

# United States Senate

WASHINGTON, DC 20510

June 26, 2024

The Honorable Merrick Garland  
Attorney General  
United States Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530

Dear Attorney General Garland:

We write to urge the Department of Justice (DOJ) to collect more detailed information about deaths in federal, state, and local custody to better understand—and mitigate—the risks that inmates face while incarcerated.

In prior outreach, we have urged the Department of Justice to investigate ongoing disturbing reports of deaths in custody in Georgia’s Clayton County and Fulton County Jails.<sup>1</sup> Tragically, deaths have continued—in just the first six months of 2024, at least six individuals have died in custody in Clayton County Jail.<sup>2</sup> Another three have died in custody in the Fulton County Jail this year, following the death of 10 individuals in custody in Fulton County in 2023. These alarming numbers underscore the necessity of stronger reporting under the Death in Custody Reporting Act (DCRA) to help identify the causes of these deaths and possible interventions to prevent future tragedies.

Further, a 10-month, bipartisan investigation Sen. Ossoff led as former chair of the U.S. Senate Permanent Subcommittee on Investigations revealed concerning deficiencies in DOJ’s collection of data on deaths in state and local custody under DCRA.<sup>3</sup> As relevant here, Government Accountability Office (GAO) reporting revealed that 70% of records on deaths in custody that states submitted in fiscal year (FY) 2021 were missing at least one category of information DCRA required DOJ to collect.<sup>4</sup>

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<sup>1</sup> [https://www.ossoff.senate.gov/wp-content/uploads/2023/09/23.09.07\\_DOJ-Letter-re-Clayton-County-Jail.pdf](https://www.ossoff.senate.gov/wp-content/uploads/2023/09/23.09.07_DOJ-Letter-re-Clayton-County-Jail.pdf); <https://www.warnock.senate.gov/wp-content/uploads/2024/01/02.01.2024-Letter-to-DOJ-re-Fulton-County-Jail-Investigation.pdf>

<sup>2</sup> Elizabeth Weill-Greenberg, *Deaths Mount at Scandal-Plagued Georgia Jail*, *The Appeal* (May 23, 2024), <https://theappeal.org/clayton-county-jail-deaths-2024-georgia/>.

<sup>3</sup> *Uncounted Deaths in America’s Prisons and Jails: How the Department of Justice Failed to Implement the Death in Custody Reporting Act*, *Hearing before the Senate Subcommittee on Investigations*, 117th Cong. (Sept. 20, 2022); *Uncounted Deaths in America’s Prisons & Jails: How the Department of Justice Failed to Implement the Death in Custody Reporting Act*, Staff Report of the Permanent Subcommittee on Investigations (Sept. 20, 2022), <https://www.hsgac.senate.gov/wp-content/uploads/imo/media/doc/2022-09-20%20PSI%20Staff%20Report%20-%20Uncounted%20Deaths%20in%20America's%20Prisons%20and%20Jails.pdf>.

<sup>4</sup> Government Accountability Office, *Deaths in Custody: Additional Action Needed to Help Ensure Data Collected by DOJ are Utilized*, at 9 (GAO-22-106033) (Sept. 20, 2022).

While DOJ has taken steps to improve compliance with DCRA’s reporting requirements, there is still more to be done to ensure that every death in custody is reported fully and accurately—and that the government has the information necessary to identify and address any possible causes of death within its control. Including more specific questions on DCRA forms is an important part of this.

Currently, the state DCRA reporting form captures the circumstances of a death only through one open-ended question. DOJ could significantly improve reporting by standardizing the state reporting form with the federal law enforcement reporting forms, CJ-13A and CJ-13B, which include more specific questions regarding the circumstances of a death. This would also enable comparison of outcomes across state and federal institutions.

Beyond this, DOJ should consider updating both state and federal forms to include additional specific questions. The need for more detailed reporting is clear. For instance, DCRA data for FY 2021 reflected that roughly 80% of deaths in federal custody were the result of natural causes or illnesses. Investigative reporting has revealed that some deaths classified as “natural” may trace back to preventable factors, such as inadequate medical treatment, neglect, or poor conditions.<sup>5</sup> However, the federal reporting forms do not call for information about medical treatment or other factors that could shed more light on the causes of “natural” deaths, making it impossible to discern the scope of this problem from DCRA data.<sup>6</sup>

To that end, we encourage DOJ to work, within the next six months, to update both state and federal law enforcement reporting forms to include more specific information about the causes of deaths in custody, with input from internal and external experts. Among other things, DOJ should consider including the following information in its reporting forms:

- The average daily population of the facility at the end of the reporting quarter;
- The full birthdate of the deceased;
- The deceased’s date of admission to the facility;
- The trial status of the deceased (whether pre-trial, convicted, or on probation or parole hold);
- The deceased’s disability status and any accommodations required;
- Conditions of the deceased’s confinement, including use of medical isolation, solitary confinement, or other segregated housing in the months prior to death, as well as what incidents led to use of segregated housing;

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<sup>5</sup> See Tirzah Christopher, *There is little scrutiny of ‘natural’ deaths behind bars*, NPR (Jan. 2, 2024), <https://www.npr.org/2024/01/02/1219667393/there-is-little-scrutiny-of-natural-deaths-behind-bars>.

<sup>6</sup> Bureau of Justice Statistics, “Arrest-Related Death Incident Report,” Form CJ-13A (2023), [https://dojdca.org/pdfs/FDCRP\\_CJ-13A\\_fillable%20PDF%20FY2023\\_final.pdf?pdf=FDCRP\\_CJ13A\\_fillable%20PDF%20FY2023\\_final](https://dojdca.org/pdfs/FDCRP_CJ-13A_fillable%20PDF%20FY2023_final.pdf?pdf=FDCRP_CJ13A_fillable%20PDF%20FY2023_final); Bureau of Justice Statistics, “Detention or Incarceration Death Incident Report,” Form CJ-13B (2023), [https://doj-dca.org/pdfs/FDCRP\\_CJ13B\\_fillable%20PDF%20FY2023\\_final.pdf?FDCRP\\_CJ-13B\\_fillable%20PDF%20FY2023\\_final](https://doj-dca.org/pdfs/FDCRP_CJ13B_fillable%20PDF%20FY2023_final.pdf?FDCRP_CJ-13B_fillable%20PDF%20FY2023_final).

- For natural deaths, any pre-existing conditions and medical care or health-related services the deceased had requested or received in the months prior to death;
- For suicides, mental health care or related services the deceased had requested or received in the months prior to death;
- For substance abuse-related deaths, identification as such and any treatment or related services the deceased had requested or received in the months prior to death;
- For substance abuse-related deaths, the source of any substance that might have contributed to the death; and
- For homicides, information about prior encounters the deceased might have had with the perpetrator in the months prior to death.

To the extent possible, forms should include closed-ended questions covering these topics, in addition to a catch-all open-ended question. Including such questions better positions the federal government to consistently collect important and necessary details regarding deaths in custody and facilitates accounting and comparison of data across institutions. We also encourage DOJ to require reporting by facilities that have seen zero deaths in custody in a reporting term, to confirm that fact.

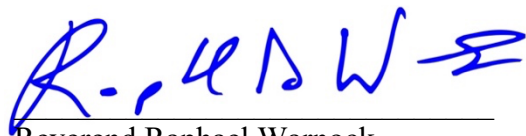
We respectfully request that DOJ inform us, in writing, of any efforts it is currently undertaking, or plans to undertake, to ensure that detailed and uniform information is collected about deaths in federal, state, and local custody.

Thank you for your attention to this matter and for your continued work to ensure the safety and wellbeing of individuals in federal, state, and local custody.

Sincerely,



Jon Ossoff  
United States Senator



Reverend Raphael Warnock  
United States Senator