TEXAS CUSTODIAL DEATH REPORT

Police, jail, and prison deaths 2005-2015

Texas Justice Initiative
July 2016
ACKNOWLEDGMENTS

This report was written and researched by Amanda Woog, JD, postdoctoral legal fellow at the Institute for Urban Policy Research and Analysis (IUPRA) at the University of Texas at Austin and project director of the Texas Justice Initiative. Production assistance was provided by Samantha White-Wilson, multimedia communications specialist at IUPRA, and research assistance was provided by Roderick Taylor, student assistant at IUPRA. Thanks to Scott Henson, Amanda Marzullo, and Robert Pinkard, who provided critical feedback and assistance with the publication of this report and www.TexasJusticeInitiative.org, and Dr. Shetal Vohra-Gupta, associate director of IUPRA and Dr. Kevin Cokley, director of IUPRA, for their encouragement and support in the conception and launch of this project. We are also grateful to the Rapoport Center for Human Rights and Justice at the University of Texas School of Law and the France-Merrick Foundation for recognizing the value of this project and their contributions to its creation. Finally, many thanks to Professor Michele Deitch, senior lecturer at the Lyndon B. Johnson School of Public Affairs and the University of Texas School of Law; Dr. Kali Gross, professor of African American Studies at Wesleyan University; and Professor Jennifer Laurin, professor of law at the University of Texas School of Law, for their advice, feedback, candor, and support.
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INTRODUCTION

From 2005 to 2015, Texas executed 195 people for capital crimes.1 Every time the state executes a condemned person, media cover the execution extensively. Accounts include details about the person’s last meal,2 final words,3 and number of minutes between the administration of the lethal injection and death.4

Also from 2005 to 2015, a reported 6,913 people died in the custody of law enforcement and other state officials in Texas.5 These deaths occurred in local jail cells,6 in the backs of police cars,7 and on prison sidewalks.8 More than 1,900 of the people who died (28%) had not been convicted of, or in many cases, even charged with a crime. Despite recent growing interest in counting and reporting on custodial and police-involved deaths, most of the nearly 7,000 people who died have never had their stories told, and aggregate data regarding the manner and locations of their deaths have not been widely available. Unlike state-sanctioned executions, which occur on a set schedule and venue and are painstakingly documented, these extra-judicial deaths in custody are diffuse. They occur at every point and phase of our criminal justice system, in a manner that remains largely untracked and unexamined.

This is where the Texas Justice Initiative (TJI) seeks to make an impact. TJI, a project of the Institute for Urban Policy Research and Analysis at the University of Texas at Austin, launched an online interactive database at www.TexasJusticeInitiative.org of custodial deaths reported in Texas from 2005 through 2015. The database’s filtering options allow visitors to approach the data with their own questions, such as the extent to which black people are overrepresented in deaths in police interactions, or how causes of death vary by type of jail. The website is a starting point and tool for anyone interested in learning more about or contributing to the conversations around some of the most pressing problems of our times: the human toll and disparate impacts of mass incarceration and policing.

TJI’s goals are to bring attention to the hundreds of people who die yearly in Texas’s criminal justice system; to provide a resource for researchers, policymakers, and community members to interrogate the system which results in so many casualties; and ultimately to reduce the number of deaths. In the next phase of this project, we will gather additional information on these deaths and the lives of the people who died from news reports and other public sources, family members, and loved ones. We welcome feedback, comments, and collaboration.
EXECUTIVE SUMMARY

This report provides an introduction to the data – where it came from, and what it can tell us – and also gives readers a high-level view of what we’ve seen so far and some notable data points. Together with the TJI website, it provides initial observations about who is dying in the Texas criminal justice system and how they are dying. Some observations include:

• The racial disparities we see in Texas’s criminal justice system generally translate into racial disparities in custodial mortality. For example, while black people made up 12% of the state’s population in 2010, they comprised 36% of the incarcerated population in Texas in 2005-2014, and accounted for 30% of the deaths in custody in 2005-2015.

• When excluding natural causes, cause of death varied widely by demographic.
  > Justifiable homicide was the leading cause of non-natural deaths for black and Latino males. Justifiable homicide accounted for 30% of black male non-natural deaths and 34% of Latino male non-natural deaths, as compared to 24% of white male non-natural deaths.
  > Suicide was the leading cause of non-natural deaths for both white men and white women. Suicides accounted for 47% of white male non-natural deaths and 49% of white female non-natural deaths, as compared to 31% of non-natural deaths for males and females of other races/ethnicities.
  > Alcohol/drug intoxication was the leading cause of non-natural deaths for black and Latina women. Alcohol/drug intoxication accounted for 37% of black female non-natural deaths and 32% of Latina female non-natural deaths, as compared to 12-17% of non-natural deaths for both males and females of other races/ethnicities.

  • Current pre-trial and bail practices keep tens of thousands of people in Texas jails without conviction of a crime. As a result, 76% of the people who died in jail had not been convicted of a crime, with 16% of those people having not even been charged.

  • Pre-booking deaths reported by law enforcement have been on the rise since 2005, having more than doubled from the fewest reported deaths in 2006 (74) to the most reported deaths in 2015 (152).

  • Close to half of the people who died in prisons (48%) had been in custody for less than five years.

  • Forty-one percent of people who died in jails were reported to have appeared intoxicated, exhibited mental health problems, or exhibited medical problems upon entry into the facility.

The reporting requirement

Under Texas Code of Criminal Procedure Article 49.18, if a person dies in police, jail, or prison custody, or as the result of a peace officer’s use of force, the person in charge of the custodial institution (i.e. the sheriff or the director of the facility) must file a custodial death report within 30 days of the death. The report is four pages long and includes information such as the name of the facility; the name, age, and race/ethnicity of the person who died; and where and how the death occurred. The person completing the form must also attach a summary of how the death occurred.

The reporting requirement is backed by a criminal penalty for failure to report. Under section 39.05 of the Texas Penal Code, “Failure to Report Death of a Prisoner” is a Class B misdemeanor. However, enforcement of the law depends on local law enforcement pursuing charges against local law enforcement or prison officials. We did not find a single prosecution under this section of the Penal Code.
“Justifiable homicide”

Justifiable homicide is the problematic term used to describe most deaths by police shooting. Using this term to report these deaths by law enforcement is a problem for three main reasons. 1) Calling a homicide “justifiable” appears conclusory when it is not clear who made the decision that it was justifiable and what kind of investigation took place. 2) The term is both under inclusive and over inclusive with respect to officer-involved shootings; it can include cases in which police were not involved and also leave out police shootings not considered justifiable. 3) It casts the conversation in terms of the legal question of justifiability, which distracts from the question of preventability. Use of this term to describe deaths by officer-involved shooting is not unique to Texas. The FBI’s Uniform Crime Reporting Program also reports on “justifiable homicide,” which it defines as “the killing of a felon by a peace officer in the line of duty.”
Figure 2. Race/ethnicity and causes for all deaths in custody

DATA HIGHLIGHTS

Overview

Decedent Characteristics

- Although black people made up 12% of Texas’s population in 2010, they comprised 36% of the incarcerated population in 2005-2014 (the last year for which data were available), and 30% of custodial deaths in 2005-2015.
- White people made up 45% of Texas’s population in 2010, but comprised 31% of the incarcerated population in 2005-2014, and 42% of custodial deaths in 2005-2015.
- Latinos/as accounted for 38% of Texas’s population in 2010, and comprised 32% of the incarcerated population between 2005 and 2014, and 28% of custodial deaths in 2005-2015.
- Twenty-eight percent of reported decedents (1,942 people) died before having been convicted of the alleged crime.
- Sixty-eight percent of deaths (4,684) occurred in prisons, 16% (1,111) occurred in jails, and 16% (1,118) occurred in police interactions or police custody.

Cause of Death

- The top three causes of death in custody were natural causes/illness (70%), suicide (11%), and justifiable homicide (8%).

Other notable findings

- The most custodial deaths to occur in a single year was 683 in 2015, compared to an average of 623 per year over the previous ten years.
Deaths in Police Encounters

Decedent Characteristics

- While Latinos/as represented 27% of deaths in jails or prison custody, they accounted for 33% of deaths in police interactions.
  - The reverse held for white people, who represented 42% of deaths in jail or prison custody and 38% of deaths in police interactions.
- The median age of a white person who died in an encounter with police was 38, for black people was 31, and for Latinos/as was 30.
- Close to 90% of people who died in encounters with police had not been charged with a crime.

Cause of Death

- “Justifiable homicide” was the most common cause of death in police encounters at 50%, followed by suicide at 16% and alcohol/drug intoxication at 15%.

Other notable findings

- Pre-custody deaths reported by law enforcement agencies increased by 83% from 2005 to 2015 (from 83 to 152) and more than doubled since 2006, the year with the fewest reported deaths (74).
  - This increase is largely due to increases in deaths by suicide, justifiable homicide, other homicide, and “other.”
  - Deaths by “other” went from zero reported in 2005 to 29 reported in 2015. These deaths fell into three categories: officer-involved shootings (12), a person becoming unresponsive after being handcuffed (10), and a person becoming unresponsive after being tased (7).
Deaths in Jails

Decedent Characteristics

- White people were most represented in jail deaths (44%) when compared with police deaths (38%) and prison deaths (42%).
- Seventy-six percent of the people who died in jails had not been convicted of the crime for which they were being held.

Cause of Death

- Cause of death in jails varied by race/ethnicity and gender.
  - Suicide was the cause of death for 36% of white people who died in jails, while it accounted for 29% of deaths of Latinos/as and 11% of deaths of black people.
  - Alcohol/drug intoxication was the cause of death for 20% of black women who died in jails, while it accounted for 12% of deaths of white and Latina women, 9% of deaths of Latino men, 8% of deaths of white men, and 7% of deaths of black men.

Other notable findings

- Forty-one percent of people who died in jails were reported to have appeared intoxicated, exhibited mental health problems, or exhibited medical problems upon entry into the facility.
- The average number of deaths in jails per year from 2005 to 2015 was 101. The highest number of deaths occurred in 2006 and 2015, which saw 126 and 115 deaths respectively.
- Between 2005 and 2015, 130 people died in municipal jails, with 32% of those deaths having been caused by alcohol/drug intoxication and 36% by suicide.
  - By comparison, between 2005 and 2015, 970 people died in county jails, with 6% of those deaths having been caused by alcohol/drug intoxication and 26% by suicide.
  - Natural causes accounted for 20% of deaths in municipal jails and 59% of deaths in county jails.
- Forty-one percent of people who died in jails had been in custody for seven or fewer days.
Deaths in Prisons

**Decedent Characteristics**

- While white people made up on average [31% of the prison population from 2005 to 2014](#) (the last year for which TDCJ data were available), they made up [42% of prison deaths from 2005 to 2015](#).
- The median age of a person who died in prison custody between 2005 and 2015 was 54.
  - White people who died in prisons were older than people of other races or ethnicities who died in prison. The median age of white decedents was 57, while the median age for black and Latino/a decedents was 53.
  - While 90% of reported deaths were caused by natural causes, this median age of death is far below the life expectancy of the average Texan, which was 72 for persons born in 1970 (the earliest year for which the Texas Department of State Health Services calculated life expectancy).

**Cause of Death**

- Natural causes accounted for 90% of prison deaths between 2005 and 2015.
- For people ages 35 and under, the leading cause of death was suicide.

**Other notable findings**

- The average number of deaths in prisons per year from 2005 to 2015 was 426. The highest numbers of deaths occurred in 2008 and 2012, with 472 and 467 deaths, respectively.
- Forty-eight percent of people who died in prisons from 2005 to 2015 had been in custody for less than five years.

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**Figure 5. Length of time in custody for prison deaths**

<table>
<thead>
<tr>
<th>Length of Custody</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-5 years</td>
<td>48%</td>
</tr>
<tr>
<td>5-10 years</td>
<td>16%</td>
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<tr>
<td>10-15 years</td>
<td>12%</td>
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<tr>
<td>15-20 years</td>
<td>13%</td>
</tr>
<tr>
<td>20-25 years</td>
<td>5%</td>
</tr>
<tr>
<td>25+ years</td>
<td>6%</td>
</tr>
<tr>
<td>N/A</td>
<td>&lt; 1%</td>
</tr>
</tbody>
</table>
CONCLUSION AND NEXT STEPS

These early observations naturally spur additional questions. Why have deaths reported by law enforcement been rising? Is this a state or local problem? How can we tackle jail deaths on a wide scale without leaving behind populations that appear in lower numbers but are impacted in distinct ways by policing and confinement, such as black women, who die at higher rates of alcohol/drug intoxication than other populations? Where are the gaps in medical care in our criminal justice system and how can we improve medical responses and outcomes? How many lives could be saved by diverting people with mental health and/or substance use issues from the criminal justice system into proper treatment settings? We hope that the launch of this website and the publication of this report bring additional study to the questions the data raise.

In this way, the data published in this report and at www.TexasJusticeInitiative.org should be treated as a beginning and not an end to research around these questions. We also welcome critical examination of the data; reporting of a death by the custodian responsible for a person’s well-being should be taken with a healthy dose of skepticism. In this vein, we have begun to identify blind spots in the data collection. For example, transgender people are rendered virtually invisible by the reporting form, which does not instruct on how to identify gender, and does not have an option for transgender or nonbinary gender identities. As we delve more deeply into this data, we must also think critically about how stories around these deaths are told, and who has the privilege of telling them.

For this reason, in the next phase of this project we hope to incorporate different accounts of these deaths and also the lives of the people who died. If you are interested in contributing to this project, please contact us.
ENDNOTES

5. Unless otherwise noted, the data in this report is derived from information received via public information request from the Texas Office of the Attorney General and the Texas Department of Criminal Justice relating to custodial deaths from 2005 to 2015.
6. According to the custodial death report filed by the River Oaks Police Department, Christine Sexton, a 40-year-old white woman, died Feb. 6, 2013 in a cell in the River Oaks City Jail from suicide by asphyxiation. She had been arrested and booked in the jail on Feb. 2, 2013 for outstanding Class C misdemeanor warrants for not having a valid driver’s license and failure to appear.
7. According to the custodial death report filed by the Temple Police Department, Curtis Lee Lewis, a 56-year-old black man, died Jan. 10, 2005 after being found nonresponsive following transport in a police vehicle to the emergency room. Officers had been dispatched to respond to a fight call and found Lewis “lying face up in the street screaming and holding a cooking pot in both hands and banging it on the ground on either side of his head.” Officers placed Lewis in handcuffs and then a hobble restraint in the patrol car in order to transport him to the emergency room for a “mental evaluation.” After Lewis was transported, placed on a stretcher, and taken into the emergency room, it was “determined that Lewis had no pulse and [was] not breathing.” He was pronounced deceased less than an hour after the initial police encounter.
8. According to the custodial death report filed by the Texas Department of Criminal Justice, Frederick Loeber, a 49-year-old white man, died Aug. 26, 2010 after being struck in the head by another incarcerated person and then hitting his head when he fell to the concrete sidewalk. He underwent emergency surgery, which was ultimately unsuccessful.
9. The custodial death reports on which this report is based include “Anglo,” “African-American,” and “Hispanic” as choices in the question on “race/ethnic group.” This report uses the terms “white,” “black,” and “Latino/a,” except in graphs and tables.
19. Id.
APPENDIX
For reporting requirements and procedures, see Section 39.05 of the Penal Code, Article 49.18 (b)(c) of The Code of Criminal Procedure and Article 501.055(b) of The Government Code.

Section 39.05 Failure to Report Death of Prisoner:

(a) A person commits an offense if the person is required to conduct an investigation and file a report by Article 49.18, Code of Criminal Procedure, and the person fails to investigate the death, fails to file the report as required, or fails to include in a filed report facts known or discovered in the investigation.

(b) A person commits an offense if the person is required by Section 501.055, Government Code, to:

(1) give notice of the death of an inmate and the person fails to give the notice; or

(2) conduct an investigation and file a report and the person:

(A) fails to conduct the investigation or file the report, or

(B) fails to include in the report facts known to the person or discovered by the person in the investigation.

(c) An offense under this section is a Class B misdemeanor.

Article 49.18 (a) (b) (c) (d) . Death in Custody

(a) If a person confined in a penal institution dies, the sheriff or other person in charge of the penal institution shall as soon as practicable inform the justice of the peace of the precinct where the penal institution is located of the death.

(b) If a person dies while in the custody of a peace officer or as a result of a peace officer's use of force or if a person incarcerated in a jail, correctional facility, or state juvenile facility dies, the director of the law enforcement agency of which the officer is a member or of the facility in which the person was incarcerated shall investigate the death and file a written report of the cause of death with the attorney general no later than the 30th day after the date on which the person in custody or the incarcerated person died. The director shall make a good faith effort to obtain all facts relevant to the death and include those facts in the report. The attorney general shall make the report, with the exception of any portion of the report that the attorney general determines is privileged, available to any interested person.

(c) Subsection (a) does not apply to a death that occurs in a facility operated by or under contract with the Texas Department of Criminal Justice. Subsection (b) does not apply to a death that occurs in a facility operated by or under contract with the Texas Department of Criminal Justice if the death occurs under circumstances described by Section 501.055(b)(2), Government Code.

(d) In this article:

(1) "Correctional facility" means a confinement facility or halfway house operated by or under contract with any division of the Texas Department of Criminal Justice.

(2) "In the custody of a peace officer" means:

(A) under arrest by a peace officer; or

(B) under the physical control or restraint of a peace officer.

(3) "State juvenile facility" means any facility or halfway house:

(A) operated by or under contract with the Texas Youth Commission; or

(B) described by Section 51.02 (13) or (14), Family Code.

Mail to: Office of the Attorney General
Criminal Law Enforcement Division
P.O. Box 12548
Austin, Texas 78711-2548
(512)463-2170

Section 1

1. Agency/Facility Information

Name of Agency/Facility:
Address:
City, Zip Code:
Telephone Number:
Signature of Director of Agency/Facility (Required):
Name of Person Filling out Form:
Email of Person Filling out Form:

Revised 5/06 replaces form of 07/03 which is obsolete
2. **Identity of Deceased:**

First Name: ____________________________________
Middle Name: ________________________________
Last Name: ___________________________________
Suffix: ______________________________________

**Race/Ethnic Group:**

- □ African/American
- □ American Indian/Alaska Native
- □ Anglo
- □ Asian
- □ Hispanic
- □ Native Hawaiian/Pacific Islander
- □ Middle East
- □ Other - Specify: ______________________________

Sex: □ Male □ Female

Date of Birth:

- Month: ________ Day: ________ Year: ________
- Age: __________

3. **Date/Time of Custody (arrest/incarceration):**

- Month: ________ Day: ________ Year: ________
- Time: Hour: ________ Min: ________ □ am □ pm

4. **Date/Time of Death:**

- Month: ________ Day: ________ Year: ________
- Time: Hour: ________ Min: ________ □ am □ pm

5. **Where did the event causing the death occur?**

- Street address: ___________________________________
- City: __________________________________________
- County: ________________________________________

6. **Has a medical examiner or coroner conducted an evaluation to determine a cause of death?**

- □ Yes, results are available
- □ Yes, results are pending
- □ No, evaluation pending
- □ No, evaluation not planned

7. **Manner of death:**

- □ Accidental injury to self
- □ Accidental injury caused by others
- □ Alcohol/Drug intoxication
- □ Justifiable Homicide
- □ Other Homicide
- □ Suicide
- □ Natural Causes/Illness - Specify: __________________________
- □ Other - Specify: __________________________

8. **Medical Cause of Death:**

______________________________________________________________

9. **Was the cause of death the result of a pre-existing medical condition or did the deceased develop the condition after admission?**

- □ Pre-existing medical condition
- □ Developed condition after admission
- □ Not applicable; cause of death was accidental injury, intoxication, suicide or homicide
- □ Don't know

10. **Had the deceased been receiving treatment for the medical condition after admission to your jail's jurisdiction?**

- □ Not applicable
- □ No
- □ Yes - If yes, describe below (include only treatment and medication related to the medical condition that caused the deceased's death. Exclude emergency care provided at time of death):

  ______________________________________________________________
  ______________________________________________________________
  ______________________________________________________________
  ______________________________________________________________

11. **What type of custody/facility was the offender in/at prior to the time of death?**

- □ Police Custody (pre-booking)
- □ Penitentiary
- □ Municipal Jail
- □ County Jail

12. **Specific type of custody/facility:**

- □ Custody of Peace Officer during/fleeing arrest
- □ Custody of Peace Officer subsequent to arrest
- □ TDCJ-ID (Unit) ______________________________
- □ Jail - single cell
- □ Jail - detox cell
- □ Jail - multiple occupancy cell
- □ Jail - holding cell
- □ Jail - day room/recreation area
- □ Correctional/Rehabilitation Facility
- □ Hospital/Infirmary
- □ Halfway House/Restitution Center
- □ Non-law enforcement detox facility
  - Name: __________________________
  - TYC - Facility: __________________________
  - TJPC Detention Center: __________________________

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Revised 5/06 replaces form of 07/03 which is obsolete
13. What were the most serious offense(s) with which the deceased was (or would have been) charged with at the time of death (REQUIRED):

1. ________________________________
2. ________________________________
3. ________________________________

- Filed
- Convicted
- Probation/Parole
- Not filed at time of death

Type of Charges:
- Violent crime against persons
- Child abuse
- Serious crime against property
- Alcohol/drug offense
- Other-specified: ________________________________

14. Did the deceased die from a medical condition or from injuries sustained at the crime/arrest scene?

- Medical condition only
- Injuries only
- Both medical condition and injuries
- Don't know
- Not applicable

15. If injured at the crime/arrest scene, how were these injuries sustained?

- Inflicted by law enforcement officers
- Inflicted by others at crime/arrest scene
- Self-inflicted - accidental
- Self-inflicted - suicide
- Unknown
- Not applicable

16. Was the deceased under restraint in the time leading up to the death or the events causing the death?

- No
- Yes

If yes, mark which restraint devices were used:
- Handcuffs
- Leg shackles
- Other device - specify: ________________________________

17. What type of weapon(s) caused the death? (Mark ALL that apply)

- Handgun
- Rifle/Shotgun
- Nightstick or baton
- Stun gun or tazer
- Other - specify: ________________________________
- Not applicable

18. At any time during the arrest/incident did the deceased: (Mark ALL that apply)

- Appear intoxicated (either alcohol or drugs)?
- Threaten the officer(s) involved?
- Resist being handcuffed or arrested?
- Try to escape/flee from custody?
- Grab, hit or fight with the officer(s) involved?
- Use a weapon to threaten or assault the officer(s)?

Specify: ________________________________

- Other - specify: ________________________________
- Not applicable

19. Where did the deceased die?

- At law enforcement facility
- At the crime/arrest scene
- At medical facility
- En route to medical facility
- En route to booking center/police lockup
- Elsewhere - Specify: ________________________________

20. What was the time and date of the deceased's entry into the law enforcement facility where the death occurred?

- N/A

Month: ________ Day ________ Year: ________

Time: Hour: ________ Min: ________ □ am □ pm

21. At the time of entry into the facility did the deceased:

- Appear intoxicated (either alcohol or drugs)?
- Exhibit any mental health problems?
- Exhibit any medical problems?
- Not applicable

22. If death was an accident or homicide, who caused the death?

- Deceased
- Other detainees
- Law enforcement/correctional staff
- Other persons - specify: ________________________________
- Don't know
- Not applicable; cause of death was suicide, intoxication or illness/natural causes

Revised 5/06 replaces form of 07/03 which is obsolete
23. If death was an accident, homicide or suicide, what was the means of death?
   □ Firearm
   □ Blunt instrument
   □ Knife, cutting instrument
   □ Hanging, strangulation
   □ Drug overdose
   □ Other - specify: _______________________________
   □ Don't know
   □ Not applicable; cause of death was intoxication or illness/natural causes

24. ATTACH A SUMMARY OF HOW THE DEATH OCCURRED:
### Table 1. Age of decedent by race/ethnicity and gender

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<th>35-44</th>
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Table 8. Deaths in jails by cause of death, race/ethnicity, and gender

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Table 9. Deaths in prisons by cause of death, race/ethnicity, and gender

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