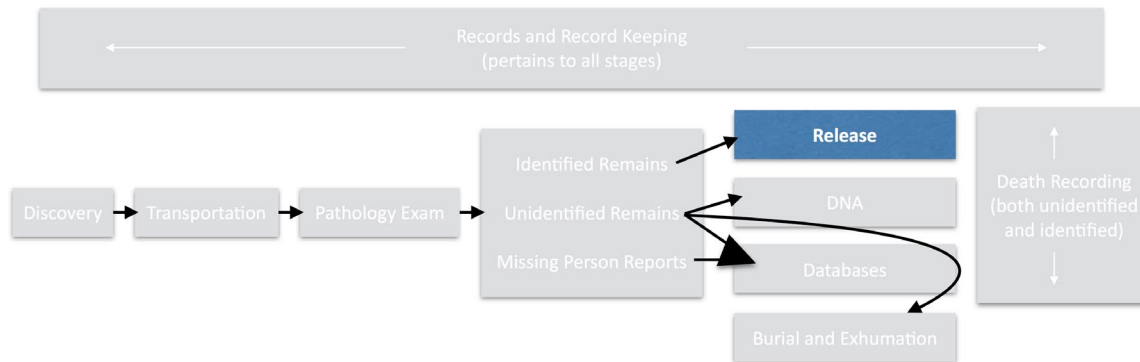


Section 6: Release



INTRODUCTION

State laws may dictate the manner of disposition of the remains, and as a matter of principle, every family is expected to have the opportunity to involve itself in the decision making process for the disposition of remains. The National Center for Forensic Sciences stipulates that human remains cannot be released until positive identification by one or more of the recommended methods are completed (using methods of forensic human identification, including fingerprints, dental traits and genetics, and information such as identification of clothing or personal effects). Upon identification, the decedent should only be released to the next of kin [13].

ISSUES

Families, even if located, are not always consulted for the release of remains

1. Because of the typically unattended deaths of UBCs, families may not be involved in the release of remains, nor are they also present during the release stage of the process.
2. When families are undocumented and living in the United States, they are often reluctant to come forward to claim the decedent.
3. There is often a lack of translators for families of non-Spanish speaking migrants, such as Maya K'iche or Maya Ch'orti', among other indigenous dialects. This inhibits families from being able to work with law enforcement, medical examiners, or coroners to identify and/or claim their deceased loved one.

Mortuaries

Among officials interviewed for this study, some related that their experience with some mortuaries led them to suspect unethical practice, mainly because mortuaries lacked oversight. Specifically, oversight to regulate body storage, family fees, and services rendered was variable or non-existent, which gave unscrupulous parties a chance to extort counties. Recent investigative journalism provided evidence that mortuaries have overcharged families and local jurisdictions for services, or charge for services that are not actually provided [38][39].

BEST PRACTICES

For the reasons stated above, the following guidelines may be of assistance to medico-legal officers and morticians to facilitate the timely and dignified release of the remains to the morgue for burial, cremation, storage, or for the return of the remains to families.

In general, the medical examiner/coroner is expected to accomplish and document the following to ensure the chain of custody:

For Identified Remains

Notification of next of kin

The medical examiner/coroner is expected to follow rules regarding the notification of the legal next of kin. Where appropriate, in cases of fragmentation and commingling of remains, the medical examiner/coroner is expected to explain to the families the options for disposition of any subsequently identified remains before releasing incomplete remains.

1. Medico-legal officers and morticians should treat all recovered personal effects with care because of their importance in the identification process as well as their intrinsic value to the families.
2. The same medico-legal officers should conduct a plausibility check of identified bodies prior to release to a mortician.
3. Care should be taken before releasing bodies that are not whole, as this may complicate subsequent management of associated body parts.
4. A family should have the right to a copy of all records involved in the discovery, examination and release of loved ones. This also includes all personal effects.

Morticians

Morticians should perform the following functions as part of their protocol for the release of identified and unidentified remains:

1. Receive bodies/body parts from the Medical Examiner or Coroner;
2. Issue a receipt record (proof of the chain of documentation);
3. Provide storage and proper cooling of bodies/body parts, as appropriate;
4. Provide a registration of bodies for the purpose of documenting the location of bodies at a given time;
5. Coordinate efforts in the organization of the transport of bodies to their final resting place; and
6. Adopt specific protocols for unidentified remains.

Unique Reference Numbers

1. All bodies should be stored with a unique reference number attached to them [17].
2. The reference number should be given to BOTH identified and unidentified remains, in case a body is exhumed.
3. A microchip allows personnel to locate a body post-burial. In New Mexico, a chip is inserted under the skin of a body that allows medico-legal personnel to take a DNA sample and permanently apply the unique reference number to the individual.

UBC Statistics

Before release, each suspected UBC should be enumerated and thus, recorded, regardless of whether or not s/he is identified. This is to allow collective statistics of border crossing deaths.

Accessibility of undocumented remains to families

Families of undocumented border crossers should be able to claim the remains of their loved ones without putting themselves in danger.

For Unidentified Remains

Release of associated/unassociated personal effects

Items associated with the body or the remains should accompany remains when they are transferred to the morgue. The medical examiner/coroner is expected to document these items, enlist them in the identification process, and facilitate their return. The medical examiner/coroner is also expected to implement a mechanism to safeguard cash and valuables.

Release unclaimed personal effects to the agency designated to receive those effects (such as a public fiduciary) or dispose of them according to existing local protocol.

Body storage at research facilities

1. Bodies may be stored indefinitely at research facilities without any financial obligation to counties. However, transport to such facilities should be regulated by counties.
2. Texas State University's Forensic Anthropology Center at San Marcos will store unidentified migrant remains indefinitely, which is a better and more cost effective alternative to storing bodies in mortuaries.
3. A specific protocol to regulate research on bodies when stored at a research facility should be developed and followed. In the case of unidentified remains, the absence of a party to give informed consent for the body's use in research points to a number of ethical issues.

Mortuaries

1. Fee and time limits should be implemented for the storage of unidentified remains. Remains should never be stored indefinitely at private mortuaries.
2. Mortuaries and mortuary officials should be open to background checks and audits.
 - In open bidding contracts with counties, mortuaries, mortuary officials and county officials in charge of contracts should be vetted to identify possible conflicts of interest. For example, if the county official with authority to award such a contract has a possible financial stake in the mortuary itself, this represents a conflict of interest. County officials or agencies with conflicts of interest should recuse themselves from the contract award process.
3. When released to the mortuary, remains will still be under governmental jurisdiction.

Public fiduciary

1. Many counties release unidentified remains directly to a public fiduciary. The public fiduciary authorizes and manages cremation or burial orders.
2. The public fiduciary should be a regulatory mediator between ME/Coroner and mortuary to prevent decisions based on financial incentives. The fiduciary is a necessary part of chain of custody.
3. There should be no conflict of interest between the public fiduciary and medico-legal personnel. Care should be taken to eliminate political and economic conflicts of interest.

Storage times for unidentified

An ME, coroner, or official acting in that capacity should decide how long to store bodies.

Samples must be taken before release of unidentified

1. Currently, although laws do mandate taking DNA and other samples before the release of unidentified remains, this does not always happen (see section on DNA for an expanded discussion).
2. A release protocol, as shown in Figure 13, may assist to ensure all appropriate steps have been taken prior to the release of unidentified remains.

Cemetery

1. Cemeteries should be responsible for the maintenance and record-keeping for each burial and each plot.
2. Cemeteries must keep accurate maps identifying placement of individuals (see section on Exhumation for an expanded discussion).

Practices to avoid

If there must be cremation, it should occur only *after* all appropriate samples are taken and the body has been subject to full examination.

ML # _____

Release Protocol for Unknown Persons

- Y N **PCOME pathologist consulted regarding intent to release**
- Y N **Law enforcement agency contacted for update (recorded in file)**
- Y N **Identification media received with remains (recorded in file)**
- Y N **Other personal property received with remains (recorded in file)**
- Y N **Photographs taken of remains:** Digital Prints
- Facial Skeletal Dental work Tattoos Other distinguishing features
- Y N **Fingerprints recorded from remains (one set retained at PCOME)**
- Y N **Fingerprint comparison attempted by:** LE USBP FBI # _____
- Y N **Forensic Anthropology exam completed**
- Y N **Dental chart made from remains**
- Y N **Dental radiographs made from remains:** Films DEXIS images
- Y N **NCIC dental chart submitted to appropriate law enforcement agency**
- Y N **Remains radiographed:** Head Chest Spine Limbs Full body
- Y N **Tissue sample indefinitely retained for submission to DNA lab:**
- Blood Bone Dental Hair Other
- Y N **Clothing photographed** Y N **Clothing laundered**
- Y N **OGIS search conducted**
- Y N **Entered into NamUs (UP # _____)**
- Y N **NamUs search conducted (please attach list of “Possible MP Matches”)**

Version: 24 May 2013

Figure 12: Release Protocol for Unknown Persons from the Pima County Office of the Medical Examiner. This checklist is effectively a protocol for PCOME to ensure that unknown decedents are not released without all data taken to facilitate future identification, even when the remains leave this office’s jurisdiction.