



**Report of the Attorney General to Congress Pursuant to
The Death in Custody Reporting Act**

December 16, 2016

I. Introduction

The Death in Custody Reporting Act enacted in December 2014 (DCRA) requires states and federal law enforcement agencies to report certain information to the Attorney General regarding the death of any person occurring during interactions with law enforcement officers or while in custody. *See* 42 U.S.C. §§ 13727(a) & (b), 13727a(a) & (b). It further requires the Attorney General and the Department of Justice (Department) to collect the information, establish guidelines on how it should be reported, annually determine whether each state has complied with the reporting requirements, and address any state's noncompliance. In addition, the Act requires the Department to conduct a study of the information reported and to report to Congress the findings of that study.

The DCRA addresses a profoundly important issue, and the Department is pleased to have made significant progress in the implementation of this statute. The collection of this information is of immense value to state, local, and federal law enforcement agencies, to the communities they serve, and to the country as a whole. This report provides Congress with the information it needs to understand how the Department is implementing the Act, some of the challenges involved, and how the Department will facilitate improved data collection in the years ahead.

II. Requirements of the Act

The Act provides that states must 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).” 42 U.S.C. § 13727(a). The information required to be reported for each such death comprises the name, gender, race, ethnicity, and age of the deceased; the date, time, and location of death; the law enforcement agency involved; and a brief description of the circumstances surrounding the death. *Id.* §13727(b). Federal law enforcement agencies must report the same information regarding deaths occurring under similar circumstances. *Id.* § 13727a(a) & (b).

The Act requires states to report the required information “on a quarterly basis and pursuant to guidelines established by the Attorney General.” *Id.* § 13727(a). It further provides that, beginning with Fiscal Year (FY) 2016 and for each fiscal year thereafter, “a State that fails to comply with [the reporting requirements], 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.)” *Id.* § 13727(c)(2). The referenced subpart of the Omnibus Crime Control and Safe Streets Act of 1968 establishes the Edward Byrne Memorial Justice Assistance Grant Program (the Byrne JAG grant program), *see* 42 U.S.C. § 3750(a), which the Department of Justice administers, *see id.* 3751(a).

Finally, the Act requires the Attorney General to carry out a study of the information reported by the states and federal law enforcement agencies 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.” 42 U.S.C. § 13727(f)(1). The Act further requires the Attorney General to submit to Congress, not later than two years after the enactment of the Act, a report that contains the findings of that study. *Id.* § 13727(f)(2).

III. Implementation of the DCRA Data Collection Requirements

The DCRA enacted in December 2014 requires the Attorney General to collect data from federal law enforcement agencies and from states.

A. Federal Data

For each fiscal year beginning with FY 2016, the DCRA requires the head of each federal law enforcement agency to report to the Attorney General information regarding the death of any person occurring during interactions with federal law enforcement officers (or with state or local law enforcement officers participating in a federal operation or otherwise acting in a federal law enforcement capacity) or while in federal custody. *See* 42 U.S.C. § 13727a(a). The information must be reported “in such form and manner specified by the Attorney General . . .” *Id.*

On October 5, 2016, the Attorney General issued a memorandum to each federal department, agency, or office that includes a law enforcement agency within its organization, notifying it of the DCRA requirements. Since then, as requested in the memorandum, the approximately 155 federal law enforcement agencies have been coordinating with the Department’s Bureau of Justice Statistics (BJS) by providing points of contact to begin the collection of FY 2016 DCRA data. BJS expects to conduct the collection of FY 2016 data from December 2016 through March 2017 and to issue a statistical report in 2017.

B. State Data

The Act requires states to report DCRA data to the Department of Justice on a quarterly basis pursuant to guidelines established by the Attorney General. *See* 42 U.S.C. § 13727(a). In conjunction with this Report, the Department is issuing its proposed guidelines for publication in a Federal Register Notice.¹ The Notice includes the Department’s proposed plans for collecting the DCRA data for FYs 2016 and beyond. Pursuant to the Paperwork Reduction Act (PRA), the Department’s DCRA data collection plans will remain open for public comment for 60 days. The Department will then develop its final guidelines and data collection plans, considering any comments and other feedback it has received. The PRA requires the publication of those final plans for another 30-day period and approval of the plans by the Office of Management and Budget before the plans may be implemented.

The Department’s proposed data collection plan will call for states to report each quarter’s data within one month following the close of the quarter. The Department also will

¹ The Department submitted an initial Notice in August 2016 and received several thousand valuable comments. Based on those comments, the Department revised its approach and is submitting a new Notice.

conduct its own open source review to identify deaths potentially covered by the DCRA.² After the states submit their initial quarterly reports, the Department will notify each state of the results of the Department's open source review. If that open source review identifies any deaths not reported in a state's initial quarterly report, the state will have to report the required information regarding those previously unreported deaths at the time it submits its next quarterly report (that is, at one month following the close of the subsequent quarter), or indicate why the death does not fall within the categories of reportable deaths under the DCRA. Thus, for deaths occurring during the 2nd Quarter of a fiscal year, the state will submit its initial quarterly report by April 30. For any 2nd Quarter deaths identified by the Department's open source review and that the state did not include in its initial 2nd Quarter report, the state will report the required data by July 31.

Considering the two notice-and-comment periods required by the PRA, the Department anticipates that states will be asked to make their first DCRA reports by July 31, 2017, which will include data pertaining to the 3rd Quarter of FY 2017. Data from the 4th Quarter of FY 2017 will be due October 31, 2017. Quarterly reporting for FY 2018 will continue thereafter. For data pertaining to FY 2016 and the first two quarters of FY 2017, the Department will identify potential reportable deaths via an open source review by May 31, 2017, and then follow up with states to request that states provide the relevant information pertaining to each death by November 30, 2017.

As explained in the subsection below regarding the Department's compliance plans, because the guidelines for reporting data pursuant to the DCRA will not be finalized before the 2nd Quarter of FY 2017, States' reporting for FY 2016 and FY 2017 will not be subject to a compliance determination. Additionally, reporting of FY 2016 and FY 2017 data pursuant to DOJ's new DCRA data collection guidelines will include only information on arrest-related deaths³—it will not include data on deaths occurring in prisons or jails. Data from 2016 and 2017 on deaths in prisons and jails will be collected via BJS's existing jails and prisons data collection program, that is, BJS's Death in Custody Reporting Program, described in subsection III.C., below. Beginning with data for FY 2018, all reportable deaths—including arrest-related deaths and deaths occurring in prisons or jails—will be collected quarterly pursuant to the DCRA data reporting guidelines.⁴ Thus, state reporting will proceed according to the following schedule.

² The review of open information sources is the process of harvesting information related to such events from publicly available information on the internet. This includes news or media outlets, official agency documents and websites, and other publicly available information.

³ The term "arrest-related deaths," as used herein, refers to deaths occurring outside the institutional context during interactions with law enforcement personnel or while in their custody, as opposed to deaths occurring in the prison or jail settings.

⁴ BJS's existing Death in Custody Reporting Program collection of prisons and jails data is an annual, calendar year collection. Thus, there will be a three-month overlap (from October through December 2017) between the FY 2018 DCRA collection of prisons and jails data and BJS's calendar year 2017 DCRP collection.

DCRA Data Reporting Schedule for States	
2016 prison or jail deaths	To be collected pursuant to BJS’s existing DCRP, based on the calendar year.
FY 2016 arrest-related deaths	To be collected through DOJ’s open source review and follow up with states to obtain relevant information by November 30, 2017.
2017 prison or jail deaths	To be collected pursuant to BJS’s existing DCRP, based on the calendar year.
FY 2017, 1st and 2nd Quarter arrest-related deaths	To be collected through DOJ’s open source review and follow up with states to obtain relevant information by November 30, 2017.
FY 2017, 3rd and 4th Quarter arrest related deaths	To be collected pursuant to DOJ’s new DCRA reporting guidelines. Data for 3rd Quarter FY 2017 will be due July 31. Data for 4th Quarter FY 2017 will be due October 31.
FY 2018 – all reportable data, including arrest-related deaths and deaths in prisons or jails	To be collected pursuant to DOJ’s new DCRA reporting guidelines. Data for 1st Quarter FY 2018 will be due January 31, 2018.
State Data Collection Plans ⁵	Due at the beginning of each fiscal year, beginning FY 2018. Plans for FY 2018 will be due October 1, 2017.

1. Compliance Plans for Collection of State Data

Under the DCRA, a state that fails to comply with the Act’s reporting requirements “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 [the Byrne JAG program].” 42 U.S.C. § 13727(c)(2).

The Department’s forthcoming proposed data collection plan will include a description of the Department’s proposed plans for determining each state’s compliance and addressing non-compliance. The compliance plans will include the following principal features.

- *Complete and timely reporting will be required.* Consistent with the language and structure of the Act, the Department will determine compliance based on whether each state has timely reported all of the information that the Act requires. For each fiscal year quarter, states will be required to report whether or not any deaths covered by the Act have occurred in the arrest, jail, and prison contexts. If a death has occurred, the state will be required to report all of the information specified in the Act. If a state’s initial quarterly report does not include any death identified by the Department’s independent open source review, the state will be required to report all information related to that previously unreported death in the state’s supplemental quarterly report. A state’s failure to timely submit any initial

⁵ See the following subsection of this Report, “Compliance Plans for Collection of State Data.”

or supplemental quarterly report, or any of the required information relating to any individual death, will constitute a failure to comply with the Act.

- *State data collection plans.* Each state will be required to report to the Department its plan for collecting and reporting DCRA data. Information on each state's data collection plan will aid the Department in assisting states that are seeking to improve their collection plans, and help the Department evaluate the reliability of all data collected. States will be required to report their plans at the beginning of each fiscal year, beginning with Fiscal Year 2018. A state's failure to report its data collection plan will constitute a failure to comply with the Act.
- *Compliance to be assessed on a fiscal year basis.* The Department will assess each state's compliance for a fiscal year after the final quarterly reports for that year have been collected. Under the forthcoming proposed data collection plan, a state's final report for a fiscal year will be due January 31 of the following year.⁶
- *Grace period for FY 2017.* Due to the notice-and-comment periods required by the PRA, discussed above, the Department's data collection plans cannot be finalized before the 2nd Quarter of FY 2017. Thereafter, states will need to develop and implement their own data collection and reporting systems. For these reasons, though the Department anticipates reporting to begin in FY 2017, the Department will not reduce any state's grant award for failure to comply with the reporting requirements during FY 2017. States' FY 2017 reporting will play an important role, however, not only in collecting FY 2017 data, but in allowing states to test their data collection and reporting processes, identify any necessary improvements, and develop the data collection plans that they will use for FY 2018. As noted above, states will be required to report those plans at the beginning of FY 2018.
- *Addressing noncompliance.* The Act does not require a state's Byrne JAG award to be reduced for the state's failure to comply, but makes such an award reduction subject to the discretion of the Attorney General. The Department proposes to provide each noncomplying state the opportunity to dedicate up to 10% of its Byrne JAG award for the following fiscal year to take measures necessary to achieve compliance. Noncomplying states that refuse that opportunity will be subject to a 10% reduction of their Byrne JAG award, which will be factored into the calculation of each state's award announced in the spring of each year. Thus, in February 2019, for example, DOJ will determine whether each state has complied with the DCRA requirements during FY 2018 reporting. States that

⁶ A state's initial 4th Quarter data will be due one month after the close of the quarter, that is, on October 31. The Department will then inform each state about the results of the Department's open source review, and each state will have to submit a supplemental report—with information related to any previously unreported deaths—when the state's initial report for the following quarter is due, that is, on January 31.

refuse the opportunity to dedicate up to 10% of their forthcoming Byrne JAG funding towards compliance efforts will be subject to a 10% reduction of the Byrne JAG awards announced in the Spring of 2019. The total amount by which the awards of noncomplying states are reduced will be reallocated among the states that have complied with the Act.

C. Currently Available Information

The Department has been collecting and studying death-in-custody information—including information on arrest-related deaths and deaths in prisons and jails—since 2001. The DCRA enacted in December 2014 builds on the Death in Custody Reporting Act of 2000, Pub. L. No. 106-297, 114 Stat. 1045 (codified in 42 U.S.C. § 13701 note & § 13704(a)(2)), which required states to report information to the Attorney General on deaths occurring in the process of arrest or while in the custody of prison or jail authorities. *Id.* In response to the 2000 law, BJS created the Deaths in Custody Reporting Program (DCRP).⁷ That program collected information on deaths occurring in three different contexts: deaths in jails, deaths in prisons, and arrest-related deaths.

BJS began its data collection on deaths in jails in 2000 and its collection on deaths in prisons in 2001. Since then, BJS has annually collected data from 100% of the fifty state prison systems and more than 94% of the country's 2,870 jail jurisdictions, which represent 3,170 jail facilities.⁸ BJS collects the jails and prisons data on a calendar year basis. The DCRP remains the only national statistical collection to obtain comprehensive information about deaths in adult correctional facilities.⁹ BJS uses DCRP data to track national trends in the number and causes (or manners) of deaths occurring in state prison or local jail custody.

In conjunction with this Report to Congress, BJS has released its latest reports on *Mortality in Local Jails, 2000-2014* and *Mortality in State Prisons, 2001-2014*. The reports are available on its website at www.bjs.gov. As related in those reports, 3,927 inmates died in state (3,483) and federal (444) prisons in 2014, up slightly from 3,879 in 2013. These numbers are the highest since the collection of inmate deaths in state and federal prisons began in 2001. Nearly nine in ten (87%) deaths were illness-related, with cancer (30%) and heart disease (26%) accounting for more than half. Almost all (96%) of the inmates who died in state prisons in 2014 were male. And more than half (55%) of the state prisoners who died in 2014 were non-Hispanic white.¹⁰ In local jails, 1,053 inmates died in 2014, up from 971 in 2013. This was the largest number of jail inmate deaths reported by the DCRP since 2007. Suicide, the leading cause of death in local jails, accounted for more than a third (35%) of deaths in local jails. The jail suicide rate increased 8% between 2013 and 2014 to 50 suicides per 100,000 local jail

⁷ See Bureau of Justice Statistics, *Data Collection: Deaths in Custody Reporting Program (DCRP)*, <http://www.bjs.gov/index.cfm?ty=dcdetail&iid=243>.

⁸ Margaret Noonan, et al., Bureau of Justice Statistics, *Mortality in Local Jails and State Prisons, 2000–2013 - Statistical Tables 29* (Aug. 2015), <http://www.bjs.gov/content/pub/pdf/mljsp0013st.pdf>.

⁹ *Id.*

¹⁰ Margaret Noonan, Bureau of Justice Statistics, *Mortality in State Prisons, 2001-2014 – Statistical Tables* (Dec. 2016).

inmates. This is the highest suicide rate observed in local jails since the DCRP began in 2000. More than a third (425 of 1,053) of inmate deaths in jails in 2014 occurred within the first 7 days of admission.¹¹

Apart from its collection of data on deaths in prisons and jails, BJS initiated its Arrest-Related Deaths (ARD) data collection program in 2003.¹² The program relied on state reporting coordinators in each of the 50 states and the District of Columbia to identify and report on all eligible cases of arrest-related deaths.¹³ BJS ultimately determined, however, that the data collected did not meet BJS data quality standards as the program identified only about half of the arrest-related deaths that occurred each year.¹⁴ BJS therefore suspended the program in 2014.¹⁵ BJS then tested a new methodology. Instead of relying solely on States to affirmatively submit information on reportable arrest-related deaths, BJS piloted a mixed method, hybrid approach that used open sources to identify eligible cases, followed by data requests to law enforcement, medical examiners, and/or coroner offices for incident-specific information about the decedent and circumstances surrounding the event. During the follow-up, BJS also would request information on other arrest-related deaths that had not been identified through open sources. The results of the redesigned “open source review” approach showed substantial improvements in data coverage and quality.

In conjunction with this Report to Congress, BJS has released its report on its revised ARD study. The BJS report, *Arrest-Related Deaths Program Redesign Study, 2015-2016*, is available at www.bjs.gov. As that report indicates, media reviews and agency surveys together identified a total of 425 arrest-related deaths that occurred during the test phase from June through August 2015. Twelve percent of the 425 deaths during that test phase were reported by agency respondents and not initially identified through media searches. Of all deaths occurring in June, July, and August 2015, 64% were homicides, 18% were suicides, and 11% were accidents. BJS continued to identify deaths using open source information after August 2015, although those data were not subject to follow-up verification as were the June-August 2015 data. Based on deaths identified from the open source review from June 2015 through May 2016, and assuming an additional 12% identified by agencies (consistent with the percentage of additional deaths identified by the agencies during BJS’s test phase), BJS estimates that approximately 1,900 arrest-related deaths occurred during that period.¹⁶

¹¹ Margaret Noonan, Bureau of Justice Statistics, *Mortality in Local Jails, 2000–2014 - Statistical Tables* (Dec. 2016).

¹² See Bureau of Justice Statistics, *Arrest-Related Deaths*, <http://www.bjs.gov/index.cfm?ty=tp&tid=82>.

¹³ See Michael Planty, et al., Bureau of Justice Statistics, *Arrest-Related Deaths Program: Data Quality Profile 5 n.5* (March 2015), <http://www.bjs.gov/content/pub/pdf/ardpdqp.pdf>.

¹⁴ See Bureau of Justice Statistics, *Arrest-Related Deaths*, *supra* note 12; Planty, et al., *supra* note 13, at 15, 17.

¹⁵ See Bureau of Justice Statistics, *Arrest-Related Deaths*, *supra* note 12.

¹⁶ Duren Banks, et al., Bureau of Justice Statistics, *Arrest-Related Deaths Program Redesign Study, 2015-2016: Preliminary Findings 7-8* (Dec. 2016).

As noted above, BJS will collect 2016 and 2017 data on deaths in prisons and jails pursuant to the DCRP. Once the Department’s mandatory collection of such data pursuant to the DCRA begins with FY 2018, however, in order to minimize duplication of effort, BJS will suspend its DCRP collection of data on arrest-related deaths and deaths in prisons and jails. The Department will publicly release data collected pursuant to the DCRA, including the State plans, the number of deaths reported for each agency and facility, and data on the circumstances surrounding those deaths. The release will exclude personally identifiable information and will be consistent with any applicable Department policies and federal laws, including federal privacy laws. The data will also be available for Department use, consistent with the Department’s missions, policies, and legal authorities.

IV. Assessment of DCRA Reporting and Data Quality

The Department will assess FY 2017 and 2018 reporting and data quality to determine whether the DCRA data reporting program is producing reliable data and what changes may be necessary to improve data quality. The plan proposed by the Department blends the DCRA statutory requirements with elements of other data collection efforts that have shown promise to improve data quality, accuracy, and reliability. However, some significant challenges in establishing a comprehensive, reliable data collection program already are apparent, and legislative changes may be necessary.

Among the more significant challenges, the Act requires states to report information that the states do not necessarily possess. In general, of the three kinds of deaths covered by the Act—arrest-related deaths, deaths in jails, and deaths in prisons—states have firsthand knowledge primarily of deaths in state prison systems; they will not be the best source of data for deaths encountered by local law enforcement agencies or jails. BJS’s experience with its Death in Custody Reporting Program, discussed above, has shown that where it collects the information directly from the agencies that have it, from prisons and jails, it can achieve a reasonably comprehensive and reliable data collection. But where BJS must go through states to collect information that the states do not independently possess, as in BJS’s suspended Arrest-Related Deaths program, the data quality is likely to suffer without significant proactive oversight by the Department.¹⁷

The possible shortcomings of a state-centered arrest-related deaths collection program may be mitigated in a number of ways. First, implementation of the compliance determination

¹⁷ Please note that, unlike the Department’s collection of data pursuant to BJS’s DCRP, the collection of data pursuant to the DCRA will be managed by the Department’s Bureau of Justice Assistance (BJA). BJA administers the Byrne JAG Program and the compliance and penalty determinations that program requires. BJS will not administer the DCRA collection because its compliance is tied to the administration of the Byrne JAG Program, and BJS’s statistical directives make clear that it “must function in an environment that is clearly separate and autonomous from the other administrative, regulatory, law enforcement, or policy-making activities” of the Department. Office of Management and Budget, *Statistical Policy Directive No. 1: Fundamental Responsibilities of Federal Statistical Agencies and Recognized Statistical Units*, 79 Fed. Reg. 71610, 71615 (Dec. 2, 2014).

and possible assessment of penalties on noncompliant states may have the effect of increasing reporting quality, as Congress has envisioned.

Second, the Department will use an independent open source review to identify deaths that states may miss in their initial quarterly reporting. Though promising in the short term, however, the Department's use of an open source review to independently identify deaths is not a sustainable long term solution. The cost of conducting the quarterly open source review and the follow up with the states—and, indeed, for administering the DCRA data collection program as a whole—will be significant. The open source review is effective at identifying almost only arrest-related deaths and misses the majority of deaths that occur in jails and prisons. Additionally, there are data-quality limitations inherent in an open source review. BJS has found, for example, that the media sources reviewed often cover only “newsworthy” deaths and higher profile cases; there may be considerable regional and local variation in media coverage for arrest-related deaths; information on web-based news platforms may be available for a limited time; and, most importantly, the quality of information from open sources is unknown and is likely to vary over time, by source, and in comparison to official records.¹⁸ Some of these shortcomings can be addressed as states follow up with the law enforcement agencies involved in the deaths identified by the open source review, but that follow-up will not identify deaths that the open source did not discover and that involved different law enforcement agencies.

Finally, reliable data likely can be obtained through affirmative efforts by states to implement a comprehensive state data collection plan to reach out to and coordinate with the local authorities in possession of the data. However, these affirmative efforts may require concerted, sustained outreach, new data management and reporting systems, and significant resource investment by states.

Cost presents significant challenges in other ways as well. The federal government must be mindful that any collection of information from local law enforcement or detention authorities, whether by the states or the federal government, will impose some burden on the local authorities to collect and report the data. The federal government already asks state and local law enforcement to report crime data through the Uniform Crime Reporting program administered by the Federal Bureau of Investigation (FBI). The FBI, with the support and cooperation of state, local, and tribal law enforcement partners, also is establishing the National Use of Force Data Collection program, which will ask federal, state, local, and tribal law enforcement agencies to report information on law enforcement uses of force. The Department will examine ways to improve the data quality of these collections and reduce the associated reporting burdens on state and local authorities. In doing so, the Department will look not only to reduce duplicative reporting, but to examine what infrastructure improvements, such as new records management systems, will be needed by states and local authorities to efficiently collect and report the data.

¹⁸ Duren Banks, et al., RTI International, *Arrest-Related Deaths Program Assessment, Technical Report 34* (Mar. 2015), <http://www.bjs.gov/content/pub/pdf/ardpatr.pdf>.

V. Study of Data Collected

A. Status of DCRA Study

The Act requires the Department of Justice to conduct a study of data collected and to report on that study by December 18, 2016. The first period for which the Act requires collection is FY 2016, *see* 42 U.S.C. § 13727(a), which ended September 30, 2016. The Department has not yet collected all FY 2016 data. Section III of this Report addresses the methods and timetables for collecting FY 2016, FY 2017, and FY 2018 data, and the study will be conducted once the data are available.

B. Parameters of the Study

The Department intends to hire an external consultant or team of consultants with appropriate expertise, such as expertise in statistical methods, criminal justice policing practices, institutional corrections, emergency and long-term medical care, and mental health care, to analyze the data collected. Using an external consultant is preferable because of the unique combination of skills this study requires and to avoid a potential conflict of interest that could arise from analyzing data and making recommendations concerning federal law enforcement agencies. While the consultant shall have discretion in determining precisely how to execute the study, the Department will provide specific direction on aspects of the study required by the Act.

For part (A) of the study, the Act requires the Department to determine the means by which the data collected can be used to reduce the number of in-custody deaths. 42 U.S.C. § 13727(f)(1). The Department will confer with the consultant on the best means of addressing this question, bearing in mind the differences among the different categories of agencies (law enforcement agencies, jails, and prisons) and within each category of agency.¹⁹ The consultant will assess the number of deaths and the causes of death by agency, compare the number of deaths among agencies with similar characteristics, and identify agencies that substantially deviated from the norm both in quantity and cause of death. The consultant also will determine the most common manners and causes of death and develop specific recommendations for how to reduce such deaths, with such recommendations addressing necessary policies, procedures, staffing levels, officer training, supervision, accountability measures, and the provision of timely medical and mental health care, among other recommendations. The consultant will consider all relevant available information, including best practices from industry experts, provisions of settlement agreements aimed at reducing the number of in-custody deaths, recommendations from professional law enforcement organizations and community advocates, and other relevant research materials.

For part (B) of the study, the Act requires the Department to examine the relationship between the number of deaths and the actions of management of such jails, prisons, and other specified facilities relating to such deaths. 42 U.S.C. § 13727(f)(1). The data the Department is

¹⁹ Relevant factors will include agency size, the various characteristics of the community served, the local crime rate, the criminal history of the decedent, and others. These factors will vary in examining law enforcement agencies, prisons, or jails.

authorized to collect under the Act does not, however, include information about management practices. The consultant will need to collect data and other relevant information from criminal justice agencies to obtain more information about their managerial practices, in addition to consulting other available and relevant information. The consultant will focus on comparing the managerial practices of similar agencies where the number of deaths deviates significantly from the norm.

Although Congress has authorized the Department to collect data on deaths in custody for the foreseeable future, the Act requires the Attorney General to carry out a study of the data and submit a report that contains the findings of the study only once. *See* 42 U.S.C. § 13727(f). Because the Department believes there is significant merit in studying the trends of in-custody deaths over time, the Department intends to conduct this study periodically and to submit subsequent reports to Congress. This study and any study thereafter will require funding to obtain a consultant or team of consultants with the requisite expertise to review and analyze the data and draft a report of recommendations. Once the Department has examined the funding necessary to complete the study, the Department will work with Congress to ensure that the study can be completed.

Conclusion

The DCRA represents an important step in the collection of information that is of tremendous value to all stakeholders in the criminal justice system. The Department has made significant progress in developing a collection method that is consistent with the statute, while sensitive to the costs and challenges that collecting and reporting the data will entail for states and for the Department. The Department looks forward to partnering with states, law enforcement, community groups, and other stakeholders as we continue to implement the DCRA data collection program. To that end, the Department encourages public comment and feedback on the data collection guidelines published this month in the Federal Register Notice and will closely review those comments and feedback in developing the Department's final data collection plans.