

Policy: Pursuant to D.C. OFFICIAL CODE § 3–413 (2001), Claim of human remains — Order of priority of next of kin, the Office of the Chief Medical Examiner (OCME) shall identify the person having the right to the body for the purpose of burial or other disposition pursuant to law (28 DCMR § 5004.1).

Purpose: To provide guidance in identifying and documenting the legal next of kin.

Scope: The following procedures apply to the Investigations Unit.

Definitions: NOK – Next of Kin

Survivor – may be used interchangeably with next of kin

SR – Supplemental Report

1. Notification of Next of Kin

- 1.1. In the District of Columbia, law enforcement is responsible for death notification.
- 1.2. OCME is responsible for identifying the next of kin in the order of priority for the purposes of release.

2. Identifying Legal Next of Kin

- 2.1. When making contact with the relative that was notified by law enforcement, the OCME Investigator shall work to identify the legal next of kin by inquiring about the existence of other survivors in the order of priority. This may be done on scene by use of the Decedent Survivor Form or documented in an SR in the Case Management system for non-scene cases.
- 2.2. The order of priority for the claim of human remains is as follows as specified in D.C. Official Code § 3-413 (2001):
 - 2.2.1. Written directive;
 - 2.2.2. Competent surviving spouse or domestic partner;
 - 2.2.3. Sole surviving competent adult child OR majority of competent adult children;
 - 2.2.4. Surviving competent parent or parents;
 - 2.2.5. Competent adult person in the next degrees of kindred; and
 - 2.2.6. Friend or volunteer.

3. Deviations from the Order of Priority

- 3.1. **Survivor Wishes to Relinquish Control of Disposition.** The legal next of kin may relinquish his/her control over disposition of the decedent to another family member or friend. OCME requires a notarized letter from the survivor stating such. When there are

multiple siblings with priority, a majority of the competent siblings must sign the letter. The original notarized letter must be mailed or delivered to OCME.

- 3.2. **Survivor is Incompetent or Incapacitated**. In some cases, the survivor may be legally incompetent or incapacitated. OCME requires a letter from the survivor's treating physician or other knowledgeable authority (such as a social worker or case manager) stating that the survivor is incompetent or otherwise unable to make funeral arrangements. The letter must be signed, dated, and if possible on letterhead. A faxed copy is sufficient for approving release of the remains to a funeral home, but the original should also be received by OCME.
- 3.3. **Incarceration**. Incarceration does not preclude an individual from his/her right to control disposition. The incarcerated person must write a letter relinquishing control of disposition. The letter must be notarized and delivered to OCME. A faxed copy is sufficient for approving release of the remains to a funeral home, but the original should also be received.
- 3.4. **Survivor Cannot be Located**. If the survivor cannot be located, the next survivor in the order of priority may submit an affidavit (notarized letter) stating the survivor's name (if known) and last known address as well as a summary of unsuccessful efforts made to locate the survivor. Affidavits should be reviewed with the OCME General Counsel for guidance.

4. Managing Disputes to the Order of Priority

- 4.1. The most common dispute to the order of priority is marital status. Other disputes include competency (see below), adulthood, and parentage. When a dispute arises, the OCME requires a copy of a legal document such as a marriage license, divorce decree or birth certificate before the decedent is approved to be released to a funeral home.
- 4.2. Investigators shall place a HOLD on these cases by "flagging" the outside of the release case file. The case file flag shall include:
 - 4.2.1. OCME case number;
 - 4.2.2. Reason for flag;
 - 4.2.3. Date flag was placed; and
 - 4.2.4. Name of investigator placing the flag.
- 4.3. Once the dispute is resolved, the "flag" should be removed and placed into the release case file. The flag should be initialed and dated by the investigator removing it.

5. Exercising Disposition Authority

5.1. OCME does not have authority to exercise disposition until a body is unclaimed for 30 days after the date of receipt by OCME, regardless of the date of death.

5.2. All cases being claimed by an individual other than the survivor and without written directive from the decedent shall be referred to the Supervisory or Lead Investigators for release approval.

6. Atypical and Complex Disputes

6.1. Any NOK dispute that is not addressed in the above procedure or is complex shall be brought to the attention of the Investigations Supervisor and/or the OCME General Counsel for guidance.

DOCUMENT HISTORY

Date	Version	Description of Activity or Revision	Approved By
12/28/17	1.0	New SOP	