

Aboriginal Advisory 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 Advisory Unit (AAU) and all Regional Aboriginal Pathways Officers (RAPOs) where 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, AAU 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.
AAU	Aboriginal Advisory Unit
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, AAU 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, AAU 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, AAU 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, AAU 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, AAU. 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.

Policy

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Where there is an Aboriginal death in custody, the Principal Manager, AAU 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
- inform the next of kin that financial assistance may be available and assist to complete application
- assist the Governor with any family or cultural issues that may exist.
- At the earliest opportunity, will organise a meeting with family members where questions can be raised, which will allow the family to voice any other issues they may have
- At the earliest opportunity, will organise a meeting with Aboriginal community members where questions can be raised, which will allow the community to voice any other issues they may have

The family members for the deceased Aboriginal inmate may be permitted to undertake a Smoking Ceremony and bring flora into the centre for that purpose. The organisation of this 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 Principal Manager, AAU.

This policy applies in conjunction with section 13.3 *Deaths in custody* of the Custodial Operations Policy and Procedures (COPP) manual.

Procedures for the Principal Manager, AAU

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.	Principal Manager, AAU
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. If the Duty Officer has not received advice, request that	Principal Manager, AAU

	an email notification is sent once the advice has been received.	
3.	<p>Contact the Aboriginal Affairs Director and/or Aboriginal Affairs Director Executive Assistant via email and phone to advise that there has been a Death in Custody.</p> <p>If the Aboriginal inmate's NOK has <u>not</u> been advised of their death, only provide the following details until it is confirmed that they have been notified:</p> <ul style="list-style-type: none"> • declared deceased time, and • the sex of the person. <p>If the Aboriginal inmate's NOK has <u>been</u> advised, provide the following details:</p> <ul style="list-style-type: none"> • 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. Note: Only the name and their relationship to the deceased must be disclosed. No further details are to be provided. 	Principal Manager, AAU
4.	<p>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.</p> <p>Ensure that the same disclosure rules outlined in procedure [3] are followed depending on whether the Aboriginal inmate's NOK has been notified or not.</p>	Principal Manager, AAU
5.	<p>Email the following and advise them of action taken and to await further advice:</p> <ul style="list-style-type: none"> • RAPO(s) • Chaplain. 	Principal Manager, AAU
6.	<p>Email the following and inform them of action taken:</p> <ul style="list-style-type: none"> • Assistant Commissioner, Corrections Strategy & Policy • Aboriginal Director, Corrections Strategy & Policy • General Manager, State-wide Operations • Director, Investigations • Governor of the Correctional Centre. 	Principal Manager, AAU
7.	Contact the relevant Chaplain via telephone to organise follow up service in the local centre.	Principal Manager, AAU
8.	Contact the relevant regional RAPO to organise a Smoking	Principal

	Ceremony.	Manager, AAU
9.	<p>Chaplaincy will contact NOK to supply application forms for financial assistance related to funeral costs for Aboriginal family members. The ASPU can provide financial support for accommodation, meals and travel such as petrol cards. When this application is completed, forward application to Executive Director, Corrections Strategy and Executive Services.</p> <p>In the event that an inmate's property cannot be collected by the NOK, the Chaplain will liaise with the local centre to arrange distribution of property. Should the centre not have access to chaplaincy services, the RAPO will complete this task.</p> <p>There is scope for the AAU to provide limited financial assistance when required for Aboriginal family members who are attending Coroners Court and to assist with costs associated with travel and accommodation.</p>	Principal Manager AAU, Executive Director, Chaplain, RAPO

Document Information

Version	Date	Reason for Amendment
1.0	04 March 19	Initial Publication.
2.0	22 December 23	Update document to reflect new Aboriginal directorate and Aboriginal Advisory Unit. Change of name for RAPOs.