

SUPPORTING STATEMENT
Death in Custody Reporting Act Data Collection Program
May 2024

A. Justification

1. **Circumstances Necessitating Data Collection:** The Department of Justice (DOJ), Bureau of Justice Assistance (BJA) is submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This continues the Death in Custody Reporting Act Data Collection Program that was previously approved for data collection that BJA began in FY 2020 (OMB #1121-0365).

The Death in Custody Reporting Act (DCRA) of 2013 requires states and federal law enforcement and correctional agencies to report certain information to the Attorney General regarding the death of any person occurring during interactions with law enforcement officers or while in custody. See 34 U.S.C. § 60105(a) & (b). It further requires the Attorney General and the Department of Justice (Department) to collect the information, establish guidelines on how it should be reported, annually determine whether each state has complied with the reporting requirements, and address any state's noncompliance.

2. **How, by Whom and For What Purpose the Information is to be Used:** The Bureau of Justice Statistics (BJS) began the predecessor the Death in Custody Reporting Program in 2000 in response to the Death in Custody Reporting Act of 2000 (P.L. 106-297), and continued to collect these data when the law expired in 2006 under the Mortality in Correctional Institutions (MCI) program. The legislation was motivated by a concern about conditions in prisons and local jails and increased public and Congressional interest in oversight, in light of wrongful death lawsuits and national media attention on deaths in custody.

DCRA was reauthorized in 2013, and the data collection was done by BJS through the end of 2019. Starting at the beginning of FY 2020, the Bureau of Justice Assistance took over the collection of the Death in Custody Data Collection Program. While the original 2000 DCRA did not include an explicit compliance condition, the 2013 DCRA specified that non-reporting states would forfeit up to 10% of the JAG federal grant funds at the discretion of the AG. As a federal statistical agency, BJS data may not to be used for enforcement purposes, and BJS felt that penalizing non-respondents to the MCI would have adverse effects on response rates for other BJS data collections. DOJ therefore determined that the Bureau of Justice Assistance (BJA), as opposed to BJS, should manage collection of the data pursuant to the law, since that agency is not under similar requirements to collect data for statistical purposes only.

BJA will use the data collected under this approval to monitor compliance with DCRA. BJA will provide the information collected under this approval to BJS to enable them to

continue statistical reporting on mortality in custody. BJA will also provide the data to NIJ and funded researchers to conduct reports required in the DCRA legislation. BJA will publish aggregate data as directed by the Department of Justice leadership with the intent of using the data to reduce the incidence of preventable deaths in custody and arrest-related deaths.

3. **Use of Technology to Reduce Burden:** The Bureau of Justice Assistance will continue to collect all information electronically in the Office of Justice Programs (OJP) Performance Measurement Tool (PMT), an existing reporting system. BJA has been authorized to collect this information by the Attorney General under the Deaths in Custody Reporting Act of 2013. No additional systems will be implemented. The State Administering Agencies (SAA) representing all respondents currently have access to this system and report into it quarterly. The SAA staff reports on their progress as grantees to BJA as required under their funding via the Edward Byrne Memorial Justice Assistance Grant (JAG) which is provided by BJA. Respondents are already required to report quarterly for their JAG grants, so no additional systems would be put into place.
4. **Efforts to Identify Duplication:** There are several federal, state, and private collections that partially overlap the proposed collection however, none of them encompass the full scope of the DCRA Data Collection Program.

Other national collection systems that capture death data are the NCHS's National Death Index (NDI), the National Violent Death Reporting System (NVDRS), and the Social Security Administration's (SSA) Death Master File (DMF). The NDI is a subcomponent of the National Vital Statistics System, and has total coverage of known deaths in the United States. The NDI is based on death certificates submitted by the states. However, with a few locality-based exceptions, such as Washington, D.C., death certificates do not indicate whether the deceased had been in correctional custody and in turn, the NDI is unable to independently identify persons who were in custody at the time of their death. SSA collects information on deaths through the DMF to remove decedents from the Social Security benefits rolls, but these data do not include either a cause of death (COD) or an indicator of criminal justice involvement.

The Center for Disease Control and Prevention's NVDRS tracks homicides and suicides in 40 states and the District of Columbia. The NVDRS is a state-based surveillance system that triangulates data from death certificates, medical examiner/coroner reports and police reports to create a database on violent deaths. The NVDRS excludes deaths by suicide or homicide in correctional settings in its reporting, but even if these deaths were included, they would not capture the majority of deaths in prisons or jails, since the majority of prison deaths are due to illness or natural causes. BJA has had discussions with the CDC to collaborate with NVDRS state-level contacts as possible partners.

The Federal Bureau of Investigation collects data on use of force (UoF) incidents from states and local law enforcement agencies. The FBI UoF data collection has a different broader scope, with limited overlap of law enforcement deaths in custody in both collections (only those deaths where force is used would be reportable to both data

collections). BJA continues to partner with the FBI through an MOU to shared data to monitor deaths reported in both collections so that the DOJ has a more complete picture of the universe of reportable deaths.

5. **Methods to Minimize Burden on Small Businesses:** The collection of information does not impact businesses.
6. **Consequence of Less Frequent Data Collection:** The statute requires quarterly collection, so less frequent reporting would place respondents in a state of non-compliance with the law based on the plain reading of the statute.
7. **Special Circumstances for Data Collection:** There are no special circumstances identified at this time.
8. **Consultation Outside the Agency:** The public comment requirement of the Paperwork Reduction Act will be satisfied when the rule is published in the *Federal Register*. Ongoing consultation with the appropriate representatives is ongoing. For the OMB renewal the Federal Register Notices were published on 6/8/2021 and 9/8/2021.

No comments or questions were received.

9. **Payment of Gifts to Respondents:** No gifts or remunerations are provided to respondents.
10. **Confidentiality Assurances:** The system used for submitting information is only accessible to the respondent and the Federal Government. BJA provides no assurance of confidentiality to the respondents.
11. **Additional Justification for Sensitive Questions:** There are no questions on the application which could be considered by the responding agency to be of a sensitive nature.
12. **Estimated of the Burden of Data Collection:** For purposes of this burden calculation, it is estimated that for each fiscal year there will be a total of 1,481 reportable deaths by 950 LEAs, 919 reportable deaths by about 335 jails, and 3,360 reportable deaths by nearly 540 prisons.

For FY 2024 and beyond, the total projected respondent burden is:

- **States estimated time to complete DCR-1 each quarter:** 4 hrs. * 4 quarters * 56 state = **896 hours**.
- **State estimated time to review and submit DCR-1A each quarter for each death:** .25 hrs. * 7500 estimated deaths per year = **1875 hours**
- **LEAs estimated time to complete DCR-1A on behalf of state:** 950 estimated LEA * 4 quarters * .75 hours = **2850 hours**

- **Jails estimated time to complete DCR-1A on behalf of state:** 335 estimated jails * 4 quarters * .75 hours = **1005 hours**
- **Prison estimated time to complete DCRA-1A on behalf of state:** estimated prisons * 4 quarters * .75 hours = **1620 hours**

13. **Estimated Costs to Respondents:** The costs to respondents incurred as a result of participating in this data collection are costs that would be incurred in the normal course of daily operations. Assuming a pay rate approximately equivalent to the GS-12 / 01 level (\$74,441 per year), the estimated agency cost of employee time would be approximately \$35.67 per hour. The total cost is therefore estimated at \$294,134 (35.67 * 8246).

14. **Estimates of Annualized Costs to the Federal Government:**

Cost \$1,003,500 -- Bureau of Justice Assistance
 100% GS-14, Program Analyst (\$142,000)
 3% GS-15, Supervisor (\$4,000)
 2 FTE Contract Data Analysts (\$200,000)
 Other editorial staff (\$5,000)
 Fringe benefits (@28% of salaries -- \$40,880)
 Other administrative costs (@30% of salary & fringe -- \$56,064)
 Training and Technical Assistance Cooperative Agreement for state reporters (\$2,000,000 for 36 months annualized -- \$555,556 per year)

15. **Changes in Burden:** This information collection is a result from agency action pursuant to the Death in Custody Reporting Act of 2013 (H.R. 1447). This collection has been housed with BJA since the beginning of FY 2020. The burden on respondents has not significantly changed since data collection has begun.

16. **Publication of Results:** Data has been provided to NIJ and NIJ funded researchers to analyze in response to the Congressionally mandated report. BJA will publish aggregate data as directed by the Department of Justice leadership.

17. **OMB Expiration Date:** OJP will display the OMB Control Number and expiration date on the DCRA Program data collection form.

18. **Exceptions to OMB Form 83-I:** There are no exceptions identified in Item 19, Certification for Paperwork Reduction Act Submissions, of OMB Form 83-I.