email: [WHSTeam@justice.wa.gov.au](mailto:WHSTeam@justice.wa.gov.au) |
| 4. | Notify Safety and Health Representatives at the prison. |
| 5. | Complete all workplace incident reporting and investigation requirements in conjunction with the WAPF, WorkSafe and the Department’s WHS team |

# Notifications and Reporting

## WA Police Force notification to next of kin

### The WAPF are responsible for notification of the death of a prisoner to the next of kin. Where the next of kin is in another WA prison the Superintendent may, in negotiation with the WAPF and the Superintendent of the prison where the next of kin is in custody, notify the next of kin of the prisoner’s death. Australian Federal Police should 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 prisoner’s TOMS record. | Superintendent/OIC |
|  | The Superintendent’s name as the contact for members of the deceased prisoner’s family seeking further information. |
|  | Further details of any alternative contact persons registered at the time of the prisoner’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 13.1 – Incident Notifications, Reporting, and Communications](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-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).

### If a patient is under the *Mental Health Act 2014*, Form 1A at the time of death, the Director MHAOD is required to notify the Office of the Chief Psychiatrist.

### Officers and staff shall prepare TOMS incident reports independent of each other. Refer to [COPP 13.1 – Incident Notifications, Reporting and Communications](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-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 prisoner 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](mailto:IntelligenceServices@justice.wa.gov.au?subject=Intelligence%20Services), 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 prisoner’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 other prisons the name of the deceased. This is to enable the identification of family members or significant others, within the prison system, that 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 a:

1. state prisoner (or joint state/federal prisoner) who has parole eligibility
2. federal prisoner (or joint state/federal prisoner).

### The relevant directorate Deputy Commissioner, responsible for the prison or custodial service, shall in response to a death of a prisoner, coordinate the preparation of written communications to the Minister for Corrective Services (Ministerial Briefing)

### The Department’s Assurance, Planning and Performance branch shall, in response to the death of a prisoner, coordinate the preparation of written communications to the:

1. State Solicitor’s Office
2. Coroner’s Office (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, in accordance with legislative requirements[[5]](#footnote-5)[1]. 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.

# Prisoner Property

### The Superintendent shall obtain clearance from the Coroner’s Office prior to the release of a deceased prisoner’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 prisoner, where no relative or next of kin representative is nominated in Australia. Refer to [COPP 3.1 – Managing Prisoner Property](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx).

# Handover of Records and Crime Scenes 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 prisoner are collated and secured until seizure by the WAPF [(see Appendix A: Records which WA Police Force may require)](#_Appendix_A:_Records). Medical records must be returned to Health Information Management Services for compilation into the record prior to seizure by the WAPF.

### Subject to the incident reporting requirements contained in section 7.2, 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 prisoner is examined by a medical officer and life is pronounced extinct and duly recorded on the prisoner’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.

### A Receipt Book (C103) shall be held at each prison and used in all cases where documents (including those printed from TOMS) are removed from a prison as a result of an investigation.

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

|  | Procedure | Responsibility |
| --- | --- | --- |
|  | Create a record of all documents and exhibits seized, identifying where they were seized and the Officer/s who did so. | Superintendent |
|  | Make copies of all records (other than those accessible on TOMS) to be handed over to WAPF. 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.  Private Prisons may purchase their own encrypted USB devices which have at a minimum the ‘Advanced Encryption Standard’ (AES) 256’ or otherwise advised by the State, alternatively privately purchase Kingston DataTraveler USB as used by Department of Justice. |
|  | Place all seized documents and exhibits in plastic bags and label with:   1. name of prison 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. |
|  | 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](mailto: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 prisoners 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 prisoner, prior to removal of the body.

# WorkSafe Investigations

### All deaths in custody are notifiable incidents and will be investigated by WorkSafe as deemed necessary by the WorkSafe Commission[[6]](#footnote-6).

### 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.

### 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.

### 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.

### 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 Prisoners

## Contact with next of kin and booked visitors

### Following verified contact by 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. Assistance from the relevant chaplain or prisoner support services (eg 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/organisation/department-of-communities/bereavement-assistance-program) 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 prisoner 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 (section 11.2).

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

1. arrange a meeting venue, which may be at the prison, 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 prison’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 Counselling Service. |
|  | If the prisoner has died in a prison remote from the place of their 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 prison, or by a Contractor. Advise that approval of the Coroner and senior investigating WAPF Officer is required before the property can be released. |
|  | Provide written advice that WAPF may approve certain items not required for investigation purposes, to be released to the next of kin (ie clothes or personal items for the deceased's burial). |
|  | Arrange to pass on to WAPF any request for identified items and advise that approved items will be released accordingly: ie collected by the next of kin, or alternatively, arrangement by the prison or Coronial Counselling Service for return of property at the Department’s expense. [(See also COPP 3.1 – Managing Prisoner Property)](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-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, that 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 (ie Prison Support Services/AVS) or contracted service providers, if necessary.

## Death of an Aboriginal person

### Where the prisoner 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 prison 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, 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 WAPF 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 prison. During this inspection, no discussion is to take place between prisoners and members of the family or their legal representative. |

## Prisoner support services

### At the discretion of the Superintendent, available prison support services (eg AVS; Psychological Health Service) can be called in to assist officers manage issues and provide support to prisoners 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 prisoner cohorts.

# Staff Debrief and Support Services

### The management of post incident debriefs and staff support is set out in [COPP 13.1 – Incident Reporting, Notification and Communication](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx).

### The Superintendent shall notify the site based staff support coordinator and [Employee Welfare](https://dojwa.sharepoint.com/sites/intranet/human-resources/safety-health/Pages/employee-welfare.aspx) to ensure the support needs of prison 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 prisoner will be provided the option to complete the remainder of their shift in a different location or unit as to where the incident occurred.

### Staff attending the Coroner’s Court shall be made aware of the range of support services available to them.

# Coroner’s Findings

### When requested, the relevant 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 3.1 – Managing Prisoner Property](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx)
* [COPP 6.2 – Prisoners with a Terminal Medical Condition](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx)
* [COPP 13.1 – Incident Notifications, Reporting and Communications.](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-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 detention centre 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 detention centre 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. |
| Contractor | Means the organisation engaged to provide the services under the *Court Security and Custodial Services Act 1999.* |
| Contract Manager  (Corrective Services) | The relevant Contract Manager appointed to manage the Court Security and Custodial Services Contract, or the Contract for a privately operated prison under Part IIIA of the *Prisons Act 1981*. |
| 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 prisoners 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 prisoners under significant risk * Place the security of the prison under significant risk * Involve the serious injury or death of any person on prison property * Generate significant public or media scrutiny. |
| 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 prisoner 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 | A person who is appointed or engaged as a medical officer referred to in s.6(3) or (4) of the *Prisons Act 1981.* |
| 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. |
| Officer | A person appointed or deemed to have been appointed for the purposes of the *Prisons Act 1981* under, or as referred to in, s.6 or s.13. Also includes any contract worker authorised by the Commissioner under s.15I(1) (b) of the *Prisons Act 1981* to perform the functions of a prison officer. |
| Officer in Charge (OIC) | As defined in s.3(1) of the *Prisons Act 1981* and refers to either the designated Superintendent or the officer in charge of a prison at a particular time.  Also includes any contract worker authorised by the Commissioner in accordance with s.*15l(1)(a)* of the *Prisons Act 1981* who is in charge pf a prison at a particular time. |
| OSH | Occupational Safety and Health |
| WAPF Officer | A person appointed under Part I of the *Police Act 1892* to be a member of the Police Force of Western Australia |
| Prisoner | Any person in lawful custody and referred to as a prisoner in s.3 of the *Prisons Act 1981*; also includes a person not yet in the custody of a prison, but in the custody of a Contractor under the Court Security and Custodial Services Contract. |
| PTS | Prisoner Telephone Service |
| 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 in the paid or unpaid employment of the Department of Justice, Corrective Services, including contractors, subcontractors and volunteers. |
| Superintendent | The Superintendent as defined in s.36 of the [*Prisons Act 1981*](http://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_751_homepage.html) includes any reference to the position responsible for the management of a private prison under Part IIIA of the [*Prisons Act 1981*](http://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_751_homepage.html). Does not extend to the Officer in Charge of a prison |
| 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. |
| WA | Western Australia |

## Related legislation

* *Coroners Act 1996*
* *Police Act 1892*
* *Prisons Act 1981*
* *Prisons Regulations 1982*

# Assurance

It is expected that:

* Prisons will undertake local compliance in accordance with the [Compliance Manual](https://dojwa.sharepoint.com/sites/intranet/department/standards/Pages/monitoring.aspx).
* 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/sites/intranet/department/standards/Pages/monitoring.aspx).
* 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 | 12 July 2022 | 12 July 2022 |
| 5.0 | Operational Policy | Approved by the Deputy Commissioner Operational Support  CM ref: D23/930890 | 24 October 2023 | 10 November 2023 |
| 6.0 | Operational Policy | Approved by the Deputy Commissioner Operational Support  CM Ref:D23/1067734 | 05 January 2024 | 11 January 2024 |
| 7.0 | Operational Policy | Approved by the Assistant Director, Operational Policy  CM Ref: D24/388024 | 3 April 2024 | 5 April 2024 |
| 8.0 | Operational Policy | Approved by the Assistant Director Operational Policy  CM Ref: D24/479366 | 08 March 2024 | 15 May 2024 |
| 9.0 | Operational Policy | Approved by the Deputy Commissioner, Operational Support  CM Ref: D25/46208 | 4 December 2024 | 5 February 2025 |
| 10.0 | Operational Policy | Approved by the Commissioner, Operational Support  CM Ref: D24/927298 | 1 February 2024 | 5 February 2025 |

Appendix A: Records Which WA Police Force 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 Prisoner Risk Assessment Group Minutes
* Support and Monitoring System (SAMS) Forms and SAMS Case Conference Minutes
* Medical Records (Requested through Health Information Management Services)
* Prisoner Movement Records
* Aboriginal Visitors Scheme Contact Forms and ‘Confidentials’
* Relevant Records held by ACCESS
* Photographs
* Prisoner’s personal correspondence.

Appendix B: Additional Notifications and Reporting

|  |  |
| --- | --- |
| Notification requirements | To |
| State Prisoner (or joint state/ federal prisoner)  Who has parole eligibility, or was a person detained on a custody order issued under the *Criminal Law* (*Mentally Impaired Accused) Act 1996*. | Registrar, State Review Boards Secretariat  Telephone: (08) 9423 8700 Email: [prisonersreviewboardregistrar@justice.wa.gov.au](mailto:prisonersreviewboardregistrar@justice.wa.gov.au) |
| Federal Prisoner (or joint state/ federal prisoner) | Principal Government Lawyer  Federal Offenders Unit Criminal Justice Branch, ACT  Telephone: (02) 6250 6127 Fax: (02) 6250 5920 |

Appendix C – Death of a Prisoner Discharge Procedure

|  |
| --- |
| Following the death of a prisoner, the prisoner is to be discharged from TOMS (TOMS > Movement > Discharge > (new)).  The following shall also be documented on TOMS:  The actual discharge date/time shall be recorded  Discharge reason – select ‘Death’  Discharge Type – (select the most appropriate option from the drop-down box – selection to reflect the apparent cause of death, based on available information).  In Custody Of – (select the most appropriate option from the drop-down box – selection to reflect who the prisoner was in custody of at the time of the death.  Select ‘Discharge Offender’  The action ‘confirmation’ appears – select ‘yes’ |

1. r 75 *Prison Regulations 1982* [↑](#footnote-ref-1)
2. As delegated by the Director General (CEO) [↑](#footnote-ref-2)
3. s 7(2) *Prisons Act 1981* [↑](#footnote-ref-3)
4. s.38 and s. 39(1) *Work, Health and Safety Act 2020* [↑](#footnote-ref-4)
5. [1] r.74 *Prisons Regulations 1982* [↑](#footnote-ref-5)
6. s.38 and s.39 *Work Health and Safety Act 2020* [↑](#footnote-ref-6)