

# U.S. House of Representatives

## Committee on the Judiciary

Washington, DC 20515-6216

One Hundred Sixteenth Congress

January 27, 2020

The Honorable Michael Horowitz  
Inspector General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Dear Inspector General Horowitz:

We write regarding the Department of Justice's (the "Department") failure to timely implement data collection and reporting required under the Death in Custody Reporting Act of 2013 (DCRA) and ask that you review the Department's continued failure to comply with the Act.<sup>1</sup> The Department's inaction is particularly concerning given the recommendations, outline below, that you provided the Attorney General in December 2018.<sup>2</sup> The failure to report is grave, and as Members of Congress, we find the Department's refusal to follow through on the obligations imposed by the Act to be deeply concerning and a willful disregard of Congressional action.

Congress's 2014 enactment of the DCRA aimed to address the paucity of reliable data on instances where a detained individual died in a state or local custody. Notably, the Act required, at the discretion of the Attorney General, up to a 10% drawdown penalty, if a state fails to submit the required data. To date, the Department has not adopted uniform procedures to collect reliable data nor penalized any state for failing to report data. Nor has the Department published a report of the limited data it does collect. In the absence action by the Department, the United States continues to face a persistent crisis of deaths in custody, the true scope of which remains unknown. Public open source reporting is no substitute for the comprehensive reporting required by the DCRA.

Your 2018 report outlined key reforms for timely compliance with the DCRA reporting requirements. Initially, you suggested that the Office of Justice Programs, the Department's primary grant funding agency, create and maintain a list of law enforcement agencies that failed to provide DCRA reporting data; address discrepancies in reported data to include a time of death in its DCRA data; and promulgate a framework that incorporates open-source data and avoids duplicate data reporting. You suggested that the Department could begin collecting the required statistics only once these initial concerns are addressed. The Department replied to

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<sup>1</sup> Pub. L. No. 113-242, 128 Stat. 2860 (2013).

<sup>2</sup> DEP'T OF JUST., OFF. OF THE INSPECTOR GEN., REVIEW OF THE DOJ'S IMPLEMENTATION OF THE DEATH IN CUSTODY REPORTING ACT OF 2013 (Dec. 2018) [DCRA INSPECTOR GEN. REPORT]  
<https://oig.justice.gov/reports/2018/e1901.pdf>.


these initial recommendations by stating that it would “explore ways to apply the provision to promote data reporting.”<sup>3</sup> This perfunctory response neither addresses the deficiencies you uncovered nor does it address the underlying gap in data. The Department has had one year to address these shortfalls and has made no meaningful progress.


So that Congress may assess the current status of the Department’s compliance with the DCRA, we specifically request you review the following questions regarding the Department’s intent to fulfill its responsibilities under the Act:

- To what extent has the Department “explore[d] ways to apply the provision to promote data reporting”?
- Why hasn’t the Department adopted policies to incentivize reporting?
- Will the Department impose on any state a drawdown penalty, in fiscal year 2021, for a failure to report under the DCRA? If so, what state(s)?
- What plans does the Department have to implement the reforms outlined in your December 2018 report?
- Does the Department anticipate further delays in fulfilling its federal mandate? If so, what are these delays, why are they necessary, and when does the Department anticipate full compliance with its reporting responsibilities?

Should you open a review, we ask that your staff provide a briefing to Judiciary Committee Members and staff on your findings. We look forward to working with you to ensure the Department of Justice fulfills its statutory responsibility and provides Congress and the American people with this vital statistical information.

Sincerely,

  
Jerrold Nadler  
Chairman  
Committee on the Judiciary

  
Karen Bass  
Chair, Subcommittee on Crime, Terrorism,  
and Homeland Security

cc: The Honorable Doug Collins, Ranking Member  
Committee on the Judiciary

The Honorable John Ratcliffe, Ranking Member  
Subcommittee on Crime, Terrorism, and Homeland Security

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<sup>3</sup> DCRA INSPECTOR GEN. REPORT 19.