

**FY 2023 Edward Byrne Memorial Justice Assistance Grant (JAG) Program
Death in Custody Reporting Act (DCRA)
West Virginia State Implementation Plan**

1. DCRA Data Collection Infrastructure:

The State of West Virginia does not have a state law that requires the reporting of in-custody deaths. While state laws do mandate that the death of an individual who is in the custody of the state (e.g., a law enforcement or correctional agency) be investigated by a county Medical Examiner or coroner, there are no further reporting requirements mandated by the Legislature. As a result, Justice and Community Services (JCS) has followed the Federal Deaths in Custody reporting guidelines for the collection and reporting of in-custody deaths. In addition, there is not currently a state website that tracks and reports in-custody deaths and no immediate plans to establish such a website.

Reporting agencies in West Virginia include law enforcement agencies, regional jails, state prisons, and juvenile facilities. The Division of Corrections and Rehabilitation (DCR) is responsible for the maintenance of correctional facilities for both adults and juveniles in West Virginia. There are ten regional jails, ten prison facilities, one contract prison that is operated by McDowell County in West Virginia, three minimum security community corrections facilities that house work release and/or Residential Substance Abuse Treatment (RSAT) program participants, and ten juvenile correctional facilities. West Virginia does not allow for privatized correctional facilities, therefore all correctional facilities in the state are operated by the DCR. Additionally, there are no state or contract boot camps within West Virginia. At this time, data on deaths is not being collected from the 235 law enforcement agencies or from the ten juvenile correctional facilities within DCR.

Information regarding the death of a person outside of the DCR facilities who is detained by law enforcement, under arrest, in the process of being arrested, or enroute to be incarcerated has historically fallen under non-participating agencies. However, we are in the process of engaging these agencies. We have reached out to the State Police and established that there is not a statewide centralized reporting system for these incidents. However, there are 235 law enforcement agencies within West Virginia that JCS currently monitors for the Juvenile Justice & Delinquency Prevention Title II Grant (JJDP). Of those agencies 196 have secure temporary holding areas, 60 of which belong to the State Police. These agencies include state, municipal and county law enforcement agencies; college and university law enforcement agencies; and specialty agencies, such as the West Virginia Capitol Police. Within the next quarter we plan to add the question of whether there has been a death-in-custody in their jurisdiction to the monthly report currently provided to us for the JJDP grant. When we receive an indication that an agency has had such an incident, we will contact them to complete the DCRA Performance Measure Questionnaire. Once this system is established, we will provide any necessary training and technical assistance to participating agencies and do not anticipate the need for BJA to provide TTA at this time. JCS is not requesting TTA from BJA in order to implement this portion of the strategic plan.

1. Data Collection and Reporting Methods:

The Office of Research and Strategic Planning (ORSP) is the research arm of JCS and is also the Statistical Analysis Center for West Virginia. It is comprised of a director and seven research and administrative staff members. One Research Specialist II staff member primarily collects and reports the deaths-in-custody data, which comes from two sources: the Director of

Inmate Records within DCR and the Offender Information System (OIS), which is the inmate management and data tracking system used by DCR.

When an individual that is housed within the DCR dies, staff at that facility complete the Federal Form DCR-1A which is then sent to the Director of Inmate Records (DIR) at DCR. The DIR then sends a scanned copy of the form to the JCS Research Specialist II. Data from the PDF form is then entered into an Excel sheet for tracking and reporting. In addition, on a quarterly basis ORSP staff extract a spreadsheet from OIS of all individuals that died in custody of DCR prisons, jails, and parole. These spreadsheets are cross-referenced by the Research Specialist II staff in order to ensure all deaths recorded within OIS match the completed forms. Staff communicate via email with the DIR when any discrepancies arise.

In addition to this collection, the DIR receives copies of death certificates from the Office of Vital Statistics. The DIR then sends Death Certificates for all relevant DCR deaths via email to the ORSP Research Specialist II, who will update the quarterly tracking sheet with any additional relevant information. A finalized sheet is provided quarterly to the JCS Assistant Director, who uploads the data into the BJA Performance Measurement Tool (PMT). When a Death Certificate for an individual is updated (typically because the Cause of Death has been changed from “pending,” “unavailable,” or “unknown”), the DIR will provide that form to the Research Specialist II, who will update the prior record for that individual. That updated information is provided to the JCS Assistant Director, who will then update the BJA PMT.

Once law enforcement agencies begin providing DCRA Performance Measure Questionnaires to JCS they will also be processed by the Research Specialist II within the ORSP and reported through the BJA PMT. JCS will also establish a mechanism for receiving the official death certificates from the Office of Vital Statistics within West Virginia, in order to continue

providing complete data on in-custody deaths. The biggest challenge for West Virginia, currently, in regard to data collection is around law enforcement and juvenile facilities. Law enforcement data will be collected through the existing monthly reporting required of all 235 agencies as part of the JJDP grant (see prior discussion for additional information). JCS will also work with the DCR to establish a mechanism for reporting any deaths from juvenile facilities. Due to limitations around access to juvenile correctional information, JCS does not have direct access to any data related to incarcerated juveniles at this time.