

EXHIBIT 3

Data Inconsistencies for Federal Data Collection on Mortalities in Correctional Institutions
Prof. Andrea Armstrong, Loyola University New Orleans College of Law
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This memo provides the following information:

Part I provides an overview of data collection instruments, with links to the actual forms.

Part II identifies important data that will no longer be collected under the BJA survey.

Part III identifies data inconsistencies for data collected by both BJS and BJA.

Overall the most important data gaps for deaths behind bars are:

- Lack of population and admissions information, since these numbers can be used as the denominator to determine mortality rates for incarcerated population. (Part II)
- Lack of information on facilities with no deaths (Part II)
- No data collected for decedent offenses, trial status, mental health stays, location of deaths and incidents leading to death, medical examiner review, pre-existing conditions, and types of medical care received for illness related deaths. This information will no longer be available for analysis. (Part II)
- Lack of specificity for medically related causes of death. This is particularly important for determining which diseases/illnesses are the leading causes of death. (Part III)
- Type of facility data by BJA will obscure juvenile facility deaths, unless the Census Bureau continues its data collection (Part III)

Additional inconsistencies and data gaps are noted in the tables in Parts II and III

I. Overview of types of data collection instruments and agencies for deaths behind bars:

A. BJS (Bureau of Justice Statistics for [data 2014-2019](#))

1. Jails [CJ-9](#), [CJ-9A](#)

- CJ-9A -Summary form for Deaths in Custody information. This will have the total number of deaths for a calendar year
- CJ-9 -If there are deaths at a facility they will submit this form for each individual who died and provide information about that individual's death and circumstances surrounding their incarceration.

2. Private or multi-jurisdictional facilities [CJ-10](#), [CJ-10A](#)

- CJ-10A -Summary form for Deaths in Custody information. This will have the total number of deaths for a calendar year
- CJ-9 -If there are deaths at a facility they will submit this form for each individual who died and provide information about that individual's death and circumstances surrounding their incarceration.

3. State prisons [NPS-4](#), [NPS-4A](#)

- NPS-4A – Summary form for Deaths in Custody information. This will have the total number of deaths for a calendar year
- NPS-4 - If there are deaths at a facility they will submit this form for each individual who died and provide information about that individual's death and circumstances surrounding their incarceration.

- B. BJA (Bureau of Justice Assistance for data 2020-2021)
1. [“DCRA Performance Measure Questionnaire”](#) form
This appears to be the form for all jails, state and private prisons and juvenile detention centers but DCRP 2013 requires federal data collection as well.¹
- C. Census Bureau (for juveniles for all years)
1. [CJ-14/15](#) Juvenile census form, which includes question on deaths in facilities.
 - CJ-15 for even years and CJ-14 for odd years.
 - It is unclear if the Census Bureau will continue to collect this information.

II. Missing Data in BJA Data Collection

BJA will no longer collect the following pieces of information:

Missing Data	Significance
<p>Admissions/Population Q1, 2 of CJ-9A Summary form</p> <p>1. How many persons under the supervision of your jail jurisdiction were...</p> <p>1a. CONFINED in your jail facilities on December 31, 2010? (male/female)</p> <p>1b. ADMITTED to your jail facilities during 2010? (male/female)</p> <p>2. Between January 1, 2010, and December 31, 2010, what was the average daily population of all jail confinement facilities operated by your jurisdiction? (male/female)</p>	<p>This data is critical for calculating mortality rates at the facility and state level. Admissions and population information can be the denominator for determining rates of death. Determining mortality rates for incarcerated populations is important so we can assess whether the rate of deaths behind bars is similar or different from mortality rates for the same causes generally. For example, Prison Policy Institute concluded that mortality rates for suicides in jail are significantly higher than suicide rates generally in the U.S.,² which would be impossible without population data.</p>
<p>Facilities with ZERO DEATHS – Q3, of CJ-9A Summary form</p> <p>Between January 1, 2010, and December 31, 2010, how many persons died while under the supervision of your jail jurisdiction? (male/female)</p>	<p>The BJA form is statewide and does not require reporting for facilities with zero deaths. This information is important to help identify facilities (and facility characteristics, such as size) that do not have death outcomes and may be models for other jails that are death hotspots. This data led to the BJS finding that approximately 80% of jails do not have a death in a given calendar year.³</p>
<p>Offenses for detention Q10 - For what offense(s) was the inmate being held?</p>	<p>Will not be able to analyze the offenses for people who died behind bars, for example are they</p>

¹ See also BJA [Death in Custody Report Act Factsheet](#), BJA [Death in Custody Report Act Performance Management Tool FAQ](#),

² Leah Wang, Prison Policy Institute, [Rise in jail deaths is especially troubling as jail populations become more rural and more female](#), (June 23, 2021)

³ See e.g. E. Ann Carson, U.S. Dep’t of Justice, Bureau of Just. Stat, [Mortality in Local Jails, 2000-2018 – Statistical Tables](#), 2 (April 2021)(noting 78% of jails in 2018 reported no deaths)

	related to substance abuse, non-violent or violent crimes.
Trial status Q11 - What was the inmate’s legal status at time of death? (convicted-new, convicted-parole/probation violation; unconvicted; other)	Will not be able to determine how many deaths were pre-trial, for example. My back of the envelope calculations based on BJS data are roughly 21% of U.S. carceral deaths are pre-trial. ⁴
Mental health treatment Q12 - Since admission, did the inmate ever stay overnight in a mental health observation unit or an outside mental health facility?	Will not be able to assess role of mental health status in manner of death without this information, particularly for suicides. Suicides are the second leading category of deaths in local jails, ⁵ and state and federal prisons. ⁶ “From 2001 to 2019, suicides accounted for 5% to 8% of all deaths among state and federal prisoners and 24% to 35% of deaths among local jail inmates.” ⁷
Location of death WITHIN facility Q13: Where did the inmate die? Checkbox options include: In a general housing unit within the jail facility or in a general housing unit on jail grounds; In a segregation unit; In a special medical unit/infirmarium within the jail facility; In a special mental health services unit within the jail facility; In a medical center outside the jail facility; In a mental health center outside the jail facility; While in transit; Elsewhere - Please Specify	This information is important to determine where deaths (not the precipitating incident if applicable) occurred. If deaths are located in non-medical spaces, this may implicate the response times/practices by the facility. BJS also specifically includes solitary confinement spaces, which are completely omitted from BJA data collection.
Medical examiner review of cause of death Q14: Are the results of a medical examiner’s or coroner’s evaluation (such as an autopsy, postmortem exam, or review of medical records) available to establish an official cause of death?	This information is critical for data rigor by linking the cause of death reported to BJS to findings from a medical evaluation. In addition, this data allows researchers to determine to what extent deaths are reviewed by medical authorities.

⁴ Bureau of Justice Statistics indicate that from 2001 to 2018, 86,173 people died nationwide in jails and federal and state prisons, of which 18,299 were in jails. See E. Ann Carson, Bureau of Just. Stat., U.S. Dep’t of Just., [Mortality in State and Federal Prisons 2001-2018—Statistical Tables](#) 1 (2021) (identifying 67,874 deaths in federal and state prisons); E. Ann Carson, Bureau of Just. Stat., U.S. Dep’t of Just., [Mortality in Local Jails 2001–2018—Statistical Tables](#) 6 tbl.1 (2021) (listing number of deaths per year in 2000 and 2008–2018, including a total of 11,106 deaths 2008-2018). For the years 2001–2007, 7,193 people died in custody in jails. Margaret Noonan, Bureau of Just. Stat., U.S. Dep’t of Just., [Mortality in Local Jails 2000–2007](#), 7 tbl. 8 (2010)(listing total number of deaths 2000-2007).

⁵ E. Ann Carson, U.S. Dep’t of Justice, Bureau of Just. Stat., [Mortality in Local Jails, 2000-2018 – Statistical Tables](#), 3 (April 2021)

⁶ E. Ann Carson, U.S. Dep’t of Justice, Bureau of Just. Stat., [Mortality in State and Federal Prisons, 2001-2018 – Statistical Tables](#), 2 (April 2021)

⁷ E. Ann Carson, U.S. Dep’t of Justice, Bureau of Just. Stat., [Suicide in Local Jails and State and Federal Prisons, 2000–2019 – Statistical Tables](#), 1 (Oct. 2021)

<p>Checkbox options include: Yes, Evaluation complete—results are pending, No evaluation is planned.</p>	
<p>Incident location (compared to location of death) Q16: Where did the incident (e.g., accident, suicide, or homicide) causing the death take place? Checkbox options include: NOT APPLICABLE—Cause of death was illness, intoxication, or AIDS-related; In the jail facility or on the jail grounds including a) In the inmate’s cell/room b) In a temporary holding area/lockup In a common area within the facility (e.g., yard, library, cafeteria) c) In a segregation unit d) In a special medical unit/infirmiry e) In a special mental health services unit f) Elsewhere within the jail facility; Outside the jail facility (e.g., while on work release or on work detail); Elsewhere (specify)</p>	<p>Will not be able to analyze the location of incidents. The location in which incidents occur can be useful for determining if particular locations within the jail are more unsafe than others. This data was critical for our finding that 43% of suicides in Louisiana jails and 67% of suicides in juvenile facilities occurred in solitary confinement/segregation.⁸ “Suicides in segregation are of particular concern, since segregation settings usually entail a higher level of individual supervision/observation than general shared cell or dorm settings combined with more restrictive policies on items allowed in a segregation cell.”⁹</p>
<p>Medical care received prior to death Q18 - Excluding emergency care provided at the time of death, did the inmate receive any of the following medical services for the medical condition that caused his/her death after admission to your correctional facilities? Check box options include N/A (accidental injury, intoxication, suicide, homicide) OR for illness deaths (evaluation by physician/medical staff, diagnostic tests (X-ray, MRI); Medications; Treatment/care other than medications; surgery, confinement in special medical unit;</p>	<p>Will not be able to analyze or assess facility medical treatment related to death-outcomes for carceral healthcare. Medical illnesses are the overwhelming leading cause of death in state and federal prisons and local jails.</p>
<p>Pre-existing condition Q19 - Was the cause of death the result of a pre-existing medical condition or did the inmate develop the condition after admission? (check box options include N/A (accidental injury, intoxication, suicide, homicide) OR Pre-existing medical condition, Deceased developed condition after admission, Could not be determined)</p>	<p>Will not be able to analyze the prevalence of pre-existing conditions. This information was critical to our finding that 53% of Louisiana prison and jail deaths due to medical illness were NOT due to a pre-existing condition and therefore were exclusively diagnosed and treated by carceral healthcare.¹⁰</p>

⁸ Andrea Armstrong, [Louisiana Deaths Behind Bars 2015-2019](#), 28 (2021).

⁹ Id. at 27.

¹⁰ Andrea Armstrong, [Louisiana Deaths Behind Bars 2015-2019](#), 26 (2021).

III. Data inconsistency between BJA and BJS data instruments

Issue	BJA	BJS CJ9 series for jails	Problem with BJA
Summary info, Q1 - BJA	<ul style="list-style-type: none"> • No summary form, only collects number of deaths • Asks for deaths “in your state” AND same form is used regardless of facility type (jail, prison, private) 	<ul style="list-style-type: none"> • Summary form includes male/female data on population at year end, admissions, average daily population and total number of deaths. (Q1-3, CJ-9A) • Summary form is specific to type of facility and asks for deaths in that “jurisdiction” (Q4, CJ-9A) 	<ul style="list-style-type: none"> • No data on admissions, average daily population, population at end of year. CAN NOT CALCULATE MORTALITY RATE WITHOUT POPULATION¹¹. This will also complicate the ability to disaggregate and analyze small facilities compared to mid-size or larger facilities. • Implies BJA form is filled out by state for all deaths, including those in local jails. In Louisiana, the state DOC does not collect information on deaths of people detained pre-trial in local jails, but this may change as BJA implementation moves forward.
Decedent Information Q2-BJA	<ul style="list-style-type: none"> • Collects only year of birth • Allows for other “gender identify” as option • Race includes “unknown” category • Ethnicity includes “unknown” category 	<ul style="list-style-type: none"> • Collects Day, Month, and Year for birthday (Q4, CJ-9) • Limited to male/female checkboxes (Q5, CJ-9)) • BJS has textbox entry for “other race” (Q7, CJ-9) • BJS requires choice between Yes and No for whether a person is of “Hispanic, Latino, or Spanish origin” (Q6, CJ-9) 	<ul style="list-style-type: none"> • Results in inaccurate data for age at time of death, making analysis on age and disease less reliable • While important to allow other identities, this does make BJA data inconsistent from BJS data • Less accurate data on race with new category and does not require reporter to identify race • Less accurate data for ethnicity with new category and does not require reporter to identify ethnicity
Death Information Q3	<ul style="list-style-type: none"> • Does not ask for holding authority, i.e. US Marshals, ICE, BIA, state or local 	<ul style="list-style-type: none"> • Asks for holding authority 	<ul style="list-style-type: none"> • Jails often house people on behalf of other authorities and analysis on deaths relative to their holding

¹¹ BJA may be relying on other data surveys to get population information, but that data may not be at the facility or even local level, but instead at the statewide level.

	<p>BUT does collect arresting agency in Q4</p> <ul style="list-style-type: none"> • Time of death is the exact time of death • Includes facility address • Type of facility is collected, but juvenile deaths included in “other state or local,” so will be impossible to disaggregate • Type of facility options do not include federal prisons 	<ul style="list-style-type: none"> • Time of incident leading to death is reported by period (morning, afternoon, evening, overnight) (Q17, CJ-9) • Does not include facility address for death specifically, but can be inferred for local jails from form, which includes address of reporting authority • Different forms by type of facility, and a specific form for juvenile facilities • Form for prisons includes state and federal (NPS-4) 	<p>authority is no longer possible. Arresting agency data might lessen the impact of excluding holding authority, but some people will be arrested by one agency (local police), but held for a different agency (ICE).</p> <ul style="list-style-type: none"> • BJA data asks for time of death, BJS data asks for time of incident leading to death. Review of past forms indicates jurisdictions complete this even for medical causes of death and likely just enter time of death. Can make data consistent with BJS data, but will have to categorize time of death and will not be exact. • Inclusion of facility address could be helpful for determining distance between nearest medical facility and jail. • Deaths in juvenile facilities will be difficult to extract from the data. Researchers may be able to identify through a combination of age and “other state or local” but will be difficult to disaggregate those held in state juvenile facilities and those in local juvenile facilities. Note that some states hold 15-16 year olds in adult facilities and not juvenile facilities. • Based on the form, it is not clear BJA Data will not include deaths in federal prisons. <ul style="list-style-type: none"> - This data may be collected in a different
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			non-public data instrument, as DCRP 2013 law requires federal data collection.
Manner of death Q5	<ul style="list-style-type: none"> • Collects cause of death data as follows: <ul style="list-style-type: none"> - Accident - Use of force - Homicide (between incarcerated people) - Natural Causes - Suicide - Unavailable (pending investigation, must list agency investigating, approx. end date for investigation and instruction to update) - Other (with instruction to explain) 	<ul style="list-style-type: none"> • Collects cause of death data as follows (Q15): <ul style="list-style-type: none"> - Accidental Alcohol/Drug (describe) - Accidental Injury to self (describe) - Accidental Injury by other (eg vehicular transport); - Illness (excluding AIDS-related, specify illness) - AIDS - Suicide - Homicide (describe) - Other cause (specify) 	<ul style="list-style-type: none"> • BJA data provides far less data on the cause of death <ul style="list-style-type: none"> - Less specificity on the type of accident - does NOT collect specific disease/illness data under “natural causes” - does NOT disaggregate deaths due to AIDS; - BUT may provide more info by separating homicides into two categories (between incarcerated people and those involving use of force)
Other information (Q6)	<ul style="list-style-type: none"> • Circumstances of death – open-ended question for details of death, such as number and affiliation of involved parties, location, other context) 	<ul style="list-style-type: none"> • Space provided for additional details at end of survey 	<ul style="list-style-type: none"> • BJA’s open-ended question will mean inconsistent data collection for the incident location and other data specifically asked in other BJS questions