

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
ICE Office of Policy

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DIRECTIVE TITLE: NOTIFICATION AND REPORTING OF DETAINEE DEATHS

- 1. PURPOSE AND SCOPE.** The purpose of this Directive is to provide policy and procedures to be followed when providing initial notification and ongoing reporting of the death of a detainee in the custody of U.S. Immigration and Customs Enforcement (ICE). The procedures in this Directive apply to any detainee death that occurs, including but not limited to, a death in a detention facility, a medical facility, or in transit to or from any **such** facility.
- 2. AUTHORITIES/REFERENCES.**
 - 2.1.** 2000 National Detention Standard, Terminal Illness, Advanced Directives and Death.
 - 2.2.** 2008 Performance Based National Detention Standard, Terminal Illness, Advanced Directives and Death.
 - 2.3.** Chapter 44.1. Protocol on Reporting and Tracking of Detainee Deaths to the Detention and Removal Operations Policy and Procedure Manual (DROPPM).
 - 2.4.** DHS Management Directive **0810.1**, The Office of the Inspector General, Appendix A.
- 3. SUPERSEDED/CANCELLED POLICY/SUMMARY OF CHANGES.** This Directive is the originating and establishing directive for ICE policy on the notification and reporting of detainee deaths. All other ICE documents that reference or provide guidance about reporting detainee deaths must be revised in accordance with this Directive.
- 4. BACKGROUND.** This Directive enables ICE personnel to respond appropriately to a detainee death and includes procedures for providing notification of a detainee death within ICE and the Department of Homeland Security (DHS), and to Congress, the media and nongovernmental organizations.
- 5. DEFINITIONS.** Not applicable.
- 6. POLICY.** It is ICE policy to ensure appropriate and timely notification and ongoing reporting of the death of a detainee in accordance with the procedures in this Directive.

7. INITIAL NOTIFICATION OF A DETAINEE DEATH. In the event of the death of an ICE detainee, notifications shall be made in accordance with this section.

7.1. Notification and Reporting within DHS.

a) Immediately following the death of a detainee:

i) The Office of Detention and Removal Operations (DRO) Field Office Director (FOD) shall:

I) Contact the DRO Assistant Director for Field Operations and the Joint Intake Center (JIC) by telephone to report the death. The Assistant Director for Field Operations shall notify the DRO Director by telephone.

II) Report the detainee death as a "significant incident" to the ICE Reporting and Operations Center (IROC) using the electronic ICE Significant Event Notification (SEN) system.

ii) The DRO Director shall provide telephonic notification to the Office of the Assistant Secretary (OAS).

iii) The JIC, upon being notified, shall provide telephonic notification to the DHS Office of the Inspector General (OIG).

b) Within 24 hours of the death of a detainee:

i) The FOD shall provide email, telephonic, or in person notification to:

I) The appropriate Chief Counsel Office in order for the Chief Counsel Office to notify the local attorney(s) and court officials of the death if there is a case pending.

II) The appropriate state agency(ies), in states that require notification.

III) The local ICE public affairs officer.

IV) The Division of Immigration Health Services (DIMS),

ii) The Director of DRO shall:

I) Provide email or telephonic notification to the DHS Offices of Health Affairs and Civil Rights and Civil Liberties.

II) Provide written notification to OAS and the appropriate ICE Offices, to include at a minimum the Offices of Professional Responsibility, Public Affairs, Congressional Relations, and Policy, via an Assistant Secretary Note (AS Note).

- c) **Within 48 hours** of the death of a detainee, the Director of DRO shall ensure that copies of all available medical reports are provided to the DHS Office of Health Affairs (OHA) in order to provide OHA the ability to initiate a proper mortality review. All other relevant documents shall be provided to OHA in accordance with section 8.
- d) All notifications provided in accordance with this section, along with an acknowledgment that the notification was received (if possible), shall be documented and maintained in the decedent's alien file (A-file).

7.2. Notification to Consulate and Detainee's Next-of-Kin.

- a) **Within 24 hours** of the death of a detainee:
 - i) The FOD shall telephonically notify the applicable consulate of the death and coordinate with consular officials, as necessary, to locate the next-of-kin.
 - ii) The FOD shall ensure that, unless consular officials are unwilling to do so, all notifications to next-of-kin are made by consular officials.
 - iii) If consular officials are unwilling to notify next-of-kin, the FOD shall telephone the person named as the next-of-kin to inform them of the death in a language they can understand.
- b) **Within 48 hours** of the next-of-kin being notified, the FOD shall send a condolence letter to the next-of-kin (see attached template), with a copy to the applicable consulate.
- c) All notifications provided in accordance with this section, along with an acknowledgment that the notification was received (if possible), shall be documented and maintained in the decedent's A-file.

7.3. Notification to Congress, the Media and Nongovernmental Organizations.

- a) **Within 24 hours** of the death of a detainee, or the next business day, the ICE Office of Congressional Relations shall provide e-mail notification to the Chair and Ranking member of the following Committees, as well as those House and Senate members who have jurisdiction over where the death occurred:
 - i) Senate Judiciary Committee,
 - ii) House Judiciary Committee.
 - iii) Senate Judiciary Committee, Subcommittee on Immigration, Refugees and Border Security.

- iv) House Judiciary Committee, Subcommittee on Immigration, Citizenship, Refugees, Border Security and International Law,
- v) Senate Homeland Security and Governmental Affairs Committee,
- vi) House Homeland Security Committee,
- vii) Senate Appropriations Committee,
- viii) House Appropriations Committee.

OCR shall coordinate with the ICE Office of the Chief Financial Officer before sending notifications to House and Senate Appropriations Committee staff.

In instances where the consulate and/or next-of-kin have not yet been contacted, OCR shall advise Congress accordingly.

- b) Upon notification of the next-of-kin, or when the next-of-kin cannot be located but reasonable efforts have been made by DRO (in coordination with the consulate) to locate the next-of-kin, the Office of Public Affairs shall provide a media release to the local press and the Associated Press, and post the media release on ICE's Internet website.
- c) The ICE Office of Policy shall provide a copy of the media release to nongovernmental organizations (NGOs) via the ICE/NGO working group co-chairs.
- d) In instances where the consulate has been notified of a detainee's death but the next-of-kin have not been located yet efforts to locate them continue, notifications to Congress, the media or NGOs shall include information that efforts to reach next-of-kin are ongoing.

7.4. Nothing in this section shall be construed to prohibit ICE personnel from providing additional notifications of the death of a detainee if deemed necessary by senior ICE officials.

8. ONGOING REPORTING REQUIREMENTS.

8.1. ICE Office of Professional Responsibility.

- a) Upon the death of a detainee and subsequent declination of an investigation by the OIG, the Director of the Office of Professional Responsibility (OPR) shall initiate an investigation into the circumstances surrounding the death of the detainee in accordance with OPR policies and procedures.
- b) Upon completion of the investigation, the Director of OPR shall provide OPR's findings to ICE senior management, Oil A for use in OHA's mortality review, the

DHS Office of Civil Rights and Civil Liberties (CRCL), and the OIG (upon OIG's request).

8.2. **Detention Management Division.**

- a) Upon the death of a detainee in a detention facility, the DRO Assistant Director for Management (ADM) shall require, in coordination with OPR, an internal review of all facility inspection records for the detention facility at which the death occurred, and a review of all contract documentation for the detention facility where the death occurred. If the death occurs at a medical facility or while the detainee is in transit, the ADM shall require such review at the facility where the decedent was last held in custody.
- b) The ADM shall submit the records **within 14 calendar days** of the death of the detainee, to ICE senior **management**, OPR, OHA for inclusion in OHA's mortality review, CRCL, and the OIG (if the investigation is being conducted by the OIG).
- c) The ADM shall provide autopsy and toxicology results (if applicable), a copy of all Treatment Authorization Requests, a copy of the death certificate and all other relevant documents (i.e., state and local law enforcement investigatory information), as soon as they become available, to OHA for inclusion in OHA's mortality review, CRCL, and the OIG (if the investigation is being conducted by the OIG).

8.3. **Continual Reporting to Congress and DHS.**

- a) The ADM shall maintain *a cumulative* report of those individuals who have died while in ICE custody each fiscal year. To ensure that the report is always current and accurate, the ADM shall update the report as soon as information becomes available. At a minimum, the report shall include (see attached template) the alien's name, A-number, date of death, location at time of death, type of death (natural causes, suicide, homicide, accidental overdose, etc.), and cause of death as reported on the death certificate.
- b) On a quarterly basis, the Office of Congressional Relations shall provide a copy of the report to the appropriate Congressional Committees, and the ADM shall provide a copy to OHA, the OIG, and CRCL. The ADM shall certify the accuracy of the report prior to its distribution,

9. **ATTACHMENTS.** Condolence Letter template and Quarterly Report template.

10. **NO PRIVATE RIGHT STATEMENT.** This directive is an internal policy statement of ICE. It is not intended to and does not create any rights, privileges, or benefits, substantive or procedural, enforceable by any party against the United States; its departments, agencies, or other entities; its officers or employees; or any other person.

Approved

A handwritten signature in black ink, appearing to read "John Morton", written over a horizontal line.

John Morton
Assistant Secretary
U.S. Immigration and Customs Enforcement