

**Kansas Implementation Plan for Death in Custody Report Act
Prepared by the Kansas Governor's Grants Program
August 2023**

**FY 2023 Federal Edward Byrne Memorial Justice Assistance Grant Program
Federal Grant Application # A-480753**

Death in Custody Report Act (DCRA) Data Collection Infrastructure

1. Does your state have a death-in-custody reporting law, requiring state and local agencies to report the related data to a state entity?

The following Kansas Statutes Annotated (K.S.A.)

K.S.A.75-52,147. Death of inmate in custody of secretary of corrections or juvenile in custody of commissioner of juvenile justice; investigation by Kansas bureau of investigation. On and after July 1, 2004, whenever death occurs of an inmate, who is in the custody of the secretary of corrections and who resides in a correctional facility or boot camp operated by or contracted through the secretary or of a juvenile, who is in the custody of the commissioner of juvenile justice and who resides in an institution operated by or contracted through the commissioner, an investigation regarding the circumstances of the death shall be initiated by the Kansas bureau of investigation. A report of the findings of the investigation shall be made available to the chairperson of the senate judiciary committee and the house corrections and juvenile justice committee of the Kansas legislature and shall be subject to the open records act, K.S.A. 45-215, and amendments thereto. No such investigation by the Kansas bureau of investigation shall be required if the cause of death is determined to be natural, by a qualified autopsy, preliminary autopsy report or death certificate or the inmate or juvenile was regularly attended by a licensed physician.

K.S.A. 19-1935. Death of prisoner in custody of city or county; investigation by Kansas bureau of investigation. On and after July 1, 2004, whenever the death of a prisoner in the custody of a city or county and residing in jail or in a facility contracted through the city or county, or both, occurs, an investigation regarding the circumstances of the death shall be initiated by the Kansas bureau of investigation. A report of the findings of the investigation shall be made available to the chairperson of the senate judiciary committee and the house corrections and juvenile justice committee of the Kansas legislature and shall be subject to the open records act, K.S.A. 45-215, and amendments thereto. No such investigation by the Kansas bureau of investigation shall be required if the cause of death is determined to be natural, by a qualified autopsy, preliminary autopsy report or death certificate or the prisoner was regularly attended by a licensed physician.

2. How many non-federal law enforcement agencies, municipal or county jails or lockup facilities, state or contract prisons, or state-run/contract boot camp facilities are in your state?

There are 94 county jails, no municipal jails, 2 temporary municipal holding cells for individuals in custody waiting for transport to a county jail, 10 adult prison facilities and 1 juvenile state operated facility.

3. Are there any agencies that are not actively participating in your state's DCRA data collection?

The Kansas Bureau of Investigation (KBI) does not track non-participating agencies for DCRA data collection. The KBI relies on agencies to report death in custody cases as required by state law.

4. If agencies are not actively participating in your state's DCRA data collection, establish lines of communication and encourage non-reporting entities to start reporting.

The following steps will be initiated:

- The KGGP staff will check with the KBI to determine if any JAG subgrantees are reporting DCRA data. The KGGP will inform the Kansas Criminal Justice Coordinating Council of the agencies not complying with reporting in-custody deaths to the KBI prior to awarding Kansas Byrne Justice Assistance Grant (JAG) funds to the agencies.
- The KGGP will request the KBI Director to send a written notification to agencies regarding the statutory requirement and the Kansas penalty of withholding grant funds from the Federal JAG Program.

5. Do you provide training or technical assistance (TTA) to assist state and local agencies with reporting DCRA data?

The Kansas Governor's Grants Program does not provide training to law enforcement agencies on submitting DCRA data.

6. Do you need TTA from Federal Bureau of Justice Assistance (BJA) as it relates to complying with the requirements of DCRA?

No

Data Collection Methods

7. Who within your agency is responsible for DCRA data collection from state/local agencies?

The KGGP has requested the KBI prepare a spreadsheet of in-custody deaths that occurred during each calendar quarter and forward it no later than 15 days after the end of each calendar quarter to the KGGP Director of Operations who will prepare a file of all deaths reported. The KBI collects and reports data as required by K.S.A.75-52,147 and K.S.A. 19-1935, but does not have access to, nor a requirement to obtain, records of deaths that occur outside of these statutes. The Financial Officer receives the data from the Kansas Department of Corrections (KDOC) and the information is compiled in a spreadsheet. The KGGP Financial Officer prepares and submits the required data to BJA.

8. Examine your methods for collecting reportable death data from each type of reporting entity (e.g., local law enforcement, local jails/lockup, and state correctional institutions).

The KGGP relies on the KDOC and the KBI for death notification reports. If other in-custody deaths are known to have occurred and are not reported to the KDOC or KBI per Kansas statute, the KGGP will request the KDOC and the KBI to reach out to the prison facilities and local city and county jails, respectively, for the follow-up information.

The Kansas JAG solicitation will include the following language regarding DCRA reporting for potential applicants:

Death in Custody Reporting Act

If the applicant is a law enforcement agency or correctional facility, the applicant must verify in this section whether the applicant is reporting data to the KBI in accordance with the Death in Custody Reporting Act (DCRA; Public Law 113-242). The DCRA requires states that receive funding under the JAG Program to report to the U.S. Attorney General 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, or any State or local contract facility, or other local or State correctional facility (including any juvenile facility)."

9. What challenges does your state face in collecting and reporting DCRA data? What can be done to overcome those challenges?

The ability of the KBI to report data promptly to the KGGP makes it challenging for KGGP staff to report complete DCRA data to the BJA. The Kansas statutory authority for in-custody deaths does not give the KBI authority to investigate all deaths-in-custody. For example, information related to in-custody deaths attended by a physician is not collected by the KBI. The KDOC does capture all death-in-custody data, however, there is no mechanism for gathering such data from municipal or county jails.

To overcome the challenge, the Kansas statute would need to be changed to give the KBI authority to contact city and county jails that experience a death-in-custody incident to collect the required DCRA data and submit it to KGGP quarterly.

10. What data collection tools does your state use for DCRA data (e.g., spreadsheets, administrative records, data systems, etc.)?

The Kansas statutory authority related to in-custody deaths requires an investigation by the KBI. The KBI aggregates the information related to those investigations based on the KBI In-Custody Death Report per K.S.A.75-52,147 and K.S.A. 19-1935 and will share the information with the KGGP for DCRA purposes. The KGGP has requested the KBI send quarterly reports of the information to the KGGP for download and transfer the data to the BJA-provided spreadsheet.

Data Reporting Methods

11. How is DCRA data reported to BJA (e.g., manual data entry in the Performance Measurement Tool [PMT] or the data import feature in the PMT)?

The Financial Officer manually enters the data to the quarterly Performance Measurement Tool report, ensuring data is completed to the fullest extent possible based on information available at the time of the report submission.

12. Does your agency have a process for tracking and updating the status of records that are open or pending investigation?

Currently the KGGP relies on the KDOC and the KBI to report death-in-custody cases. When the KGGP is made aware of deaths not included in the KDOC or the KBI data, the KGGP staff will reach out to the relevant agency to collect the data needed to complete the BJA PMT report.

Data Collection Best Practices

13. BJA data collection requires thorough understanding of a program's performance measures. Before developing a DCRA State Implementation Plan, State Administering Agencies (SAAs) should review DCRA performance measures, focusing on the numbers, narratives, or other data that needs to be collected—being mindful that poor quality or inaccurate data will result in flawed output. Each SAA should consider assigning one (or more) staff member(s) to coordinate DCRA data collection and reporting.

The KGGP Attorney will review and coordinate DCRA data collection and reporting including the necessary performance measures data information.