



United States Government Accountability Office

## Testimony

Before the Permanent Subcommittee on  
Investigations, Committee on Homeland  
Security and Governmental Affairs,  
U.S. Senate

For Release on Delivery  
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## DEATHS IN CUSTODY

### Additional Action Needed to Help Ensure Data Collected by DOJ Are Utilized

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# ● Death in Custody Reporting Act

- Passed in December 2014
- Reporting requirements for federal law enforcement agencies
- Reporting requirements for states receiving certain federal grants
- Study and report requirements for Department of Justice (DOJ)



# ● Federal and State Requirements

- Report data on deaths of individuals in custody
- Reportable deaths generally include those that occurred while a person was in the process of being arrested, or incarcerated or detained at facilities such as prisons , jails, and juvenile facilities.
- Required Information
  - Gender, race, ethnicity, and age
  - Date, time, and location of death
  - Law enforcement agency
  - Brief description of the circumstances surrounding the death



# ● DOJ Requirements

- DOJ is to conduct a study to:
  - 1) determine means by which death in custody data can be used to reduce the number of such deaths
  - 2) examine the relationship, if any, between the number of deaths and the actions of management of jails, prisons, and other specified facilities relating to such deaths
- Report its findings to Congress



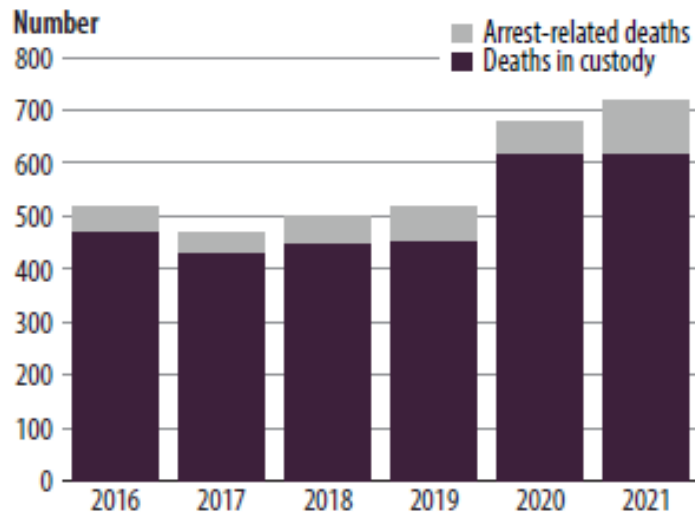
# ● Federal Data Collection

- DOJ's Bureau of Justice Statistics (BJS) began collecting in 2016
- BJS released multiple reports to public, including information on:
  - Number of deaths in custody
  - Federal agency
  - Manner of death
  - Demographic information of deceased
- DOJ officials told us they intend to publish reports on an ongoing basis



# ● BJS Report on FY 2021 Federal Data

**FIGURE 1.**  
Number of arrest-related deaths and deaths in custody, FY 2016–2021



Note: See appendix table 1 for counts. Excludes seven federal executions in fiscal year 2020 and six in fiscal year 2021. For execution data, see *Capital Punishment, 2021 – Statistical Tables* (NCJ 305534, BJS, November 2023). See *Methodology*.  
Source: Bureau of Justice Statistics, Federal Law Enforcement Agency Deaths in Custody Reporting Program, fiscal years 2016–2021.

**TABLE 1**  
Number of deaths reported, by type of death and federal agency, FY 2021

	Arrest-related deaths	Deaths in custody
<b>Total deaths</b>	105	613
<b>Amtrak Police Department</b>	1	0
<b>Department of Defense</b>		
U.S. Marine Corps Police	1	0
<b>Department of Homeland Security</b>		
Customs and Border Protection	48	1
Immigration and Customs Enforcement	0	5
<b>Department of Justice</b>		
Drug Enforcement Administration	3	0
Federal Bureau of Investigation	10	0
Federal Bureau of Prisons	0	495
U.S. Marshals Service	39	108
<b>Department of the Interior</b>		
Bureau of Indian Affairs	1	4
National Park Service, Ranger Division	1	0
<b>U.S. Capitol Police</b>	1	0

Note: Excludes six federal executions. For execution data, see *Capital Punishment, 2021 – Statistical Tables* (NCJ 305534, BJS, November 2023). See *Methodology*.

Source: Bureau of Justice Statistics, Federal Law Enforcement Agency Deaths in Custody Reporting Program, fiscal year 2021.



# ● State Data Collection

- DCRA required the data collection to begin in 2016
  - DOJ's Bureau of Justice Assistance began collecting data four years later, in 2020.
- Data collection process has faced challenges; DOJ is taking some steps to address challenges
- DCRA does not require DOJ to publish data
  - As of September 2022, DOJ officials said they had no plans to publish state data



# ● GAO Analysis of FY 2021 State Data

GAO examined whether:

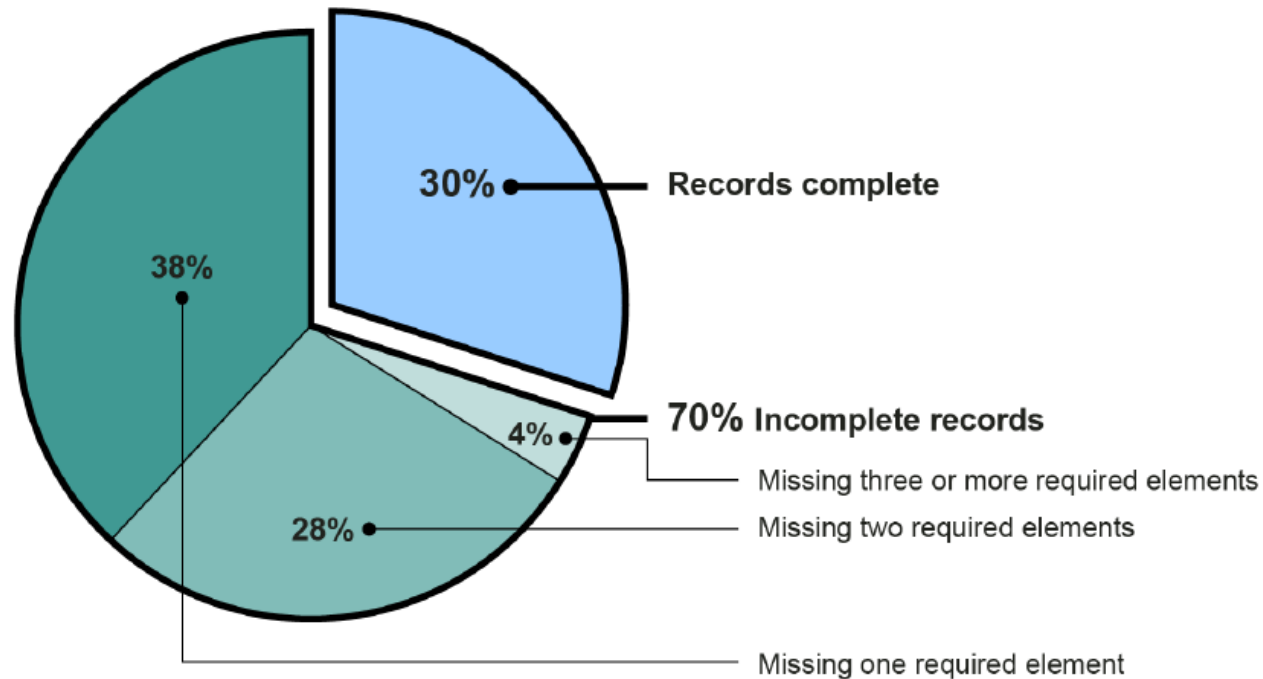
- Records contain required elements
- States report all deaths in their custody
- DOJ completed required study and report to Congress





# State Reporting – Required Elements

**Figure 1: Percentage of State Death in Custody Records That Were Complete or Missing Required Elements, Fiscal Year 2021**



Source: GAO analysis of state death in custody data collected by the Department of Justice. | GAO-22-106033

Note: We analyzed fiscal year 2021 data the Department of Justice collected from states in response to the Death in Custody Reporting Act, as of November 16, 2021. Required elements include biographical information on the deceased, as well as the date, time, and location of death; the law enforcement agency that detained, arrested, or was in the process of arresting the deceased; and a brief description of the circumstances surrounding the death.



# ● State Reporting – Completeness

- Unreported Deaths
  - We reviewed information available on state government web sites and a public database on arrest-related deaths
  - Nearly 1,000 deaths in FY 2021 were not reported by states



# ● State Reporting – Compliance with DCRA


- DOJ has taken steps to assist states in reporting death in custody data
- However, we reported in September 2022 that DOJ had not yet determined whether states complied with DCRA



- Study and Report to Congress

- Status of study
  - Federal Data
  - State Data
- Status of report to Congress





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## Matter for Congressional Consideration

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Congress should consider the extent to which DCRA should be amended to help ensure that any future state data provided under the act are utilized for recurring study and reporting by DOJ to Congress and the public. (Matter for Consideration 1)

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## Recommendation for Executive Action

The Assistant Attorney General for the Office of Justice Programs should develop a DOJ implementation plan—that includes documentation of metrics and corresponding performance targets, and identifies roles and responsibilities for taking corrective action—to determine state compliance with DCRA. (Recommendation 1)





- DOJ Actions Since GAO Report
- Q&A

