

Aboriginal Strategy & Policy Unit

Aboriginal Death in Custody

Purpose

The purpose of this document is to outline the policy and procedures that must be followed by the Principal Manager, Aboriginal Strategy & Policy Unit (ASPU) and all Regional Aboriginal Project Officers (RAPOs) when there is a death of an Aboriginal inmate in CSNSW custody.

Scope

This policy applies to all correctional centres and other facilities administered by or on behalf of Corrective Services NSW (CSNSW). The Principal Manager, ASPU is responsible for ensuring this policy is applied.

Legislation

[Crimes \(Administration of Sentences Act 1999, Section 74](#)
[Crimes \(Administration of Sentences\) Regulation 2014, Clause 315](#)
[Coroners Act 2009, Section 23](#)

Related Policies

[COPP section: 13.3 Death in custody](#)
[COPP section: 9.2 Application for financial assistance for families of inmates](#)
[Royal Commission into Aboriginal Deaths in Custody, National Report Volume 5, Recommendations](#)

Definitions

Aboriginal	An Aboriginal person is defined as an Indigenous person to mainland Australia or to the island of Tasmania
Aboriginal Family	For Aboriginal people family can be defined as kinship and family structures that extend to immediate and extended family networks
ALS	Aboriginal Legal Service
Aboriginal Affairs	Aboriginal Affairs works with Aboriginal communities to

	promote social, economic and cultural wellbeing.
ASPU	Aboriginal Strategy & Policy Unit
COPP	Custodial Operations Policy and Procedures
JH&FMHN	Justice Health & Forensic Mental Health Network
RAPO	Regional Aboriginal Project Officer
RCIADIC	Royal Commission into Aboriginal Deaths in Custody
NOK	Next of Kin
Torres Strait Islander	Torres Strait Islander is defined as the indigenous people of the Torres Strait Islands, part of Queensland, Australia.

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1 Aboriginal death in custody

1.1 Reporting & disclosure requirements

A death in custody must be reported to the NSW Police Force ('Police') and the NSW State Coroner by the Governor who has custody of the inmate at the time of their death. The CSNSW Duty Officer will advise the Principal Manager, ASPU via email that a Death in Custody has occurred. Police will conduct a coronial investigation for the State Coroner and investigate the manner and cause of death.

When there is an Aboriginal death in custody, the Principal Manager, ASPU will:

- liaise with the Governor or Officer in Charge (OIC) to obtain details about the death of an Aboriginal inmate in CSNSW custody
- confirm whether the Next of Kin (NOK) has been notified by Police
- notify the Aboriginal Legal services (ALS) and Aboriginal Affairs NSW
- notify all relevant CSNSW staff members (refer to subsection [1.6.])
- inform the NOK that financial assistance may be available, and assist with completing application if required. The Chaplaincy Service or the Chaplain will provide this advice
- assist the Governor or OIC with any family or cultural issues that may exist
- organise a meeting at the earliest opportunity with family members to allow them to raise any questions or issues they may have
- organise a meeting at the earliest opportunity with Aboriginal community members to allow them to raise any questions or issues they may have.

The Governor is to organise a meeting at the earliest opportunity with staff members to allow them to raise any questions or issues they may have regarding the death in custody.

If the Aboriginal inmate's NOK **has not been advised** of the inmate's death, the PM, ASPU may provide only the following details until it is confirmed that the NOK has been notified:

- declared deceased time and
- the sex of the person.

If the Aboriginal inmate's NOK **has been advised** of the inmate's death, the PM, ASPU may provide the following details:

- name of the deceased
- date of birth
- declared deceased time
- correctional centre/location where death occurred
- confirmation that the Police have contacted the Aboriginal inmate's NOK. Only the name and the relationship of the NOK for the deceased must be disclosed. No further details are to be provided.

Following notification of death from the CSNSW Duty Officer, the Governor or OIC of the correctional centre where the inmate was located must obtain all NOK and Emergency Contact Person details and provide these to the Police, as well information regarding the time, place and circumstances of the death as known.

This policy applies in conjunction with COPP section *13.3 Deaths in custody*.

1.2 Police OIC contact details

Following a death in custody, the Police will provide the deceased's NOK with the contact number for the Police OIC so that they can communicate directly with the investigating Police Officer. The Police OIC will also provide their contact details to CSNSW Investigations to confirm that the NOK has been advised.

In cases where an individual contacts CSNSW for information relating to a death in custody, CSNSW staff must refer the individual to the Police OIC and provide their contact details as noted in the OIMS case note.

Note: CSNSW staff must be sensitive to the needs and requests of the deceased inmate's family. All efforts should be made to provide frank and helpful advice in a polite and considerate manner.

1.3 Financial assistance

Following the death of an inmate in CSNSW custody, financial assistance may be provided to the family that can assist with funeral expenses. Financial assistance related to the cost of the funeral only is to be assessed by the Chaplaincy Service CSNSW. This is not an admission of liability by CSNSW for the death of the inmate. COPP section *9.2 Application for financial assistance for families of inmates* applies in conjunction with this policy.

There is scope for the ASPU to provide limited financial assistance if approved for Aboriginal family members attending:

- the funeral for accommodation, meals and travel.
- Coroners Court to assist with costs associated with travel and accommodation.

Financial assistance in these circumstances may be approved by the Deputy Commissioner and or the Director of Executive Services, Corrections Strategy & Executive Services.

1.4 Smoking Ceremonies

Family members for the deceased Aboriginal inmate may be permitted to undertake a Smoking Ceremony at the correctional centre and may be approved to bring flora into the centre for that purpose.

The organisation of the Smoking Ceremony will be facilitated by the RAPO. If there are any operational issues with facilitating a ceremony, the Governor/OIC will liaise with the PM, ASPU. Further information regarding family member's attendance at a correctional centre where there is a death in custody can be found in COPP section *13.3 Death in custody*.

1.5 Chaplaincy Services

The Chaplaincy Coordinator will provide assistance as outlined in the CSNSW Chaplaincy Manual.

Subject to the approval of the Police OIC and the deceased's NOK, Chaplains may be given access to the deceased inmate to perform religious ministrations.

The Chaplaincy Coordinator may be contacted by email at ChaplaincyCSNSW@justice.nsw.gov.au.

In the event that an inmate's property cannot be collected by the NOK, the Chaplain may liaise with the local centre to arrange distribution of property to the inmate's NOK. Where the centre does not have access to Chaplaincy Services, the RAPO may complete this task.

In relation to financial assistance and funeral arrangements, this advice will be provided by Chaplaincy Services (refer to COPP section *9.2 Application for financial assistance for families of inmates*). Assessment and payment of funeral costs will be dealt with directly and only by the CSNSW Chaplaincy Service.

1.6 Procedures for Principal Manager, ASPU

Procedure		Responsible
1.	When a notification is received, contact the Governor/OIC of the correctional centre and obtain all relevant details about the Aboriginal inmate and the circumstances relating to their death	PM, ASPU
2.	Contact the Duty Officer at correctional centre to confirm if the Aboriginal Inmates NOK has been advised of their death by the local Police. Note: If the Duty Officer has not received advice, request that an email notification is sent once the advice has been received	PM, ASPU
3.	Contact the Aboriginal Affairs Director and/or their Executive Assistant via email and phone to advise that there has been a Death in Custody. Note: Only provide the appropriate details based on disclosure rules outlined in [1.1]	PM, ASPU
4.	Contact the ALS Custody Notification Service Line and inform them that a Death in Custody has occurred. This will activate a notification to the Principal Legal Officer. Note: Ensure that the same disclosure rules outlined in [1.1] are followed	PM, ASPU
5.	Email and advise the following of action taken and to await further advice: <ul style="list-style-type: none"> • Regional Service Manager(s) for the region • RAPO(s) • Chaplain 	PM, ASPU
6.	Email the following and inform them of action taken: <ul style="list-style-type: none"> • Deputy Commissioner • Director, Corrections Strategy & Executive Services • General Manager, State-wide Operations • Director, Investigations • Governor/OIC of the Correctional Centre 	PM, ASPU
7.	Contact the relevant Chaplain via telephone to organise follow up service in the local centre, and property collection. Governor of the centre to follow up a meeting with staff to address any concerns or issues they may like to raise.	PM, ASPU; Chaplain; RAPO; Governor

	Note: Contact the RAPO where the centre does not have chaplaincy services	
8.	Contact the relevant regional RAPO to organise a Smoking Ceremony in consultation with family and the correctional centre	PM, ASPU
9.	Submit an application for financial support to the Executive Director, Corrections Strategy and Executive Services for approval, if necessary. Note: Chaplaincy will contact NOK to supply application forms for financial assistance related to funeral costs	PM, ASPU; Chaplain
10.	Decide if application for financial support is approved.	Executive Director, CS&ES

1.7 Procedures for RAPO

	Procedure	Responsible
1.	Provide support and assistance to the inmates family once they have been notified of the death in custody, including (but not limited to): <ul style="list-style-type: none"> organising a Smoking Ceremony in the cell of the deceased and inform the Governor of the correctional centre in line accordance with subsection [1.4] assisting families with obtaining inmates property in accordance with subsection [1.5] of this policy 	RAPO
2.	Update OIMS case notes regarding any correspondence with the inmates family	RAPO
3.	Inform the Governor, OIC, and ASPU of any ongoing needs.	RAPO

Document information

Version	Date	Reason for Amendment
1.0	04 March 19	Initial Publication.
1.1		Amendment to include policy regarding Police OIC contact details, financial assistance, and Chaplaincy/RAPO assistance.