



# DEATH IN CUSTODY REPORTING ACT: Compliance Guidelines

December 2023

## Executive Summary

The Death in Custody Reporting Act (DCRA); ([Public Law 113-242](#)) requires states to report to the Attorney General information regarding the death of any person who is either detained, under arrest, in the process of being arrested, 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, or any state or local contract facility, or other local or state correctional facility (including any juvenile facility).

State Administering Agencies are required to report DCRA data to the Department of Justice (Department), Bureau of Justice Assistance (BJA) as part of their Edward Byrne Memorial Justice Assistance Grant (JAG) performance reporting requirements. Reporting is done in the Performance Measurement Tool (PMT) on a quarterly basis. BJA expects that the data submitted by states is timely, comprehensive, complete, and accurate, as defined below.

Beginning in Fiscal Year (FY) 2023, the BJA required each state to submit a DCRA State Implementation Plan that describes state-level procedures for collecting and reporting relevant deaths to BJA. In subsequent years, states are required to submit updates to the plan or an implementation report.

The Department will utilize these State Implementation Plans to assess each state's compliance with DCRA reporting requirements. BJA will make a determination of compliance with DCRA reporting requirements for each state annually on a fiscal year basis. Compliance will be determined based on: 1) a BJA approved DCRA State Implementation Plan (with annual resubmission/report in subsequent fiscal years), 2) the submission of comprehensive, complete, and accurate DCRA reports that are provided to BJA on a quarterly basis, and 3) evidence that state programs demonstrate continuous quality improvement where gaps and challenges are identified. States will be considered compliant if they meet these criteria and have an approved DCRA State Implementation Plan. The DCRA statute provides the Department with the discretion to apply a penalty of not more than 10 percent of a state's JAG funds to states that fail to comply with DCRA data reporting requirements. Further, while not a formal factor used to make annual compliance determinations, BJA will be conducting periodic, more in-depth quality assurance reviews (QAR) on a triennial basis. Findings of the QAR may impact a state's future compliance determination.

## Definitions

**For the purpose of DCRA, the following terms are used throughout this document.**

**Accuracy:** Refers to the degree to which the facts of the incident are correctly depicted in the data that is reported.

**Arrest-related deaths:** Refers to the death of a person who was under arrest or in the process of being arrested (see definition for under arrest or in the process of arrest).

**Completeness:** Refers to reportable death records having information in all required fields to describe incident characteristics.

**Comprehensive:** Refers to state DCRA submissions having all reportable deaths identified and reported to BJA from the universe of reporting agencies. For the purpose of this document, this includes reportable jail-based, prison-based, and arrest-related deaths.

**Jail:** A municipal, county, or regional jail or lockup operated by a county, city, village, or township.

**Jail-based death:** Refers to the death of a person detained within a jail facility or within the facility immediately prior to the transfer to a medical facility where the death occurred.

**Law enforcement agency:** A state or local agency that has arresting powers. In most cases, the agency will have an Originating Agency Identifier (ORI) number. Examples include local police departments, sheriff's offices, and campus police. Federal law enforcement agencies report DCRA reportable deaths directly to the Bureau of Justice Statistics (BJS) under a different program.

**Open-source records:** Refers to information on reportable deaths that is found in publicly available or web-based sources. This includes but is not limited to national or local news organizations as well as publicly available aggregation services. BJA currently uses the Mapping Police Violence<sup>1</sup> database and the Washington Post's Fatal Force<sup>2</sup> database.

**Performance Measurement Tool:** A web-based data collection system used by the Office of Justice Programs to collect performance measurement data from grantees. The [Performance Measurement Tool](#) (PMT) is the performance reporting system for State Administering Agencies to submit quarterly DCRA reports.

**Prison:** Any correctional facility operated by a state corrections agency including those that are jointly operated with local counties. This includes privately operated facilities under contract with the state; state run-boot camps, juvenile correctional facilities that are operated by the state, and any other facility under operational control of the state correction agency. This also includes work-release centers and halfway houses operated by or under contract with the state department of corrections.

**Prison-based death:** Refers to the death of a person detained within the prison facility or within the facility immediately prior to the transfer to a medical facility where the death occurred.

**Reportable death:** Refers to 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).

**State:** Refers to the contiguous 48 states, Alaska, Hawaii, the District of Columbia, and the U.S. Territories (Guam, American Samoa, Puerto Rico, Virgin Islands, and the Northern Mariana Islands).

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<sup>1</sup> <https://mappingpoliceviolence.us/>

<sup>2</sup> <https://www.washingtonpost.com/graphics/investigations/police-shootings-database/>

**State Administering Agency:** The state agency responsible for administering the Edward Byrne Memorial Justice Assistance Grants (JAG) State award and thus is required to comply with DCRA reporting. A list of all State Administering Agencies can be found here. <https://www.ojp.gov/funding/state-administering-agencies/overview>.

**Timeliness:** Refers to state DCRA reports submitted to BJA on a quarterly basis for the reporting periods January-March, April-June, July-September, and October-December within 30 days of the last day each quarter, to include all known reportable deaths occurring within that corresponding time-period. States must submit four quarterly reports per year.

**Under arrest or in the process of arrest:** Refers to incidents where there was intent by law enforcement to arrest, detain, or restrain including during the process of restraining an individual. This also includes active pursuit by law enforcement where the intent is to arrest or restrain.

**Universe of reporting agencies:** For the purpose of DCRA, this refers to the totality of all possible reporting agencies within a state regardless of whether they experienced a reportable death or not during the reporting period. This includes all local law enforcement agencies such as police departments, sheriffs' offices, and others with arresting powers (e.g., town marshal, university law enforcement agency, etc.). This also includes state prisons (refer to definition) and jails (refer to definition).

## Determining State Compliance with DCRA Reporting Requirements

States will be notified by BJA of their compliance determination by January of each year. BJA will make DCRA compliance determinations for each state based on four factors:

1. Approved DCRA State Implementation Plan
2. Quarterly DCRA submissions
3. Comprehensive, complete, and accurate DCRA submissions
4. Continuous quality improvement

Each factor is described in more detail below.

In addition to monitoring state compliance, BJA is implementing a quality assurance review (QAR). While the QAR is not a formal element used to determine state compliance to DCRA, the results and finding of a QAR may impact a state's overall compliance status. It is an assessment of the quality of state DCRA data, the state DCRA programs practices, and its adherence to the requirements set forth by the DCRA statute. The QAR is administered on a rolling-basis and as BJA's resources permit, at minimum, each state will receive a QAR once every three years (triennial).

### **1. DCRA State Implementation Plans**

Beginning in FY 2023, each state was required to submit to BJA a plan for collecting and reporting reportable deaths with their Edward Byrne Memorial Justice Assistance Grant (JAG) application. State plans must address the following items, as described in the [DCRA State Implementation Plan Guidance](#):

1. Data collection infrastructure (e.g., universe of reporters, technology, agreements, etc.)
2. Data collection methods (e.g., policies and procedures, state laws, gaps, etc.)
3. Data reporting methods (e.g., tracking and reporting to BJA, state level review and tracking, etc.)

BJA will review and approve initial and subsequent state implementation plans. If BJA determines that state plans do not include sufficient information to be approved, BJA will provide feedback and offer technical assistance to help states revise their plans for resubmission. States will have 60 days to resubmit the plan to BJA. In the years following FY2023, states are required to submit with their JAG application updates to the DCRA State Implementation Plan as necessary or an Implementation Report that describes the activities and actions taken to maintain or improve DCRA submissions.

### **2. Quarterly DCRA Submissions**

The DCRA of 2013 requires that states report on a quarterly basis. States must submit quarterly reports in the Performance Measurement Tool (PMT) based on the following schedule, which aligns with the JAG performance measurement reporting schedule. Each quarter, states must (1) report complete decedent information aggregated for submission, or (2) indicate that no reportable deaths are known to the state for submission during the reporting period.

**Table 1: DCRA Reporting Schedule**

Reporting Period	Data Required	Due Date
October 1–December 31	Decedent Records	January 30
January 1–March 31	Decedent Records	April 30
April 1–June 30	Decedent Records	July 30
July 1–September 30	Decedent Records	October 30

States must submit four quarterly reports by the due date (table 1) within the fiscal year. After the due date, BJA will identify any missing DCRA submissions and notify states that they have 30 days to submit all missing reports. Missing quarterly submissions may result in an administrative hold on a state’s JAG funds. Consistently missing quarterly reporting deadlines (defined as missing 3 or more quarterly submissions in a fiscal year) may result in a non-compliance determination.

**3. Comprehensive, Complete, and Accurate DCRA Submissions**

A. Comprehensive DCRA Submissions

States must demonstrate consistent reporting of all types of reportable deaths from the universe of reporting agencies, including:

- **Arrest-related deaths**
- **Jail-based deaths**
- **Prison-based deaths<sup>3</sup>**

*Refer to the definitions section that describes the reporting universe for each type of reportable death.*

States must work toward achieving complete reporting of reportable deaths from the universe of reporting agencies as defined under the DCRA. States must submit reportable deaths from each category or demonstrate there are zero reportable deaths within a category.

At the end of each fiscal year, BJA will conduct reviews of open-source records to identify potentially reportable deaths that went unreported. BJA will provide SAAs with information about these deaths with the expectation that SAAs will review the records, contact jails, prisons, and/or law enforcement agencies and confirm if they are reportable. When non-reported deaths are confirmed, states must report them to BJA’s DCRA program within the following two subsequent reporting periods. More than 75 percent of reportable deaths identified by BJA during the open-source review must be reported to BJA.<sup>4</sup> States that have identified gaps in their reporting universe should address these in their DCRA State Implementation Plans or annual DCRA implementation report.

B. Complete DCRA Submissions

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<sup>3</sup> Except for the District of Columbia which does not have a prison, therefore, will only report for two categories.

<sup>4</sup> In the case of small numbers (e.g., less than 10 records) this threshold may not be applied.

States must submit DCRA reports to BJA that contain complete information for each decedent record where the investigation of each reportable death is complete. Records submitted with unknown values for key characteristics (i.e., year of birth, race, gender, name of the facility housing the decedent [when applicable], location of death, agency name, and manner of death) will be flagged for compliance purposes. On a quarterly basis BJA conducts a verification process that identifies and flags records with missing and unknown information. Flagged records are shared with states on a quarterly basis to revise and resubmit.

Death records that are marked as “investigation pending” by the reporting agency are also tracked and provided back to states. Decedent records must be submitted with complete information where the investigation is no longer ongoing (i.e., pending investigation cases must be updated once it is finished).

As part of the verification process, BJA provides to states a quarterly report, referred to as the data verification report, with their flagged records, including the reason that each record is flagged. The data verification report should be used by states to improve the completeness of quarterly reports.

For the purpose of compliance, at least 75 percent of reportable death records must be submitted without missing or unknown information on an annual basis.<sup>5</sup>

### C. Accurate DCRA Submissions

States must submit DCRA reports to BJA that contain accurate information for each decedent record where the investigation of each reportable death is complete. On a quarterly basis BJA conducts a review process that identifies and flags records with potentially inaccurate data (e.g., multiple reported decedents with the same name, a date of death that occurs in the future, description of the circumstances of the death that are incomplete or don't match the data reported in the other fields, or issues indicating systematic issues such as all records missing ethnicity). Flagged records are shared with states on a quarterly basis to revise and resubmit if necessary.

## **4. Continuous Quality Improvement**

Following the compliance determination in year one, states must demonstrate continuous quality improvement (CQI) to either maintain or achieve compliance in the following year (i.e., CQI will not factor into the determination in year one). This is done by ensuring that quarterly DCRA submissions are:

- comprehensive (i.e., states collect and report all reportable jail-based, prison-based, and arrest related deaths and the percentage of non-reported deaths that have been identified through open-source searches decreases or remains low);
- complete (i.e., the percentage of records with missing or incomplete information either decreases or remains low); and
- accurate (i.e., the percentage of records with inaccurate data either decreases or remains low).

States should also ensure they are identifying gaps and reporting challenges and working with the technical assistance provider and directing training and outreach to state and local agencies to encourage participation in the program.

### ***The following are example scenarios where CQI is demonstrated:***

Example 1: State A, in FY 2023, submits all jail-based and prison-based deaths but is only able to collect and report 60 percent of arrest-related deaths because it is still working with local police departments on their reporting. To show improved reporting, State A, in FY 2024 should make appropriate efforts to increase the percent of arrest-related deaths that it is able to identify and report to BJA to a level that is greater than 60 percent.

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<sup>5</sup> In the case of small numbers (e.g., less than 10 records) this threshold may not be applied.

Example 2: State B, in FY 2023, submits data from most jails, prisons, and local law enforcement. However, their data collection method does not capture all the required elements from state and local agencies. This results in about 40 percent of their records being flagged for missing, unknown, or incomplete information (based on BJA's verification process). To show improved reporting, State B, in FY 2024 should attempt to decrease the percentage of flagged records to 25 percent or less and subsequently continue to improve over-time.

## **Summary**

This document details BJA's state compliance guidelines and the factors used to determine state compliance with DCRA. States should use this document to assist with the requirements of the DCRA. Compliance will be viewed on a spectrum with states considered "compliant" if they have an approved DCRA State Implementation Plan and submit quarterly reports that are comprehensive, complete, and accurate and are taking steps to improve their DCRA programs where gaps and challenges are identified.

States may consider using this document to self-evaluate their own reporting policies and procedures as they implement practices to improve data collection and reporting.

## **Consequences for Non-compliance**

Failure to address the compliance factors in state DCRA submissions as outlined in this document will result in a state being found non-compliant which may lead to an administrative hold on a state's JAG award. An administrative hold may be applied in instances where the state has not submitted or does not have an approved state DCRA Implementation Plan, has not submitted quarterly DCRA reports, or has not demonstrated continuous quality improvement. A state's failure to provide data on reportable deaths may also result in the imposition of a penalty of up to 10 percent of a future JAG award at the discretion of the Department.

### *Need Training or Technical Assistance?*

The Justice Information Resource Network (JIRN) with funding from the BJA offers training and technical assistance (TTA) to SAAs to support performance measurement and program evaluation, as well as mandated data reporting including DCRA reporting. TTA can be delivered in a variety of ways including onsite facilitation, asynchronous web-based learning resources, a searchable database of information resources, and peer-to-peer learning opportunities using online discussion boards/communities of practice.

If you are an SAA wanting assistance with meeting DCRA requirements for your state, please contact JIRN at [DCRA@jirn.org](mailto:DCRA@jirn.org).

## **APPENDIX A: Example Compliance Checklist**

### **State "A" Example**

State A has not submitted an approved DCRA State Implementation Plan and is working with the DCRA TTA center to improve their plan. However, it has been more than 90 days since they were notified that their state plan is insufficient.

State A regularly submits quarterly reports on time with all types of reportable deaths (i.e., jail-based, prison-based, and arrest-related deaths). However, State A's data is consistently submitted with missing/unknown information over the past 2 years and it has been unable to improve the quality of the data that is reported. State A also systematically submits records with missing time of death. State A has not received a QAR.

Metric	Finding	Compliance Status
DCRA State Implementation Plan	Not Approved	Not Compliant
Quarterly Report Submissions	Yes	Compliant
Comprehensive DCRA Submission	Yes	Compliant
Accurate DCRA Submissions	No	Not Compliant
Complete DCRA Submissions	Jail-Based: Yes Prison-Based: Yes Arrest-Related: Yes	Compliant
Continuous Quality Improvement	No	Not Compliant
Overall Compliance Outcome	Not Compliant	

### State "B" Example

State B submitted the DCRA State Implementation Plan, which was subsequently approved by BJA. State B regularly submits quarterly reports on time with all types of reportable deaths (i.e., jail-based, prison-based, and arrest-related deaths). State B's data is consistently submitted with complete information for the majority (i.e., less than 15 percent) of records and no accuracy issues are identified during quarterly reviews. State B has a few non-participating local law enforcement agencies, but they are conducting education and outreach to encourage them to report.

Metric	Finding	Compliance Status
DCRA State Implementation Plan	Approved	Compliant
Quarterly Report Submissions	Yes	Compliant
Comprehensive DCRA Submission	Yes	Compliant
Accurate DCRA Submissions	Yes	Compliant
Complete DCRA Submissions	Jail-Based: Yes Prison-Based: Yes Arrest-Related: Yes	Compliant
Continuous Quality Improvement	Yes	Compliant
Overall Compliance Outcome	Compliant	