DEAD BODIES: DISPOSITION OF SAME WHEN THE PROPERTY OF A PENAL
                 INSTITUTION.

5-21

May 15, 1934.

Hon. G. W. McLain
Superintendent
Algoa Farms
Jefferson City, Missouri.

Dear Sir:

Your request of May 15th reads as follows:

"'One, William Jackson Carroll, our
number 865, who was sentenced to this
institution from Kansas City, Jackson
County, Missouri, on January 29, 1934,
to serve a term of two (2) years after
having plead guilty to the charge of
Larceny of a Motor Vehicle, became ill
as the result of an infection on the
nose which developed into Cellulitis,
and died this morning at 1:30 a.m.'.

"This inmate was taken to prison hospital
for treatment for cellulitis. Under the
law, is it possible for me to return the
corpse to the nearest of kin? If not,
what disposition shall I, as Superintend-
ent of the Intermediate Reformatory, make
of the corpse under the law.

"I will appreciate an early opinion
as this is an emergency."

Section 8472, R. S. Mo. 1929, provides in part

as follows:

"The superintendent, subject to
the direction and control of the
commissioners of the department
of penal institutions, shall:

"(a) Manage said institution
and have control over the inmates
thereof."

Section 9129, R. S. Mo. 1929, provides as fol-
lows:

"Superintendents or wardens of
penitentiaries, houses of cor-
rection and bridewells, of hos-
pitals, insane asylums and poor-
houses, and coroners, sheriffs,
jailers, city and county under-
takers, and all other state,
county, town or city officers in
whose custody the body of any de-
ceased person, required to be
buried at public expense, shall
be and are hereby required immediate-
ly to notify the secretary of the
board of distribution, whenever any
such body or bodies come to his or
their possession, charge or control,
and shall thereafter dispose of such
body or bodies, as the secretary of
the state board may direct: Provided,
that at any time before said body or
bodies have actually been distributed,
as provided in this article, any
relative or friend of any such de-
ceased person or persons, shall have
the right to take and receive the
same from the possession of any per-
son in whose charge or custody it
may be found, for the purpose of in-
terment: Provided, that when a claim
is made for such body or bodies by
any person, not a relative of such
deceased person or persons, the ex-
pense of the interment shall be
borne by the person making such claim.
The school or college securing such
body shall pay all necessary expense
incurred in the delivery thereof,

including cost of notice to secretary, which notice shall be by telegraph, when necessary. A correct record of all such bodies, name and date of death, shall be kept in a book kept for that purpose with the county clerk of the county in which such person died, or the city health commissioner of St. Louis city, and such record must be furnished said county officer by person or persons reporting said bodies to the state anatomical board."

CONCLUSION.

We are assuming that the Board of Penal Commissioners have left the matter of disposing of this corpse up to you as Superintendent of this institution; that they have not given any directions or asserted their authority over the disposition of this corpse, nor have they laid down any general rule to be followed by you in all cases where you have an inmate to die.

In such a case it is our opinion that you have the right, under your general power to "manage said institution," to dispose of this corpse as provided in Section 9129, supra, but in no other manner, for this section is mandatory.

Under the provision of this section, any relative or friend, for the purpose of interment, may take this corpse from your possession or custody, at any time before it is taken over by the state "board for the disposition and delivery of dead human bodies." There is nothing in this law providing that the state shall pay the expense of returning the corpse to the nearest of kin for interment.

Respectfully submitted,

APPROVED:

WM. ORR SAWYERS
Assistant Attorney-General.

ROY McKITTRICK
Attorney-General.

WOS/afj