



SOUTH DAKOTA  DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE		POLICY NUMBER 300-20	PAGE NUMBER 1 OF 7
		DISTRIBUTION:	Public
		SUBJECT:	Death of an Offender
RELATED STANDARDS:	ACA 5-ACI-6C-16	EFFECTIVE DATE:	June 01, 2024
		SUPERSESSION:	12/04/2019
DESCRIPTION: Clinical Services	REVIEW MONTH: May	 KELLIE WASKO SECRETARY OF CORRECTIONS	

I. POLICY

It is the policy of the South Dakota Department of Corrections (DOC) to assume responsibility for the proper notification, investigation, reporting, and handling of incidents involving the death of an offender in DOC custody.

II. PURPOSE

The purpose of this policy is to establish procedures related to offenders and juveniles in DOC custody who have died.

III. DEFINITIONS

Determination of Death:

Any offender who has sustained either irreversible cessation of circulatory and respiratory functions, or irreversible cessation of all functions of the entire brain, including the brain stem, is dead. A determination of death shall be made in accordance with accepted medical standards (see SDCL § 34-25-18.1).

Offender:

An offender in the custody of the Department of Corrections (DOC) institutional system, an offender released to parole or suspended sentence who is under the supervision of the South Dakota Parole Services, or a juvenile supervised by Division of Juvenile Services staff.

Scene:

The location where the incident took place. It comprises the area from which most of the physical evidence is contained.

IV. PROCEDURES

1. Determination of Death:

- A. Pronouncement of death will be made by a licensed physician or emergency services responders according to state law.

2. Preservation of Scene:

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- A. To the greatest extent possible, staff will preserve and secure the scene whenever there is evidence to support an unresponsive or deceased offender may be a victim of suicide, homicide, an accident, or the cause of the offender's unresponsiveness or death is suspicious, unattended, or cannot be immediately determined.
- B. The scene shall be preserved and secured pending the arrival of investigating staff (Special Investigations Unit (SIU) at DOC institutions) or emergency services staff. Staff preserving and securing the scene will:
1. Restrict unnecessary access to and from the scene.
 2. Prevent movement or removal of the body until receiving proper authority from medical staff, responding SIU staff, or law enforcement.
 3. If the offender is declared deceased by licensed medical staff, the following shall be observed by responding staff controlling the scene:
 - a. In accordance with SDCL §23-14-19, no dead body in which the cause of death is a matter of public interest may be moved from the scene without permission from the law enforcement agency exercising investigative control of the scene, or the coroner, unless the location of dead body poses an immediate health hazard or obstructs a public transportation right-of way.
 - 1) If the body or other physical evidence must be moved for health/safety or security reasons, staff should first note and document the location of the body (photograph and/or diagram sketch) before moving the body or related evidence.
 4. Detain or note the presence of any individual(s) at the scene when staff arrived. Staff will attempt to identify and document any potential witnesses. Staff will obtain the name and other identifying information of any potential witness.
 - a. The incident commander will determine the perimeter of the scene and maintain control until investigating staff assume control. The incident commander or designee will keep a log of those allowed admittance to the scene, including investigators, outside law enforcement, EMS, and clinical staff. A record of the time when responders arrived and departed shall be kept by the control room.
 - b. Custody/control staff will identify, secure, and separate any possible suspects or witnesses.
 - 1) Suspects will only be questioned by those investigating staff/outside authorities.
 5. The incident commander will ensure the integrity of all possible evidence, including maintaining a proper chain of custody. Staff will not remove or move objects in proximity to where the body was located until instructed by investigators with authority over the scene unless doing so is essential to the safety of persons present or the objects pose a threat to security.
 6. Staff will:
 - a. Minimize contamination of physical evidence. Nothing at the scene will be moved, touched/handled, cleaned, removed, or otherwise disturbed until proper authorization is received; or if maintaining the scene causes a threat to safety or security.
 - b. Establish physical barriers and scene perimeter with ropes, cones, barrier tape, or other approved methods to protect evidence from contamination and limit unauthorized access and/or disturbance to the scene. If possible, the door(s) leading to/from the scene shall be secured.
 - c. Instruct responding medical staff not to clean or otherwise disturb potential evidence at the scene, to the extent possible.
 7. The incident commander will brief SIU staff and/or outside responding law enforcement of the facts associated with the incident and assist in controlling the scene, as directed. All staff will remain on-site until dismissed.

3. Reporting the Death of an Offender:

- A. Administrative and major incident reporting is required, this will be completed by the incident commander/OIC/duty officer or designee in accordance with DOC policy 100-03 – *Staff Reporting Information to DOC Administration and the Office of Risk Management*.
- B. Internal Notification:
1. ***Authorities having jurisdiction are promptly notified of an offender's death [ACA 5-ACI-6C-16].***
 2. Upon notification that an offender has been determined deceased, the warden or designee will promptly contact the coroner/medical examiner's office in the county where the death occurred.

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- a. The on-call duty officer (DO) will complete the *Death of an Offender Checklist* (see attachment #4).
 3. Designated DOC staff and/or the county coroner will arrange to have the body delivered to the local morgue. A funeral home may be contacted to arrange for transport of the body. No action will be taken that will affect the validity of the autopsy results, including preparing the body for burial or embalming without the express authority of the investigating coroner.
 4. Offender deaths will be investigated by the coroner in accordance with SDCL.
- C. The DOC constituent services coordinator is responsible for documenting and reporting deaths of offenders in DOC custody on a quarterly basis.

4. Reporting the Death of an Adult Offender or Juvenile on Supervision:

- A. Following medical confirmation of the death of a juvenile under the supervision of the Division of Juvenile Services, or an adult offender on supervised release (parole, suspended sentence, compassionate parole, or extension of confinement (EC)), the supervising agent will ensure the following are notified of the death:
1. The regional supervisor.
 2. Major incident reporting group (doc.adminincident@state.sd.us).
 3. In the case of the death of an offender on EC, the supervising parole agent or parole supervisor will notify the control room officer at the institution the offender was released from as soon as possible.
 4. Central records.
 5. The Office of Risk Management (Juvenile Division only).

5. Emergency Notification Related to an Offender Death:

- A. The warden or designee will make official notification pursuant to DOC policy.
- B. In the case of the death of an offender, including an offender on extension of confinement (EC), the warden or designee will promptly direct designated institutional staff to notify the offender's emergency contact or next of kin (if known and/or documented within the offender's records or telephone list).
1. The emergency contact notified will be informed of the time, date, and location of death, and the current location of the body.
 2. Upon release from the coroner and in the absence of a health care directive or other documentation in the offender's records specifying post-death instructions and arrangements, the warden or designee will offer to have the body delivered to a funeral home as designated by the emergency contact person or next of kin, following notification by the coroner's office that the body is released, and the inquest completed.
 3. When the emergency contact or next of kin is notified of an offender's death, the contact/next of kin will be advised a press release will be issued by the DOC regarding the death. The emergency contact or next of kin may request a delay in the press release to notify the immediate family.
 - a. The delay will typically not exceed forty-eight (48) hours unless the emergency contact or next of kin presents a bona fide reason justifying the additional time, and the reason for the delay is supported by the secretary of corrections (SOC) or designee.
 4. If attempts to call the emergency contact person or next of kin are unsuccessful within twenty-four (24) hours of an offender's death, staff will send written and/or electronic notification to the last known address on file for the emergency contact or next of kin and advise them to contact the institution.
 5. If all attempts to reach the emergency contact or next of kin are unsuccessful, or those contacted decline to take possession of the body, or there is no emergency contact/next of kin listed in the offender's records and no one could be contacted, or those contacted have not responded after forty-eight (48) hours have passed since the notification was sent, the warden or designee will make arrangements for the disposition of the body in accordance with SDCL.
 6. Unclaimed offender bodies will be cremated, including offenders on EC. The warden's signature is required on the cremation order.

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- a. The warden or designee will contact the funeral home to sign the cremation order. Designated staff will “X” out and initial the hold harmless clause on the order.
 - b. The warden or designee may make arrangements to have the body transported to an appropriate location for the cremation to be completed.
 - c. The warden or designee will obtain from the funeral home and complete the personal information on the State of South Dakota Death Certificate and deliver the completed cremation order and State of South Dakota Death Certificate to the funeral home.
 - d. The warden or designee will determine if any party shall take possession of the ashes.
 - 1) If there is a request for the cremation ashes, the warden or designee will make the appropriate arrangements regarding the transport/delivery of the ashes.
 - 2) If there is no request to claim the ashes, the warden or designee will direct the funeral home to have the ashes placed at the county burial site in the county/locality where the death occurred.
 7. The person requesting receipt of the body or cremation ashes is responsible for all expenses associated with delivery of the body or ashes, and any arrangements thereafter involving the body or ashes.
 8. Offender Services must notify the federal/out-of-state authority of the death of a federal/out-of-state border offender in state custody. The Federal Bureau of Prisons does not pay for cremation of deceased federal offenders.
- C. Whenever an offender dies outside the attendance of a licensed physician, physician’s assistant, or nurse practitioner, the person in charge of the body shall notify the county coroner and sheriff of the offender’s death to aid in the completion of the medical certificate to be filed by the coroner regarding the facts of the death.

6. Disposition of Offender Personal Property:

- A. Upon the death of an offender, designated staff will arrange to have the offender’s property immediately isolated, inventoried, packed, and delivered to the property office or other designated location.
- B. Pursuant to SDCL, a DOC official may apply any funds remaining in the deceased offender’s DOC institutional account(s) towards his/her obligations.
 1. If the remaining funds exceed the offender’s obligations, the excess balance will be given to the heir(s) of the offender’s estate or disposed of in accordance with the offender’s documented pre-death instructions, provided such instructions exist and are known by DOC staff at the time of disposition.
 2. In the absence of a directive or other documentation from the offender specifying post-death instructions/directions, DOC staff will contact the offender’s emergency contact, legal next of kin, or in their absence, any known immediate family member to confirm whether they intend to claim the offender’s personal property.
- C. If the offender’s heir cannot be identified and located within a reasonable amount of time, as set forth by the warden or his/her designee, and no documentation exists specifying post-death instructions, the excess balance of funds will be deposited into the state general fund.
 1. If the offender’s family confirms the claim to the offender’s personal property, staff will make arrangements to have the family pick up the property or ship the property to the family, with the delivery costs deducted from the offender’s institutional account balance. If retained by the DOC, the offender’s driver license, state ID, or birth certificate will be forwarded to the offender’s family or next of kin or placed with the offender’s personal property to be claimed by the family or next of kin.
 - a. Social Security cards must be returned by central records staff to the issuing Social Security office within thirty (30) days of the offender’s death.
 - b. In the case of a pending investigation into the cause of death, SIU staff, and/or DCI shall be contacted prior to the final disposition of the offender’s property (certain property items may be considered evidence).

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2. At the correctional facility official's discretion, tangible personal property of value, not claimed by the offender's family or next of kin, may be sold, donated to charity, discarded, returned to the executor or personal representative of the offender's estate, or used for the benefit of the facility.

7. Anatomical Gift by an Offender:

- A. The DOC will honor appropriately documented and filed requests/arrangements for anatomical gifts made by an offender prior to his/her death, or such requests received by the offender's family.
 1. Response to, and accommodation of, such requests shall be limited to those actions determined to be reasonable by the warden. Any action taken shall be consistent with the legitimate penological interests of the DOC.
 2. The DOC will not accept or incur any financial responsibility or costs associated with any anatomical gift procedure(s) on behalf of a deceased offender.
 3. The process and procedure of harvesting organs from an offender shall not impede, obstruct, or otherwise interfere with any investigation conducted by the DOC, law enforcement, or coroner's office involving the death.
- B. The DOC does not assume any liability or responsibility in the procedures for the taking, giving, or receiving of a deceased offender/offender's anatomical gift or the refusal/failure to take such.

8. Case Management Review of a Juvenile Death:

- A. The director of Juvenile Services will ensure a case management review is conducted and a final *Case Management Review Report* (see attachment #1) is completed in the event of the death of a juvenile under the supervision of the Division of Juvenile Services. The *Case Management Review Report* shall be submitted to the SOC within ten (10) days of official notice/confirmation of the juvenile's death.
 1. The regional supervisor will meet with the juvenile corrections agent assigned to the deceased juvenile offender within two (2) business days of the death notice to complete the *Case Management Review Report*.
 - a. A historical review of the immediate three (3) months prior to the juvenile's death will be completed, to include all case management activities.
 - b. The regional supervisor will submit the *Case Management Review Report* to the director of Juvenile Services at the initial case management review meeting.
 1. The director will conduct an initial case management review meeting with the regional supervisors within five (5) business days of the death notice.
 - a. This initial review will include, but is not limited to, an examination of the information contained in the Juvenile Comprehensive Offender Management System (COMS):
 - 1) All types of contact made and the content.
 - 2) A determination of compliance with applicable DOC policies in regard to supervision and contact standards, and
 - 3) Any other applicable aftercare expectations.
- B. The purpose of the review is to look at case management activities immediately prior to the death and for any existing trends.
 1. This review does not constitute any type of investigation into the juvenile's death to indicate or support any wrongdoing or negligence or determine the cause of death.

9. Public Announcement:

- A. The DOC public information officer (PIO) is responsible for issuing a press release regarding the death of an offender in DOC custody.
 1. If DOC staff are advised the deceased offender's family or next of kin has requested additional time to notify the immediate family of the death, staff will contact the PIO immediately. Additional time may be approved by the SOC or designee.

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2. If attempts to contact the offender's emergency contact person(s) or next of kin are unsuccessful, and at least forty-eight (48) hours have elapsed since the time of death, the PIO may issue the press release.
- B. A DOC-generated press release will normally not be issued for the death of an offender under the supervision of Parole Services or the Division of Juvenile Services, or those housed in a contract facility, or out-of-state placement (interstate compact).
 - C. The DOC must approve the release of information to the media or public relating to the death of an offender in the community, i.e., parole, contract placement, out-of-state placement, EC offender, or juvenile.
 - D. Certain individually identifiable information pertaining to an offender and the facts and circumstances of the offender's death may be protected by Health Insurance Portability and Accountability Act (HIPAA) privacy rules/confidentiality requirements. The DOC security and clinical services staff providing health care to an offender are covered entities and must comply with confidential requirements regarding protected health information.
 - E. Any member of the public requesting information from the DOC specific to the cause and/or manner of an offender's death, will be referred to the county coroner/medical examiner's office in the county where the death occurred. Certified copies of the final coroner's report may be available from the county coroner/medical examiner's office if/when the death is determined to be a public record. The DOC will not issue public statements regarding the cause of death.
 - F. Immediate family, next of kin, and authorized/designated agents of the deceased offender may contact the South Dakota Department of Health Vital Records office to request informational or certified death certificates/records of death.

10. Staff Counseling:

- A. Staff directly responding to or otherwise impacted by the unexpected death of an offender, may be referred to a specialist or licensed counselor for post-critical incident counseling. Staff may request counseling on their own behalf.
 1. Counseling shall be provided for support purposes.
 2. Participation in post-critical incident counseling may be mandatory for staff responding to an offender's death, as determined by the director or warden.

V. RESPONSIBILITY

The director of Prisons, director of Juvenile Services, director of Clinical and Correctional Services, and director of Parole are responsible for the annual review and revision, as needed, of this policy.

VI. AUTHORITY

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- A. Federal Death in Custody Reporting Act of 2000, Public Law 106-297
- B. SDCL § [23-14-9.1](#) Autopsy ordered by state's attorney, sheriff, or coroner.
- C. SDCL § [23-14-18](#) Deaths to be investigated by coroner.
- D. SDCL § [23-14-19](#) Joint custody of dead bodies and effects--Movement prohibited--Violation as misdemeanor.
- E. SDCL § [24-1-27](#) Disposition of a dead inmate--Notice to next of kin.
- F. SDCL § [24-2-28](#) Costs of confinement and services--Liability of inmate.
- G. SDCL § [24-2-29](#) Inmate's liability for court-ordered fines, costs, fees, sanctions, and restitution and obligations incurred under Department of Corrections jurisdiction--Disbursement from inmate's account.
- H. SDCL § [24-5-5](#) Funds in inmate's institutional accounts upon discharge, death, or escape--Application--Refund.
- I. SDCL § [34-25-18.1](#) Determination of death.
- J. SDCL § [34-25-21](#) Notice of death without attending physician, physician assistant, or nurse practitioner--Preparation of medical certificate--Violation as misdemeanor.
- K. SDCL § [34-25-22](#) Reference to state's attorney, sheriff, or police of death from other than natural causes.
- L. SDCL § [34-26-5](#) Dissection for purposes of inquest authorized by coroner, sheriff, or state's attorney.
- M. SDCL § [34-26-14](#) Right to custody of dead body--Coroner's custody pending inquest.
- N. SDCL § [34-26-52](#) Manner of making anatomical gift before donor's death.
- O. SDCL § [34-26-56](#) Who may make anatomical gift of decedent's body or part.

VII. HISTORY

June 2024
December 2019
October 2019
May 2019
September 2018
September 2017
September 2016
March 2015
September 2014
March 2014

ATTACHMENTS *(*Indicates document opens externally)*

1. Case Management Review Report*
2. Release of Deceased Offender's Body to the Coroner*
3. South Dakota Coroner – Order for Autopsy*
4. Death of an Offender Checklist*
5. DOC Policy Implementation / Adjustments

**CASE MANAGEMENT REVIEW REPORT
(Juvenile Offenders)**

This report is used when conducting a case management review of a death of a juvenile.

Please submit to the Secretary of Corrections within ten (10) business days from the date of juvenile death.

A. GENERAL BACKGROUND INFORMATION:

Juvenile's Name: _____ **Juvenile #:** _____

Date of Juvenile Death: _____ **Status at Time of Death:** Placement Aftercare *Please complete the applicable section A or B below.*

Time of Juvenile Death: _____ AM PM

Cause of Death: _____

How was DOC Staff Notified of the Death: Police Family Friend of Juvenile Other
If Other, please explain: _____

Date DOC Staff Notified of Death: _____ **Time DOC Staff Notified of Death:** _____

Authority Confirming Death: _____ **Title:** _____ **Date:** _____

B. DEATH WHILE IN PLACEMENT:

Death Applicable to This Section: Yes No

Name of Placement: _____ **Location of Placement:** _____

Summary of JCA contacts for the past 90 days with youth, family, and placement:

Please provide what services were included in the treatment plan at the time of death.

Psychiatrist Behavioral Health Group Counseling Sexual Behavior Services Substance use disorder Other

If Other, please provide a full list of services:
services _____

Was the death reported to local law enforcement? Yes No

Was the death reported to the juvenile's legal guardian? Yes No

Please provide any other relevant information that may be helpful surrounding the death of this juvenile:

Report Completed By: _____ **Title:** _____ **Date:** _____

C. DEATH WHILE ON AFTERCARE:

Death Applicable To This Section: Yes No

Custodian Name: _____ Relationship: _____

Summary of JCA contacts for the past 90 days with youth, family, and community-based service providers:

Please provide what services were being provided to youth at the time of death.

- Psychiatrist
 - Behavioral Health
 - Group Counseling
 - Sexual Behavior Services
 - Substance Use Disorder
 - Other
- If Other, please provide a full list of services:
Services

What level of supervision was the juvenile receiving at the time of death? Maximum Minimum Medium Administrative

Was the death reported to local law enforcement? Yes No

Was the death reported to the juvenile's legal guardian? Yes No

Please provide any other relevant information that may be helpful surrounding the death of this juvenile:

Report Completed By: _____ Title: _____ Date: _____

FOR ADMINISTRATIVE USE ONLY:

Was the media contacted regarding the death of this juvenile? Yes No

If yes, please provide all details of any contact with the media:

Report Submitted To: Secretary of DOC DOC Communication & Information Manager

By: _____
Staff's Full Name *Date*

STATE OF SOUTH DAKOTA



Kristi Noem
Governor

Kellie Wasko
DOC Secretary

Department of Corrections

Administration Office

Kellie Wasko, Secretary

3200 East Highway 34

Pierre, SD 57501

605-773-3478

KELLIE.WASKO@STATE.SD.US

RELEASE OF A DECEASED OFFENDER'S BODY TO A CORONER OR OTHER OFFICIAL

Offender Name: _____

Offender Number #: _____

Date of Release: _____

Time of Release: _____

The printed name of the official receiving the body: _____

Title of the official receiving the body (Coroner/EMT etc.): _____

Signature of the Official receiving the body: _____

Printed name of Staff/Officer witness: _____

Signature of Staff/Officer witness: _____

Distribution: Public



SOUTH DAKOTA CORONER -- ORDER FOR AUTOPSY

This form should be received prior to the postmortem examination.

The form can be faxed to: 605-333-1966; attn.: Medical Examiner

Authorizing Authority:

Name: _____

Title: _____

Billing: same as mailing:

or address: _____

Address: _____

Phone: _____

Fax: _____

County of _____

Under the provisions of Title 23-14-9.1 of the South Dakota Code of Law, in my opinion, it is advisable and in the public interest that an autopsy be performed on the body of:

(Name) (Age/Race/Sex) (Date of Birth)

Who died on _____ at _____
(Date) (House and Street No.) (City or Town) (Zip code)

under the following circumstances.

Type of Death:

- Violent
- Sudden, when in apparent health
- Child < 2 years of age
- Custody of law enforcement
- Suspicious, unusual or unnatural
- Disease – public health threat

Manner of Death:

- Natural
- Accident
- Suicide
- Homicide
- Undetermined
- Pending

Narrative summary of circumstances surrounding death: _____

Authority is hereby given to the Minnehaha County Medical Examiner (or assigned Pathologist) to perform an autopsy on the body of the decedent named herein.

(Date)

(Signature of Coroner)

(City)

DEATH OF AN OFFENDER CHECKLIST

Offender Name: _____ ID#: _____
 Assigned Facility: _____ Location of death: _____

NOTIFICATION PROVIDED TO DOC STAFF/OUTSIDE PERSONNEL:

- Notify Risk Management**
- Major incident Notification**
- Send notification to DOC Admin Major Incident Group with booking summary notifying of offender death.
 Date of Notification: _____ Time of Notification: _____
 Name of Reporting Staff: _____
- Notify Offender's Emergency Contact:**
- Name of Person Contacted: _____
 Date of Notification: _____ Time of Notification: _____
 Name of Reporting Staff: _____
- Press Release** sent by DOC Admin. staff. Date/Time: _____
- Division of Criminal Investigation contacted:**
- Name of Person Contacted: _____
 Date of Notification: _____ Time of Notification: _____
- Was this an Unexpected Death:** Yes / No
- Was this an Attended Death:** Yes / No
- Was this an Unattended Expected Death:** Yes / No
- RELEASE OF BODY** form completed Yes / No
- Body to Morgue.** Date: _____
- Coroner Contacted** Yes / No
 Name of Person Contacted: _____ Date of Notification: _____ Time of Notification: _____
 Name of Transporter of the body: _____
- ORDER FOR AUTOPSY** form completed: Yes / No (method determined by health authority or designee)
- Autopsy completed Yes / No
- Date completed:
- Date Autopsy report received:
- Possession of Body** Family contacted Date/time: _____
- Family Accept body Yes / No
- If Yes, list the name of the funeral home receiving the body:
 If No, make cremation plans at Miller Funeral Home in Sioux Falls, SD (605) 336-2640.
- CREMATION** form completed Yes / No
- (X out "Hold Harmless" clause and initial). Fax form back to funeral home. Date completed: _____
- Family accepting ashes: Yes / No
- If Yes, How will the ashes be received: U.S. Mail, pick-up at funeral home etc. _____
 If No, County Burial Site where ashes will be buried: _____
- DEATH CERTIFICATE** Date completed: _____

- Offender's Property**. Inventoried, packed, and sent to property office. Date completed:
 - Special Security or DCI Approved Release of Property Yes / No Date:
 - Family Contacted regarding Offender's Property Yes / No Date:
 - Family Accepted Property: Yes / NoIf No, disposition of Property- (Circle all that apply): Sold / Donated / Discarded / Other
- Offender Banking** staff notified to secure offender's funds Yes / No Date:
- Institutional file** sent to DOC Central Records: Yes / No Date:
- ADMINISTRATIVE REVIEW** of Offender Death completed (must be within 30 days of death):
 - Recommendations and/or Actions to Secretary of Corrections (must be within 1 week of review)
- CASE MANAGEMENT REVIEW** (Juveniles) to Secretary of Corrections (must be within 10 days of death)