

**NEW MEXICO BOARD OF MEDICAL INVESTIGATORS**  
DRAFT MINUTES OF SPECIAL MEETING- February 17, 2022

NM Office of the Medical Investigator  
The University of New Mexico Health Sciences Center  
\*\*VIRTUAL MEETING\*\*

**BOARD PRESENT:**

<b>David Scrase</b> <i>Board Chair</i>	Acting Cabinet Secretary, New Mexico Dept. of Health
<b>Tim Johnson</b> <i>Board Secretary</i>	Chief, New Mexico State Police
<b>Michael Richards</b> <i>Board Member</i>	Interim Dean, UNM School of Medicine

**BOARD ABSENT:**

<b>Lynn Trujillo</b> <i>Board Member</i>	Cabinet Secretary, New Mexico Dept. of Indian Affairs
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**ATTENDEES:**

Natalie Adolph, PhD	Director of the Center for Forensic Imaging, OMI
La Vonda Bowens Woodard	HR Administrator 2, OMI
Anthony Cervantes	Unit Administrator 1, OMI
Lauren Decker, MD	Medical Investigator, OMI
Lauren Dvorscak, MD	Assistant Chief Medical Investigator, OMI
Christopher Emory	Bureau Chief, Bureau of BHEM
Kent House	Funeral Service Practitioner
Heather Jarrell, MD	Chief Medical Investigator, OMI
Billy Jimenez	New Mexico Dept. of Health
Nancy Joste, MD	Professor, Chair, UNM Dept. of Pathology
Thu Luu	Accountant 3, OMI
Sara Navarrette	Assoc University Counsel, UNM
Lori Proe, DO	Medical Investigator, OMI
Scot Sauder	Deputy University Counsel, UNM HSC

\*\* This is a preliminary draft of the February 17, 2022, minutes as interpreted by the clerk of the board for use in preparing the official minutes. It is expected that there will be corrections, additions, and/or omissions before the final minutes are reviewed and officially approved by the Board of Medical Investigators.\*\*

1. **CALL TO ORDER AND CONFIRMATION OF QUORUM**

Chairman Scrase called the meeting to order at 12:05 PM and confirmed a quorum. Dr. Richards **MOVED** to adopt the agenda. Chief Johnson **SECONDED**. All were in favor. Motion **CARRIED**.

2. **ADOPTION OF THE AGENDA (action item)**

Dr. Richards **MOVED** to accept the agenda as presented. Chief Johnson **SECONDED**. There was no discussion. All were in favor. Motion **CARRIED**.

Chairman Scrase announced to the board that he has invited guests to provide commentary on The Federal Emergency Management Agency (FEMA) evaluation. Chairman Scrase confirmed with the board. All agreed. Chairman Scrase introduced Billy Jimenez and Christopher Emory to provide comment.

Mr. Emory stated that the pandemic has put a strain on the state's fatality management capacity. The state requested FEMA trailers to be placed strategically around the New Mexico and at the Office of the Medical Investigator in Albuquerque. Early on during the pandemic there were challenges with fatality storage and indigent decedents. In late 2020 the Bureau of Health Emergency Management (BHEM) worked with Bernalillo County to expedite processing of decedent. Due to process issues and interpretation of the law, the decedent backlog has since built back up. A disaster mortuary response team was requested to provide an assessment. The response team met with OMI, Bernalillo County, and state leadership to develop recommendations.

Mr. Jimenez stated that Mr. Luis Terrazas a state representative and funeral home director was concerned about issues in the funeral home industry and storage issues that OMI was having. In preparation of the arrival of FEMA, preliminary meetings took place between Mr. Terrazas, UNM, DOH, Bernalillo County and OMI. Items discussed included issues with procedures, processing, statutes, and rules. There was also discussion of a thirty-day window in which counties are supposed to take possession of a decedent from OMI once it has been determined to be unclaimed.

Chairman Scrase noted to the board that a draft report with recommendations was issued by FEMA.

#### **Course of Action 1 (Transition to Burials)**

Historically the State of New Mexico utilized burial as a means of final disposition of unclaimed or indigent individuals. 25 years ago the State of New Mexico moved almost exclusively to cremation as a means of final disposition of unclaimed or indigent decedents. The reason for the change to cremation from burials was largely based on costs. With the cost associated with long term storage of remains as well as the cultural objection to cremation by some, burial should be considered a viable option. The current backlog is caused largely due to extraordinary due diligence efforts that can be traced fear of being legally responsible for a mistakenly cremed individual. By using burials, the fear associated with liability for cremation will be negated and individuals can be respectfully buried within the 30 days allowed by state law.

#### **Course of Action 2 (State owned land for burials)**

When considering burial as opposed cremation the cost of a burial plot (\$4,000) has influenced the decision more towards cremation. To remedy this cost associated with burial the State can set aside land to be used as burial sites. By the state setting aside state-owned land for this purpose it would greatly reduce the cost of burial and bring it closer to the cost associated with cremation.

#### **Course of Action 3 (Consider modifications to crematory licensing)**

All crematories operating in the city of Albuquerque are licensed by the city. Some, but not all of the crematories had restrictions placed on their operating license when granted. These restrictions were placed that limited the operating hours of the retorts. These restrictions have negatively impacted the capacity of the crematories that has further hampered efforts to clear backlogs. Removing restrictions on all crematories operating within the Jurisdiction of the City of Albuquerque will increase capacity therefore increasing capacity.

**Course of Action 4 (New Mexico Attorney General Opinion)**

Although State of New Mexico required due diligence efforts to locate legal next of kin, the law does not specify what constituted all due diligence. This lack of specificity has caused some involved people to go to extraordinary, and often times unnecessary lengths to accomplish this task. A legal ruling from the Attorney General from the State of New Mexico that sets forth a reasonable method to constitute due diligence is required to allow responsible parties a roadmap to rapid resolution of this issue.

**Course of Action 5 (Standardize County Due Diligence requirements)**

Currently there are no standardized due diligence requirements utilized by all 33 New Mexico Counties. Every effort should be made to standardize these requirements so as to facilitate the timely release for final disposition of decedents.

**Course of Action 6 (Cooperative / Consolidated Due Diligence efforts)**

Although the backlog at OMI is made up of cases from all 33 Counties in New Mexico, the majority of cases reside in Bernalillo County. Currently OMI has a lengthy procedure for completing due diligence efforts. The case is not turned over to the County of Bernalillo until all efforts are satisfied at OMI. A more reasonable solution would be for OMI and Bernalillo County to work together on a single, legally approved means of satisfying the legal requirement of due diligence that currently only applies to the county.

**Course of Action 7 (Create Due Diligence dedicated section within OMI)**

Although not required by statute, OMI conducts a lengthy due diligence process. Field investigators are responsible for this time-consuming duty that must be completed between other death investigations. This important task of attempting to determine legal next of kin could be effectively accomplished by a dedicated team as opposed to the field investigator. In our estimation, several employees dedicated to this task could much more effectively handle this task, thereby turning the case over to the county much more quickly.

**Course of action 8 (Consider fees associated with storing remains)**

Although not the primary cause of the backlog, counties not claiming remains and Funeral homes not picking up remains in a timely manner do contribute to the backlog. If a penalty, or storage fee could be legally assessed on counties or funeral homes thus creating an incentive for them to act more quickly.

**Course of action 9 (Consider requesting DMORT assistance)**

As a short-term solution to facilitate the paperwork backlog at OMI the State of New Mexico should consider requesting DMORT assistance. By bringing in Death Investigators and Funeral Directors who are familiar with next of kin location requirements the current backlog should be greatly reduced. In order to facilitate this work all deployed DMORT personnel should be granted access to CLEAR, TLO or some other similar database that can assist in locating next of kin.

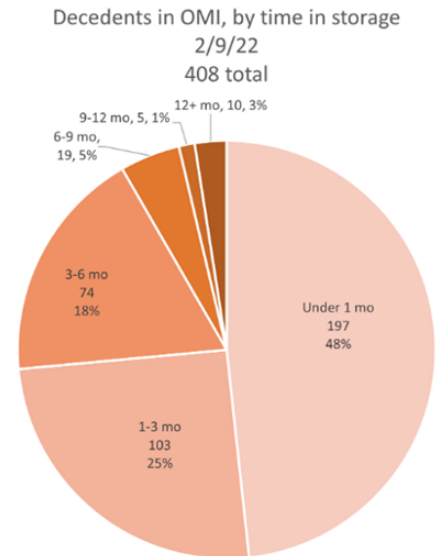
**Course of action 10 (Consider utilizing New Mexico Funeral Services Association assistance)**

One possible resource that is being underutilized is the New Mexico Funeral Services Association. This organization has personnel, equipment and expertise that can be a huge assistance in resolving troubling issues.

3. **FOLLOW UP FEMA EVALUATION: Dr. Jarrell**

Dr. Jarrell presented a slide illustrating OMI decedent storage.

- On 2/9/22, the OMI housed 409 decedents (as of 2/17/2022, OMI has 386)
- 52% of decedents have been at the OMI for longer than 30 days
- 27% have been in storage for longer than 90 days
- The majority of decedents present over 30 days are indigent/unclaimed



Dr. Jarrell reviewed current OMI procedures and highlighted NM state citations and regulations.

- Currently, the OMI attempts to notify relatives of the deceased through legal next-of-kin (LNOK) searches. (The decedent must be stored for a minimum of 14 days after death)
- Then OMI refers the decedent to the county of death, who also performs searches for LNOK.
- Once the county's efforts are complete, the decedent is released from the OMI for cremation.

NM State Citations and Regulations:

• 24-12-1 NMSA 1978:

(a) State, county, or municipal officials having charge or control of bodies to be buried at public expense shall use due diligence to notify the relatives of the deceased.

(c) After the exercise of due diligence....the medical investigator shall be furnished detailed data demonstrating such due diligence and the fact that no claimant has been found. When the medical investigator has determined that due diligence has been exercised and that reasonable opportunity has been afforded relatives to claim the body and that the body has not been claimed, he shall issue his certificate determining that the remains are unclaimed.

• 24-12-2 NMSA 1978:

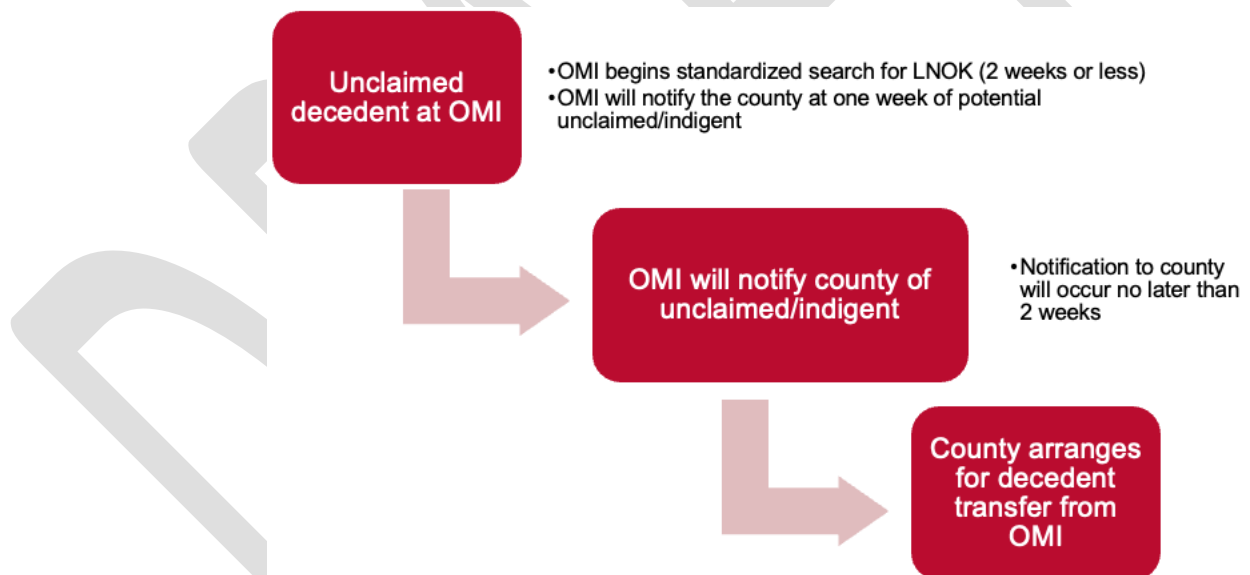
(a) Upon issuance of his certificate that the remains are unclaimed, the medical investigator shall retain the body for use only for medical education or shall certify that the body is unnecessary or unsuited for medical education and release it to the state, county, or municipal officials having charge or control of the body for burial.

Dr. Jarrell noted that FEMA and UNM Legal agreed that OMI is not tasked for doing the due diligence search for LNOK. The responsibility falls within the county or municipality in which the decedent died. The county is the entity tasked with completing the due diligence search of LNOK. Once the county has completed their efforts, they must demonstrate that effort to OMI

who determines whether the due diligence efforts are sufficient. The OMI will issue a certificate stating that the remains are unclaimed, and the body should be buried or cremated. (The decedent must be stored for a minimum of 14 days after death)

Based on the FEMA assessment, Dr. Jarrell presented a plan for catching up.

- **Course of Action 1:** Transition to Burial (where decedents are currently at OMI)
- **Course of Action 2:** Utilize state owned land for burials. (Needs collaboration with DOH and City/County)
- **Course of Action 3:** Consider modifications to crematory licensing. (Needs collaboration with DOH and City/County)
- **Course of Action 4:** NM AG opinion
  - Recommended opinion from UNM Office of the University Counsel, in conjunction with OMI on defining due diligence.
  - OMI will draft due diligence standard.
- **Course of Action 5:** Standardization of Due Diligence
  - Collaboration with NM counties via the NM Association of Counties
  - Creation of Smartsheet process for on-going communication between counties.
- **Course of Action 6:** Consolidation of Due Diligence Efforts
  - Fully mapping the role of OMI and the counties in the unclaimed/IB process

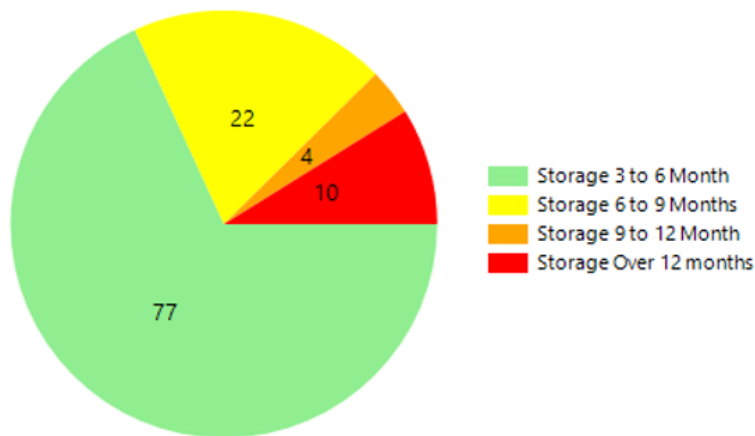


- **Course of Action 9:** Consider Disaster Mortuary Operational Response Team (DMORT) Assistance
  - Awaiting final approval at DMORT level
  - Possible start date next week
- **Course of Action 7:** Create due diligence dedicated section with OMI
  - Team of 3 full-time positions for LNOK searches.
  - Limit this work to 2 weeks or less per decedent.
  - Submit request for proposal for 3<sup>rd</sup> party to assist in the transitional period (short term) after DMORT mission.
- **Course of Action 8:** Consider fees associated with storing remains.
  - Implement storage fee for counties not picking up decedents within one week of notice of unclaimed/indigent decedent.
  - Evaluate bad debt process at UNM.

Dr. Jarrell noted that many years ago the board established a body storage fee of \$61 per 24-hr period. The intent was that if there was funeral home not picking up a decedent, they would be charged this fee. The fee was never intended to charge a family. Dr. Jarrell pointed out that the OMI could potentially start charging county's if they have not picked up their decedents after a week of being notified.

Dr. Jarrell presented a slide illustrating current data regarding storage.

**Total Cases In Storage: 386** [Click here to see details](#)



- **Current in house capacity is 233**
- 117 decedents at OMI for 2 weeks or less
- 171 decedents at OMI for 30 days or less
- 205 decedents at OMI for 45 days or less

**Current data indicates necessity for 30-45 days or less to maintain storage, with in-house reserve for mass fatality event**

Dr. Jarrell wrapped up her plan of action and discussed a timeline for plan variables.

- Burial versus cremation (short term plan)? How much time is needed to reduce the storage number at OMI by at least 200 for each option?
- How much time is needed to for counties to adequately staff to due diligence after standardization of process?
- Point of concern: Some funeral homes are currently making arrangements for March and OMI is storing the decedent. OMI has the ability to change storage fees for funeral homes, but would these storage fees made to funeral homes be deflected to the family?
- In some instances, the family states that they are working with Funeral Home X, but when OMI calls the funeral home, there are no formal arrangements. According to the OMI plan, OMI would proceed according to our timeline as an unclaimed decedent with the county.

Chairman Scrase stated that DMORT assistance won't be at OMI as soon as the next week. Mr. Emory spoke of this in detail.

Regarding Course of Action item # 9, a revised document received today includes a requirement to meet Emergency Management Assistance Compact (EMAC) diligence prior to requesting FEMA assistance from DMORT. NM DOH has identified four trained staff at NM Vital Records to assist in efforts. EMAC is being drafted to be submitted to other states for response before making a final request for DMORT.

Mr. Houston expressed his concern of the increase of bodies into a system that is already overwhelmed. Dr. Jarrell agreed and stated that a response to Mr. Houston's concerns depends on the board's formal decision regarding the decedents currently being stored at OMI. Mr. Jimenez stated that a states cemetery was mentioned for this purpose. The more immediate option would be to use one of the two cemeteries' DOH owns located in Los Lunas and Fort Bayard NM. The cost to counties is \$1,200 for burial and \$600 for cremation. Mr. Jimenez will follow-up with Grace Philips (NM Association of Counties)

Chief Johnson expressed that he does not feel comfortable deciding at this time without reading the recommendation report from FEMA. Chairman Scrase clarified that today's meeting was only intended to brief the board. Chief Johnson offered an opportunity to meet with Dr. Jarrell to discuss other resources he may be able to help with. Dr. Richards noted this as an action item for Dr. Jarrell.

Chairman Scrase would like to give the board time to review the report and meet back in two weeks. Chief Johnson recommended to invite Grace Philips from Association of Counties to the next board meeting. Dr. Richards agrees with Chief Johnson and further recommends a meeting with Grace Philips before the next board meeting. Dr. Jarrell agreed.

4. **ADJOURNMENT**

Dr. Richards asked for a **MOTION** to adjourn. Chief Johnson **MOVED**. Dr. Richards **SECONDED**.

The meeting **ADJOURNED** at 12:57 PM.