Few Prison Systems Release Individual Death Data: Death in Custody Reporting Act Completeness, Speed, and Compliance

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ABSTRACT

The United States has one of the largest incarcerated populations per capita. Prisons are dangerous environments, with high in-prison and postrelease mortality. The Death in Custody Reporting Acts (DCRAs) of 2000 and 2013 require deaths of people in correctional custody or caused by law enforcement to be reported to the Bureau of Justice Assistance. These deaths must be reported within 3 months of the death and include 10 required fields (eg, age, cause of death). There is no public reporting requirement. Our Third City Mortality project tracks near-real-time data about individual deaths released publicly and prison system metadata, including data completeness and release speed, across (N = 54) US state, federal (N = 2; Bureau of Prisons, Immigration and Customs Enforcement), Washington, District of Columbia, and Puerto Rico prison systems. Twenty-one (38%) systems release no individual death data; 13 systems release incomplete data slower than 1 year; 19 release timely, but incomplete, death data; and only one system (Iowa) releases complete and timely data. Incomplete, untimely, public prison mortality data limit protective community responses and epidemiology.

KEY WORDS: justice, mortality, prison

The United States has one of the largest per capita incarcerated populations in the world. More than 2 million individuals on average are incarcerated in American jails and prisons on a given day. While jails only accounted for about 750 000 of that number, about 10 million people per year churn through local jail systems.[1] Around half of the total incarcerated population is in state or federal prisons.[2] Prisons can be dangerous places with increased morbidity and mortality,[3] including increased COVID-19 mortality in prison,[4] contributing to overall racial disparities.[5]

The Deaths in Custody Reporting Act (DCRA), passed in 2000[6] and updated in 2013,[7] mandates reporting deaths in prison to the US Attorney General through the US Bureau of Justice Assistance (BJA).[8] The DCRA requires reporting 10 data elements for each death within 1 quarter (3 months), including decedent's name, date of birth, gender, race, ethnicity; date, time, and location of death; law enforcement/carceral agency involved; and description (narrative and cause) of death. The BJA, however, releases to the public neither (1) compiled data on individual deaths by prison system and facility, demographics, and other elements nor (2) system compliance metadata on whether all data required (10 data elements) are submitted to them in a timely (quarterly) fashion.

Historically, data collected through this law were aggregated and distributed through the Mortality in Correctional Institutions annual report by the Bureau of Justice Statistics (BJS). For more than 20 years, this program was the sole source of data on carceral mortality publicly accessible through the federal government. However, in 2021, the BJS terminated this

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program, announcing that data collected from 2019[9] would be the final report published in this collection.[10] The program, now maintained by the Bureau of Justice Assistance, has released no additional comprehensive reports on carceral mortality.

For these reasons, our Third City Project began collecting data on deaths in prison publicly released by those prison systems in May 2021. Our data team reviews, abstracts, documents, processes, combines, harmonizes, and visualizes those data for public consumption and action. We share here the initial results of our data collection: metadata on prison mortality data availability, completeness, and speed.

Methods

Our data abstractors review individual prison system data releases, with sources including PDF and Web site press releases following deaths, from US state and federal prison systems and the Washington, District of Columbia, jail system (n = 54). Those data are entered into customized Qualtrics forms built to match the data release fields of each prison system. These data on individual deaths are then read from each Qualtrics form using the Qualtrics Application Programming Interface (API) and Qualtrics R package.[11] Disparate data are harmonized, combined, and further cleaned in R,[12] with quality check reports in RMarkdown[13] used to iteratively loop feedback to abstractors. This data collection flow (the focus of future reports) is guided by a table of metadata that describes the availability and structure of data released by each prison system. We review changes to the availability of prison system mortality data—necessitating changes to the data abstraction processes—monthly. Our public data collection of deceased individuals was found to be exempt from institutional review board (IRB) review (UNC IRB # 22-1026).

This metadata table of prison mortality data release patterns, a summary product of a team of abstractors, is a valuable and actionable data product in and of itself. To communicate the status and policy implications of these data, we built and released visualizations on our Web site[14] using Tableau Software with a custom prison system map built using R simple features.[15] Screenshots of these map/graph visualizations are included as the Figure, with Supplemental Digital Content Figure 2 (available at http://links.lww.com/JPHMP/B299), Figure 3 (available at http://links.lww.com/JPHMP/B300), and Figure 4 (available at http://links.lww.com/JPHMP/B301) common legend.

Study Results

US prison systems are required to submit timely and complete individual death information to the BJA. However, more than a third (n = 21; 39%) of prison systems release no data publicly.

Around a third of prison systems (n = 20; 37%) release timely data within 1 quarter for all deaths (some only release certain causes of death), regardless of data completeness. Another quarter (n = 13; 24%) of prison systems release data after more than 1 quarter has passed.

Currently, only one prison system releases (DCRA-defined) complete death information; most (regardless of speed) release either almost complete (at least 7 of 10 required data elements for all deaths (n = 20; 37%) or incomplete (<7 data elements; n = 12; 22%) data.

Taking speed and completeness together, only one system (Iowa) releases DCRA-complete data publicly within 1 quarter.

Discussion

Given the increased morbidity and mortality in prison settings, we believe that, like people killed by police, deaths in prison are public health events and must be both counted[16] and reduced. Moreover, sharing information about deaths in prison publicly can increase local accountability and may, when aided by local organizing, lead to relatively safer prison conditions.

Legally, the DCRA does not yet compel prison systems to publicize data about deaths in their facilities. In fact, our group has found that most state prison policies are not actually in compliance with DCRA reporting mandates.[17] However, future legislation and interventions to improve data collection could be implemented. Currently, the law mandates the collection and reporting of mortality events, a necessary step in any serious efforts to track and ultimately intervene to reduce deaths in prison. Furthermore, carefully written legislation could expand this requirement by broadening the audience from the BJA alone to the public, enabling organizers and policymakers to advocate for safer prison conditions.

Timely population data are essential for accurate mortality rate calculations and comparisons but are lacking for prison and jails. The BJA could minimally release the data completeness and monthly population counts submitted to them, and the federal government could impose the sizable financial penalties for noncompliance included within the existing DCRA.

While this article focuses on prison mortality metadata (which prison systems release public data, their timeliness and completeness), our project also collects the associated prison mortality data itself: individual deaths in prisons. While we believe our consolidated mortality data drawn from prison public release to currently be the best publicly aggregated data set available, useful for select studies, it is still lacking;

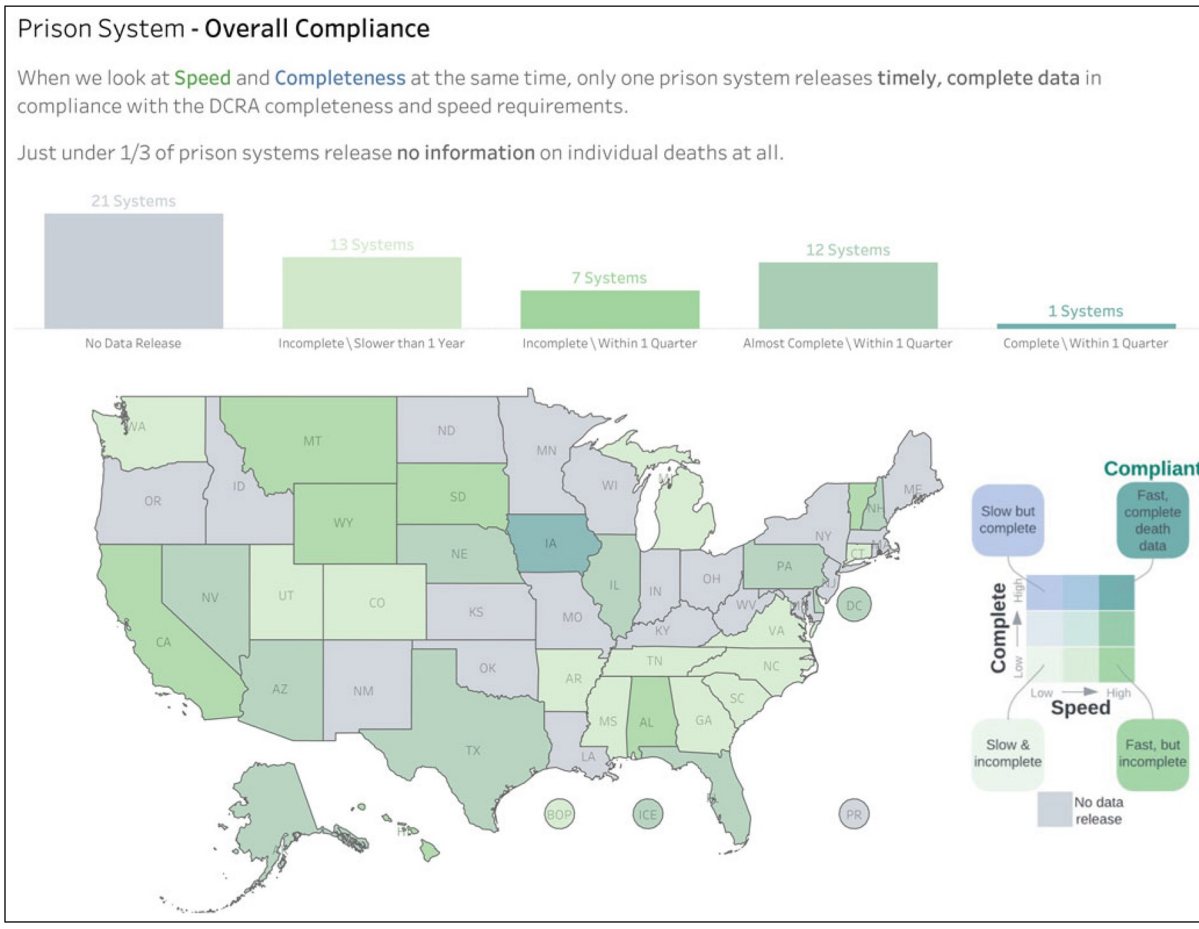

FIGURE Prison System—Overall Compliance
This figure is available in color online (www.JPHMP.com).

as an example, many prison systems release no mortality data; yet, prior to 2019, mortality count data were released from the BJS for all states and included in annual reporting.[9] Our project does not, and cannot, replace timely, accurate, centralized, complete, and mandatory reporting tied to independent review; instead, we aim to use our metadata and data collection efforts to call for impactful policy change. With the change in 2019 to remove centralize reporting, the needed policies and implementation practices to achieve these changes are moving backward, not toward, this goal.

Utilizing existing data flows, death certificates could better capture deaths in prison settings using a checkbox option with facility details for deaths that occur in custodial settings, similar to tobacco and overdose checkboxes[18]; national templates such as those from the National Center for Health Statistics/Vital Records could be updated on its next scheduled revision[19] to recommend this data collection. However, this improvement is a supplement, not a substitute, for prison reporting. While death certificates have considerably more information (including formal *ICD* [*International Classification of Diseases*] and ACME [Automatic Classification of Medical Entry] primary cause of death codes[20]) than prisons are mandated to report, death certificates for complex or violent death (disproportionately high in prison settings) can take many months or a year to investigate and finalize.[21] Direct prison release of individual death details and aggregate reports better enables timely response by communities, whereas death certificate vital statistics processing can require trained researchers, epidemiologists, and statistical software for analysis.

While we call for public sharing of individual death records from prisons, this raises ethical issues and obligations. While HIPAA requirements are generally focused on protecting the health information of living individuals, they also protect health data collected on living individuals for 50 years postmortem.[22]

However, HIPAA also outlines specific requirements for sharing public health–relevant data with public health authorities[23] and US states vary in public death certificates data release.[24] Regardless of what is legally enabled or protected, individuals and families of the deceased may wish to have this information withheld; those who perish in custody should have their experiences respected. There are ethical obligations to use collected death data for the future benefit of people in similar situations,[25] rather than data collection for its own sake.

In the absence of federal law requiring complete and timely public data sharing, data collection by teams such as ours will continue to be necessary, but novel techniques may assist. As data abstraction tasks that require little training grow, it may be supplemented by distributing tasks through systems such as Amazon Mechanical Turk (mTurk) used reliably to collect other public health event and survey data.[26] Webscraping methods may be useful,[27] though prison systems currently share data in dozens of changing formats. Automated Web alerts may notify of data releases. Consolidating disparate input forms (built to match the diversity of prison data release formats) may also assist with sustainability and delegation of data collection. The BJA could publicly maintain metadata about public data sharing we have produced, but such metadata would still require public scrutiny. Even if all systems were to release full data, data abstraction, cleaning, and consolidation will still be required.

There are many other opaque prison health questions beyond prison mortality that could be unearthed using similar methods. Causes of death, location disparities (with facilities, eg, solitary confinement units), expanding to jails or other criminal legal settings, or using other public sources to understand deaths postrelease (eg, obituary linkages). In addition, there are other health or health-relevant data points or policies that could be aggregated to build a more comprehensive understanding of health and health care (broadly defined) in America's carceral facilities.

While improvements in data collection and sharing are warranted and may be impactful, they alone do not necessarily translate into reduction of deaths in prison, the ultimate aim of any data collection and prison policy tracking project such as ours. Such reduction efforts must continue regardless of improvements of data collection, including acting in its absence or imperfection. The incidence, causes, disparities, and ultimate counts of deaths in prison are all tied intrinsically to overall US incarceration rates and disparities. Reducing mass incarceration should be viewed as a fundamental intervention to reduce mortality in prison and in people formerly incarcerated.

Implications for Policy & Practice

- Increased mortality risk in prison settings ethically warrants increased scrutiny and public data release.
- Data release must balance the ethical and privacy obligations to incarcerated individuals and their families with the ethical need for accountability and public health improvement.
- The DCRA does not require public release of prison mortality data; yet, 33 prison systems elect to release these events publicly. Even if incomplete or untimely, this demonstrates what other prison systems can do to improve, either voluntarily or, better still, through enforced mandate.
- Prison may still use the DCRA completeness (10 fields) and speed (within 1 quarter) guidelines to guide public data release.
- Regular release of timely and accurate population count data enables necessary mortality rate calculations and comparisons.
- Independent data collection is time- and effort intensive, though novel technologies may assist.
- Ultimately, prison mortality data transparency must serve the greater aim of reducing prison mortality; transparency is a necessary piece to improvement but not a panacea.
- As incarceration itself exposes individuals to these environments, interventions that reduce US mass incarceration may also reduce the subsequent prison mortality rates (by reducing the population at risk).

Finally, this project focuses on the policies, data, and experiences that lead to deaths in prison. Time spent in prison can create an increased risk of mortality for people after release from prison. Reducing deaths in custody may not necessarily reduce the elevated mortality rates postrelease for formerly incarcerated people, including higher overdose rates[28] and for those experiencing restrictive housing[29]; such elevated rates may require separate interventions. Again, reducing exposure to prison settings by reducing mass incarceration may decrease the count, if not the rate, associated with elevated mortality among formerly incarcerated individuals.

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