

**Bureau of Justice Statistics
Arrest-Related Deaths Program Review
Washington, D.C.
May 13, 2010**

AGENDA

Thursday, May 13

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|-------|--|
| 8:30 | Continental Breakfast |
| 9:00 | Welcome and Introductions |
| 9:15 | Purpose of the Arrest-Related Deaths Program <ul style="list-style-type: none">• History• Future Objectives• Relevance of Theory and Policy Implications• Data Analysis and Reporting |
| 10:30 | Break |
| 10:45 | Capabilities and Constraints <ul style="list-style-type: none">• Data Providers• Additional Sources of Information• Sharing Across Agencies |
| 12:00 | Working Lunch: “What Should a BJS Program on Use of Force Look Like?”
Moderator: Dave Klinger |
| 1:00 | Discussion of the Data Collection Instrument <ul style="list-style-type: none">• Defining an “Arrest-Related”• Scope of the Collection• Utility of the Data Collected• Evaluation of Individual Items and Overall Structure• Validity and Reliability of Responses• Modifications to the Instrument• Instructions to Respondents |
| 2:30 | Review of the Meeting <ul style="list-style-type: none">• Next Steps• Final Comments |
| 3:00 | Adjourn |

Transcript of a Meeting
held Thursday May 13, 2010
in Washington, D.C.
about the Data Collection Instrument
for the
ARREST-RELATED DEATHS PROGRAM

* Note: This transcript has not been edited for spelling, grammar or accuracy. Points of view expressed here are those of the participants and do not necessarily reflect the official position of the Bureau of Justice Statistics, the Office of Justice Programs, or the U.S. Department of Justice. Inquiries about this meeting should be directed to: Andrea Burch, ARD Program Manager, 202-305-0765, andrea.burch@usdoj.gov.

U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS

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ARREST-RELATED DEATHS DATA PROGRAM REVIEW

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THURSDAY
MAY 13, 2010

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The meeting convened at the Justice Research & Statistics Association in Suite 801 of 777 North Capitol Street, N.E., Washington, D.C., at 9:00 a.m., Joel Garner, Chief, Law Enforcement Statistics Unit, Bureau of Justice Statistics, presiding.

PARTICIPANTS:

JOEL GARNER, Chief, Law Enforcement Statistics
Unit, BJS
ANDREA BURCH, Program Manager, Arrest-Related
Deaths, BJS
KENNETH ADAMS, Professor, College of Health
and Public Affairs, University of
Central Florida
JESSICA BLAIR, Program Associate, Justice
Research & Statistics Association
SUSAN BURTON, Administrator, Department of
Law Enforcement, Florida Statistical
Analysis Center
MARK J. CALLAHAN, Homicide Section, Baltimore
City Police Department
CONSTANCE DiANGELO, Virginia Office of the
Chief Medical Examiner
ANNA FRANCIS, IT Specialist, Policy &
Planning, DC Office of the Chief Medical
Examiner

PARTICIPANTS: (cont.)

HARRY HILL, Office of the Assistant Chief of
Police, DC Metropolitan Police
Department

ROBERT KAMINSKI, Associate Professor,
Department of Criminology & Criminal
Justice, University of South Carolina

DAVE KLINGER, Senior Research Scientist,
Police Foundation

ROBERT LANGWORTHY, Chair, Department of
Criminal Justice & Legal Studies,
University of Central Florida

COLIN LOFTIN, Professor, School of Criminal
Justice, University at Albany, SUNY

GUY R. X. MIDDLETON, Force Branch
Investigations, DC Metropolitan Police
Department

STAN ORCHOWSKY, Director of Research, Justice
Research & Statistics Association

ANTHONY RUSSO, Office of Management Analysis
& Planning, New York Police Department

JOAN SMITH, Criminal Justice Information
Support Manager, Washington Association
of Sheriffs & Police Chiefs

PAMELA SOUTHALL, Maryland Office of the
Chief Medical Examiner

GEORGE THORPE, Health Statistician, Maryland
Violent Death Reporting System,
Family Health Administration

BRIAN WIERSEMA, Violence Research Group,
Department of Criminology & Criminal
Justice, University of Maryland

P-R-O-C-E-E-D-I-N-G-S: 8:56 a.m.

MR. GARNER: I am Joel Garner, I'm Chief of the Law Enforcement Statistics Unit at the Bureau of Justice Statistics and I would like to welcome you to Washington, D.C. This is an unusual season for us. It's called spring. It usually lasts about two days and it's lasted maybe a week or two now. But I am sure summer will be here quite soon.

What I would like to do is welcome you all on behalf of BJS and the law enforcement unit. We are really excited about this meeting and this program. It's something that many of you have been working on, it's a topic many of you have been working on for years, in some cases decades.

BJS has only been involved in the last several years but we have put some additional resources and are trying to put some additional focus on this program and related programs.

We are really hoping that you can help us with that and we really appreciate that. This is the sort of expert, national expert meeting that BJS uses in many of its programs, I think most of its programs.

And helping us guide the program, help design it, what are people interested in, how should this program be structured, it's really an essential part of the BJS way of operation.

I thought I was hired a year ago figuring they just wanted me to come and design

programs and I would just implement them and I have been led to believe and actually like the idea that it's really the national people, operationally, in operational agencies and research agencies, who actually might know more about it than I do, have a great deal of say and influence in how we operate our programs.

And it's really an essential thing for our effort and we really do appreciate that and that you've taken your time to come and help with this.

I wanted to plant the emphasis for today's meeting, it's actually a very narrow emphasis but it's a crucial emphasis, it is this form that we have used, has been used for seven years for this program.

So we'll talk a little bit -- there's a history of this program with Congressional legislation mandating it and that mandate has gone away. There were directions on what the program would look like. There's been a form that's been used for several years which is, we think, an essential part of this effort and we would really like to work on that and have you help us with that for an effort for the next two years.

We are hoping to have a more major revision of this program that we cannot really do now but we can do maybe three or four years from now. But we can address, and what we can do, is see where there are improvements, enhancements, revision to this form, and how we collect this data and we'd really appreciate that.

Currently BJS's interest is in arrest-related deaths, it's a lethal force program. We hope, at BJS, to be able to expand that in the future to other, non-lethal, use of force programs and statistical efforts. That is something for the future that we think is appropriate

for our unit, something that would complement this effort.

Again, that's something that's more into the future. We have asked Dave Klinger, sort of at lunch to just sort of talk with us about that a little bit. It's really not part of the agenda for today but it's something we're interested in and it sort of complements well, what are we doing here, what else might we do on other types of police use of force, other kinds of injuries, assaults, weapon use.

I wanted to mention to you that today's meeting is going to be recorded. We are going to provide in about a week a transcript of this meeting. We will put that up on our webpage. Part of our operation is that while we invite people to meetings with us, there is no way really to publicly announce these. This is not a public meeting. But we would like this discussion to be available for the entire research, policing, medical, criminal justice community, to understand what were the kinds of issues we were concerned with and where, what we are thinking about on this form.

We hope to work on this form and this program today but after this meeting if you have other ideas or if you have talked to people, we are going to promote this among the field generally. If people have ideas that aren't expressed here today and you are interested in, you or they should send that to Andrea or to myself and this is not just a one-meeting concern.

We hope to be making revisions so that we can use this form beginning in October but we really need to work on this and then we have to go through a process where the Office of Management and Budget reviews our proposed form so we have to do that some

time in the next several months.

But it's a continuing effort to improve that and if there's other folks that couldn't make it today or that or you've talked with or something comes up, we would like to hear about that. We are really trying to make this as open a process as we can but also have a concentrated discussion with experts like yourself.

I would like, I guess, to finish up, just again thanking you on behalf of BJS. This is what makes our programs work. We, I have, I spent many years at the National Institute of Justice, a sister agency and have been surprised to learn the differences in the way agencies operate.

And BJS is one that is very emphatic about what we do has to work, has to be feasible. We do studies where we get 90, 95 percent response rates. It really has to be something that the community wants, the data providers are interested in that that is really a focus not just that will be interesting and something we would do one time, but something we are going to do for a long time.

And we really try and -- none of our data collection, like the UCR, is mandatory. It's all voluntary and so it is really the data generators have to be interested in this and it has to be of value to them, to their colleagues as well as to BJS and the rest of the criminal justice community.

So this is, again, I want to thank you for helping us with that. What I would like to do is first go around the room and have everyone introduce themselves. We have a great variety of folks here and I think it's important to appreciate a little bit about what you do and

your interest in this arrest-related death program. If we could do that I would appreciate that.

DR. DIANGELO Hi. I'm Connie DiAngelo. I'm the assistant chief medical examiner in the northern regional office of the Chief Medical Examiner in Virginia and I deal with the aftermath of the deaths that occur in custody.

MR. THORPE: My name is George Thorpe. I am an emergency physician and also an applied statistician. I work for the Family Health Administration in Maryland and they oversee the Maryland Violent Death Reporting System so I help them with their statistical stuff.

MR. GARNER: Which is part of the National Violent Death Reporting System.

MR. THORPE: yes.

LT. CALLAHAN: Lt. Mark Callahan. I work in homicide in Baltimore, Maryland. My understanding is Maryland does not participate in this so far.

MR. GARNER: As of today.

LT. CALLAHAN: As of today. And I deal with homicides in Baltimore city.

MS. SMITH: My name is Joan Smith. I am from the other Washington, Washington State and I am with the Association for Sheriffs and Police Chiefs. We do the UCR program, the IBR and also collect this information through our state. There's only 39 counties so we're not a huge state and I think we have had a pretty good success rate so far but we are the collector of the data and we turn it over then to Andrea, so my interest in this is what we're collecting, how it's used and if it's worthy.

MS. FRANCIS: My name is Anna Francis and I am an IT specialist with a focus on policy and planning as well as quality assurance with the D.C. Office of the Chief Medical Examiner and I have published their annual report for the past seven years so our chief thought it was appropriate for me to attend this meeting.

MR. KLINGER: I'm Dave Klinger currently with the Police Foundation on research leave from the University of Missouri at St. Louise and my interest in this topic spans back to when I was a young street cop in Los Angeles, almost 30 years ago, when we were shooting people, people were dying, new custody deaths in terms of what was attributed to upper body control holds. And then went to grad school, read some of Bob's stuff and said boy, this is really some fascinating stuff, how about trying to get good data on the topic.

LT. MIDDLETON: I'm Guy Middleton, a lieutenant with the Metropolitan Police Department Force Investigation Branch. We investigate all serious uses of force by the Metropolitan Police Department as well as death in police custody.

SGT. HILL: Harry Hill, sergeant, internal affairs. I'm the reporter for the Metropolitan Police Department. I track all uses of force related to police officers and we have participated in this program in the past. Our problem is that when we change directors, some people are not as receptive as relinquishing the numbers as others and that's a current problem that we are faced with today.

Of course we are also always waiting for an opinion from our general counsel and his nickname is "I'll-get-back-with-you," so we are still waiting for him to get back with us.

MR. GARNER: We have a general counsel and if you think it's a problem, then it's

a problem.

CAPT. RUSSO: Captain Anthony Russo, the NYPD's Office of Management Analysis and Planning, and my office is the central repository for all the deaths in custody.

MR. GARNER: And New York participates in this program in a direct way.

CAPT. RUSSO: Yes.

MR. ORCHOWKY: I'm Stan Orchowsky, I'm the research director here at JRSA. Welcome everyone. Nice to have you here. We have been involved with BJS on this from the beginning and with many of our statistical analysis centers, which are the state folks, state research agencies that we represent are reporting these data to BJS.

MS. BURTON: I'm Sue Burton and I'm one of those statistical analysis centers, in Florida, within the Florida Department of Law Enforcement and we are responsible for collecting and reporting the data in-house from the very beginning and also past president of JRSA and we have, that role has been very helpful for the SACs JRSA has in terms of helping us figure out how to implement this in the states.

MR. LANGWORTHY: I'm Bob Langworthy from the University of Central Florida. My interest in this goes back 30 plus years when I had the good fortune of working for Larry Sherman on his police homicides project. One of the conclusions that we arrived at was we really ought to have some idea how many people die in police custody and ought to be able to report that to the larger community. We are still trying to do that and this is an interesting effort in that regard.

MR. ADAMS: My name is Ken Adams. I am also with the University of Central

Florida. I'm a faculty member there and I have a general interest in police-citizen violent interactions, which includes use of force and use of deadly force.

MR. LOFTIN: Colin Loftin. I'm at the University at Albany, State University of New York, School of Criminal Justice. I also read Bob Langworthy's paper and got excited about it.

MR. GARNER: If he'd just done that right the first time --

MR. LANGWORTHY: It's Larry's fault. MR. LOFTIN: Anyhow my link to this is a general interest in the quality of homicide statistics.

MR. KAMINSKI: Bob Kaminski. I'm at the University of South Carolina. I'm on the faculty there and I have had a pretty long interest in issues related to police use of force. My primary interest is in violence against law enforcement officers and my interest in policing generally was initiated when I worked on a research project in the NYPD as an observer and rode around with officers for two-and-a-half months in 1986. So it was quite interesting.

And I currently, , for the past few years I've been collecting the data for the state of South Carolina for this program.

MR. WIERSEMA: My name is Brian Wiersema and I am at the University of Maryland at the Department of Criminology and Criminal Justice. I consider myself a data guy, mainly because I've been trying to, with Colin Loftin and David McDowall over a number of years, worked on improving both statewide and national data systems on violent death.

So I was involved in establishing the violent death reporting system in the Department of Health here in Maryland and I have been interested in the national violent death reporting system since its inception. I was involved in one of the pilot studies that promoted that.

DR. SOUTHALL: My name is Pam Southall. I'm assistant medical examiner with the Office of the Chief Medical Examiner in the State of Maryland. And like Connie, deal with the aftermath of deaths in custody and have particular interest in the sudden, unexpected deaths which occur during arrest.

MS. BURCH: My name is Andrea Burch. I am the program manager for the Arrest-Related Deaths collection. I work for Joel in the law enforcement unit of BJS and of course, I am his favorite.

MR. GARNER: Yes, today you are my favorite. Today we would really like to hear from you. This is going to be a challenge for Andrea and me. Those of you who know me know that I like to talk but today we are supposed to be listening and it's going to be a new skill for me. So I hope you can help me out with that.

But we really would like -- and Andrea's going to talk to you about the agenda -- but maybe some background issues but also what do we really want out of this? How would we use this? What are the things that this should do and then maybe get more to the okay, what does this form look like and if we could collect that data, how would that get us to the kind of program we would like to have.

So I think that would really, that would be helpful, both the broader issues and the details of what is actually on this form.

I am going to turn the meeting over to Andrea and see if we can move forward. Oh also, I'm sorry, Jessica?

MS. BLAIR: Hi, my name is Jessica Blair, I have spoken with the majority of you over the phone or via the email into the logistics of the meeting. I have a few announcements.

First off, the orange coffee pot contains decaf coffee so if you want caffeine you need to have the coffee pot that has brown on the top of it.

If you need to use the restroom you have to pick up a key at the front desk. They are labeled men's and women's so just pick up the key. The women's restroom is going to be right when you go out of the door. The men's restroom you have to go past the elevator and then it's to your right. When you come back you have to ring a little bell again and wait for someone to let you in the door.

And also if you would return your travel reimbursement forms if you are turning in a travel reimbursement, please return those in within 30 days of the meeting to get reimbursed. If you have any questions about that you can see me today during the meeting or shoot me an email or give me a phone call. I'll be happy to answer any of the questions.

MR. GARNER: Thank you. Andrea.

MS. BURCH: Okay so just to begin, a little background about the program. Due to public concern about the nature and frequency of arrest-related deaths, Congress passed

legislation the Deaths in Custody Reporting Act in 2000, requiring that, if states wanted to apply for grants for either the Truth in Sentencing or the Violent Offender Incarceration grants, they had to provide a record of deaths in custody.

So basically HR 1800, Deaths in Custody Reporting Act of 2000, I'm just going to read you the legislation: "reporting, on a quarterly basis, information regarding the death of any person who is in the process of arrest, is en route to be incarcerated, or is incarcerated at a municipal or county jail, State prison, or other local or State correctional facility, including juvenile facilities, that, at a minimum, includes: the name, sex, race, ethnicity, and age of the deceased; the date, time, and location of the death; and a brief description of the circumstances surrounding the death."

When this program was put into place, we started with those minimum requirements in designing the data collection form. That is the background on why the form contains the information it does.

Now we are thinking of maybe moving forward. Reevaluating the form to make sure it serves the purposes of the program as it was designed. In addition, we want to consider where we would like to take the program in the future and see if we need to modify the form in any way.

I should mention that this legislation did expire in 2006. Therefore, states don't necessarily have the same incentive to participate as they once did. However, a new version of the legislation is currently under consideration; it passed through the House and it is being reviewed by the Senate. So, the DICRA legislation might go back into place.

Although the original legislation required states to submit data on a quarterly basis, we no longer have that requirement. Since the legislation expired, states can give it to us, their data, annually if they want to participate. So --

MR. GARNER: And we are unconstrained about what we want to collect. We don't have the legislative constraints.

MS. BURCH: Right, we don't have the legislative constraints so we can move beyond what we were currently collecting. So the purpose of the DICRA legislation was to amend the Violent Crime Control and Law Enforcement Act of 1994 and to ensure that information regarding prisoners is reported to the Attorney General's office.

The arrest-related program was designed to meet three goals. The main one was to account for all deaths that occurred in the process of arrest, and to provide information about the circumstances, and then also to disseminate the information to the public in a useful way.

And so although today's meeting is focused on revising the data collection instrument, I think it's important to consider two points before we move forward. 1. Does the current instrument lend itself to the program's objectives? 2. Do the original program objectives have utility?

We have been putting this data out since 2003 and I'm not sure how it's being used right now or if it's being used. Can we make it more useful to different audiences? I really want to think about the utility of what we are collecting as we are refining the instrument.

So with that being said, to kind of summarize, the original instrument was designed for the purposes of the DICRA legislation but we need to consider whether or not those purposes

provide us with anything useful. I think we should have a clear and developed understanding of what the purposes of a data collection instrument are and what the utility of the data are before we evaluate or revamp the data collection instrument.

I think I'd like to start by having you discuss some of your purposes for this data and what it could be used for. In addition, what direction do you think the program should move in? Would it have any utility to any of your organizations the way it is now? Are there items we could add in order for the collection serve a purpose for you? I am just going to kind of open it up to the room.

MR. THORPE: If nobody else will say anything I will. Actually it's a question, aside from your report, do you have requests from outside the organization for access to the data for research?

MS. BURCH: We just took over, the law enforcement unit just took over this in January and since January there have been no requests. I don't know if you can speak to --

MR. GARNER: There actually, Dave has made a request. We -- at the present time we do not publicly archive these data and some of how hard that is for me to say. About the only thing I've ever accomplished in my government career is to get agencies to require archive data.

So we have not released the data to date but that's been a policy judgment on the part of BJS, something that could be considered.

The uses of the data I think we are thinking about are the tables that we have, the reports we've generated and the tables we've released on the web page.

Now this program has virtually no resources provided for it. It's been entirely voluntary. We are in the process of changing that so there's not been much dissemination effort, much analytic work. We are several years behind in producing tables, with the latest data is from 2006 that we have released.

So that's the status of it. That's the nature of what we have released. And I think the concern is, given that, given what we have done, have people used this, can it be useful, what are the things -- is it the way that it's going to be useful is only at an individual level, record release or aggregate tables is something that's of value to either research or policy communities.

MR. THORPE: Thank you.

MR. GARNER: Is that not clear or --

MR. THORPE: That got me 80 percent to the --

MR. GARNER: Okay. And the other 20 percent?

MR. THORPE: Along the road. No no no. That will come out.

MR. LANGWORTHY: I think the utility, the basic utility, it seems to me, is simply the tally and the description of folks who have died. And I guess the point of it is that if we have agents of the state who wield this brand of power and clearly we do, we ought to have some accounting for its use.

And that's utterly independent of making judgments about appropriateness or anything else. It's just, we ought to know how many people go down just because we ought to know it. Because almost as part of the responsibility for wielding that power.

I looked at the data and the big problem that I have in terms of its utility as a database for inferential work is that it's such a rare event that it's awfully hard to know how you contextualize any of this stuff.

And what you're going to have if you're looking at agency records is you're going to have zeroes. It's all going to be zeroes with an occasional not zero.

And what you learn about the dynamics of those events in those places strikes me as virtually nil. And I think that seems to me to be the big challenge to go forward with the database.

MR. GARNER: What we don't do is release data on places where there are no deaths, which is data.

MR. LANGWORTHY: Right, well actually you do in the table, there are a whole bunch of zeroes in that, in the state level.

MR. GARNER: For state, but there's 19,000 law enforcement agencies.

MR. LANGWORTHY: Right. And so the easy tally is you count all of the agencies in the states that had no deaths and how many of them -- you begin to get a picture that it don't happen.

At the end of the day you are talking about a zero probability event and how are we going to theorize about that and how are we going to draw lessons from it.

I understand after-action reports, stuff like that and their utility for training and things like that but in terms of a kind of comparative kind of database I think we've got a real problem with this one.

LT. CALLAHAN: Are you saying that there are states that have absolutely zeroes?

MR. LANGWORTHY: Oh yes, yes.

LT. CALLAHAN: Other than they didn't report, like Maryland didn't put anything in. I can't believe the state would have absolutely nobody die in custody.

MS. BURCH: I don't believe that either. I believe many law enforcement agencies will not have an arrest-related death, but I don't believe that there are states that do not have a single death all year. I have Google alerts set up, I actually have about 12 different phrases I search for everyday, and I continuously find deaths that are not reported in this collection.

I email the state and say, hey, I found 10 for this year alone. Will you fill out forms? So just because they report zero doesn't necessarily mean there were no deaths. I'm from St. Louis and Missouri is notorious for reporting low numbers. Many years it reported zero.

I was at the JRSA conference in St. Louis last year and in the 10 days that I was in St. Louis, there were three arrest-related deaths that occurred in the metro-area.

MR. GARNER: There's no causal mechanism there or --

MS. BURCH: No, there is no causal mechanism there. So I think we have a problem of identification, maybe reporting, more so than -- I have absolutely no idea how often arrest-related deaths occur but I know it occurs more than what we know about.

MR. LANGWORTHY: Well, you're right. But part of this is not all places are alike. St. Louis or Missouri, before I was in central Florida I was in Alaska and the St. Louis metropolitan area probably has about five times the population of the state of Alaska.

Not a helluva lot different from Wyoming, Nevada, Montana, a lot of the big western states don't do enough business to make these rare events show up.

So while I grant you that there's a fair chunk of under-reporting I would also bet you that the vast majority of those 19,000 police departments don't have one of these kinds of deaths in a year.

LT. CALLAHAN: But the whole state would. I mean, Alaska must have one.

MR. LANGWORTHY: They have one every now and then.

LT. CALLAHAN: Yes, I mean just by looking at the data, if you take a mental patient that is having problems and needs police to escort him to the hospital and he dies on the way to hospital, you call that an in-custody death. They must have something like that. I can't believe the entire state for the whole year wouldn't have one in-custody death.

MR. LANGWORTHY: It's a small place.

MR. KLINGER: In defense of Bob, the, I think the key point, we don't want to get lost on whether in any of the 50 states we have a zero. We know for sure, even if we multiply, let's say we underestimate by 90 percent so we've got 300 something each year, 400 something, let's bump that up to 3,000 or 4,000 each year, with 19,000 police departments, most agencies aren't going to have it, and I think that's what he's talking about, is this notion that if we are trying to get at what cops are doing at the department level, it's absolutely, , I would bet any amount of money if I got to bet on each of the 18, 19, however many thousand police agencies, 10 bucks a pop I'm going to walk home at the end of the year with a whole amount of money.

So I think his point is well taken but I think the other point that he started out with is also something we do have to remember, that in a representative democracy where we imbue the cops with this power to take life or to use force which could lead someone to die unintentionally, we should have counts of this.

And my understanding is that's what was behind the legislation, was we need to know.
So --

MR. GARNER: Something that's changed since Bob wrote the article is that police departments, and maybe in New York and D.C., we can talk about this, police departments now often report this on their web pages. Does New York and D.C. do that?

LT. MIDDLETON: Yes and no. We tend to report shooting deaths publicly but the whole hang-up I have with this whole process in terms of the questioning that I have is jumping ahead on the agenda, I see in the afternoon someone is going to define an arrest-related death.

So , in MPD we call them in-custody deaths and that's hairy enough and now you're saying arrest-related deaths -- I mean, the problem that we as an agency at MPD would have trying to define this is where do you draw the line?

For example, if a suspect is running from the police and , runs into a tree and dies or gets hit by a train and dies, police may or may not be in pursuit, I mean, what do you call that?

MS. BURCH: Right now, something like that is included in this collection. Why I want to talk about the definition later, is for everybody to kind of weigh in on what should and shouldn't be included in the scope.

Because I think we have the ability at this point to maybe modify some of the definitions that we use. Basically, the collection right now is death in the process of arrest but it's really "police presence."

DR. DIANGELO Yes, in Virginia we use, for our internal annual report, police encounter. So things like, if someone knows they are going to be arrested and let's say the police are on their way there and the person commits suicide, that would be a police encounter death versus the ones where it's truly the police shoot the decedent.

So all of those get grouped together so we know that the police were somehow involved, , not necessarily directly taking the life, but that , the decedent knew that they were either going to be arrested or , there's a police standoff or whatever.

MS. FRANCIS: And if I may intercede, we try to, at the medical examiner's office, we currently track inmates and police in custody but we don't report the data currently. The numbers are fairly low, though, on what we have currently.

LT. MIDDLETON: So that, I mean, you just answered my question, kind of, both of you did. Death in police contact or whatever but I can tell you, as an agency, the MPD will define that as pretty broad and , I guess if the agency is going to track it and report it, they would report it to you.

I don't know that that necessarily, I don't know that those numbers would necessarily be something that the agency would want reported to the public because, I am going to be quite honest with you, , police departments don't want to take credit for deaths they were not necessarily involved with.

So I mean that's the reality, at least from my perspective investigating these deaths. For example we had one, went to Baltimore, guy, arrest, drug operation, sees a guy, purchases heroin, they go to approach him. Before they can get anywhere near him he ingested, overdosed and died.

They weren't, they hadn't put their hands on him, they didn't touch him, they were in eyesight of him but they weren't near him. We as a force investigation team ended up investigating that case, which technically is outside the realm of our responsibility. We investigate deaths in police custody. The guy technically wasn't in custody and he ultimately was by the time they got to him. But I think we should investigate these deaths due to the expected litigation.

MR. LOFTIN: Why did you investigate it?

LT. MIDDLETON: Why?

MR. LOFTIN: Yes.

LT. MIDDLETON: Because the chief said so. Because technically that case should have been investigated by our homicide unnatural squad, technically.

MR. LOFTIN: What I was going to get at is one of the reasons for investigating that is so you can put it aside. It is not one of the ones that was in contact with the police. So some of this stuff might be collected in order to more accurately reflect the ones that are relevant. You take those out so that this is one, we have some information on it, clearly does not belong as in-custody.

LT. MIDDLETON: Well, that's, well, I guess what I'm saying here is, we have two different definitions. What you just said is the way I feel for our agency but that's not what you all here say for the collection of this data, so that's what I'm trying to point out. Exactly what do you want reported?

MR. GARNER: If you look at our table that we do present, we separate out suicides and accidental and that sort of thing, I mean, we talk about police homicides. Police get a little nervous when we use that term, be used to justifiable homicide. But we don't know whether they're justifiable, we just know that if they're a homicide and the police did it, it's a police homicide.

Part of this notion, we weren't involved in its definition, but one of its benefits is, whatever definition you have, there's always the critic who will say yes, but there's a big number just on the other side of that definition that you are not catching and that's why we have arrest-related, none of whom are arrested by the way. People who die don't get arrested.

LT. CALLAHAN: Yes and no.

MR. GARNER: Yes and no, I mean.

LT. CALLAHAN: Sometimes they die later.

MR. GARNER: You don't typically fill out a form and --

LT. CALLAHAN: Well if they get shot and they die a month later, they've been arrested.

MR. GARNER: How does New York handle this?

CAPT. RUSSO: We would fill out an arrest report even if the person died on the scene. There has to be some record that they committed the offense and that's why they were killed during the course or flight therefrom.

But I can understand why he was saying D.C. Metro investigates it. Similar instance, recover of the, captain's cover patrol borough on the midnight, because there's no, precinct commanders usually aren't working.

We had a simple response to a 911 call of a domestic disturbance. Supposedly the female was being assaulted with a hammer from the male husband. He ran to the roof and as the cops were pulling up, he jumped off.

Now is it police custody? For us, yes. Because we want to clear the cops of any criminality or wrongdoing, so it's a full investigation. Crime scene would come, our internal affairs bureau would come, we would lock in statements from all the witnesses, civilian witnesses, saying that no one saw a cop up on the roof, no one saw them push him. They simply saw the cops pull up and the husband committed suicide.

MR. GARNER: How would a medical examiner handle that?

CAPT. RUSSO: Well, but how would you deem suicide or pushing, or how about maybe he jumped because he thought he was going to get shot because someone was pointing a firearm? That you wouldn't know, but you would know through a full investigation, pulling the video surveillance cameras, interviewing civilian witnesses, the wife.

You have to do all this, you may not always be able to determine whether he jumped or was pushed. It's not going to be that simple.

DR. SOUTHALL: Right and that investigation allows you to have the details in the body of the report.

CAPT. RUSSO: And it also helps with people changing their story later. You wait two days later, anybody can say I was at the scene and I could be a distant cousin, you won't know. Yes I saw the cop push him. So if you don't have those statements locked in right then and there on the scene, you don't have the investigation done properly, we all know, you present evidence that you collected two days later, no jury is going to believe it.

DR. SOUTHALL: We always ask for all the detailed reports from the investigation for that purpose because it does tend to help ultimately, the more detailed the investigation is.

And this leads me to your concern, which I well understand. Is there any way in the database we could clearly delineate some of the police encounter versus the police arrest, restraint just maybe ease that burden and be more detailed.

MS. BURCH: I am open to doing whatever is going to help the collection, I mean --

LT. MIDDLETON: I think that would be a more -- provide a more accurate reflection of the data.

MR. KLINGER: And on that point, one thing that happens a lot around the country, Bob supervised a study I did several years ago on special weapons and tactics teams. So what we did was we asked them about situations where the guys on the SWAT team or the girls on the SWAT team shot somebody, in situations where the suspect killed themselves, in barricaded gunman or hostage situations or even other things.

And many more people die at their own hands during SWAT standoffs than at the hands of the cops and so that is an important piece of data to get.

And as the captain pointed out, sometimes this happens right at the beginning. One of your colleagues, a guy named Jeff Rojek, used to be a cop in Los Angeles, he tells a story there in a slow speed pursuit, the guy looks behind him, pulls out a gun and shoots himself before they even made the contact.

So this does happen with some frequency.

MS. BURCH: It happens a lot. I mean, just under half of the deaths in here are suicides, overdoses, and accidents.

SGT. HILL: Joel, I think it would have been advantageous if you'd started out this meeting and asked everyone have they ever filled out a CJ-11 and the addendum because actually I have filled them out, quarterly, and everything we are talking about, it's pretty much, it's elementary, it's very simplistic and it does spill out over most everything we are covering here. I find it very useful and to the point so it does kind of outline how these causes of death occur and it gives you an opportunity to explain what happened.

So I don't know how many people actually physically filled out one of these reports in the past, but I think if they had the opportunity to fill one out or look it over, you would see that a lot of these questions have already been answered.

DR. DIANGELO: I am looking at the form and I guess my biggest concern is that there's nothing about actual restraining. You talk about it in the beginning but if you look in the form, you are only talking about weapons and handcuffing.

But so many of our people die just by physical struggle, physical restraint, prone position. They might not have the handcuffs actually placed on them but their arm is being pulled behind their back.

So I mean there's that whole category, is totally missing from this form.

DR. SOUTHALL: Right, that's a good point I was going to bring up later, but it does kind of bridge you to that whole excited delirium type of death where we really can't capture very well and even as medical professionals we are not quite sure of the details of the physiological cascade.

But if we could point out clearly as to what type of behavior and be very specific about that.

MR. GARNER: What type of police behavior?

DR. SOUTHALL: No, well --

DR. DIANGELO Well, both.

DR. SOUTHALL: The behavior of the decedent, the person who is about to be arrested just to get a little more information, would the BJS be willing to appropriate a little more of the medical questions even if there is EMS presence what do they capture on their monitors if that person makes it to the hospital what kind of EKG readings, I mean, things of that nature which may give medical personnel a little more detail.

I don't know if that's feasible but that's something to consider.

MS. BURCH: The only difficulty with that is the data providers that we have. They all come from different backgrounds. And some of the things I guess I should talk about what is included in your package.

There's two forms in there, the CJ-11 and the CJ-11A. The CJ-11 is just the general one and it's front and back and on the back of it, it has a list of all the states different reporting agencies.

Not everybody has access to the same information. I mean in some states, the data providers don't have networks set up with the medical examiner's office or law enforcement, so all of their information comes strictly from media reports: things that they see on the news, what they read in the newspaper.

So one of the problems that I think we are currently having with the questions on the CJ-11A is the providers aren't capable of answering the questions we have on there now. And if we go more detailed, I'm afraid that that it might further the problem.

I mean if we can come up with a way that we can ask questions that everybody would have access to the information, I don't know, apply them in a certain way, then --

DR. SOUTHALL: Would there be a possibility of a collaborative effort with the National Association of Medical Examiners, where an office or offices within a region or an office within a region could collect that information and kind of branch into --

MR. GARNER: Maybe Bob, who has collected this and the folks from D.C. might just talk about well, how do they go about filling out the form?

MR. KAMINSKI: In South Carolina, I --

MR. KAMINSKI: There's significant variation, I can tell you that much. I inherited a project from somebody else and the way it was initiated was going through the coroners in the state, there are 46 counties, 46 coroner's offices.

And we basically hound them, at least we don't want them to stop participating so we don't hound them too much. But we tend to make repeated phone calls, email messages and we capture the information that way. We also try to do pretty extensive searches for media counts so that way we can provide the name and the date to the coroner's offices. It's helpful for them.

In some of the counties they're really busy and they seem pretty reluctant to participate. In other counties I don't think they're that busy because sometimes when we call, it happens to be a dental office and the dentist is also the coroner.

Or it might be a funeral home/coroner, so they tend to be zero counties most of the time. So that's how we go about it.

MR. GARNER: So how do you do it D.C.?

SGT. HILL: Basically we just take the event, we look at the preliminary report of the incident and actually, it's mainly just someone make a determination when you do the CJ-11A, you kind of find out what parameters are involved and where it may fall.

But at the end of the day, if a death results because of an action of a police officer then we are going to fall in one of those categories.

It does get a little dicey, for instance the case that the lieutenant had mentioned where we came in contact with a person. We didn't arrest him and unbeknownst to us a month and a

half later, Prince George's County Hospital calls us and says hey, by the way, this guy died of an alleged drug overdose and he had a contact with us.

So that's one of the ones you just kind of like, shoot by a few people and kind of get a feel of how people feel about it because I'm sure most people in here, if you're in charge of something, you don't want to take credit for something that you had little to no involvement in.

So it is a little political at times do we want to take credit for an in-custody death when technically we didn't lock this guy up. He swallowed some sort of illicit narcotic and he expired on his own in another jurisdiction.

So you have got to be careful, there's a fine line. That's why I'm sitting here this morning, because of that fine line. I try to stay on this side of the fence.

MR. GARNER: Do you talk with the D.C. Medical Examiner?

SGT. HILL: No. No, because it wasn't a D.C. case actually, it happened in Maryland.

MR. GARNER: No but I mean generally, when you have a death.

SGT. HILL: Yes, we get the reports back and we look at it but the bottom line is when you look at the incident, we didn't lock them up, we didn't have medical assistance --

DR. DIANGELO But it was in a sense a police encounter type incident. The man wouldn't have swallowed the bag of heroin if he didn't think he was going to be arrested for purchasing it.

SGT. HILL: Yes, we're not sure what he swallowed. We just know he expired and that's what the autopsy report said.

DR. DIANGELO So they didn't do a drug screen anywhere? They didn't do a drug toxicology test?

SGT. HILL: Well, he was never placed under arrest. That was the problem. It was just the contact. When he saw the police, he obviously swallowed some sort of illicit contraband and he expired unbeknownst to us. A month and a half later we were notified that this gentleman had expired.

MR. GARNER: He went off to the hospital?

SGT. HILL: Another hospital in another jurisdiction.

MR. WIERSEMA: So this is a grey area case.

SGT. HILL: It is a very grey area case.

MR. WIERSEMA: It falls off the data collection process.

SGT. HILL: And I can tell you, politically nobody wants to take credit for something that we didn't in our minds, didn't have anything to do with, but I do agree, his actions were probably based on the fact that we were there.

DR. DIANGELO And he thought he was going to be arrested.

MR. WIERSEMA: And a data analyst might want to exclude that case because it doesn't fit whatever definition that they are trying to analyze but we still want to know about that case. We don't want to miss that information.

So part of --

MR. GARNER: For our data collection versus their data collection and reporting.

SGT. HILL: You realize the problem though, if you're the chief of police.

MR. WIERSEMA: Oh I understand the problem.

SGT. HILL: Right, nobody wants that reported because these numbers, I don't care how you project them, every one of us comes from a diverse background so we leave these documents on our desk, they show up in places that we don't expect them to show up, like in newspapers. So that's another concern, but that's not my issue.

But more so, nobody wants to take credit for an in-custody death that we felt that we had nothing to do with.

MR. WIERSEMA: To me, the direct utility of these data is related to the completeness of the ascertainment of the cases. So right now you have a hybrid system where you are getting information from lots of different kinds of sources.

The quality of that ascertainment probably varies a lot and so when I look at tables like this, I don't know how to interpret that. How complete is it? How much missing data does this represent? What kinds of quality control goes into producing these numbers?

So before you even get to the form, which I think is an important thing to do, I think you need to focus on how do we make more systematic the ascertainment of these cases and not with the grey area cases from the data collection process.

MR. GARNER: How does New York do this?

CAPT. RUSSO: Try not to fall asleep on me. This is pretty lengthy. We have an operations unit, which the picture is the, more or less, precincts for the whole city and headquarters.

Any unusual occurrence that happens, they have to be called. They maintain sheets on every unusual occurrence. Every police executive gets those sheets every morning, including our office.

From the street level, anything unusual with a prisoner or anything that we define as in connection with police activity, not even an arrest, is one of the things that gets reported, has to be investigated by a captain or above.

If a captain or above does an investigation, there's a report generated. That report goes to that operations unit. Everyone will get a brief summary.

We have a staff analyst in my office that I assigned. He reviews those briefings every morning. He looks through press clippings that our Office of Public Information puts together on anything related to the NYPD. He reviews those and he does internet research every morning when he comes in.

From that he compiles a list of everyone that we believe fit the definition for your purposes. Our purposes are investigated internally. Whatever fits death in custody reporting, he compiles a list.

We send it to five different parts of the police department: the chief of the department which oversees all the enforcement and then there's the chief of patrol, housing, transit and criminal justice bureau because they maintain our booking facilities.

And we have an ME liaison unit. They are mainly there to investigate missing persons, when we get to Jane and John Does. But they have close contact with the MEs in all five boroughs.

We send our list to them. They send their list. We compare them. If there's anything different, we then call all the five people in and we sit down and have a meeting. What's the circumstances? Why do you have this name and we don't?

After that we then send the completed list back to the ME liaison unit for the ME reports with the official cause of death and at the same time we collect the reports from our internal affairs bureau on the full investigation.

Now one of the problems we have with collecting this, if we have someone who dies from a police firearms discharge, our report is at the minimum of 14 pages long of text. It is not a formatted form. It's in prose and it's a lot for the analyst to go through to pick out what we need for the form.

He then has to verify it too because people, when they're typing prose, they make errors. 31, it's a male 34, for instance. So he has to run all the arrest reports, do all the computer checks.

So we are very thorough before we fill out the form in making sure we have a complete list first of all, and then having the right information on top of that.

But for an average of 30 it takes us about 96 work hours a year to do this. So it's a lot.

MR. GARNER: Just like they do it in South Carolina, the same sort of process. But that's a good point. When he says it's pretty simple because he knows this and he's familiar with it.

MR. KLINGER: But someone else who is in a different place with different bureaucratic ideas, with different definitions, they are not going to. I had a conversation with the head of the General Counsel's office in Jacksonville, Florida about this when I was down there a couple of months ago, and he said, gosh, Dave, unless we've got them in custody, it's not arrest-related.

So we fight with the guy and he expires before we put the cuffs on we are just going to report it. Now whether that complies with the guidelines is not relevant because that's what he's going to do, which gets back to your point about what does this data mean? So.

CAPT. RUSSO: Just to jump back, I mean, I know people have got a lot, we have 34,000 uniformed members. We have eight patrol boroughs that cover five geographical boroughs. There's 76 precincts, there's nine police service areas, which are the housing component and then there's 10 transit districts on top of about five central booking facilities and about 200 other facilities that we maintain that house narcotics, vice, detective bureau, because each precinct also has its own detective squad, which is a separate command within that building so it's 76 times two, just for those facilities.

And then we have 15,000 civilians, some of whom do come in contact with prisoners. They're cell attendants, so it's a lot. We're a very large agency and there's a lot of channels this information has to go through and come back up before we can compile all this for these sheets.

So really what we want to know is, what is the end use of the information besides just knowledge? What are we trying to accomplish with the information?

MR. GARNER: How do you put that out? Do you have a web page or an annual report or?

CAPT. RUSSO: The information?

MR. GARNER: Yes, I mean you don't give the report --

CAPT. RUSSO: We don't put it on our web page. We don't have, like, statistics. We'll have releases on the web page but there's no statistical tables on it.

MS. BURCH: That's kind of where I wanted to go next, to where the future objectives are.

MS. BURTON: I just wanted to comment. It's interesting that David mentioned Jacksonville sheriff's office. They happen to be our poster child agency. They report probably more often than any of the other agencies directly to the partner department of law enforcement.

And our scenario, it sounds somewhat similar to what New York described in terms of starting with the media. I mean that really is our starting point for most of the reports that wind up being submitted.

But we have a relatively elaborate process where we look at the media reports daily just as you described and then we compare to data from the medical examiner's which we get in a data form and attempt to match those up.

We ask the agencies to report if they haven't which typically there's a big lag time in the reporting from when it's in the media to when they have everything together to actually send it up.

Which is why we appreciate the year and the posted quarterly to allow the agencies, we much prefer to get a completed form from the agency itself as opposed to our department attempting to fill in some of that information.

And when we do fill in that information we provide it back to the agency and say this is, we haven't heard from you, this is what we have pulled together from information we have. Do you have any additional information, any concerns, and we go from there.

But Jacksonville happens to be one of the ones that reports pretty regularly so that's interesting.

MS. BURCH: Joan if you don't mind me asking, how do you guys do it in Washington?

MS. SMITH: Not dissimilar from what's going on in Florida. We actually, do monitor the media just to give us a heads up, but the first week after the quarter is over, we send out an email to each of our coroners and medical examiner's offices and ask them for information.

When that is received back then we notify the sheriff and the chief in that jurisdiction and ask them to complete the form for us. So it's pretty similar.

We monitor it. I echo the sentiment about it being yearly, annually versus quarterly because that, we have UCR, we have so many things coming out, requesting information from these agencies. It can be overwhelming to them.

At the end of last year we had three incidents where we lost several of our police officers and also resulted in the death of two offenders in two different incidents. So it took a while to get that data from those agencies that were involved because of the high profile issues that were going on.

Plus they were hesitant to share the information. They were hesitant to give us even information about the police officers who were killed and that was a bit of a challenge to be able to extract that information, but we eventually did.

But they are for the most part very cooperative and realize, I believe, the benefits of it.

MS. BURCH: Is there anything that we can do to increase cooperation and reduce the hesitancy?

SGT. HILL: One -- actually I made a note on this -- one thing that you guys, one of you guys said, you may want to put emphasis on people who are reporting with the CJ-11 is that will always wait for the ME's autopsy report.

And the reason why I say that? We just had a case recently. It was an old case but we didn't review the autopsy report until like a year later because we shot the guy like 11 times and everyone just assumed it was a police-related shooting, he pointed a weapon and obviously we fired back.

But when the ME's office completed their autopsy, no one seemed to read the report. It was actually deemed a suicide because he had put the gun to his head and apparently the first shot was the fatal shot which was his shot, and then the subsequent shots were from us.

So it wasn't, we didn't shoot him, I mean the autopsy report revealed that it was a suicide. So it's probably important. Yes, it's a death, but if you guys are trying to capture the information as accurately as possible, maybe you want to put emphasis on these reports in conjunction with the autopsy reports.

LT. MIDDLETON: Very quickly, one of the comments that I had and the whole reason I brought this up was because of the titles and things. And while MPD does our titles for the purpose of our investigations of death in police custody, which most people understand, in custody, your title here is arrest-related deaths, which if that's what you're looking for, I think that's a more accurate description and I actually think that's probably a title that we should use because to piggy back on the New York City example, we had a guy that was kind of eluding the police. They weren't chasing him, they weren't right behind him.

He went into a 13-story apartment building, climbed out on the ledge and was hanging because he was trying to hide from the police. The police weren't on the floor, they didn't know he was there. He slipped and fell to his death.

So the next description is the one that one of you used which was death in police presence, so, or interaction or whatever, but I mean, I need to know what it is exactly that you are looking for.

If you are looking for all of that information, which I think is relevant, you can decide how to report it but I think it is relevant and I think that's what this stuff should be called, death in police presence or something like that.

MS. BURCH: And we've kicked that around. We --

MR. GARNER: There's been a definition by example but on your advice we can change how we do the scope of this program, what we do and don't include and how it's defined, I mean, that's within our discretion, with your advice.

LT. MIDDLETON: What we have said repeatedly and you will hear it from any police agency, nobody is going to report or take credit or take blame for a death that they may or may not have had anything to do with so --

MR. GARNER: But you understand why for public policy purposes, other people want to know?

LT. MIDDLETON: I do understand. I do understand, but if that's the kind of reporting that you are going to want I personally that's just not, I think you should change the name.

CAPT. RUSSO: You know the problem with changing it is that the stats are going to go up.

LT. MIDDLETON: Right.

CAPT. RUSSO: And they are going to look at it from '03 and they're going to see in 2011, whoa, why did they double? And a lot of people don't read the fine print. People sort of, they just look at the stats. They are not reading the text of the report. They look at it and they go whoah, and I'm just not defending my agency but they'll say NYPD had 30 and now they got 60, what's going on with that?

And nobody reads the report. People jump to conclusions and I don't know, then anybody who is analyzing the stats has to go back and pull those out if they really want a valid, statistical analysis, they'd have to go pull those out.

MR. KLINGER: I hate to beat a dead horse but I think he is spot on, both of these gentlemen are spot on with the points. And I look at number 11 on the CJ-11A. Had a charge been filed against the deceased at the time of death? Yes. No, charges not filed but intended. No, probation/parole revocation. No, mental health assistance call.

I am on duty, someone got shot 41 times and died but he doesn't fit in any of those because they didn't intend to file any charges because they realize it's a wallet, and this happens a lot. If you look at, and some of the guys on this side of the table know this from looking at the statistics, a sizeable portion of the people that get shot by the cops, don't have any weapon.

It's a mistake, it's a toy, it's a replica, it's a whatever and charges would not be filed. So if nothing else you need to expand 11 to some other category and what they are talking about

in terms of this notion of incident-related or whatever, that will allow people to report other things.

Because they are talking about bureaucratic momentum against reporting stuff. If I am the guy who is going to report out of NYPD, I'm going to go, well Diallo doesn't fit so we are not going to report it as an arrest in custody or an arrest-related death.

So I think that's real important stuff.

MS. BURCH: I do want to spend the majority of the afternoon going through the actual survey itself because I receive all the surveys so I go through these all day from all different states and items 11 and 12 are highly problematic.

One of the things that I have done is to include five actual forms that we received. I would like to discuss the information submitted on them, so you can see how they can be problematic.

But we will spend the afternoon, I think, focusing on the form, but for this morning, before we break, what are some of the future objectives that we would like to meet? What would you like; I guess what are your wants for this program?

MR. GARNER: Yes, what do you want?

MS. BURCH: What do you want?

MR. KLINGER: Comprehensive stuff that then we can worry about what category it fits in later.

MR. WIERSEMA: I think this actually helps the police mission too because a lot of the public's confidence in what the police do in these kinds of incidents is undermined by the perception that we don't have all the information about what's going on out there in the street.

The police are holding back on this that and the other thing for whatever reasons and so we don't know. And this causes a lot of problems.

If you have a very broad data collection, you can say, here's the number of cases that are in this category, this category and this category and all the information is out there.

And then people will have a lot more confidence and they will be like, okay, that seems reasonable.

MR. ADAMS: Yes, I understand this argument that going for broader data collection, the issues at the periphery, at the margin of they fit or should not fit the definitions.

But I would like to at least bring up the possibility of going in the other direction. And that is, what we have is a very limited coverage in terms of who is reporting. We have concerns about workloads. We have concerns about politics or representation in those grey areas.

But yet there's a core of incidents here I think that we can all agree on, that should be reported, that should be captured, and that we would like to have broad coverage throughout the United States, okay?

And so to the extent that we make the instrument more elaborate, more difficult, more time-consuming, more politically risky, we are not going to get the buy-in from the other agencies. So we're not getting the big picture, okay?

What we will be getting is fairly refined pictures of selected geographic areas and we don't know how that maps onto the bigger picture because New York is unique in a lot of respects and so who does it compare to? Not many cities.

Chicago, L.A. maybe, but that's it. So I don't know if there's a way of sort of bifurcating this or, and having sort of a core set of information that is perhaps high --

MR. GARNER: -- scope?

MR. ADAMS: Sorry?

MR. GARNER: A core scope?

MR. ADAMS: Right, a core scope where, and it's more reliable, where it's tied in perhaps to the ME report, an autopsy report or something like that. So at least those numbers we know are solid, it's clear what they mean.

It may not be everything we want but we can get buy-in from a lot more people and then over time we can begin to push the envelope, stretch the margin and expand it out that way.

Because it would seem to me that, at least from my point of view, I'd rather have the big picture, have a solid picture, even if it's not everything I want, than to have very refined pictures of little bits and pieces and not knowing what they represent or how they fit together in any larger context.

MR. KAMINSKI: I think I agree with that. It's sort of the garbage in, garbage out problem, if you have very limited coverage and definitions are going to vary by jurisdiction. How useful is that?

MR. GARNER: Researchers want less data?

MR. KAMINSKI: No no no no no we want more data. We want valid data.

MR. ADAMS: We want better data.

MR. LANGWORTHY: We would settle for less if it's better.

MR. ADAMS: Right.

MS. BURTON: In trying to talk for our Florida agencies, simpler, obviously would be better, because there's more, they are going to provide information on a form where they don't have to say things that they have to run through legal if we could keep it more simple and clearer cut from the agency's standpoint, and ew have some agencies who say we cannot provide this form because it won't make it out of our legal office.

So simpler would be better.

MS. FRANCIS: He used the IT technical term, garbage in, garbage out, we say that all the time. The only way we can give you good reports is if we get accurate data.

It sounds like there's no unbiased entity that's reporting this data and because it's negative it's like, is the end result punitive or what are you really doing with the data, how is this going to impact them as an entity?

And so I think the ME's office is unbiased to some degree and I daren't just say that. But like someone else stated you may not get all these details as they relate from a law enforcement standpoint, but you would get pure data because they just report what happened, the facts.

SGT. HILL: These guys, Joel, I look at these guys over here and they all look like vultures it's like us against them. They want this and we really don't know what their agenda is. Research? I say that jokingly.

CAPT. RUSSO: What do we want to do with the data, what's our purpose? If we don't know what the end result and who the end user is going to be, I don't know --

MR. GARNER: It doesn't make any difference how you get the form.

MS. BURCH: Yes, those are the some of the things that I want to talk about. Who is the audience, who does use the data?

CAPT. RUSSO: Right, right. Is it just for public viewing? Public consumption? Or are we going to use it for training?

MS. BURCH: We're getting one report.

CAPT. RUSSO: You know if you get details, as someone said EKGs, and now it's pointing towards, are we going to go investigate this one incident, and now it becomes, like she said, whoa, I gotta run this by legal, and legal is going to contest it and say we're not sending that.

And then you're going to have data coming in late, it's just issues you're going to run into that, these reports are never going to be handed in. It's just going to be, like I said, we have 35,000 people, the bureaucracy in our agency is already large enough, if you bog them down with questions that are pointed towards an investigation I think it's going to cause problems collecting it.

Not so much people are hiding it, but as an agency, their legal counsel is going to say, we shouldn't give this to them. The New York State District Attorney's Office did an investigation, they determined this, why are we now handing it over to someone else to open it up again?

And that's probably part of the process. So we need to know what you're going to use the data for then we can tell you what data we should provide, what would be useful.

MS. BURCH: Well, can you use it for training? Would Baltimore find this useful at all?

LT. CALLAHAN: Not the actual data but with everything I was saying about -- we had a problem with people who were dying in custody from taking cocaine and laying them on their stomach, positional --

DR. SOUTHALL: Asphyxiation.

LT. CALLAHAN: Well, that was useful, we came out with a general order saying, we lock someone up, we put them in a wagon, they cannot be lying on their stomach. You have to make sure they're seated up in a seatbelt.

So that was really useful but I don't know if we would have gotten that out of this study.

DR. SOUTHALL: I think your numbers would probably help us individually but can we help you all, that's the question.

CAPT. RUSSO: Right but how is it going to help. That is what we need to know. What is it that you are looking to do and then we will know. Right for us we have a separate report for this stuff and we use it, my office does, obviously we are policy and planning so we have our department manual if there's any training issues that need to be addressed, the training bureau will take it.

If there's a procedural change we need to make, we'll take that part over. You know there's a lot of aspects. We don't just take the report and file it. We look at it. Well, what happened, is there any way we can prevent this in the future?

And that's why our department manual is about this large, because every time something happens we publish an order on how to maybe not make it happen again.

MS. BURCH: Well, we can add questions to this form too. I mean if it like, Connie, you were talking about how just limiting the form to handcuffs and not including other types of restraints, misses important information. We can add things like, did you place them on their stomach, did you do blank. We just don't have the expertise in those fields to know what restraints can contribute to death and to know what we are missing on the form.

DR. DIANGELO Are you folks tied in with the CDC and the NVDRS study, the National Violent Death Reporting System? Because Virginia is, and I know that and I have had, we've had a rash of in-custody deaths and I know that all of those deaths will be reviewed by that system, the data will go in there.

And I think part of it is, is this information useful nationally or is it useful more just in your local jurisdiction? Because with the two deaths that just occurred, maybe you guys need to review how you are handling some of these agitated folks and how you are restraining them, because within three months two deaths, very similar procedures were used.

So that's coming from me talking to them, saying we've had two now and we went for two years with nothing. So what changed in those two years and maybe we need to revisit some of the policies and procedures of how you're dealing with those folks.

But that's something that's driven by more the ME's office, not so much the police department.

MS. BURCH: And your turnaround is so much quicker than ours too. I mean by the time we could even get that data it would be --

DR. DIANGELO Right, years down the road.

MR. GARNER: It's a generic problem with New York knows its New York data, it also has a larger number so it's a little bit better to make some judgment about. But why would South Carolina care about New York or New York care about South Carolina? What is it you might learn in one jurisdiction from what other jurisdictions have done?

That's sort of an underlying premise about the utility of all BJS national statistics.

SGT. HILL: Looking for trends.

MR. GARNER: Well, trends or maybe things that are not just happening in one place but they're happening elsewhere. But that's just a generic problem. There is no national criminal justice system. But we put out national statistics so the question is how useful?

New York has its own data. They don't need us to do that. But to what extent what we are collecting elsewhere a value to them or what they are collecting a value to other people and that's the, how we are trying to promote it.

So we think there's possibly some utility there but it's not clear.

LT. MIDDLETON: Well, I'll just give you an example to that question that caused our agency to change policy. And that's vehicle pursuits.

We found years ago that people were being unnecessarily killed by police vehicle pursuits for minor traffic offenses and things and we had a policy change and I think most agencies now don't allow vehicle pursuits for minor traffic offenses and stuff for that reason.

But that's an example of a trend or a collection of data that showed apparently what was happening with great frequency was where either motorist, pedestrians or the suspects were being killed in these police pursuits.

DR. DIANGELO And was that data generated by your department or your department in conjunction with the Medical Examiner's office? How was that --

LT. MIDDLETON: I don't know for certain but I can tell you for a fact that it was probably more media-driven than anything but --

MR. GARNER: There were some researchers, Jeff Alpert among others, who have made a focus on this, the IACP, a national organization, it also has a police pursuit database.

MR. LANGWORTHY: Joel I think one of the things that we may get lost in here is and this is going to sound flippant and it probably is, but we are asking a lot of questions of pet --

MR. GARNER: She's the program manager.

MR. LANGWORTHY: Okay, pet independent variables, or dependent variables for that matter and if you're trying to do a national collection, you are going to get lost in the minutiae in a minute if you try to do that.

I would suggest another way to approach this is to treat this data collection almost as the creation of a sampling frame so that at the end of the day we have these, we may even be able to actually the case numbers and such stuff as that.

If we want details, then this will give us an entry point into the coroner's records, into the SHR records, into the police department records themselves if they're willing to come play.

And then we can get detailed information about these. But it ends up functioning more as a sampling frame rather than it does a comprehensive data collection instrument.

I don't think it's possible to get a comprehensive data collection instrument. I mean, what I've heard here says just sitting here for a couple of hours, there's no way you are going to build a comprehensive data collection instrument to cover just the interests in this room.

And there is no press in this room and they have a profound interest in these data. So I think in that case less is much better. You need to figure out the half a dozen critical elements that matter to you.

If you can get crosswalks, if you can build crosswalks into the instruments so that people can move back and forth from other data series so much the better.

MS. BURCH: We do collect the ORI numbers from the agencies.

MR. LANGWORTHY: Right.

MS. BURCH: And we have Michigan building us an updated crosswalk.

MR. LANGWORTHY: Well, you capture the name of the deceased, for Chris' sake I mean, if I want to go mucking around in people's records --

MS. BURCH: I don't think we will make that publicly available.

MR. LANGWORTHY: My guess is that at some point you might well find that available because in point of fact it probably is a public record element and you may put it in a restricted archive or something like that.

MR. KAMINSKI: The names appear in the media, I mean they were celebrated.

MR. LANGWORTHY: Right so I think in some respects you really can kind of do that stuff but you need to keep it simple. Keep it simple, keep it small, keep it focused on the elements.

I don't know what those elements are, I don't know what those half a dozen elements are.

MR. LANGWORTHY: Well, and you have got a political consideration as well, I mean if the agencies aren't going to play, if those names are captured then your data collection system goes away.

But if that's the case then get it off the form, who needs it?

MS. BURCH: Well, it's the legislation. Even though it's expired right now, since it still is under review, if it passes then we need to collect those.

CAPT. RUSSO: What was their intent when they passed the legislation?

MR. GARNER: Congress never tells us that.

CAPT. RUSSO: Nobody --

MR. GARNER: That was the one meeting we were not invited to.

CAPT. RUSSO: Because the more questions you put and the more subcategories, it leaves people open to create their own definitions of what this is and then the information becomes useless at a certain point because one little town says this and another town says this and another city says this and this state says no you've got to do it too and it just becomes, nothing is accurate anymore. You have too many subcategories and --

MR. GARNER: It's our job to work all the consistency and reliability of data.

CAPT. RUSSO: It's tough though when you have a lot of agencies to oversee. It's not --

MR. GARNER: And the Brits warned us when we divided sovereignty that there would be this lack of uniformity and we didn't pay attention to them. But I suspect the same problem, they're having the same problem even though they have a unitary government.

There is this difficulty because we have many, many jurisdictions and it's probably easier for New York. You have in four years 100 cases. It's something you do. But if you only do it once or twice, how do you maintain the familiarity and knowledge and consistency when they're rare events?

And so that's just a natural -- if we were just perfect human beings it would still be a problem to do.

CAPT. RUSSO: But then we wouldn't have any of these arrests.

MR. GARNER: And then we wouldn't have any --

MS. BURCH: Okay well, let's break a little bit early and when we come back from the break we'll pick up with data analysis and reporting and then move on to the capabilities and constraints.

(Whereupon, the above-entitled matter went off the record at 10:22 a.m. and resumed at 10:45 a.m.)

MS. BURCH: Okay, I think we are about ready to start up again. And I think I am going to open up with Ken, did you have something?

MR. ADAMS: Yes, I just wanted to make a comment I guess that falls under old

business, or pre-break discussion.

But Tony had posed the question, what we want this information for, what are we going to use it for, it's been asked several times and no one has really interested it to be honest so I'd like to at least make a quick stab at it. We don't have to go on at length.

But at least three things come to mind. One is, in the general sense of accountability, police accountability and just to draw a parallel, we have a report on law enforcement officers killed and that's generated every year.

I would argue we should have a counterpart one on citizens that are killed. This is part of police business and police activity.

More importantly on the accountability side, for me anyway, the more important targets are those that are not reported because they don't necessarily see it as an accountability issue, okay, they dismiss it as something else.

So I don't really worry that much about a New York or a Metropolitan Police Department that has an infrastructure where they take these events seriously and will continue to take them seriously regardless of what reporting forms we shove at them. They will continue to investigate it and use that information.

But there are many places out there who don't see this as relevant or important and in part that does relate to the low frequency or the rare event issues because if it only happens once every three years, it's hard to see how it is important. But nonetheless there is an accountability issue here.

The second use I see here is the use of trends. And perhaps the trends are not as useful at the individual department level, although the departments can certainly track that. But it seems to me that the larger departments have mechanisms in place where this kind of information is used anyway in a variety of different avenues to think about policy, think about procedure, think about ways of doing thing..

So I don't know if it's useful at the individual level that much but certainly at the state level or at the regional level, to talk about changes, changes in migration, changes in gun distribution patterns, changes in drug distribution patterns and how all these might relate to these kinds of issues. Those are possibilities.

And then the third thing I think is that the information here shouldn't be seen as information in a vacuum, that is police collect information on a variety of different things and so this is one piece in a larger picture that we can begin to use to assess police departments and think about them.

And so one piece of information for example might be use of force or it might be shots fired, gun discharges and so we can begin to look at these different elements and say what picture is emerging from these variety of data items and look at it that way.

So that the data item itself is given its value in the context of other data items that the department has and for researchers and for practitioners alike.

So in any case I didn't want to leave the question hanging and unanswered for the rest of the day so I just took a quick stab at it.

MS. BURCH: Does anybody else want to add to that?

MR. KLINGER: We were having a sidebar discussion about the very issue, about the utility and someone down here mentioned the issue of positional asphyxia.

In Los Angeles, in the early 1980s, suspects were dying and what we would do is we'd choke them out, and then we'd hog tie them, we would throw them in the back of the car and if they continued to fight we would pull them out, we would take the back seat out, we would put them in the back of the car, put the seat on top of them and sit on top of them.

That's what we did in the 1980s and that is what was done in many places. At any rate people started saying, primarily the press and plaintiffs' attorneys, and Bob and I have chatted about this, was it the upper body control hold by choking them out?

Well, we don't know that because we choked them out, we hog tied them and then we put them down and then we sat on top of them, so what was the story?

But at any rate, Los Angeles in the early 1980s were having this spate of in-custody deaths, wouldn't it be nice for D.C. to know that and know what L.A. is doing, good, bad or indifferent? Wouldn't that be nice for NYPD to know that?

Because you are talking about drug distribution networks. What was going on in L.A. in the early 1980s was the leading tip of the PCP stuff and all the other hallucinogens and so on and so forth.

So there is utility by being able to report this stuff out and get it out there and get it out there in a timely fashion. That would be my argument.

SGT. HILL: What's the statute of limitations?

MR. KLINGER: If someone dies in California, there's none.

SGT. HILL: Did you get that on tape over there?

MR. KLINGER: I didn't choke anybody out that died. I said it was the universal we.

SGT. HILL: You've been in internal affairs too long.

DR. DIANGELO That's where a medical examiner's office comes into play because around that time, I think it was Dr. Ray up in Seattle started putting out papers about positional asphyxia, mechanical asphyxia, and that brought attention to the trend.

And then police departments started to change their procedures. So I think from a medical examiner's point of view, a lot of it is public health and safety also, those issues, and we can again we drive them sort of within our jurisdiction but I do whatever 300 cases a year. I don't have time to sit down and write a paper about all these deaths in custody that I see.

But I deal with it locally by trying to educate the police force. So I think medical examiner data, might be some of the strongest data and the most conclusive and comprehensive. And again it would speak to public health and safety which I think would please the public.

DR. SOUTHALL: And ultimately help because, just to piggy back a bit further people are still dying despite the changes in police protocol, so what is the reason for that?

And we have moved onto different variables now getting to the exited delirium again. So that information that was published in the early '90s has helped us now realize that if these people are still dying, what else are we missing?

So information is helpful no matter how it comes. And we can keep it broad through the BJS but the separate entities we do our own database and studies and just try to pull their

information to correlate it into our numbers and to see regional differences, like drug deaths or whatever type of death may be involved is very helpful and very useful I think.

MR. LOFTIN: I have a question that may be more relevant for our discussion this afternoon but, what's the practical feasibility of the reporters getting a copy of the death certificate?

MS. BURCH: I think it varies by state and actually we talked about this because was it in Kentucky up until about 2009 used to attach the death certificate on the back of the CJ-11 form and I think a couple of other states did as well.

But Anna you were saying that that information wouldn't be available in all jurisdictions?

MS. FRANCIS: Well the medical examiner just doesn't have the authority to release the death certificate. That would be vital statistics in D.C. But I believe they required the authorization of the next of kin before they would release the document.

DR. DIANGELO But if someone calls the medical examiner's office, like in Virginia, if someone calls, they have the decedent's name, by law we have to release the cause and manner and so they don't need a death certificate, they can just call.

DR. DIANGELO Right and the cause and manner would be a tremendous boon to the system though. That's basically what we missed.

DR. DIANGELO Right and that is if you have the decedent's information, you call up our office, we will give you the cause and manner.

MR. WIERSEMA: But there's as you well know, there's no narrative information on the death certificate. What we really want is the autopsy report where there is a lot of detail about the circumstances surrounding that case.

MR. LOFTIN: I agree with Bob. I think we ought to start small. If we can get the manner of death, then that's a really important piece of information and then you might build on that to get a more comprehensive system.

MS. BURCH: We do ask about cause and manner of death. When states submit their data, I go through every record that they submit and read the responses. Specifically, read them for internal consistency within the form to make sure that they make sense and then I send back a status report in order to I ask questions if something seems inconsistent.

And any time that they have checked that the autopsy is still pending, I always mark the case as incomplete and request the data provider to re-confirm the response. Even if they put answers, the survey says skip certain questions if the evaluation results aren't available, I go back and say look, I'm not going to type this in until you get back that report, double check and then confirm that that is actually what it said.

For those status reports, you do get a chance to see them, I know --

MS. SMITH: Actually the support staff person that handles all that and she follows up on those and sends them back.

MS. BURCH: And it seems to have been, now when I took this collection over, the last complete data year was 2006. If I'm working on follow up right now for 2007, 2008, we were late in the field for 2009, so I'm collecting 2009 and I'm also getting 2010 in at the same time.

And these status reports seem to be clarifying a lot of inconsistencies that were submitted originally. And I think that it's helping a little bit with the validity of the data and getting the manner and cause of death because sometimes that kind of went under the radar before.

MR. GARNER: No.

MS. BURCH: Okay so this is actually a great lead-in because I'd like to talk about the data analysis right now and we kind of did need to know what the purpose of our collection is and what we wanted to collect.

So based on what we just talked about with the accountability, use of trends, and then the fact that this information is not in a vacuum, what type of indicators, independent, dependent variables are important to meet these goals that we have?

And then how do we measure those in terms of being able to do analyses that are useful? I mean, like, we talked about this is count data, it's high zeroes, so is this more for the statisticians?

MR. GARNER: The legislation said age, race and sex but is there something else we want to know? Andrea and I want to do surveys of police departments where we get the color of the uniform. We think that will be enough.

MS. BURCH: We are serious about this. So in terms of, well speaking of theory, are there any theoretically relevant or policy relevance?

MS. FRANCIS: The only thing we need, I'm thinking through you saying what are the things, information we may need, I'm thinking weight might be helpful.

MS. BURCH: Like build of the person?

MS. FRANCIS: Weight, the height, the weight, some of the things that we collect now in D.C. In fact in our annual report the past few years we started reporting the BMI and how it impacts our staffing and when we do autopsies as well. So it may have an impact on the way the police officers have to handle them say.

MS. BURTON: That's a good point. Are you saying that that's already collected in the medical examiner's data the weight and --

MS. FRANCIS: It would be on the autopsy report.

MS. BURTON: The height and weight. So some of these things are already being collected in a standard format so instead of asking law enforcement to report, right? If it's already there. I know in Florida there is, the medical examiners of course have the standard ICD equipment and there is a field for law enforcement involvement but it's seldom used and I don't know that's out of our jurisdiction but if that field were used by the medical examiners then we would have a clue that this is the data we are looking for in addition to the demographics.

But there are we are like almost there to make the tie-ins and with the supplemental homicide data that is reported via UCS, I notice that our report reported numbers in the report don't show our justifiable homicides but when we do our reports, we compare them to what is being reported via the UCRs justifiable homicide and it's actually helped get those numbers more in synch.

And we are pretty close so it gives us a little bit of confidence, that at least the numbers are mirroring each other anyway.

DR. DIANGELO With the UCR, is that only tracking homicides? Because for our purposes it's probably two of the deaths will probably either accidental or undetermined so then he would not actually be capturing that data. So I don't know if you can look at like medical examiner's annual reports to see if they have a category for like police encounters or police-involved deaths where more of the data would be captured.

MS. BURTON: Well, and that was my point is that there is a field that says law enforcement involved and we do, we are fortunate, I don't know what other states have access to them, we actually get the data from vital statistics so we can supplement with the data itself.

And there are some protections for that data in Florida as well and I am not the person who writes the data but some of the data is protected at least in Florida.

But my point was that some of it is already there and how much do we ask -- I know there's some reluctance, at least with our agencies, to report something that is being reported elsewhere and there be a chance of having a chance of having some conflicted information, but they're going to write something in the form that the medical examiner form is going to say something different and it's a concern.

MR. WIERSEMA: In order to get the ICD code for legal intervention, as I understand it, the death certificate has to have in that little blank that says describe how incident occurred, it has to have the word "police" or "law enforcement" somehow mentioned there.

And it also has to have the check box for homicide checked on. So other than those two things, you are not going to get an ICD code that says legal intervention.

So that means a lot of these other cases that we have been talking about this morning may not have a death certificate identifying that that was a police-involved death and that's the problem with death certificates per se.

MR. LOFTIN: Not if you have a name.

MR. WIERSEMA: Not if you have a name. If you can link the name to a police report then you're partly down the road and that's exactly what the National Violent Death Reporting System is trying to do, albeit only in 16 states right now but they're taking information from medical examiners and coroners and they are linking it by name to police reports of those deaths according to the criteria that constitute a violent death in that system.

MR. LANGWORTHY: I, again, this is more years ago than I care to admit to but the coroner's report, so the deaths certificates, were way under-reporting even police-caused homicides. I don't know what's changed in those reporting forms but there were a couple of things that were apparently very lacking.

One is that the vast majority of coroners just didn't even consider it as an issue because they don't encounter it, so it's you know if you're doing a lot of business then you are going to see this much more frequently than if you do a little business and if you do a little business and you rarely ever encounter it, you don't train up to report what needs to be reported to get the classification so that was one piece.

The other piece of that is that the form itself we are talking about 30 years now so I don't know what has happened to them since, but there simply wasn't space on a form to put enough

information to allow for that determination unless you had pretty extraordinary shorthand and knew the buzzwords that had to go into that form to cause things to be reported out correctly.

That, all that said, it strikes me, and this is something I would urge you and Andrea to think about as regards BJS, and that is to just kind of do an audit of this reporting against vital statistics and against the supplemental homicide records.

All those things, the supplemental homicide is the piece that I'm not clear on, but all of those are individual records I believe. And if you have one you should be able to look over at the other data series and see if it's there.

If it is there, compare the information that's contained in the two and you'll begin to get some sort of validation of frankly all three of those systems.

And you'll begin to have a better understanding of at least you'll be better able to defend something of the completeness of any of the series.

We are not talking about big numbers and so it strikes me that this is something that you could take on as an internal study. So just essentially do an audit of the veracity of your data system.

MR. GARNER: There's been work done at BJS, by people who previously ran the program. I don't know if it was just at the aggregate level or whether they were looking at individual cases to verify one on one.

But there's been efforts at beginning that and I think we are receptive to that suggestion.

MS. BURCH: Yes, we are, I mean we know that the SHR has a more narrow scope so whatever they have in their collection should be in ours and so --

MR. LANGWORTHY: But it, for instance, if you have a record here that says it ought to be in the SHR data series, you check the SHR data series.

MS. BURCH: The only thing we're having a problem with is just the timing. I mean I'm actually calling states last week saying can I have your initial submission for 2008 and we are almost half way through 2010 and then I know SHR has some delay as well.

MR. LANGWORTHY: I mean an awful lot of this though is diagnostic and so the timing isn't who cares if it's 2006, 2007, 2008? You damned sure don't need 2010 to do this kind of diagnosis of the data collection series.

What you'll find is you get some you don't get some. They get some. You don't get some or they don't get some. And but you should be able to get a better sense of perhaps how much is missing and whether it matters.

I mean on the one hand it would be nice to know precisely how many, to the one, died across these different categories. That's not as interesting as the core list.

MR. GARNER: What about the core list? Is age, race, sex of the decedent, is that really what we want, is that it? Does that help with police training and policy, well, what do we want to know about these incidents that might have informed somebody?

MS. BURCH: I see head shaking.

SGT. HILL: It depends on who wants information and what they want to use it for.

MR. GARNER: Well let's just pretend, just for you, what would be useful for you?

MS. BURCH: Yes, let's take everybody's views on this.

MR. KLINGER: I really like the idea of morphology that you came up with, really talking about weight, because one of the big things with the, whether we want to call it positional asphyxia or excited delirium or whatever, is big people on their bellies bad?

That's the argument. We don't know if that's true or not, but that's the argument and so it would be nice to have that to see if it across the country that's, the big people on their bellies that are dying, okay, but if it's skinny people laying supine then no big deal, or whatever it might be.

DR. SOUTHALL: Yes, I did a small, well, a period of research for about a 14-year period of deaths in custody and we did age, race, gender, jurisdiction on the State of Maryland, BMI. And of course cause and manner of death.

And then I went on and documented injuries, minor injuries, and different parts of the body where they occurred to try to bear it out, you know a trend and so that seemed to be helpful.

MR. GARNER: Is it published? Where do we get a copy?

DR. SOUTHALL: It should be in the net now.

MR. GARNER: A medical journal.

DR. SOUTHALL: Yes.

MR. KLINGER: Andrea, can I backtrack real quick here?

MS. BURCH: Sure.

MR. KLINGER: Do the MEs, do any of you classify what is currently called suicide by cop as suicide on the death certificate versus police-caused homicide?

DR. DIANGELO No, they're homicides.

MR. KLINGER: They're homicides.

DR. DIANGELO: Absolutely.

MR. KLINGER: Because there are some places that do classify those as suicides which is another issue just to be aware of and it looks like you're already aware of it.

MS. BURCH: Yes. There are a few states where they do that and I'll write them back and say for the purposes of our collection I've changed that to homicide by law enforcement officer and I explain why.

But one of the examples of the filled out forms that I gave you is a suicide by cop.

SGT. HILL: You know the other problem is, I started this in '97 and we started out with like eight columns using excel. I think we're up to like 76 and before I left this morning it was like -- you go from the most simplistic form of information to the most dynamic and it's, we're at the point now, and don't laugh, but we're reporting it for persons, I mean, right or left-handed, was it raining outside?

I mean, we went from one extreme to the other and it's information and it's amazing when you get so many different personalities that want to know these things.

MR. GARNER: But somebody has to put something new, well, you say, what two items are we going to take off?

SGT. HILL: Yes, good luck on that.

MR. GARNER: That never happens. Exactly no one ever wants to remove something.

SGT. HILL: No it's always, we're going through that right now, literally. I think we're starting like, we went through ZZ and I think we're starting at AAA now.

MS. BURCH: What are some items that you are finding to be informative out of all those?

SGT. HILL: Well I mean it depends on who the reader is. I mean for me, I think seven fields was great, you know 13 years ago. It just depends on who wants the information. Was the person left-handed was it raining outside these are, time of day, evening, what for, what shift, I mean we went from one extreme to the other.

MR. GARNER: Do you know how the officer got mobilized, whether they were dispatched for something or whether they were --

SGT. HILL: These are things they capture. Was it a radio run? Were they on routine patrol? Were they off duty?

MR. GARNER: Does this help you though that's the thing.

SGT. HILL: Well, we come up with trend reports and trends are also debatable too so, you know. There's no perfect answer.

MR. GARNER: One of the things we do is report counts, which means New York of course has the most deaths and of course they are much more violent than South Carolina unless of course you say deaths per sworn officer and then South Carolina might not look so good compared to New York.

LT. MIDDLETON: Well it's not only that but the problem with that in this city is what sworn officers are you going to count? I mean we had three -- seriously last year we had three

fatal police shootings in the District of Columbia that were from outside agencies, one by park police, one by capitol police and one by P.G. County police that chased somebody in here.

MR. GARNER: Thirty or 40 D.C. police -- somebody from out --

LT. MIDDLETON: Right you got outside agencies and we have to report that and I notice you need to be seen --

MR. GARNER: Everybody has borders.

MR. WIERSEMA: And two out those three cases aren't in the scope of this data collection right now because federal agencies aren't included, right?

MS. BURCH: That's correct.

MR. GARNER: We don't include feds? That's a consideration we --

MR. WIERSEMA: That's a problem --

MS. BURCH: That was one thing that we were going to talk about today.

LT. MIDDLETON: Not only that but they're killing somebody, seriously, that's --

SGT. HILL: These guys got all excited on that one.

MR. GARNER: We don't just report counts of crime. We report rates what kind of rate, deaths per violent crime reported, deaths per sworn officer.

CAPT. RUSSO: Yes no one looks at our volume. We have nine million radio runs a year. No one looks at that. Nine million 911 calls a year.

MR. GARNER: I mean, it's the theoretical concept is potentially violent mobilizations we don't know what that is but arrests or something that about the nature of the business of a number of opportunities that, what might we use.

MR. LOFTIN: Don't go down that road you want to keep it rate, simple, to person time at risk. And those are other things are risk factors but might influence that but you don't want to incorporate those in the measure.

MR. GARNER: So what is a risk, is it per population or --?

MR. LOFTIN: Yes. I mean citizens are the victims right? So it would be some measure of number of citizens at risk.

MR. GARNER: But you wouldn't do arrests or violent, that's a predictor.

MR. LOFTIN: So there are lots of other risk factors but don't incorporate them in the measure of risk, I mean coroner's offices have been doing that for years and it's just confusing.

DR. DIANGELO That subject kind of got into the same situation again like D.C., there's only 600,000 citizens but during your typical day there are 1.5 million. I'm sure New York City has the same situation so the denominator, it varies, and it is not a true reflection of what the population at risk is.

MR. LOFTIN: You have to use the denominator, the numerator and the denominator affect the same population.

MR. GARNER: So you'd have to know where the person lived as well as where they died.

CAPT. RUSSO: Well the problem with that too is that you get a lot of people, do they have an address in New Jersey? Do you go there? This guy doesn't live here, we haven't seen him in five years. Where does he live? We do an investigation for years and sometimes never find out where that person resided.

So it's we're going to give you an address and is it valid? A lot of times it's not.

MR. LOFTIN: It's been my assertion, it gives you, that's the goal, that's what you're trying to measure, is the person time at risk and there are all these complications that make it difficult but if you keep your focus on that at least you've got a clear conceptual goal that you're trying to approximate.

If you get off onto these other things like number of people of a certain type in the population, trying to use those as a part of measured risk, it's confusing. So it's true that counting the population at risk is difficult to do.

DR. DIANGELO: Well would not the 911 calls or something like that be more reflective of how many times you have the chance for these types of encounters? It doesn't matter where the person lived.

MR. LOFTIN: Possibly, but you'd want to be real careful in doing that. I'm not saying that the 911 calls are a very important factor but it ought to be how that influences the risk that a citizen will experience.

MR. GARNER: Every risk thing is a problem. Is it better not to do risk or is it better to try to live with the problem?

MR. KLINGER: But that data is already there somewhere I don't think it helps you when you know what your -

(Simultaneous speakers.)

MR. LANGWORTHY: -- that has tried to capture call for service data and wasn't able to do that.

MR. GARNER: We can do arrest off the FBI. We can do sworn officers, we collect that pretty well. But per agency what other characteristics might you use? Or population, you could do the population of a state or a city per a department.

MR. LANGWORTHY: And another intriguing idea might be that you publish several different denominators.

MR. GARNER: Absolutely.

MR. LANGWORTHY: And so that you have the resident population of places.

MR. GARNER: Which may not work for New York but it might work for sworn officers.

MR. LANGWORTHY: And you may have, yes, and just half a dozen different plausible denominators.

MR. KLINGER: I'm lost Bob, why would BJS on the death in custody program or whatever we are going to call it want to get that? That's what I'm trying to -

MR. LANGWORTHY: Well no. There are two things, two things that I would say, if you want to standardize this so that you can compare New York to Metro, that's, you have got to figure out some way to take care of opportunities for people to come to harm.

MR. GARNER: We don't have to collect that in this department.

MR. LANGWORTHY: Well what you can do with this is just simply present the counts. And a whole, a completely report could prepare estimates of different denominators so that

whoever is trying to use these data has the capacity to pick and defend the denominator that they want to use to process this information.

But you are not going to, you know again, you are not going to capture the one, I mean we've got 43 million people who come into the Orange, Orlando International Airport.

It's the same problem that you've got. It's a different nature but it's, the resident population of Orlando is 230,000 people. We've got 43 million visitors. You know? And one with a 220,000 denominator does not speak to the opportunities to do people harm.

CAPT. RUSSO: But like Bob said, I think if you keep it simple and keep it to stick count, any individual researcher that wants to dive deeper, they have the information they need to go then, do that research, rather than us doing the research for them.

And then because every time someone else comes up with another research project, more criteria is going to get added with his report, once again it's gonna become 10 pages long, with so many categories and sub-categories and you're going to get everybody interpreting their own definitions.

If you keep it simple like he said I think it's the best way.

MR. LOFTIN: By that measure, New York is going to look real bad, whereas if you do it on population basis, New York is going to look good.

CAPT. RUSSO: Well, I'm not suggesting that. I am suggesting what Bob said, is to simply give stick counts, not rates, not rate per sworn officer, not rate per population.

MR. LOFTIN: I see the advantage of what Bob is saying but don't write off the rate too quickly. At least think that through. CAPT. RUSSO: Well, we maintain all those stats and

we release it to the city council every May. We have a hearing where we prepare a book this large on all our stats. And there's plenty of rates based on how many people, visitors we have, estimates on visitors, estimates on population, estimates on 911 calls, sworn officers, other jurisdictions.

MR. LOFTIN: But BJS is going to do that.

CAPT. RUSSO: But that's why, like he said, if you give stick counts, I don't know if BJS, they don't seem to have ultimate decision of what they want to do with the stats so if you have the stick counts, if you say okay I want to look into, are people over six foot more at risk, well now you can do the research. Because you have the names, you have the dates and times of occurrence. You can do that research.

MR. LOFTIN: You want that, but in the reports, I looked at the report you sent and there's one that compares the SHR with the system and it says they're comparable.

But they're not comparable except that the big states have big numbers and if you calculated the rate they wouldn't be comparable at all, or I didn't count out the rate but what makes them look comparable is the fact that size is not taken into account in that, and that's, it's not that complicated but it seems to me that in presenting that you'd want to make sure that the reader understands that the differences reflect differences in the size of the place.

MS. BURCH: We spent some time talking about issues with the denominator so I think we go back to the numerator as well.

There is a lot of discretion in how this definition is applied across states and how they actually collect the data. Some take a very passive approach and only report data that either lands on their desk or that I find and subsequently send them a request for data.

Others are very active. Some states will contact every law enforcement agency in their state and ask them to report the data. So I mean even if we get the issues with the denominator worked out, we still have to take into account that there really isn't much consistency across states in terms of what they're turning in and the definitions that they're using.

SGT. HILL: I tell you, the other thing you want to be mindful of too in real world scenarios with a down economy across the country where most of all the governments are cutting manpower and resources. I know I'm the only guy that does our statistics for our agency and it's a full time job with a lot of extra time put into it.

If you make this complicated and it's a volunteer type system, you're going to lose people because there are no resources for this. So you may want to consider that with what you want to capture because I can tell you at the end of the day and I sincerely mean this, our priority is with our agency first.

You are on the back burner and if anyone ever thinks that's out of choice --

MR. GARNER: We think that's way ahead to where we used to be.

SGT. HILL: We are cutting more every day. We are doing more with less.

MR. GARNER: Maybe the discussion here about arrangements about data we have elsewhere that we wouldn't need to collect through the arrest-related death program.

We have through other systems or census data that we can link to a department or a jurisdiction or a state to compute this. So part of it is that it's not additional data burden necessarily, although the report issued this program.

MR. THORPE: This is actually because of what you just said, okay, and that is that as things are getting cut, a number of officers from the street I understand are getting cut too.

And maybe a good denominator would be the size of the police force. Again if I were to look at this from the police officer's point of view, I would like to know if I was going to work for a department somewhere, what my risk in employment there would be for shall I say effectively employing lethal force, you know.

What is it, what's the average per man hour or per officer year of, what's the risk of that officer of being actually in a position where in fact lethal force, they would be in a position to use it?

I would think that the officer's risk is kind of a turnaround on this and will that officer's risk, can that be related for example to cutbacks in police force sizes over hours things like that?

So when you're talking about denominators, and I really like the idea of several denominators, some of these denominators are important to the police agencies. If it becomes apparent, okay, that over time, a police officer's risk of hurting somebody is increased because of cutbacks or at least that relationship can be shown, that is a pretty valuable management tool, and a policy tool and a political point for the police officers in this nation.

We keep talking about this as risk to citizens. Well there's risk for police officers as well, not only that they should be hurt, but they should also find themselves in circumstances where they have to hurt other people.

And I don't know if there's anybody really -- I happen to like these police officers a heck of a lot. I guess this is a good room to say that in. But as an emergency physician I have worked with police officers for a long time and I did really feel sorry for police officers and what they were exposed to and what they had to put up with.

In this system, okay, the outcome event is a death. That's still only the tip of an iceberg because actually there are lots of events that can include near death and certainly serious and debilitating injury for both sides that aren't even being captured here. I mean we're not even touching it with us. Because it won't show up on this radar unless there's a dead person.

The medical examiner isn't going to be involved with it if there's not a dead person. There won't be a death certificate if there's not a dead person.

So the idea of getting as much as you can out of these seminal cases for both perspectives, not just the injured but the injurer serves both sides very well and especially I think now.

Maybe I'm wrong but here's my guess, that for every cop on the street they are probably at greater risk for having something on their conscience for the rest of their life under these austere times than let's say, five years ago.

Now there's a hypothesis that I can't test okay, but still.

MR. LOFTIN: I agree with that completely. My point was slightly different, that you wouldn't want to use deaths per officer as a measure of risk for citizens, that would be a measure of something else.

MR. THORPE: That's correct. That is a measure of something else.

MR. LOFTIN: That was my point.

MR. THORPE: Sure.

MR. LOFTIN: Is that it's some other denominator when you're trying to estimate the risk for citizens.

MR. GARNER: What sort of rate might medical examiners use? When you report deaths is it deaths per -- or is it generically done, or maybe it's public health. I don't know.

MR. THORPE: Public health people tend to report, most of our public health statistics are reported on the basis of deaths per 100,000 citizens and we use all kinds of adjustment schemes for that for age, this, that and the other thing and we compare groups that way.

But that has a denominator of people, that include people who didn't die and among these cases, what is the denominator? It's the number of people who are taken into custody, okay, or is it the number of in custody person years, you know for an area or whatever?

And you'll just kind of like go crazy with that you know. But if you can do it, if it is possible to get those figures, they won't come for us. See this, you're, this is only numerator stuff. You need as much cooperation from police agencies in order to get those denominators, okay, they'll say oh yes, well our folks, we've got so many people in lock-up from when we book them until they get out the average time for those people going through and how many

they process a year and all that other jazz, okay, in order to come up with those snazzy denominators.

So those same police agencies would actually have to be providing you with other records, which they may or may not keep in some aggregate form. I don't know.

MR. KLINGER: And could I just really complicate things just for a minute?

MR. THORPE: Sure.

MR. KLINGER: Classmate of mine gets a call of a family dispute, they respond to it, he ends up shooting the guy who had nothing to do with the family dispute because that guy was just trying to murder his wife in the same place where they happened to get a radio call.

And this is actually not that unusual. Officers respond to a loud party and a robbery is occurring at the party and so on and so forth.

So you've got these shootings and then other things where suspects end up dying nested in other encounters. You talked about 911 radio runs, well the radio run comes out as x, but it turns out what was going on was y and z and q and p also.

And the event, which you might first think is oh, just one of nine million radio runs is really one of tens of millions of events that were nested in radio runs. So it can get really complicated.

CAPT. RUSSO: There's a lot of third party callers with 911 calls. It's not the person being assaulted who's calling. If you can imagine that, it's not like TV. You are getting your head bashed in and you're on the phone.

It's someone else who hears the noise in the apartment over. "I think they're fighting. They're having a loud party. I hear a lot of yelling, I hear the radio playing."

And you knock on the door and that's not a party. The guy has the radio blasting because he's beating up his wife and he doesn't want anyone to hear the noise.

So there's not all the, information is not contained. And the mostly disturbed persons, I mean, we, New York City treat them as what we call aided cases which means someone who just needs medical or psychiatric assistance.

They are not arrested. We do a simple form which could have some legal issues, releasing their information also because they have privacy rights. They weren't arrested. They are not criminals. They just needed some help. We brought them to the hospital.

And now for us to go through, we don't really keep a database for those people. We have to now research probably close to a million emotionally disturbed persons we transport a year to give you some sort of rate. It would bog us down a lot.

MR. ADAMS: Well I appreciate these attempts here to complicate things and make things more difficult so let me move in the other direction and just try to simplify this in a workable way.

As I look at this. This is called arrest-related deaths. So I suggest we use arrests. We have that information. It comes in. We can parcel it out into misdemeanor felony, violent, we have got a couple of combinations here.

And generally I think it's useful in an overall report to present these standardized and the unstandardized measures. And I think that the unstandardized measures are misleading, that there's the straightforward counts.

Because people can jump to conclusions on that. They don't understand the volume issue and how it relates. So as a simple reporting practice I just suggest you have your count and then you have some rate based on some arrest statistic, since this is called arrest-related deaths.

Now there is a little bit of a complication here and I don't think it's a problem but I want to raise it. Because these are incidents they can involve multiple people and an incident can involve multiple deaths.

So is that an issue? Do you, are there many cases in which one incident leads to more than one death under this situation and that may be a situation to take into account.

MR. KLINGER: I'm going to talk about that alone. Did you work with Ken Matulia at IACP when he did this? There's this whole document, 1985-86, a balance of forces?

And what they did is they, IACP did it, and they have all these various rates on per thousand officer per ten thousand population, per arrests for violence and so I mean this is something that has been done before and I think that makes sense for the reporting of it if that data is available elsewhere.

MR. LANGWORTHY: I agree that one of the things --

DR. DIANGELO I am a little confused, you said arrest related, that they have to be arrested? Well I know in a couple of jurisdictions when, after they cuff the guy, he goes

unresponsive, he's dead. Well he's not actually arrested but he's certainly in custody. So that's another --

MR. ADAMS: Right it's not a perfect measure because there are people who technically are not under arrest who get reported as dead.

DR. DIANGELO Right but that would almost then take my cases from whatever to in this three month period to zero. I get these are truly in custody deaths. And --

MR. ADAMS: I am talking about the --

DR. DIANGELO The denominator? Okay.

MR. ADAMS: The denominator and not the numerator. So the denominator is not perfect because there were sort of non-situations that don't involve arrest that were counted.

But my guess is that the mis-match is trivial and we have arrest data. It's easy enough to capture. It's easy enough to get. People understand what it means and I do think it's useful in a report like this to present both the standardized and unstandardized figures because people misinterpret them.

It's very easy. They don't understand the parameters of the information and this will help to communicate that to them.

MR. LANGWORTHY: I have a question, well it's not a question. It's probably set up as stronger. We're not attributing any of these counts to any jurisdictions right now. The only attribution is to states and regions.

And unless there is some notion that we might actually move down in the geography a lot of this, not controlling for volume, is fairly self-evident.

The other thing that I think that we're missing here is that no matter how we divide this, we come up with a zero probability of something happening, or of there being a death.

MR. LOFTIN: Near zero.

MR. LANGWORTHY: Indistinguishable from zero, let me put it differently. So for example we have a history here of 2,000 reported deaths over a three-year period, and essentially you could say were occasioned on a population of 330 million.

I don't care how you round that division, that comes to a zero probability. And that's actually a pretty conservative number because if we actually talk about police-citizen encounters, we've got to be talking about billions.

MR. GARNER: Technically the statistical problem is the numbers are so low it's hard to do statistics on them.

MR. LANGWORTHY: Right and so but at the end of the day--

MR. GARNER: The medical people do this all the time.

MR. LANGWORTHY: Well, it doesn't make it right.

MR. LOFTIN: Right, there are a lot of rare events that are investigated so there are all kinds of medical conditions that are rare so you move the decimal place as far as you get to and -- and then it's difficult to do analysis of that but still it doesn't mean that it's not doable.

MR. LANGWORTHY: Oh no you can do it, you can make a mountain out of a molehill and it's quite possible to do that but at the end of the day we are talking about moving from one brand of zero probably to another brand of zero probability.

How do we then evaluate, for instance, movement of that number? Do you think you can create a policy that goes to deal with this issue and then say that you've substantially impacted the rate when the rate doesn't change from zero?

MR. LOFTIN: Well these are technical issues and I think we are talking past each other. Just because it's rare doesn't mean that you can't investigate it.

MR. LANGWORTHY: No, no right.

MR. LOFTIN: And that's not making it into a mountain. There's all kinds of medical conditions and that's the reason that on a lot of the statistical procedures that you are using in vital statistics work with ratios because the difference between two rare events is very small but the ratio may be very different.

So it's, if there are risk factors that are related to these kinds of events, then just because they are rare doesn't mean they can't be investigated.

MR. LANGWORTHY: No, well, but I mean, particularly when you're in that kind of an environment, the acuity of your reporting system is profound, I mean, because at the end of the day, when we start talking about movements of these numbers across even the national reporting system you change one of these fellows out and their departments and we have a profound impact on the rate of police killings or deaths in custody, because one of them is more aggressive in reporting that information than another.

MR. LOFTIN: Yes so you have to be more accurate with your --

MR. GARNER: I was wondering about Baltimore. We haven't really asked Baltimore police about -- do you report these things internally or do you put it on your web page?

LT. CALLAHAN: Well they put the police-involved shootings but I don't know if we do all the in-custody deaths, like if you're about to arrest somebody, the CES, like they were talking about, and he chokes and dies, I'm not sure if that goes on our web page or not.

We do report the police-involved shootings but all the in-custody deaths, especially your definition, I don't believe we do.

MR. GARNER: Do you just do incidents or do you do a --

LT. CALLAHAN: Well, homicide investigates. Let' say the choking one, that was the most recent one we had.

MR. KLINGER: Did someone get choked or was this an officer applied a chokehold?

LT. CALLAHAN: No this is a swallowed the drug, got choked on the drug and he died. He died or asphyxiated.

Homicide will go out and investigate that because the police get there, they go to arrest him and handcuff him, he's dead.

Well he goes down to the medical examiner and the medical examiner says, well the homicide respond to the scene, they do their investigation. Of course the first thing they do is they ask the medical examiner, well you know how did he die?

And it came back, by choking or asphyxiation. So I don't know if that would be reported on a web page somewhere or not. Another one where a guy was running away from the police, goes onto a bridge, decides to spiderman his way across, of course he doesn't get across, falls, car runs him over. I don't think that would be reported but by your definition that would be in custody death.

But we do report the police-involved shootings.

MS. BURCH: Well, while we're, I'm going to change the topic slightly, because I do want to cover this before we break for lunch. But going back to the capabilities and constraints, the people providing the data, I want to maybe discuss how we balance what we want to collect compared to what we are capable of collecting and then collecting accurately.

Because we ask questions, and we can discuss this more later when we talk about the actual surveys when we say, what restraints were used what behaviors were used, when we have reporting agents who are getting their information from media sources, they might not know if the person was in handcuffs or what was done.

So even though we ask some questions, I'm not sure that we should be asking them because I don't know if we get accurate responses.

So in light of some of the things we've discussed and the types of information you would like, are there alternative ways of trying to increase the validity of the responses, to restructure them, phrasing the questions in light of who we have providing the data for us?

MR. KLINGER: Let's say if someone tells you that they pull it off a newspaper report, you just toss it. I'm serious because --

MS. BURCH: So what do we do, do we just throw out the death, because I mean --

MR. KLINGER: You just say we are aware that someone reported that somebody died. And that's it.

MS. BURCH: Right now we don't actually know, when we gave us the CJ-11As they don't say where the information came from. Is that something that we should be asking?

MR. KLINGER: Yes.

MS. BURCH: Okay. Do we do it question specific? Because obviously some of it has to do with medical examiners and some of it has to do with law enforcement. So do we say --

MR. KLINGER: Are you talking about the call back where you are --?

MS. BURCH: No, when they submit the form, I mean they don't give me any indication of where they got that information. They could have --

MR. LOFTIN: Do you have any training for those folks?

MS. BURCH: We give them a set of instructions and that is the training I guess that they receive.

MR. GARNER: Joan, tell us about your training.

MS. SMITH: Our training, we took this over from the Office of Financial Management I think when the grant funding ended it was given to us. Of course our association is represented by the chiefs and sheriffs. They agreed to do this so we are unfunded. But basically we had an email from an OFM person who said this is what we do and we took that and worked it a little bit to what would work for us in our relationship with our police departments and sheriff's offices.

That was it. We email.

MS. BURCH: Sue do you want to talk about your training?

MS. BURTON: Well, we were involved I guess from the beginning in terms of the implementation so I feel like our training was watching the law evolve and of course with JRSA we have had several state meetings so that was the extent of the training.

We talked about how different states are approaching it and there is an issue as to where the source of the data. Probably if you were trying to keep the integrity of the form you probably should note that some of it comes from the media, some of it comes from the medical examiner.

MS. BURCH: People will just send me and say there you go and give me the newspaper article to --

MR. KLINGER: Let's include that it came from the newspaper.

MS. BURTON: Frankly you would get a lot fewer if you didn't take the ones from the media mind. Just from our experience.

MS. BURCH: Because I mean we do hear from our data providers that they send information requests to law enforcement agencies and they get denied some of the time. And so in their mind either get it from the media or don't send it all. So what's better?

MR. KLINGER: Count the number. You have got somebody dead and the rest of it -- I mean I've looked at news media reports and have intimate knowledge of what happened and it's night and day. It's unbelievable.

MR. KAMINSKI: That's why use the names and go to another source such as the ME's report and get that information.

MS. BURCH: Well, one of the things I would like to draw too is one of our concerns for OMB is burden. Burden to the people filling out the forms, burden to the taxpayers, so you know more about the burden issue.

MR. GARNER: Well, it's a standard requirement, a federal agency can't do a survey without OMB doing a very serious review, primarily is the burden of this, calculate the burden on the American people and then what's the value and does that burden justify it?

There's a rather elaborate justification we have to go through and we've done it with this instrument as well as others. Part of what makes it easier is if we lessen the burden of the instrument it's easy, they don't really worry.

But if you add questions then they really want to know why you are doing that, what's the value, what are you going to get out of it.

MS. BURCH: The other thing too and this is a technical term, they might freak out if we say we are going to ask law enforcement these questions and we're going to ask medical examiners these questions and it's about the same person because in their mind now we've doubled the burden.

So that's something that we have to keep in mind too when we design this instrument.

MS. BURTON: Even if you're asking different questions to each source?

MR. GARNER: I guess it gets to be probably not because it's technically, it's how long does it take a person to fill out that form and if you cut the form in half and give it to fewer people it should be the same. But there is still all the -- it's not going to double the effort but it is going to increase the effort if there's two different organizations.

MS. BURCH: We have gotten conflicting information about this, because we did kind of talk to, we have a worksheet and we started to do it and some people told us oh yes, no big

deal, you're splitting it, it's going to two different people and then somebody else said no, it's not about the time it's about the number of people that you have to contact.

So that's something that we still have to work out.

MR. GARNER: This is a within the beltway sort of problem and the way this program developed technically what we compute and talk to OMB about is the burden on the state reporting agency, not the burden on the police department or the medical examiners.

Now some of the state reporting agencies on their own survey all the police departments and the sheriffs in their state and that's a burden, since we didn't ask for it, didn't get calculated.

As we develop this program more fully and we do more direct reporting from agencies, medical examiners, that's going to be the federal burden and we would have to report that.

But right now the way it's computed is 50 states reporting 600 cases. How long does it take to fill out the CJ-11A? But we're trying to talk about a constraint that we have that changes when you talk about different reporting agents and direct reporting agents.

MS. BURCH: Another thing too is, this is a national collection, can we expect that information sharing across agencies can be replicated throughout the country? And how is that going to work where some states are probably going to be more successful than others?

SGT. HILL: Why not create like an Excel spreadsheet, put the information in the columns that you want to capture. That way if you send out a blanket spreadsheet to everybody.

Like every time there's an incident, I capture information. Whatever the chief wants or the mayor, I can do pivot tables to bring up what I want, but that's coming back to you.

Like I email Excel spreadsheets to people all day long every day, all the information there is captured, you can take the pivot table and capture whatever you want to capture, but you have a standard base of information that's uniform for all 50 states or whoever captures the information.

And I have got to tell you, when I go in every morning I sit down and I look to see what happened in the last 24 hours, I put it in, I'm done. At the end of the quarter, I am not scrambling. I am not taking your document looking for this. It's all there for me.

I'm putting the last thing and the first thing, whatever information, we're putting it in and it's fluid and I can just email that to you. And then you, I mean these pivot tables are just phenomenal if you use them if you use them however you want to utilize them.

But they are there. They make your life so much easier. But sitting there filling out this document, going back looking quarterly. I have got it all there for you, why can't I just send you something, email it.

MS. BURCH: I'll take it.

SGT. HILL: Absolutely. It makes your life a lot easier too.

MS. BURCH: Well I mean, the way that, it's not the most efficient system but after I get these forms I have to enter them into a database as well.

SGT. HILL: You've got it all there.

MS. BURCH: I mean I can type it off-of your screen or I can type it off the form. It doesn't make any difference.

SGT. HILL: I don't know, I like working smarter not harder.

MR. GARNER: Beginning in October, we are looking to move towards web-based automation but we don't have that in place yet.

SGT. HILL: Give me a half hour I'll create it for you. Fifty times. We'll do it however many times you want it. It will make your life so much easier. Everybody in this room will be amazed. Especially when it comes to pivot tables.

MR. GARNER: You are preaching to the choir.

MR. ORCHOWKY: Yes but it really is, that's unique to you. In other words you've got the data. You're talking about state entities here who don't have the data until they go get the data. They're not police departments. So this whole discussion hinges on who is going to be completing the data. Who are the responders?

MR. GARNER: Who actually fills out the CJ-11A?

MR. ORCHOWKY: Yes, if you move to a system where the responders are medical examiners or police departments then that's a whole different ball game. That makes some sense. But right now you've got this hybrid system but the responders are all state agencies who don't know that these incidents exist until they go looking for them and that's why you're getting the newspaper accounts.

They don't, so I hope what I think that most people are doing is they're identifying these incidents and then they're trying to get the medical examiner report and they're trying to get the police report. If they can't get that then they are going to send in the form with the newspaper article attached so that you know that they're aware of an incident but they can't get the information on it.

If you go to a system where you're collecting data from 11,000 police departments all that becomes moot then you have a whole different problem.

SGT. HILL: If you're capturing information based on news reports, I have got to tell you, that's scary. I mean it's scary.

MR. GARNER: We share these concerns and as we got into this I developed an attitude which has been pretty persistent which is, going from zero -- we have concerns about the form, the way this is set up, but going from zero to what we have is the hard part.

For years people have been talking about doing this and it hasn't happened and this program has gotten us a lot further down the line than people had ever thought was going to be possible.

We think there's improvements that can be made here but the hard thing was going 2002 and 2003 and getting something with virtually no resources going, that was I think the hard part and I think we are in the privileged place where with some, now a lot more resources coming along, we can address these sorts of concerns.

DR. SOUTHALL: Seems like you will have to go through the medical examiners' system to get all the information that you'd like to have because at least the MEs will have the finished products so to speak.

MR. GARNER: In those states where there are medical examiners.

DR. SOUTHALL: It's easier with the statewide system. Well, that's a whole other debate, coroners versus MEs that is coming up soon. But anyway, you know which brings me

back to my original point which is that you want to collaborate with the National Association of Medical Examiners and get your point out to them or that group that may be your best bet.

MS. BURCH: So how do we do this on a case-by-case basis. Let's say a case is identified, how do we link up getting information let's just say a state reporting agent, getting information from a medical examiner's office and a police department and like a triangle of sharing things. Does anybody have any thoughts on --?

DR. SOUTHALL: That's the thing. If we have questions, first, the way I see it, you have to truly identify what you want and then do you want a little more detailed input from MEs versus the arrests compilation from the police department?

That's going to be something separate from us. So maybe it is going to require, and maybe a website can do this an ME section and a police section and then BJS can bring that together.

MR. WIERSEMA: It's multiple sources of information official record keeping systems that are brought together and linked on a case-by-case, individual-by-individual basis. And you can find out where the linkages don't match and you can follow up on those cases.

And you're talking about burden, at least then the states where NVDRS exists right now, if you're not interested in unintentional cases and that's a whole different part of your scope, but if you're only interested in homicides, suicides, undetermined manners of death, you're going to have probably the best ascertainment of these cases that you're going to find anywhere, through any kind of a survey system that you're using.

DR. DIANGELO They have four, I mean, we have one person in our office and they come in and any case that is not natural, there is a person who is going through the charts and if we are missing a piece of information they order it so the data is double checked.

MR. WIERSEMA: It's coded and in a consistent way. The coders receive annual training. There's audits of the data that are collected so that they are basically recodings are done. There are all kinds of quality control that is built into that kind of a system.

Granted that's an expensive system. It only covers a small portion of the country right now but that's sort of the model I think you want to move towards in a data collection like this.

MR. GARNER: Unfortunately when you move towards that model --

MR. THORPE: Uhh, got money? You are exactly right but it is expensive.

MR. GARNER: George has been working on that model in Maryland, he's the presenter from the Maryland.

MR. THORPE: Yes I'm representing them. You are talking a lot of numbers. I am not familiar enough with law enforcement to know the rules of the state police in the states. These like they are sufficiently small that you wonder if you couldn't contract with the state police agencies to do this.

MR. GARNER: Technically some of our, Washington State is one place, it's the Association of Police Agencies happens to be the state reporting agent for Washington State. It just happens to be, they worked that out on their own in Washington State, how to do that.

MR. THORPE: If you have resources coming I guess is what I'm saying is, people might be, state-wide organizations that have the authority to collect this information within their own

states, okay, and it would be my guess that state police can get that authorization from the governor, all right?

It does actually have access to all the stuff that you'd be looking for and for a few sous, they might be willing to do that in these austere times not to steal the thunder from anyone else, but then you'd have a uniform system of gathering the information, like SHRs except in this case there would be only be so many investigations.

If you paid them well enough they could do it for you.

MS. SMITH: I am retired from the state police in the state patrol in Washington. They don't have the facility to be able to do that and a I look at a state like California, where they have the highway patrol, which is the state police and then they have the Department of Justice.

So some of the states, they are just not going to meld that way. Others are going be able to be a repository for criminal history, UCR all these other things that in some of the states it's not just that type of structure.

MR. GARNER: In Texas and California, state law requires agencies to report these to the state attorney general. So if you look at our, you get very high participation by California and Texas jurisdictions because it's mandated and then we go to that state.

But again, for some reason, our statistical purposes haven't persuaded the 48 other states that they should assist us in this way.

MS. BURCH: And California and Texas's numbers are high and it's just because they are required to do it, not because -- and this is part of the problem that I was talking about before with just the, a little effort I guess by the different states.

Are there any final comments about this before we--?

MR. LANGWORTHY: If I could, anything to keep us from getting lunch. When I read the report, I was struck that California and Texas indeed to have, that they are required to report. And what also struck me was that somehow, somebody is getting around that.

Because the, I think the reporting in California way exceeded, no way under-reported what appears in SHR and the reporting in Texas, the DCRP program over-reports what is presented in SHR.

So that law in Texas and California is having very different effects on the reporting systems and counting systems and so even there we are going to have, the law ain't going to fix that.

The other piece of this is that this is state-based accounting right now and most of the data collection is at either the local jurisdiction or county so if you want to really muddy up the water then try to get whoever does the death investigations, be it the coroner or medical examiner linked to the multitude of police jurisdictions in a county and then get all of that aggregated up reliably and sent to the state for counting, these kinds of triads are going to be real, real problematic.

I don't have a solution to this, mind you, I just want to throw a monkey wrench in the works some more. I think, so what I particularly enjoyed was the multiple sources of reporting and the notion that we are looking at a lot of different places to get the counts.

Now I agree with you Dave, if we are talking about the characteristics of the event, I think then we have got a different kind of problem. But my guess is that even if we are using

media accounts, there is a good likelihood that we are going to be able to the basic demographics of the actors in the event.

We are just not going to be able to attribute it.

MR. KLINGER: What I if I told you that in one year in particular in California, there is at least 17 deaths that I happen to know about that were not reported out in the SHR, which is the higher California series, and that's just from one PD where their internal numbers are 19 people that they shot and killed and only two are counted in the SHR.

MR. LANGWORTHY: Right.

MR. KLINGER: I mean, it's messy.

MR. LANGWORTHY: It's real messy but it's the same thing that you have with victimization survey where you've got people who report to the police and to victimization survey and people who report only to victimization survey and then you have got those people who aren't going to talk to anybody.

So I mean, I think you've got that kind of vice is built into virtually any of these things. And that I guess also speaks to the notion of maintaining some degree of stability in any instrumentation. You let this thing mature, whatever system you have got in place, you let it mature, and you have got to be very careful when you change it, because your friends are going to be all screwed up and once it's mature you at least have some basis for comparison from one year to the next even if it's less than perfect.

MS. BURCH: Yes, it's something that we've talked about. I mean, the instrument I included in your package is the instrument used in `07, `08 and `09 and it does change and so

that's why we wanted to have an expert panel together just to get something and keep it for a little while because I mean the responses are going to be different so it's not going to be a direct comparison.

Okay any other final comments, questions or concerns? Do you want to talk about lunch or --?

MS. BLAIR: Lunch is here. If you are ready for lunch then --

MS. BURCH: And then Dave Klinger will be moderating a discussion on use of force for us.

MR. KLINGER: Right, get our lunch bring it back here is that the idea or we are going to pick it up here?

(Whereupon the above-entitled matter went off the record at 12:03 p.m. and resumed at 1:10 p.m.)

A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

1:10 p.m.

MR. GARNER: Can we start up again?

MS. BURCH: Okay if everybody is ready I think I would like to spend the rest of the afternoon actually talking about the data collection instrument.

So one of the places I would like to start is how we actually define an arrest-related death and this is an area where we could use your input.

If you go into your materials, there is a piece of paper in here called the arrest-related deaths 2009 CJ-11 reporting instructions. And then right behind that, it's a front and back form, then right behind it is the actual CJ-11A instrument.

The CJ-11 reporting instructions actually clarify what arrest processes, what a physical custody, the difference between that and the physical custody definition that most people use when they think about arrest-related death.

Are you guys familiar with the definition that we are using for this? It's number one on the instruction form. What do you think this definition? Specifically, using "arrest-process" compared to a "physical custody" definition? Is this the appropriate way to go about this collection? Is the definition too narrow, is it too broad? Are certain aspects of it good, do others need amendments?

MR. KLINGER: Whoever said it earlier about people dying when the cops are around --

MS. BURCH: Police presence.

MR. KLINGER: With some clear cut boundaries is the way to go because then you don't worry about what they said with Diallo because they weren't trying to arrest him, they were trying to tame him.

And legally, you don't have to, you can kill somebody, not trying to arrest them. During the process of detention they threaten your life and you shoot them.

Or you have a reasonable perception and then it's justified. So I think whatever language someone else uses, the way to go.

MS. BURCH: When we were talking about the purpose of this, Joel and I go back and forth on this, not to air our dirty laundry, but he calls this the lethal force program. And I always say no no no, it's not the lethal force program because we include other things like suicides and shootings where a third party shoots the person and the police happen to be there.

MR. GARNER: And accidental deaths.

MS. BURCH: Accidental, the drug overdoses. So part of this is which route should we go? Stick with the lethal use of force or collect these other types of deaths as well? And if we are going to do that, it's like we said earlier, where do you draw the line?

What do we do about police pursuits? Should they or shouldn't they be included? We have kind of an odd rule for police pursuits. If police do something active: shoot at tires, deploy spike stripes, ram the vehicle, then police pursuits count but if they don't do anything then they don't.

So for instance, it has happened in St. Louis, somebody was robbing a hardware store and the police were called, they followed the guy, he takes off, he crashes his car.

And according to the definition, it doesn't count, even though the police were following him, because they didn't ram his vehicle, put out spike strips or shoot at the car.

So where do we draw the line on what is included and what isn't included?

MR. KAMINSKI: In that case it would seem pursuing the vehicle I would think it should be included because if there was no pursuit, it would be unlikely to be an accidental --

DR. DIANGELO It would count in Virginia.

MR. LANGWORTHY: If you get them stopped you are going to arrest them.

MR. WIERSEMA: What would have happened if he didn't die? Would the police just let him go?

DR. DIANGELO No, they would have arrested him. In Virginia it would be a police encounter because again the police are pursuing and that would be -- arrest, giving a ticket, whatever.

MR. GARNER: What if they ran into somebody else and they died?

DR. DIANGELO That would still be a police encounter death because the police would be right there on the scene.

MR. LANGWORTHY: Well it would show up in the file as an accidental death --

MR. GARNER: It's not a police homicide. It's an accidental death.

MS. BURCH: That's a good point.

LT. CALLAHAN: What happens if they stop and a couple of minutes later he runs into a tree and kills himself?

MR. THORPE: They are not in pursuit then.

MR. KLINGER: But that's actually an interesting point and I know I'm talking way too much, please forgive me. We're in pursuit and the knucklehead crashes. We see the crash, maybe half a mile away and the reason we saw it is because a big puff of smoke and stuff is flying through the air.

When we get there, the citizens who saw it were amazed that we had been chasing it because they didn't hear the siren. We had chased him but he had exceeded the scope of the siren so what you are talking about is just a variation on that theme.

So were we, we are not, he doesn't know that we are pursuing him, all he knows is that he started pursuing him, what do you do with that? I think that's an interesting question.

MS. BURCH: Additionally, and I mean the focus of this meeting is on the data collection instrument but how do we consistently collect data when we are broadening the scope of basic definitions, I mean, just a general question.

MR. ADAMS: Well it seems like the theme and the common concern is one about some causal nexus between a police action and -- now the causal nexus can be strong or weak, it can be indirect or direct, there can be varying degrees of provoke-ness.

But unless you can sort of make the nexus and say if the police had not something, then it's likely this would not have happened.

MR. LOFTIN: That's awfully complicated. Any time you start trying to make a causal inference like that.

LT. CALLAHAN: That would be when the politics comes in. Your department is going to say yes, you caused his death, or indirectly caused it, are we going to get sued? Then we say look, we called it off, we had nothing to do with it, he just killed himself.

SGT. HILL: Which I'd like to add back to your media report. We had an incident, well we had several, but one was a very similar situation where the commander broke off the chase and 20 minutes later he kills someone.

Well the Washington Post said the police killed him. We had nothing to do with it. That was literally 18 miles outside of D.C. No cops were behind him. But if you extract your information from a media report, I don't find any validity in your numbers and it kind of turns me off looking at your document based on media reports because it was determined in a final investigation that we had nothing to do with it.

MR. LOFTIN: I think that you need to draw a line somewhere and then work on strategy for capturing that line and I mean you folks have a lot of experience about where to draw the line, but just, I figure okay, we are going to characterize it this way, then how can we approach that?

I mean there are always going to be crazy cases. There are going to be cases where the police are pursuing someone, that vehicle crashes into another car, people in that car are killed, the offenders are charged with murder in that case and does that mean that the police therefore are responsible for civilian deaths?

You know that's crazy stuff. That's, you're going to miss some cases and mis-classify some cases like that. But focus on as David said the bulk of the cases and admit that there's going to be some mis-classification.

MR. THORPE: Well the definition says that all persons in the process of arrest so even if that were the case, the person who crashed into the other people is the criminal and it's that person's death that is the --

MR. LOFTIN: The civilian, it is the bystanders who were killed not the offender.

MR. GARNER: He is saying that, you are arguing that then the third party doesn't count as a death.

MR. THORPE: Doesn't count as a death because at least by this definition, it is the person, and it says at crime arrest scene too, you are going to, even if he may not be in physical custody at that point.

MR. LOFTIN: Well if your argument is police caused it, then the police definitely caused that in collaboration with the offender.

MR. THORPE: Well unless the crime is trying to escape from the police, in which case -- the police don't cause, okay, a person to run away from them, you know. The person runs away from them, in other words they have compounded their crime by essentially resisting arrest.

MR. LOFTIN: You are making my case. I agree with you completely.

MR. THORPE: It's only the person who is the suspect in the crime --

MR. LOFTIN: I agree with you completely it's just that --

MR. THORPE: That we're interested in.

MR. LOFTIN: That you can get very, you can spend a lot of time trying to sort these things out and there are so few cases like that it's probably not worth the effort. There is going to be some error in any system and just don't try to build a system around those unusual cases.

LT. CALLAHAN: I don't think it's that much of an unusual case because I think all of the departments have a policy now where we don't chase people anymore unless they are a murder suspect.

Minor traffic, we let them go because they do end up killing themselves or someone else. So it's not a minor, it happens a lot.

MR. THORPE: No but if you do get their license plate on the camera, and you have their picture, and you do pick them up later, not only are they going to get their speeding ticket they're going to get an avoiding arrest --

MR. LOFTIN: No but I'm not saying, that's a very important incident.

MR. THORPE: No but you are saying it's not that many people so it won't affect the data but I say it would because it does happen a lot.

MR. LOFTIN: Okay but it obviously won't elevate the incident report.

MS. BURCH: So is the definition that we are looking for the police presence, is that the consensus, that we are something along that line, that if there is a presence, would it police encounter?

DR. DIANGELO Yes well those folks over there want to go simpler and you know we do police encounter, some work. If it includes presence then we are going to go broader so I

think we are stuck, we are kind of back to where we started. Make it simpler or do we expand it?

MS. BURCH: So who is the audience for the simpler and who is the audience for the expanded? Because I think knowing what that is going to be is going to help --

CAPT. RUSSO: That's the question I've had from the beginning, what is our target audience and what are we going to do with it? That's what it comes down to.

SGT. HILL: Well the real question is are we trying to measure police public image here? Because that's what I assumed here at the end of the day. We are trying to measure something. It sounds like on that side you are trying to measure the police public image and if that's the case --

MR. LANGWORTHY: I just really want to know how many do you have, people that have been hurt by police action. I mean I think that's, I'm not going to try to spin that, I never have tried to spin that as whether that's good or bad.

In a count like this you can't make a judgment about good or bad, you only know more or less. Good or bad is something that you are going to have to dig out of the incident reports because that's where the information is.

And it's just not possible to put that much information into this kind of a report, I don't believe.

SGT. HILL: But what are you truly trying -- you guys over there, I don't mean to stereotype -- what are you really trying to measure though? I'm just curious. What are you trying

to show at the end of the day? How many people that the police department killed, injured, I mean, what is the correlation there? What are you trying to extract?

MR. LOFTIN: I don't understand your question. BJS is doing this. We're invited guests just like you are.

SGT. HILL: Well that's a scary thought. Bob, what are you planning on doing with your information? What do you get out of this at the end of the day?

MR. KAMINSKI: You know I think in part it's kind of like that the old dark figure of crime again, how much of what's really going on out there so you know we have some sources of data in the SHR but there are other types of events, other types of things that happen that aren't captured.

So I think from my perspective it's trying to get these other types of incidents that occur. And it's not, to me it's totally not about the perception of the police although the way the numbers are reported out obviously would have consequences.

So let's say we're not talking about just officer shootings of civilians but other deaths that may occur in the presence of officers that has to be dealt with carefully and reported out carefully so the public perceptions are they know what it is in terms of numbers.

But I think it's about capturing more information about death-related incidents.

MR. LANGWORTHY: Yes I think the data we have available to us now to talk about police-involved deaths, only really deals with police homicides. What we see in this database

right here is a much different picture of police-involved deaths than we would see if we had only the homicide data which is all we had heretofore.

Now we can take a look at suicides that occur in the presence of police. We can look at accidents that occur in the presence of police and we can see what that, what those different kinds of deaths contribute to that whole package.

And that has value.

SGT. HILL: But it wouldn't be a fair representation without having all the information. The only way you are going to get that is physically reading a final investigation, extracting the key information and putting it together because --

MR. LANGWORTHY: Well no, I guess I disagree. I think if you want to really understand the answer to a lot of the questions that have been bandied about here today, that really do go to empirical testing of open and pairable questions then yes you have got to do that.

But at the end of the day we now know that just slightly over half of police-involved deaths are attributable to police homicides, purposeful killings.

The other half are accidental or suicides or some other kind of stuff. And I think that has value. I think it paints a more complete picture of how this, how that industry does its business and what are the encounters.

MR. ADAMS: Maybe a simple answer to your question is that the interest has to do with the relationship between public safety and public harm. Okay, police are agents of public safety okay, and so they seek to keep the public safe and protect it.

On the other hand sometimes they have to harm people in that process so it's a paradox, right? So you have to hurt some people in order to help other people and so those paradoxes attract us and we are interested in the balance of that paradox of how many people are getting hurt. We don't have to measure how many are being protected necessarily, but we are interested in how many people are getting hurt in the pursuit of keeping people safe.

MR. GARNER: We need to provide advice to BJS and if we wanted consensus we would have invited people who already agreed on something so they could be sure and ready to be the same.

We purposely selected people we thought would provide diverse perspectives and then we have to figure out what in the world we are going to do.

MS. BURCH: Well does it make sense maybe to have two different data collection instruments, one for when the police did something to actively lead to the death or cause the death and then one where the police were just present or is that a police encounter. What do you guys think about that?

Instead of -- because one of the problems was trying to capture all of this stuff in one instrument. Would it be better just to split them and say if you have this type of scenario please fill out CJ-11A. If you have this type of scenario, fill out CJ-11B?

MR. KLINGER: I vote that any time the cops shoot somebody and they die it's A, and then also expand it to get when they get shot and survive and then all these other things, like Bob has said, it's about a 50-50 split according to what we have got. It ain't wonderful.

But if it's about a 50-50 split, then we can get all this information about this other stuff and it also I think will make it much clearer to the end-user who is sitting there.

Oh yes, okay, bullet in body, boom. I'm on this one, I fill those out, everything is fine and dandy and then this other stuff, I can learn about what the parameters are there, I get trained up, and I can fill these things out.

Because right now you've got these things overlapping, where you've got intentional acts by the cops to put bullets in somebody's body and then like I said before, there is going to be a narrow slice of cops ran somebody over, cops stabbed somebody, cop beat somebody to death.

Very very rare. That's going to go in this other thing along with the suicides, the people who died during struggles because of excited delirium or positional asphyxia or whatever is happening with these people and correct me if I'm wrong but I think the police could look at that and go aha, this makes a whole lot of sense.

We are not getting these things mixed up, we have got these two distinct things and I get that.

SGT. HILL: Well we do it but we do it based on real accurate information, investigations and it's a combination of a lot of different variables that go into that final report and just looking at these numbers on the surface, and I can tell you, you can think whatever you want to think, if you fill this room up with police chiefs all over the country, they wouldn't buy into this on the surface.

And I understand everyone has a different agenda and looking for a different end result but the reality is there's a lot of different variables that come up with these numbers and just to

take them generically and use them for whatever measure or means, I just don't think it's a fair catchment of how we want to depict what's going on in the law enforcement community.

That's just my opinion, my humbled opinion.

MR. KLINGER: Help me understand why you are objecting to this bifurcated thing that she threw out and I am proposing that we have shootings and then everything else?

SGT. HILL: I am not objecting to anything. I am just sharing my opinion. I feel if you want to report, first of all, I can't get over the hurdle of -- and I understand that it was just a lack of reporting and I truly feel your pain and I'm also sensitive to your plight, I wouldn't want your job.

But when your information is predicated on news releases, I don't know how we can wrap our arms around that.

MS. BURCH: But that's not all of it.

MR. KLINGER: I'm not disagreeing with that. I am trying to understand, let's assume that what we could have is we could have every agency report this stuff thoroughly and correctly, would you have any objection then if --

SGT. HILL: I don't think anybody would.

MR. GARNER: Your concern is the source of information.

SGT. HILL: Absolutely and the way it is reported. I mean you never know. It goes back to the chase we want to capture that, when someone gets killed an hour later? You know is that fair to police departments throughout the country, to say okay, you don't want to chase someone that was hit, struck and murdered? I mean you know.

I know what you guys are thinking, fair enough, but if you got 50 police chiefs in here I think you would probably get a very similar response to the way I feel and you probably would feel that way too if you were running a police agency.

DR. SOUTHALL: The big thing is the source of information and the other thing is a central, reliable source to provide you with that information and then you can have the two forms.

MR. GARNER: And then the definition do you and do you not collect?

SGT. HILL: Absolutely.

MR. GARNER: Yes that's fine.

MS. BURCH: So let's actually pull out the CJ-11A form and start going --

So I'm not sure what the best way to approach this is. The other things that I included in here -- I mentioned earlier that I do status reports when I get the data, I review it all myself.

If anything looks strange I send the sentences or paragraph or so to the person that submitted the data, so the document's titled Arrest-related Deaths Program Review, examples of CJ-11 responses.

These are data we've actually received and my responses back to the state-reporting agents or whoever submitted the data. I just pulled these out yesterday so it's kind of a random sample but these are common mistakes that people make.

On the surface an instrument might look good, like the questions are written well but after you get a lot of responses you kind of start to see where the problems are.

We can go through that and then the other thing that I also added were five examples of real cases and I just -- yes. Took off some of the identifying information but how actual respondents filled out these forms.

So I don't know what's helpful to see how they answer them and what I say back or to actually see submitted forms, because one thing that I do want to look at is the questions, the individual questions, the utility, the reliability, the validity of those and then how the questions work overall together.

Because just from going through several of these, sometimes I feel that these questions, they don't work very well together to tell a complete story. So somebody can answer parts of -- and this really comes up a lot with the excited delirium stuff. But when you read the whole instrument after it's completed, it looks like several of the items conflict with each other.

So I want to try to make it tell a story, in the individual pieces of information and make sure that we are actually getting, asking the questions that we think we are asking.

We have intent with these questions, is that coming through in their responses?

MS. BURTON: Andrea, I have probably a back-track question. What led to the change in the title of the deaths in the process of arrest was a fairly clear definition. If they were going to be arrested and they died then they were a subject.

But the arrest-related deaths, in my mind made it a little less clear. But I've probably missed some of that, just --

MS. BURCH: We actually did not change the title or the design the instrument that we are looking at. We actually had no part in doing that. It was given to us --

MR. GARNER: We the Law Enforcement Unit.

MS. BURCH: We the Law Enforcement Unit. I'll let you take a look at this.

MS. BURTON: The legislation has changed it, the name of it?

MR. GARNER: No this was what had been run by a separate unit and it combined the corrections part, the deaths in jails, the deaths in prisons and then the arrest part was the third part.

And it was always death that's the legislation it's about in-custody deaths, ours are not really in custody, so part of what we have to worry about is distinguishing deaths so that they are one place or another.

In part it's what, is DICRA the right acronym or is ARD the right acronym? It's just what's the -- maybe it's understood in the SAC world as DIPA, deaths in the process of arrest. I don't know if that term has ever been used in criminology before but it came from the legislation. I had never heard the term until I heard the -- deaths in the process of arrest, or in the process of arrest -- as a defining term.

MS. BURTON: Well it gets to the encounter versus that there was an arrest in process and that to me, that's where there is a difference as to whether the cop is standing there and somebody dies or the person would have been arrested. Anyway that answers my question.

MR. GARNER: It's how we go to where we are. Whether it's the right revolution or a permanent one.

The thing that we worried about initially is question 11.

MS. BURCH: I was going to say let's start with more 8 and work our way to 11.

MR. GARNER: Okay.

MS. BURCH: One through 7, does anybody have any comments, complaints or concerns? I mean those seem to be pretty straightforward. I don't believe we have a lot of problems with those. Maybe the only thing is item number two, what is the time and date of death?

We get three things reported. We get the time, let's just say it was a shooting, sometimes we get the time that the person was shot, sometimes we get the time when the person appeared to have died, meaning the heart or breathing stopped but was not officially pronounced dead, and sometimes we get the time that the person was pronounced dead at the hospital, so we get a little bit of variation there.

So what is, if we're trying to capture information on arrest-related deaths, what exact time are we looking for? I mean we specified then the time of death but some people wait until it's pronounced, some people wait until the event, what would be helpful?

DR. DIANGELO That's usually what's going on in the death certificate from the medical examiner's standpoint. I could know that a person was dead the day before but if they're not pronounced until the next day at that time, then that is the date and time of their death.

MR. GARNER: It's the medical examiner's purposes.

DR. DIANGELO: Well for the death certificate purpose.

MS. BURCH: Okay.

MS. FRANCIS: Isn't that mandated by the law?

DR. DIANGELO No it's state dependent, because actually Virginia has no pronouncement law unlike D.C. so you --

MS. FRANCIS: Yes, D.C. does, you're not dead until you're pronounced.

DR. DIANGELO Right, in Virginia, you're like presumed dead but you don't ever have to be officially pronounced. It's very bizarre.

MS. BURCH: Meaning, like, from the research perspective and the law enforcement perspective, is it better to know if these shootings are occurring overnight, in the middle of the day?

LT. CALLAHAN: When the event occurred. They may die six months later.

MS. BURCH: So maybe we need an additional question, what was the date and time of the event?

LT. CALLAHAN: I would say what's the date and time of the event.

MS. BURCH: And then date and time of death.

DR. SOUTHALL: You can do that, you can add another question that would probably capture that if you wanted to.

MR. GARNER: What's the time the injuries --

DR. SOUTHALL: Occurred.

DR. DIANGELO Date and time of injury. Because that is also on the death certificate.

MS. BURCH: All right.

MR. LOFTIN: What's on the death certificate would be the time of the pronouncement?

DR. DIANGELO Well, that's the date of death. There's also, if it is a non-natural death then you also have an injury section so you have to answer , is it a primary contributory event, how injury occurred, date and time of injury, was it at work and then place of injury.

CAPT. RUSSO: But it should be date and time of event, not date and time of injury. Because we have a case where someone died of a heart attack after being arrested, it was a DWI

--

MS. BURCH: Okay.

CAPT. RUSSO: At the hospital and there was never any injury occurred, we were just sitting on him, guarding him until he was arraigned.

DR. SOUTHALL: Event.

MS. BURCH: Okay.

MR. THORPE: I would have a question about seven.

(Simultaneous speakers.)

MS. BURCH: Actually it's us, it's the Office of Management and Budget. They dictate that it has to be --

MR. GARNER: If you ask race you have to use Hispanic.

MR. THORPE: In other words Hispanic is separated out as a racial distinction.

MS. BURCH: On this form, yes.

MR. GARNER: Required for federal agencies.

MS. BURCH: Yes. Even though they changed it, it's affecting our codings on all the other years but our hands are tied with that one, there's nothing we can do.

Okay for number 8 I was kind of thinking about going a different route. Instead of saying has the evaluation been done to determine the cause of death, maybe asking who did the evaluation and if they say no one then we can get at the fact that an evaluation was not conducted.

DR. SOUTHALL: What is your definition of evaluation because --

MS. BURCH: I, I could be wrong but I don't think that we specify that anywhere.

MR. GARNER: I think the thought was, we wanted a medical personnel judgment.

MS. BURCH: Right.

MR. GARNER: Not a police judgment or not a state reporting agent. We wanted this to be filled out by qualified medical personnel. I think that was the intent. And the notion was well if it hasn't been, sometimes they fill out these forms, and send them in and then the medical examiner gives a report two or three months later.

So we don't want them making a guess, we want --

MS. BURCH: And I was thinking if I say who I could distinguish between people making guesses and it officially coming in as this is the cause of death.

DR. DIANGELO I mean in a medical examiner's offices are charged with investigating certain deaths which is different than actually having to do a full autopsy so it's whether you want to know if we investigated the death or whether an autopsy or an external examination was actually done by the medical examiner.

MS. BURCH: I would do, recommend doing, it is important to distinguish between an autopsy and an evaluation done by a medical examiner. Like if you, I think we are trying to

figure out is did anybody look at this and establish an official cause of death or manner of death?

How would we go about wording that?

DR. DIANGELO Right and again then you run into the whole thing about medical examiners versus coroners because coroners need not be medical doctors and I've seen some truly horrendous death certificates filled out by non-medical people that you wouldn't want to rely on your data collection, wouldn't want to rely on what they've actually put on the death certificate.

MS. BURCH: Okay, so --

DR. DIANGELO So I don't know.

MR. KLINGER: How about something like was a post mortem examination --

DR. DIANGELO That might be good, yes or no, and then are the results available, yes or no or something.

MR. GARNER: And who did it, medical examiner or coroner.

DR. DIANGELO Yes, medical examiner/forensic pathologist other, whatever.

MR. LANGWORTHY: Are you trying to find out if the death certificate was consulted during completion of this form, is that something you're trying to capture here? You can ask that question straight up.

DR. DIANGELO Well except that I mean, like in Pennsylvania even though they can hire from pathology groups, the coroner can just go ahead and draw up the certificate before the post-mortem exam is done.

If they don't agree with your findings they can put whatever they want on your certificate
so --

MR. LANGWORTHY: No I understand that there's very different qualities of completion of those things but I also do know that it is a standard instrument that essentially accompanies all deaths.

DR. DIANGELO Yes, it is.

MR. LANGWORTHY: And if we are trying it may very well be that at the end of the day that's what we have as our point of departure because we can't build a system that gets the full autopsy report for every one of these events.

MR. GARNER: So Bob you are suggesting something like what did the death certificate say?

MR. LANGWORTHY: Right. Or just , is this report informed by the death certificate and yes or no I guess.

DR. DIANGELO And you can have a separate question what is the official cause of death where the cause of death is on the death certificate.

MR. GARNER: On the death certificate.

DR. DIANGELO On the death certificate. You can just say was a post-mortem examination performed.

MR. GARNER: Which also can be a separate question.

MR. WIERSEMA: Why not mark all of the questions as what are the sources of information for this report?

MR. GARNER: Then you don't know which of those sources were actually used for what they put on the form. Like the source could be my guess.

MR. LANGWORTHY: Well it could be three or four sources, you could find out about it because you read the newspapers.

MS. BURCH: Yes but I have people that say oh, they'll read the newspaper and they'll give you whatever the newspaper published as the autopsy. So even though they're not looking at the death certificate themselves they're still getting it from somewhere and I don't know how reliable it is based on conversations about the accuracy of the media.

So I mean Joel had proposed earlier, just in our meetings, that they identify for most questions, for that question specific, where did this information come from. Is that overkill?

MR. LANGWORTHY: No, it's not.

MS. BURTON: I think that's a good idea.

MR. LANGWORTHY: I don't know you necessarily need it for all of the items but certainly the ones that have a lot of ambiguity attached to them. The other thing you need to pay some attention to is the person completing it may simply not know the answer to the question and you need to offer the opportunity to indicate that.

So in a, there ought to be a don't know box at a minimum. For no other reason that they won't be making stuff up.

MS. FRANCIS: Do you think they put this question because in general these types of deaths are supposed to be reported to a medical examiner or coroner's office?

MR. GARNER: That's the assumption.

MS. FRANCIS: And they're the certifier of these deaths? I mean, I don't know why they put, what's coming into my mind is why is the question there. Do you really want to deal with it?

MR. GARNER: I think it was an effort to get at one question that would be applicable everywhere with all sorts of different systems with all sorts of different possibilities.

MS. BURCH: To establish --

MR. GARNER: I think we should not worry about what were they thinking and what are we thinking? I mean what should we, what would be the right way to get at this?

Maybe that's harder. Maybe we should --

MR. WIERSEMA: It seems to me that you want to know, was a police investigation report available?

MR. GARNER: A police report, okay.

MR. WIERSEMA: Was a medical examiner or coroner investigation available and were there other sources of information that could have or were consulted?

MR. LOFTIN: And what are you going to do with that information? Assess the quality of the data?

MR. GARNER: We're going to say well, just give us a, what percent of these -- the concern is that some of this comes from the press.

MR. LOFTIN: Yes.

MR. GARNER: But we would know under others if the source was other not police, medical.

MR. LOFTIN: Okay.

MS. BURTON: And one of them would be self-reported by the agency because a lot of them are agencies that get them out.

MR. GARNER: Bob calls up the police department in South Carolina and they tell him over the phone, is that an official police report?

CAPT. RUSSO: The question is if it's not an ME or a coroner are we going to rely on any information that we are providing?

MR. GARNER: Right.

CAPT. RUSSO: Because in that case they could call me and ask me what the cause of death was and I --

MR. GARNER: What if I just --

CAPT. RUSSO: That's the problem.

MR. GARNER: What if we take official medical and the other is to record. This came from police department, this came from --

CAPT. RUSSO: Right, I think if it's going to be unreliable, if we're going to determine that we're not going to rely on it because we're not dealing with someone who is licensed and practices we should just leave it the way it is, dismiss it and skip to item 11, because if we're going to get different sources of information from people who aren't qualified to make a determination, it's just going to make the data unreliable.

MR. GARNER: This is the easy part, manner of death. What do we have for manner of death? Suicide by cop was a manner of death?

MS. BURCH: Yes. And actually there have been a couple of states that the medical examiner actually reports that the manner of death is suicide and then they say see note, suicide by cop and I don't think that we should tried to get at the intent of the person whether they were trying to get killed or not.

DR. DIANGELO The medical examiner has to because we're only given five manners of death and suicide is the only one where we have to determine the intent of the decedent and I think the thinking is if you have someone who is basically in a confrontational place, they have weapons drawn, well both sides have weapons drawn, I mean you do have those accounts where the soon to be decedent is saying come on, shoot me, shoot me.

And I think those are probably the cases where some of the MEs would certify as suicide by cop but it's not, suicide by cop is not one of those choices that we have on a death certificate.

SGT. HILL: It's too subjective.

DR. DIANGELO Oh I remember doing it.

SGT. HILL: No no no I'm not talking about that, I'm just telling her, it's just way too subjective to --

MS. BURCH: Well I copied the one named Carol that is a suicide by cop one, like the second to last one and this was what we actually got in and I changed it to homicide by law enforcement officer and I wrote the person back that submitted the data for discussion but --

CAPT. RUSSO: But she said all states won't classify that right? So then I don't think we should capture it that way.

MS. FRANCIS: I was wondering if this is really an ME system.

CAPT. RUSSO: You can't mark that, that's --

MS. FRANCIS: I know, my people would know.

MS. BURCH: The notes, it was marked with a note on it that said medical examiner certified this as suicide by cop.

CAPT. RUSSO: If it's not uniform we have got to leave it, it's got to be uniform. If it's going to involve individual policies and procedures and they're all different we can't --

MR. LANGWORTHY: Andrea I think you did the exact right thing. You got this form in, it says suicide by cop, so we don't have that kind of a thing here and in point of fact the guy didn't off himself, you may have put him in a situation where somebody had to kill him but that's a homicide.

MR. GARNER: Are there consistently five manners of death, that's it?

DR. DIANGELO Yes

MR. GARNER: So we can put those five manners on the form.

DR. DIANGELO Homicide, suicide, accident, natural, undetermined.

MR. GARNER: There's only one --

MULTIPLE SPEAKERS.

MR. KLINGER: What if the policy of the office is to check suicide when it is a suicide by cop?

DR. DIANGELO That could very well be. MR. KLINGER: So unless you get other contextual information to make that clarification we haven't solved the problem.

MS. BURCH: See I think if you look at the form and if you flip it over to the back, one of the things that tipped me off about this was number 13 where they die of injuries only, number 14, if they died from injuries how were injuries sustained and it says inflicted by law enforcement officers at the crime scene.

So that's what tipped me off to the fact that it wasn't just a suicide because this has happened on others. They don't always put the suicide by cop is the other classification but they you want to get back in touch with them and say how do they kill themselves and be shot?

MR. GARNER: Where do the injuries come from, clarifies.

MS. BURCH: Because self-inflicted was not checked on 14 so it's hard to see suicide without anything --

CAPT. RUSSO: Well you know what, don't say that because we just had a case I know, I keep saying that, we're large and we get all these unusual cases but, where a guy shot at the cops when they were coming through the door. They returned fire. They don't know if they hit him or not. They had to back out. They called the SWAT team to go in because they knew he had a gun.

And he later died. Now he was injured from one of our bullets but he shot himself. So now you have a suicide and over here is going to be checked, well it won't be died but you would know that we did hit him with a round and that's not what killed him, he was shot in the arm.

MS. BURCH: See, now, this form has changed from how were injuries sustained to how did the injuries that caused the death, how were they sustained. So what are we looking for? Are we looking for all the injuries or are we looking for the death-causing injuries?

I mean, because injuries sustained, then you would say self-inflicted and through law enforcement but if it's one of those bullets killed him then one of them, maybe they, isn't there one fatal shot or --?

DR. DIANGELO No, I mean I have it died or shot but it's nine times by police, you still have time to discharge his shotgun. They're both fatal injuries. I don't even, I let it up to my chief how she wanted to classify it because he's clearly alive when he's getting all the gunshot wounds from the cops plus he's alive when he inflicts the shotgun wound so it was --

MR. GARNER: Under question 14, we provide a mark all that apply and you can do inflicted by self as well as inflicted by law enforcement.

MS. BURCH: But what is the story that, what are we trying to get out of this?

MR. LOFTIN: I want other language. If it said that without the training then you'd have different agencies doing different things and that's certainly the case with the death certificate.

So that there are many offices that will count an unintentional as a homicide as a single or one person ends up accidentally killing another person, many offices would call that a homicide, right? It's unintentional but Maryland does that or they did at one point.

DR. DIANGELO That's homicide?

MR. LOFTIN: Yes, it'd count that as a homicide.

DR. DIANGELO To us, I mean pretty much whenever you discharge a firearm you know that that's a lethal weapon and --

MR. LOFTIN: See you have got to have that and you might be able to in this system reduce it with training, we just have to understand that there are going to be some misclassification particularly at first because certain policies will lead you to check one versus something else.

MR. WIERSEMA: Another way you can maybe rationalize the coding of these things is to have a brief narrative of the incident and then you can go through the narratives yourself and say, does that agree with all the boxes that have been checked and if it doesn't then that spurs you to ask more questions.

But otherwise you can say oh, if it's suicide by cop they marked suicide and you say no no no no that's not right.

MS. BURCH: So in terms of the injuries sustained, I mean there have been instances where several things happen, where somebody's been tased, they've been physically restrained then they've been shot. Do we want to know which one of those things, I mean, sometimes I understand that you can't distinguish what was the --

DR. DIANGELO I was joking with Pamela, one of the guys is probably going to end up with like a four-line cause of death because I'm going to have to list his drug use, physical activity and the restraints along with the electronic control device use as a contributor.

So I'm going to have multiple things within my cause of death because I can't say any one thing specifically killed him, it's all this collision of events.

MS. BURCH: So maybe we change 14 and take off the died from and change it back to what injuries were sustained and don't distinguish what the fatal one was?

What would you rather have?

DR. DIANGELO Well, again, do you, it comes back to is being restrained an injury or being in a prone position or on a hard surface with big belly, is that an injury?

MR. GARNER: It's a tactic, it's an event, so some of it sort of in, -- The question is do we just capture injuries that occurred whether he died from them or not?

DR. DIANGELO Right but again I'm going to have to, no one can tell me if the electronic control device, if there was any connection between the probes so I just know it was deployed. You know is it really an injury that he's restrained. But I'm putting that all in the death certificate.

DR. SOUTHALL: Would it be don't know multiple variables then?

MR. GARNER: We are in a better position of saying things, did this happen or not? We're not in a good position to say what caused what? And coders aren't in a good position to say what, but they can say there were these kinds of injuries, these were these kinds of tactics, these were these kinds of weapons used. But they're not really good at attributing which weapon or tactic or the injuries --

DR. DIANGELO Right I just want all that to be captured, I just want the restraint to be captured, the position that these folks are in as well as truly being shot or beaten or whatever because we do know that position and restraining do lead to death.

So again that was one thing I was concerned about because it's not really on this form but it should be captured because it's a major issue.

DR. SOUTHALL: Yes so could it be a not sure multiple variables document with those lengthy causes of death. Because we don't know, we list everything, it could be it's something that simple for this purpose.

MS. BURCH: For research, training and data quality purposes, does it matter to know what caused what, or grouping of multiple --

MR. KAMINSKI: Well can't you differentiate between two because it seemed pretty clear what the cause of death was, right?

DR. DIANGELO Well I mean, look, if a guy is on drugs, he's got an underlying heart disease --

MR. KAMINSKI: Yes but if they're shot in the head for example.

DR. DIANGELO Right that's easy. They're straightforward.

MR. KAMINSKI: So can't you have some system in place where when it is clear what the cause of death was you capture that but you also capture the person was on PCP, they were tased, they were placed in a prone position and so forth.

Knock out their causes but in some cases they might contribute they might not.

MR. KLINGER: A cop is going to tase somebody, cuff him, lay him down and then shoot him?

MR. GARNER: He got up and ran and had a gun.

MS. FRANCIS: Just a comment. And I don't know if that's what you're getting at in question 14 but my chief always makes it pretty simple. Homicide, it differs from law enforcement's definition because it simply means at the hand of another. We don't determine whether it's accidental or, I mean, you do make that classification if it's a suicide or based on the investigation but homicides are generally at the hand of another.

MS. BURCH: So do we, going back to, I know I'm kind of back-tracking, but going back to question 9 the manner of death, if we move to doing the five categories that are standard, do we add a second question underneath that to get at who caused the homicide or to pick up the detail there?

MS. BURTON: Well Andrea, can I, if you are going to add medical examiner manner of death as that question, can we just say that that is the medical examiner death certificate manner of death for that question so that there is not that is where it's got to come from.

It's either got to be the death certificate or the medical examiner in some form, is reporting the manner of death as opposed to a newspaper story or something of that nature.

Because the way I'm reading it I mean when it says what was the manner of death it doesn't say as reported by the medical examiner, as contained on the death certificate.

MS. BURCH: Right. Although it doesn't say that I do believe that was the intention, which is why they ask, are the results available. I mean when I took over the program that is how it was explained. It was supposed to come, questions 9 and 10 were supposed to come from official reports, whether that happens in reality I'm not sure.

MS. BURTON: But it doesn't say that explicitly, that's all I'm saying. If it could.

MS. BURCH: Yes you are absolutely right we definitely should say that instead of assuming that everybody knows what we are thinking.

MR. THORPE: Well then you could eliminate 14.

MR. GARNER: Or we could keep 14. Here's the official statement and then here's behavioral indicators from which an additional judgment could be made.

MS. BURCH: My concern with the behavioral indicators, although I think they are very important, getting people to be able to report those accurately and consistently.

I mean unless, I want to venture to say unless these are actually coming from the law enforcement agencies involved, how does a state reporter know the behaviors that the officers took and that the other person took unless they have, maybe the complete police report that they can read through, are they going to do that are they not?

SGT. HILL: Well that's why the autopsy report on any fatal shooting is probably paramount because absent that, it's all, you're speculating and like I said earlier in the day, we had a case when we shot the guy nine times but the ME's office in the autopsy report ruled that he shot himself first and that was the cause of death.

Do you think any police chief wants to go out and say we killed the person when they killed themselves?

MS. BURCH: No.

SGT. HILL: As a matter of fact we went back and changed that stat.

MR. GARNER: No but you could mark gunshot inflicted by law enforcement, self-inflicted gunshot wound, things that happen.

SGT. HILL: Fair enough but it goes back to my original thought, you want the information to come from the autopsy if it's available and we may want to wait for it to be available.

I don't know about other states but I think if you shoot someone and kill them there should probably be an autopsy.

I mean I don't know how it works in other states.

MR. GARNER: I think you're going to be surprised how many ultimately are not reported. They just assume it's obvious and they don't do it.

SGT. HILL: Yes, there aren't any of these police shootings where nothing is ever clear cut, ever. What we like to think, a lot of times aren't.

MR. GARNER: If it was easy we'd have someone else do it. We do it because it's complex and tricky.

SGT. HILL: And my hat's off to the ME's office. I don't know how the heck you guys do that stuff. It's amazing.

LT. CALLAHAN: I go back to my same thing. If you're going to have the cause of death through the ME why do we have 14?

MR. GARNER: You can drop it. You can have the argument as a separate indicator of what did happen. You don't know all the other things that happened. If you just had suicide you wouldn't realize --

LT. CALLAHAN: Then don't say, then say other factors or other injuries. You put died in there that means you did it.

MR. GARNER: In the instance he mentioned earlier you wouldn't know that there had been nine shots by the police, all you would know is that it was ruled to be a suicide.

SGT. HILL: But you put in 14 died.

MR. GARNER: The notion was there --

SGT. HILL: Just say other injuries occurred or something, don't say died.

MR. GARNER: Right absolutely.

MS. BURCH: Okay. I think I'd like, because what we get for 10 it would be the cause of death would be gunshot wound.

Well they would check suicide for number 9 and write gunshot wound for number 19 so then I guess 14 --

MR. GARNER: Are there codes for cause of death is that a set of, but is it a 10 code or is it --

MR. THORPE: It's what they call the ICD-10 coding system and there's an underlying cause of death which is supposed to be the thing that is at the root of it all and then there are several other codes which you think of the underlying code cause being the thing that sets a series of events and results in the death.

You actually have several levels of coding. Now what I don't know is how available that is to everybody.

MS. BURCH: Can we put it on our website?

MR. GARNER: On a web page --

MS. BURCH: No, like well that or, I mean we have these forms available on our website, could we photocopy these codes, stick them on our website and ask our reporting agents to, what does that --

or is too complicated?

MR. THORPE: Yes, although there are a minimum set of codes that apply to the claims of things you are talking about, that's right. If you are talking about violent deaths, yes, there are code ranges that indicate those and I could provide those to you in which case, you are right, they can choose --

MS. BURCH: The standardized --

MR. LOFTIN: As I understand the medical examiner does not assign a code. They just simply fill in the blank. Somebody, depending on the state, somebody then does the codings.

MR. GARNER: And we get some words and we get lots of different words even if it's trying to get at the same point, it's just freelance.

MR. LOFTIN: Same thing on the death certificate. The death certificate and the SHR form are very, very similar. Where it says describe what happened and the SHR it's got a field that's just about the same size that says what were the circumstances.

About one inch.

MR. THORPE: ICD-10 codes actually include a couple of things in the same code. They can, a simple code can contain information regarding the mechanism of death, okay the agent of injury and the intent in a single code.

So they are pretty talented okay but that's why there's so many of them, there's a lot of information can be rolled into just a single thing. But, and I am trying to remember how many there are. I forget but it's like 13,000 or something.

MR. WIERSEMA: But the point is that the ICD-10 codes are not based on original investigation information. They are based on death certificates which is already an abstract from

--

MR. THORPE: Well in the case of medical examiners, they are the ones who fill in the underlying cause and then --

DR. DIANGELO Yes but --

MR. THORPE: The contributing cause is okay but you hopefully write those in very carefully knowing that the nosologist has to return them.

DR. DIANGELO Right but that's why things like I used to call go to baby deaths for a moment, some unexpected infant death with cause being bed-sharing, manner undetermined. As soon as the nosologist saw sudden, unexpected, it got coded as natural.

So now all those deaths I code as undetermined undetermined so that the nosologist will code that correctly and they can categorize correctly. So I don't know exactly what they will do.

MR. THORPE: SIDS and SUDI got mixed up for a while.

DR. DIANGELO So I'm not quite sure, no one has explained to me when I fill out my sudden cardiac event linked to struggle or restrain induced asphyxia with my four minor, I'm not sure how that's going to be actually coded once it gets to Richmond.

MR. GARNER: Maybe that's what we need to figure out is, what do we really care? Do we just care gunshot wound, car or other? What analytic purpose would we have for a 400 code or just freelance words, it doesn't, you can't handle --

DR. DIANGELO For me as an ME, what I would like to parse out are those deaths which seem avoidable. And avoidable to me would be some of the restraint techniques, what else Pam?

DR. SOUTHALL: All deaths unexpected.

DR. DIANGELO They also now say don't shoot a taser into a central portion of the chest or the head because it can cause seizures or arrhythmias.

So to me what I would like to see is that we can track events that seem preventable. The gunshot wounds may not be, possibly some of the beatings jumping off buildings, things like that, may not be preventable but things that would changing police policies and procedures could be prevented, that's what I would like to see come out of this.

MR. LANGWORTHY: Do we already have those data in the death reporting systems right now?

DR. DIANGELO No again I pretty much see maybe well 10 in my office a month, we have a talk with the cops.

MR. LANGWORTHY: No I know but I guess and I keep it coming back is do you see it from data that you already have available and I then while I appreciate the sentiment and it's great but I don't know that it actually extends the length of this thing because those data are already available aren't they?

DR. SOUTHALL: In house.

DR. DIANGELO In house.

MR. LANGWORTHY: But even in a vital statistics reporting system, I mean can't those data be captured there?

DR. DIANGELO I'm not sure from the death certificate that's all captured.

DR. SOUTHALL: No the only thing is cause and manner and we will say police if there's police involvement of any sort. We will list that. That's captured.

MR. LANGWORTHY: Now I will tell you that in days gone by that an awful lot of this didn't indicate police involvement and so they were never coded properly.

DR. SOUTHALL: Right but now that's, I mean, at least now that's changing in our state, I don't know if that helps any or even because that is just kind of a separate entity but even in this case if you have manner of death and somebody checks undetermined, then maybe you can option from undetermined to have two or three questions regarding some of the other variables that we discussed what we used, or what types of injuries and then just get back to your questions without overloading this.

MR. GARNER: What variation in cause of death would police care about? I want to know, we killed 100 people in the last decade, what's the variation, shot not shot, would that?

LT. CALLAHAN: I think when you are talking about the arrest performance, are we arresting people and controlling them wrong and killing them? So are we doing in our arrests and controls that are killing people and apparently we were at one time laying them on their stomach and stuff like that and now we don't do that.

MR. KAMINSKI: That's debatable though, isn't it? There was subsequent research that

--

DR. SOUTHALL: But that's the point. It is debatable because of research.

MR. GARNER: But if we want to know asphyxiation versus gunshot wound would tell you --

MR. KAMINSKI: Just one quick point I want to make. But for these periods where it was initially positional asphyxia then it was pepper spray, exposure to pepper spray, more recently it's taser-proximate deaths, where and at least for a lot of these instances it might be excited so-called excited delirium.

So it's important to capture that but to associate a causal relationship between these things is probably debatable but still useful to look at patterns, correlations, associations.

MS. BURCH: The taser things are just killing me. I have an example of Tom in here, and I really don't know what to do with these taser-involved deaths.

MR. KAMINSKI: In what sense?

MS. BURCH: All right so if you go to the Tom CJ-11A, this person for the manner of death marked homicide, accidental injury to self, accidental alcohol drug intoxication, illness and other.

DR. SOUTHALL: Whereas undetermined probably would have taken care of all of that to be honest with you. Most of this stuff is causal, I mean it's cause of death. And they say excited delirium which is used as an actual cause of death which kind of captures everything that's here.

MS. BURCH: Part of the reason that this form I think complicates things too is if you look at 13 it says what did they die from, medical condition, injuries, both, medical condition only is checked because they list heart attack as part of number 9 so therefore if it is medical condition only I would assume that number 14 should be not applicable because it says that no injuries were sustained yet they have injuries inflicted by law enforcement and by themselves.

Then you pick up the fact that it's a taser in number 15 and then if you go down to number 18, what was the weapon that caused the death, none.

CAPT. RUSSO: Well, 15 just asks what we used not whether it caused the death.

MS. BURCH: Right.

CAPT. RUSSO: Right so it's okay to check pain to check off that it's inflicted by law enforcement obviously this person needs some training.

MS. BURCH: What I'm saying is that when you start to read all these together that sometimes these items don't work well together.

DR. DIANGELO See that's where I'm thinking that the inflicted by law enforcement would be the restraint which I'm assuming is with handcuffs possibly some other sort of restraint, the accidental injury to self would be the probably the cocaine use and then they are saying sign of medical condition only because it's a heart attack, they're calling it a heart attack but yet the heart attack is being brought on by the cocaine, the struggle, the restraint, possibly the taser use, so I mean we've got all these variables.

CAPT. RUSSO: The preexisting heart condition.

DR. SOUTHALL: Which is all excited delirium basically.

MS. BURCH: So what do you do with something like this? What story is this telling?

MS. FRANCIS: I don't know, this is just a speculation but I'm wondering if, I'm looking at 9, I didn't look at it closely before but it says homicide by law enforcement officer, that could deter someone from just selecting that one, you might want to check --

MR. GARNER: Homicide.

MS. FRANCIS: Yes.

MR. GARNER: Just use homicide.

MS. FRANCIS: Yes because they don't necessarily count it as a homicide particularly if it's justifiable from my experience and my understanding of how they collect their data.

DR. DIANGELO Yes but here then it should be what was the reported manner of death?

MR. GARNER: Homicide.

DR. SOUTHALL: Right. The manner.

DR. DIANGELO Because the CA or the U.S. attorney's or whoever will clear the police involvement so that's a justifiable homicide but for our purposes --

MS. FRANCIS: It's still a homicide.

MS. BURCH: Well how this kind of ties in together although for number 18 they didn't attribute the taser as causing the death, when I went back and followed up with this person, why homicide by law enforcement officer was checked for number 9, they said the taser was used and they thought the taser jump-started some of this, the process that led to the heart attack with the cocaine and the --

MR. KLINGER: The ME said that or the cop said that when he talked to you on the phone that the taser jump-started it.

MS. BURCH: No no, the person filling out the form.

MR. GARNER: The state reporting agent.

MS. BURCH: Thought that the taser, I guess, I don't know, they got --

DR. DIANGELO And it very well may have and , if it were my death certificate it would be written quite differently but that's --

MR. THORPE: Right, jogging.

DR. DIANGELO Right.

MR. THORPE: But you wouldn't call it the underlying cause of death jogging.

MS. BURCH: Jogging, right.

DR. DIANGELO So I mean that's why you kind of --

MR. GARNER: Sorry what?

CAPT. RUSSO: Yes, who made the determination because I mean I'm not a doctor I'm a paramedic but a heart attack is the coronary artery being occluded, it's not the electrical system. Am I correct?

DR. DIANGELO Well see no yes, technically that's right, but in layman's, many laymen think of anything, any arrhythmia generated in the heart as a heart attack so they use that as a very general term even if --

CAPT. RUSSO: But this is an ME report that says heart attack, question nine should be the ME's report.

MS. BURCH: Not necessarily.

CAPT. RUSSO: Well that's where we get it from. I don't take it anywhere else but the ME's report.

DR. DIANGELO Right, see but this --

CAPT. RUSSO: Eight, nine and 10 I get strictly from the ME I don't use anything else.

DR. SOUTHALL: Right which is correct.

MS. BURCH: That's what they're supposed to do.

CAPT. RUSSO: If it just says heart attack to me it's an occluded coronary artery, it's not an electrical problem. That would probably be classified as cardiac arrest correct, if it's an electrical problem?

DR. DIANGELO Yes but you should still try to get to what that I mean because you just need to get to the underlying cause.

CAPT. RUSSO: Well but wait, wait, how would it be a homicide if he had coronary artery that was clogged and he was hit by a taser that had nothing to do with the heart attack?

DR. DIANGELO Well not necessarily because the electronic control device now has been found to possibly disrupt some of the rhythms so if you have a heart that is irritable because of the lack of oxygen and now you are also further disrupting its rhythm and generation of its pulse --

CAPT. RUSSO: You know what, I think we should mention the causal connection here because it's like suing the beer company for the guy driving drunk.

DR. DIANGELO Yes well no I don't use an electronic control device. I just have to deal with, could this in some way have either totally caused or contributed to the death and I can't rule out that

MR. GARNER: It's the contribution not cause.

DR. DIANGELO It could have contributed to his death which is why I would include it.

CAPT. RUSSO: So then it's not the cause it should be labeled as a contribution not a cause, correct?

MR. KAMINSKI: Or even possible contribution.

CAPT. RUSSO: Well, possible.

MS. BURCH: But do we need to word it back to where it's a possible contribution?

CAPT. RUSSO: That may be, it may be there could be a category of possible contributing factor or instead of saying, because here we have got four causes of death basically.

MS. BURCH: We're not supposed to guess like this, it's problematic.

MR. GARNER: And that's essentially what contributed to means, we don't know which one but these are the four candidates.

CAPT. RUSSO: Exactly which means you don't know which one it is.

MR. GARNER: But if you do an analysis, you can then say was this a possible contributor?

CAPT. RUSSO: It makes it undetermined right --

MR. GARNER: But if you did an analysis you could say tasers were indicated as a possible contributor in this many or gunshot or that's an analysis you could do and you don't have to get to this.

CAPT. RUSSO: See here you've got four causes of death and really you can only have one cause of death.

MS. BURCH: Exactly, which is why I brought this in with us.

MR. GARNER: But I think instead of just saying, the medical examiner says well we don't quite know what the cause of death is.

CAPT. RUSSO: Which is fine, right?

MR. GARNER: So here's contributors.

CAPT. RUSSO: Right.

MR. GARNER: And that's something we could have people code and we could do analyses off that and we prefer the absolute, clear perfect decision but we don't get that so let's go with contributors.

MR. LOFTIN: Isn't that the case in the death certificate that there are multiple causes of death?

DR. DIANGELO You can yes.

DR. SOUTHALL: One big one due to, due to, due to the final outcome.

MR. LOFTIN: There's only one underlying cause.

DR. DIANGELO Well see I guess I would have to disagree with that because like I said I have seen one death where he's on drugs, has heart disease, struggles, is restrained, and an

electronic control device is deployed. So I have five different things that are all colliding at once. I can't parse out which one exactly killed him. They are all just colliding and none of them are doing his heart any good.

MR. LOFTIN: What do you put in the blank in the death certificate for the underlying cause of death?

DR. DIANGELO My cause of death will be something like acute cardiac arrhythmia due to struggle and restraint-induced asphyxia with --

MR. LOFTIN: That's a lot of boxes.

DR. DIANGELO It's a four line thing, with --

MULTIPLE VOICES.

DR. DIANGELO It'll be, how injured occurred, it'll be something like struggle or police-involved struggle, restraint, substance abuse, and --

MR. LOFTIN: Will it be legal intervention or homicide?

DR. DIANGELO Actually I'm not sure I'll have to discuss it with my chief tomorrow but it may be undetermined, it may be accidental because this is not a clear-cut. This man, he is one of those people you say wow how did he live so long?

MR. GARNER: Yes, maybe that's cause of living this long. One thing in number 9, that's a really big thing for us because if we really break out homicide by police officers, I mean that's sort of a central variable in our whole analysis. We can separate everything else out that's not a homicide by police officer but it's just a judgment by someone, that it's homicide by police officer?

MULTIPLE VOICES.

MS. BURCH: It used to be justifiable homicide but then there were some issues where

MR. GARNER: Unjustified.

MS. BURCH: Yes, who determines what is justified and what is not and so then they changed it to "homicide" just because it was death at the hands of another person and then the "by law enforcement officer" was to distinguish between officers and then other bystanders, other people involved in that --

MR. GARNER: But how would her case get done where it's a taser that's a contributor?

DR. DIANGELO Well if I have someone who was shot by a police officer

MR. GARNER: That's easy.

DR. DIANGELO Right, it's a homicide. But then how injury occurred, shot by police officer.

MR. KLINGER: What if you talk about situations and I think you said you had nine and he got self-inflicted.

DR. DIANGELO Yes.

MR. KLINGER: So you can't and that's a critical. We avoid all that if we get rid of homicide and just say were there bullets in this person's body that were put there by the police?

DR. DIANGELO Yes.

MR. KLINGER: Did they die? Yes, so then we know we have got suspect was shot and suspect died and it's counted in that little chart as someone who got shot and died.

DR. DIANGELO But MPD would like him taken out because he also shot himself.

SGT. HILL: That's right.

DR. DIANGELO And New York City would like him taken out.

MR. KLINGER: That's fine but if you report it that yes this guy is dead and yes there are police bullets in his body we don't have to worry about who killed him.

SGT. HILL: Well suicide did it goes under the suicide category.

MULTIPLE SPEAKERS.

CAPT. RUSSO: Eight, nine and 10 have to be from an official ME report.

MR. LANGWORTHY: There is an issue with that. And that is the process of collection then really has to lay the onus on whoever is completing this form to chase down that report and a fair number of folks in Montana may not.

CAPT. RUSSO: But nobody died in Montana.

(Simultaneous speakers.)

MS. BURCH: Even if they don't then maybe somebody from BJS or --

MR. LANGWORTHY: There's going to be a death certificate somewhere. Whoever reads in the newspaper and says Fred was killed during the course of an arrest then they still need to make a note of that somewhere, start the form, and then chase the ME report to get that stuff.

If you wade through the ME report to come to the person who is going to complete the form, then we are going to have this, we are going to perpetuate this undercount to this historic, in this particular problem.

The other thing that we will get is the only time the report is if it is a homicide by police there won't be accidental deaths in the process of arrest, you won't get any of that stuff.

So we can't rely on an ME report to drive this system. Whatever is driving this system now still has to do that but whoever is completing this report needs to then go to the ME and get that information from them.

Now the really cool thing about that is that it may very well sensitize some of the MEs and coroners, that they really should be including some of this stuff that they haven't historically included in their death certificates but the responsibility I think absolutely has to lay over here with whoever is doing it now.

MR. LOFTIN: I agree with that by the way I think that's, when I looked at this initially I thought what you need is to identify the cases and then get the death certificate if possible.

But back to the other issue, I'm not sure that I followed all the discussion but a lot of the problem was the use of the word homicide. What about substituting intentional?

That's the definition of a homicide.

MS. FRANCIS: Well no no.

MULTIPLE SPEAKERS.

MS. FRANCIS: If I may I do have how the CDC classifies homicide and I believe the medical examiners follow it. And what it says is homicide occurs when death results from an injury or poisoning or from a volitional act committed by another person to cause fear, harm or death.

Intent to cause is a common element but is not required for classification as homicide.

MR. LOFTIN: Right.

MS. FRANCIS: And that's what the ME follows. So that's why it's a little but unbiased --

MR. LOFTIN: Volitional but not intentional.

MR. LANGWORTHY: I shoot a bullet in the air, where it lands I do not care.

MR. LOFTIN: Or how about if you are being shot at as a police officer.

CAPT. RUSSO: Or you are testing out the new bat that you want to buy and you don't notice there's a little kid behind you. Well you were reckless because you're in a public place and you probably shouldn't have been swinging a bat. That kid dies, that is technically a homicide. Yes it'll be manslaughter not murder one or two, but it's a homicide nonetheless in New York.

SGT. HILL: But if somebody is firing at a cop and you fire back, I don't think any police chief wants to see something that's intentional. Most cops don't come to work with the intent of killing somebody. I've been on the force 25 years, I haven't shot my weapon yet.

MR. KLINGER: And on that point, certainly officers are trained, the language is you shoot to stop, the intent is to stop the person, not to kill them.

So you intentionally took the act.

LT. CALLAHAN: You shoot to incapacitate.

MR. KLINGER: And then also we do have unfortunately accidental discharges where citizens are killed so --

MR. LOFTIN: That would be unintentional.

MR. KLINGER: Clearly and so that's why if we strip out all this language and just go, did somebody get hit by police bullets it makes it pretty simple, at least on the shooting.

MR. GARNER: For our purposes we have a, I think going to sort of behavioral, what happened, what were the contributors. But right now, we have somebody under item number 9 making a judgment call okay, it's a homicide, but then they are deciding it was by the police, or it wasn't by the police, and that's a, the cause was what the police did, implicit in that judgment.

And that gets us back to the complication, was the taser the, do you put that along, I don't know how you do where, mostly sometimes it's clean. But there are cases where it's not clean. It's a homicide. Maybe it's a homicide maybe it's an accidental.

You put that in a multiple? I don't know how you handle that judgment call where in those cases where it's messy.

DR. SOUTHALL: You have to go back to the report. Do you want 8, 9 and 10 to be answered by the ME's report/GC?

CAPT. RUSSO: And then we should tell you what we did and what we used. But if even a medical doctor cannot tell us why he died, we can't, we're not going to be able to tell.

DR. SOUTHALL: And that will be covered in the manner of death, if we check off undetermined, now if you have, once you have a lengthy cause of death --

MR. GARNER: Multiple contributors.

DR. SOUTHALL: Then you can have maybe a supplemental questionnaire where those things can be ferreted out, restraints used what kind of devices used, different modalities can be ferreted out at that point if you have a lengthy cause of death.

CAPT. RUSSO: If you had 8, 9 and 10 from the ME like you said, you get rid of 13 and 14 just says what were the injuries sustained and not what injury caused the death, now you know it was other injuries. Then you have question 15, what did you use on him, it's there.

So it's spelled out some sort of story.

MR. GARNER: We might add, we only list weapons, we don't list tactics, we might list the tactics.

MS. BLAIR: I'm just going to jump in if I may because I'm sitting here listening to everyone talking and there's two different conversations going on from two different perspectives.

And I guess what comes from Joel and Andrea it's like, what are you trying to get at because the two conversations are police caused, that's what some people are saying and we are trying to get at did the police cause this?

And then arrest-related which I think is something that has to be decided because when you are talking about this person that yes, their death may have been a result of all these things had they not happened due to his arrest, he may not have died at that point in time.

That is going to be arrest-related. You may not want to determine if police cause, but it's arrest-related versus something that a police shooting someone in the course of an arrest. That

is police cause and arrest-related. You need to determine, are you just looking for arrest-related or is it in fact

police cause because these are two different things and things that are happening at the same time and separate.

MR. THORPE: There's some old news in that and that is that most police agencies that I've been familiar with won't take an intoxicated person off to jail without having them medically checked out first.

And that's because there were times where people were taken to jail and the next morning they were found dead. And so things changed there.

However that's a person, and that's an arrest-related death, that should show up in this way. Okay? And it had nothing to do with anybody's being handcuffed, strangled, shot, sat on or anything else, something went unnoticed when in fact it should have been noticed.

And there's been a lot in the last 20 years to correct that. It doesn't make all the emergency physicians happy that they are part of that correction.

MS. BURCH: Just in the name of time I want to move on a little bit. Let's go to 11 and 12. These are two items that are highly problematic. The data providers don't always understand. I think the questions are extremely poorly worded and confusing.

MR. GARNER: But we don't want to influence you one way or the other.

MS. BURCH: No sorry, I'm supposed to be neutral, sorry. So number 11, "had charges been filed against the deceased at the time of death." The problem with this is that I'm not sure that the responses that we are getting from the combination of 11 and 12 are meeting the intent.

I think the intent is why were the police there, how did they come in contact with this person, what was going on in the events leading up to the death, but what we get for I would say the vast majority of the shootings that involve police is assault, assault with intent to kill, assault on a law enforcement officer.

So we are missing why and how the police came into contact with the person in the first place and we are only getting the reactive behaviors that occurred as the event transpired.

So are we looking for actions that the deceased took after they came into contact with the police? Do we need to know why they were in contact with the police? The charges filed?

DR. SOUTHALL: Reasons for the call.

MS. BURCH: Yes, what the call for service was. The charges filed Joel hates because --

MR. GARNER: You typically don't file charges and then kill somebody. Police don't typically file charges. What's the underlying offense or what's the underlying behavior that was going on prior to the death?

SGT. HILL: Just ask the question, yes, nor, was there a criminal act being -

DR. SOUTHALL: Like burglary --

SGT. HILL: For the officer's actions, yes or no.

MR. GARNER: Yes and then what were those things?

SGT. HILL: I would suggest and then you can move onto --

MR. GARNER: We are trying to understand, I think you want to understand the variety of things that might have been going on.

SGT. HILL: The initial interaction may not have been criminal intent. It might have migrated south with the officer and then the suspect and then the next thing you know it's like, especially with like what he was saying with New York. We have a lot of MOs too here in the city, your intent is not criminal but it escalates to the point where it does become criminal.

MR. GARNER: There's mental health problems I mean you go there as mental health assistance and then the person behaves in a threatening way and they're killed and that's a -- trying to make those distinctions, but just the wording and filing of charges is --

We don't really care about what's formally filed, that's not really the issue.

MR. LANGWORTHY: One of the languages I've heard used is precipitating event and I don't know that I want to use that verbiage in this context but that's what we are really talking about I think is why is there contact?

MR. THORPE: Reason for contact?

MS. BURCH: What is the reason for contact?

DR. SOUTHALL: Let them write that in. Because that's going to be highly variable.

MR. KLINGER: I think I heard over here you give a radio call or observation or citizen involved --

MR. GARNER: Dispatched or on scene --

MR. KLINGER: Whatever. And then have some categories of felony misdemeanor.

MR. GARNER: Violent property.

MR. KLINGER: Whatever.

MR. GARNER: Well what would you want to know about the circumstances where there's a death?

MS. BURCH: Because a lot of these, I know, from when I go back and find stuff, other information pertaining to these cases and the calls are a lot of times domestic and then something happens, somebody pulls out a weapon, they end up getting shot.

But what's listed on here is assault on a police officer. But that's not why the police were there.

MR. GARNER: That's the immediate precipitating --

MR. WIERSEMA: Have you guys looked at the MBDRS data collection instrument at all?

MR. GARNER: A little bit, we have chatted with the folks. We've invited folks from the Maryland program.

MR. WIERSEMA: A lot of these questions that we've been talking about for the last half hour or so have been endlessly debated and discussed and determinations made for their purposes.

It may not be your purposes but you might be able to take what they've learned from this process and modify it somewhat for your particular purposes and be a lot farther down the road.

MS. BURCH: That's a good idea.

MR. WIERSEMA: So for example this why were the police there question, that's already on MDBRS so if anyone answers assault on a police officer that gets kicked out

immediately as an inappropriate response to that question. So another reason would have to be coded if it's a police-involved death.

DR. DIANGELO That seems like something the police would really want to know especially if it's more common let's say during a domestic call that this escalates into something where there is a dead person, police-involved death at the end of that call versus , a medical call or something like that so it seems like this would be good information for the police to know, which calls could potentially turn bad.

DR. SOUTHALL: Or like just a quick aside, we had a guy who was, appeared to be walking while intoxicated and he ended up having a perforated ulcer which caused his delirium when he got in back of the police car. So that's a reason to stop him but his cause and manner were quite different from what they expected.

MS. BURCH: So any, this has been really long, we have a couple of seconds, any additional questions that we didn't discuss that should be on here? Any other indicators that you would like to see?

I know we talked about taking some of them, these questions off and modifying them but what else have we missed besides what we talked about today?

SGT. HILL: You know what would be nice for our agency, we have a use of force review board which means any time an officer uses force he goes in front of a panel of six people to include assistant chief. One of the first and one of the best systems in the country, and about 14 years ago, and maybe we can put a block and here again I don't know what they're

doing in Montana, I do apologize, but was it justified, was it not justified, did the department justify the shooting?

LT. CALLAHAN: Our state attorney does that. We have nothing to do with that.

SGT. HILL: Yes well we do that here.

LT. CALLAHAN: We just simply investigate it and we turn everything over to the state's attorney.

MR. GARNER: Is there a legal determination that it was justified?

SGT. HILL: Yes our process is everything shooting goes to the U.S. attorney's office to be reviewed. They issue a declamation. It comes back to us. Once the declamation is issued we have 90 days to hear the case, review it and determine what discipline if any, any tactical improvements, any policy modulations, there's a pot pourri of things that we do.

And that's what we do, we wait to get the decision back from the U.S. attorney's office and then we do the final investigation. So when I provide information I can tell you if a homicide -- we don't call them homicides -- but if it's a fatal shooting, did we roll on it, was it justified? Was it justified with tactical improvements?

The shooting was justified but the officer did something wrong administratively? So we are able to provide that information and that's all public information. It's on our website.

So for every fatal that we have, we can tell you if the shooting was justified or not justified.

CAPT. RUSSO: Yes but we may not be able to tell you for a few years.

SGT. HILL: Well that's true, we won't be able to tell you for a few years either.

CAPT. RUSSO: A lot of these cases drag out.

SGT. HILL: It's all predicated on the U.S. attorney's office. We have declamations three years old.

MR. GARNER: But for most of them you could tell inside a year or two?

SGT. HILL: For us, yes, generally within a year or two.

MR. GARNER: And how about in Baltimore?

LT. CALLAHAN: I would say no more than year unless it's a very unusual case. Usually they come back a little bit quicker. SGT. HILL: In internal affairs we have 10 guys that's all they do, is police-related shootings and use of force. They do absolutely nothing else.

So I mean you're getting a good quality investigation because these guys have been doing it for so many years. And let the chips fall where they fall. Shoot someone and I'm sorry you are probably going to be indicted and --

LT. CALLAHAN: Well if the state's attorney has already cleared it then why is it, I mean this has got nothing to do with you guys, but why is the department going after an officer when the state's attorney has already cleared it?

SGT. HILL: We are always looking to review shootings, looking how we can improve officer safety.

LT. CALLAHAN: That's different than saying okay officer we are going to charge you with a crime now even though the state's attorney has cleared you.

SGT. HILL: Well we don't charge them with crimes. Usually the U.S. attorney's office justifies it and then , they predicate it on our investigators.

MR. GARNER: Well, we're looking for everything.

SGT. HILL: A through Z, that's what -- I don't think there's anything wrong with it, actually. It works for us.

MULTIPLE SPEAKERS.

MS. BURCH: So I think it's almost three. Joel is going to do a quick review of the meeting for us and then we can finish up with some next steps and some final comments if that works for everybody.

MR. GARNER: I am just trying to summarize and maybe you'll contribute. I might not remember everything. Usually these things are well then I said, and someone else said something and I can't remember what it was and then I said so maybe you can help me with --

MS. BURCH: We'll have it on our website.

MR. GARNER: And it'll be on the -- a good part of the discussion this morning was about what's the scope? Should it be narrow and clean or should it be broader with clean boundaries about what the categories are, the distinctions between accidental and suicidal. What do you want in this program? Do you pick up, so we've had a broader scope with some ill-defined boundaries and there was some discussion that that's fine but there was also discussion maybe just stick to homicides.

It's cleaner, everybody will know what you're looking for if you use that. I think we discussed that. I don't know if we've resolved the appropriate way to go.

We talked a little bit about additional, we think of them as predictors, characteristics of the decedent or the incident you might want, and I think we only really got to height and weight.

I don't know that we added other things that we would want to get to that would help us explain the nature of the situation or the death.

I don't know if I missed other discussions on that. We did talk about rates and the possibility of using rates and a variety of rates as a way to describe what we have found and there were options on that and it seemed to be some discussion on that but at least don't just do one rate. If you're going to do it, do multiple rates with different denominators if we can get the numerator well measured.

I think it was clear on the form that there are certain things that we should only keep if the medical examiner or some medical personnel say this is the official medical examiner's response and that should be clear on the form and in the instructions and clear things where no, we don't have that and then just don't include that information.

I think that was a fairly consistent assessment of folks here.

We talked about not weapons, causes of death, either weapons or tactics or injuries but contributors. What contributed to the death, that we could record those things probably easier than we can get to what is the actual cause?

Oh and on the front page we talked about not necessarily what's charged, but what's the reason for the contact or the precipitating event, capturing the nature of the dispatch or the on-scene, some characteristics of how the police came to be there and what was the underlying behavior of the decedent, whether it's in a narrative or whether it's a code.

Now we got down to the end here about maybe there's, I think it's pretty easy, everywhere to do were charges filed? But at least D.C. has a more detailed and we internally

looked at that and said we should, that there was some behavior here we could improve through training or some other response.

I don't know if there's codes we could get fairly consistently on that but we could capture were charges filed and I don't know where we can go with that but it was a suggestion for the disposition by the legal authorities about was it justified or not? It was just a discussion there at the end.

I am not sure if I missed other things in my quick summary. If we --

DR. SOUTHALL: Keep manner simple, manner of death, yes.

MR. GARNER: I'm sorry, say that.

DR. SOUTHALL: We were just going to use the five categories.

MS. BURCH: The five categories.

MR. GARNER: Just use the five categories for manner, yes, and have a do not know.

DR. SOUTHALL: Or undetermined.

MR. GARNER: Undetermined. All right. Is that?

MS. BURCH: So I believe our next steps are we are going to go back, take all of your input into account, redesign the instrument.

MR. GARNER: We are going to wait for the event that they have something on the way home and they say I wish I had said that.

MS. BURCH: All of our, yes, our contact information is in the folder. Please feel free to email me with anything that you think of later, questions, comments, concerns. I am

definitely open to change. So if you come up with a good way to add something I would definitely like to hear it.

MR. GARNER: Our intent is very quickly to work on this form and get it through OMB which we think we can do within a form and have it used for data that is, for events that occur in 2010. So this is a fairly quick turnaround for affecting how we collect data on this issue.

MS. SMITH: The only comment that I would want to add on this, in looking over this form, it sort of jumps around to me. It goes from about the person who died to the things that we should be hearing from the ME to things about the contact.

So if you could keep that category a little bit numerical sequence, then that would be helpful and be sure to put this data, these data should be collected from --

MS. BURCH: Yes. Any other final comments?

MR. GARNER: Things that we could do to make this more useful for policy purposes or analytical.

MS. BURCH: Okay well thank you all very much for coming. I really appreciate all of your insights and your time. I will follow up with all of you next week or the week after, let you know where the transcripts are, and then any developments we have made in the meantime.

MR. GARNER: We would just like to thank you very much.

(Whereupon, the above-entitled matter went off the record at 2:51 p.m.)