

# Reducing Deaths in Law Enforcement Custody

## Identifying High-Priority Needs for the Criminal Justice System

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### EXECUTIVE SUMMARY

Congress enacted the *Death in Custody Reporting Act of 2013* (DCRA) to address the lack of reliable information about law enforcement–related deaths and deaths in correctional institutions. The U.S. Department of Justice has conducted several activities designed to respond to the provisions specified in DCRA and has issued federal mandates toward achieving a comprehensive understanding of the prevalence and characteristics of deaths that occur in law enforcement custody. Despite these efforts and without any mandated enforcement of the Act, the requirements set forth in DCRA have not been fulfilled. There is currently no national data collection program that describes all deaths that occur in law enforcement custody and, therefore, no comprehensive information that can support a study of how these data can inform policy and practice. Such information is critical to support strategies to reduce deaths that occur in law enforcement custody; to promote public safety through fair and appropriate responses to reported crimes, calls for service, and police–community encounters; and to build trust with communities.

To better understand the needs around developing and leveraging data from a national collection of law enforcement–related deaths, RTI International and the RAND Corporation, on behalf of the National Institute of Justice (NIJ), convened a workshop to discuss the challenges in conducting a national data collection, recommend potential solutions to those challenges, and recommend research and other applications for those data. Through a series of individual interviews and virtual group discussions held in September 2021, participants shared their experiences working with data on law enforcement–related deaths and other critical incidents, as well as their experiences engaging with individual law enforcement agencies and other data providers around the collection of these data and their applications to inform policy and practice. The focus of these engagements was to develop needs related to the specifications for a national data collection of law enforcement–related deaths, for identifying and addressing challenges to participating in such a collection, and for appropriate applications of collected data. In the context of this workshop, a *need* refers to the pairing of a potential solution to a problem or

### SELECTED PRIORITY NEEDS



#### RESULTS

##### Scope, definition, and detail

- National reporting standards should be specified for a more inclusive data collection of *all* critical incidents: both fatal incidents and incidents in which police use deadly force, regardless of whether the incident results in a fatality.
- A taxonomy of deaths or critical incidents that occur in law enforcement custody should be developed to provide necessary context to understand law enforcement's role.

##### Data and reporting

- Challenges that law enforcement agencies (LEAs) and other reporting entities face when asked to participate in data collection, such as a lack of clear reporting guidelines that are not duplicative or overly complex and guidance on the appropriate uses of the collected data, should be identified and addressed.
- Protections that address privacy concerns should be developed and implemented. Appropriate uses of the collected data should be specified for disclosure and research purposes, and data providers should be educated about these appropriate uses.
- LEAs should be educated about how analysis of these data and transparency in reporting can improve agency performance, enhance public trust, and reduce deaths in custody.

##### Training, programs, and policies

- A research and knowledge base about the use of conflict management techniques should be created to help inform the development and implementation of training programs.
- Calls-for-service data should be analyzed to understand the prevalence and characteristics of calls that come through the traditional 911 and emerging calls-for-service platforms.

opportunity for advancing approaches to support a comprehensive data collection of law enforcement–related deaths and appropriate uses of those data.

The panel of experts identified and prioritized a total of 48 needs that relate to scope, definition, and detail; data and reporting; and training, programs, and policies. In this report, we discuss the 19 needs that participants categorized as “high priority” and provide additional context on the issues and potential solutions based on participant discussions.

## WHAT WE FOUND

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Participants agreed that a comprehensive and robust data collection of all critical law enforcement incidents is necessary to inform strategies designed to reduce law enforcement–related deaths and to promote public safety and community trust. They further concurred that there is currently insufficient data to study the effectiveness of any policies or programs designed to reduce law enforcement–related deaths.

In addition to the selected priority needs shown on the cover page, the participants agreed on the importance of

- clearly defined terms within the national reporting standards, such as *in law enforcement custody*, *freedom to leave restricted*, and *deployment of force*, among others

- support for reliable and comprehensive reporting to existing systems that rely on law enforcement participation, including allocating resources to data providers, leveraging information already collected by those agencies, and otherwise incentivizing participation
- leveraging existing reporting platforms and coordinating across providers to create efficiencies and reduce burden on reporting agencies
- clear guidelines to support accurate and timely reporting, including the specification of who is responsible for reporting, what data elements, and when
- a foundation for translating knowledge into practice by first prioritizing resources for a comprehensive and reliable data collection system
- a research and knowledge base to inform the development and implementation of training programs and other policies related to the fair and appropriate use-of-force tactics and other operations that may occur during a response to a call for service, crime, or community engagement.

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## INTRODUCTION

Law enforcement, corrections, and other public justice agencies have a mandate to provide for the health, safety, and care of individuals taken into their custody. Justice agencies have implemented approaches designed to meet this mandate, yet there is still a need for data-driven and evidence-based strategies that can support continuous improvement of the policies, practices, and training meant to prevent deaths in custody while promoting both public and officer safety. These strategies should address the various manners of death in custody, such as natural cause, homicide, accident, and suicide, as well as the different environments in which they occur, which can include public spaces and secure custodial settings.

Congress enacted the *Death in Custody Reporting Act of 2013* (DCRA) (Pub. L. 113-242) to address the lack of reliable information about law enforcement–related deaths and deaths in correctional institutions and to inform the development of solutions to prevent such deaths. The legislation requires states to report data on all deaths in custody, including deaths of (1) any person detained, under arrest, or in the process of being arrested by any officer of law enforcement, or (2) any person incarcerated, detained, or en route to be incarcerated or detained at government facilities. DCRA further requires the Attorney General to conduct a study on how the data collected can be used to reduce the number of such deaths.

Although significant, ongoing data collection efforts are underway, there is currently no comprehensive national or state-level reporting on law enforcement–related deaths. A 2018 report by the Office of the Inspector General found that the Department of Justice (DOJ) has made progress in collecting DCRA data from federal law enforcement agencies, yet collection of data from states and local jurisdictions, which would represent a significant number of the deaths that occur in law enforcement custody, had been delayed. Therefore, many experts in the public safety, criminology, public health, and public policy fields have called for a national data collection that provides comprehensive and reliable information about deaths that occur in law enforcement custody (e.g., Koper, 2016; Klinger et al., 2016; White, 2016) and consistent standards for investigations, definitions, and reporting (e.g., Mitchell et al., 2017). Information about the prevalence of and circumstances surrounding these fatalities is critical to developing and implementing policies, procedures, training, and investigations that may reduce deaths in custody.



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## ABBREVIATIONS

ARD	Arrest-Related Deaths
BJA	Bureau of Justice Assistance
BJS	Bureau of Justice Statistics
CDC	Centers for Disease Control and Prevention
COVID-19	coronavirus disease 2019
DCRA	<i>Death in Custody Reporting Act of 2013</i>
DOJ	U.S. Department of Justice
FBI	Federal Bureau of Investigation
FDCRP	Federal Deaths in Custody Reporting Program
GAO	U.S. Government Accountability Office
LEA	law enforcement agency
NIJ	National Institute of Justice
NVDRS	National Violent Death Reporting System
OMB	Office of Management and Budget
PCJNI	Priority Criminal Justice Needs Initiative
PII	personal identifiable information

Historically, three national data collections have provided incident- or aggregate-level information on law enforcement–related deaths. The Arrest-Related Deaths (ARD) program, maintained by the DOJ’s Bureau of Justice Statistics (BJS) from 2003 to 2012, was designed to be an annual national census of persons who die during the process of arrest or while in custody of state or local law enforcement. The ARD program relied on state criminal justice agencies to report data that their local jurisdictions voluntarily submitted. BJS conducted an analysis of the program’s coverage and found that only about 50 percent of law enforcement homicides were captured by the program (Banks, Couzens, and Planty, 2015). The program was discontinued while BJS assessed alternate data collection strategies and DOJ determined what agency should be responsible for collecting the information mandated by DCRA. Supplementary homicide reports, collected through the Federal Bureau of Investigation’s (FBI’s) Uniform Crime Reporting Summary Reporting System, gather information on law enforcement homicides, which are voluntarily reported by state and local law enforcement agencies. The BJS analysis of the coverage of the ARD program also assessed coverage of the Supplementary Homicide Reporting program and found that it also undercounted the number of law enforcement homicides in the United States by more than 50 percent (Banks, Couzens, and Planty, 2015). The National Violent Death Reporting System (NVDRS) was established by the Centers for Disease Control

and Prevention (CDC) in 2002. NVDRS collects data from death certificates, coroner and medical examiner reports, law enforcement reports, and toxicology reports in an attempt to create a complete picture of all manners of violent deaths (CDC, 2021). One study, published in 2019, evaluated the NVDRS for how it captured fatal shootings of civilians by law enforcement and found that the system provided a comprehensive count of fatal police shootings. It found that the system accounted for about 97 percent of unique study-identified fatal shootings by law enforcement in 2015 (Conner et al., 2019). However, another study concluded that more than half of the deaths that resulted from police violence were unreported as such in the National Vital Statistics System, which includes the NVDRS, because those deaths had been classified by reporting medical examiners or coroners as another manner of death (not homicide) or because those responsible for reporting the data failed to note the involvement of law enforcement on the death certificate (GBD 2019 Police Violence US Subnational Collaborators, 2021). The National Association of Medical Examiners has specifically called for a uniform approach in which medical examiners and coroners investigate and evaluate deaths, and it has made recommendations related to definitions, critical information surrounding the incident, enhanced autopsy procedures, and guidance on death certification, among others (Mitchell et al., 2017).

Several DOJ data collections currently collect information on fatal law enforcement–related incidents and nonfatal use of force. The FBI began planning the National Use-of-Force Data Collection in 2015 and began active data collection in 2019. The data collection includes national statistics on law enforcement use-of-force incidents and basic information on the circumstances, subjects, and officers involved (Criminal Justice Information Services, undated). In 2021, 7,559 of 18,514 federal, state, local, and tribal law enforcement agencies throughout the country participated and provided use-of-force data. The officers employed by these agencies represent 54 percent of federal, state, local, and tribal sworn officers in the United States (FBI, undated). The Office of Management and Budget (OMB) has stipulated that limited data from the National Use-of-Force Data Collection may be released when participation reaches 60 percent and data can be published without conditions when participation reaches 80 percent. BJS created the Federal Deaths in Custody Reporting Program (FDCRP) to collect the data required of federal law enforcement agencies (LEAs) under DCRA. Federal LEAs are surveyed annually about deaths that occur during federal arrest, detention, and

## One of the biggest challenges with collecting national data is the lack of standardization in data collection terms among jurisdictions.

incarceration in the United States. Each collection describes the decedent, incident, and facility characteristics of deaths in federal custody and during arrest by federal LEAs. BJS has published annual statistics from this data collection covering 2016 through 2020 (BJS, 2020). Finally, the Police–Public Contact Survey, administered by BJS, began collecting data in 1987 and publishes periodic information on nonfatal use-of-force incidents, as reported by the public. The most recent police–public contact report covers incidents that occurred in 2018 and provides information about the prevalence of incidents and characteristics of residents who experienced nonfatal threats of use of force during police contact (Harrell and Davis, 2020). The Bureau of Justice Assistance (BJA) is currently responsible for collecting data on deaths in custody from states, pursuant to DCRA requirements of states to report this information to the Attorney General. This state-level data collection began in 2019; no information from this collection has been released publicly (U.S. Government Accountability Office [GAO], 2021).

One of the biggest challenges with collecting national data is the lack of standardization in data collection terms among jurisdictions. The federal collections described earlier include overlapping but also unique aspects of critical incidents, which can include law enforcement–custody deaths, use-of-force incidents, and deaths due to law enforcement’s use of force. The scope of data collected at the state and local levels may further vary by whether it includes

- any officer-resident engagement
- when a person’s freedom to leave is restricted<sup>1</sup>
- events that occur in the process of arrest
- officers’ use of deadly force only
- officer-involved shootings
- use of force resulting in death
- death occurring during law enforcement transport from initial engagement through booking or holding cell, just before transfer to jail (after which it becomes a correctional custody).

### Needs in Corrections and Law Enforcement

As part of the National Institute of Justice’s (NIJ’s) Priority Criminal Justice Needs Initiative (PCJNI), a 2016 panel explored specific needs surrounding mortality in correctional settings (Russo et al., 2017). BJS reports that approximately 1,000 inmates die in U.S. jail facilities each year. Most of these deaths are due to illness (46 percent of deaths in 2018) or suicide (30 percent of deaths in 2018). In 2018, approximately 4,500 individuals died while incarcerated in facilities operated by public or private prisons, including the Federal Bureau of Prisons (BJS, 2020). Nearly 90 percent of deaths occurring in prisons between 2001 and 2018 were due to natural causes (Carson, 2021a; Carson, 2021b). Participants in the same 2016 PCJNI panel identified needs for jail and prison facilities that included medical and mental health services, inmate management, suicide risk assessment, compliance with national standards, uniformity in how death reviews are conducted, more and better data, and more robust information-sharing between agencies (Russo et al., 2017). Although some of these identified needs may also apply to deaths occurring in law enforcement custody, the distinct contexts and circumstances that surround law enforcement and community interactions increase the likelihood of there being additional needs related to the identification, reporting, and circumstances of deaths occurring in law enforcement custody.

The 2016 PCJNI panel did not address needs related to deaths in law enforcement custody because such deaths do not occur in jail or prison settings. Comprehensive, national statistics on the number of deaths occurring in law enforcement custody are not available because of the different definitions used to categorize a death in law enforcement custody. Some definitions include only deaths caused by an officer-involved shooting, while others include all manners of death that occur while the individual’s freedom to leave is restricted by law enforcement. Differing methodologies for collecting the information, different mandates for reporting, and different data sources (e.g., LEAs, medical examiners or coroners offices, media reports) also contribute to the lack of compre-

Any death in law enforcement custody has devastating and lasting impacts on the individuals, families, communities, and LEAs involved. The lack of transparency surrounding these incidents erodes trust between law enforcement and the communities that they serve and eliminates the opportunity to implement comprehensive, data-driven approaches to reduce deaths in law enforcement custody while maintaining public safety.

hensive national statistics. The most-recent estimates based on a variety of sources indicate that at least 1,000 individuals have died in law enforcement custody each year. For example, an analysis of data collected in 2015 and 2016 through a pilot study of the redesigned ARD program estimated that each year 1,000 individuals die from a police shooting; 1,200 deaths result from all types of law enforcement use of force (including police shootings and other uses of force); and 1,900 deaths of all manners occur in law enforcement custody each year, including homicide (e.g., police use of force), accident, suicide, or natural cause (Banks et al., 2016).

Media sources have conducted data collections in recent years to fill the gap in official government statistics on deaths in law enforcement custody; their findings also support the ARD program estimates. For example, *The Washington Post* reported that police shot and killed 1,055 people in 2021; 1,021 people in 2020; and 999 people in 2019 (Washington Post, updated daily; data accessed on May 31, 2022). Previous reports from the ARD program suggest that the number of deaths resulting from a police shooting represent about two-thirds of all manners of death that occur in law enforcement custody (see, e.g., Burch, 2011). A 2017 study whose authors analyzed data collected from the CDC's National Vital Statistical System and a database maintained by *The Guardian* found that there were 1,166 law enforcement-related deaths in the United States in

2015 (Feldman et al., 2017). Data reported on the Gun Violence Archive show that approximately 1,300 individuals have been killed as the result of an officer-involved firearm discharge in both 2019 and 2020 (Gun Violence Archive, 2022).

Approximately 61.5 million—or 24 percent—of Americans ages 16 and older had at least one contact with the police in 2018 (Harrell and Davis, 2020). The number of deaths occurring in law enforcement custody—estimated to be between 1,000 and 2,000 each year, depending on how the incidents are defined and the data collected—represents a small percentage of all annual interactions between the police and the public. However, any such death in law enforcement custody has devastating and lasting impacts on the individuals, families, communities, and LEAs involved. The lack of transparency surrounding these incidents erodes trust between law enforcement and the communities that they serve and eliminates the opportunity to implement comprehensive, data-driven approaches to reduce deaths in law enforcement custody while maintaining public safety.

To inform DOJ efforts to respond to DCRA and its study requirements, RTI International and the RAND Corporation convened and facilitated a workshop focused on deaths occurring in law enforcement custody. The Deaths in Law Enforcement Custody Workshop was held in September 2021 as part of the PCJNI. This workshop focused on the context

and circumstances surrounding the reporting of data on deaths in law enforcement custody and how those data may be used to inform policy and practice designed to reduce such deaths. The workshop explored the current state of knowledge surrounding these deaths; information needs of practitioners, policymakers, and the public; and opportunities to improve policies and practices that may prevent or reduce deaths occurring in law enforcement custody while also ensuring public safety. Participants discussed such questions as

- What are the various definitions and metrics of deaths occurring in law enforcement custody, such that they address public concerns about the issue, promote public safety, and provide insight into policy and practice reform that can prevent all manners of death?
- What information about deaths occurring in law enforcement custody is critical to support policy and practice designed to reduce such deaths?
- What barriers or facilitators affect the release of agency-level information to the public about deaths occurring in law enforcement custody?
- What barriers or facilitators affect the aggregated reporting of this information at state or national levels?
- What policies and practices should be examined to identify whether and how they are correlated with deaths occurring in law enforcement custody?
- How can officer accountability systems and investigation practices support transparency around deaths occurring in law enforcement custody?
- How else can critical information about deaths occurring in law enforcement custody be used to support law enforcement training and other policies and practices designed to prevent these deaths?

Although the workshop was designed to identify needs related to deaths occurring in law enforcement custody, participants determined that an understanding of all incidents that could lead to death would provide a more comprehensive set of data to inform law enforcement policy and practice related to police-community engagement. Throughout this report, we refer to such incidents as “critical law enforcement incidents,” which include *any* fatalities that occur during a law enforcement response—whether the manner of death is due to an accident, suicide, natural causes, law enforcement use of force, or

other homicide—and *any* incident in which an officer deployed deadly force.

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## METHODOLOGY

The PCJNI workshop held in September 2021 brought together experts with various perspectives from the fields of federal, state, and local law enforcement; academic research; mental health advocacy; and civil liberties. The goal was to identify a set of prioritized recommendations that would inform a research and policy agenda for advancing the understanding of the prevalence and circumstances of law enforcement–related deaths; promote transparency and accountability between LEAs and the communities that they serve; and support evidence-based policy and practice to reduce law enforcement–related deaths while promoting the safety and well-being of all individuals involved in these incidents, such as law enforcement officers, individuals in law enforcement custody, and the public.

As an initial step in the development of the engagement, RTI staff reviewed relevant literature (e.g., scientific studies, technical reports) on the challenges of collecting comprehensive, national-level information on deaths that occur in law enforcement custody and on the information needed to inform policy and practice designed to reduce such deaths. As noted in the prior section, the lack of consensus on the definition of a “death occurring in law enforcement custody,” lack of resources and mandates to collect such information, and lack of coverage of existing collections pose challenges to a comprehensive collection on deaths in law enforcement custody. The literature review also helped identify potential workshop participants. In order to foster dynamic and robust discussions, RTI staff sought the input and participation of experts from across the country who represented a broad spectrum of stakeholder voices. The panel was composed of individuals with diverse perspectives and experiences related to critical incident reporting at the local, state, and federal levels; they also had insight into data needs to inform policy and practice to reduce deaths occurring in law enforcement custody. Participants represented DOJ agencies, the Association of State Uniform Crime Reporting Programs, the Association of State Criminal Investigative Agencies, private funders of evidence and policy related to deaths in custody, academic researchers, and organizations that represent the interests of the general U.S. population and sub-

sets of individuals who may be more likely to come into contact with law enforcement (e.g., civil liberties advocates and mental and substance use health care providers).

Because of the coronavirus disease 2019 (COVID-19) pandemic, we planned the workshop as a three-stage virtual engagement. During the first stage, participants met individually with RTI staff to help build an initial picture of participants' perspectives on and involvement in collecting and using data about deaths that occur in law enforcement custody. Following the interviews, RTI staff drafted a list of 36 specific needs identified by participants during these initial conversations. In the context of the PCJNI, a *need* refers to the pairing of a potential solution to a problem or opportunity for advancing promising innovations.

During the second stage of the engagement, participants convened as a group for a series of three virtual sessions, each lasting 2.5 hours. The purpose of these interactive virtual sessions was to review, revise, and prioritize a consolidated list of needs gleaned from the individual interviews.

Finally, in the third stage, participants were asked to rank the finalized needs based on two dimensions: their importance and their probability of success. All workshop participants were given an opportunity to review the rankings of needs following the workshop and vote to move needs up or down in terms of importance. For a more detailed description of the prioritization methodology that we employed, including identified limitations, please see the technical appendix included with this report.

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## RESULTS

The primary output from the workshop was a prioritized list of 48 needs to address 19 key issues or challenges associated with law enforcement–related deaths. These needs (problems or opportunities paired with potential solutions) were largely identified from the initial interviews and were further refined and clarified by participants during the three virtual workshop sessions. Each need was prioritized into one of three tiers based on participants' ranking of its importance and its likelihood of successfully addressing the associated issue. The 19 top-tier needs—those that participants identified as high-priority—are shown in Table 1. (The full list of needs, sorted by tier and category, is shown in Table A.1 in the technical appendix).

During and after the workshop, RTI staff sorted the needs into one of three categories based on the broad type of issue or challenge that they were intended to address:

- **Scope, definition, and detail** needs are related to identifying a critical law enforcement incident when it occurs.
- **Data and reporting** needs are related to reporting information about a critical law enforcement incident.
- **Training, programs, and policies** needs are related to context or strategies that may reduce law enforcement–related deaths, bias in critical law enforcement incidents, or serious injuries resulting from critical incidents.

Of the 19 top-tier needs, three were related to the content of scope, definition, and detail; 12 were related to data and reporting; and four were related to training, programs, and policies. In several cases, multiple potential solutions were identified to address the same issue. Needs associated with the same problem or opportunity could be ranked or categorized differently based on their perceived impact and likelihood of success, meaning that not all needs associated with a certain problem or opportunity were ranked in the same tier.

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## DISCUSSION

In this section, we provide further context from the workshop discussion on the identified high-priority needs related to deaths in law enforcement custody. Statements in this section are derived from assertions made by workshop participants and the ensuing discussion by category.

### Scope, Definition, and Detail

Although the workshop was designed around understanding and reducing deaths in law enforcement custody, participants concurred that limiting the scope of data collection to fatal incidents would be insufficient to achieve those objectives. They emphasized the importance of enumerating and understanding the context surrounding all incidents that *could* result in fatalities, including all incidents in which law enforcement deploy deadly force and deaths occurring in law enforcement custody that meet other inclusionary criteria described in DCRA: accidents, suicides, deaths due to natural causes, and homicides. Therefore, the participants identified a need to specify national standards for a comprehensive collection of “critical law enforcement incidents,” which would include (1) any fatal-

**Table 1. The 19 Top-Tier Needs**

Problem or Opportunity	Potential Solution
<p>Scope, definition, and detail</p> <p>There is no clear consensus across reporting legislation and reporting agencies on the inclusionary criteria to use for critical incidents (deaths, serious injuries, or risk of injuries) that occur in law enforcement custody. LEAs and other stakeholders disagree on which manners of death should be reported.<sup>a</sup></p>	<ul style="list-style-type: none"> <li>• Specify national standards for a more inclusive collection that includes all critical incidents—fatal incidents and all incidents in which police use deadly force—regardless of whether the incident results in a fatality (per the FBI’s National Use-of-Force Data Collection).</li> <li>• Specify definitions of <i>in law enforcement custody</i>, <i>use of (deadly) force</i>, <i>freedom to leave</i>, <i>law enforcement response</i>, etc., and consider which terminology is most appropriate to minimize confusion.</li> <li>• Develop a taxonomy of deaths or critical incidents that occur in law enforcement custody to provide necessary context to understand law enforcement’s role.</li> </ul>
<p>Data and reporting</p> <p>There is no national data collection system that collects reliable, complete, and timely information about deaths that occur in law enforcement custody. Such a system would require LEAs to report zero deaths when no such deaths occur, which could prove burdensome and resource intensive to capture relatively rare fatal events.<sup>a</sup></p>	<ul style="list-style-type: none"> <li>• Support more-reliable and comprehensive reporting to existing systems that rely on law enforcement participation by allocating resources to data providers, leveraging information already collected by these agencies, and otherwise incentivizing participation.</li> </ul>
<p>It is not well understood why LEA reporting is not widespread and how to increase reporting.<sup>a</sup></p>	<ul style="list-style-type: none"> <li>• Examine the challenges of and facilitators to LEA reporting and build data collection models that address or leverage them.</li> <li>• Provide for persistent mandates, incentives, resources (including training), communication, stakeholder engagement (e.g., with other LEAs, advocates, policymakers) to institutionalize LEA reporting.</li> </ul>
<p>LEAs may be challenged by having to report similar information to multiple data systems.</p>	<ul style="list-style-type: none"> <li>• Leverage existing reporting platforms and coordinate across providers to create efficiencies and reduce burden.</li> <li>• Conduct user experience research to understand challenges to collecting and submitting these data.</li> </ul>
<p>Data providers or gatekeepers are concerned about disclosing active case information, respecting individual privacy, and releasing personal identifiable information (PII). Local laws and regulations often dictate what information can be released and when.<sup>a</sup></p>	<ul style="list-style-type: none"> <li>• Develop standards to support accurate and timely reporting by specifying what to report, when, and what entity is responsible for providing the information.</li> <li>• Define the lead agency for reporting purposes.</li> <li>• Develop and implement protections that address privacy concerns. Specify appropriate uses of the data for disclosure and research purposes and provide education for data providers about appropriate uses.</li> </ul>
<p>Data providers or gatekeepers are concerned about how this active case information may be used.</p>	<ul style="list-style-type: none"> <li>• Educate LEAs about how analysis of these data and transparency in reporting can improve agency performance, enhance public trust, reduce deaths in custody, etc.</li> <li>• Work with the research community, law enforcement, and other pertinent stakeholders to develop appropriate benchmarking indicators and toolkits and disseminate information on appropriate and responsible use of these data.</li> <li>• Develop and disseminate resources on statistical standards for aggregate reporting (e.g., those that federal data collections are required to follow).</li> </ul>

Table 1—Continued

Problem or Opportunity	Potential Solution
There are challenges to translating knowledge into practice to reduce deaths in custody. <sup>a</sup>	<ul style="list-style-type: none"> <li>• Provide a foundation for translational research by first prioritizing resources for a comprehensive and reliable data collection system.</li> </ul>
Training, programs, and policies	
There is a lack of information on LEA training, programs, and policies related to use of force, operational tactics, and law enforcement culture. <sup>a</sup>	<ul style="list-style-type: none"> <li>• Build a research and knowledge base on LEA training, policies, and operational performance related to use-of-force tactics and operations.</li> </ul>
There is a lack of information about officer training in conflict management techniques and whether these techniques were used during an incident. <sup>a</sup>	<ul style="list-style-type: none"> <li>• Build a research and knowledge base to help inform the development and implementation of training programs about the use of conflict management techniques.</li> </ul>
There is a lack of information about policies and practices to recognize and respond to a person experiencing a mental health crisis and general crisis intervention models and programs. <sup>a</sup>	<ul style="list-style-type: none"> <li>• Analyze calls-for-service data to understand the prevalence and characteristics of calls that come through traditional 911 and emerging calls-for-service platforms.</li> </ul>
There is a lack of information about the investigatory practices and prosecutorial decisionmaking in response to officer use of force and deaths that occur in law enforcement custody. <sup>a</sup>	<ul style="list-style-type: none"> <li>• Conduct additional research into investigatory practices for deaths in law enforcement custody and prosecutorial response to use-of-force incidents.</li> </ul>

<sup>a</sup>Multiple needs were associated with this issue, but the others did not fall in the top tier. See the technical appendix for a complete list of needs.

ity occurring during an incident involving active law enforcement response and (2) any incident in which a law enforcement officer deploys deadly force.

Law enforcement policy and practice could be further informed by examining fatalities that result from other manners of death. For example, the circumstances surrounding deaths related to natural causes in which emergency medical or first aid procedures may have been or were applied could inform law enforcement policy and training. There may also be multiple contributing factors to a death, which may be determined as the medical examiner or coroner's investigation unfolds, so it is important to not limit the scope of any data collection to specific manners of death. In addition, limiting fatalities to those decedents in physical law enforcement custody (e.g., under arrest or handcuffed) would prevent the study of the impact of law enforcement response on the broader community. The participants recommended including deaths caused by accidents, such as those resulting from high-speed law enforcement pursuits, and suicides that occur during stand-off situations in any comprehensive data collection designed to understand and prevent law enforcement–related deaths. Although participants noted that information about all deaths occurring during police-involved incidents was important, they also discussed the challenges to achieving reliable data collection that included data on all such deaths. Voluntary national reporting has not been comprehensive on deaths because of law

enforcement use of force; thus, additional resources, requirements, alternate data collection strategies, and other reinforcement would certainly be needed to implement a comprehensive data collection on all fatal law enforcement incidents.

Participants concurred that the national reporting standards should include all incidents in which an officer deploys deadly force, regardless of whether an injury or death resulted from that force. Information on such incidents, including the perceived or actual threat posed to the safety of officers and community members, could be used to examine whether the level of force deployed was appropriate given those circumstances. Examination of all use-of-force events could also provide information to address practices that indicate bias or the need for training to recognize and appropriately respond to individuals who are disabled, experiencing a mental health crisis, or under the influence of a substance. Although there was some discussion about the utility of information from all incidents that result in serious bodily injury (e.g., also including incidents in which a bystander was seriously injured during a police pursuit), ultimately, the participants cautioned against expanding the collection beyond nonfatal incidents that were the result of law enforcement use of force. The group felt that including serious injuries of bystanders in an accident would likely create challenges to the reporting agency in identifying these individuals, collecting information about them, and determining the seriousness of their injuries. Participants also

discussed whether to include nonfatal incidents involving “less lethal” force, such as the use of batons, chemicals, or conducted energy devices (e.g., tasers), which can also lead to serious injuries. The participants recommended that any national standards should explicitly define which use-of-force incidents—firearm discharge only versus less lethal force deployments—would be considered reportable in the collection.

The need to clearly define terms included in the national reporting standards was explicitly prioritized by the workshop panel. Definitions for *in law enforcement custody*, *freedom to leave restricted*, and *deployment of force* vary and can be subject to interpretation by individual reporters when such terms are not clearly specified or defined in LEA reporting systems and documentation.

A taxonomy of reportable incidents could help clarify the purpose of the data collection and address some reservations that agencies may have about reporting these incidents. The taxonomy could define and differentiate between different manners of death, different types of custody (e.g., in physical custody versus a pursuit situation), and circumstances leading to police activity. This approach to classifying critical incidents could support more-comprehensive and reliable reporting by allowing reporters to clearly specify the circumstances surrounding the incident instead of lumping it under the “in custody deaths” classification, which some reporting agencies have interpreted as “in physical law enforcement custody” or as “holding the LEA responsible for the death.” Furthermore, the taxonomy could provide data to inform law enforcement policy for specific situations, such as high-speed pursuits, deploying force into a moving vehicle, responding to a standoff situation, and others.

## Data and Reporting

There is currently no nationally recognized data collection that includes all critical incidents as defined during the workshop: all fatal incidents and all incidents in which an officer deploys force. Federal data collections in operation as of 2021 have different scopes: FDCRP reports fatal incidents that occur in federal law enforcement custody, BJA collects information on deaths in law enforcement custody from states, and the FBI’s National Use-of-Force Data Collection includes data from state and local LEAs on fatal and nonfatal incidents involving law enforcement use of force.<sup>2</sup> However, the workshop participants determined that there was no need to start from scratch with a new data collection; instead, they recommended focusing on understanding and addressing the challenges to participating

Workshop participants determined that there was no need to start from scratch with a new data collection; instead, they recommended focusing on understanding and addressing the challenges to participating in existing data collections.

in existing data collections. Participants also discussed alternate reporting entities or data collection strategies, such as relying on medical examiners and coroners for information on cause and manner of death or integrating open-source methods (e.g., Google searchers) to identify reportable incidents. However, they concurred that the majority of key data points to describe the characteristics of the individuals involved and the circumstances surrounding these critical incidents are available only when LEAs elect to report them. Therefore, it is critical to understand the challenges that LEAs face in reporting to current federal data collection systems.

The workshop participants discussed the need for resources to support comprehensive reporting from all agencies. This comprehensive reporting would also include agencies regularly reporting zero incidents when no reportable deaths or deployments of force occurred. Reporting can be challenging when LEA systems and documentation are not aligned with the scope and definitions required by the data collection and when reporters or other resources are not specifically designated to provide the requested information. Participating in collections with complex reporting specifications, where the information requested is not readily captured by existing systems, requires reporting agencies to interpret reporting guidance, locate relevant information, fit that information into the format required by the data collection, and then report that information. Any

national data collection should therefore include resources to support reporting, incentivize participation, and leverage information that is already collected by reporting entities.

Data and reporting could be further supported by clearly identifying who should report, what should be reported and when, and how that information will be used. For example, reporting guidelines should clearly stipulate who the lead or responsible agency is for reporting purposes when multiple LEAs are involved in or are investigating a critical incident. Reporting guidance should also specify reporting timelines that account for information that may be readily available versus data elements that may require further investigation to confirm. The workshop participants also recognized duplicative reporting as a challenge (i.e., the same or similar information is reportable to different entities). Fatal use-of-force incidents, for example, are collected by both the FBI's National Use-of-Force Data Collection and the BJA's deaths in custody program, and they may also be reportable to state and local systems.

LEAs may also find reporting to be challenging because of their concern about who has access to the information and how it will be used. A national data collection should clearly specify the appropriate uses of the data, including limitations on public release of individual-level information that reflects statutory limitations in reporting jurisdictions, requirements for aggregate-level release of information, and timelines for the release of any reports to ensure that the information is complete and reflects the conclusions of any investigations. Detailed guidance is needed to specify the responsible use of these data by researchers and policymakers, similar to the OMB guidance that limits the release of data from the FBI's National Use-of-Force Data Collection until sufficient levels of participation are reached (GAO, 2021). Concerns about how the information will be used may also be addressed by offering guidance and educational materials to reporting agencies not only on how the information will be used at the national level but also on how state and local agencies can use their own data to inform policy and practice to promote community trust and accountability.

Finally, participants noted that although these are all likely challenges to LEA participation in national data collection systems, it is unclear whether these are the most-pressing challenges that reporting agencies face. Therefore, a rigorous and comprehensive study to explore such challenges should be conducted. Such a study would collect user experience data directly from a variety of reporting entities, validate assumptions about challenges to reporting, identify other challenges that may not

be as widely identified in the literature, and develop solutions that are specifically designed to address those challenges. Existing national data collections have found that a local champion can help spur other agencies to adopt data collection practices, but there is still much that is not known in terms of how and why LEAs choose to participate in a data collection program. Similarly, some states have been successful in comprehensive reporting when state mandates are in place (e.g., California, Texas, Maryland), and a closer look at how and why agencies comply with these mandates could identify ways to incentivize reporting to national data collections.

### **Training, Programs, and Policies**

Lastly, the workshop participants prioritized four needs related to training, programs, and policies. In particular, the group noted that the lack of a comprehensive, national data collection has precluded effective studies, analysis, and research findings on the factors that are associated with critical incidents and which of those factors may be addressed by changes to law enforcement training or policy. Although many training programs and policies designed to prevent fatal incidents are in place, there is no rigorous evidence on whether any of these programs reduce fatalities, serious injuries, or unwarranted deployment of force. Furthermore, understanding the context in which these critical incidents occur is important to identify potential bias in how law enforcement responds to incidents. The participants concurred that the development of additional training programs or strategies is not an immediate need. Instead, they prioritized the development of comprehensive databases on existing law enforcement policies and practices, including investigations following critical incidents, and research that examines the association between critical incidents and those practices, law enforcement culture, and officer characteristics.

Although participants ranked only four needs related to training, programs, and policies as high-priority, 11 of the 16 needs in the middle tier belong to this category (see Table A.1 in the technical appendix). Because many of these needs are complementary to the high-priority needs, it may be worthwhile to include considerations related to these middle-tier needs in any efforts to address the high-priority needs discussed earlier.

The lack of a comprehensive, national data collection has precluded effective studies, analysis, and research findings on the factors that are associated with critical incidents and which of those factors may be addressed by changes to law enforcement training or policy.

## CONCLUSION

Participants in the PCJNI workshop on reducing deaths in law enforcement custody prioritized needs to support national data collection of all critical incidents involving law enforcement. This comprehensive data system should clearly specify reporting requirements that include both fatal incidents and all deployments of deadly force. Existing collections maintained by the FBI, BJS, and BJA collectively encompass this broad scope; thus, a new data collection is not needed. Instead, the workshop participants prioritized needs to clearly define reportable incidents; to define and collect metrics on the circumstances surrounding those incidents; to understand and address challenges for reporting entities to participate in these collections; and to conduct research that can inform training, policy, and practice designed to reduce fatalities, serious injuries, disproportionate deployment of force, and bias in police response.

Many of the needs identified in the workshop also echo GAO recommendations. A 2021 GAO report focused in part on DOJ's publication of use-of-force data found that because of insufficient participation by LEAs, the FBI has not met thresholds set by OMB for publishing use-of-force data and had not yet assessed alternate data collection strategies (GAO, 2021). The FBI's National Use-of-Force Data Collection may be discontinued by December 2022 if participation in the current data collection approach remains insufficient.<sup>3</sup> GAO further recommended that "the Attorney General should assign responsibility for collecting and annually publishing data on the use of excessive force by law enforcement offices and communicate this responsibility to the designated DOJ components" (GAO, 2021, p. 65). DOJ has noted that incidents of excessive force and bias can erode public trust in law enforcement and hamper its effectiveness. In fact, a study published in 2022 of police activity in 60 large U.S. cities found that law enforcement

officers were less likely to engage with the public immediately following high-profile incidents of law enforcement use of force (Cheng and Long, 2022).

GAO reviewed scholarly studies and journal articles on practices designed to reduce the use of excessive force but found that this body of research as a whole was inconclusive in determining which policies were effective at reducing force or bias (GAO, 2021). This same GAO report noted that the authors of the reviewed articles cited a lack of comparable research and a lack of comprehensive data for their inconclusive research findings.

These GAO findings, coupled with ongoing research and public attention to critical law enforcement incidents, underscore the needs prioritized by the workshop participants to maintain a comprehensive data system that can be used to understand and improve law enforcement response to critical incidents and to promote public safety, accountability, and trust.

## TECHNICAL APPENDIX

In this appendix, we present additional details on the workshop and our process for identifying and prioritizing research and technology needs and turning them into the research agenda that is presented in the main report. The descriptions in this appendix are drawn and adapted from those in previous PCJNI publications and reflect adjustments to the needs identification and prioritization process implemented at this workshop.

### Workshop Scope and Panel Selection

The topics for PCJNI workshops are selected by consensus among the action officers and subject-matter experts at NIJ and research staff at the organizations that will be facilitat-

ing the workshop. Multiple topic areas, accompanied by brief scoping descriptions, are typically suggested months before the workshop by one or more of the parties involved, and staff engage in group deliberations with NIJ to reach consensus on the topic. We then engage in further scoping of the workshop to craft a discussion agenda through literature review, informal discussions with other practitioners and subject-matter experts, or both. Once the topic and scope have been determined, we recruit panel members by identifying knowledgeable individuals through existing professional and social networks (e.g., LinkedIn) and by reviewing literature published on the topic. We then extend an invitation to those individuals and provide a brief description of the workshop's focus areas.

For this workshop on deaths in law enforcement custody, we developed an initial list of potential participants primarily focused on various perspectives from law enforcement practitioners and policing groups at the state and local levels, with diverse representation of agency types, sizes, and geographic regions. We supplemented this initial list with other potential participants who could provide perspectives from federal LEAs, federal law enforcement data collection efforts, mental health advocacy groups, civil liberties organizations, and criminal justice and policing researchers. RTI also assembled an initial list and gathered additional input and participant suggestions from RAND, the Police Executive Research Forum, and NIJ. Ultimately, 32 potential participants were identified and invited to participate in the workshop. Sixteen of these 32 individuals ultimately elected to participate.

This process of expert elicitation was designed to gather unbiased, representative results from experts and practitioners in the field. However, several limitations could affect our findings. The process typically elicits opinions from a relatively small group of experts. To limit the effect of group size on the representativeness of the results, we strove to make the group as representative as possible of different disciplines, perspectives, and geographic regions. Although we did not identify any relevant gaps in perspectives or representation among the participants, we note that the final output of the workshop likely is significantly influenced by the specific group of experts who participated. It is possible that the workshop findings would vary were a different group of experts selected. Moreover, although the discussion moderators make every effort to act as neutral parties when eliciting opinions from the convened group of experts, the background and experience of the moderators have the potential to influence which questions they

pose to the group and how they phrase those questions. This could also introduce bias that could influence the findings.

## Identification and Prioritization of Needs

To develop and prioritize a list of technology and policy issues that are likely to benefit from research and investment, we followed a process similar to one that we used in previous workshops (see, for examples, Jackson et al., 2015; Jackson et al., 2016, and references therein). Participants discussed and refined needs that could address each issue. In addition, needs could be framed in response to opportunities to improve performance by adopting or adapting a new approach or practice (e.g., applying a new technology or tool in the sector that had not been used before). After identifying and refining the needs, we used a voting process based on the Delphi method to elicit prioritization information from the group about the identified needs (RAND Corporation, undated).

Prior to the COVID-19 pandemic, PCJNI workshops were conducted in person in a group setting. However, under the restrictions and mitigations implemented in response to the pandemic, our participants and staff were unable to travel. Our typical in-person format involves a two-day, 14-hour in-person meeting (eight hours the first day, six hours the second day). However, drawing on several organizations' and individuals' experiences in running and participating in high-intensity virtual events, we determined that it would not be advisable to try to directly replicate this meeting format using virtual conferencing tools. Instead, we prepared a multi-stage process comprising

- interviews with each participant, either individually or in small groups, for approximately an hour to build an initial picture of their views and ideas
- a set of shorter, more-focused virtual sessions to provide the group the opportunity to react to and shape the consolidated picture that came from our synthesis of the individual interview input
- a final voting stage, after the last interactive session, in which participants provided their final assessment of the rankings of the different needs.

## Interviews

During the interviews, we asked practitioner participants to discuss the challenges that they or their colleagues have experienced. We asked participants who were not practitioners (e.g., academics) to speak from their experiences working with

practitioners. We also asked them to identify areas in which additional investment in research and development could help alleviate the challenges. During these discussions, participants suggested additional areas that were potentially worthy of research or investment. We consolidated and integrated the problems, opportunities, and potential solutions described by the participants in the separate interviews into a single summarized list. In advance of the first meeting of the virtual workshop, participants were provided with the list of issues and needs.

### Virtual Sessions

Once each participant had been interviewed and the needs were consolidated, we held three two-hour virtual meetings using Zoom, a virtual meeting platform. These meetings were configured such that the participants could see each other's video feeds and collaborate to refine and edit the consolidated needs.

At the end of the discussion of each group of needs, participants were given an opportunity to review and revise the list of problems, opportunities, and potential solutions that they had identified. The participants' combined lists for each topic were displayed one by one on the screenshare portion of Zoom using Microsoft PowerPoint slides that were edited in real time to incorporate participant revisions and comments.

Once the group reached consensus on a group of needs, we conducted a real-time voting prioritization exercise using Delphi techniques. We asked the panel to anonymously vote using a web-based polling system (the Anywhere Polling feature from Turning Technologies).

Each participant was asked to score each need and the associated strategies to address those needs using a 1–9 scale for two dimensions: importance and probability of success.

For the *importance* dimension, participants were instructed that 1 was a low score and 9 was a high score. Participants were told to score a need's importance with a 1 if it would have little or no impact on the problem and with a 9 if it would reduce the impact of the problem by 20 percent or more. Anchoring the scale with percentage improvements in the need's performance is intended to help make rating values comparable from participant to participant.

For the *probability of success* dimension, participants were instructed to treat the 1–9 scale as a percentage chance that the need could be met and broadly implemented successfully. That is, they could assign the need's chance of success between 10 percent (i.e., a rating of 1) and 90 percent (i.e., a rating of 9). This dimension was intended to include not only

technical concerns (i.e., whether the need would be hard to meet) but also the effect of factors that might cause practitioners to not adopt the new technology, policy, or practice even if it were developed. Such factors could include, for example, cost, effect on practitioner workloads, other staffing concerns, and societal concerns.

After the participants provided their individual ratings using the web-based polling system (i.e., for *importance* or *probability of success*), we displayed a histogram-style summary of participant responses within the polling system's interface. If there was significant disagreement among the panel, then the participants were asked to discuss or explain their votes at one end of the spectrum or the other. (The degree of disagreement was determined by our visual inspection of the histogram.) If a second round of discussion occurred, participants were given an opportunity to adjust their rating on the same question. This process was repeated for each question and dimension at the end of each topic area.

### Post-Session Prioritization

Once the participants had completed this rating process for all of the topic areas, we put the needs into a single prioritized list. We ordered the list by calculating an expected value using the method outlined in Jackson et al., 2016. For each need, we multiplied the final (second-round) ratings for importance and probability of success to produce an expected value. We then calculated the median of that product across all of the respondents and used that as the group's collective expected value score for the need.

We clustered the resulting expected value scores into three tiers using a hierarchical clustering algorithm. The algorithm we used was the "ward.D" spherical algorithm from the "stats" library in the R statistical package, version 4.0. We chose this algorithm to minimize within-cluster variance when determining the breaks between tiers. The choice of three tiers is arbitrary but was done, in part, to remain consistent across the set of technology workshops we have conducted for NIJ. Also, the choice of three tiers represents a manageable system for policymakers. Specifically, the Tier 1 needs are the priorities that should be the primary policymaking focus, the Tier 2 needs should be examined closely, and the Tier 3 needs are probably not worth much attention in the short term (unless, for example, they can be addressed with existing technology or approaches that can be readily and cheaply adapted to the identified need).

Because the participants initially rated the needs one topic area at a time, we gave them an opportunity at the end of the workshop to review and weigh in on the tiered list of all identified needs. The intention of this step was to let panel members see the needs in the context of the other tiered needs and allow them to consider whether there were some that appeared too high or low relative to the others. To collect these assessments, we emailed the entire tiered list in a Microsoft Word document to the participants. This step allowed the participants to see all of the ranked needs collected across all sessions, providing a top-level view that is complementary to the rankings provided session by session. Participants were then asked to examine where each of the needs landed on the overall tiered list and whether this ordering was appropriate or needed fine-tuning. Participants had the option to indicate whether each problem and need pairing should be voted up or down on the list.

To prevent the (somewhat rare) situation in which small numbers of votes have an unintended outsized impact—for example, when some or all of the needs in one tier have the same or very similar expected values—we also set a threshold that at least 25 percent of the workshop participants must have voted on that need (and then rounded to the nearest full participant). For this workshop, there were 16 participants, so for any votes to have an effect on changing a need’s tier, at least four participants would have had to have voted to move the need up or down.

Only three participants responded with further input after the workshop. This failed to meet our threshold of 25 percent of workshop participants, and no changes were made to the final list of needs created during the workshop.

The complete list of identified needs is shown in Table A.1, and the needs are sorted by tier and category.

**Table A.1. Complete List of Needs, by Tier**

Problem or Opportunity	Potential Solution	Tier
Scope, definition, and detail		
<p>There is no clear consensus across reporting legislation and reporting agencies on the inclusionary criteria to use for critical incidents (deaths, serious injuries, or risk of injuries) that occur in law enforcement custody. LEAs and other stakeholders disagree on which manners of death should be reported.</p>	<ul style="list-style-type: none"> <li>Specify national standards for a more inclusive collection that includes all critical incidents—fatal incidents and all incidents in which police use deadly force—regardless of whether the incident results in a fatality (per the FBI’s National Use-of-Force Data Collection).</li> <li>Specify definitions of <i>in law enforcement custody</i>, <i>use of (deadly) force</i>, <i>freedom to leave</i>, <i>law enforcement response</i>, etc., and consider which terminology is most appropriate to minimize confusion.</li> <li>Develop a taxonomy of deaths or critical incidents that occur in law enforcement custody to provide necessary context to understand law enforcement’s role.</li> </ul>	1
Data and reporting		
<p>There is no national data collection system that collects reliable, complete, and timely information about deaths that occur in law enforcement custody. Such a system would require LEAs to report zero deaths when no such deaths occur, which could prove burdensome and resource intensive to capture relatively rare fatal events.</p>	<ul style="list-style-type: none"> <li>Support more-reliable and comprehensive reporting to existing systems that rely on law enforcement participation by allocating resources to data providers, leveraging information already collected by these agencies, and otherwise incentivizing participation.</li> </ul>	1
<p>It is not well understood why LEA reporting is not widespread and how to increase reporting.</p>	<ul style="list-style-type: none"> <li>Examine the challenges of and facilitators to LEA reporting and build data collection models that address or leverage them.</li> <li>Provide for persistent mandates, incentives, resources (including training), communication, stakeholder engagement (e.g., with other LEAs, advocates, policymakers) to institutionalize LEA reporting.</li> </ul>	1

Table A.1—Continued

Problem or Opportunity	Potential Solution	Tier
LEAs may be challenged by having to report similar information to multiple data systems.	<ul style="list-style-type: none"> <li>• Leverage existing reporting platforms and coordinate across providers to create efficiencies and reduce burden.</li> <li>• Conduct user experience research to understand challenges to collecting and submitting these data.</li> </ul>	1
Data providers or gatekeepers are concerned about disclosing active case information, respecting individual privacy, and releasing PII. Local laws and regulations often dictate what information can be released and when.	<ul style="list-style-type: none"> <li>• Develop standards to support accurate and timely reporting by specifying what to report, when, and what entity is responsible for providing the information.</li> <li>• Define the lead agency for reporting purposes.</li> <li>• Develop and implement protections that address privacy concerns. Specify appropriate uses of the data for disclosure and research purposes and provide education for data providers about appropriate uses.</li> </ul>	
Data providers or gatekeepers are concerned about how this information may be used.	<ul style="list-style-type: none"> <li>• Educate LEAs about how analysis of these data and transparency in reporting can improve agency performance, enhance public trust, reduce deaths in custody, etc.</li> <li>• Work with the research community, law enforcement, and other pertinent stakeholders to develop appropriate benchmarking indicators and toolkits and disseminate information on appropriate and responsible use of these data.</li> <li>• Develop and disseminate resources on statistical standards for aggregate reporting (e.g., those that federal data collections are required to follow).</li> </ul>	
There are challenges to translating knowledge into practice to reduce deaths in custody.	<ul style="list-style-type: none"> <li>• Provide a foundation for translational research by first prioritizing resources for a comprehensive and reliable data collection system.</li> </ul>	
Training, programs, and policies		
There is a lack of information on LEA training, programs, and policies related to use of force, operational tactics, and law enforcement culture.	<ul style="list-style-type: none"> <li>• Build a research and knowledge base on LEA training, policies, and operational performance related to use-of-force tactics and operations.</li> </ul>	1
There is a lack of information about officer training in conflict management techniques and whether these techniques were used during an incident.	<ul style="list-style-type: none"> <li>• Build a research and knowledge base to help inform the development and implementation of training programs about the use of conflict management techniques.</li> </ul>	
There is a lack of information about policies and practices to recognize and respond to a person experiencing a mental health crisis and general crisis intervention models and programs.	<ul style="list-style-type: none"> <li>• Analyze calls-for-service data to understand the prevalence and characteristics of calls that come through traditional 911 and emerging calls-for-service platforms.</li> </ul>	
There is a lack of information about the investigatory practices and prosecutorial decisionmaking in response to officer use of force and deaths that occur in law enforcement custody.	<ul style="list-style-type: none"> <li>• Conduct additional research into investigatory practices for deaths in law enforcement custody and prosecutorial response to use-of-force incidents.</li> </ul>	

Table A.1—Continued

Problem or Opportunity	Potential Solution	Tier
Scope, definition, and detail		
<p>Information about critical incidents and the persons involved in them are often found in a wide range of different data systems and in unstructured formats (e.g., incident reports, officer’s experience and history, decedent’s history).</p> <p>There is a lack of understanding of the historical context to the issue of disproportionality in deaths in custody and deployment of use of force.</p>	<ul style="list-style-type: none"> <li>• Develop standards and identify responsible entities for identifying these incidents and also collecting and reporting contextual information about deaths that occur in law enforcement custody.</li> <li>• Provide incentives and accountability for participating in the FBI’s National Use-of-Force Data Collection and other national data collections with public reporting.</li> <li>• Identify and apply best practices for data collections to explicitly measure racial, economic, and other indicators of potentially marginalized communities.</li> </ul>	2
Data and reporting		
<p>Multiple federal agencies have assumed responsibility for one or more aspects of the data collection(s) that could inform deaths that occur in law enforcement custody or use-of-force incidents, or both. This can create duplicative reporting and additional burden and confusion for data providers.</p>	<ul style="list-style-type: none"> <li>• Identify a single federal agency that is responsible for collecting these data and for the success of that data collection and direct resources, communications, etc. to support the success of that agency and the rationale for that agency being responsible.</li> </ul>	2
<p>It is not well understood why LEA reporting is not widespread and how to increase reporting.</p>	<ul style="list-style-type: none"> <li>• Incorporate a proactive approach with LEAs to facilitate reporting once a critical incident or death occurs.</li> </ul>	
Training, programs, and policies		
<p>There is a lack of information about officer medical and acute on-scene care training to administer aid after a use-of-force contact.</p>	<ul style="list-style-type: none"> <li>• Build a research and knowledge base on the impact of on-scene acute medical care by law enforcement officers.</li> <li>• Develop and implement training programs for officers responding to persons with serious bodily injury.</li> <li>• Develop a more coordinated approach with emergency medical personnel and trauma centers to respond to incidents of police use of force that could result in serious bodily injury.</li> <li>• Build a research and knowledge base on assessing the security of a scene so that medical personnel/EMS can safely move in to provide medical treatment.</li> </ul>	2
<p>There is a lack of information about officer training in conflict management techniques and whether these techniques were used during an incident.</p>	<ul style="list-style-type: none"> <li>• Define and develop core concepts around conflict management techniques.</li> </ul>	
<p>There is a lack of information about policies and practices related to an officer pointing or discharging a lethal firearm and whether these incidents result in nonfatal or fatal injuries.</p>	<ul style="list-style-type: none"> <li>• Build a research and knowledge base on the impact of law enforcement policies and practice related to <i>firearm use</i> (defined as pointing or discharging a firearm), including outcomes that consider racial disparities, the individual’s perception of harm, and the officer’s perception of safety.</li> </ul>	
<p>There is a lack of information about policies and practices to recognize and respond to a person experiencing a mental health crisis and general crisis intervention models and programs.</p>	<ul style="list-style-type: none"> <li>• Build a research and knowledge base to support the development of training and policies on alternative mental health crisis response models and assess the impact of such models on use of force.</li> </ul>	

Table A.1—Continued

Problem or Opportunity	Potential Solution	Tier
<p>There is a lack of information about the investigatory practices and prosecutor decisionmaking in response to officer use of force and deaths that occur in law enforcement custody.</p>	<ul style="list-style-type: none"> <li>Promote transparency related to prosecutorial response to use-of-force incidents referred for investigation.</li> <li>Develop a data collection that includes measures of the process, responsible entities, and outcomes of investigations following all deaths that occur in law enforcement custody, as well as the impact of those investigation outcomes on LEA policy and practice.</li> </ul>	2
<p>There is a lack of information about agencies' policies and practices on less lethal techniques.</p>	<ul style="list-style-type: none"> <li>Build a research and knowledge base on the impact of less lethal techniques to help inform the development and/or implementation of training programs on the use of these techniques.</li> </ul>	
<p>There is a lack of information about officer conduct records and use-of-force history.</p>	<ul style="list-style-type: none"> <li>Develop a robust and complete data collection that includes historical officer-level information about conduct and use of force.</li> </ul>	
Scope, definition, and detail		
<p>There are limitations on what can be learned from incident-level data, which could be addressed with more contextual information.</p>	<ul style="list-style-type: none"> <li>Develop a research portfolio that augments incident information and examines contextual information, including agency policies and practices, officer experience, training and history of use of force, decedent information, and relevant community factors.</li> <li>Consider multiple sources and processes for this contextual information, such as fatality reviews.</li> <li>Collect more-detailed incident information, including officer who responded; content from dispatch; time spent at incident; tactical approaches used, such as de-escalation and less lethal force; mental and physical condition of decedent; and weapons and actions of decedent.</li> <li>Convene a working group to develop a complete catalog of the incident, including individual, contextual, and other pertinent information to understand the correlates, characteristics, and outcomes associated with critical incidents. For example, this information should include information on the presence of decedent weapons or officer perception of the presence of such weapons.</li> </ul>	3
<p>There is no clear consensus across reporting legislation and reporting agencies on the inclusionary criteria to use for critical incidents (deaths, serious injuries, or risk of injuries) that occur in law enforcement custody. LEAs and other stakeholders disagree on which manners of death should be reported.</p>	<ul style="list-style-type: none"> <li>Specify a data collection focused on fatal incidents occurring in law enforcement custody and adopt the definition described in DCRA.</li> </ul>	

Table A.1—Continued

Problem or Opportunity	Potential Solution	Tier
Data and reporting		
<p>Data providers or gatekeepers are concerned about disclosing active case information, respecting individual privacy, and releasing PII. Local laws and regulations often dictate what information can be released and when.</p>	<ul style="list-style-type: none"> <li>Define a <i>closed case</i> for reporting purposes, which would not necessarily prioritize real-time-reporting. Identify which measures can be reliably reported despite case status (e.g., report of zero deaths), which measures can be classified temporarily as “pending,” and a process for ensuring the complete reporting of measures that are dependent on case closure.</li> </ul>	3
<p>There is no national data collection system that collects reliable, complete, and timely information about deaths that occur in law enforcement custody. Such a system would require LEAs to report zero deaths when no such deaths occur, which could prove burdensome and resource intensive to capture relatively rare fatal events.</p>	<ul style="list-style-type: none"> <li>Coordinate at the federal level to consider and support mandatory reporting.</li> <li>Revise death certificate forms to include a box for medical examiners and coroners to check when a death occurs in law enforcement custody or as a result of law enforcement use of force.</li> <li>Incorporate alternative, independent data collection designs that are not solely reliant on voluntary law enforcement reports (e.g., NVDRS, which relies on the medico-legal community).</li> </ul>	
<p>There are challenges to translating knowledge into practice to reduce deaths in custody.</p>	<ul style="list-style-type: none"> <li>Emphasize the importance of and provide resources to support translational research.</li> </ul>	
Training, programs, and policies		
<p>There is a lack of information on LEA training, programs, and policies related to use of force, operational tactics, and law enforcement culture.</p>	<ul style="list-style-type: none"> <li>Further develop use of technologies, such as body-worn cameras, to provide data about officer interactions with individuals.</li> </ul>	3
<p>There is a lack of information about officer training in conflict management techniques and whether these techniques were used during an incident.</p>	<ul style="list-style-type: none"> <li>Develop fidelity scales to measure implementation.</li> </ul>	
<p>There is a lack of information about officer medical and acute on-scene care training to administer aid after a use-of-force contact.</p>	<ul style="list-style-type: none"> <li>Develop and use technologies that can assist with an officer’s assessment of an individual’s physical condition at the scene.</li> </ul>	

NOTE: EMS = emergency medical services.

## Notes

<sup>1</sup> This is known as a *Terry stop*, when a person's freedom to leave is restricted based on a reasonable suspicion of involvement in criminal activity.

<sup>2</sup> The FBI's Use-of-Force National Data Collection also includes actions by an officer in response to resistance to arrest that result in the death or serious bodily injury of a person or when an officer discharges a firearm at or in the direction of a person.

<sup>3</sup> OMB stipulated that if the FBI did not achieve 60-percent participation by the end of 2022, the FBI was to end the data collection effort and explore alternatives for collecting law enforcement use-of-force data (GAO, 2021).

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## Justice Policy Program

RAND Social and Economic Well-Being is a division of the RAND Corporation that seeks to actively improve the health and social and economic well-being of populations and communities throughout the world. This research was conducted in the Justice Policy Program within RAND Social and Economic Well-Being. The program focuses on such topics as access to justice, policing, corrections, drug policy, and court system reform, as well as other policy concerns pertaining to public safety and criminal and civil justice. For more information, email [justicepolicy@rand.org](mailto:justicepolicy@rand.org).

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## About This Report

On behalf of the U.S. Department of Justice, National Institute of Justice (NIJ), the RAND Corporation, in partnership with the Police Executive Research Forum (PERF), RTI International, and the University of Denver, is carrying out a research effort to assess and prioritize technology and related needs across the criminal justice community. This research effort, called the Priority Criminal Justice Needs Initiative, is a component of the Criminal Justice Requirements & Resources Consortium (RRC) and is intended to support innovation within the criminal justice enterprise. For more information about the RRC and the Priority Criminal Justice Needs Initiative (PCJNI), please see [www.rand.org/well-being/justice-policy/projects/priority-criminal-justice-needs](http://www.rand.org/well-being/justice-policy/projects/priority-criminal-justice-needs).

This report is one product of that effort. In September 2021, RAND researchers conducted an expert workshop on how data on deaths in law enforcement custody could be used to inform policy and practice to reduce such fatalities. This report documents the proceedings of that workshop, topics considered, needs that the panel participants developed, and overarching themes that emerged from the panel discussions. This report should be of interest to law enforcement agency administrators, civilian oversight bodies and stakeholders, national police data collection stakeholders, and researchers and other stakeholders who work with law enforcement data. Other RAND publications based on research from the PCJNI that might be of interest are

- Sean E. Goodison, Jeremy D. Barnum, Michael J. D. Vermeer, Dulani Woods, Siara I. Sitar, and Brian A. Jackson, *The Law Enforcement Response to Homelessness: Identifying High-Priority Needs to Improve Law Enforcement Strategies for Addressing Homelessness*, Santa Monica, Calif.: RAND Corporation, RR-A108-6, 2020
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