



# **State of Washington**

## **Death in Custody Reporting Act (DCRA)**

### **Statewide Implementation Plan 2023 - DRAFT**

Anica Stieve – Program Manager

Kate Kelly – Executive Director

1011 Plum St. SE  
P.O. Box 42525  
Olympia, WA 98504-2525

# Table of Contents

|  |          |
|--|----------|
| Background .....   | 3        |
| Death in Custody Definition.....                                 | 3        |
| <b>Washington DCRA Implementation Plan - DRAFT .....</b>         | <b>4</b> |
| <b>Data Collection Infrastructure .....</b>                      | <b>4</b> |
| Washington Death in Custody Law.....                             | 4        |
| Reporting Landscape .....  | 5        |
| Non Participating Agencies.....                                  | 6        |
| Engagement.....  | 6        |
| Training and Technical Assistance Needs.....                     | 6        |
| DCRA Website.....  | 6        |
| <b>Data Collection Methods .....</b>                             | <b>7</b> |
| Data Collection Responsibility .....                             | 7        |
| Data Collection Procedures.....                                  | 7        |
| Data Collection Tools .....                                      | 7        |
| Defining & Overcoming Challenges .....                           | 7        |
| <b>Reporting Data to Bureau of Justice Assistance (BJA).....</b> | <b>7</b> |
| Reporting Data.....  | 7        |
| Quality Assurance .....  | 8        |
| Records Pending Investigation.....                               | 8        |
| Next Steps .....   | 8        |

## Background

The Death in Custody Reporting Act<sup>1</sup> requires states to report information on any deaths in custody to the Attorney General. Originally, this information was recorded by the Bureau of Justice Statistics (BJS) Mortality in Correctional Institutions data collection. In 2016, the Office of Justice Programs (OJP) determined that BJS was prohibited from policy-related activities, and could no longer collect DCRA data. Oversight was transferred to the Bureau of Justice Assistance (BJA).

## Death in Custody Definition

Death in Custody includes the death of any person who is:

- Detained
- Under arrest
- In the process of being arrested
- En route to be incarcerated
- 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).<sup>2</sup>

DCRA Data Requirements:

- State Administering Agencies (SAAs) are responsible for collecting data from the following agencies on a quarterly basis:
  - Law enforcement agencies
  - Local jails
  - Correctional facilities
  - Medical Examiners Offices
  - Other state agencies
- For each death, the required data to be collected includes:
  - The decedent's name, date of birth, gender, race, and ethnicity;
  - The date, time, and location of the death;

---

<sup>1</sup> (DCRA; Pub. L. No. 113-242)

<sup>2</sup> Death in Custody Reporting Act – Reporting Guidance and Frequently Asked Questions [Death in Custody Reporting Act: Reporting Guidance and Frequently Asked Questions \(ojp.gov\)](https://www.ojp.gov/ncj/vlpp/dcra/reporting-guidance)

- The law enforcement or correctional agency that detained, arrested, or was in the process of arresting the deceased; and
- A brief description of the circumstances surrounding the death.
- This information must be entered into the Performance Measurement Tool (PMT) on a quarterly basis.

# Washington DCRA Implementation Plan - DRAFT

## Data Collection Infrastructure

### Washington Death in Custody Law

Washington currently has two laws that govern reporting of in-custody deaths – [RCW 72.09.770](#) which relates to the Department of Corrections and [Senate Bill Report - 3 - ESSB 5119](#) which relates to unexpected deaths in local jails.

#### **Washington State Department of Corrections - [RCW 72.09.770](#)**

RCW 72.09.770 requires the Department of Corrections (DOC) to convene an unexpected fatality review (UFR) committee to review any case in which the death of an incarcerated individual was unexpected, or in any case identified by the Office of the Corrections Ombuds (OCO) for review. This statute would cover data collection of any deaths that occur in DOC Facilities or community corrections placements.<sup>3</sup>

RCW 72.09.770 defines “Unexpected Death” as any death that was not the result of a diagnosed or documented terminal illness or other debilitating or deteriorating illness or condition where the death was anticipated. This includes the death of any person under the jurisdiction of the department, regardless of where the death actually occurred.

This statute requires any “Unexpected Deaths” to be reported for any person under the jurisdiction of the department, regardless of the location in which the death occurred. While it may be inferred that DCRA encompasses any person who dies while under the jurisdiction of law enforcement or corrections departments, this Washington statute explicitly states that. Jurisdiction of the department does not include persons on community custody or supervision of the department.

#### **Washington Jails**

Historically, deaths occurring in Washington jails have been much harder to capture due to a lack of formalized state oversight of local jail facilities. Washington is one of 17 states without state oversight of county jails and jail officials frequently refuse to release internal records.<sup>4</sup> Without state oversight governing jail operations, each jail in Washington is operated locally, managed by an elected Sheriff and funded by county taxes.

In 2021, Washington lawmakers passed [ESSB 5119](#), which mandates “Unexpected” fatality reviews be conducted in Washington jails and reported to the Washington State Department of Health (DOH). [RCW 70.48.510](#). This law requires local jails to conduct reviews on all unexpected fatalities, then submit a report to DOH. Also in 2021, the legislature established a task force to determine whether Washington should

---

<sup>3</sup> Meeting with David Flynn, Assistant Secretary, Health Services Division, Department of Correction, August 11<sup>th</sup>, 2022

<sup>4</sup> Pulkkinen, Levi. No place to be sick: When jail cell becomes a death chamber, Seattle Post Intelligencer, December 14, 2016. <https://www.seattlepi.com/seattlenews/article/No-place-to-be-sick-When-jail-cell-becomes-a-10795036.php>

have enforceable statewide standards for jails. RCW [70.48.801](#). The recommendations of this Task Force are anticipated in late 2023.

DOH's role is to create a public webpage where all unexpected fatality review reports are posted and maintained. These reports are subject to public disclosure. Confidential information is redacted by the city or county department of corrections as outlined in RCW [70.48.510](#) and consistent with the requirements of applicable state and federal laws. More information can be found on the [DOH Website](#). At present there are roughly 57 jail facilities in operation in Washington state – 39 county jail facilities and 18 smaller contract facilities serving local municipalities.

Due to the newness of this requirement and the capacity to build out reporting infrastructure, consistent and comprehensive reporting from counties across Washington is a work in progress. Thus far, only a few counties<sup>5</sup> have complied with the requirement and submitted reports to the DOH portal.

### **Washington Law Enforcement Agencies**

Like many other states, Washington is grappling with how to capture and track data related to deaths that occur while people are law enforcement custody. There are roughly 250 municipal and county law enforcement agencies in the state.<sup>6</sup> Washington does not currently have statutory requirements for law enforcement agencies to report deaths that occur while people are in the custody of their department, however law enforcement agencies are required to report data related to use of force incidents.

## **Reporting Landscape**

Entities that need to report death in custody data to ensure Washington's DCRA compliance include:

### **Washington State Department of Corrections (DOC) Facilities**

Washington State DOC has twelve prison facilities with custody levels ranging from maximum to minimum security. Deaths that occur in any of these facilities are tracked by DOC and reported to the Washington legislature annually.<sup>7</sup>

### **Washington State Department of Children, Youth and Families (DCYF) - Juvenile Facilities**

The state of Washington's juvenile rehabilitation facilities are operated by the Washington State DCYF. There are three secure residential facilities and eight group home facilities across the state.

### **Washington Jail Facilities**

Washington has roughly 57 jail facilities in operation – 39 county jail facilities and 18 smaller contract facilities serving local municipalities. In accordance with RCW [70.48.510](#), these facilities are required to conduct reviews on all "unexpected" fatalities and submit a report to DOH within 120 days of the death occurring.

### **Washington Law Enforcement Agencies**

---

<sup>5</sup> <https://www.seattletimes.com/seattle-news/times-watchdog/wa-jails-have-among-the-highest-death-rates-in-the-country-why-dont-we-know-more-about-them/#:~:text=Since%202021%2C%20Washington's%20jails%20have,failed%20to%20submit%20the%20reports>.

<sup>6</sup> <https://www.waspc.org/assets/general%20authority%20agenices.pdf>

<sup>7</sup> [RCW 72.09.770](#)

Washington is home to roughly 250 non federal law enforcement agencies. Currently, agencies which hold contracts for Justice Assistance Grant (JAG) funds are reporting death in custody data as part of their contractual reporting requirements. This represents data from roughly 20 law enforcement agencies in Washington.

## Non Participating Agencies

Several challenges exist in discerning the current participation in death in custody data reporting across agencies. Currently, all DOC facilities are actively reporting as required by Washington law.

Since the new 2021 legislation related to jail reporting took effect, four counties have consistently reported; however, DOH is still building out the reporting infrastructure so the amount of agencies/counties reporting may be higher.

Regarding Law Enforcement Agencies, it is difficult to discern where and to whom data is reported. Some law enforcement agencies receive direct JAG funds, and report DCRA information to Department of Commerce (Commerce).

To discern exactly which agencies are participating and not participating in DCRA data collection and reporting Commerce will conduct a survey as part of a larger Criminal Legal System Needs Assessment.<sup>8</sup> This assessment is planned to begin in early 2024 and will include research on agency DCRA reporting participation.

## Engagement

After the full scope of participation is determined through the assessment process previously described, Commerce may partner with the Washington State Statistical Analysis Center (SAC) to develop several components of this implementation plan, including engagement for currently non-participating agencies. The Criminal Legal Systems Needs Assessment may also contain focused recommendations on data collection infrastructure and agency engagement.

## Training and Technical Assistance (TTA) Needs

To date, state representatives have participated in multiple training and technical assistance opportunities with the Department of Justice (DOJ) related to DCRA reporting. Some of these include the national convening held virtually and in person in December 2022, a conference session during the National Criminal Justice Association (NCJA) conference in Long Beach, CA in July 2023, and other individual meetings with DOJ staff and consultants. Washington will continue to participate in TTA opportunities, as well as request specific TTA as needed and as recommended in the forthcoming Criminal Legal System Needs Assessment.

## DCRA Website

Washington state does not have a website solely dedicated to DCRA reporting at this time. As the state continues implementation of DCRA reporting, a website and associated tools may be created as necessary and applicable.

---

<sup>8</sup> State of Washington Byrne Justice Assistance Grant Strategic Plan 2023 – 2027, pg. 8; [Washington JAG Strategic Plan 2023-2027.pdf | Powered by Box](#)

# Data Collection Methods

## Data Collection Responsibility

Commerce serves as the SAA for the Byrne Justice Assistance Grant. At present, Commerce, specifically the Office of Firearm Safety and Violence Prevention/Community Safety Unit (OFSVP/CSU) is responsible for leading DCRA plan and data collection implementation for local and state agencies.

## Data Collection Procedures

The tentative plan to comprehensively collect DCRA data from all local and state agencies, includes three main data sources:

- DOC – collect quarterly reports from DOC that include death in custody data reports from all 12 DOC facilities. Commerce staff will work with DOC staff to obtain secure reports of this information.
- DOH – collect quarterly reports, or a quarterly summary of all reports submitted, of deaths that have occurred in local jail facilities across the state. Commerce staff will work with DOH staff to obtain secure reports of this information
- Office of Independent Investigations (OII) – this newly created office is charged with investigating all deaths that result from use of force incidents or while a person is in the custody of law enforcement agencies across the state. Commerce staff will work to establish a reporting/data sharing relationship with the OII, to collect quarterly summary reports for the purposes of DCRA reporting.

The combination of these three data sources will yield a more comprehensive report including deaths occurring in prisons, jails, and local and state law enforcement custody.

## Data Collection Tools

Defining data collection tools will be done after more information is gathered from each data source described in the previous section. Tools will likely consist of excel or smartsheet files, secure files or access to an online secure data portal. Data collection tools will be determined and refined over the next twelve months.

## Defining & Overcoming Challenges

Washington is hopeful that new policies, laws and reports will enable a more comprehensive and complete DCRA reporting practice. As discussed previously in this draft plan, key challenges relate to fragmentation and lack of central oversight of local jail facilities, multiple data collection methods/requirements for law enforcement agencies, and potential duplication of data collection. As partnerships are developed, Washington hopes to further define and address challenges and barriers to DCRA data collection. The forthcoming Criminal Legal System Needs Assessment and task force recommendations described above will also serve as potential resources to address challenges.

## Reporting Data to Bureau of Justice Assistance (BJA)

### Reporting Data

At present, Commerce staff receive DCRA data reports from contracted agencies. This data is then manually entered into the Performance Measurement Tool (PMT). As data collection processes are refined, there may be opportunity for more consistent and robust reporting through the use of the PMT bulk data download

feature. This may be an option due to receiving three large reports from each of the data sources outlined above.

## Quality Assurance

As data collection and reporting processes are further developed and refined, Commerce will develop a Quality Assurance procedure for reviewing and cleaning records received, prior to reporting to BJA. OFSVP/CSU has a dedicated Quality Assurance Manager who will advise and assist in development of a best practice quality assurance procedure to ensure accurate and consistent DCRA reporting. Commerce will also seek guidance from the SAC on best practices for data collection and quality assurance.

## Records Pending Investigation

As a component of the Quality Assurance procedure that will be developed, Commerce will ensure there is a process for tracking and updating records that are incomplete (open, under investigation, or pending investigation) at the time of submission to BJA. Once this process is developed it will be included in this draft implementation plan.

## Next Steps

This draft implementation plan will continue to be revised and updated, with a final version submitted to BJA with Washington's Federal Fiscal Year 2024 JAG Application.

DRAFT