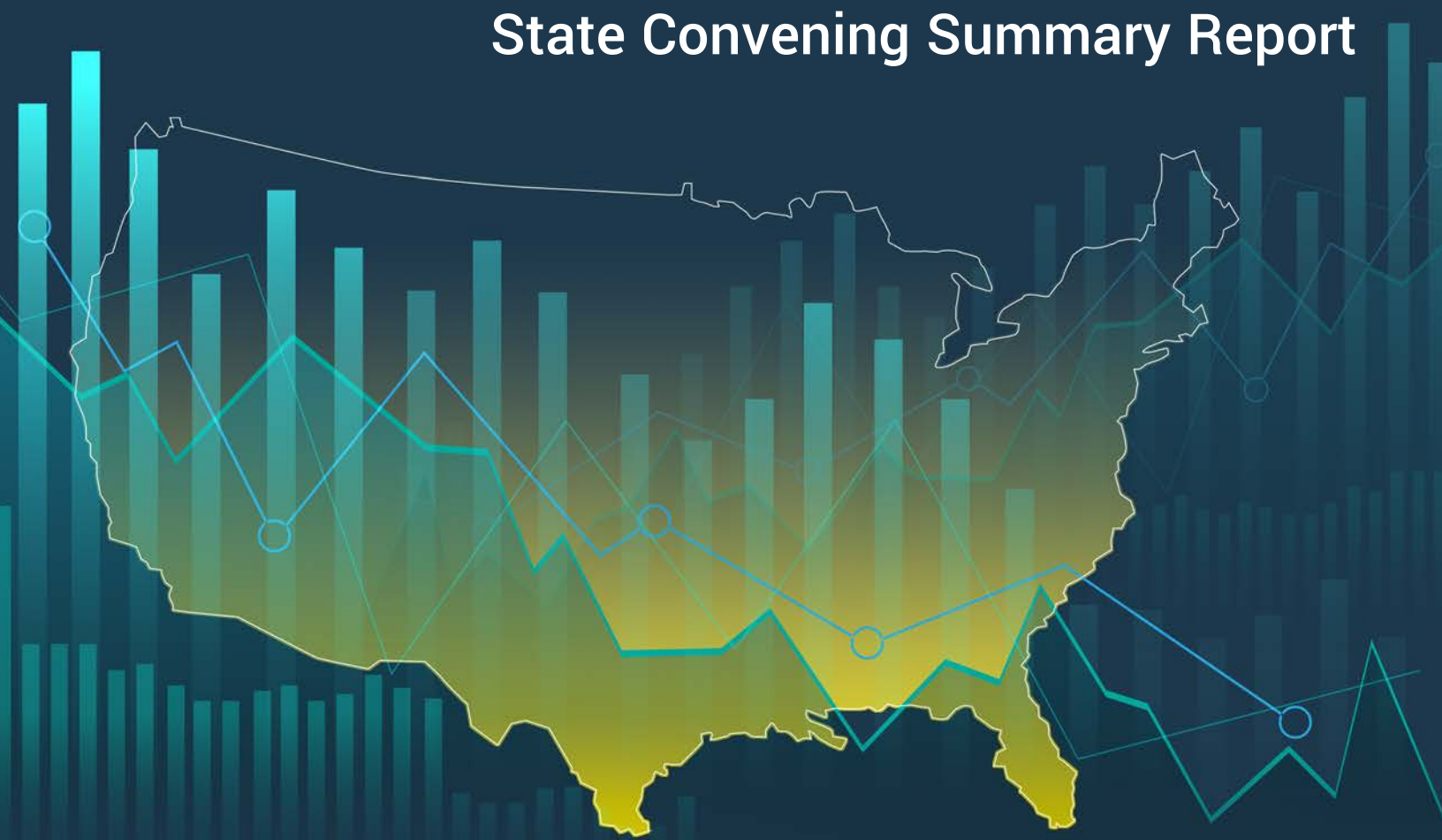




# DEATH IN CUSTODY REPORTING ACT

## State Convening Summary Report



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# BACKGROUND

The Death in Custody Reporting Act (DCRA) requires states and territories that receive funding under the Edward Byrne Memorial Justice Assistance Grant (JAG) Program to report to the Attorney General certain 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).” Collecting complete and accurate data is essential for producing appropriate findings, drawing meaningful conclusions about factors that may contribute to deaths in custody, and developing promising practices and policies that may reduce deaths in custody.

In FY 2020, the Bureau of Justice Assistance (BJA) began collecting death in custody data from JAG Program state administering agencies (SAAs) on

a quarterly basis through the BJA Performance Measurement Tool. To date, all 50 states, Guam, and the District of Columbia have reported decedent data to BJA. However, the quality and completeness of the data varies, demonstrating the need for open conversations with states to understand the barriers faced when collecting and reporting DCRA data. To allow for these conversations, BJA hosted a DCRA State Convening on December 1, 2022, in Washington, D.C., inviting representatives who hold an interest or role in DCRA data collection to take part in a series of panels, presentations, and group discussions. Through the convening, BJA sought to understand: (1) structural, organizational, technical, and practical challenges to both determinations of deaths in custody and operational reporting; (2) challenges that SAAs encounter when collecting DCRA information from state and local agencies and reporting it to BJA; and (3) types of assistance and resources SAAs need to improve reporting and engagement from state and local law enforcement agencies.<sup>1</sup>

# PURPOSE AND AUDIENCE

The BJA convened the SAAs and stakeholders at the Office of Justice Programs (OJP) to discuss current and future implementation of DCRA. A total of 118 participants attended the meeting, 44 in-person and 74 virtually. Participants were invited to attend if they have an active interest or role in improving the DCRA data collection. Sixty-five organizations were represented: five federal agencies; government agencies from 38 states, three territories, and the District of Columbia; 10 nonprofit organizations/member organizations; one philanthropic organization; and one research organization. The federal agencies represented included the following:

- OJP
- BJA
- Bureau of Justice Statistics (BJS)
- National Institute of Justice (NIJ)
- Centers for Disease Control and Prevention (CDC)
- National Center for Health Statistics (NCHS)

The other organizations represented included the following:

- American Jail Association
- Arnold Ventures
- International Association of Coroners and Medical Examiners
- Justice Research and Statistics Association (JRSA)
- Major County Sheriffs of America
- National Association of Counties
- National Consortium for Justice Information and Statistics
- National Criminal Justice Association (NCJA)
- National Sheriffs' Association
- Police Executive Research Forum
- RTI International

<sup>1</sup>For more information on the Department of Justice's implementation of the Death in Custody Reporting Act, visit <https://bja.ojp.gov/program/dcra/overview>.

# CONVENING AGENDA

The meeting convened from 9:30 a.m. to 4:00 p.m. Eastern Time and included presentations from OJP, BJA, NIJ, NCJA, and representatives of SAAs and statistical analysis centers. The meeting also included facilitated small- and large-group discussions.

## Welcoming Remarks

BJA Director Karhlton Moore's opening remarks stressed BJA's commitment to improving the DCRA data collection and reporting process, emphasizing that DCRA is a top priority of the U.S. Department of Justice (DOJ) and that BJA is taking steps to improve state data collection and reporting. He underscored the goal of the DCRA program, which is to achieve a complete, consistent national data source to better understand the scope and nature of arrest-related deaths and deaths occurring in jails and prisons. Further, and more importantly, DOJ hopes to use the data, along with ongoing studies, to identify factors that can help prevent and reduce these deaths whenever possible. Director Moore indicated that BJA is going to significantly amplify collection efforts and provide additional assistance to states with the goal of a marked improvement over the next year and beyond.

## DOJ Implementation of the DCRA Statute

Phelan Wyrick, Senior Advisor, OJP, spoke of the past, present, and future of DOJ implementation of the DCRA statute, consistent with the September 2022 DOJ Report, *Department of Justice Implementation of the Death in Custody Reporting Act of 2013*.

## DCRA Reporting Successes and Promising Practices

Representatives from Nebraska, Wisconsin, and Virginia shared reporting successes and promising approaches to DCRA data collection and reporting activities in their respective states.

BUREAU OF JUSTICE ASSISTANCE		
DCRA STATE CONVENING		
DECEMBER 1, 2022   9:30AM – 4PM		
Location: OJP Ballroom w/Virtual Option		
Agenda		
TIME	CONTENT	PRESENTER/FACILITATOR
9:30am – 9:45	Welcoming Remarks	Karhlton Moore, BJA Director
9:45 – 10:15	DOJ Implementation of the DCRA Statute	Phelan Wyrick, Senior Advisor
10:15 – 10:30	BREAK	
10:30 – 11:30pm	Panel: DCRA Reporting Successes and Promising Practices	Moderator: Michelle Garcia, Deputy Director for Programs
11:30 – 12:30	LUNCH ON YOUR OWN	
12:30 – 12:45	NCJA State Survey Results	Allison Badger, Program Director, NCJA
12:45 – 2:00	DCRA Implementation Small/Large Group Discussion <ul style="list-style-type: none"> <li>• What are you already doing related to DCRA?</li> <li>• What is working well?</li> <li>• What barriers/challenges have you encountered?</li> <li>• What opportunities are there to enhance data collection and reporting?</li> <li>• What resources are needed to support these efforts?</li> </ul>	Facilitator: Michelle Garcia, Deputy Director for Programs
2:00 – 2:15	BREAK	
2:15 – 2:30	DCRA NIJ Studies	Ben Adams, NIJ, Social Science Analyst & Michael Planty, Ph.D., Senior Director RTI International Division for Applied Justice Research Center for Community Safety and Crime Prevention
2:30 – 2:45	DCRA State Plans	Angela Balchi, Senior Research Associate
2:45 – 3:45	Proposals to Strengthen DCRA	Phelan Wyrick, Senior Advisor
3:45 – 4:00	Next Steps, Closing, Evaluations	Melissa Nee, Senior Advisor to the Director

## NCJA State Survey Results

Allison Badger, Program Director, NCJA, presented a high-level overview of the results from a survey of SAAs, including findings that detailed the agencies' understanding of DCRA and its requirements, as well as challenges surrounding DCRA implementation.

## DCRA Implementation Small/Large Group Discussion

Michelle Garcia, Deputy Director for Programs, BJA, facilitated small- and large-group discussion on challenges and successes they have faced in relation to the implementation of DCRA in their respective states and professions. In breakouts grouped by profession, participants discussed the following:

- What are you already doing related to DCRA?
- What is working well?
- What barriers/challenges have you encountered?

- What opportunities are there to enhance data collection and reporting?
- What resources are needed to support these efforts?

## DCRA NIJ Studies

Ben Adams, Social Science Analyst, NIJ, and Michael Planty, PhD, Senior Director, RTI International, presented and discussed findings from the NIJ-sponsored DCRA studies. The first study reviewed existing literature and data focused on the prevalence, patterns, and contexts of deaths in custody, and it presented findings from a new analysis of data on mortality in correctional institutions. A second report will result from a broader, multiyear study designed to generate significant advances in the knowledge and understanding of deaths in custody and will provide recommendations that can support efforts to prevent and reduce such deaths.

## DCRA State Implementation Plans

Angela Balchi, Research Associate, contractor for BJA, presented and discussed BJA's expectations for state submission of DCRA state implementation plans. These plans will detail state-level procedures for collecting and reporting reportable deaths to BJA and will help BJA determine whether a state is compliant with DCRA reporting requirements.

## Proposals to Strengthen DCRA

Phelan Wyrick, Senior Advisor, OJP, led a discussion of the proposals to strengthen the DCRA statute that could allow for BJS leadership of the reporting process, increased flexibility in collecting data from states, and expanding NIJ's research portfolio on the subject.

# KEY TAKEAWAYS

Attendees shared valuable feedback throughout the meeting, particularly during the small-group discussions focused on DCRA implementation. There is widespread commitment among attendees to understand the breadth of the issue and reduce deaths in custody, but it is evident that there are significant challenges to data collection and reporting. Participants shared that lack of dedicated funding for staff and technology presented major challenges to ensuring complete and accurate reporting. Additionally, participants expressed that imposing a 10 percent penalty on state JAG funding would not reduce the barriers associated with DCRA data collection and reporting activities. Nor would it incentive local agencies that do not receive JAG funding to enhance their data collection and reporting efforts.

The largest gap in the current data collection is arrest-related deaths, and SAAs and local agencies currently experience challenges collecting and reporting that data. Although some states realize that they are currently submitting incomplete data, they feel limited in their ability to correct this problem because they cannot compel local law enforcement agencies or jails to report this data. Several participants experienced success with collecting local data by building relationships with local law enforcement agencies, sharing information, providing resources, and leveraging existing data collection systems. These participants highlighted the importance of in-person interaction in building rapport with local stakeholders by attending conferences and meetings. Participants indicated that consulting with stakeholders early on during the planning process, as well as continued

consultation, is critical.

Participants inquired whether DCRA could be combined into other existing federal data collection efforts, such as the [Federal Bureau of Investigation's National Use-of-Force Data Collection](#) or the [National Incident-Based Reporting System](#), which both require incident-level reporting by state and local law enforcement to DOJ. According to participants, leveraging an existing effort could prevent duplication of effort and make DCRA data collection and reporting more manageable for states and localities. The state of Virginia noted that a state law requires law enforcement in-custody deaths be reported to the chief medical examiner, and others agreed that leveraging or advocating for similar legislation may present an opportunity to improve reporting.

Currently, states use a wide variety of reporting mechanisms, ranging from shared Excel spreadsheets to surveys, online databases, and open-source record searches. Participants indicated that they would welcome opportunities to share information and best practices with other stakeholders, as well as consistent guidance on how to collect data at the state level. They acknowledged that there is currently a lack of awareness around DCRA, the reporting requirements, and the importance of reporting. Further, a range of resources and training are needed to increase awareness and assist state and local stakeholders with compliance. State and local agencies noted that the current DCRA reporting tool is cumbersome to work with, and they encouraged DOJ to consider consolidating similar but separate data collections, such as the DCRA and the FBI's National

## Highlights

- Widespread commitment to reducing deaths in custody.
- Imposing the 10 percent penalty on states will not reduce the barriers to collecting and reporting data.
- Data collecting and reporting processes create challenges.
- There are overlapping federal reporting systems that create confusion; states and localities would benefit from consolidation.
- Need for increased awareness of DCRA at the local level.
- Additional resources and supports are needed.

Use-of-Force Data Collection program, into one combined reporting system.

Participants suggested federal-level marketing and outreach to increase awareness and educate stakeholders. Additionally, they requested training tailored to data collection efforts that states already use. The training would help bring all stakeholders to the table so they can be taught how to interpret and use the data collected to inform best practices at the state level. States also inquired about funding

for staff and technology to facilitate reporting, as well as resources to allow states to conduct analysis and research on in-custody deaths using their own data. Some states discussed using JAG funding to help support staff and technology needs related to DCRA, which BJA confirmed was an allowable use of JAG funds. States expressed an interest in assistance with leveraging existing infrastructure or developing new infrastructure to collect the data (e.g., state laws, reporting systems, medical examiner reports/ partnerships).

## NEXT STEPS

The State Convening was the first of many anticipated conversations and steps to enhance DCRA implementation. BJA will convene stakeholders for future discussion on research and state legislation related to DCRA. DOJ is exploring opportunities to help strengthen DCRA legislation, including ongoing discussions with states and other stakeholders, and will work to ensure compliance with the current statute by providing additional resources to states,

including establishing a DCRA Training and Technical Assistance Center. States will be required to submit DCRA implementation plans along with their FY 2023 Edward Byrne Memorial JAG applications that detail how they plan to collect and report the required DCRA data. BJA will continue to engage stakeholders and roll out additional training and assistance as needs are identified, to reduce deaths in custody.