



## Arrest-Related Deaths, 2009 CJ-11 Reporting Instructions

State respondents frequently contact BJS for guidance on how to handle cases they are unable to resolve using the guidelines listed on the CJ-11 form. These contacts include a request for documented guidance for which scenarios are considered reportable to the Deaths in Custody Reporting Program (DCRP). The following instructions should provide such guidance, but as always, if you are not sure about an individual case, please feel free to contact BJS staff. The following is a list of issues that commonly result in confusion among data providers.

**1) “Arrest-process” and physical “custody”:** Although the data collection was launched pursuant to the "Deaths in Custody Reporting Act", the key phrase in the legislation covering law enforcement operations is the reference to "persons in the process of arrest". This language is more inclusive than a physical “custody” definition. The most common type of death reported to the program is a firearm homicide of an arrest subject by law enforcement officers. Virtually none of these cases involve subjects who were already in physical custody of the arresting officers. As a guiding principle, please do not exclude cases on the basis that physical custody had not been established.

Likewise, there are also cases in which a person dies in law enforcement custody, even though no arrest process was involved. Typically these cases involve the transport of individuals in need of medical or mental health care. Officers may restrain a person for their own safety, or for the safety of medical personnel on the scene. Even though these persons do not face any criminal charges, they are still under the physical restraint or in the physical custody of law enforcement officers. As such, if these persons die during this period, their deaths would be reportable events. These types of events made up 4% of all arrest-related deaths reported to the program during its first three years (see p. 14 of the BJS Special Report *Arrest-Related Deaths in the United States, 2003-2005*; available at: <http://bjs.ojp.usdoj.gov/content/pub/pdf/ardus05.pdf>). Please note that if such persons die at medical/mental health facilities *following* police transport, they are not reportable unless the final determination of cause of death is directly linked to the period of law enforcement custody.

Ultimately, the reporting program covers deaths that occur in either context; those occurring while a person is under the physical restraint or in the custody of officers, as well as those occurring while an arrest process is underway (but not yet in physical custody).

**2) Jails vs. booking centers or police lockups:** The deaths of any persons held in police stations (i.e., for interrogation) or in a short-term booking facility are included in records of "arrest process" deaths. Once an arrestee is booked into a jail, (i.e., a facility that typically holds offenders after arraignment, during adjudication and for sentences of less than a year) their death is no longer reportable to this collection. These deaths are collected under a separate BJS collection and should be excluded to prevent duplication.

**3) Suicides:** Suicides are one of the most common forms of arrest-process death reported to BJS. In the vast majority of these suicides, the death takes place before the arrest subject is in custody. As a result, the departments mistakenly believe the suicide shouldn't be included. If police are present and trying to detain an individual, he is already in the process of being arrested and is therefore reportable. The only suicides that should be excluded are cases when a person with a warrant for their arrest commits suicide, but not in the presence of arresting officers (i.e., an offender with a bench warrant commits suicide while alone at home and police are not present).

**4) Vehicle accident deaths:** Departments should only include cases where a vehicular pursuit of an arrest subject involved direct action taken by the officers against the subject, such as ramming the subject's vehicle, shooting at the vehicle or otherwise forcing the subject's vehicle off the road (i.e., roadblocks, spike strips to blow out tires). But if the pursuit does not involve any direct action taken against the subject or his/her vehicle, and just entails following them, please exclude the death. It is our desire to avoid contaminating this dataset with a wide variety of vehicular accident deaths related to speeding, reckless driving, or drunk driving, where police respond to accidents after the fact or without any arrest role. Likewise, please exclude any bystanders or people not involved in the arrest attempt who are killed in any police pursuit-related collision.

**5) Use of force:** As noted in the "INCLUDE" listing on the CJ-11 form, please include any death of person "killed by any use of force by law enforcement officers." Force is often used unexpectedly (before an arrest warrant is issued, or in response to a rapid escalation of an otherwise routine activity) and as a result, departments sometimes feel these cases shouldn't be included. Per Congressional emphasis on the need for their inclusion, BJS has consistently directed departments to include all use of force cases.

Officers are trained to only use lethal force when they feel their own safety or that of other persons is gravely threatened. The presence of such a threat essentially implies an arrest process. Put another way, the threshold of criminal behavior by a subject to prompt an arrest is far *lower* than the threshold to prompt the use of lethal force. Therefore, anyone who is killed by lethal police force is certain to have been arrested had they been simply wounded rather than killed.

**6) Deaths caused by others during an arrest attempt:** Arrestees who die from the actions of non-law enforcement persons at the arrest scene are reportable. For example, if a store owner shoots a robbery suspect who later dies after police arrest him, the death is reportable because the deceased was an arrest subject. Also, if arrest subjects die due to accidental injuries caused by other parties, please include these deaths. For instance, if an arrest subject is being pursued on foot and is struck by a vehicle or trips and fatally injures him/herself, these deaths would still be included, because they occurred during an arrest process. Mark their manner of death as "accidental injury to self" or "accidental injury caused by others", whichever may apply.