

Project Proposal: Death in Custody Reporting

MRB
June 2019**Project Summary**

States are required to collect and report deaths in custody or may be subject to a reduction of up to ten percent of allocated Edward Byrne Memorial Justice Assistance Grant Program funds if found to be non-compliant with the collection of data for the Death in Custody Reporting Act (DCRA) of 2013.

Background

The Death in Custody Reporting Act (DCRA) of 2013 requires each state to report deaths during interactions with law enforcement officers or while held in local jails and state prisons. This data has been collected by the Bureau of Justice Statistics (BJS) (began jail and prison collection in 2001 and law enforcement agencies (LEAs) in 2003) as directed by a 2000 law that expired in 2006. Currently called Mortality in Correctional Institutions (MCI), BJS maintains compliance of reporting from state prisons (100%) and jails (98%). LEAs reported arrest-related deaths until 2014, when it was suspended due to an insufficient census (only 50-70% of agencies reported when deaths occurred). Because MCI is collected for statistical purposes only, it is maintained as confidential data and cannot be released for any enforcement purposes.

The current DCRA granted the US Attorney General authority to establish guidelines to determine compliance and impose a 10% reduction of a state's Byrne Justice Assistance Grant (Byrne JAG) allocation, if noncompliant. The Bureau of Justice Assistance proposal for data collection (81 FR 91948) tasks State Administering Agencies with collecting and submitting the required death information quarterly beginning October 1, 2019. BJS received a directive from the Office of Budget and Management to cease the same death data collection at the end of 2019, creating only a three-month overlap.

Context

According to BJS reports, there were an average of 107 deaths in North Carolina jails or prisons from 2005 to 2014 (ranging from 86 in 2005, to 136 in 2008 as shown in Table 1). The reporting rate for jails varied over the period from 90% in 2006 to 96% in 2013 and there was central reporting for prisons each year, capturing 100% of facilities.

Table 1: Deaths in Custody in Jails and Prisons

North Carolina	2000	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Prisoner Deaths¹	66	69	90	99	117	86	87	71	79	81	94
Jail Deaths²	15	17	21	28	19	21	24	17	25	21	22
Jails Reporting	96	94	94	94	93	89	92	93	93	90	93

¹ Office of Justice Programs, Bureau of Justice Statistics. (2016, December) *Mortality in State Prisons, 2001-2014 - Statistical Tables*, <https://www.bjs.gov/content/pub/pdf/msp0014st.pdf>.

² Office of Justice Programs, Bureau of Justice Statistics. (2016, December) *Mortality in Local Jails, 2000-2014 - Statistical Tables*, <https://www.bjs.gov/content/pub/pdf/mlj0014st.pdf>.

BJS collected Arrest-Related Deaths (ARDs) from 2003 through 2011. During that time, North Carolina reported deaths to the program all but one year, 2006. In 2011, the Office of the Chief Medical Examiner was listed as the coordinating office for reporting in North Carolina (and in ME) while 32 state coordinators were located in State Analysis Centers and 13 were in other state offices. Different types of data sources were utilized by states to identify ARDs, often using multiple sources. This may be the case if open-source searches identify an ARD, then police reports are used to complete the ARD form.

A study was conducted in 2015 to test the validity of ARD data collection efforts. BJS designed media alerts to capture articles with certain primary search terms (e.g., shot, killed, death, standoff, use of force, accidental, Taser, overdose, heart attack) with relevant proximity terms (e.g., police, officer, custody, arrest, pursuit, chase). This identified over 2 million articles, which were culled to 250,000 that were manually coded and 8% were determined to be ARDs.

A sample of 379 deaths was selected for a follow-up survey of state agencies – LEA and medical examiner in jurisdiction – to confirm/deny the ARD and collect additional information. The follow-up resulted in state agency representatives confirming 79% of ARDs identified in the media. Of those denied, the majority received conflicting responses from the LEA and medical examiner which could not be resolved (often due to nonresponse from project time constraints). During this process, 48 additional ARDs were reported by state agencies that had not been selected in the initial sample (71% were not found in subsequent media searches), bringing the total for the project sample to 427. Of the ten deaths during the 3-month period sampled for North Carolina, all were identified through media sources.

Table 2: Number of Arrest-Related Deaths By Source of Notification, June-August 2015³

	All Deaths	Media-Identified Deaths	Agency-Reported Deaths
North Carolina	10	10	0
TOTAL	427	379	48

The response rates for the survey were calculated several ways, and are shown in Table 3. Overall, 76% of ARDs sampled received some state response. The highest response rates were from states where one agency responded on behalf of the LEA and medical examiner – 95% response rate, with 90% completion of all expected forms.

³ Office of Justice Programs, Bureau of Justice Statistics. (2016, December) *Arrest-Related Deaths Program Redesign Study, 2015–16: Preliminary Findings*, <https://www.bjs.gov/content/pub/pdf/ardprs1516pf.pdf>.

Table 3: Response Rates for Arrest-Related Deaths by Response Type

	Some Response	All Expected Forms
Overall sample	76%	72%
Law Enforcement Agencies	72%	70%
Medical Examiners	73%	67%
One state agency for both	95%	90%

State Collection Responsibilities (guidance from 83 FR 44064):

In order to comply with the mandate of the DCRA, the Department of Justice, Bureau of Justice Assistance, requires State Administering Agencies (SAA) to collect and submit information regarding the death of any person who is detained, under arrest, or is in the process of being arrested, is en route to be incarcerated, or is incarcerated at a municipal or county jail, State prison, State-run boot camp prison, boot camp prison that is contracted out by the State, any State or local contract facility, or other local or State correctional facility (including any juvenile facility). States must (1) identify all reportable deaths that occurred in their jurisdiction during the corresponding quarter and provide basic information about the circumstances of the death, or (2) affirm that no reportable death occurred in the State during the reporting period.

Quarterly Summary:

For each quarter in a fiscal year, the State must complete the Quarterly Summary (Form DCR-1 – Attachment A) and submit it by the reporting deadline. The Quarterly Summary is a list of all reportable deaths that occurred in the State during the corresponding quarter with basic information about the circumstances of each death. If a State did not have a reportable death during the quarter, the State must so indicate on the Quarterly Summary. The reporting deadline to submit the Quarterly Summary is the last day of the month following the close of the quarter. For each quarter, BJA will send two reminders prior to the reporting deadline.

Incident Report:

For each reportable death identified in the Quarterly Summary, the State must complete and submit an Incident Report (Form DCR-1A – Attachment B). States must answer all questions on the Incident Report. If sufficient information is not available to complete one of the questions, then the State may select the “unknown” answer, and then identify when the information is anticipated to be obtained.

North Carolina DCRA Data Collection Plan

The CJAC methodology plan for DCRA data seeks to maximize the timeliness, accuracy, and completeness of data required for collection, while maintaining a reasonable level of staff commitment. The prisons and jails are currently reporting deaths to BJS, so the focus will be on setting up data collection systems that will follow current processes. However, new processes

will need to be developed to capture arrest-related deaths involving the state's law enforcement agencies, estimated to in more than 500 agencies.

State Prisons

Prison administration has a central reporting system to report deaths in all state prison facilities. BJS Mortality In Correctional Institutions plans to notify all correction agencies of the change in reporting requirements moving to the SAA. Prisons currently enters death information into a BJS web-based collection portal. The initial entry occurs within a week of the death, then subsequent entries occur when information is available. As of July 10, 2019, there were deaths in 2017 and 2018 that had outstanding information. For BJA reporting, CJAC staff will be responsible for:

- creating a password protected web-based data collection tool for Prisons staff to enter data for each incident and make updates over time as necessary (e.g., autopsy results).
- contacting Prisons (email) to verify the number of incident reports received each quarter.
- submitting the Quarterly Summary and Incident Reports through BJA's online system.

Local Jails and Law Enforcement Agencies (LEAs): DCRA requires the state to report deaths of any person who is "in custody, detained, under arrest, or is in the process of being arrested." There are 94 jails in North Carolina and over 500 LEAs. The CJAC will identify and report deaths in custody as follows:

- Contact the LEA Associations to explain the law and reporting requirements and ask for announcements at meetings and in communications.
- Send letters to all LEAs in the state to explain the law and reporting requirements.
- Contact the NC Office of the Chief Medical Examiner quarterly to inquire about arrest-related and deaths in custody and use Google alerts and other forms of media searches to learn of deaths in custody.
- The CJAC staff will contact the agency involved to provide access to the password protected web-based data collection tool information for LEA staff to enter data for each incident and make updates over time as necessary (e.g., autopsy results).
- Setup an email list to send a message in the last month of each quarter to ask about deaths in custody. During fourth quarter reporting, get confirmation of annual number of incidents from each jail and LEA ('hard-zero' if none).
- The CJAC staff will submit the Quarterly Summary and Incident Reports through BJA's online system.

Each reportable death must be submitted to BJA through the PMT system in a Quarterly Summary form (DCR-1). This requires:

- decedent's name,
- date, time, and location of death, and
- responsible agency name, type, and ORI.

Entry of the Summary Report will automatically populate fields in the online Death in Custody Reporting Act form (DCR-1A). In addition to the above, it requires the following:

- Information for the person supplying the information

- name, title, agency,
 - email,
 - phone & fax numbers,
 - state, and
 - date reported.
- Decedent Information
 - name,
 - Social Security Number,
 - sex,
 - ethnicity,
 - race,
 - location of death,
 - agency involved in the event,
 - date of facility admission, and
 - facility type.
- Circumstances of the death.

Project Summary: Death in Custody Reporting

September 2022

Project Summary

The Death in Custody Reporting Act (DCRA) of 2013 requires states to collect and report deaths in custody to the Bureau of Justice Assistance (BJA). Non-compliant states may be subject to a reduction of up to ten percent of allocated Edward Byrne Memorial Justice Assistance Grant Program funds. The BJA tasked State Administering Agencies with collecting and submitting the required death information beginning October 1, 2019. For each quarter, the State must complete the Quarterly Summary (Form DCR-1 – Attachment A), have an Incident Report (Form DCR-1A – Attachment B) for each death in custody, and upload the information into the PMT system.

North Carolina DCRA Data Collection Plan

The Criminal Justice Analysis Center (CJAC) methodology plan for DCRA data seeks to maximize the timeliness, accuracy, and completeness of data required for collection.

State Prisons: Prison administration has a central reporting system to report deaths in all state prison facilities. CJAC staff:

- created a secure data collection tool for Prisons staff to enter data for each incident and make updates over time as necessary (e.g., autopsy results).
- periodically contact Prisons (email) to verify the number of incident reports.
- upload the Quarterly Summary through BJA's online PMT system.

Local Jails and Law Enforcement Agencies (LEAs): DCRA requires the state to report deaths of any person who is "in custody, detained, under arrest, or is in the process of being arrested." There are 94 jails in North Carolina and over 500 LEAs. The CJAC identifies and reports deaths in custody as follows:

- Established and monitors an email account dedicated to DCRA submissions and questions from agencies (deathincustodyprogram@ncdps.gov).
- Created a webpage with information on DCRA and quarterly reporting deadlines (<https://www.ncdps.gov/dcra>).
- Send letters to all LEAs in the state to explain the law and reporting requirements at least once a year. CJAC staff have also presented at several statewide and regional meetings to explain the reporting requirements.
- Receive autopsy reports from the NC Office of the Chief Medical Examiner for deaths in custody.
- Setup a Google alert to identify news stories regarding deaths involving a law enforcement officer.
- Download data from the Washington Post's police shootings database and filter for North Carolina and the appropriate time period.
- Contact any LEA determined to be involved in a death in custody to request submission of the DCR-1A form.
- Upload the Quarterly Summary through BJA's online PMT system.