

**U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
ENFORCEMENT AND REMOVAL OPERATIONS
ICE HEALTH SERVICE CORPS**

MORTALITY REVIEW AND REPORTING

**IHSC Directive: 11-03
ERO Directive Number: 11834.3
Federal Enterprise Architecture Number: 306-112-002b
Effective Date: March 4, 2021**

**By Order of the Assistant Director
Stewart D. Smith, DHSc, FACHE**

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- 1. PURPOSE.** The purpose of this directive is to set forth the policies and procedures to support a mortality review process that aligns with the U.S. Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), ICE Health Service Corps (IHSC) requirements and accreditation standards.
 - 2. APPLICABILITY.** This directive applies to all IHSC personnel, including but not limited to, U.S. Public Health Service (PHS) officers, federal civil servants, and contract personnel supporting health care operations within ICE-owned facilities, contracted detention facilities (CDF), and inter-governmental service agreement facilities (IGSA).
 - 3. AUTHORITIES AND REFERENCES.**
 - 3-1.** DHS Directive 248-01 and Instruction 248-01-001, *Medical Quality Management*.
 - 3-2.** ICE Directive 11003.4, *Notification and Reporting of Detainee Deaths*.
 - 3-3.** IHSC. (2019). *Quality Improvement Program* (Directive 11-02). In the IHSC Policy Library.
 - 3-4.** IHSC. (2019). *Quality Improvement Guide* (11-02 G-01). In the IHSC Policy Library.
 - 3-5.** IHSC. (2019). *Risk Management Policy* (Directive 11-06). In the IHSC Policy Library.
 - 3-6.** IHSC. (2019). *Risk Management Program Guide* (11-06 G-01). In the IHSC Policy Library.

- 3-7. IHSC. (2016). *Significant Event Notification Directive (01-25)*. In the IHSC Policy Library.
- 3-8. IHSC. (2016). *Significant Event Notification Guide (01-25 G-01)*. In the IHSC Policy Library.

4. **POLICY.** IHSC is responsible for reviewing all detainee deaths that occur in ICE custody, including but not limited to, detainees who die in a detention facility, medical facility, or in transit between any such facility. IHSC delegates this responsibility to the IHSC Investigations Unit (IIU).

4-1. **Purpose of a Mortality Review:** To determine the appropriateness of the clinical care provided; to ascertain whether findings warrant changes to policies, procedures, or practices; and, to identify issues that require further study.

4-2. **Scope of a Mortality Review:** A mortality review consists of an administrative review, a clinical review, and, in completed suicide cases, a psychological autopsy. IHSC defers to the ICE Office of Professional Responsibility, External Reviews and Analysis Unit, as subject matter experts regarding custody issues to complete the administrative (correctional) review.

Exception: IHSC does not conduct a mortality review if the suspected manner of death is a homicide. In this instance, IHSC cannot access relevant records and information due to an ongoing criminal investigation.

5. Responsibilities

5-1. Assistant Director (AD) or designee

5-1.1 Authorizes a mortality review for all detainees who die while in ICE custody, and/or for individuals in federal custody who receive medical care from IHSC personnel.

5-1.2 Reviews and approves the final mortality review report.

5-1.3 Approves release of mortality review reports.

5-2. Deputy Assistant Director (DAD) of Clinical Services (CS), Medical Director (MD), or designee

5-2.1 Authorizes a mortality review for all detainee deaths in ICE custody and/or for individuals in federal custody who receive medical care from IHSC personnel.

5-2.2 Determines whether the mortality review requires an on-site investigation.

- 5-2.3 Instructs the IIU Chief to initiate a mortality review.
- 5-2.4 Notifies the DAD of Health Care Compliance (DAD-HCC) and the DAD of Health Systems Support (DAD-HSS) to have their respective units initiate a summary of events regarding the death, based on the type of facility. The Health Systems Support (HSS) Division manages IHSC-staffed facilities, while the Health Care Compliance (HCC) Division oversees non-IHSC staffed facilities.
- 5-2.5 Requests a psychological autopsy, when indicated. If required, will consult with the Behavioral Health Unit (BHU) Chief to assign a qualified behavioral health provider (BHP) to conduct the psychological autopsy.
- 5-2.6 Reviews and approves the final mortality review report.

5-3. DAD-HCC or designee

- 5-3.1 Informs the appropriate unit chief, MQMU or MCMU, to collaborate with IIU in conducting an on-site review.
- 5-3.2 Ensures MQMU or MCMU implements appropriate follow up action(s).
- 5-3.3 Coordinates with IIU and the IHSC Data Analytics Office, to ensure trends are identified and tracked, and disseminates the information to IHSC staff as part of overall patient safety and risk reduction strategy.

5-4. Chief of Staff (CoS) or designee

- 5-4.1 Reviews and edits draft mortality review reports.
- 5-4.2 Approves final mortality review reports and shares final mortality review reports with ICE Enforcement and Removal Operations (ERO) Executive Information Unit for appropriate dissemination.

5-5. IIU Chief or designee

- 5-5.1 Assigns and notifies an IIU investigator to conduct the mortality review and conveys whether the case requires an on-site investigation.
- 5-5.2 Notifies the IHSC Records and Information Management (RIM) Office, and DHS Workforce Health and Safety Division at (b)(7)(E) @hq.dhs.gov, within 48 hours of the detainee death.
- 5-5.3 Initiates discussion with HCC units to address the following:
 - a. IHSC-staffed facility: IIU chief coordinates with the Medical Quality Management Unit (MQMU) chief to identify the assigned risk manager (RM) and determines whether the RM should accompany the investigator during the on-site mortality review.

- b. Non-IHSC staffed facility: IIU chief coordinates the mortality reviews on-site visit with the Medical Case Management Unit (MCMU) chief.

5-5.4 Ensures IIU reviews all deaths within 30 days and completes the final mortality review report within 45 days, after the notification of death.

5-5.5 Disseminates the final mortality review report to the IHSC AD, DAD-CS/MD, CoS, and DAD-HCC.

Note: The IIU chief also provides a copy of the final mortality review report to the DAD-HSS, indicating when the death occurred for a detainee assigned to an IHSC-staffed facility.

5-5.6 Disseminates the final mortality review report to DHS Workforce Health and Safety Division at (b)(7)(E) @hq.dhs.gov within 45 days after the death.

5-5.7 Formulates and disseminates quarterly and annual reports that outline mortality review trends and analyses.

5-6. IIU Investigator

5-6.1 Conducts a mortality review in accordance with applicable policies and procedures and accreditation standards.

5-6.2 Prepares a preliminary report of death using the approved IIU template within seven days of the detainee death notification.

5-6.3 Coordinates and assists with fact-finding requests.

5-6.4 Schedules and leads the mortality review committee (MRC) process.

5-6.5 Grants access to the mortality review case file to identified IHSC MRC members.

5-6.6 Completes the final draft of the mortality review report and forwards it to the IIU chief for review and further routing.

5-6.7 Coordinates with respective HCC units to disseminate findings, as follows:

- a. IHSC-staffed facility: The investigator defers to IHSC Guide 11-06 G-01, *Risk Management Program Guide*, located in the IHSC Policy Library.

- b. Non-IHSC staffed facility: The investigator coordinates with the MCMU chief through the IIU chief to schedule a discussion of the findings with the appropriate MCMU chain of command.

5-6.8 Updates, finalizes, and uploads all case documents and relevant information in the IIU Investigations Case Management System (ICMS).

5-7. IHSC Health Services Administrator (HSA)

5-7.1 Provides facility contact information to the investigator.

5-7.2 Reviews the electronic health record (eHR) and ensures facility health staff complete, address, and lock entries, as appropriate. In addition, the HSA ensures health staff document date of death and manner of death in the eHR, in accordance with the eClinicalWorks (eCW) User Guide on Deceased Detainees.

5-7.3 Ensures health staff upload all medical documentation into the eHR, as soon as practical. Once staff complete entry in the eHR, the HSA must notify the RIM Office to lock the record.

5-7.4 Cooperates with all inquiries made by authorized IIU investigators, the MQMU RM, and/or reviewers.

5-8. IHSC Field Medical Coordinator (FMC)

5-8.1 Provides facility contact information to the investigator.

5-8.2 Cooperates with all inquiries made by authorized IIU investigators and/or reviewers.

5-9. MQMU Risk Manager or designee

5-9.1 Coordinates investigative plan and site visit (if required) with investigator for deaths of detainees housed at an IHSC-staffed facility, with approval from the MQMU chief.

5-9.2 Determines risk score and collaborates with regional compliance specialist on action plans based on scoring (Root Cause Analysis [RCA] or event review) in accordance with IHSC Guide 11-06 G01, *Risk Management Program*, located in the IHSC Policy Library, and accreditation standards.

5-9.3 Participates in the MRC.

5-9.4 Along with the IIU chief and investigator, coordinates with HSS units' leadership to discuss findings and recommendations from the MRC to the respective facility leadership (i.e., HSA, assistant HSA, facility health program manager, and/or discipline-specific leadership).

5-9.5 Assists in the collection of data that helps to identify unsafe trends in health care delivery or processes.

5-10. BHP conducting the psychological autopsy, if applicable

5-10.1 Coordinates fact-finding requests and on-site visit investigation plans with the investigator.

5-10.2 Completes the psychological autopsy report within 30 days of the detainee death notification.

5-10.3 Participates in the MRC.

5-11. All IHSC personnel

5-11.1 Provide complete and accurate information related to the mortality review, including all relevant documents and information.

5-11.2 Cooperate with all inquiries made by authorized IIU investigators, the MQMU RM, and/or reviewers.

5-12. MRC members

5-12.1 Review all relevant records pertaining to the death and investigator reports to determine if there are deficiencies in staff clinical competency, if health care processes are/were appropriate or followed, and if there is evidence of malfeasance (i.e., wrongdoing).

5-12.2 Makes recommendations for updates to IHSC policies, procedures, or practices; and identifies issues that require further study. MRC members present findings for further trend analysis and/or follow-up on actions including RCAs, local tracking & trending, health care staff education, and personnel actions, if warranted, by the appropriate IHSC unit for IHSC-staffed facilities.

5-12.3 Ensures the integrity of the information provided (e.g., the mortality review case file). MRC members may only copy, disseminate, and/or file information in a manner authorized by IIU. Any deviations to the process require the IHSC AD's written consent.

5-12.4 Protects the mortality review report and psychological autopsy report (if applicable) from unauthorized disclosure. This directive expressly identifies authorized individuals who may receive these reports. Any deviation requires the IIU chief's and AD's written consent.

5-12.5 Maintains confidentiality of the MRC's discussions and deliberations.

5-12.6 Signs a confidentiality statement.

5-12.7 If there is a dissenting opinion within the MRC, the respective member may write and submit an opinion statement to the DAD-CS/MD and AD for review. The DAD-CS/MD, or designee, determines if a rebuttal is

necessary, and writes an opinion statement on behalf of IHSC and the AD's Office.

5-13. RIM Office

5-13.1 Reviews the decedent's eHR 35 days after the death to ensure health staff lock, address, or cancel entries, as appropriate for records completion.

5-13.2 Notifies the HSA if the medical record is incomplete and allows time for staff completion.

5-13.3 Locks the eHR 45 days after the death for security and legal purposes.

5-13.4 Downloads an official copy of the eHR after IHSC-staffed facility complete the record.

5-13.5 Permits unlocking of the eHR for upload of documents received after locking, such as the autopsy report or death certificate, and re-downloads an updated version of the eHR.

5-13.6 Places an "alert" in eCW for death records, if/when legal action is anticipated.

6. PROCEDURES

6-1. Notification and reporting within IHSC. IHSC disseminates reports of findings and supporting documents related to mortality reviews in accordance with DHS, ICE, ERO, and IHSC policies and procedures.

6-2. Immediately following the detainee death, the HSA or FMC, or designee:

6-2.1 Notifies IHSC leadership in accordance with IHSC 01-25, *Significant Event*, directive and guide, located in the IHSC Policy Library.

6-2.2 Prepares a summary of events when the death involved a detainee assigned or housed at their respective facility, or area of responsibility.

a. IHSC-staffed facility: The HSA submits the summary of events through the Health Operations Unit chain of command.

b. Non-IHSC staffed facility: The FMC submits the summary of events through MCMU chain of command.

6-2.3 Coordinates with local ICE ERO leadership to ensure notification to the Joint Intake Center (JIC) in accordance with ICE Directive 11003.4 Notification, Review, and Reporting Requirements for Detainee Deaths.

6-3. Within 48 hours of the detainee death.

6-3.1 The DAD-CS/MD or designee:

- a. Notifies the IIU chief of detainee deaths, directs the IIU chief to initiate a mortality review, and informs the IIU chief whether the case requires an on-site investigation.
- b. Provides the IIU chief with the name of the qualified BHP selected to conduct the psychological autopsy, if indicated.

6-3.2 The DAD-HCC or designee:

- a. Notifies the MQMU chief or MCMU chief of detainee death, as appropriate (i.e., IHSC-staffed or non-IHSC facility-related death).

6-3.3 The MQMU Chief or designee:

- a. Assigns MQMU RM to collaborate with the assigned investigator. For IHSC-staffed facility-related deaths, the RM records the death in the IHSC incident report system.
- b. Notifies the IIU chief if the MQMU RM will participate with the investigator during the on-site review, if applicable (i.e., IHSC-staffed facility-related death).
- c. Ensures the MQMU RM determines risk score and collaborates with regional compliance specialist on action plans based on scoring (RCA or event review) in accordance with IHSC Guide 11-06 G01, *Risk Management Program*, located in the IHSC Policy Library, and accreditation standards.
- d. Collaborates with IIU and DAO, to identify and track trends, and disseminate information to IHSC staff as part of overall patient safety and risk reduction strategy.

6-4. Within 72 hours of the detainee death, the HSA or FMC, or designee:

- a. Provides/requests copies of the detainee's medical records, emergency medical services (EMS), emergency department (ED), and hospital records, if applicable, and employees' written statements related to the circumstances surrounding the detainee's death.

Note: The HSA or FMC should provide or upload medical records as soon as practical, allowing the investigator to begin the preliminary report for the DAD-CS/MD. This is in addition to documentation the HSA or FMC provides to ERO's point of contact.

- b. Provides copies of all relevant documents, and information that may aid the investigation, to ERO's point of contact responsible for collecting all records requests.

6-5. Within 30 days of the detainee death:

6-5.1 The DAD-CS/MD or designee:

- a. Coordinates with the IIU chief and assigns DHS-credentialed health care providers, from the same professional disciplines as the health care providers undergoing the review, as MRC members.

6-5.2 The IIU Chief

- a. Ensures mortality reviews are completed in accordance with this directive, the IIU Guide, and accreditation standards.

6-5.3 The IIU Investigator

- a. Gathers all relevant records, conducts interviews, and performs an on-site investigation, if authorized.
- b. Coordinates an on-site investigation with the MQMU RM, as directed by the MQMU chief, if the death involved a detainee housed or assigned to an IHSC-staffed facility at the time of death.
- c. Coordinates an on-site investigation with the BHP, if the death was due to suicide, regardless of assignment or housing.
- d. Prepares all mortality review reports in accordance with applicable IHSC directives and guides, and accreditation standards.
- e. Schedules and leads the MRC process in collaboration with the IIU chief and DAD-CS/MD.

6-5.4 The BHP who conducts the psychological autopsy, if applicable:

- a. Conducts a psychological autopsy.
- b. Coordinates the psychological autopsy with the investigator.
- c. Submits the report through the BHU chain of command.
- d. Submits the final draft to the DAD-CS/MD for content review and approval.
- e. Submits the approved final draft to the IHSC Communications Unit for an editorial review.

- f. Finalizes the document and routes for signatures through the BHU chain of command, CoS, and DAD-CS/MD on behalf of the IHSC AD.
- g. Submits the final, approved report to the IIU chief and investigator.
- h. Forwards all records and documents used to compile the report to the investigator for filing.

6-5.5 The MQMU RM

- a. When directed by the MQMU chief, the RM accompanies the investigator during the on-site investigation.
- b. Assists with preparing an investigative plan, including a list of expected staff interviews and questions, prior to the on-site mortality review for further discussion with the investigator.
- c. Collaborates with the investigator to review the mortality review case file and discusses site visit planning.
- d. Identifies process vulnerabilities during site visit.
- e. Determines risk score and follow up with regional compliance specialist on action plan based on scoring (RCA or event review) in accordance with 11-06 G01, *Risk Management Program Guide*, located in the IHSC Policy Library.
- f. Post on-site visit, RM supports the investigator in evaluating the performance of medical process(es) involved in the on-site mortality review. IIU includes the RM on a close-out preparation call and close-out call to provide guidance on identification of process vulnerabilities.
- g. Collaborates with IIU on pre-MRC discussions.
- h. Participates in MRC.
- i. Assists in the collection of data that helps to identify unsafe trends in health care delivery or processes.

6-5.6 The MRC

- a. Reviews all relevant records pertaining to the death and investigator reports to determine if there are deficiencies in staff clinical competency, whether health care processes are appropriate/followed, and if there is evidence of malfeasance.

- b. Ascertains whether the findings warrant changes to policies, procedures, or practices; and, identifies issues that require further study.
- c. Provides follow up recommendations to include possible personnel actions, RCA, education, and trend analysis.
- d. If there is a dissenting opinion within the MRC, the respective member may write and submit an opinion statement to the DAD-CS/MD and AD for review. The DAD-CS/MD, or designee, then determines if a rebuttal is necessary and writes an opinion statement on behalf of IHSC and the AD's Office.

6-6. Ongoing, following the detainee death:

6-6.1 The IIU Investigator

- a. Completes the final draft of the mortality review report and submits to the IIU Chief, CoS, DAD-CS/MD, and AD for approval and signature.
- b. Updates, finalizes, and uploads all case documents and relevant information in ICMS.

6-6.2 The IIU Unit Chief

- a. Disseminates the final mortality review report to DHS Workforce Health and Safety Division at (b)(7)(E) @hq.dhs.gov within 45 days.

6-6.3 The IHSC HSA

- a. Maintains a facility log that includes:
 - Patient name or identification number;
 - Age at time of death;
 - Date of death;
 - Date of clinical mortality review;
 - Date of administrative review;
 - Cause of death (e.g., hanging, respiratory failure);
 - Manner of death (e.g., natural, suicide, homicide, accident);
 - Date pertinent findings of review(s) shared with staff; and
 - Date of psychological autopsy, if applicable.

- b. Informs treating staff of pertinent findings from all reviews during the continuous quality improvement meetings.

7. **HISTORICAL NOTES.** This directive replaces Operations Memorandum (OM) 16-007, *Mortality Review*, dated 18 March 2016.

8. **DEFINITIONS.**

8-1. **Administrative Review** - An assessment of security and emergency response actions surrounding a detainee's death. Its purpose is to identify areas where IHSC can improve its facility operations, policies, and procedures.

8-2. **Clinical Mortality Review** - An assessment of the clinical care provided and the circumstances preceding the death. Its purpose is to identify areas where IHSC can improve its patient care or systems, policies, and procedures.

8-3. **Mortality Review Committee Members** – The committee consists of peers who are from the same professional discipline/specialty as the individual undergoing review.

8-4. **Preliminary Report of Death** - An initial review and summary of available medical and detention records regarding the circumstances surrounding the death for the AD and DAD-CS/MD's review.

8-5. **Psychological Autopsy** - Sometimes referred to as a psychological reconstruction or post-mortem, this is a written reconstruction of an individual's life with an emphasis on factors that preceded and may have contributed to the individual's death. It is usually conducted by a psychologist or other qualified behavioral health professional.

9. **APPLICABLE STANDARDS.**

9-1. **Performance-Based National Detention Standards (PBNDS):** 2011 with 2016 Revisions:

9-1.1 Part 4: Care; 4.3 Medical Care; EE. Administration of the Medical Department; 2. Health Care Internal Review and Quality Assurance.

9-1.2 Part 4: Care; 4.7. Terminal Illness, Advance Directives, and Death.

9-1.3 Part 4: Care; 4.6. Significant Self-harm and Suicide Prevention and Intervention, Section J. *Review*.

9-2. **Family Residential Standards:**

9-2.1 Part 4: Care; 4.3 Health Care; EE. Administration of the Medical Department; 2. Health Care Internal Review and Quality Assurance.

9-2.2 Part 4: Care; 4.7 Terminal Illness, Advance Directives, and Death.

9-2.3 Part 4: Care; 4.6 Significant Self-harm and Suicide Prevention and Intervention.

9-3. American Correctional Association (ACA):

9-3.1 4-ALDF-4C-32, *Suicide Prevention and Intervention*.

9-3.2 4-ALDF-4D-23, *Inmate Death*.

9-3.3 4-ALDF-4D-24, *Health Care Internal Review and Quality Assurance*.

9-4. National Commission on Correctional Health Care (NCCHC): *Standards for Health Services in Jails, 2018.*

9-4.1 J-A-04, *Administrative Meetings and Reports*. J-A-06, *Continuous Quality Improvement Program*.

9-4.2 J-A-09, *Procedure in the Event of an Inmate Death*.

10. PRIVACY AND RECORDKEEPING. IHSC maintains detainee health records in accordance with the Privacy Act and as provided in the Alien Health Records System of Records Notice, 80 Federal Register 239 (January 5, 2015). The records in the eHR/eClinicalWorks (eCW) are destroyed 10 years from the date the detainee leaves ICE custody. Retention periods for records of minors may differ. Paper records are scanned into eHR and are destroyed after upload is complete.

Protection of Medical Records and Sensitive Personally Identifiable Information (PII).

10-1. Staff must keep all medical records, whether electronic or paper, secure with access limited only to those with a need to know. Staff must lock paper records in a secure cabinet or room when not in use or not otherwise under the control of a person with a need to know.

10-2. IHSC trains staff during orientation and annually on the protection of patient medical information and sensitive PII. Only authorized individuals with a need to know are permitted to access medical records and sensitive PII.

10-3. Staff should reference the Department of Homeland Security *Handbook for Safeguarding Sensitive Personally Identifiable Information* (March 2012) at: https://insight.ice.dhs.gov/mgt/ooop/Documents/pdf/safeguarding_spII.pdf when additional information is needed concerning safeguarding sensitive PII.

11. NO PRIVATE RIGHT STATEMENT. This directive is an internal policy statement of IHSC. It is not intended to, and does not create any rights, privileges, or benefits,

substantive or procedural, enforceable against the U.S.; its departments, agencies, or other entities; its officers or employees; or any other person.

12. POINT OF CONTACT: Chief, IHSC Investigations Unit.