

Death in Custody Reporting Act (DCRA)
(Public Law 113-242)

State Implementation Plan
August 23, 2023

Hawaii Department of the Attorney General

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Background

The Death in Custody Reporting Act (DCRA) (Public Law 113-242) requires all states to report to the U.S. Attorney General information regarding the death of any person who is detained, under arrest, in the process of being arrested, en route to be incarcerated, or incarcerated. As part of the state Edward Byrne Memorial Justice Assistance Grant (JAG) reporting, State Administering Agencies (SAAs) are responsible for collecting DCRA data on a quarterly basis from state and local entities and submitting that data to the Bureau of Justice Assistance (BJA). The SAA for Hawaii is the Department of the Attorney General and the division responsible for collecting and reporting DCRA data is the Crime Prevention and Justice Assistance Division (CPJAD).

Beginning with Fiscal Year 2022, SAAs are required to submit with its JAG application a plan for the DCRA data collection and reporting in accordance with Public Law 113-242, 42 USC § 13727. Through their plan, SAAs are required to demonstrate an understanding of DCRA reporting requirements and explain how their state intends to gather the required data as a condition of the JAG funding.

Title 42 – The Public Health and Welfare

CHAPTER 136 - VIOLENT CRIME CONTROL AND LAW ENFORCEMENT SUBCHAPTER I - PRISONS

Part B - Miscellaneous Provisions

Sec. 13727 - State information regarding individuals who die in the custody of law enforcement

(a) In general

For each fiscal year after the expiration of the period specified in subsection (c)(1) in which a State receives funds for a program referred to in subsection (c)(2), the State shall report to the Attorney General, on a quarterly basis and pursuant to guidelines established by the Attorney General, 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).

(b) Information required

The report required by this section shall contain information that, at a minimum, includes—

- (1) the name, gender, race, ethnicity, and age of the deceased;
- (2) the date, time, and location of death;
- (3) the law enforcement agency that detained, arrested, or was in the process of arresting the deceased; and

(4) a brief description of the circumstances surrounding the death.

(c) Compliance and ineligibility

(1) Compliance date

Each State shall have not more than 120 days from December 18, 2014, to comply with subsection (a), except that-

(A) the Attorney General may grant an additional 120 days to a State that is making good faith efforts to comply with such subsection; and

(B) the Attorney General shall waive the requirements of subsection (a) if compliance with such subsection by a State would be unconstitutional under the constitution of such State.

(2) Ineligibility for funds

For any fiscal year after the expiration of the period specified in paragraph (1), a State that fails to comply with subsection (a), shall, at the discretion of the Attorney General, be subject to not more than a 10-percent reduction of the funds that would otherwise be allocated for that fiscal year to the State under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.), whether characterized as the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, the Local Government Law Enforcement Block Grants Program, the Edward Byrne Memorial Justice Assistance Grant Program, or otherwise.

(d) Reallocation

Amounts not allocated under a program referred to in subsection (c)(2) to a State for failure to fully comply with subsection (a) shall be reallocated under that program to States that have not failed to comply with such subsection.

(e) Definitions

In this section the terms “boot camp prison” and “State” have the meaning given those terms, respectively, in section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)).

(f) Study and report of information relating to deaths in custody

(1) Study required

The Attorney General shall carry out a study of the information reported under subsection (b) and section 13727a(a) of this title to-

(A) determine means by which such information can be used to reduce the number of such deaths; and

(B) examine the relationship, if any, between the number of such deaths and the actions of management of such jails, prisons, and other specified facilities relating to such deaths.

(2) Report

Not later than 2 years after December 18, 2014, the Attorney General shall prepare and submit to Congress a report that contains the findings of the study required by paragraph (1).

Hawaii DCRA State Implementation Plan

This plan reflects the state's data collection infrastructure, data collection methods, data reporting methods, and the answers to key questions related to each of these elements.

1. DCRA Data Collection Infrastructure

a) State Death-In-Custody Reporting Law

Act 278, Session Laws of Hawaii (SLH) 2022, establishes a Department of Law Enforcement to consolidate and administer criminal law enforcement and investigations functions of the state, effective upon approval, and reestablishes the Department of Public Safety as an independent Department of Corrections and Rehabilitation to administer the corrections, rehabilitation, and reentry of the inmate population (effective January 1, 2024), that includes reporting of deaths in its correctional facilities and correctional centers.

Act 22, Session Laws of Hawaii (SLH) 2023, effective on April 19, 2023 amended §353-40, the reporting of correctional facility and community correctional center deaths, . Act 22 impacts the Department of Public Safety (Department of Corrections and Rehabilitation effective January 1, 2024). §353-40 is amended as follows:

§353-40 Correctional facility and community correctional center deaths; reporting. (a) Within forty-eight hours, the director shall report to the governor, and the governor shall report to the legislature, the death of any:

- (1) Correctional facility or community correctional center employee who:
 - (A) Dies on the grounds of or while on duty at a correctional facility or community correctional center where Hawaii inmates reside; or
 - (B) Sustains an injury on the grounds of or while on duty at a correctional facility or community correctional center where Hawaii inmates reside that causes the death of the employee; or
- (2) Hawaii inmate who is incarcerated by or under the care and custody of:
 - (A) A state or contracted correctional facility; or
 - (B) An agent of a state or contracted correctional facility.

Within seven days of the director's submission of the report to the governor, the department shall post a copy of the report on its public website.

(b) The report in subsection (a) shall include the following information:

- (1) The name of the decedent;
- (2) The gender and age of the decedent;
- (3) Whether the decedent was an inmate or an employee;
- (4) The location of the death or injury leading to the death;
- (5) The date and time of the death;
- (6) The cause of death; and
- (7) Any indication of sexual assault leading to the death.

(c) When the official cause of death has been determined, the director shall submit a report to the governor, and the governor shall submit the report to the legislature that shall include the following information:

- (1) The clinical mortality review conducted in response to the death, including correctional actions to be taken;
- (2) The official cause of death; and
- (3) Any indication of sexual assault leading to the death.

(d) The information specified in subsection (c) (2) and (3) shall be open to public inspection, unless:

- (1) Any federal or state law protects the information from disclosure; provided that the report shall cite the applicable federal or state law; or
- (2) The disclosure of the information would materially impair an ongoing criminal investigation.

b) Hawaii's death-in-custody reporting law differs from the federal DCRA in the following manner:

- Requires the reporting of deaths of any correctional facility or community correctional center employee that dies on the grounds of or while on duty at a correctional facility or community correctional center where Hawaii inmates reside;
- Requires the reporting of injuries sustained by an adult correctional facility and community correctional center employee caused by an inmate that later resulted in death;

- Does not require the reporting of deaths of juveniles held in correctional facilities and community correctional facilities;
 - Reporting information is limited to the Department of Public Safety (effective January 1, 2024, Department of Corrections and Rehabilitation) adult jails and prisons and does not include the death of any person who is detained, under arrest, or is in the process of being arrested, or who is en route to be incarcerated;
 - Reporting does not include decedent's race and ethnicity; and
 - Requires the reporting of any indication of sexual assault leading to the death.
- c) Number of non-federal law enforcement agencies, municipal or county jail or lockup facilities, state or contract prisons, or state-run/contract boot camps in the state.

There are thirteen (13) non-federal law enforcement agencies, four (4) state jails, five (5) state prison facilities (4 adult facilities, 1 juvenile facility), and one (1) contracted prison. Cellblocks (lockup facilities) are in 27 locations across the state. There are two (2) detention facilities for juvenile offenders. There are no boot camp facility or municipal or county jails in Hawaii.

Non-federal law enforcement agencies (13):

- State: Department of the Attorney General
- State: Department of Human Services, Office of Youth Services
- State: Department of Law Enforcement
- State: Department of Public Safety (Effective January 1, 2024, Dept of Corrections and Rehabilitation)
- The Hawaii State Judiciary
- City & County of Honolulu: Honolulu Police Department
- City & County of Honolulu: Department of the Prosecuting Attorney
- Hawaii County: Hawaii Police Department
- Hawaii County: Office of the Prosecuting Attorney
- Maui County (Islands of Maui, Molokai, Lanai): Maui Police Department
- Maui County (Islands of Maui, Molokai, Lanai): Department of the Prosecuting Attorney
- Kauai County: Kauai Police Department
- Kauai County: Office of the Prosecuting Attorney

Jails: Department of Public Safety (Effective January 1, 2024, Dept of Corrections and Rehabilitation) (4):

- Hawaii Community Correctional Center
- Kauai Community Correctional Center
- Maui Community Correctional Center
- Oahu Community Correctional Center

Prisons: Department of Public Safety (Effective January 1, 2024, Dept of Corrections and Rehabilitation) (4):

- Halawa Correctional Facility
- Waiawa Correctional Facility
- Kulani Correctional Facility
- Women’s Community Correctional Facility

Contracted Facility: Department of Public Safety (Effective January 1, 2024, Dept of Corrections and Rehabilitation) (1):

- Saguro Correctional Center (Eloy, Arizona)

State Juvenile Correctional Facility: Office of Youth Services (1):

- Hawaii Youth Correctional Facility

Cellblocks: Arrested individuals are transported to one of several police department locations to be booked and processed. Because the cellblock is a short-term holding facility, individuals who are unable to post bail are transported to court on the next working day.¹

Honolulu Police Department: Cellblocks (9):

- Alapai HQ (Main)
- Kalihi Station
- Kaneohe Station
- Kapolei Station
- Pearl City Station
- Wahiawa Station
- Waianae Station
- Kahuku Substation
- Kailua Substation

Hawaii Police Department: Cellblocks (8)

- Honoka‘a Station
- Laupāhoehoe Station
- Hilo Station
- Pāhoa Station
- Nā‘ālehu Station
- Kona Station
- Waimea Station
- Kapa‘au Station

¹ Honolulu Police Department- Central Receiving Division, <https://www.honolulu.org/organization/divisions/central-receiving/> (last visited June 30, 2023).

Maui Police Department: Cellblocks (6)

- Wailuku Station
- Lahaina Station
- Kihei Station
- Hana Station
- Molokai Station
- Lanai Station

Kauai Police Department: Cellblocks (3):

- Lihue Station
- Kawaihau Station
- Waimea Station

Department of Law Enforcement: Sheriff Division (1)

- Sheriff District Court Cellblock

Temporary secured and non-secured custody for juveniles.

The Judiciary: Detention Services (2)

- Hale Ho'omalua Juvenile Detention Facility
- Home Maluhia (non-secured facility)

d) Agencies that are not actively participating in the DCRA data collection are:

Department of the Attorney General

Department of Law Enforcement (*Effective January 1, 2024, chapter heading amended by L 2022, c 278, §10, to HRS Chapter 353C, Law Enforcement.*)

Department of the Prosecuting Attorney – City and County of Honolulu

Department of the Prosecuting Attorney – Maui County

Office of the Prosecuting Attorney – Hawaii County

Office of the Prosecuting Attorney – Kauai County

Refer to Appendix A for other non-federal law enforcement agencies with statutory authority to lawfully detain and/or arrest individuals in Hawaii but do not or rarely exercise their power to arrest.

e) The plan for engaging non-participating agencies:

On August 21, 2023, the Hawaii Attorney General sent the departments/agencies noted in (d) a formal request for their respective participation in the state's DCRA. The request included a September 5, 2023 deadline for the name of their designated contact person who will be responsible for reporting DCRA information. The Hawaii Attorney General requested the contact person's name, position title, email, and phone number. Follow-up inquiries will be made as needed. As for the Department of the Attorney General, specifically the four

divisions/units that are covered under DCRA, a formal request was made on August 16, 2023.

- f) Training and technical assistance provided to DCRA reporting agencies:

CPJAD provides training or technical assistance to assist the departments/agencies required to report DCRA data. CPJAD assists the DCRA point-of-contact from the non-federal law enforcement agencies with questions and issues related to DCRA and provides updates from the U.S. DOJ, BJA.

- g) The extent to which training and technical assistance is needed from BJA:

No technical assistance from U.S. DOJ, BJA is needed. Periodic updates and trainings from BJA for SAAs when there are changes to DCRA reporting elements/information can be useful.

- h) Does the state have a DCRA website?

The state does not have a DCRA website.

2. Data Collection Methods

- a) Who is responsible for the DCRA data collection from state/local agencies; how is reportable death data collected:

The CPJAD Administrator is responsible for the DCRA data collection from state/local agencies.

Hawaii is a state with a population of 1,455,271 (2020 U.S. Census). The state consists of four counties and each county has a dedicated police department and department/office of the prosecuting attorney. The Department of Public Safety (soon to be the Department of Corrections and Rehabilitation) is responsible for adults held in jails, prisons, and state-contracted prisons. The Department of Human Services, Office of Youth Services is responsible for adjudicated juvenile offenders. The Judiciary is responsible for the juvenile detention center. The Department of Law Enforcement is responsible for policing state facilities/property, and the transportation of incarcerated offenders and pre-trial detainees between the correctional facilities and the court.

The data collection tools used: The Department of Public Safety completes the DCRA report on the BJA DCRA Excel template. The other law enforcement agencies use an online e-form created by CPJAD to submit their data. The deadline to submit their respective DCRA report to CPJAD is 15 days after the end of the calendar quarter. CPJAD sends a reminder email to the law enforcement agency's DCRA point of contact with the report link or form, the reporting period and deadline, and, if any, DCRA-related updates.

- b) Challenges the state faces in collecting and reporting DCRA data:

The local/state response to the Hawaii Attorney General's request for DCRA information has been positive. CPJAD's system of sending reminders when the data is due and maintaining a current point-of-contact for each agency has ensured timely compliance in collecting and reporting DCRA data. In 2019, CPJAD focused on police and community and correctional facilities and overlooked those departments/agencies noted in 1. DCRA Data Collection Infrastructure, (d). It is anticipated that by the end of 2023 those departments/agencies will be participating in DCRA. No other challenges have arisen.

3. Data Reporting Methods

- a) Description of how DCRA data is reported to BJA:

By the 15th day after the calendar quarter ends, the reporting agency/department submits their respective DCRA data electronically to CPJAD for review and acceptance. If there are no DCRA deaths, then the reporting agencies/departments are to submit a report with 'no' (nothing to report).

CPJAD Administrator uploads the data saved on the BJA DCRA excel template, using the data import feature, to the DOJ, Performance Measurement Tool (PMT) system.

- b) Process for reviewing and cleaning records for prior submission to BJA:

- CPJAD checks the data (for missing data or data that may have been entered in error) that is submitted by the reporting agency/department.
- CPJAD monitors media reports for incidents that are reportable under DCRA against reports submitted to CPJAD.
- For deaths in adult correctional facilities and community correctional centers, the Hawaii Correctional System Oversight Commission (a.k.a. Oversight Commission) Coordinator produces a monthly report that includes a section on in-custody deaths. CPJAD checks the Oversight Commission Coordinator's monthly reports against the DCRA reports submitted by the Department of Public Safety. The Oversight Commission Coordinator's monthly report does not include the decedent's name, however, it does include the inmate's age and gender, the name of the facility the inmate was held in, a brief description of death, and whether an investigation was completed or is pending. The monthly reports are available on the Oversight Commission's website.
- Act 22, Session Laws of Hawaii (SLH) 2023, effective on April 19, 2023, amended §353-40, the reporting of correctional facility and community correctional center deaths. Act 22 requires that a copy of the notification of inmate death report to the Governor is posted on a public website. In

addition to the Oversight Commission Coordinator monthly report, CPJAD checks the quarterly DCRA reports provided by the Department of Public Safety against the notification of inmate death sent to the Governor that is available at <https://dps.hawaii.gov/notification-of-inmate-death-in-a-psd-facility/> .

- c) Plan for tracking and updating the status of records that are open for pending investigations:

In the next six months, CPJAD will be working on a method to track decedent information where the cause of death is pending investigation and a process for requesting updates to these reports.

APPENDIX A

The following list reflects non-federal law enforcement agencies with statutory authority to lawfully detain and/or arrest individuals in Hawaii. These departments do not or rarely exercise their power to arrest.

Department of Taxation

§231-4.3 Investigators; appointment and powers.

https://www.capitol.hawaii.gov/hrscurrent/Vol04_Ch0201-0257/HRS0231/HRS_0231-0004_0003.htm

Department of Transportation – Harbor Division

§266-24 Enforcement.

https://www.capitol.hawaii.gov/hrscurrent/Vol05_Ch0261-0319/HRS0266/HRS_0266-0024.htm

(Effective until 12/31/23, after which Harbor Police are transferred to Department of Law Enforcement)

Department of Transportation – Airports Division

§261-17 Enforcement of laws.

https://www.capitol.hawaii.gov/hrscurrent/Vol05_Ch0261-0319/HRS0261/HRS_0261-0017.htm

Department of Land and Natural Resources – Division of Conservation and Resources Enforcement

§199-4 Board of land and natural resources, police powers.

https://www.capitol.hawaii.gov/hrscurrent/Vol03_Ch0121-0200D/HRS0199/HRS_0199-0004.htm

§195D-7 Enforcement.

https://www.capitol.hawaii.gov/hrscurrent/Vol03_Ch0121-0200D/HRS0195D/HRS_0195D-0007.htm

§261-17 Enforcement of laws.

Also https://www.capitol.hawaii.gov/hrscurrent/Vol05_Ch0261-0319/HRS0261/HRS_0261-0017.htm (see 184-5(f))

Department of Commerce and Consumer Affairs – Hawaii Insurance Division

§431:2-402 Insurance fraud investigations branch.

https://www.capitol.hawaii.gov/hrscurrent/Vol09_Ch0431-0435H/HRS0431/HRS_0431-0002-0402.htm

Department of Human Services

§346-4.5 Investigators; authority and access to records.

https://www.capitol.hawaii.gov/hrscurrent/Vol07_Ch0346-0398/HRS0346/HRS_0346-0004_0005.htm

Department of Accounting and General Services – Parking

§107-11 Parking; control by comptroller.

https://www.capitol.hawaii.gov/hrscurrent/Vol02_Ch0046-0115/HRS0107/HRS_0107-0011.htm

Department of Accounting and General Services – Stadium

§109-5 Security personnel, powers.

https://www.capitol.hawaii.gov/hrscurrent/Vol02_Ch0046-0115/HRS0109/HRS_0109-0005.htm

National Guard

§121-9 Adjutant general; duties.

https://www.capitol.hawaii.gov/hrscurrent/Vol03_Ch0121-0200D/HRS0121/HRS_0121-0009.htm