

A Crime to Not Be Counted

An Examination & Exploration of the U.S. Department of Justice's Data Collection Programs

by Dana Lachenmayer

*"Because it's murder by numbers, one, two, three.
It's as easy to learn as your ABC's..." – The Police*

Introduction

In light of recent scrutiny of the U.S. Department of Justice's data collection programs, policies and standards, administered by the Federal Bureau of Investigation (FBI) and the Bureau of Justice Statistics (BJS), it has become unabashedly clear that more immediate movements towards comprehensive and veritable data collection need to be made within the criminal justice system. Specifically, the severely limited and insubstantial collection of instances deriving from use of force by police officers and arrest-related deaths, categorized as justifiable homicides, needs to be reexamined. Pressure from advocacy and activist groups, especially the Black Lives Matter movement, and media focus on racially charged, high profile homicides carried out by officers, beginning with the death of Michael Brown in 2014, have thrust this issue to the forefront. Reputable news publications, *The Guardian* and *The Washington Post*, have reacted by starting their own programs, based partially on crowdsourcing, collecting data on

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fatalities conducted by police officers in 2015 and 2016. This, in turn, has shown the glaring gaps in the FBI's and the BJS's ability to collect data of this nature, whose numbers amounted to less than half of what was documented by *The Guardian* in 2015.

The FBI's program for collection of crime data across the nation, specifically regarding their Uniform Crime Reports (UCR) and National Incident-Based Reporting System (NIBRS), is *voluntary* and has been since its institution in the 1920s, with state and local agencies submitting data at their own discretion. The BJS's Arrest-Related Death Program is a more recent endeavor, resulting from the Death in Custody Reporting Act of 2000. This program's sole focus is the collection of data regarding deaths resulting from a law enforcement officer or while in the care of a law enforcement agency. However, this is merely an incentive for state and local agencies to receive grant money. There is no formidable punishment for lack of data submission, being that demands for mandated reporting are still unrealized, which means that plenty is at risk of being hidden, such as systemic racism and corruption. How has this voluntary policy been allowed to exist for so long when public policy and state funding are directly informed by this data? In a nation conflicted by mercurial and repressive race relations since its birth, what kind of message is sent by these omissions in federal criminal justice policy? Both of these directives should help ensure and enshrine the quality of life of individuals living in this country, regardless of race, gender, sexuality or creed. However, these directives remain ineffectual without departmental or agency enforcement and a proper mandate for the data collection which informs them. And as such, the value of all citizens is undermined and not accounted for. Furthermore, comprehensive and credible data, which is true to scale, is an essential resource for curbing the misinformation and propaganda spewed by authority figures and institutional bodies. An informed citizenry, including the media, is the very basis of a high functioning, representative democratic society and government. It is one of the many essential checks and balances built into the infrastructure of a democracy and rooted in the U.S. Constitution. When such glaring gaps in the data exist, the information that extends from it becomes skewed or biased, producing an inability to critically scrutinize, seek justice and effectively exercise and engage in the democratic process.

As champions of democratic ideals and keepers of information, libraries and librarians have a long history with government information in this country. As a nation born out of tyranny, seeking freedom from the opaque and unrepresentative government of its predecessor, the founders chose to fashion America with ideals dressed in knowledge and light. The U.S. Constitution, combined with subsequent acts and laws from 1795 to 1895, enshrine the distribution, printing and

free public access to government information for the benefit of its citizenry. The Federal Depository Library Program (FDLP) is a direct result of this line of thinking, designating libraries across the nation as retainers of government information, forever enmeshing libraries and democracy. While the 20th century, with the advent of the internet and the ever-increasing amount of born digital government information, has shifted the role of libraries and librarians in terms of government information, the advocating work of government document and reference librarians remains key in the collection and preservation of, as well as access to, government information by researchers, policy makers and the public today.

This paper takes a look at, and critically examines, the history of U.S. criminal data collection, through the lens of recent, racially charged current events. It relates the role of libraries and librarians to government information, highlighting them as pivotal players in the organization and preservation of, as well as access to such vital information in a democracy. And most importantly, it implores a need for more concrete data and policies by the U.S. Department of Justice, as this information or lack of it greatly affects society at large.

Keeping America Informed

“Keeping America Informed” is the Government Publishing Office’s (GPO) modern slogan.¹ Since 1895, with the passage of the General Printing Act, it has provided free access to government publications with the help and support of libraries, through the FDLP.² While historically this program was minimal at first, according to a 2009 report conducted by Ithaka S+R there are currently a little over 1,200 libraries, of the academic, state, public and law variety, working to distribute and provide government document services to the public through the FDLP.³ However, currently only tangible or print materials, which include items such as the printed word, maps and CD-ROMS, are distributed through this program.⁴ Many efforts, countless reports and proposed legislation, most notably the FDLP Modernization Act of 2018 (H.R. 5305), supported by the GPO,⁵ American Library Association, American Association of Law Libraries, and the Association of Research Libraries,⁶ have been made with the goal of bringing the FDLP into the modern, digital world. This act, unfortunately, did not come to fruition, placing information produced digitally in a realm akin to the American wild west, a time before laws governed. For today, 97% of just published government documents are produced in the digital realm, with 75% of these born digital documents existing exclusively in digital format.⁷ This shifts much of the burden of access, collection and therefore preservation to the GPO, since no official legislation has been produced to grant

libraries this responsibility. The GPO currently provides access through a content management system called FDsys, which is currently undergoing a metamorphosis and will exist only as govinfo (<https://www.govinfo.gov/>) beginning in December 2018.⁸

Compounded with the issue of born digital government information is the fugitive document phenomenon. According to Title 44 of the U.S. Code, every single unconfidential document published or issued by an executive branch agency, such as the U.S. Department of Justice, should be provided to GPO and therefore the FDLP. However, a mixture of document classification rules, exempting documents based on national security concerns, such as scientific technical reports, maps or nautical charts, and budgetary loopholes provided by the 1980 Paperwork Reduction Act and the Office of Management and Budget Circular A-130 have allowed executive agencies more independence in their printing practices.⁹ This means that, historically, a vast amount of information produced by executive agencies, has been published by the executive agency itself and not funneled through GPO, which does not have a monopoly on printing, despite Title 44 of the U.S. Code. This also signifies that this information is not channeled to libraries for future access and preservation, nor does it become a part of the bibliographic record. While GPO and FDLP libraries have done strenuous work to ensure that as many documents as possible are funneled through this system, including tracking down and obtaining these “fugitives,” these efforts have only become harder with the amount of born digital information being produced solely on executive agency websites. According to a 2016 proposal by ALA’s Government Documents Round Table (GODORT) on the importance of, and current issues concerning, the collection and preservation of government information, in 1996 roughly 50% of government documents were not properly funneled through the FDLP where they could be cataloged, indexed and accessed. The proposal goes on to iterate that while the percentage of government information that is currently being published directly on federal agency websites, bypassing print streams altogether and making them ‘fugitives’, is unknown, it “can be assumed to be higher than GPO’s 1996 estimate”.¹⁰ As stated in a 2012 GPO article, *Document Discovery*, keeping up with the trend of increased ‘fugitive’ documents is the GPO’s biggest problem. They use a variety of methods in order to combat this phenomenon the best they can, including web harvesting of federal agency websites by partnering with the Internet Archive and directly contacting agency publishers on a routine basis.¹¹ Another method they rely heavily on is the help of federal depository librarians, specifically when it comes to “reaching Federal agency sources”.¹² GPO has blatantly stated that they “could never single-handedly discover *all* Federal documents without” the assistance of

federal depository librarians.¹³ So while the collection of fugitive and digital information, including data, is not necessarily an aspect of traditional librarianship, it has become a vital aspect of government document librarianship and reference librarians working in federal depository libraries. Since these librarians understand the structure of our government and how information is produced as a result of its operations, they have become indispensable to GPO, researchers of government information, and the public at large. When one factors in the inability or lack of will to properly preserve this information in digital formats by the executive agencies, due to lack of technological skill, budgetary allowance, or a concrete apparatus for preservation, it means that there is a true and real risk of government information vanishing before it is safeguarded in an archive.¹⁴ Furthermore, access to information is also highly contingent on the politics, beliefs and motives of the governing administration, as we have recently witnessed through the dismantling of scientific information pertaining to global warming on the Environmental Protection Agency's (EPA) website, at the advent of the Trump Administration.

According to a January 2018 report conducted by the Environmental Governance & Data Initiative, entitled, "Changing the Digital Climate: How Climate Change Web Content is Being Censored Under the Trump Administration," within the first year of the Trump Administration, the EPA, a component of the U.S. Department of the Interior, extinguished over 200 web pages full of vital information on climate change for state, local and tribal governments, as well as the entire Clean Power Plan website.¹⁵

Despite the death of the FDLP Modernization Act of 2018 amidst efforts to see its creation and the difficulties of born digital executive agency material, no small effort has been made by librarians to try and safeguard this crucial, yet mercurial information. Several initiatives, such as the DataRefuge movement sparked at Penn University,¹⁶ the PEGI project,¹⁷ the LOCKSS-USDOCS system,¹⁸ and the Internet Archive's End of Term project,¹⁹ have been made by libraries and government information professionals to archive information before it is lost. For example, the Internet Archive, in partnership with the Library of Congress and several prominent university libraries has archived webpages and the information contained within them, from over 6,000 government domains and approximately 10,000 official federal social media accounts. This equates to over 3.5 billion .gov URLs, including 45 million PDFs in their End of Term archive.²⁰ Initiatives like these, paired with the day to day work of government document and reference librarians to hunt down fugitives, organize information, prevent technological decay, as well as the containment of expertise in how government information is produced and search strategies

regarding such information, so that it may be more discoverable, makes libraries and librarians pivotal players within the realm of government information, and therefore U.S. democracy at large.

A Brief Discussion of Racially Charged Current Events

With the intermingling work and history of libraries and government information in mind, the U.S. Department of Justice specifically has a long history of opaque and limiting information practices, most notably their criminal data collection policies and programs. In order to see this clearly, and to truly highlight how it is affecting society today, it is important to place this phenomenon within the context of recent racially charged current events.

The death of an unarmed, African-American teenager named Michael Brown by a white police officer named Darren Wilson on August 9, 2014, in Ferguson Missouri,²¹ was the first of many African-American deaths at the hands of white police officers in recent United States history. Following soon after were the deaths of Tamir Rice, a 12-year-old shot for holding a BB gun in Cleveland,²² Eric Garner, who died from suffocation resulting from a chokehold administered on suspicion of him hawking “cigarettes and cheap goods”²³ in Staten Island, and Freddie Gray, a young man who died from a spinal cord injury, most likely resulting from severe police brutality, the only evidence being a cellphone video capturing Gray “being dragged screaming into a police transport van.”²⁴ These are just a few of the individuals whose lives ended unjustly at the hands of law enforcement between 2014 and 2015. Nor was justice served after their deaths, with little to no punishment inflicted on the officers responsible. Amidst protests and rally cries in Baltimore, the officers involved in Freddie Gray’s death were acquitted of all charges,²⁵ while Wilson, responsible for the death of Michael Brown, was “exonerated” of all “criminal wrongdoing.”²⁶ Similarly, officer Daniel Pantaleo, responsible for the death of Eric Garner, was not indicted, while Timothy A. Loehmann, who shot Tamir Rice, was merely placed on “restrictive duty.”²⁷ Events such as these fueled mass protests across the country, reigniting old scars, on the basis of race relations with law enforcement. A modern rally cry was forged through the powerful voices of the Black Lives Matter movement,²⁸ with the underlying assertion being that all lives should matter and be administered justice equally. All eyes turned to the justice system.

The death of Michael Brown, in particular, spurred an investigation of the Ferguson Police Department by the U.S. Department of Justice’s Civil Rights Division on September 4, 2014. According to a report written at the conclusion of the investigation, “a pattern or practice of unlawful conduct within the Ferguson Police Department

that violates the First, Fourth, and Fourteenth Amendments to the United States Constitution, and federal statutory law” was found.²⁹ More specifically, the report notes that Ferguson’s “law enforcement practices are shaped by the City’s focus on revenue rather than by public safety needs.”³⁰ Ferguson’s “own data establish clear racial disparities that adversely impact African Americans”, an example being that nearly “90% of documented force used by FPD officers was used against African Americans.”³¹ If data such as this is consistently submitted federally, through mandation, then cases of systemic racism may be unearthed and action taken before lives, such as Brown’s, are ended prematurely.

An executive summary report from July of 1999 entitled, *Bridging Gaps in Police Crime Data*, expresses that Missouri, where Ferguson is located, is one of seven states that didn’t provide Uniform Crime Report (UCR) data to the FBI from 1980 until the point at which this report was written. In fact, Missouri, is one of four states that had never complied with reporting UCR data.³² Some more recent figures, provided by NIBRS’s data table, *Participation by State, 2015*, shows that Alabama, the District of Columbia and Illinois all have only one agency contributing data through this system.³³ Several other states only have a handful of agencies contributing. Missouri fairs better in 2015 than it has historically, administering data from fourteen agencies,³⁴ as opposed to zero; however, according to the BJS’s *Census of State and Local Law Enforcement Agencies, 2008*, Missouri has 576 agencies under its jurisdiction.³⁵ So, proportionally speaking, Missouri is still a far cry from comprehensive collection and issuance, powerfully inhibiting the ability for nationally aggregated data on crime to speak the truth.

In a speech at Georgetown University, given on February 12, 2015 by then FBI director, James Comey, these issues were directly addressed. After the events at Ferguson, he asked his staff to show him information concerning the racial makeup and breakdown of individuals who were shot by police officers in this country, specifically considering African-Americans.³⁶ He went on to say that, “They couldn’t give it to me, and it wasn’t their fault”.³⁷ This is due to the fact that demographic data pertaining to deaths at the hands of law enforcement officers is reported irregularly through the Uniform Crime Reporting Program.³⁸ Because “reporting is voluntary, our data is incomplete and therefore, in the aggregate, unreliable”.³⁹ Furthermore, Comey expressed that he could not discern “whether the Ferguson police shot one person a week, one a year, or one a century”⁴⁰ according to the data the FBI had at their disposal. Comey believed that incomplete, incomprehensive and unveritable data propagates mistrust in the system and that gaps in crime data do not produce sound decision making and policy, as they should.⁴¹

News publication *The Guardian* was equally concerned by the misrepresentations culminating from unreliable crime data, prompting them to start a project called The Counted. The Counted is their attempt to accurately “count the number of people killed by police and other law enforcement agencies in the United States throughout 2015 and 2016, to monitor their demographics and to tell the stories of how they died.”⁴² *The Guardian* pools their data from “traditional reporting on police reports and witness statements, by monitoring regional news outlets, research groups and open-source reporting projects such as the websites Fatal Encounters and Killed by Police.”⁴³ They also incorporate data through a crowdsourcing element, in which individuals can contribute information in several different ways. Individuals can contribute through email or social media, by clicking on the “Send us a tip” tab on The Counted’s webpage, confidentially through a “public PGP [Pretty Good Privacy] key”, or anonymously through a “SecureDrop system.”⁴⁴ For 2015, *The Guardian* counted 1,146 homicides at the hands of law enforcement officers.⁴⁵ In the FBI’s 2015 edition of their annual publication, *Crime in the United States*, they counted merely 442 “justifiable homicides” carried out by law enforcement.⁴⁶ The FBI and the BJS define a “justifiable homicide”, which is also synonymous with “arrest-related death”, as all “deaths attributed to any use of force by law enforcement personnel acting in an official agency capacity”, any “death that occurs while decedent’s freedom to leave is restricted by a state or local law enforcement agency prior to, during, or following an arrest”, and any “death that occurs while confined in lockups or booking centers.”⁴⁷

What *The Guardian*’s data does is highlight the U.S. Justice Department’s inability or disinterest to produce data to scale with events happening in the field. According to a Congressional Research Service report entitled, *How Crime in the United States Is Measured*, crime data collected through Uniform Crime Reports (UCR), the National Incident-Based Reporting System (NIBRS), and the National Crime Victimization Survey (NCVS) are used by Congress to inform public policy and apportion federal criminal justice funding to states and local law enforcement agencies.⁴⁸ For instance, the 103rd Congress cited UCR and NCVS crime statistics when voicing a need for more policing officers in needed communities, while working to enact a bill calling for the creation of the Community Oriented Policing Services (COPS) program.⁴⁹ Their efforts resulted in the establishment of the Violent Crime Control and Law Enforcement Act of 1994, which cemented the creation of the COPS program.⁵⁰ Additionally, UCR crime data has been used in the justification of grant programs like the Edward Byrne Memorial Justice Assistance Grant (JAG) program, established under the Violence Against Women and

Department of Justice Reauthorization Act of 2005.⁵¹ This grant then utilizes UCR data to distribute federal funds to state governments for criminal justice programs and to local law enforcement agencies in need of supplement.⁵² As such, the misleading and inaccurate, official representation of these atrocities conveyed by federal crime data threatens the government's ability to make public policy and provide state funding that accurately reflects reality.

An Exploration of the Federal Bureau of Investigation's Uniform Crime Reports

In 1927, the International Association of Chiefs of Police (IACP) established the Committee on Uniform Crime Records to actualize a method for collecting statistics on crime.⁵³ The IACP believed that a federal system of crime reporting would express local crimes more truly by placing them in context, which would in turn, alleviate some of the pressure media was placing on local jurisdictions, a result of some police departments "cooking the books" to reduce the amount of recorded crime.⁵⁴ Shortly thereafter, in 1929, the IACP first published *Uniform Crime Reporting*, a "manual for police records and statistics, which included uniform definitions for law enforcement agencies to use when submitting data to IACP."⁵⁵ In 1930, Congress granted the Attorney General the power to collect crime data through 28 U.S.C. § 534 and UCR was placed under the jurisdiction and maintenance of the FBI from 1930, forward, specifically collecting data on reported incidents, most notably arrests.⁵⁶ At its institution, UCR only collected data on seven different crimes: "felonious murder, rape, robbery, aggravated assault, burglary, larceny/theft and auto theft."⁵⁷ Since then, the federal crime data collection program has continued to expand in many ways. Beginning in 1958, the FBI could finally aggregate data on a national level in order to identify national crime trends.⁵⁸ Prior to 1958, there were not enough state and local law enforcement agencies submitting data to the FBI, due to its voluntary nature, so that the bureau could not reliably report crime rates at the national level.⁵⁹ The inception and early history of criminal record keeping and data collection indicates that its voluntary nature has always been an issue, since the FBI was never given the power to mandate agencies to submit their data.⁶⁰ However, at this point such momentous gaps in the data were not of "major consequence", since its purpose was to present and analyze national and state criminal trends.⁶¹

As racial tensions flared in the 1960's and 70's with the Civil Rights Movement, further efforts were made to collect a larger quantity and more acute crime data. In 1962, the UCR, began to collect data, where it could, with the Supplementary Homicide Report (SHR), on "the age, sex and race of murder victims, the weapon used, and the circumstances

surrounding the offense.”⁶² In 1965, the President’s Commission on Law Enforcement and the Administration of Justice was assembled by President Lyndon Johnson to examine the roots and nature of criminal activity in this country and to recommend new programs and policies that would help alleviate these crimes.⁶³ At this point in time, UCR was the only mode of crime data collection in the country, which the committee recognized as having “several limitations.”⁶⁴ After many years, three pilot studies and several iterations, the National Crime Victimization Survey (NCVS) was conceived to support UCR data, with the hopes of painting a more complete picture, and was finally placed under the jurisdiction of the Bureau of Justice Statistics (BJS).⁶⁵ The NCVS is the “primary source for information on the characteristics of criminal victimization” and “on the number and types of crime not reported to law enforcement.”⁶⁶ After so much time and concentrated effort over the establishment of a single survey, one might think that it would cover a lot of statistical ground. However, it is only based on a tally of 50,000 households, meaning that it does not have the ability to provide detailed information on crime at the local or even state level, which at least the UCR can do.⁶⁷

The FBI does have certain methods and assurances for maintaining the quality of the data it does collect. The bureau makes Quality Assurance Reviews (QARS) available at the state level.⁶⁸ QAR’s help “ensure that each state UCR program adheres to summary and incident-based reporting methods that are consistent with UCR standards”, which theoretically increases the uniformity of the crime data reported. In effect, QAR’s are a way of auditing the local and state information systems collecting agency data. However, QAR’s are also voluntary, meaning there is a gross lack of uniformity across states, in terms of who is contributing data at the federal level and who is checking the quality of their data before it is submitted.⁶⁹ Once data is submitted by a state or local agency, which is carried out on a monthly basis,⁷⁰ the Crime Statistics Management Unit (CSMU) is responsible for reviewing the data received in order to ensure that policy standards are being met through adherence to definitions and statistical methodologies.⁷¹ If this unit finds anomalies or inaccuracies in the data, they are responsible for reaching out to the submitting agencies in order to verify the anomalies or elicit corrections.⁷² The CSMU then serves as the “centralized repository” for nationally aggregated data belonging to the FBI.⁷³ The Department of Justice utilizes both the NCVS and the UCR to measure the scale, complexion, character, and impact of crime in the United States.⁷⁴ While in many ways these two modes of data collection complement each other, their voluntary nature and limited scope severely impede their ability to accurately reflect the truth.

The Future of U.S. Federal Criminal Justice Data Collection

Since 1929, two newer modes of criminal data collection, the FBI's National Incident Based Reporting System (NIBRS) and the BJS's Arrest Related Deaths Program, reflect the future of federal data collection on crime. The FBI first presented NIBRS to the law enforcement community at a national UCR conference in the spring of 1988 and it was launched later that year.⁷⁵ By this point NIBRS was already years in the making, the result of a joint study between the FBI and the BJS in which they scrutinized the UCR program in order to explicitly examine how it could be improved. Their study's concluding report, *Blueprint for the Future of the Uniform Crime Reporting Program*, was released in the spring of 1985.⁷⁶ *Blueprint* recommended that agencies should have a reporting system based on incidents of crime, in addition to the reporting on arrests that UCR was already carrying out.⁷⁷ The report also recommended that some agencies, in which corruption or inaccuracies were previously a problem, should submit incident-based criminal data for all offenses happening within their jurisdiction, while other agencies should only submit data limited to a specific set of crimes.⁷⁸ Generally speaking, NIBRS extended the scope of criminal data collection and provided more granular and, therefore, more comprehensive data for the FBI to analyze and make use of. More specifically, data collection is not relegated to a specific number of categories, providing a truer assessment of reality. This also means, for example, that there is now the ability to link specific incidents or offenses to arrests made or not made, and distinctions can be discerned between crimes attempted and carried out.⁷⁹ There was much excitement within the law enforcement community at the onset of NIBRS, however, it is now 2018 – 30 years later – and NIBRS has still not been completely actualized. In a recent message from present FBI director Christopher Wray, he stated that NIBRS was on track to be the national crime reporting standard by 2021, at which point it would replace the current and long standing UCR program.⁸⁰ While these changes would help fill the data gaps, NIBRS has already been thirty years in the making without yet reaching a level of utilization on par with the UCR program and nothing in the literature notes that submission would be made mandatory.

The FBI has also recently developed an interactive visualization tool called Crime Data Explorer, which they consider part of a “broader effort to modernize the reporting” of national crime data. This tool is fueled by data from NIBRS and UCR, allowing users to download data by state, view national trends and communicate with their Application Programming Interface (API) for reported crime, which for all intents and purposes sounds useful.⁸¹ It is still a

work in progress, with a limited number of datasets, each varying on how current they are. The FBI is very up front about this through a disclaimer, conveying, “This site is under development, and will be updated periodically. Crime statistics data is subject to change.”⁸² However, no matter how much time and effort is spent adding more datasets or tweaking nuances, operationality and the visualization power of this tool, to a certain extent it will remain a highly unreliable tool until it is driven by accurate and truthful data. This would require a more acute effort towards criminal data collection. Furthermore, one can only responsibly consider this tool as problematic, maybe even damaging, in that the visualization aspect is geared towards making the information derived from this data more widely available and engaging to the public. While transparency and ability to engage with government information is most certainly what citizens of this country need from their government, what they are actually engaging with and ingesting is incomplete data and is, therefore, flawed. The FBI does make their methodology known, both through participation data tables and their associated *Data Declaration* statements, which essentially describe the limitations of a year’s datasets, based on agency contribution. For instance, the *Data Declaration: Number of Agencies and Population Covered by Population Group, 2016* statement states that in 2016, 6,849 law enforcement agencies, which amounts to approximately 37 percent of eligible agencies participating in the UCR program, reported crime data through NIBRS. A percentage that only covers roughly 31 percent of the national population.⁸³ The ability to root out this statement, if one even knows it might be helpful, does, however, require some digging, following a trail of links beginning at the “Downloads & Documentation” section of the Crime Data Explorer site, ultimately taking one back to the UCR section of the FBI’s website. One cannot expect the average user to reasonably locate this important contextual information. So that what most people will actually gain from use of this tool is a skewed and misleading vantage point on crime in this country. The technological and aesthetic engineering of data should not be prioritized over methodology and collection procedures to ensure accuracy and credibility of information, especially when public policy and funding are based on such. This would also be a prime example of an instance where a reference or government documents librarian would prove useful, as both skilled finders of information and well versed in properly contextualizing information and identifying biases, both a component of information literacy. They can therefore help individuals discern information for exactly what it is.

Mentioned previously, the BJS’s Arrest-Related Deaths (ARD) program is a direct development of the Death in Custody Reporting

Act of 2000. Activated in 2003, it expired in 2006. However, it was reauthorized in 2014 under the Death in Custody Reporting Act of 2013.⁸⁴ It is by far the most modern attempt at criminal data collection, drawing on the open source methods *The Guardian's* *The Counted* uses in order to collect its data. It is also specifically geared towards collecting data surrounding use of force and deaths occurring as a direct result of police actions. The reauthorized act of 2013 expands the original act, to “include mandatory data collection of custodial and arrest-related deaths from states receiving federal Byrne Justice Assistance Grant (Byrne JAG) funding and from federal law enforcement agencies” within these states. The law also “requires the Attorney General to adopt guidelines directing state compliance with the law.”⁸⁵ Even though this act makes a very crucial aspect of criminal data collection mandatory, it is still, at this point in time, unrealized. As stated in the June 11, 2018 notice of the Federal Register, the Department of Justice intends to push back implementation of DCRA until 2020, which is five years after it was originally signed into law.⁸⁶ And if they can delay it this long, at the expense of lives lost and accountability disregarded, there is no telling when it will actually come to fruition or just how much injustice will have been served during its omission.

Just like the definition of justifiable homicide, the ARD program defines an arrest-related death as the result “from police use of force” or an event that “occurs while the decedent’s freedom to leave is restricted by a law enforcement agency.”⁸⁷ BJS is calling this new approach, instituted in 2010, a “hybrid approach”, where their “methodology is designed to increase the reliability, validity, and comprehensiveness of the data collection.”⁸⁸ With this method, ARD first reviews information sources open to the public, including media outlets, such as *The Counted*, and federal agency documents.^{89,90} During the second phase, they utilize more traditional methods, directly surveying medical examiner offices and law enforcement agencies for official information, corroborating the deaths previously discovered in phase one.⁹¹ This method has increased ARD program coverage to a all time peak of 69% in 2011, producing far more concrete results than the UCR program has ever managed to accomplish regarding this particular aspect of data collection.⁹² While the reporting of deaths under the custody of law enforcement officers is still not mandatory, the program’s incorporation of media and other open information sources has increased its success rate. These practices are also why *The Counted* has been deemed such a success.

Reverberating from the multitude of arrest-related deaths that happened between 2014 and 2015, members of the 114th Congress introduced several bills, attempting to curb unnecessary use of force and provide accountability for the behavior of law enforcement

officers.⁹³ Most notable was the Police Reporting Information, Data, and Evidence (PRIDE) Act of 2015 (S.1476, H.R.3481).⁹⁴ This act would have *required* data collection regarding all incidents where use of force resulted in a serious bodily injury or death and was enacted by a law enforcement agent, involving a civilian.⁹⁵ Furthermore, the act would have *required* that detailed information such as an individual's age, gender and ethnicity, the location, date and time of said incident, as well as the specific force enacted in the event, was accounted for.⁹⁶ However, none of the use of force acts introduced in the 114th Congress made it to fruition. They all died in committee due to lack of support. So although there have been recent attempts at legislation requiring data collection and submission by law enforcement agencies, the current nature of criminal data collection remains voluntary, despite the effects that such damning current events have had on citizens and some lawmakers of this nation.

While the history of recent initiatives by the FBI's NIBRS and the BJS's ARD program suggests that they are at least aiming to enhance the U.S. Department of Justice's ability to produce data to scale with reality, there is also evidence that current actions under the oversight of the Trump administration have taken previous efforts a step backwards. The FBI's 2016 *Crime in the United States* report, the first issued under the Trump administration, incorporates roughly 70% fewer data tables than the 2015 version.⁹⁷ Although it is typical for dataset inclusion to vary from year to year, based on law enforcement agencies ability to submit, reporting from the news publication, *FiveThirtyEight*, a source which bases their reporting on hard numbers and statistics, found that in 2016 the removals of vital data in the annual report did not pass through the Advisory Policy Board (APB).⁹⁸ The APB, instituted in 1994, is a council comprised of 35 representatives from criminal justice and national security agencies or organizations from across the nation. These representatives are given the responsibility of reviewing policy, as well as technical and operational issues related to Criminal Justice Information Services Division programs, such as the annual *Crime in the United States Report*.⁹⁹ The fact that the FBI did not follow appropriate, established procedure by bypassing APB review, conveys an awareness of wrongdoing, further problematizing the issue of criminal data collection through a lack of transparency. Much like climate change information, this factors into a much wider informational trend of the Trump administration, in that they began and continue to systematically dismantle information from federal agency websites, an extremely worrisome trend in a democratic society, which only further reduces the ability of citizens and lawmakers to properly fact check authority, make informed decisions in policymaking and within the larger democratic process.

Information professionals, especially those well versed in the ways and means of government, can help us spot these informational voids. When you know and observe through long experience what is and what should be, you also can be tuned into what is missing. It does not serve us, as citizenry, to operate and try to progress in the dark. Thomas J. Froehlich has said that, “In their finest hour information professionals are signs pointing towards truth(s)”.¹⁰⁰ Government information in particular is messy, unorganized and often decentralized, making government document and reference librarians essential resources in a profession with deep-seated ties to the evolution of knowledge, social justice and democracy.

Conclusion

While representing the deaths of American lives accurately and comprehensively should have always been a goal of the U.S. Department of Justice, the advent of the internet, which allows data to be immediately accessible to researchers, and the fact that in recent history the allocation of federal funds is a direct result of UCR data,¹⁰¹ makes this need ever more pressing. Up until the institution of the Arrest-Related Deaths program by the Bureau of Justice Statistics, only 3% of the United State’s 18,000 law enforcement agencies were complying with FBI data submission regarding incidents involving deaths at the hands of or in the custody of law enforcement.¹⁰² This caused David Klinger, a “former police officer and professor at the University of Missouri,” to declare that the “data is virtually useless”.¹⁰³ While criminal data submission from local and state agencies, as a whole, has fared much better statistically, in 2005 reaching a success rate of nearly 98%,¹⁰⁴ data collection in this realm is far from reaching an ideal state. In an ideal state, all lives will be accounted for officially, throughout every year, and therefore, all lives will matter in the eyes of the government.

A Note On Methodology:

I am of the belief that the bulk of one’s methodology lies in the citations themselves and the utilization thereof. In essence, they express the story of process, like breadcrumbs on a trail. Because this paper partially concerns itself with recent events it had to incorporate news articles from reputable sources in order to validate the current events. *The Guardian* is also the creator of *The Counted*, where the idea for this paper originally stems from. News articles were also valuable as links to official government sources, such as the Department of Justice’s report on the Ferguson Police Department, which may never have been found otherwise. Much time was spent perusing the FBI’s

website, looking at their various publications and guidelines. While much information is accessible there, it is not organized efficiently and one often has to go digging around for exactly what one is trying to unearth. Congressional Research Service (CRS) reports were extremely helpful in providing context and history, especially since much of the information found in them was nowhere to be found on the FBI's site. CRS is a legislative branch agency, working with and as a subsection of the Library of Congress, meaning that many librarians are in their ranks, contributing to these heavily researched reports utilized by Congress. CRS reports also often led me to useful legislation, which I could then find the official record of elsewhere. Time was also spent sifting through sources that were interesting, but were not geared towards this paper, such as FBI Inspector General Reports. Other sources were found which were part of the bigger picture, concerning the issues in this paper, but were outside the scope of this paper. For example, reports and legislation specifically about where judicial punishment for law enforcement extends from concerning a breach of use of force.

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