

Death in Custody Reporting Act of 2013

Reporting Guidelines and Frequently Asked Questions

What death is reportable?

A death of “any person who is detained, under arrest, or is in the process of being arrested, is en route to be incarcerated, or is incarcerated at a municipal or county jail, State prison, State-run boot camp prison, boot camp prison that is contracted out by the State, any State or local contract facility, or other local or State correctional facility (including any juvenile facility).”

“Detained” means police contact that results in an individual being delayed from going about their intended business, a standoff, hostage situation, or police pursuit. For example, a traffic stop, questioning an individual who matches a suspect description, or a check-on-the-welfare for a person who appears to be in distress.

Common examples of reportable deaths include officer-involved shootings; deaths related to the use of force or law enforcement compliance weapons (tasers, stun guns, nightsticks); or fatal accidental injuries sustained while attempting to elude officers, such as falls from heights and drowning; and suicides committed during standoff and barricade scenarios.

Other examples of reportable deaths are those not directly related to either police action or negligence, such as deaths attributed to intoxication, suicide, accidental injury, and illness or natural causes that occurred during law enforcement interaction or while in custody.

As a guiding principle, please **do not** exclude a case on the basis that physical custody had not been established. This point is highlighted through cases involving officer-involved shootings. Virtually none of these cases involve subjects who were already in the physical custody of law enforcement personnel.

When should a death be reported and by whom?

Report decedent information when you hear about a potential death even if an investigation is still pending at the time of reporting. Note that an “unavailable, investigation pending” choice is available. You can then update the record when the death has been confirmed.

Updates must be provided at the conclusion of a DICRA death investigation if “Unavailable, investigation pending” was reported in the ‘manner of death’ field. To update an incident, submit a completed revised form to pgr@isp.idaho.gov.

If more than one agency was present at the time of the death, which agency is responsible for reporting the death?

The agency that is considered to have jurisdiction over the decedent at the time of death is responsible for reporting the death. When multiple agencies are considered to have jurisdiction then follow the guidelines below.

- Multi-agency: The agency of the officer whose actions resulted in the death must report the incident.
- Multi-agency (unable to determine which officer’s actions resulted in the death): The primary jurisdictional agency must report the incident. Examples:
 - Local Police Department – Sheriff’s Office: Local Police Department reports
 - Local Police Department – State Agency: Local Police Department reports
 - Sheriff’s Office – State Agency: Sheriff’s Office reports

Other scenarios:

- Off Duty Officer: The agency with whom the officer is employed must report the incident.
- Federal Agency: On or off-duty officer, the primary jurisdictional agency must report the incident.
- Task Force Member: The agency with whom the officer is employed must report the incident.

Examples of Reportable and Non-Reportable Scenarios

The following are scenarios where a decedent commits suicide while law enforcement officers are present on the scene:

- a. Response is for a person with a mental disturbance or a distraught person, where result of police custody would have been to transport the subject for mental health evaluation prior to determining any criminal charges.

Yes, this is reportable.

- b. Response is for a person who is a suspect of a crime or a person wanted for questioning of a crime, whether an arrest warrant has been issued or not.

Yes, this is reportable.

- c. Response is for a person who has fled from police custody, and who has committed no other crime.

Yes this is reportable, if law enforcement is in "active pursuit" where the offender is fleeing law enforcement. However, if the offender has fled and "active pursuit" has ended, but it becomes an active investigation/search and the suspect is later found dead, then the event is not reportable.

The following are scenarios where a death occurred during police pursuits:

- a. Police officers pursue a suspect, during which the suspect produces a weapon creating a threat to officer safety. Suspect is then shot and killed by officers without an officer ever having "put hands on the suspect" to physically attempt an arrest prior to the shooting.

Yes, this is reportable.

- b. Suspect crashes and sustains fatal injuries while officers are engaged in an active vehicle pursuit.

Yes, this is reportable.

- c. Suspect crashes and sustains fatal injuries after officers terminated a pursuit for safety reasons and no police vehicles are obviously in pursuit.

No, this is not reportable.

- d. What about people who are killed indirectly due to a law enforcement pursuit?

No, this is not reportable. Indirect deaths (such as bystanders) are not included in the statute.

Police contact results in an individual being delayed from going about their intended business (i.e., a brief detention—a traffic stop, questioning an individual who matches a suspect

description, a check-on-the-welfare for a person who appears to be in distress). The individual contacted then has a medical emergency and dies.

Yes, this is reportable.

An inmate is transferred to a medical facility and dies there, not in a correctional facility.

Yes, this is reportable if an inmate is considered to be detained and under the supervision of law enforcement, detention, or correctional staff.

Law enforcement assists during transport to a hospital or mental health facility and the person dies.

The death of a noncriminal person that occurs in the custody of law enforcement personnel in these circumstances should **not** be reported, unless circumstances change and the person commits a criminal action. Example: A person is being transported to the hospital for a psychiatric evaluation. During transport the person begins kicking out the windows of the squad car. If the incident escalates and the officer's actions result in the death of the individual, the incident must be reported.

A person dies after being restrained for their own safety, or for the safety of medical personnel on the scene.

Yes, this is reportable. 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 detainment or custody by law enforcement, detention, or correctional staff.

Law enforcement personnel are attempting to arrest a fleeing suspect when the suspect collides with a civilian operated vehicle and sustains fatal injuries as a result.

Yes, this is reportable. The death should be recorded as, "Accidental."

Law enforcement personnel are dispatched to a robbery in progress at a convenience store. Upon arrival at the scene, law enforcement personnel discover a struggle between the suspect and store clerk. The store clerk fatally wounds the suspect in the presence of law enforcement personnel.

Yes, this is reportable. In this instance, the manner of death should be recorded as, "Homicide."