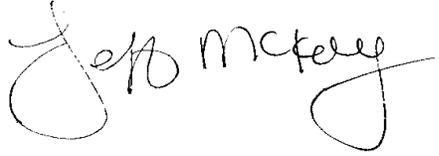


 NEW YORK STATE Corrections and Community Supervision DIRECTIVE	TITLE Incarcerated Individual Deaths-Administrative Responsibility		NO. 4013
			DATE 4/16/2020
SUPERSEDES DIR. #4013 Dtd. 11/26/13	DISTRIBUTION A B	PAGES PAGE 1 OF 11	DATE LAST REVISED
REFERENCES (Include but are not limited to) Public Health Law; Correction Law; 10 NYCRR § 35.4, County Law; Mental Hygiene Law; Surrogates Court Procedure Act; Estates, Powers and Trust Law; ACA Expected Practices 4-4395, 4-4425, 2-CO-3B-02, 2-CO-4E-01, 4-JCF-4C-43; Directives #2791, #4004, #4490, #4934;	APPROVING AUTHORITY 		

I. **PURPOSE:** Anytime an incarcerated individual dies while in the custody of the Department, it is a time of sadness for both the individual's family and the institution. Whenever such an unfortunate event occurs, it is critical that we as a Department make every effort to provide notification to the Next of Kin with sympathy, understanding and sensitivity, while also describing, to the extent known, the circumstances of the death. This directive prescribes the procedures to be followed by Department staff following the death of an incarcerated individual. A separate policy exists for releasees under Community Supervision (see Directive #9425).

II. **DEFINITION**

Next of Kin: Relates to any family member that is recognized in accordance to NY Public Health Law Section 4201 and Surrogates Court Procedure Act § 001.

III. **NOTIFICATION PROCEDURES**

A. Facility Health Services Director (or designee): Upon discovery of or confirmation of the death of an incarcerated individual, shall immediately notify the Watch Commander of the death.

NOTE: In the event of a death by homicide, suicide or accident, or under suspicious circumstances, the body may not be moved without the permission of the Coroner or Medical Examiner and District Attorney.

NOTE: Except for expected deaths in Department of Corrections and Community Supervision (DOCCS) Regional Medical Units, a licensed medical clinician (Physician, Physician's Assistant, or Nurse Practitioner) employed by DOCCS on site at the time of death is required to pronounce the death of any incarcerated individual occurring on facility property, or a licensed medical clinician (Physician, Physician's Assistant, or Nurse Practitioner) not employed by DOCCS, in contact with paramedics on the scene in a (Department) facility property.

If one of these Health Services staff members is not at the facility when a death occurs, the Officer of the Day shall direct the facility Health Services Director (or designated "on-call" staff*) to return to the facility to pronounce the death.

*Any small facility that does not have a Physician "on-call" must develop a specific plan to ensure that an adequate death investigation will be carried out. This plan shall be submitted to the Deputy Commissioner/Chief Medical Officer for approval.

B. Watch Commander: Upon receipt of notification of an incarcerated individual death, shall:

1. Notify the Superintendent/Officer of the Day immediately.

2. Notify the Department's Communications Control Center (CCC) in Albany via telephone in accordance with provision of Directive #4004, "Unusual Incident Report."

The Communications Control Center will make telephone notification to the State Commission of Corrections (SCOC) Medical Review Board as soon as possible, but no later than six hours following the discovery of death (Correction Law Section 47(2)).

3. Notify the State Police or the local police when homicide, suicide, accidental, or suspicious death is a possibility.

NOTE: A police agent will not be granted access to an incarcerated individual's medical records without a court-ordered subpoena.

4. If the decedent's cell is not a designated crime scene, designate a staff member to secure the cell/property until notified that the crime scene is released or the investigation into the death is completed and property may be released. At that time, notify Draft Processing that the incarcerated individual is deceased and that all of the incarcerated individual's personal property is to be processed in accordance with Directive #4934, "Incarcerated individual Property – Temporary Storage of Personal Belongings." Draft Process will retain all original forms and a copy of [Form #2078](#), "SHU Property Process Form" and [Form #2064](#), "Personal Property Transferred," are to be sent to the Business Office.

C. Superintendent/Officer of the Day (or designee) shall:

1. Notify the appropriate County Coroner or Medical Examiner. County Law Section 674(5) mandates that the Coroner or Medical Examiner prepare an autopsy report with respect to any incarcerated individual death. However, pursuant to Public Health Law Section 4210(c) Limitations to dissection or autopsy: Notwithstanding any other provision of law, in the absence of a compelling public necessity, no dissection or autopsy shall be performed over the objection of a surviving relative or friend of the deceased that such procedure is contrary to the religious belief of the decedent; or, if there is otherwise reason to believe that a dissection or autopsy is contrary to the decedent's religious beliefs. The decedent's next of kin or a friend are permitted to legally object within 48 hours of the incarcerated individual's death.
 - a. "Relative" shall mean the person most closely related to the decedent by consanguinity or affinity. In the event such person is unavailable, the objection may be raised on his or her behalf by the next most closely related person. The official who has authority to order a dissection or autopsy of the decedent's body may require a relative to present an affidavit stating his or her relationship to the decedent, the religious affiliation of the decedent, if any, that the decedent had religious objections to an autopsy, the basis for such belief, and that he or she will assume responsibility for the lawful disposition of the body of the deceased.
 - b. "Friend" shall mean any person who, prior to the decedent's death, maintained such regular contact with the decedent as to be familiar with his or her activities, health, and religious beliefs and who presents an affidavit stating the facts and circumstances upon which the claim that he or she is such friend is based, the religious affiliations of the decedent, if any, that the decedent had religious objections to an autopsy, the basis for such beliefs, and that he or

she will assume responsibility for the lawful disposition of the body of the deceased.

NOTE: A Coroner, Coroner's Physician, or Medical Examiner has the power to subpoena and examine witnesses under oath. This includes the power to subpoena medical records of the deceased.

If it is known or suspected that the deceased incarcerated individual had an airborne infectious disease, that fact should be relayed to the Coroner or Medical Examiner before the body is handled.

2. The Superintendent or Officer of the Day shall be responsible to initiate the procedure for the notification of the next of kin or other pre-designated individual of the incarcerated individual's death. If the family contacts the facility, the Superintendent or Officer of the Day shall be notified.

NOTE: In carrying out this procedure, it may be determined that an autopsy may violate or offend the incarcerated individual's religious beliefs. Listed below is a prioritized list of who should be contacted as next of kin; the people on the list are familial relations recognized by the Surrogates Court Procedure Act § 001.

- a. Surviving spouse;
 - b. Adult children;
 - c. Father or mother;
 - d. Grandchildren;
 - e. Brothers or sisters; and
 - f. Aunts or uncles
3. Have the facility Watch Commander notify the CCC when the facility Chaplain has been contacted. The Chaplain, and in the absence of the Chaplain, the SORC must document the time the next of kin was contacted along with all relevant information. In the event that attempts to contact the next of kin are unsuccessful, the Watch Commander will advise the CCC and the Superintendent. The Superintendent will review the case to ensure that every effort was made to identify and contact the next of kin. If the incarcerated individual's next of kin cannot be located following a diligent search as described below in Section D5, the Superintendent will contact the Office of Special Investigations for additional assistance as well as notify the CCC. This information should be attached to [Form #4013A](#), "Incarcerated individual Death Notification."
 4. If the incarcerated individual is a foreign national and assistance is required to notify next of kin in the incarcerated individual's home country, contact the Extradition Specialist in Central Office (Foreign Consular Notification Coordinator) to obtain the name and telephone number of a consular services representative for the appropriate foreign consulate in New York City.
 5. The Superintendent or Officer of the Day shall be responsive to inquiries from the next of kin, or other pre-designated individual of an incarcerated individual whose death takes place during custody regarding the circumstances surrounding the death of such incarcerated individual, the medical procedures used, and the cause of death, including preliminary determinations and final determinations, as reported by an autopsy report. The next of kin, or other pre-designated individual shall be identified from information previously provided by the incarcerated individual to the Department.

If asked, the Superintendent or Officer of the Day may provide the following information:

- a. Current location of the body;
- b. Whether or not the death is being investigated and if so, by whom;
- c. Date and time of death;
- d. Any medical procedures that were performed, if known; and
- e. To the extent known, the circumstances that resulted in the death of the incarcerated individual.

NOTE: No information will be provided if it threatens the safety and security of the facility.

D. Notification: The Notification of the next of kin or other pre-designated individual of an incarcerated individual's death shall be made by the Superintendent or Officer of the Day directly, accompanied by a Facility Chaplain, if one is available.

1. Notify the next of kin or other pre-designated individual of the incarcerated individual's death. Interpretation services must be provided to individuals with Limited English Proficiency in accordance with Directive #4490, "Cultural and Language Access Services," Section VII-C-1, *Telephonic Encounters with Members of the Public – At Facilities*.

NOTE: The cause of death can only be determined by the medical examiner. As such, related questions should be referred to the designated office.

2. If an autopsy is religiously problematic, the next of kin or pre-designated individual is to be advised of their responsibility to immediately notify the County Coroner or Medical Examiner. They shall be further cautioned to fulfill all written notification or legal proceedings required by the Coroner or Medical Examiner in relation to an autopsy objection.
3. Explain the alternatives for funeral services, (i.e., release for private burial, cremation, or burial at a Department facility). Request that the next of kin or pre-designated individual make a decision within 48 hours. If the incarcerated individual is a foreign national and assistance is required to notify next of kin in the incarcerated individual's home country, contact the Extradition Specialist in Central Office (Foreign Consular Notification Coordinator) to obtain the name and telephone number of a consular services representative for the appropriate foreign consulate in New York City.
4. Once the Superintendent or Officer of the Day has made notification to the next-of-kin or pre-designated individual, he/she shall notify the Business Office that the next-of-kin or pre-designated individual has been located and provide them with the name and address so that they can close the deceased incarcerated individual's account and prepare to send the NYS Office of State Comptroller [Form AC-934](#), "Next of Kin Affidavit." The Business Office will also include a copy of [Form #2064](#), "Personal Property Transferred."

It is important to clearly document all efforts made by the Superintendent or Officer of the Day to contact the incarcerated individual's next of kin or pre-designated individual and all efforts must be recorded on [Form #4013A](#), "Incarcerated individual Death Notification." This should be a chronological listing that notes the

date and time for each entry since the time of notification of the incarcerated individual's death and should note all efforts made with regard to the case.

The comments must be typed, or legibly hand written, and should include at a minimum, a thorough review of FPMS records (including prior DINs) such as visitation, phone log, packages, and emergency contacts as well as KGNC Guidance records. In difficult cases, it is recommended to contact local Parole/Probation Field Offices and state/local police departments, the Social Security Administration, any incarcerated individual contacts and the Office of Special Investigations for further assistance.

5. In order to demonstrate due diligence on the part of the Department in those cases for which a working phone number cannot be located, the facility shall send certified letters (return receipt) to at least two next of kin or pre-designated individuals, if such addresses can be located.

The letter should advise them that failure to contact the facility within five business days of the post marked envelope will result in the facility providing a State burial for the incarcerated individual.

6. The facility Chaplain is to provide an initial notification to the Division of Ministerial, Family and Volunteer Services as soon as possible upon confirmation of the incarcerated individual's death. This notification shall be made via Outlook email to the following address: MFVS@doccs.ny.gov, and should include the incarcerated individual's name, DIN, date of death, and religious designation.
7. The facility Inmate Records Coordinator (IRC) will request the preliminary and/or final death certificate for such incarcerated individual by application to the local Registrar (i.e. the Clerk of the City/Town/Village where the death occurred). Upon a specific request of the spouse, sibling, children, or parents of the deceased or the unlawful representative of such persons they shall be provided an original death certificate by the facility IRC pursuant to 10 NYCRR § 35.4. A copy will be maintained in the incarcerated individual's permanent case file. A chronological entry must be made regarding whom the death certificate was sent to, including the name and relationship to the deceased.

IV. REPORT PROCEDURES

- A. Unusual Incident Report: An Unusual Incident Report must be completed and submitted in accordance with the provisions of Directive #4004, "Unusual Incident Report."
- B. Form #SCOC M187, "Report of Incarcerated Individual Death"
 1. Information required in Section I must be reported by telephone to the State Commission of Correction (SCOC) Medical Review Board within six hours of death (Communications Control Center responsibility - see Section III-B-2).
 2. Sections I and II must be subsequently completed, signed, and forwarded by the facility Health Services Director to the SCOC Medical Review Board within ten days of death.

- V. **SCOC INVESTIGATIONS**: The SCOC is authorized, pursuant to Correction Law Section 47, to investigate the cause and circumstances of any incarcerated individual death. Normally these investigations are conducted by SCOC investigators on site. SCOC investigators may, however, seek preliminary factual and medical information from facility personnel via telephone.

Only the Superintendent, First Deputy Superintendent, Deputy Superintendent for Security, Deputy Superintendent for Health, the Medical Director, and the Nurse Administrator are authorized to release information, via telephone, to SCOC investigators.

Prior to release of any information, facility personnel must verify the SCOC investigator's credentials. This can be accomplished either by actual prior direct contact with the inquiring investigator, or by returning the telephone call to the unrecognized investigator at the appropriate SCOC office.

Immediately upon completion of a telephone inquiry, the facility staff person releasing information shall prepare a letter addressed to the SCOC investigator relaying all the information released by telephone. This letter shall also contain the following statement:

"The above written summary is an accurate account of our entire telephone conversation which occurred on (insert date).

The subject information was released to you in your capacity as a State Commission of Correction investigator. If you do not agree with this summary, you are requested to immediately notify me in writing."

A copy of this letter is to be maintained at the facility and another copy sent to the Deputy Commissioner for Correctional Facilities.

VI. DISPOSAL OF REMAINS

A. Release to Family: In those cases where the family assumes responsibility the following applies:

1. The incarcerated individual's remains may only be released to a Funeral Director. It is necessary to record the name of the funeral home and the date the body was released to the funeral home in order to document the chain of custody of the remains.
2. The family is responsible for all funeral costs, except for transportation of the remains to another location in New York State and a set of clothing.
3. In transporting a body, a hearse, air freight, or common carrier may be used. Where there are alternative means of transporting the body, the facility should determine the costs of various alternatives from the Funeral Director selected by the family.

The facility is responsible for ensuring that this service is provided at the "lowest possible cost" to the Department. Cost estimates for the alternative means of transportation must be set forth on the voucher to show that transportation was at the lowest cost. The facility should discuss the cost of transportation service with the Funeral Director selected by the family.

Consistent with transportation policy for discharged or paroled incarcerated individuals, the State will only pay for transportation of a deceased incarcerated individual's body back to his or her respective county of conviction. A local Funeral Director's preparatory expenses, including transportation expenses to and from an airport on both ends of a flight, are not eligible for reimbursement by the State. In the case where the closest drop off point of a common carrier (air, train, and vehicle) is short of the county of conviction, then the additional transportation expense to the county of conviction is appropriate for State payment. In the event that the remains are not being shipped to the county of conviction, then an equal distance (within the State) of transportation expense is eligible for State payment.

Generally, fees should not exceed \$5,000. Fees exceeding \$5,000 require three quotes and the service will be provided in the most cost-effective manner.

4. The Department will not supply a casket or pay for the rental of a container for transporting the incarcerated individual's remains. This is the responsibility of the Funeral Director.
 5. The Department will provide a complete set of clothing including undergarments. When consistent with the religious traditions of the deceased, white sheets or a simple shroud may be used to cover the incarcerated individual's remains.
- B. Facility Burial/Cremation: Prior to the burial/cremation of any deceased incarcerated individual, a minimal period of 48 hours must pass. In that period, the following must be accomplished prior to the selection of the desired burial method:

In those cases where the incarcerated individual's next of kin are located but are unable or unwilling to assume responsibility for the incarcerated individual's funeral, or if after being contacted, they do not advise the facility of a desired burial method within 48 hours, the Department will provide a suitable funeral.

When it becomes the sole responsibility of the Department to dispose of the incarcerated individual's remains and provide an appropriate burial, the next of kin, or pre-designated individual, will be asked to provide a signed statement (notary is not required) to indicate that they are relinquishing their claim to the remains. The notice must be provided to facility staff within 48 hours, consistent with Section III-D-3 of this Directive.

If the next of kin, or pre-designated individual, fails to provide the requested notification, the facility shall proceed with the State burial process and that shall be documented in the chronological listing/comments section of [Form #4013A](#). If the signed statement is provided, it is to be attached to the completed [Form #4013A](#).

Additional time may be allowed to pass prior to burial or cremation if a strong possibility for making contact exists. However, in no event shall more than seven days pass before disposal of an incarcerated individual's remains is accomplished. In addition to the above factors, the relative costs of cremation and facility burial should be considered in choosing a method for disposal of incarcerated individual remains.

Prior to making any arrangements to transport the deceased to the contracted funeral home for burial preparation, the "sending" facility Coordinating Chaplain shall notify the Coordinating Chaplain, Deputy Superintendent for Program Services, and Deputy Superintendent for Administrative Services at the "burial" facility of the incarcerated individual's death via Outlook e-mail. This will provide appropriate notification to the "burial" facility that a deceased incarcerated individual's remains are en route. The Division of Ministerial, Family and Volunteer Services must also be copied on this e-mail notification (MFVS@doccs.ny.gov). The notification should contain, at a minimum: The incarcerated individual's name and DIN, date of death, faith designation, and any other information deemed necessary by the "sending" Chaplain that would assist the "burial" facility in conducting an appropriate burial service.

Once the "sending" facility has completed all preparations and the incarcerated individual's remains are ready to be sent out of the facility, the "sending" facility will submit the partially completed [Form #4013A](#) via Outlook e-mail to the "burial" facility and copy the same parties as noted above. The "burial" facility will complete [Form #4013A](#) upon burial of the incarcerated individual's remains and submit it via Outlook e-

mail to the Division of Ministerial, Family and Volunteer Services at MFVS@doccs.ny.gov.

1. In these cases, the Department will provide:
 - a. Services of a Funeral Director for preparation of body;
 - b. A complete set of clothing including undergarments, or as appropriate, white sheets or a simple shroud to cover the remains;
 - c. Simple wood casket;
 - d. Grave in facility's cemetery;
 - e. Incarcerated individual burial detail, headed by a Correction Sergeant, to prepare a grave and inter the remains;
 - f. Chaplain to conduct an appropriate religious burial service, the specifics regarding Chaplain coverage shall be listed in the facility policy for the "burial" facility;
 - g. Simple stone, metal, or concrete marker inscribed with the name of the deceased, dates of birth and death, religion, and incarcerated individual DIN. (For Muslim incarcerated individuals, this marker shall remain level with the ground surface; and
 - h. In the event of the death of a Jewish/Muslim incarcerated individual (including Nation of Islam), a Chaplain specific to that faith shall be notified in order to attend to religious ritual needs associated with the preparation of the remains. In cases where a Chaplain of that faith cannot be contacted, call the Division of Ministerial, Family and Volunteer Services.
2. The incarcerated individual is to be buried/cremated as expeditiously as possible in accordance with the family notification time limits prescribed above. If a viewing is requested by the next of kin, or pre-designated contact it is to be held at the funeral home. All expenses related to such a viewing are the responsibility of the next of kin. If the family makes a request to be present for the burial or to visit the grave side, it is within the discretion of the facility Superintendent, or designee, to determine if the request can be honored.
3. When an incarcerated individual dies at a facility that does not have a cemetery, or away from his or her assigned facility, interment is to be made at the closest facility having an incarcerated individual cemetery. The following facilities have cemetery plots:

Clinton	Fishkill	Sullivan
Eastern	Green Haven	Taconic
Elmira	Marcy	Washington

In the event that burial is not possible in the northern or western part of the State due to the fact that the ground is frozen, a facility having a cemetery in the southern part of the State should be contacted to see if burial at that cemetery is possible. If burial is not an immediate option, the remains are to be properly preserved until a burial can take place.

4. Whenever the Department assumes full responsibility for an incarcerated individual's burial, the death benefits normally afforded the next of kin are to be claimed by the Department and applied toward the cost of the funeral. These benefits include:

- a. Veteran's Administration benefits; and
- b. Social Security Administration benefits.

Should the above benefits or grants fail to satisfy burial expenses, monies from the incarcerated individual's account are to be applied to the funeral costs.

5. The cost of cremation and facility burial should be considered in choosing the method of disposal of the remains. This precludes those faiths for which cremation is not an option or when there is a medical condition that will require a closed casket. Once the decision is made and a facility is designated for the interment of the incarcerated individual's remains as outlined in this Directive, the burial facility will complete [Form #4013A](#) upon burial of the incarcerated individual's remains and submit it via Outlook e-mail to the Division of Ministerial, Family and Volunteer Services at MFVS@doccs.ny.gov.
6. Burial sites will be maintained in the following manner:
 - During the summer months, frequent grass cutting
 - Maintain markers free of weeds and overgrowth
 - Report damaged markers immediately to the DSA
 - After burial, the dirt must be smoothed over and grass seed planted
 - There shall not be any trash or litter on burial sites
 - Staff and visitors should avoid walking on grave sites
 - Special attention should be paid to grave sites at times when families might visit (e.g., Memorial Day, All Souls Day, etc.)

The proper directional facing of markers will adhere to the faith of the incarcerated individual. Each burial facility shall maintain a current map of the cemetery listing the name of each deceased incarcerated individual, the incarcerated individuals DIN, the location of their interment, and include vacant grave sites. This information must be reported to the Director of Ministerial Family and Volunteer Services by the end of each quarter by the facility Deputy Superintendent for Administration.

VII. STORAGE

- A. Facilities will be identified within each HUB with an updated listing of vacant morgue storage space. The following facilities have morgue storage space:

Bedford Hills	Mohawk	Fishkill
Coxsackie	Wende	
- B. Each of the above facilities will provide an updated listing of morgue storage space at the end of each quarter (March, June, September, December) to the Office of Ministerial Family and Volunteer Services.
- C. All deceased incarcerated individuals will be stored/transported to a morgue storage facility. The remains must be in a place so designated for that purpose alone, cognizant of the dignity of the deceased, until such time that a spring burial may take place in a facility cemetery within a reasonable proximity to the owning facility.

NOTE: In NYS all human remains must be transported by a licensed, certified, undertaker or funeral home service.

VIII. DISTRIBUTION OF PROPERTY OF A DECEASED INCARCERATED INDIVIDUAL

- A. Estate Within the Purview of the Court

1. Legal Representative: Whenever an incarcerated individual dies, his or her property vests in his or her estate, and his or her legal representative has the responsibility to distribute the assets. If the incarcerated individual left a valid will, the property should be turned over to the executor or administrator of the estate. If the incarcerated individual died intestate (without a will) then a court-appointed administrator handles the distribution of assets according to statute.
 2. Once an executor or administrator presents proof of the issuance of letters of testamentary or letters of administration to the Superintendent, the deceased incarcerated individual's property should be turned over to the legal representative and a receipt obtained.
 3. Prior to releasing the property to the next of kin or legal representative, the Superintendent or Officer of the Day who made the notification must:
 - a. physically review the property to verify it consists of the correct belongings; and
 - b. document that this step was completed.
 4. **NOTE:** It is of the utmost importance that the deceased incarcerated individual's property is accurately inventoried and documented on Form #2064, bearing in mind that these items often have significant sentimental value. Voluntary Administrator: In those instances where the incarcerated individual's personal property is valued at \$20,000 or less, an interested individual may apply to the court to become a voluntary administrator. To obtain the deceased incarcerated individual's funds or personal property, the voluntary administrator must present the Superintendent with a court certification along with a completed Office of the State Comptroller [Form AC-934](#), "Next of Kin Affidavit." The Superintendent is not liable for a payment made in good faith to a voluntary administrator.

In those instances where the incarcerated individual's personal property is valued at more than \$20,000, contact the Office of Counsel in Central Office to determine whether the Estates, Powers and Trusts Law, Section 5-3.1 applies and whether a voluntary administration is appropriate.
 5. In the event more than one person claims to represent the estate or seeks benefits from the deceased incarcerated individual's estate, contact the Office of Counsel at Central Office.
 6. **The deceased incarcerated individual's property shall be delivered at no cost to their spouse, sibling, children, parents or their lawful representative.**
- B. Surrogate's Court Procedure Act (SCPA) Section 1310
1. Background
 - a. Even where there is a probated will, a court-appointed administrator to handle intestate distribution of assets or, a voluntary administrator, the Superintendent is authorized to release money under certain circumstances where no beneficiary has been designated by the incarcerated individual. It must be remembered it is possible for an incarcerated individual to leave a valid will naming no existing beneficiary.
 - b. Any payment made in good faith under Section 1310 discharges the Superintendent from liability as long as the specified number of days have elapsed and the affiant in fact bears the stated relationship to the decedent, that the affiant is in fact a distributee or creditor of the decedent, or that the

affiant has in fact paid or incurred the funeral expenses of the decedent. The Superintendent will not be liable if the affidavit is false. The person who receives payment pursuant to SCPA Section 1310 is accountable to the fiduciary of the deceased incarcerated individual.

- c. All payments made under Section 1310 are not to total more than set forth in subsections 2, 3, and 4 below.
2. **Payments Only to the Spouse:** At any time after the death of the incarcerated individual, the surviving spouse may be paid up to \$30,000 by the Superintendent. The surviving spouse must file an affidavit attesting that the total of all payments to the spouse do not exceed \$30,000, proof of the incarcerated individual's death, and the relationship of the surviving spouse.
 3. **Payments to the Immediate Family:** Not less than 30 days after an incarcerated individual has died, up to \$15,000 may be paid to a spouse, one or more adult children, a father or mother, the brother or sister, or niece or nephew. Where more than one request is received, preference shall be given in the order listed above. Pursuant to a request from one of these persons, payment may be made to a creditor of the incarcerated individual or to a person who has paid the funeral expenses. The relative who makes the request must file an affidavit showing the date of the incarcerated individual's death, his or her relationship to the incarcerated individual, that no fiduciary has qualified or been appointed, the names and addresses of the persons entitled to and who will receive the money paid, and that such payment and all other payments made under this Section by all debtors, known to the affiant, after diligent inquiry do not in the aggregate exceed \$15,000.
 4. **Payments to a Distributee, Creditor, or a Person Who Paid Funeral Expenses:** Not less than six months after the death of an incarcerated individual, the Superintendent may pay up to \$5,000 to a distributee, a creditor, or a person who had paid the funeral expenses upon an affidavit which shows the date of the incarcerated individual's death, that no fiduciary has qualified or been appointed, that the decedent was not survived by a spouse or minor child, that the affiant is entitled to the payment, and that this and all other payments made under this section do not in the aggregate exceed \$5,000. If any requests for payment are made under this provision, contact the Office of Counsel.
- C. **Unclaimed Property:** The deceased incarcerated individual's next of kin, as noted in facility records or as determined during incarcerated individual death notification procedures, should be advised of the incarcerated individual's property by the Superintendent or his or her designee. Six months after the death of an incarcerated individual the unclaimed property should be handled in accordance with Directive #2791, "Lost & Found/Abandoned Property." Property which is of little or no value may be destroyed following inventory. A copy of the inventory is to be maintained in the facility's Business Office.