

**DEPARTMENT OF JUSTICE PROPOSAL
RESPONDING TO THE EXECUTIVE MEMORANDUM ON FAIRNESS IN LAW ENFORCEMENT**

I. Purpose

To respond to the Executive Memorandum on Fairness in Law Enforcement.

II. Background

On June 9, 1999, President Clinton issued an executive memorandum to the Secretary of the Interior, the Attorney General, and the Secretary of the Treasury directing them "to design and implement a system to collect and report statistics relating to race, ethnicity, and gender for law enforcement activities in each department." The Departments were required to submit their data collection proposals by October 9, 1999.

The executive memorandum requires each of the agencies within the respective Departments to improve data collection at all levels of law enforcement to address the problem of racial profiling. Department of Justice representatives have worked with Interior, Treasury, and Office of Management and Budget officials to ensure the use of standard race and ethnicity definitions and collection methods.

The executive memorandum explicitly requires the collection and reporting of data describing persons who are stopped or searched by Federal law enforcement. Data describing persons arrested by Federal law enforcement and prosecuted by U.S. attorneys will also be collected and analyzed.

Pursuant to the executive memorandum, four tasks are required of the Departments:

- (1) within 120 days of the memorandum, a proposal for a system of a data collection and implementation plan will be developed;
- (2) to the extent practicable, data sufficiently detailed to permit further analysis, will be collected on the activities of each Department's law enforcement agencies; and
- (3) prepare a report summarizing the information collected during the first year including (a) an evaluation of the field test, (b) an implementation plan for expanded data collection, and (c) recommendations for improving the fair administration of Federal law enforcement activities.
- (4) within 120 days of the memorandum, prepare a report describing training programs, policies, and practices regarding the use of race, ethnicity, and gender in law enforcement practices and recommendations for improvement.

Within 60 days of the submission of this proposal the agencies are required to begin the field test of the data collection systems. Following the first year of the field test, the Attorney General will prepare a report for the President summarizing the information collected during the first year including (a) an evaluation of the field test and (b) an implementation plan for expanded data collection. This report will be prepared by May 31, 2001. Interim reports will be prepared by the Department describing its recommendations for improving the fair administration of Federal law enforcement activities.

This document describes the proposed data collection plans for the participating Department of Justice law enforcement agencies. Within the Department of Justice, the Drug Enforcement Administration and the Immigration and Naturalization Service were determined to be the agencies that routinely engage in nonsuspect specific public encounters on a regular basis. The Federal Bureau of Investigations, U.S. Marshals Service, and the Bureau of Prisons do not engage in nonsuspect specific public encounters.

While only the Drug Enforcement Administration and the Immigration and Naturalization Service were selected for the field test of a data collection system for nonsuspect-specific public encounters, all agencies will provide data collected on arrests made, or in the case of the U.S. Attorneys, suspects prosecuted. The analysis of these data will assist in identifying racial or ethnic disparities in Federal law enforcement agencies' activities related to arrests, prosecutorial decisions, and issues relating to the sentencing of Federal offenders under the provenance of the U.S. Attorneys, e.g., motions for downward departures for substantial assistance to the government.

III. Issues relating to the collection of race and ethnicity

On October 30, 1997, the Office of Management and Budget (OMB) revised the *Standards for the Classification of Federal Data on Race and Ethnicity*.¹ As part of the revised OMB standards, Federal agencies are required to collect a minimum of five categories for data describing race:

- American Indian or Alaska Native,
- Asian,
- Black or African American,
- Native Hawaiian or Other Pacific Islander, and
- White.

Additionally, two categories are required for data collected describing ethnicity:

- Hispanic or Latino, and
- Not Hispanic or Latino.

OMB encourages agencies to collect data concerning race and ethnicity by self-report using the two-question format and allowing multiple responses to the race question. For purposes of implementing the Executive Memorandum on Fairness in Law Enforcement, Federal agencies will be permitted to record a single race category by observation.

A "combined format" may be used for observer-collected data on race and ethnicity. The combined format has six categories -- the five categories of race plus "Hispanic or Latino." OMB standards encourage the collection of greater detail as long as additional categories can be aggregated into the minimum categories for race and ethnicity. However, if additional ethnic categories are collected beyond Hispanic, *infra*, the two question format is most practical.

Federal programs collecting data for use in household surveys, administrative forms and records, and other data collections must be consistent with the OMB standards as soon as possible but not later than January 1, 2003.

To ensure consistency and comparability of data across its agencies, the Department of Justice will require that agencies collect race and ethnicity data using the categories prescribed by OMB. Currently, only the Bureau of Prisons and the Drug Enforcement Administration collect race and ethnicity data using the two-question format.

A. Determining race and ethnicity: *self-report vs. observation*

At the Attorney General's June 1999 conference on *Strengthening Police-Community Relationships*, participants generally agreed that race and ethnicity data collected during a public encounter by law enforcement should be based on the observation of law enforcement officers

¹ 62 Fed Reg 58782 (1997).

rather than self-reports by the person contacted. Conference attendees generally agreed it would be improper for law enforcement officers to ask questions about a person's race and ethnicity during a public encounter. Such questioning may, in fact, aggravate extant perceptions of racial discrimination by law enforcement officers.

OMB standards permit the collection of data on race and ethnicity through observation in instances where it is deemed impractical to collect such data through self-reports, e.g., by a medical examiner when completing a death certificate. Following the recommendation of conference participants, the Bureau of Justice Statistics (BJS) in the Department of Justice has informed OMB that the collection of data on race and ethnicity will be through observation when making nonsuspect-specific public encounters.

B. Issues relating to ethnicity

Currently, the minimum designation for ethnicity as part of the OMB *Standards for the Classification of Federal Data on Race and Ethnicity* is "Hispanic or Latino." With regard to implementing the Executive Memorandum on Fairness in Law Enforcement, additional ethnic groups should be recognized, as the agencies deem appropriate, so as to permit the monitoring of encounters involving other ethnic groups. Additional categories may include Arabic/Middle Eastern or Southeast Asian.²

IV. Agency data collection proposals

For a complete picture of Federal law enforcement activities and processing of defendants, data describing Federal law enforcement activities will be collected and analyzed describing (1) nonsuspect-specific public encounters, (2) suspects arrested by Federal law enforcement agencies, (3) defendants prosecuted in Federal courts, and (4) defendants sentenced in Federal courts. Several Federal agencies -- including the US Marshals Service, the Executive Office for the US Attorneys, the Federal Judiciary, the US Sentencing Commission, and the Bureau of Prisons -- currently provide data on the processing of Federal defendants to the Bureau of Justice Statistics as part of its Federal Justice Statistics Program.

A. Nonsuspect-specific public encounters

The executive memorandum requires that a field test of the proposed data collection system begin within 60 days of finalizing the proposal, or December 7, 1999. While many of the activities can begin on or around that date, it is unlikely that a completely automated data entry system could be designed and implemented by that date. As a result of competing Y2K issues, the DOJ agencies (and in the case of the Immigration and Naturalization Service, the U.S. Customs Service) are not expected to have automated systems in place until March 31, 2000. Until automated systems are in place, data collection will be conducted manually.³

1. Drug Enforcement Administration

Despite intervening Y2K priorities, the Drug Enforcement Administration has proposed to implement interim procedures to collect information on nonsuspect-specific public encounters. As with its current procedures relating to arrest data, data will be collected by special agents in hard copy. Data collection forms will be forwarded by each participating field office to DEA Headquarters in Arlington, VA on a regular basis and keypunched by DEA data entry staff. Following the design and implementation of

² OMB has not promulgated standards for identifying ethnic groups beyond Hispanic. Some of the agencies have expressed concern regarding the absence of defining criteria for other ethnic groups and, therefore, are reluctant to expand the collection of data to additional ethnic categories.

³ The U.S. Customs Service maintains the Interagency Border Inspection System used by INS. According to INS, any changes to this system will need to be accomplished by the U.S. Customs Service

modifications to its Divisional Enforcement Activity Log system, data entry will be completed in each participating field office. Hard copies of the data collection forms will continue to be forwarded to Arlington for archiving and quality control.

As part of its *Operation Jetway* drug interdiction program, DEA special agents routinely make pedestrian stops in airports, train and bus stations, and parcel facilities. The Drug Enforcement Administration has identified a set of factors it considers when approaching an individual suspected of transporting controlled substances. Searches of persons encountered may be conducted of those stopped.

The Drug Enforcement Administration is proposing at least six and up to nine *Operation Jetway* sites for the field test: Detroit Metropolitan Airport, Newark International Airport, Chicago-O'Hare International Airport, George Bush Intercontinental Airport (Houston), Miami International Airport, Charleston, SC bus station, Cleveland, OH train station, Albuquerque, NM train station, and Sacramento, CA bus station. The selection of such varied sites will provide for the monitoring of people using different modes of transportation under the observation of DEA special agents. BJS will analyze the data collected by DEA.

To determine whether race and ethnicity are used by DEA agents as criteria for initiating contact, an independent study of the demographic characteristics of persons using those transportation terminals will eventually be needed. Certain modes of transportation and transportation terminals in certain areas may be used more frequently by persons of particular racial or ethnic groups. Therefore, it is important to determine the demographic composition of the population observed by DEA special agents as part of *Operation Jetway*.

BJS is pursuing a variety of research and monitoring techniques available to help estimate the demographic composition of the total population under consideration. This is necessary to determine whether law enforcement disproportionately encounters a particular race or ethnic group in non-suspect stops.

2. Immigration and Naturalization Service

The field test by the Immigration and Naturalization Service is complicated by three factors: (1) the data systems used by INS are developed and maintained by the U.S. Customs Service; (2) INS is statutorily required to process passengers arriving into the United States by plane within 45 minutes of arrival;⁴ and (3) the volume of entrants processed by INS – more than 450 million primary inspections are conducted annually – would make any data collection involving the population of those entering impractical.

According to the Department of Treasury, it is unlikely that the Interagency Border Inspection System (IBIS) can be modified to incorporate changes required of this effort before the end of the calendar year. Customs Service resources are committed to resolving Y2K issues before any new applications can be developed or existing applications modified.

All persons entering the United States are interviewed by INS inspections officers at land border crossings, seaports, and airports. (At some land borders, INS and Customs inspectors share duties.) The Immigration and Naturalization Service has identified a set of factors its agents consider when making secondary referrals. Additionally, INS Border Patrol agents routinely patrol areas near land borders for persons illegally crossing into

⁴ 8 U.S.C. § 1356(g).

the United States and INS investigators routinely investigate employers to determine whether they employ illegal aliens. Investigations of employers are initiated following examination of employment and tax records rather than onsite inspections. A review of case files will be conducted to determine at which point in the process race, ethnicity, or gender becomes known and whether that knowledge has an impact on how cases are handled by INS. The Department is also considering whether additional data collection for worksite enforcement is appropriate and practicable.

To determine the demographic characteristics of those entering the United States, the collection of race and ethnicity data on a statistical sample of those entering the United States would be most practical. Samples could be drawn from the INS's Advance Passenger Information System. Full data collection would be conducted on those persons referred for secondary inspection.

The Immigration and Naturalization Service is proposing ports of entry for the field test including John F. Kennedy International Airport, George Bush Intercontinental Airport (Houston), and Seattle/Tacoma Airport. In addition, Border Patrol agents conducting "roving patrols" stationed at the El Cajon Station (near San Diego, CA), Yuma Station (near Yuma, AZ), and El Paso Station (near El Paso, TX) will also participate in the field test. A fixed check-point in the Southwest United States and a land-border crossing along the U.S.-Mexican border (Del Rio, Texas) will also be included.

It is anticipated that the U.S. Customs Service will also propose John F. Kennedy Airport as a site for its field test. Accordingly, the collection of data on the enforcement activities of the Drug Enforcement Administration, the Immigration and Naturalization Service, and the U.S. Customs Service at the same airports (e.g., JFK Airport: INS and Customs; Houston: DEA and INS) will permit comprehensive monitoring of the law enforcement activities relating to persons using a selected ports of entry.

The Immigration and Naturalization Service submitted a proposal describing the scope of its activities relating to the Executive Memorandum (See, Attachment 1)

3. Data elements to be collected

A core set of data elements is proposed for the participating law enforcement agencies to collect on each nonsuspect-specific public encounter or, in the case of the Immigration and Naturalization Service, on each referral for secondary inspection. Information describing demographic characteristics such as gender, race, ethnicity, national origin, and date of birth will be based on the agents' observation of the person encountered or official documents, e.g., drivers' license and passports, where available. The minimum data elements that will be collected are:

- **Date of the encounter.** Month, day, and year of the encounter.
- **Time of the contact (start).** Time of day the contact was initiated.
- **Gender.** The person's observed gender – Male or Female.
- **Race and Ethnicity.** Race and ethnicity will be collected in accordance with the OMB Standards for the Classification of Federal data on Race and Ethnicity (See, attachment 2).
- **National origin.** National origin will be collected for all encounters at land border crossings, sea ports, International airports, and roving patrols by INS Border Patrol Agents. National origin will be based on the agents' review of travel documents including passports and visas. The collection of data on national origin will serve as a supplement to data collected on the ethnicity.
- **Location of contact.** General information describing the location of the encounter such as the name of the border crossing, seaport, airport, train or bus

- station, or street address. For encounters in airports, information identifying the terminal (domestic, international (arrivals or departures)) will also be collected.
- **Suspected criminal activity:** The illegal activity for which the person is suspected. NCIC codes describing criminal activity will be used (See, attachment 3).
- **Reason(s) for contact:** Any information describing the reasons the agent initiated contact with the person. For INS inspections, only the reasons the person was referred to secondary inspection will be recorded, since primary inspection is required of all persons attempting entry into the United States.
- **External sources of information on the person contacted:** Any external sources of information regarding potential illegal activity by the person will be recorded.
- **Law enforcement action taken:** Actions taken by agents in response to the initial encounter will be recorded. Possible actions by agents include, citation, consent searches, warrantless searches, temporary detention, arrest, and voluntary departure (INS only).
- **Time of contact (end):** Time of day the contact was concluded.

The agencies may collect additional data as they deem appropriate. While the Executive Memorandum prohibits the collection of information identifiable to an individual (both the individual encountered and the law enforcement officer making the contact), if this information is currently collected by the agencies for administrative purposes, the agencies are not asked to halt the collection of this information. However, for the purposes of tasks associated with the Executive Memorandum, this information will not be included in any data files forwarded to the Bureau of Justice Statistics for analysis.

B. Arrest data

Currently, each of the DOJ law enforcement agencies collects information describing persons arrested. As part of its tasks related to the executive Memorandum, the Bureau of Justice Statistics reviewed each agency's data collection system to determine the extent to which data describing the arrestee's race, ethnicity, and gender was collected and whether those data elements were collected in a manner consistent with the OMB *Standards for the Classification of Federal data on Race and Ethnicity*.

The Bureau of Justice Statistics plans to incorporate Federal arrest data into its ongoing Federal Justice Statistics Program. Through its Federal Justice Statistics Program, the Bureau of Justice Statistics currently compiles Federal criminal case processing data from the U.S. Marshals Service, the Executive Office for U.S. Attorneys, the Administrative Office of the U.S. Courts, the U.S. Sentencing Commission, and the Bureau of Prisons. By incorporating arrest data into an existing program, BJS can ensure that these data are regularly and systematically analyzed and reported. Arrest data can be used to monitor the racial and ethnic composition of persons at each stage of the Federal criminal justice system.

1. U.S. Marshals Service.

The U.S. Marshals Service is a central repository for information on persons arrested and booked by Federal law enforcement agencies for Federal offenses. During fiscal year 1998, the U.S. Marshals Service processed 106,180 arrestees (See, attachment 4). Of these, the U.S. Marshals arrested 29,024, or 27% of all Federal arrestees.

The U.S. Marshals Service Prisoner Tracking System does not comply with the OMB *Standards for the Classification of Federal data on Race and Ethnicity*. Currently, the

only racial or ethnic categories collected by the Marshals Service are: *White, Black, Asian, Indian, and Other*. For the Marshals Service to meet the minimum requirements of the OMB standards, the race/ethnicity data element would need to be expanded to include *Hispanic and Native Hawaiian or Other Pacific Islander*.

2. Drug Enforcement Administration.

The Drug Enforcement Administration (DEA) collects information on all persons arrested by DEA special agents regardless of whether the person is prosecuted in Federal, State, or foreign courts. The court of jurisdiction is identified. During fiscal year 1998, DEA special agents arrested more than 30,000 persons.

The Drug Enforcement Administration Defendant Statistical System and Division Enforcement Activity Log do not comply with the OMB *Standards for the Classification of Federal data on Race and Ethnicity*. The DEA systems currently lacks a separate racial group for *Native Hawaiian or Other Pacific Islander*. These racial groups are collected as part of the *Asian* category. For DEA to comply with the OMB standards, the current category *Asian-Pacific Islander* will need to be disaggregated into *Asian* and *Native Hawaiian or Other Pacific Islander*.

3. Federal Bureau of Investigation.

The Federal Bureau of Investigation (FBI) collects information on all persons arrested by FBI special agents regardless of whether the person is prosecuted in Federal, State, or foreign courts. During fiscal year 1998, FBI special agents arrested approximately 12,000 persons.

As part of its Uniform Crime Reporting and National Incident Based Reporting System programs, the FBI is currently reviewing its compliance with the OMB standards.

4. Bureau of Prisons.

The Bureau of Prisons collects information on all persons under its jurisdiction, i.e., pretrial detainees in selected metropolitan areas, sentenced offenders, and certain other long-term detainees. Bureau of Prisons correctional officers make few arrests. As of December 31, 1998, 123,041 persons – about 90% of whom had been convicted – were under the jurisdiction of the Bureau of Prisons.

The Bureau of Prisons SENTRY data system does not comply with the OMB Standards for the Classification of Federal data on Race and Ethnicity. The BOP system currently lacks a separate racial group for *Native Hawaiian or Other Pacific Islander*. These racial groups are collected as part of the *Asian-Pacific Islander* category. For BOP to comply with the OMB standards, the current category *Asian-Pacific Islander* will need to be disaggregated into *Asian* and *Native Hawaiian or Other Pacific Islander*.

5. Immigration and Naturalization Service.

The Immigration and Naturalization Service collects information on all persons entering the United States, all persons apprehended by INS law enforcement for illegally entering or remaining in the United States, and all persons subject to removal from the United States. INS annually makes approximately 450 million primary inspections; 8 million secondary inspections and 1.2 million arrests.

Some of the data systems maintained by INS, e.g., IBIS, RIPS, INTEX, currently do not collect information describing the race and ethnicity of the individual encountered. While the ENFORCE data system does include this information, ENFORCE does not comply with the OMB Standards for the Classification of Federal data on Race and Ethnicity. The ENFORCE system currently lacks a separate racial group for *Native Hawaiian or Other Pacific Islander*. These racial groups are collected as part of the *Asian-Pacific Islander* category. For ENFORCE to comply with the OMB standards, the current

category *Asian-Pacific Islander* will need to be disaggregated into *Asian* and *Native Hawaiian or Other Pacific Islander*.

C. Prosecutions in Federal court

Currently the Executive Office for U.S. Attorneys does not collect demographic information on persons investigated or prosecuted by U.S. Attorneys. Demographic information on persons arraigned on Federal charges is available from the Federal judiciary.⁵

To facilitate a more comprehensive analysis of prosecutorial decisions – particularly U.S. Attorney declinations – the Executive Office for U.S. Attorneys will incorporate into their existing data collection system – LIONS – information on the race, ethnicity, and gender of persons investigated.

D. Sentencing of convicted Federal defendants

The Executive Office for U.S. Attorneys does not collect demographic information on persons convicted and sentenced in the Federal courts. Demographic information on persons sentenced in the Federal courts is available from the U.S. Sentencing Commission.⁵

V. Coordination with the Departments of the Interior and the Treasury

A. Department of the Interior

The Department of the Interior has submitted a data collection proposal. (See, Attachment 5)

The Department of the Interior employs sworn law enforcement officers in five different agencies: Bureau of Indian Affairs, Bureau of Land Management, Bureau of Reclamation, National Park Service, and the U.S. Fish and Wildlife Service. Officers in many of these agencies do not have general law enforcement authority, seldom have regular contact with the public, and make few arrests. The National Park Service – both U.S. Park Police and Park Rangers – was the only agency identified by the Department of Interior as having regular contact with the public and making a substantial number of arrests.

The Department of the Interior has agreed to collect data in the manner prescribed by the Department of Justice. The data collection system will be field tested in 10 sites:

- Lake Mead National Recreation Area (Nevada and Arizona)
- Yosemite National Park (California)
- Grand Canyon National Park (Arizona)
- Glen Canyon National Recreation Area (Arizona and Utah)
- National Expansion Memorial (Missouri)
- Indiana Dunes National Lake Shore (Indiana)
- Natchez Trace Parkway (Mississippi and Tennessee)
- Blue Ridge Parkway (Virginia and North Carolina)
- Valley Forge National Historical Park (Pennsylvania)
- Delaware Water Gap National Recreation Area (Pennsylvania and New Jersey)
- Baltimore Washington Parkway (Washington DC and Maryland)

⁵ These data are routinely obtained by the Bureau of Justice Statistics as part of its Federal Justice Statistics Program.

Data collected by the Department of the Interior will be analyzed by the Bureau of Justice Statistics and included in the report to the President prepared by the Attorney General.

B. Department of the Treasury

The Department of the Treasury is submitting a data collection proposal under separate cover.

The Department of the Treasury employs law enforcement officers within the Bureau of Alcohol, Tobacco and Firearms, Internal Revenue Service, U.S. Customs Service, and U.S. Secret Service. The uniformed division of the Secret Service and the U.S. Customs Service were the two agencies identified by the Department of the Treasury as having regular contact with the public and making a substantial number of arrests resulting from that contact.

The Department of the Treasury has agreed to follow the general data collection standards identified by the Department of Justice -- particularly as they relate to the collection of data on race and ethnicity. Treasury will field test their data collection system in Washington DC (for the uniformed division of Secret Service) and at Chicago O'Hare International, JFK International, Newark International, Miami International, and Los Angeles International airports (for the U.S. Customs Service).

The Department of the Treasury will separately analyze and report on data collected as part of the field test. This analysis will be included in the report from the Attorney General to the President.

FAIRNESS IN LAW ENFORCEMENT
IMMIGRATION AND NATURALIZATION SERVICE
PROPOSAL AND IMPLEMENTATION PLAN
INSPECTIONS DIVISION

The June 9, 1999, Presidential memorandum on discriminatory profiling entitled Fairness in Law Enforcement: Collection of Data, directs each Federal law enforcement entity to develop a proposal for a system to collect and report statistics relating to race, ethnicity, and gender for law enforcement activities. The agencies must also develop an implementation plan for a field test of that system. The field test is to be implemented 60 days after finalizing this proposal and is to last at least one year. The data must be sufficiently detailed to permit an analysis of actions relevant to the activities of the law enforcement agency by race, ethnicity, or gender. At the end of the first year of the field test, each agency must provide to the Attorney General a summary of the information collected, including complaints received alleging bias based on race, ethnicity or gender.

In addition, the pending House Appropriations Committee report directs the Immigration and Naturalization Service (INS) to conduct a pilot program to collect data on the race, ethnicity, and nationality of persons referred to secondary inspection at John F. Kennedy (JFK) Airport in New York. The data is to be collected beginning January 1, 2000 for a six-month period and submitted to the Committee no later than August 1, 2000.

The Committee report requirement, while similar in scope, differs somewhat from the requirements of the Presidential memorandum, both in terms of the time frames for reporting and in terms of the data to be collected. Rather than conducting two parallel studies, the INS intends to consider JFK as one of the pilot sites for the fairness in enforcement project under the Presidential directive, and will delay its implementation until January 1, or until Y2K problems (if any) are resolved. This will also avoid attempting to implement a new program of data collection during the holiday season when international traffic increases.

Background and Statutory Authority

Title 8 United States Code, codified in the Immigration and Nationality Act (INA), gives broad and far-reaching authority to immigration officers to question and search individuals attempting entry to the United States. Unlike most other law enforcement entities, the INS is unique in that it must inspect or examine every person arriving at the U.S. borders. The statute specifically requires INS to inspect all aliens who are applicants for admission or otherwise seeking admission or readmission to or transit through the United States (8 U.S.C. 1225(a)(3)).

The INS cannot be selective in this inspection duty. The INS conducts approximately 450,000,000 primary inspections each year.

In addition, 8 U.S.C. 1225(d) and 1357(c) authorize officers to board and search any conveyance in which they believe aliens are being brought into the United States, take and consider evidence of or from any person regarding the privilege of any alien to enter the United States, and to search, without warrant, the person and personal effects of any person seeking admission, if the officer has reasonable cause to suspect grounds for denial of admission would be disclosed by such search. These authorities are normally exercised in the secondary inspection environment. In selecting individuals for further scrutiny (secondary inspection), the actions taken by all officers must be consistent with the missions of the INS and the Department of Justice. Officers must be able to articulate legitimate operational or law enforcement reasons for referring individuals to secondary inspection and especially for taking adverse actions against these individuals. Approximately 8,000,000 persons are referred to secondary inspection each year at all ports-of-entry (POEs).

This proposal for collecting race, ethnicity, and gender information within the Inspections Program of the INS is based on several basic premises:

- With a few exceptions, virtually all secondary referrals will involve aliens. This differs significantly from many other Federal law enforcement agencies whose missions target the population at large.
- Required report data will be collected only for cases referred for secondary inspection.
- Many aliens are referred to secondary inspection for administrative or operational reasons rather than because of specific law enforcement targeting. Administrative reasons include completing or processing forms, collecting fees, and providing information, among others. Operational reasons may include continuing the inspection in secondary so as not to impede the primary traffic flow, even though no particularized suspicion may yet exist, and random sampling under the Inspections= Travelers Examination (INTEX) project, among others. Most of these aliens are ultimately admitted to the United States.
- Some ports automatically target specific types of cases for referral to secondary because of past incidences of fraud or violations. These targeted cases are referred regardless of race, ethnicity, gender, or nationality.

- Collecting information regarding race or ethnicity is a very sensitive undertaking. Information such as cultural affinity is not readily apparent, and may not be freely given by many aliens.
- So as not to interfere with normal operations, unnecessarily delay persons seeking admission to the United States, or create excessive increased work for the officers, the pilot test will seek to collect the required information in the least intrusive or labor-intensive way possible.

It should be noted that the INS is currently in the process of developing training modules to address professionalism and fairness issues.

Field Test Sites

The field test will be conducted at several selected airports and a land border port.

The airports selected should encompass a variety of flights from different points of origin so as to provide a true picture of a diverse traveling population. The INS proposes to pilot the data collection at three airports: JFK, Houston, and Seattle. These three airports represent a varied range in size and points of origin, from over 9,500,000 primary inspections per year at JFK (144,000 secondary referrals), to 2,300,000 primary inspections per year at Houston (22,000 secondary referrals), to approximately 700,000 primary inspections at Seattle (8600 secondary referrals).

The INS proposes the land border data collection at the port of Del Rio, Texas, which conducts approximately 5,000,000 inspections (84,500 secondary referrals) a year.

Collection of data at airports

Based on the terms of the Presidential memorandum and the Committee report, only data on secondary referrals will be captured for the required reports. The initial data regarding race, ethnicity, and reasons for referral will be determined by the primary inspection officer who is referring the case to secondary inspection.

The preferred option at airports is to collect the data pertaining to race, ethnicity, nationality, and gender using the Interagency Border Inspection System (IBIS) primary and secondary referral screens. The IBIS database is administered and maintained by the Customs Service. (NOTE: While the INS believes that the Customs Data Center staff will make every effort to complete the necessary modifications to the system, these changes will require

additional time and resources. The Customs Service has a rigorous and at times lengthy testing procedure for all programming changes prior to being put into production. This is outside of the control of the INS and may have an effect on the actual date any proposed changes would go into effect. In addition, because of Y2K concerns, we understand that no modifications may be made to the data systems after October 1, 1999, without obtaining a waiver of those restrictions.)

The primary referral screen currently includes name, date of birth, gender, flight number, and reasons for referral. This screen will need to be modified to capture the data element(s) for race and ethnicity. The gender field is already available on the primary referral screen for Advance Passenger Information System (APIS) flights, and may be transmitted by the airline, although this field is not currently a mandatory field. If it is not obtained through the primary referral screen, it can be entered on the secondary results screen and will be made a mandatory field. All other required data relating to the case can be obtained in secondary and is already captured on the secondary results screen.

Collecting this data via IBIS will require close INS Field Operations oversight and supervisory review and accountability to ensure that all secondary referrals in IBIS are closed out. If the case has not been closed out after 30 days, the system assigns an "unknown" disposition code (999) to the case.

Collection of data at land borders

No automated system currently exists to collect data at land border POEs. On vehicle primary at land border ports, the primary query and referral is normally made on the license plate of the vehicle rather than on the individual, and most vehicles contain more than one individual. At most land border ports, secondary referrals are made on paper forms. Some name queries may be made on persons entering through the pedestrian lanes, but often this is limited to those with machine-readable documents. Although records are kept on all adverse actions taken in secondary, no record is currently kept of individuals admitted from secondary. At the Del Rio Port of Entry, this could require additional case disposition information being collected for the nearly 70,000 persons who are admitted after secondary inspection. Most data collection at land border ports would require not only manually noting such data on paper, but the data would also have to be counted and analyzed manually. In addition, primary inspection duties at land border ports are shared with Customs inspectors. A vehicle or person in the vehicle could be referred to secondary inspection by either officer for secondary inspection by one or more agencies. Another constraint in conducting a pilot at land borders is that any data collected on primary would have a severe impact on the vehicle wait times through the port.

Because IBIS is generally used only for a license plate query at land borders, automated

data collection is not feasible. Any additional data collection on primary would add from 15-45 seconds per vehicle, resulting in an unacceptable increase in vehicle wait times. Therefore, it is proposed that collection of data relating to race, ethnicity and gender at land border ports be done in secondary. Vehicle secondary referrals are made by means of Form I-443, Multiple Inspection Referral. This form includes the license plate number, number of passengers in the vehicle, which agency the person is being referred to (INS, Customs, or Agriculture), and the general reasons for the referral. There is also space for written comments. At some ports, the primary inspector may convey additional information to the secondary officer by telephone. For purposes of this field test, the secondary officer would be asked to write the additional information on the I-443.

For data collection during the pilot, the secondary officer will indicate in the comments field the ethnicity (Y or N), race (designated race code), gender (M, F, or U), and nationality for each person referred for secondary inspection. Currently, these forms are normally not retained. Specific data is kept on a secondary log for any adverse actions, but no information is kept for those admitted. A new secondary log or database will have to be developed to record the required data for all secondary cases, including those later admitted.

Data Elements

In order to provide an accurate picture of the types of cases referred to secondary, the reasons for those referrals, and to assess the effect of race, ethnicity and gender on secondary referrals, the following minimal data elements will be collected in IBIS as noted, or manually at the land POE:

Date of action - if the case is referred to secondary electronically, the date of action will automatically be captured in IBIS.

Location or port-of-entry code - this is automatically captured in IBIS.

Flight number - this is currently captured in IBIS for airport cases.

Reason for referral - if the case is referred to secondary electronically, the reason can be captured in IBIS. This element is captured using free text and may encompass numerous reasons. Not all officers are equally articulate and referral reasons may only indirectly refer to suspected grounds of inadmissibility. The system only allows for two lines (160 characters) of free text, so abbreviations are often used. If not properly phrased, referrals could appear to be arbitrary, when in fact, they are based on a series of legitimate

articulable facts. Also, free text referral reasons will be hard to quantify as data for analysis purposes. In order to provide for easier analysis and consistency, officers may be encouraged to categorize the reasons for the referral under several main categories, and as space permits, to include additional notations. The secondary referrals may be based on, but are not limited to, such categories as:

- Documentary/identification deficiencies (fraudulent or improper documents, false claims to U.S. citizenship, etc.)
- Identified targets (lookouts, intelligence alerts, special interest cases, etc.)
- Travel History/Routing Information (prior overstays, itinerary issues, ticketing, previous violations, etc.)
- Belonging/Fitting In (whether clothing, language, destination, knowledge, etc, is consistent with the claimed status)
- Behavior/Characteristics (nervous, evasive, incoherent, etc.)
- Other Indications (transportation mode, observed smuggling, etc.)

Race - the IBIS screens will be modified to capture the race data element, as observed by the primary immigration officer. In accordance with the standards for the classification of Federal data on race and ethnicity as determined by the Office of Management and Budget (OMB), the following categories of race and/or ethnicity will be used:

- **American Indian or Alaska Native** - A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.
- **Asian** - A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
- **Black or African American** - A person having origins in any of the black racial groups of Africa.
- **Native Hawaiian or Other Pacific Islander** - A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands. Would also include Caroline, Fiji, Melanesia, Micronesia, Northern Mariana Islands, Palau, Papua New Guinea, Polynesia, Solomon Islands, Tahiti, Tarawa Island, Tokalau, Tonga, Truk, and Yap, among others.

- **White** - A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

Ethnicity - Ethnicity is even more difficult to determine than race. Ethnicity may relate to religion, race, nationality, or cultural affinities, attributes that are not readily apparent in most cases. The OMB standard provides that when race and ethnicity are collected separately, ethnicity should be collected first, and then a race is also selected. In accordance with the OMB standard, the categories of ethnicity to be collected include:

- **Hispanic or Latino**- A person tracing origins or descent to Mexico, Puerto Rico, Cuba, Central and South America, and other Spanish cultures.
- **Not Hispanic or Latino**

Gender - this element currently is captured by IBIS if transmitted as part of an Advance Passenger Information System (APIS) record, but is not a mandatory field on the primary data capture screen. This field will now be mandatory on the IBIS secondary disposition screen.

Nationality - this data element is currently captured on the Inspections Results screen, and would be completed by the secondary officer. This field is usually equivalent to citizenship, and relates to the actual nationality of the person, determined either by the documents presented (if not fraudulent) or through other means.

Disposition - this is currently captured in IBIS on the Inspection Results screen for all cases electronically referred to secondary.

Baseline Data

In order to provide a frame of reference within which to measure the characteristics of secondary referrals, the INS will attempt to obtain an overall representation of the gender, race, and ethnicity characteristics of the general population of travelers to the United States at the POEs.

The INS will use data obtained through the Inspections= Traveler Examination (INTEX) project. The INTEX pilot began in July 1998, as an initiative designed to meet the requirements of the Government Performance and Results Act of 1993. The INTEX process randomly selects travelers for a more rigorous, supplementary inspection after they have been admitted through

primary inspection, and is designed to determine the effectiveness of the primary inspection process. It is currently operating at 20 selected POEs, 10 airport and 10 land border ports. Each port conducts between one and five INTEX inspections per day, depending on the size of the port. The average INTEX inspection for non-U.S. citizens takes approximately 17.4 minutes. Although the daily sample size is small for each port, over a period of time, this data can provide a picture of the average racial, ethnic, or gender make-up of entrants through the port and into the United States as a whole. Because of the short time frame for completion of the Committee report project at JFK this method will not provide a complete picture of the general traffic makeup at JFK.

The data sheet does not currently collect information on race, ethnicity, or gender. It does collect citizenship information. The INS will have to modify the INTEX data sheet used for inspection to include these fields. At this time, JFK, Seattle, and Del Rio are INTEX sites, but Houston will have to be added. In addition to reviewing the INTEX data from the pilot sites, data from all current INTEX sites will be reviewed to obtain a national picture of the racial, ethnic, and gender makeup of the traveling public.

**FAIRNESS IN LAW ENFORCEMENT
IMMIGRATION AND NATURALIZATION SERVICE
PROPOSAL AND IMPLEMENTATION PLAN
FOR COLLECTING AND REPORTING RACE, ETHNICITY, AND
GENDER IN BORDER PATROL ROVING PATROL OPERATIONS**

In effort to determine the extent to which Federal law enforcement uses "racial profiling" in their activities, the White House directed the AG and the Secretaries of Treasury and Interior to "collect and report statistics relating to race, ethnicity and gender for law enforcement activities in your department."

Background and Statutory Authority

Under authority of the INA, sect. 287(a)(3) [8 U.S.C. 1357(a)(3)], the Border Patrol conducts two types of traffic-checking operations in border areas: checkpoints and "roving patrols". In the case of either permanent or temporary checkpoints, Border Patrol agents may lawfully stop all motorists without reasonable suspicion to determine the citizenship of the vehicle's occupants (U.S. v. Martinez-Fuerte). But reasonable suspicion is required to effect "roving patrols" stops, since these have been deemed to constitute a "seizure" and are therefore subject to the constitutional provisions of the Fourth Amendment.¹

Proposed Field Test

The Border Patrol is developing a system to collect and report statistical data on race, ethnicity and gender. We are preparing an implementation plan to field test this system in San Diego Sector's El Cajon Station, Yuma Sector's Yuma Station, and El Paso Sector's Santa Teresa Station.

For each roving patrol stop made in each of the proposed field test locations, the agents will document, in addition to the race, ethnicity and gender of the vehicle's occupants, the articulable facts that led them to initiate the stop. Proximity to the border, behavior of the occupants, number of passengers, characteristics of the vehicle, appearance of the occupants -- including whether their mode of dress or haircut appear foreign -- and information from outside sources are some of the factors recognized by the Courts as legitimate in supporting the reasonable suspicion that a vehicle may be transporting aliens who are in the U.S. illegally.

¹ Border Patrol agents perform roving patrol on roads near Border Patrol checkpoints and on border roads to intercept illegal entrants that are using vehicles to escape the border area. The Supreme Court established "reasonable suspicion" as the legal standard to justify roving patrol stops under the Fourth Amendment. See United States v. Brignoni-Ponce, 422 U.S. 873 (1975).

Data Elements

For the duration of the test period, in each of the proposed field test locations, Border Patrol agents will record the race, ethnicity and gender of all those encountered in the course of a roving patrol stops and the reasons that led them to initiate each stop. In order to ensure that the information is sufficiently detailed to permit analysis of the actions taken by the agent, information regarding the citizenship, nationality and immigration status of each occupant will also be collected. Because roving patrol stops usually involve groups of individuals, where some occupants may be in legal status, the agents will also report if any violators were discovered in the group stopped.

Agents will be trained to use OMB's revised "Race and Ethnic Standards for Federal Statistics and Administrative Reporting" as a guide for reporting on the race and ethnicity of the occupants of vehicles. In accordance with the OMB standards, six categories will be used to determine race and/or ethnicity: American Indian or Alaska Native; Asian; Black or African American; Native Hawaiian or Other Pacific Highlander; White; Hispanic or Latino.

**FAIRNESS IN LAW ENFORCEMENT
IMMIGRATION AND NATURALIZATION SERVICE
PROPOSAL AND IMPLEMENTATION PLAN
INVESTIGATIONS**

Mission and Statutory Authority

As the fact finders of the Immigration and Naturalization Service, investigators plan and conduct investigations of persons and events subject to the administrative and criminal provisions of the Immigration and Nationality Act. The correctness and justice of Service actions to a very large extent depends upon the investigators' thorough and accurate gathering and reporting of information.

The investigator's mission is diverse, ranging from background studies to determine an alien's eligibility for benefits under the Act, to investigations of large-scale, international organizations which smuggle aliens or perpetuate other fraudulent or criminal actions against the United States.

The investigator, as an immigration officer, must not only vigorously enforce the Act to bring about administrative or criminal punitive actions, but must be constantly cognizant of his or her obligation to inform, assist and serve the alien and citizen public whenever appropriate.

Section 287(a)(1) [8 U.S.C. 1357(a)(1)] provides authority, without a warrant, to interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States. Section 287(a)(2) [8 U.S.C. 1357(a)(2)] provides authority to make an arrest of an alien who the officer has reason to believe (judicially construed to be the equivalent of probable cause under the fourth amendment) is in the United States in violation of the immigration laws and is likely to escape before an arrest warrant can be obtained.

Proposed Field Test

A paper review of case files in selected Districts will be conducted by independent reviewers, focusing on key decision points regarding leads or requests referred to Investigations, how they are accepted as cases, assigned, and completed. The intent is to determine at which point in the process race, ethnicity, or gender become known and whether that knowledge has an impact on how cases are handled by INS.

A matter usually comes to the attention of Investigations as a request by another Service branch for investigative assistance; from an outside source alleging an unlawful act; or by an agent conducting an investigation who uncovers the elements of another matter needing further investigative action. When the matter is generated by an external source, the information is recorded on Form G-123 or other appropriate report.

A supervisory agent considers whether the information is sufficient to identify a violation of law or regulation or other ground for action within the investigative domain of the Service. At this point, the matter may be "received" or "not received" (dismissed) and so noted on Form G-600A.

A "received" case can be "accepted and in progress" or "not placed in progress" dependent upon a supervisory evaluation of resources available, other pending cases, and case merit. This decision is also noted on the Form G-600A. All "accepted and in progress" cases are either held pending assignment or under active investigation.

The assigned agent completes a case workplan that is reviewed, amended as necessary, and approved. A supervisory agent reviews each case in progress at least every sixty days.

A case is terminated when further investigative effort will not achieve an objective or when all work has been finished and the case has been referred to the appropriate unit or authority for administrative action or prosecution.

Data Elements

The data elements to be collected as part of the field test would include:

- race, ethnicity, and gender of both the person providing the lead and the subject of the lead (e.g., the business owner or the business);
- reason(s) for moving forward at each decision point during case development to closure; and
- outcome of the case.

Categorizations of the decision points and the potential reasons for moving forward will be developed during the 60 day period before implementation based on an initial review of case files

Field Test Sites

The District Offices to be included in the field test are being identified.

OFFICE OF MANAGEMENT AND BUDGET

Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity

AGENCY: Executive Office of the President, Office of Management and Budget (OMB), Office of Information and Regulatory Affairs

ACTION: Notice of decision.

SUMMARY: By this Notice, OMB is announcing its decision concerning the revision of Statistical Policy Directive No. 15, Race and Ethnic Standards for Federal Statistics and Administrative Reporting. OMB is accepting the recommendations of the Interagency Committee for the Review of the Racial and Ethnic Standards with the following two modifications: (1) the Asian or Pacific Islander category will be separated into two categories -- "Asian" and "Native Hawaiian or Other Pacific Islander," and (2) the term "Hispanic" will be changed to "Hispanic or Latino."

The revised standards will have five minimum categories for data on race: American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, and White. There will be two categories for data on ethnicity: "Hispanic or Latino" and "Not Hispanic or Latino."

The Supplementary Information in this Notice provides background information on the standards (Section A); a summary of the comprehensive review process that began in July 1993 (Section B); a brief synopsis of the public comments OMB received on the recommendations for changes to the standards in response to the July 9, 1997, **Federal Register** Notice (Section C); OMB's decisions on the specific recommendations of the Interagency Committee (Section D); and information on the work that is underway on tabulation issues associated with the reporting of multiple race responses (Section E).

The revised standards for the classification of Federal data on race and ethnicity are presented at the end of this notice; they replace and supersede Statistical Policy Directive No. 15.

EFFECTIVE DATE: The new standards will be used by the Bureau of the Census in the 2000 decennial census. Other Federal programs should adopt the standards as soon as possible, but not later than January 1, 2003, for use in household surveys, administrative forms and records, and other data collections. In addition, OMB has approved the use of the new standards by the Bureau of the Census in the "Dress Rehearsal" for Census 2000 scheduled to be conducted in March 1998.

ADDRESSES: Please send correspondence about OMB's decision to: Katherine K. Wallman, Chief Statistician, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10201 New Executive Office Building, 725 17th Street, N.W., Washington, D.C. 20503; fax: (202) 395-7245.

ELECTRONIC AVAILABILITY AND ADDRESSES: This **Federal Register** Notice and the related OMB Notices of June 9, 1994, August 28, 1995, and July 9, 1997, are available electronically from the OMB Homepage on the World Wide Web:

<<<http://www.whitehouse.gov/WH/EOP/OMB/html/fedreg.html>>>.

Federal Register Notices are also available electronically from the U.S. Government Printing Office web site: <<http://www.access.gpo.gov/su_docs/aces/aces140.html>>. Questions about accessing the **Federal Register** online via **GPO Access** may be directed to telephone (202) 512-1530 or toll free at (888) 293-6498; to fax (202) 512-1262; or to E-mail <<gpoaccess@gpo.gov>>.

This Notice is available in paper copy from the OMB Publications Office, 725 17th Street, NW, NEOB, Room 2200, Washington, D.C. 20503; telephone (202) 395-7332; fax (202) 395-6137.

FOR FURTHER INFORMATION CONTACT: Suzann Evinger, Statistical Policy Office, Office of Information and Regulatory Affairs, Office of Management and Budget, NEOB, Room 10201, 725 17th Street, N.W., Washington, D.C. 20503; telephone: (202) 395-3093; fax (202) 395-7245.

SUPPLEMENTARY INFORMATION:

A. Background

For more than 20 years, the current standards in OMB's Statistical Policy Directive No. 15 have provided a common language to promote uniformity and comparability for data on race and ethnicity for the population groups specified in the Directive. They were developed in cooperation with Federal agencies to provide consistent data on race and ethnicity throughout the Federal Government. Development of the data standards stemmed in large measure from new responsibilities to enforce civil rights laws. Data were needed to monitor equal access in housing, education, employment, and other areas, for populations that historically had experienced discrimination and differential treatment because of their race or ethnicity. The standards are used not only in the decennial census (which provides the data for the "denominator" for many measures), but also in household surveys, on administrative forms (e.g., school registration and mortgage lending applications), and in medical and other research. The categories represent a social-political construct designed for collecting data on the race and ethnicity of broad population groups in this country, and are not anthropologically or scientifically based.

B. Comprehensive Review Process

Particularly since the 1990 census, the standards have come under increasing criticism from those who believe that the minimum categories set forth in Directive No. 15 do not reflect the increasing diversity of our Nation's population that has resulted primarily from growth in immigration and in interracial marriages. In response to the criticisms, OMB announced in July 1993 that it would undertake a comprehensive review of the current categories for data on race and ethnicity.

This review has been conducted over the last four years in collaboration with the Interagency Committee for the Review of the Racial and Ethnic Standards, which OMB established in March 1994 to facilitate the participation of Federal agencies in the review. The members of the Interagency Committee, from more than 30 agencies, represent the many and diverse Federal needs for data on race and ethnicity, including statutory requirements for such data. The Interagency Committee developed the following principles to govern the review process:

1. The racial and ethnic categories set forth in the standards should not be interpreted as being primarily biological or genetic in reference. Race and ethnicity may be thought of in terms of social and cultural characteristics as well as ancestry.
2. Respect for individual dignity should guide the processes and methods for collecting data on race and ethnicity; ideally, respondent self-identification should be facilitated to the greatest extent possible, recognizing that in some data collection systems observer identification is more practical.
3. To the extent practicable, the concepts and terminology should reflect clear and generally understood definitions that can achieve broad public acceptance. To assure they are reliable, meaningful, and understood by respondents and observers, the racial and ethnic categories set forth in the standard should be developed using appropriate scientific methodologies, including the social sciences.
4. The racial and ethnic categories should be comprehensive in coverage and produce compatible, nonduplicative, exchangeable data across Federal agencies.
5. Foremost consideration should be given to data aggregations by race and ethnicity that are useful for statistical analysis and program administration and assessment, bearing in mind that the standards are not intended to be used to establish eligibility for participation in any federal program.
6. The standards should be developed to meet, at a minimum, Federal legislative and programmatic requirements. Consideration should also be given to needs at the State and local government levels, including American Indian tribal and Alaska Native village governments, as well as to general societal needs for these data.

7. The categories should set forth a minimum standard; additional categories should be permitted provided they can be aggregated to the standard categories. The number of standard categories should be kept to a manageable size, determined by statistical concerns and data needs.
8. A revised set of categories should be operationally feasible in terms of burden placed upon respondents; public and private costs to implement the revisions should be a factor in the decision.
9. Any changes in the categories should be based on sound methodological research and should include evaluations of the impact of any changes not only on the usefulness of the resulting data but also on the comparability of any new categories with the existing ones.
10. Any revision to the categories should provide for a crosswalk at the time of adoption between the old and the new categories so that historical data series can be statistically adjusted and comparisons can be made.
11. Because of the many and varied needs and strong interdependence of Federal agencies for racial and ethnic data, any changes to the existing categories should be the product of an interagency collaborative effort.
12. Time will be allowed to phase in any new categories. Agencies will not be required to update historical records.
13. The new directive should be applicable throughout the U.S. Federal statistical system. The standard or standards must be usable for the decennial census, current surveys, and administrative records, including those using observer identification.

The principal objective of the review has been to enhance the accuracy of the demographic information collected by the Federal Government. The starting point for the review was the minimum set of categories for data on race and ethnicity that have provided information for more than 20 years for a variety of purposes, and the recognition of the importance of being able to maintain this historical continuity. The review process has had two major elements: (1) public comment on the present standards, which helped to identify concerns and provided numerous suggestions for changing the standards; and (2) research and testing related to assessing the possible effects of suggested changes on the quality and usefulness of the resulting data.

Public input, the first element of the review process, was sought through a variety of means: (1) During 1993, Congressman Thomas C. Sawyer, then Chairman of the House Subcommittee on Census, Statistics, and Postal Personnel, held four hearings that included 27 witnesses, focusing particularly on the use of the categories in the 2000 census. (2) At the request of OMB, the National Academy of Sciences' Committee on National Statistics (CNSTAT) conducted a workshop in February 1994 to articulate issues surrounding a review of the categories. The workshop included representatives of Federal agencies, academia, social science research institutions, interest groups, private industry, and a local school district. (A summary of the workshop, **Spotlight on Heterogeneity: The Federal Standards for Racial and Ethnic Classification**, is available from CNSTAT, 2101 Constitution Avenue, N.W., Washington, D.C. 20418.) (3) On June 9, 1994, OMB published a **Federal Register** (59 FR 29831-29835) Notice that contained background information on the development of the current standards and requested public comment on: the adequacy of current racial and ethnic categories; the principles that should govern any proposed revisions to the standards; and specific suggestions for change that had been offered by individuals and interested groups over a period of several years. In response, OMB received nearly 800 letters. As part of this comment period and to bring the review closer to the public, OMB also heard testimony from 94 witnesses at hearings held during July 1994 in Boston, Denver, San Francisco, and Honolulu. (4) In an August 28, 1995, **Federal Register** (60 FR 44674-44693) Notice, OMB provided an interim report on the review process, including a summary of the comments on the June 1994 **Federal Register** Notice, and offered a final opportunity for comment on the research to be conducted during 1996. (5) OMB staff have also discussed the review process with various interested groups and have made presentations at numerous meetings.

The second element of the review process involved research and testing of various proposed changes.

The categories in OMB's Directive No. 15 are used not only to produce data on the demographic characteristics of the population, but also to monitor civil rights enforcement and program implementation. Research was undertaken to provide an objective assessment of the data quality issues associated with various approaches to collecting data on race and ethnicity. To that end, the Interagency Committee's Research Working Group, co-chaired by the Bureau of the Census and the Bureau of Labor Statistics, reviewed the various criticisms and suggestions for changing the current categories, and developed a research agenda for some of the more significant issues that had been identified. These issues included how to collect data on persons who identify themselves as "multiracial"; whether to combine race and Hispanic origin in one question or have separate questions on race and Hispanic origin; whether to combine the concepts of race, ethnicity, and ancestry; whether to change the terminology used for particular categories; and whether to add new categories to the current minimum set.

Because the mode of data collection can have an effect on how a person responds, the research agenda proposed studies both in surveys using in-person or telephone interviews and in self-administered questionnaires, such as the decennial census, which are filled out by the respondent and mailed back. Cognitive interviews were conducted with various groups to provide guidance on the wording of the questions and the instructions for the tests and studies.

The research agenda included several major national tests, the results of which are discussed throughout the Interagency Committee's **Report to the Office of Management and Budget on the Review of Statistical Policy Directive No. 15**: (1) In May 1995, the Bureau of Labor Statistics (BLS) sponsored a Supplement on Race and Ethnicity to the Current Population Survey (CPS). The findings were made available in a 1996 report, **Testing Methods of Collecting Racial and Ethnic Information: Results of the Current Population Survey Supplement on Race and Ethnicity**, available from BLS, 2 Massachusetts Avenue, N.E., Room 4915, Postal Square Building, Washington, D.C. 20212, or by calling 202-606-7375. The results were also summarized in an October 26, 1995, news release, which is available electronically at <<<http://stats.bls.gov/news.release/ethnic.toc.htm>>>. (2) The Bureau of the Census, as part of its research for the 2000 census, tested alternative approaches to collecting data on race and ethnicity in the March 1996 National Content Survey (NCS). The Census Bureau published the results in a December 1996 report, **Findings on Questions on Race and Hispanic Origin Tested in the 1996 National Content Survey**; highlights of the report are available at <<<http://www.census.gov/population/www/socdemo/96natcontentsurvey.html>>>. (3) In June 1996, the Census Bureau conducted the Race and Ethnic Targeted Test (RAETT), which was designed to permit assessments of the effects of possible changes on smaller populations not reliably measured in national samples, including American Indians, Alaska Natives, detailed Asian and Pacific Islander groups (such as Chinese and Hawaiians), and detailed Hispanic groups (such as Puerto Ricans and Cubans). The Census Bureau released the results in a May 1997 report, **Results of the 1996 Race and Ethnic Targeted Test**; highlights of the report are available at <<<http://www.census.gov/population/www/documentation/twps-0018.html>>>. Single copies (paper) of the NCS and RAETT reports may be obtained from the Population Division, U.S. Bureau of the Census, Washington, D.C. 20233; telephone 301-457-2402.

In addition to these three major tests, the National Center for Education Statistics (NCES) and the Office for Civil Rights in the Department of Education jointly conducted a survey of 1,000 public schools to determine how schools collect data on the race and ethnicity of their students and how the administrative records containing these data are maintained to meet statutory requirements for reporting aggregate information to the Federal Government. NCES published the results in a March 1996 report, **Racial and Ethnic Classifications Used by Public Schools** (NCES 96-092). The report is available electronically at <<<http://nces.ed.gov/pubs/96092.html>>>. Single paper copies may be obtained from NCES, 555 New Jersey, NW, Washington, D.C. 20208-5574, or by calling 202-219-1442.

The research agenda also included studies conducted by the National Center for Health Statistics, the Office of the Assistant Secretary for Health, and the Centers for Disease Control and Prevention to evaluate the procedures used and the quality of the information on race and ethnicity in administrative records such as that reported on birth certificates and recorded on death certificates.

On July 9, 1997, OMB published a **Federal Register** Notice (62 FR 36874 - 36946) containing the

Interagency Committee's Report to the Office of Management and Budget on the Review of Statistical Policy Directive No. 15. The Notice made available for comment the Interagency Committee's recommendations for how OMB should revise Directive No. 15. The report consists of six chapters. Chapter 1 provides a brief history of Directive No. 15, a summary of the issues considered by the Interagency Committee, a review of the research activities, and a discussion of the criteria used in conducting the evaluation. Chapter 2 discusses a number of general concerns that need to be addressed when considering any changes to the current standards. Chapters 3 through 5 report the results of the research as they bear on the more significant suggestions OMB received for changes to Directive No. 15. Chapter 6 gives the Interagency's Committee's recommendations concerning the various suggested changes based on a review of public comments and testimony and the research results.

C. Summary of Comments Received on the Interagency Committee's Recommendations

In response to the July 9, 1997, **Federal Register** Notice, OMB received approximately 300 letters (many of them hand written) on a variety of issues, plus approximately 7000 individually signed and mailed, preprinted postcards on the issue of classifying data on Native Hawaiians, and about 500 individually signed form letters from members of the Hapa Issues Forum in support of adopting the recommendation for multiple race reporting. Some of the 300 letters focused on a single recommendation of particular interest to the writer, while other letters addressed a number of the recommendations. The preponderance of the comments were from individuals. Each comment was considered in preparing OMB's decision.

1. Comments on Recommendations Concerning Reporting More Than One Race

The Interagency Committee recommended that, when self-identification is used, respondents who wish to identify their mixed racial heritage should be able to mark or select more than one of the racial categories originally specified in Directive No. 15, but that there should not be a "multiracial" category. This recommendation to report multiple races was favorably received by most of those commenting on it, including associations and organizations such as the American Medical Association, the National Education Association, the National Council of La Raza, and the National Committee on Vital and Health Statistics, as well as all Federal agencies that responded. Comments from some organizations, such as the NAACP Legal Defense and Educational Fund, the Lawyers' Committee for Civil Rights Under Law, and the Equal Employment Advisory Council, were receptive to the recommendation on multiple race responses, but expressed reservations pending development of tabulation methods to ensure the utility of these data. The recommendation was also supported by many of the advocacy groups that had earlier supported a "multiracial" (box) category, such as the Association of MultiEthnic Americans and its affiliates nationwide. Several individuals wrote in support of "multiple race" reporting, basing their comments on a September 1997 article, "What Race Am I?" in **Mademoiselle** magazine, which urged its readers "to express an opinion on whether or not a 'Multiracial' category should be included in all federal record keeping, including the 2000 census." A few comments specifically favoring multiple race responses suggested that respondents should also be asked to indicate their primary racial affiliation in order to facilitate the tabulation of responses. A handful of comments on multiple race reporting suggested that individuals with both Hispanic and non-Hispanic heritages be permitted to mark or select both categories (see discussion below).

A few comments, in particular some from state agencies and legislatures, opposed any multiple race reporting because of possible increased costs to collect the information and implementation problems. Comments from the American Indian tribal governments also were opposed to the recommendation concerning reporting more than one race. A number of the comments that supported multiple race responses also expressed concern about the cost and burden of collecting the information to meet Federal reporting requirements, the schedule for implementation, and how the data would be tabulated to meet the requirements of legislative redistricting and enforcement of the Voting Rights Act. A few comments expressed support for categories called "human," or "American"; several proposed that there be no collection of data on race.

2. Comments on Recommendation for Classification of Data on Native Hawaiians

The Interagency Committee recommended that data on Native Hawaiians continue to be classified in the

Asian or Pacific Islander category. This recommendation was opposed by the Hawaiian congressional delegation, the 7,000 individuals who signed and sent preprinted yellow postcards, the State of Hawaii departments and legislature, Hawaiian organizations, and other individuals who commented on this recommendation. Instead, the comments from these individuals supported reclassifying Native Hawaiians in the American Indian or Alaska Native category, which they view as an "indigenous peoples" category (although this category has not been considered or portrayed in this manner in the standards). Native Hawaiians, as the descendants of the original inhabitants of what is now the State of Hawaii, believe that as indigenous people they should be classified in the same category as American Indians and Alaska Natives. On the other hand, the American Indian tribal governments have opposed such a reclassification, primarily because they view the data obtained from that category as being essential for administering Federal programs for American Indians. Comments from the Native Hawaiians also noted the Asian or Pacific Islander category provides inadequate data for monitoring the social and economic conditions of Native Hawaiians and other Pacific Islander groups. Because the Interagency Committee had recommended against adding categories to the minimum set of categories, requesting a separate category for Native Hawaiians was not viewed as an option by those who commented.

3. Comments on Recommendation Concerning Classification of Data on Central and South American Indians

The Interagency Committee recommended that data for Central and South American Indians be included in the American Indian or Alaska Native category. Several comments from the American Indian community opposed this recommendation. Moreover, comments from some Native Hawaiians pointed out what they believed to be an inconsistency in the Interagency Committee's recommendation to include in the American Indian or Alaska Native category descendants of Central and South American Indians -- persons who are not original peoples of the United States -- if Native Hawaiians were not to be included.

4. Comments on Recommendation Not to Add an Arab or Middle Eastern Ethnic Category

The Interagency Committee recommended that an Arab or Middle Eastern ethnic category should not be added to the minimum standards for all reporting of Federal data on race and ethnicity. Several comments were received in support of having a separate category in order to have data viewed as necessary to monitor discrimination against this population.

5. Comments on Recommendations for Terminology

Comments on terminology largely supported the Interagency Committee's recommendations to retain the term "American Indian," to change "Hawaiian" to "Native Hawaiian," and to change "Black" to "Black or African American." There were a few requests to include "Latino" in the category name for the Hispanic population.

D. OMB's Decisions

This section of the Notice provides information on the decisions taken by OMB on the recommendations that were proposed by the Interagency Committee. The Committee's recommendations addressed options for reporting by respondents, formats of questions, and several aspects of specific categories, including possible additions, revised terminology, and changes in definitions. In reviewing OMB's decisions on the recommendations for collecting data on race and ethnicity, it is useful to remember that these decisions:

retain the concept that the standards provide a **minimum** set of categories for data on race and ethnicity;

permit the collection of more detailed information on population groups provided that any additional categories can be aggregated into the minimum standard set of categories;

underscore that self-identification is the preferred means of obtaining information about an individual's race and ethnicity, except in instances where observer identification is more practical (e.g., completing a

death certificate);

do **not** identify or designate certain population groups as "minority groups";

continue the policy that the categories are **not** to be used for determining the eligibility of population groups for participation in any Federal programs;

do **not** establish criteria or qualifications (such as blood quantum levels) that are to be used in determining a particular individual's racial or ethnic classification; and

do **not** tell an individual who he or she is, or specify how an individual should classify himself or herself.

In arriving at its decisions, OMB took into account not only the public comment on the recommendations published in the **Federal Register** on July 9, 1997, but also the considerable amount of information provided during the four years of this review process, including public comments gathered from hearings and responses to two earlier OMB Notices (on June 9, 1994, and August 28, 1995). The OMB decisions benefited greatly from the participation of the public that served as a constant reminder that there are real people represented by the data on race and ethnicity and that this is for many a deeply personal issue. In addition, the OMB decisions benefited from the results of the research and testing on how individuals identify themselves that was undertaken as part of this review process. This research, including several national tests of alternative approaches to collecting data on race and ethnicity, was developed and conducted by the professional statisticians and analysts at several Federal agencies. They are to be commended for their perseverance, dedication, and professional commitment to this challenging project.

OMB also considered in reaching its decisions the extent to which the recommendations were consistent with the set of principles (see Section B of the Supplementary Information) developed by the Interagency Committee to guide the review of this sensitive and substantively complex issue. OMB believes that the Interagency Committee's recommendations took into account the principles and achieved a reasonable balance with respect to statistical issues, data needs, social concerns, and the personal dimensions of racial and ethnic identification. OMB also finds that the Committee's recommendations are consistent with the principal objective of the review, which is to enhance the accuracy of the demographic information collected by the Federal Government by having categories for data on race and ethnicity that will enable the capture of information about the increasing diversity of our Nation's population while at the same time respecting each individual's dignity.

As indicated in detail below, OMB accepts the Interagency Committee's recommendations concerning reporting more than one race, including the recommendation that there be no category called "multiracial," the formats and sequencing of the questions on race and Hispanic origin, and most of the changes to terminology.

OMB does not accept the Interagency Committee's recommendations concerning the classification of data on the Native Hawaiian population and the terminology for Hispanics, and it has instead decided to make the changes that follow.

Native Hawaiian classification.--OMB does not accept the recommendation concerning the continued classification of Hawaiians in the Asian or Pacific Islander category. **Instead, OMB has decided to break apart the Asian or Pacific Islander category into two categories -- one called "Asian" and the other called "Native Hawaiian or Other Pacific Islander."** As a result, there will be five categories in the minimum set for data on race.

The "Native Hawaiian or Other Pacific Islander" category will be defined as "A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands." (The term "Native Hawaiian" does not include individuals who are native to the State of Hawaii by virtue of being born there.) In addition to Native Hawaiians, Guamanians, and Samoans, this category would include the following Pacific Islander groups reported in the 1990 census: Carolinian, Fijian, Kosraean, Melanesian, Micronesian, Northern Mariana Islander, Palauan, Papua New Guinean, Ponapean (Pohnpelan),

Polynesian, Solomon Islander, Tahitian, Tarawa Islander, Tokelauan, Tongan, Trukese (Chuukese), and Yapese.

The "Asian" category will be defined as "A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam."

The Native Hawaiians presented compelling arguments that the standards must facilitate the production of data to describe their social and economic situation and to monitor discrimination against Native Hawaiians in housing, education, employment, and other areas. Under the current standards for data on race and ethnicity, Native Hawaiians comprise about three percent of the Asian and Pacific Islander population. By creating separate categories, the data on the Native Hawaiians and other Pacific Islander groups will no longer be overwhelmed by the aggregate data of the much larger Asian groups. Native Hawaiians will comprise about 60 percent of the new category.

The Asian, Native Hawaiian, and Pacific Islander population groups are well defined; moreover, there has been experience with reporting in separate categories for the Native Hawaiian and Pacific Islander population groups. The 1990 census included "Hawaiian," "Samoan," and "Guamanian" as response categories to the race question. In addition, two of the major tests conducted as part of the current review (the NCS and the RAETT) used "Hawaiian" and/or "Native Hawaiian," "Samoan," "Guamanian," and "Guamanian or Chamorro" as response options to the race question. These factors facilitate breaking apart the current category.

Terminology for Hispanics.--OMB does not accept the recommendation to retain the single term "Hispanic." **Instead, OMB has decided that the term should be "Hispanic or Latino."** Because regional usage of the terms differs -- Hispanic is commonly used in the eastern portion of the United States, whereas Latino is commonly used in the western portion -- this change may contribute to improved response rates.

The OMB decisions on the Interagency Committee's specific recommendations are presented below:

(1) OMB accepts the following recommendations concerning reporting more than one race:

When self-identification is used, a method for reporting more than one race should be adopted.

The method for respondents to report more than one race should take the form of multiple responses to a single question and not a "multiracial" category.

When a list of races is provided to respondents, the list should not contain a "multiracial" category.

Based on research conducted so far, two recommended forms for the instruction accompanying the multiple response question are "Mark one or more ..." and "Select one or more...."

If the criteria for data quality and confidentiality are met, provision should be made to report, at a minimum, the number of individuals identifying with more than one race. Data producers are encouraged to provide greater detail about the distribution of multiple responses.

The new standards will be used in the decennial census, and other data producers should conform as soon as possible, but not later than January 1, 2003.

(2) OMB accepts the following recommendations concerning a combined race and Hispanic ethnicity question:

When self-identification is used, the two question format should be used, with the race question allowing the reporting of more than one race.

When self-identification is not feasible or appropriate, a combined question can be used and

should include a separate Hispanic category co-equal with the other categories.

When the combined question is used, an attempt should be made, when appropriate, to record ethnicity and race or multiple races, but the option to indicate only one category is acceptable.

(3) OMB accepts the following recommendations concerning the retention of both reporting formats:

The two question format should be used in all cases involving self-identification.

The current combined question format should be changed and replaced with a new format which includes a co-equal Hispanic category for use, if necessary, in observer identification.

(4) OMB accepts the following recommendation concerning the ordering of the Hispanic origin and race questions:

When the two question format is used, the Hispanic origin question should precede the race question.

(5) OMB accepts the following recommendation concerning adding Cape Verdean as an ethnic category:

A Cape Verdean ethnic category should not be added to the minimum data collection standards.

(6) OMB accepts the following recommendation concerning the addition of an Arab or Middle Eastern ethnic category:

An Arab or Middle Eastern ethnic category should not be added to the minimum data standards.

(7) OMB interprets the recommendation not to add any other categories to mean the expansion of the minimum set to include new population groups. The OMB decision to break apart the "Asian or Pacific Islander" category does not create a category for a new population group.

(8) OMB accepts the following recommendation concerning changing the term "American Indian" to "Native American":

The term American Indian should not be changed to Native American.

(9) OMB accepts the following recommendation concerning changing the term "Hawaiian" to "Native Hawaiian":

The term "Hawaiian" should be changed to "Native Hawaiian."

(10) OMB does not accept the recommendation concerning the continued classification of Native Hawaiians in the Asian or Pacific Islander category.

OMB has decided to break apart the Asian or Pacific Islander category into two categories — one called "Asian" and the other called "Native Hawaiian or Other Pacific Islander." As a result, there are five categories in the minimum set for data on race.

The "Native Hawaiian or Other Pacific Islander" category is defined as "A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands."

The "Asian" category is defined as "A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam."

(11) OMB accepts the following recommendations concerning the use of "Alaska Native" instead

of "Eskimo" and "Aleut":

"Alaska Native" should replace the term "Alaskan Native."

Alaska Native should be used instead of Eskimo and Aleut.

The Alaska Native response option should be accompanied by a request for tribal affiliation when possible.

(12) OMB accepts the following recommendations concerning the classification of Central and South American Indians:

Central and South American Indians should be classified as American Indian.

The definition of the "American Indian or Alaska Native" category should be modified to include the original peoples from Central and South America.

In addition, OMB has decided to make the definition for the American Indian or Alaska Native category more consistent with the definitions of the other categories.

(13) OMB accepts the following recommendations concerning the term or terms to be used for the name of the Black category:

The name of the Black category should be changed to "Black or African American."

The category definition should remain unchanged.

Additional terms, such as Haitian or Negro, can be used if desired.

(14) OMB decided to modify the recommendations concerning the term or terms to be used for Hispanic:

The term used should be "Hispanic or Latino."

The definition of the category should remain unchanged.

In addition, the term "Spanish Origin," can be used if desired.

Accordingly, the Office of Management and Budget adopts and issues the revised minimum standards for Federal data on race and ethnicity for major population groups in the United States which are set forth at the end of this Notice.

Topics for further research

There are two areas where OMB accepts the Interagency Committee's recommendations but believes that further research is needed: (1) multiple responses to the Hispanic origin question and (2) an ethnic category for Arabs/Middle Easterners.

Multiple Responses to the Hispanic Origin Question.--The Interagency Committee recommended that respondents to Federal data collections should be permitted to report more than one race. During the most recent public comment process, a few comments suggested that the concept of "marking more than one box" should be extended to the Hispanic origin question. Respondents are now asked to indicate if they are "of Hispanic origin" or "not of Hispanic origin." Allowing individuals to select more than one response to the ethnicity question would provide the opportunity to indicate ethnic heritage that is both Hispanic and non-Hispanic.

The term "Hispanic" refers to persons who trace their origin or descent to Mexico, Puerto Rico, Cuba, Central and South America, and other Spanish cultures. While there has been considerable public

concern about the need to review Directive No. 15 with respect to classifying individuals of mixed racial heritage, there has been little comment on reporting both an Hispanic and a non-Hispanic origin. On many Federal forms, Hispanics can also express a racial identity on a separate race question. In the decennial census, individuals who consider themselves part Hispanic can also indicate additional heritages in the ancestry question.

On one hand, it can be argued that allowing individuals to mark both categories in the Hispanic origin question would parallel the instruction "to mark (or select) one or more" racial categories. Individuals would not have to choose between their parents' ethnic heritages, and movement toward an increasingly diverse society would be recognized.

On the other hand, because the matter of multiple responses to the Hispanic ethnicity question was not raised in the early phases of the public comment process, no explicit provisions were made for testing this approach in the research conducted to inform the review of Directive No. 15. While a considerable amount of research was focused on how to improve the response rate to the Hispanic origin question, it is unclear whether and to what extent explicitly permitting multiple responses to the Hispanic origin question would affect nonresponse to the race question or hamper obtaining more detailed data on Hispanic population groups.

Information on the possible impact of any changes on the quality of the data has been an essential element of the review. While the effects of changes in the Hispanic origin question are unknown, they could conceivably be substantial. Thus, OMB has decided **not** to include a provision in the standards that would explicitly permit respondents to select both "Hispanic origin" and "Not of Hispanic Origin" options. OMB believes that this is an item for future research. In the meantime, the ancestry question on the decennial census long form does provide respondents who consider themselves part Hispanic to write in additional heritages.

Research on an Arab/Middle Easterner category.--During the public comment process, OMB received a number of requests to add an ethnic category for Arabs/Middle Easterners so that data could be obtained that could be useful in monitoring discrimination. The public comment process indicated, however, that there was no agreement on a definition for this category. The combined race, Hispanic origin, and ancestry question in the RAETT, which was designed to address requests that were received from groups for establishing separate categories, did not provide a solution.

While OMB accepted the Interagency's Committee recommendation not to create a new category for this population group, OMB believes that further research should be done to determine the best way to improve data on this population group. Meanwhile, the write-ins to the ancestry question on the decennial census long form will continue to provide information on the number of individuals who identify their heritage as Arab or Middle Easterner.

E. Tabulation Issues

The revised standards retain the concept of a minimum set of categories for Federal data on race and ethnicity and make possible at the same time the collection of data to reflect the diversity of our Nation's population. Since the Interagency Committee's recommendation concerning the reporting of more than one race was made available for public comment, the focus of attention has been largely on how the data would be tabulated. Because of the concerns expressed about tabulation methods and our own view of the importance of this issue, OMB committed to accelerate the work on tabulation issues when it testified in July 1997 on the Interagency Committee's recommendations.

A group of statistical and policy analysts drawn from the Federal agencies that generate or use these data has spent the past few months considering the tabulation issues. Although this work is still in its early stages, some preliminary guidance can be shared at this time. In general, OMB believes that, consistent with criteria for confidentiality and data quality, the tabulation procedures used by the agencies should result in the production of as much detailed information on race and ethnicity as possible.

Guidelines for tabulation ultimately must meet the needs of at least two groups within the Federal Government, with the overriding objective of providing the most accurate and informative body of data.

The first group is composed of those government officials charged with carrying out constitutional and legislative mandates, such as redistricting legislatures, enforcing civil rights laws, and monitoring progress in anti-discrimination programs. (The legislative redistricting file produced by the Bureau of the Census, also known as the Public Law 94-171 file, is an example of a file meeting such legislative needs.) The second group consists of the staff of statistical agencies producing and analyzing data that are used to monitor economic and social conditions and trends.

Many of the needs of the first group can be met with an initial tabulation that provides, consistent with standards for data quality and confidentiality, the full detail of racial reporting; that is, the number of people reporting in each single race category and the number reporting each of the possible combinations of races, which would add to the total population. Depending on the judgment of users, the combinations of multiple responses could be collapsed. One method would be to provide separate totals for those reporting in the most common multiple race combinations and to collapse the data for other less frequently reported combinations. The specifics of the collapsed distributions must await the results of particular data collections. A second method would be to report the total selecting each particular race, whether alone or in combination with other races. These totals would represent upper bounds on the size of the populations who identified with each of the racial categories. In some cases, this latter method could be used for comparing data collected under the old standards with data collected under the new standards. It is important that users with the same or closely related responsibilities adopt the same tabulation method. Regardless of the method chosen for collapsing multiple race responses, the total number reporting more than one race must be made available, if confidentiality and data quality requirements can be met, in order to ensure that any changes in response patterns resulting from the new standards can be monitored over time.

Meeting the needs of the second group (those producing and analyzing statistical data to monitor economic and social conditions and trends), as well as some additional needs of the first group, may require different tabulation procedures. More research must be completed before guidelines that will meet the requirements of these users can be developed. A group of statistical and policy experts will review a number of alternative procedures and provide recommendations to OMB concerning these tabulation requirements by Spring 1998. Four of the areas in which further exploration is needed are outlined below.

Equal employment opportunity and other anti-discrimination programs have traditionally provided the numbers of people in the population by selected characteristics, including racial categories, for business, academic, and government organizations to use in evaluating conformance with program objectives. Because of the potentially large number of categories that may result from application of the new standards, many with very small numbers, it is not clear how this need for data will be best satisfied in the future.

The numbers of people in distinct groups based on decennial census results are used in developing sample designs and survey controls for major demographic surveys. For example, the National Health Interview Survey uses census data to increase samples for certain population groups, adjust for survey non-response, and provide weights for estimating health outcomes at the national level. The impact of having data for many small population groups with multiple racial heritages must be explored.

Vital statistics data include birth and death rates for various population groups. Typically the numerator (number of births or deaths) is derived from administrative records, while the denominator comes from intercensal population estimates. Birth certificate data on race are likely to have been self reported by the mother. Over time, these data may become comparable to data collected under the new standards. Death certificate data, however, frequently are filled out by an observer, such as a mortician, physician, or funeral director. These data, particularly for the population with multiple racial heritages, are likely to be quite different from the information obtained when respondents report about themselves. Research to define comparable categories to be used in both numerators and denominators is needed to assure that vital statistics are as accurate and useful as possible.

More generally, statistical indicators are often used to measure change over time. Procedures that will permit meaningful comparisons of data collected under the previous standards with those that will be collected under the new standards need to be developed.

The methodology for tabulating data on race and ethnicity must be carefully developed and coordinated among the statistical agencies and other Federal data users. Moreover, just as OMB's review and decision processes have benefited during the past four years from extensive public participation, we expect to discuss tabulation methods with data users within and outside the Federal Government. OMB expects to issue additional guidance with respect to tabulating data on race and ethnicity by Fall 1998.

Sally Katzen

Administrator, Office of Information and Regulatory Affairs.

Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity

This classification provides a minimum standard for maintaining, collecting, and presenting data on race and ethnicity for all Federal reporting purposes. The categories in this classification are social-political constructs and should not be interpreted as being scientific or anthropological in nature. They are not to be used as determinants of eligibility for participation in any Federal program. The standards have been developed to provide a common language for uniformity and comparability in the collection and use of data on race and ethnicity by Federal agencies.

The standards have five categories for data on race: American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, and White. There are two categories for data on ethnicity: "Hispanic or Latino," and "Not Hispanic or Latino."

1. Categories and Definitions

The minimum categories for data on race and ethnicity for Federal statistics, program administrative reporting, and civil rights compliance reporting are defined as follows:

- **American Indian or Alaska Native.** A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.
- **Asian.** A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
- **Black or African American.** A person having origins in any of the black racial groups of Africa. Terms such as "Haitian" or "Negro" can be used in addition to "Black or African American."
- **Hispanic or Latino.** A person of Cuban, Mexican, Puerto Rican, Cuban, South or Central American, or other Spanish culture or origin, regardless of race. The term, "Spanish origin," can be used in addition to "Hispanic or Latino."
- **Native Hawaiian or Other Pacific Islander.** A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
- **White.** A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

Respondents shall be offered the option of selecting one or more racial designations. Recommended forms for the instruction accompanying the multiple response question are "Mark one or more" and "Select one or more."

2. Data Formats

The standards provide two formats that may be used for data on race and ethnicity. Self-reporting or self-identification using two separate questions is the preferred method for collecting data on race and ethnicity. In situations where self-reporting is not practicable or feasible, the combined format may be used.

In no case shall the provisions of the standards be construed to limit the collection of data to the categories described above. The collection of greater detail is encouraged; however, any collection that uses more detail shall be organized in such a way that the additional categories can be aggregated into these minimum categories for data on race and ethnicity.

With respect to tabulation, the procedures used by Federal agencies shall result in the production of as much detailed information on race and ethnicity as possible. However, Federal agencies shall not present data on detailed categories if doing so would compromise data quality or confidentiality standards.

a. Two-question format

To provide flexibility and ensure data quality, separate questions shall be used wherever feasible for reporting race and ethnicity. When race and ethnicity are collected separately, ethnicity shall be collected first. If race and ethnicity are collected separately, the minimum designations are:

Race:

- American Indian or Alaska Native
- Asian
- Black or African American
- Native Hawaiian or Other Pacific Islander
- White

Ethnicity:

- Hispanic or Latino
- Not Hispanic or Latino

When data on race and ethnicity are collected separately, provision shall be made to report the number of respondents in each racial category who are Hispanic or Latino.

When aggregate data are presented, data producers shall provide the number of respondents who marked (or selected) only one category, separately for each of the five racial categories. In addition to these numbers, data producers are strongly encouraged to provide the detailed distributions, including all possible combinations, of multiple responses to the race question. If data on multiple responses are collapsed, at a minimum the total number of respondents reporting "more than one race" shall be made available.

b. Combined format

The combined format may be used, if necessary, for observer-collected data on race and ethnicity. Both race (including multiple responses) and ethnicity shall be collected when appropriate and feasible, although the selection of one category in the combined format is acceptable. If a combined format is used, there are six minimum categories:

- American Indian or Alaska Native

- Asian
- Black or African American
- Hispanic or Latino
- Native Hawaiian or Other Pacific Islander
- White

When aggregate data are presented, data producers shall provide the number of respondents who marked (or selected) only one category, separately for each of the six categories. In addition to these numbers, data producers are strongly encouraged to provide the detailed distributions, including all possible combinations, of multiple responses. In cases where data on multiple responses are collapsed, the total number of respondents reporting "Hispanic or Latino and one or more races" and the total number of respondents reporting "more than one race" (regardless of ethnicity) shall be provided.

3. Use of the Standards for Record Keeping and Reporting

The minimum standard categories shall be used for reporting as follows:

a. Statistical reporting

These standards shall be used at a minimum for all federally sponsored statistical data collections that include data on race and/or ethnicity, except when the collection involves a sample of such size that the data on the smaller categories would be unreliable, or when the collection effort focuses on a specific racial or ethnic group. Any other variation will have to be specifically authorized by the Office of Management and Budget (OMB) through the information collection clearance process. In those cases where the data collection is not subject to the information collection clearance process, a direct request for a variance shall be made to OMB.

b. General program administrative and grant reporting

These standards shall be used for all Federal administrative reporting or record keeping requirements that include data on race and ethnicity. Agencies that cannot follow these standards must request a variance from OMB. Variances will be considered if the agency can demonstrate that it is not reasonable for the primary reporter to determine racial or ethnic background in terms of the specified categories, that determination of racial or ethnic background is not critical to the administration of the program in question, or that the specific program is directed to only one or a limited number of racial or ethnic groups.

c. Civil rights and other compliance reporting

These standards shall be used by all Federal agencies in either the separate or combined format for civil rights and other compliance reporting from the public and private sectors and all levels of government. Any variation requiring less detailed data or data which cannot be aggregated into the basic categories must be specifically approved by OMB for executive agencies. More detailed reporting which can be aggregated to the basic categories may be used at the agencies' discretion.

4. Presentation of Data on Race and Ethnicity

Displays of statistical, administrative, and compliance data on race and ethnicity shall use the categories listed above. The term "nonwhite" is not acceptable for use in the presentation of Federal Government data. It shall not be used in any publication or in the text of any report.

In cases where the standard categories are considered inappropriate for presentation of data on particular programs or for particular regional areas, the sponsoring agency may use:

- a. The designations "Black or African American and Other Races" or "All Other Races" as collective descriptions of minority races when the most summary distinction between the majority and minority races is appropriate;
- b. The designations "White," "Black or African American," and "All Other Races" when the distinction among the majority race, the principal minority race, and other races is appropriate; or
- c. The designation of a particular minority race or races, and the inclusion of "Whites" with "All Other Races" when such a collective description is appropriate.

In displaying detailed information that represents a combination of race and ethnicity, the description of the data being displayed shall clearly indicate that both bases of classification are being used.

When the primary focus of a report is on two or more specific identifiable groups in the population, one or more of which is racial or ethnic, it is acceptable to display data for each of the particular groups separately and to describe data relating to the remainder of the population by an appropriate collective description.

5. Effective Date

The provisions of these standards are effective immediately for all **new** and **revised** record keeping or reporting requirements that include racial and/or ethnic information. All **existing** record keeping or reporting requirements shall be made consistent with these standards at the time they are submitted for extension, or not later than January 1, 2003.

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[Grants Management |](#) [Financial Management |](#) [Procurement Policy |](#)
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WANTED PERSON

10.16 OFFENSES (Effective June 4, 1973)

The following codes are the NCIC Uniform Offense Classifications as applied to use in the Wanted Person File. This listing does not include some additional data that is to be used in the Computerized Criminal History (CCH) File.

When offense codes 0199, 0299, 0399, 5099, 7099, 7199, 7299, and 7399 are used, free text or easily understood abbreviations explaining or describing the offense must be placed in the Miscellaneous (MIS) Field. When the Federal charge is unlawful flight (UFAP, UFAC, or UFAT), enter in the Offense (OFF) Field code 4902 and in the MIS Field enter UFAC, UFAP, or UFAT followed by a description of the local charge, e.g., UFAP-MURDER. When any other offense codes are used, free text or easily understood abbreviations further explaining or describing the offense may be entered in the MIS Field. When the offense is followed by parenthetical wording such as "identify weapon," "identify object," "identify type institution," or "specify conduct," entry of free text to describe same is optional in the MIS Field.

When the substantive offense is conditioned by one of the following offenses of general applicability, the appropriate wording below (or easily understood abbreviations) must be placed in the MIS Field so the inquiring recipient of the record will know that it is not the substantive offense that has been charged:

GENERAL OFFENSE

Accessory After The Fact
Accessory Before The Fact
Aid/Abet
Assault To Commit
Attempt To Commit
Conspiracy To Commit
Facilitation Of
Solicitation To Commit
Threat To Commit

WANTED PERSON

10.16 OFFENSES (Effective June 4, 1973)CODESSOVEREIGNTY

Treason	0101
Treason Misprision	0102
Espionage	0103
Sabotage	0104
Sedition	0105
Selective Service	0106
(free text)	0199

MILITARY

Desertion	0201
(free text)	0299

IMMIGRATION

Illegal Entry	0301
False Citizenship	0302
Smuggling Aliens	0303
(free text)	0399

HOMICIDE

Homicide - Willful Kill-Family-Gun	0901
Homicide - Willful Kill-Family-(identify weapon)	0902
Homicide - Willful Kill-Nonfamily-Gun	0903
Homicide - Willful Kill-Nonfamily-(identify weapon)	0904
Homicide - Willful Kill-Pub Off-Gun	0905
Homicide - Willful Kill-Pub Off-(identify weapon)	0906
Homicide - Willful Kill-Pol Off-Gun	0907
Homicide - Willful Kill-Pol Off-(identify weapon)	0908
Homicide - Neglig Mansl-Veh	0909
Homicide - Neglig Mansl-(identify weapon)	0910
Homicide - Willful Kill-Gun	0911

WANTED PERSON

10.16 OFFENSES (Effective June 4, 1973)CODESHOMICIDE (continued)

Homicide - Willful Kill-(identify weapon)	0912
Homicide - (free text)	0999

KIDNAPING

Kidnap Minor For Ransom	1001
Kidnap Adult For Ransom	1002
Kidnap Minor To Sexually Asslt	1003
Kidnap Adult To Sexually Asslt	1004
Kidnap Minor	1005
Kidnap Adult	1006
Kidnap Hostage For Escape	1007
Abduct - No Ransom Or Asslt	1008
Kidnap - Hijack Aircraft	1009
Kidnap - (free text)	1099

SEXUAL ASSAULT

Rape - Gun	1101
Rape With - (identify weapon)	1102
Rape - Strongarm	1103
Sex Asslt - Sodomy-Boy-Gun	1104
Sex Asslt - Sodomy-Man-Gun	1105
Sex Asslt - Sodomy-Girl-Gun	1106
Sex Asslt - Sodomy-Woman-Gun	1107
Sex Asslt - Sodomy-Boy-(identify weapon)	1108
Sex Asslt - Sodomy-Man-(identify weapon)	1109
Sex Asslt - Sodomy-Girl-(identify weapon)	1110
Sex Asslt - Sodomy-Woman-(identify weapon)	1111
Sex Asslt - Sodomy-Boy-Stgarm	1112
Sex Asslt - Sodomy-Man-Stgarm	1113
Sex Asslt - Sodomy-Girl-Stgarm	1114
Sex Asslt - Sodomy-Woman-Stgarm	1115
Stat Rape - No Force	1116
Sex Asslt - Carnal Abuse	1117
Sex Asslt - (free text)	1199

WANTED PERSON

10.16 OFFENSES (Effective June 4, 1973)CODESROBBERY

Robbery - Business-Gun	1201
Robbery - Business-(identify weapon)	1202
Robbery - Business-Stgarm	1203
Robbery - Street-Gun	1204
Robbery - Street-(identify weapon)	1205
Robbery - Street-Stgarm	1206
Robbery - Resid-Gun	1207
Robbery - Resid-(identify weapon)	1208
Robbery - Resid-Stgarm	1209
Forcible Purse Snatching	1210
Robbery - Banking-Type Inst	1211
Robbery - (free text)	1299

ASSAULT

Aggrav Asslt - Family-Gun	1301
Aggrav Asslt - Family-(identify weapon)	1302
Aggrav Asslt - Family-Stgarm	1303
Aggrav Asslt - Nonfamily-Gun	1304
Aggrav Asslt - Nonfamily-(identify weapon)	1305
Aggrav Asslt - Nonfamily-Stgarm	1306
Aggrav Asslt - Pub Off-Gun	1307
Aggrav Asslt - Pub Off-(identify weapon)	1308
Aggrav Asslt - Pub Off-Stgarm	1309
Aggrav Asslt - Pol Off-Gun	1310
Aggrav Asslt - Pol Off-(identify weapon)	1311
Aggrav Asslt - Pol Off-Stgarm	1312
Simple Asslt	1313
Aggrav Asslt - Gun	1314
Aggrav Asslt - (identify weapon)	1315
Intimidation	1316
Asslt - (free text)	1399

ABORTION

Abortional Act On Other	1401
Abortional Act On Self	1402

WANTED PERSON

10.16 OFFENSES (Effective June 4, 1973) CODESABORTION (continued)

Submission To Abortifacient Act	1403
Abortifacient - (selling, mfg., delivering, etc.)	1404
Abortion - (free text)	1499

ARSON

Arson - Business-Endangered Life	2001
Arson - Resid-Endangered Life	2002
Arson - Business-Defraud Insurer	2003
Arson - Resid-Defraud Insurer	2004
Arson - Business	2005
Arson - Resid	2006
Burning Of	2007
Arson - Pub-Bldg-Endangered Life	2008
Arson - Pub Bldg	2009
Arson - (free text)	2099

EXTORTION

Extort - Threat Injure Person	2101
Extort - Threat Damage Prop	2102
Extort - Threat Injure Reputation	2103
Extort - Threat Accuse Person Of Crime	2104
Extort - Threat Of Informing Of Vio	2105
Extort - (free text)	2199

BURGLARY

Burgl - Safe-Vault	2201
Burgl - Forced Entry-Resid	2202
Burgl - Forced Entry-Nonresid	2203
Burgl - No Forced Entry-Resid	2204
Burgl - No Forced Entry-Nonresid	2205
Burgl Tools - Possess	2206
Burgl - Banking-Type Inst	2207
Burgl - (free text)	2299

WANTED PERSON

10.16 OFFENSES (Effective June 4, 1973)CODESLARCENY

Pocketpicking	2301
Purse Snatching - No Force	2302
Shoplifting	2303
Larc - Parts From Veh	2304
Larc - From Auto	2305
Larc - From Shipment	2306
Larc - From Coin Machine	2307
Larc - From Bldg	2308
Larc - From Yards	2309
Larc - From Mails	2310
Larc - From Banking-Type Inst	2311
Larc - From Interstate Shipment	2312
Obstruct Correspondence - (postal violation)	2313
Theft Of US Govt Prop	2314
Larc On US Govt Reserv	2315
Larc - Postal	2316
Larc - (free text)	2399

STOLEN VEHICLE (theft, sale, receipt, etc.)

Theft And Sale Veh	2401
Theft And Strip Veh	2402
Theft And Use Veh Other Crime	2403
Veh Theft	2404
Theft Veh By Bailee	2405
Receiv Stolen Veh	2406
Strip Stolen Veh	2407
Possess Stolen Veh	2408
Interstate Transp Stolen Veh	2409
Aircraft Theft	2410
Unauth Use Of Veh - (includes joy-riding)	2411
Stolen Vehicle - (free text)	2499

FORGERY (COUNTERFEITING)

Forgery Of Checks	2501
Forgery Of - (identify object)	2502

WANTED PERSON

10.16 OFFENSES (Effective June 4, 1973)CODESFORGERY (COUNTERFEITING) (continued)

Counterfeiting Of - (identify object)_____	2503
Pass Forged - (use "pass" for "utter" and/or "distribute")-(identify object)_____	2504
Pass Counterfeited - (use "pass" for "utter" and/or "distribute")-(identify weapon)_____	2505
Possess Forged - (identify object)_____	2506
Possess Counterfeited - (identify object)_____	2507
Possess Tools For - ("forgery" or "counterfeiting")_____	2508
Transport Forged - (identify object)_____	2509
Transport Counterfeited - (identify object)_____	2510
Transport Tools For - ("forgery" or "counterfeiting")_____	2511
Forgery - (free text)_____	2589
Counterfeiting - (free text)_____	2599

FRAUDULENT ACTIVITIES

Fraud - Confidence Game_____	2601
Fraud - Swindle_____	2602
Mail Fraud_____	2603
Fraud - Imperson_____	2604
Fraud - Illeg Use Credit Cards_____	2605
Fraud - Insuff Funds Check_____	2606
Fraud - False Statement_____	2607
Fraud By Wire_____	2608
Fraud - (free text)_____	2699

EMBEZZLEMENT

Embezzle - Business Prop_____	2701
Embezzle - Interstate Shipment_____	2702
Embezzle - Banking-Type Inst_____	2703
Embezzle - Public Prop-(U.S., state, city prop.)_____	2704
Embezzle - Postal_____	2705
Embezzle - (free text)_____	2799

WANTED PERSON

10.16 OFFENSES (Effective June 4, 1973)CODESSTOLEN PROPERTY

Sale Of Stolen Prop	2801
Transport Interstate Stolen Prop	2802
Receiv Stolen Prop	2803
Possess Stolen Prop	2804
Conceal Stolen Prop	2805
Stolen Prop - (free text)	2899

DAMAGE PROPERTY

Damage Prop - Business	2901
Damage Prop - Private	2902
Damage Prop - Public	2903
Damage Prop - Business-With Explosive	2904
Damage Prop - Private With Explosive	2905
Damage Prop - Public-With Explosive	2906
Damage Prop - (free text)	2999

DANGEROUS DRUGS

**Hallucinogen - Mfr	3501
**Hallucinogen - Distrib	3502
**Hallucinogen - Sell	3503
**Hallucinogen - Possess	3504
**Hallucinogen - (free text)	3505
Heroin - Sell	3510
Heroin - Smuggl	3511
Heroin - Possess	3512
Heroin - (free text)	3513
Opium Or Deriv - Sell	3520
Opium Or Deriv - Smuggl	3521
Opium Or Deriv - Possess	3522
Opium Or Deriv - (free text)	3523
Cocaine - Sell	3530
Cocaine - Smuggl	3531
Cocaine - Possess	3532
Cocaine - (free text)	3533

**Not to include marijuana.

WANTED PERSON

10.16 OFFENSES (Effective June 4, 1973)CODESDANGEROUS DRUGS (continued)

Synth Narcotic - Sell	3540
Synth Narcotic - Smuggl	3541
Synth Narcotic - Possess	3542
Synth Narcotic - (free text)	3543
Narcotic Equip - Possess	3550
Marijuana - Sell	3560
Marijuana - Smuggl	3561
Marijuana - Possess	3562
Marijuana - Producing	3563
Marijuana - (free text)	3564
Amphetamine - Mfr	3570
Amphetamine - Sell	3571
Amphetamine - Possess	3572
Amphetamine - (free text)	3573
Barbiturate - Mfr	3580
Barbiturate - Sell	3581
Barbiturate - Possess	3582
Barbiturate - (free text)	3583
Dangerous Drugs - (free text)	3599

SEX OFFENSES (Not involving sexual assault or
commercialized sex)

Sex Offense - Against Child-Fondling	3601
Homosexual Act With Girl	3602
Homosexual Act With Boy	3603
Incest With Minor	3604
Indecent Exposure	3605
Bestiality	3606
Incest With Adult	3607
Seduction Of Adult	3608
Homosexual Act With Woman	3609
Homosexual Act With Man	3610
Peeping Tom	3611
Sex Offense - (free text)	3699

WANTED PERSON

10.16 OFFENSES (Effective June 4, 1973) CODESOBSCENITY

Obscene Material - (free text)	3700
Obscene Material - Mfr	3701
Obscene Material - Sell	3702
Obscene Material - Mailing	3703
Obscene Material - Possess	3704
Obscene Material - Distrib	3705
Obscene Material - Transport	3706
Obscene Communication	3707
Obscenity - (free text)	3799

FAMILY OFFENSES

Neglect Family	3801
Cruelty Toward Child	3802
Cruelty Toward Wife	3803
Bigamy	3804
Contrib Delinq Minor	3805
Neglect Child	3806
Nonpayment of Alimony	3807
Nonsupport Of Parent	3808
Family Offense - (free text)	3899

GAMBLING

Bookmaking	3901
Card Game - Operating	3902
Card Game	3904
Dice Game - Operating	3905
Dice Game	3907
Gambling Device - Possess	3908
Gambling Device - Transport	3909
Gambling Device - Not Registered	3910
Gambling Device	3911
Gambling Goods - Possess	3912

WANTED PERSON

10.16 OFFENSES (Effective June 4, 1973) CODESGAMBLING (continued)

Gambling Goods - Transport	3913
Gambling Goods	3914
Lottery - Operating	3915
Lottery - Runner	3916
Lottery	3918
Sports Tampering	3919
Transmit Wager Information	3920
Establish Gambling Place	3921
Gambling - (free text)	3999

COMMERCIALIZED SEXUAL OFFENSES

Keeping House Ill Fame	4001
Procure For Prostitute - (pimping)	4002
Commercial Sex - Homosexual Prostitution	4003
Prostitution	4004
Frequent House Ill Fame	4005
Trnsp Female Interstate For Immoral Purp	4006
Commercial Sex - (free text)	4099

LIQUOR (Not to include tax and revenue matters or
driving under the influence of liquor)

Liquor - Mfr	4101
Liquor - Sell	4102
Liquor - Transport	4103
Liquor - Possess	4104
Liquor - (free text)	4199

WANTED PERSON

10.16 OFFENSES (Effective June 4, 1973)CODESOBSTRUCTING THE POLICE

Resisting Officer	4801
Obstruct Criminal Invest	4802
Making False Report	4803
Evidence - Destroying	4804
Witness - Dissuading	4805
Witness - Deceiving	4806
Refusing To Aid Officer	4807
Compounding Crime	4808
Unauth Communication With Prisoner	4809
Illegal Arrest	4810
Crossing Police Lines	4811
Failure Report Crime	4812
Failing To Move On	4813
Obstruct Police - (free text)	4899

FLIGHT - ESCAPE

*Escape - (identify type institution)	4901
Flight To Avoid - (prosecution, confinement, etc.)	4902
Aiding Prisoner Escape - (identify type institution)	4903
Harboring - (escapee or fugitive)	4904
Flight-Escape - (free text)	4999

OBSTRUCTING JUDICIARY, CONGRESS,
LEGISLATURE, OR A COMMISSION

Bail - Secured Bond	5001
Bail - Personal Recog	5002
Perjury	5003
Perjury - Subornation Of	5004
Contempt Of Court	5005
Obstructing Justice	5006
Obstructing Court Order	5007
Misconduct - Judic Officer	5008
Contempt Of Congress	5009
Contempt Of Legislature	5010

*Enter date of escape in Date of Warrant (DOW) Field.

WANTED PERSON

10.16 OFFENSES (Effective June 4, 1973)CODESOBSTRUCTING JUDICIARY, CONGRESS,
LEGISLATURE, OR A COMMISSION (continued)

Parole Violation _____	5011
Prob Violation _____	5012
Condit Release Violation _____	5013
Mandatory Release Violation _____	5014
Failure To Appear _____	5015
Obstruct - (specify Judic, Congr, Legis, Commsn) (free text) _____	5099

BRIBERY

Bribe - Giving _____	5101
Bribe - Offering _____	5102
Bribe - Receiving _____	5103
Bribe - (free text) _____	5104
Conflict Of Interest _____	5105
Gratuity - Giving _____	5106
Gratuity - Offering _____	5107
Gratuity - Receiving _____	5108
Gratuity - (free text) _____	5109
Kickback - Giving _____	5110
Kickback - Offering _____	5111
Kickback - Receiving _____	5112
Kickback - (free text) _____	5113
Bribery - (free text) _____	5199

WEAPON OFFENSES

Altering Identification On - (specify wpn) _____	5201
Carrying Concealed - (specify weapon) _____	5202
Carrying Prohibited - (specify weapon) _____	5203
Explosives - Teaching Use-(specify) _____	5204
Explosives - Transporting-(specify) _____	5205
Explosives - Using-(specify) _____	5206
Incendiary Device - Possess-(specify) _____	5207
Incendiary Device - Using-(specify) _____	5208

WANTED PERSON

10.16 OFFENSES (Effective June 4, 1973) CODESWEAPON OFFENSES (continued)

Incendiary Device - Teaching Use-(specify)_____	5209
(Do not use if ARSON)	
Licensing - Registration-(specify wpn)_____	5210
Explosives - Possessing-(specify)_____	5211
Possession Of - (specify)_____	5212
Firing - (specify weapon)_____	5213
Selling - (specify weapon)_____	5214
Threat To Bomb - (specify)_____	5215
Threat To Burn - (specify)_____	5216
Weapon Offense - (free text)_____	5299

PUBLIC PEACE

Anarchism_____	5301
Riot - Inciting_____	5302
Riot - Engaging In_____	5303
Riot - Interfere Fireman_____	5304
Riot - Interfere Officer_____	5305
Riot - (free text)_____	5306
Assembly - Unlawful_____	5307
Harassing Communication_____	5309
Desecrating Flag_____	5310
Disord Conduct - (specify conduct)_____	5311

Public Peace - (free text)_____	5399
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TRAFFIC OFFENSE

Hit And Run_____	5401
Transp Dangerous Material_____	5402
Driving Under Influence Drugs_____	5403
Driving Under Influence Liquor_____	5404

Traffic Offense - (free text)_____	5499
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WANTED PERSON

10.16 OFFENSES (Effective June 4, 1973)CODESHEALTH - SAFETY

Drugs - Adulterated	5501
Drugs - Misbranded	5502
Drugs - (free text)	5503
Food - Adulterated	5504
Food - Misbranded	5511
Food - (free text)	5512
Cosmetics - Adulterated	5520
Cosmetics - Misbranded	5521
Cosmetics - (free text)	5522
Health-Safety - (free text)	5599

CIVIL RIGHTS

Civil Rights - (free text)	5699
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INVASION OF PRIVACY

Divulge Eavesdrop Info	5701
Divulge Eavesdrop Order	5702
Divulge Message Contents	5703
Eavesdropping - (free text)	5704
Eavesdrop Equip - (free text)	5705
Opening Sealed Communication	5706
Trespassing - (free text)	5707
Wiretap - Failure To Report	5708
Invade Privacy - (free text)	5799

SMUGGLING

Smuggle Contraband - (specify type)	5801
Smuggle Contraband Into Prison - (specify type)	5802
Smuggle To Avoid Paying Duty - (specify type)	5803
Smuggling - (free text to further describe)	5899

WANTED PERSON

10.16 OFFENSES (Effective June 4, 1973) CODESELECTION LAWS

Election Laws - (free text to further describe) _____ 5999

ANTITRUST

Antitrust - (free text to further describe) _____ 6099

TAX REVENUE

Income Tax - (further describe) _____ 6101

Sales Tax - (further describe) _____ 6102

Liquor Tax - (further describe) _____ 6103

Tax Revenue - (free text to further describe) _____ 6199

CONSERVATION

Conservation - Animals-(describe offense further) _____ 6201

Conservation - Fish-(describe offense further) _____ 6202

Conservation - Birds-(describe offense further) _____ 6203

Conservation - License-Stamp-(describe offense) _____ 6204

Conservation - Environment-(describe offense) _____ 6205

Conservation - (free text) _____ 6299

CRIMES AGAINST PERSON

(free text) _____ 7099

PROPERTY CRIMES

(free text) _____ 7199

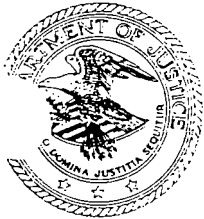
MORALS -DECENCY CRIMES

(free text) _____ 7299

WANTED PERSON

[	10.16 <u>OFFENSES</u> (Effective June 4, 1973)	<u>CODES</u>
	PUBLIC ORDER CRIMES	
	(free text) _____	7399

Arrests for Federal offense, by agency making the arrest, 1998			
Agency	Number	Percent	
Total	106,180	100	%
Department of Agriculture	266	0.3	
Department of Defense	286	0.3	
Department of Interior	931	0.9	
Bureau of Indian Affairs	159	0.2	
U.S. Park Police	772	0.7	
Department of Justice	77,622	73.1	
Drug Enforcement Administration	11,251	10.6	
Federal Bureau of Investigation	11,914	11.2	
Immigration and Naturalization Service	25,296	23.8	
U.S. Marshals Service	29,024	27.3	
Other	37	0.0	
Department of State	464	0.4	
Department of Treasury	11,501	10.8	
Bureau of Alcohol, Tobacco, and Firearms	2,076	2.0	
Internal Revenue Service	844	0.8	
Secret Service	1,931	1.8	
U.S. Customs Service	6,650	6.3	
Federal Judiciary	774	0.7	
U.S. Postal Service	1,025	1.0	
Other	13,311	12.5	
State and local agencies	3,283	3.1	
Task forces	67	0.1	
Self-report	7,977	7.5	
Other	1,984	1.9	
Note: Statistics do not include persons arrested by Federal law enforcement agencies who were prosecuted in State, local, or foreign courts. Data source: U.S. Marshals Service, Prisoner Tracking System.			



Office of the Attorney General
Washington, D. C. 20530

November 15, 1999

The President
The White House
Washington, DC 20500

Dear Mr. President:

In response to your June 9, 1999, Executive Memorandum, I am submitting a report on the Department of Justice's (DOJ) training programs, policies, and practices regarding the use of race, ethnicity, and gender in its law enforcement activities.

As stated in the report, the guarantee of equal protection under the law to all persons is one of the most fundamental principles of our democratic society. To protect this essential right, federal law enforcement agencies must adopt policies that ensure fairness in their activities.

Given the importance of the issue of the use of race, ethnicity, and gender in federal law enforcement activities and the need to achieve a coordinated resolution of the complex legal and policy issues that the matter presents, the Department of Justice will establish a working group, headed by the Deputy Attorney General, to further evaluate current policies and training related to the use of race, ethnicity, and gender in DOJ law enforcement agencies and make recommendations as appropriate.

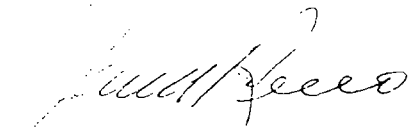
The working group will evaluate existing agency materials and data collected from the Department's field tests to:

- (1) Develop policy recommendations with respect to the use of race, ethnicity and gender in all agency law enforcement activities;
- (2) Expand and strengthen the training provided by Department law enforcement agencies to federal, state, and local law enforcement concerning the use of race, ethnicity and gender; and
- (3) Ensure that the law enforcement agencies are appropriately supervising and monitoring their agents, employees and operations for any impermissible use of race, ethnicity or gender.

The President
Page 2

We expect to conclude this review and make recommendations for reforms, as appropriate, soon after the receipt of interim results from the data collection effort.

Respectfully,



Janet Reno

Enclosure

Talking Points on Fairness in Law Enforcement Directive

November 19, 1999

Overview

- As you'll recall, the President issued a directive in June to collect data on law enforcement and racial profiling. The Administration has just completed the first stage of this process—developing plans for a data collection system and assessing current practices. We wanted to reach out and share with you the documents from this stage.
- As we move now to the next stage—actually collecting the data—we want to be sure to keep a channel open with you, so that we know your questions and concerns. We are also setting up a Justice Department working group to evaluate the data as it becomes available and to recommend improvements to current policies and practices. This next stage of collection and evaluation will proceed for one year.

Presidential Memorandum on Data Collection

- **Follow-up to the President's Directive.** The President signed an Executive Memorandum on June 9, 1999 directing the Departments of Justice, Treasury and Interior to design a system of data collection of race, ethnicity, and gender of individuals stopped or inspected by federal law enforcement; implement a field test of that system; and collect the relevant data. The directive also called for the agencies to report on current training programs, policies and practices regarding use of race, ethnicity and gender in federal law enforcement activities.
- **Data collection plans are in place.** As required by the President's directive, the Departments of Justice, Treasury and Interior have all submitted their plans for data collection field tests. This is the first stage of the process. The agencies will implement the field tests and collect data for one year, after which they will report their findings as well as recommendations. Since we know you are tracking this issue closely, we have sent copies of the agencies' data collection plans to you.
- **How data will be collected.** The Justice Department's Bureau of Justice Statistics (BJS) worked with the agencies to ensure consistency among the data collection plans. Agencies will collect race or ethnicity data using categories prescribed by OMB. Like most of the state and local jurisdictions that have begun to collect such data, race and ethnicity data will be collected through the observation of law enforcement officers rather than self-reports.
- **Type of data collected.** For non-suspect specific encounters with law enforcement, information collected will include date, time, location and length of encounter, race, or ethnicity of person stopped, reason for encounter, suspected criminal activity, and law enforcement action taken.

Data Collection Field Tests

- **Department of Justice.** The Justice Department's data collection field tests will include participation by the Drug Enforcement Administration (DEA) and the Immigration and Naturalization Service (INS). The Bureau of Justice Statistics will analyze the data collected by the agencies.

DEA. The DEA has selected geographically diverse sites to participate in its field test. Through its Operation Jetway program, DEA agents routinely make pedestrian stops in airports, train and bus stations, and parcel facilities. DEA has proposed nine Operation Jetway sites for the field test including: Detroit Metropolitan Airport; Newark International Airport; Houston International Airport; Miami International Airport; Chicago O'Hare International Airport; Charleston, SC bus station; Cleveland train station; Albuquerque, NM train station; and San Jose, CA bus station.

INS. The INS field test will include airports, "roving" patrols, a fixed land checkpoint, and a land border crossing on the U.S.-Mexico border. Airports will include: John F. Kennedy International Airport, George Bush Intercontinental Airport (Houston, TX), and Seattle/Tacoma Airport. Border Patrol agents conducting "roving patrols" stationed at the El Cajon, CA station, Yuma, AZ station, and El Paso station will participate in the field test. In addition, a fixed check point in the Southwest U.S. and the land border crossing at Del Rio, TX will participate.

Improving data collection beyond stops and searches. The Justice Department will also improve data collection on arrests to better monitor the racial and ethnic composition of persons at each stage of the Federal criminal justice system, including arrestees, and defendants prosecuted and sentenced in federal court.

- **Department of Treasury.** The Treasury Department field tests will include the two components of Treasury law enforcement with the most frequent contact with the public: the U.S. Customs Service and Secret Service Uniformed Division. The data will provide a statistical snapshot of traffic stops and pedestrian stops conducted by the Secret Service as well as more extensive inspections or interviews of entrants to the Customs Service.

U.S. Customs Service. The Customs field test will collect data on persons stopped and searched on inbound flights at 5 major air ports of entry: Chicago O'Hare International Airport, New York JFK International Airport, Los Angeles International Airport, Newark International Airport, and Miami International Airport. During the data collection field test, any complaints on personal searches will be handled through a newly established Customer Satisfaction Unit.

Secret Service Uniformed Division. The Secret Service will collect data on traffic and

pedestrian stops within the Uniformed Division, Foreign Missions branch. The Foreign Missions Branch provides protection through vehicle patrols, foot patrols, and fixed posts. The field test will cover the approximately 100 officers who are responsible for the protection of foreign diplomatic missions and personnel in the metropolitan area of the District of Columbia.

- **Department of Interior.** The Interior Department selected the National Park Service to participate in the field test. The National Park Service Rangers and U.S. Park Police make hundreds of thousands of law enforcement contacts annually. The field test will include ten sites from around the country that represent high visitation areas with exceptionally active law enforcement programs. Some of the sites selected include: Yosemite National Park, CA; Grand Canyon National Park, AZ; Blue Ridge Parkway, VA/NC; Valley Forge National Historical Park, PA; and the Baltimore-Washington Parkway.

Current Policies, Practices, and Training

[Background: Note that the DOJ report contains more detailed information on use of race and ethnicity in investigations and other law enforcement interactions than the other agencies' reports, and may raise some questions. In particular, the INS policy that explicitly permits apparent ethnicity to be used as a factor for certain stops and detentions may be viewed as troubling, although it has been found constitutional by the U.S. Supreme Court. To help address possible criticism, we should stress the importance of the working group that the Deputy Attorney General will soon convene to address such issues and make recommendations – prior to the completion of the data collection time period.]

- **Interim steps to strengthen current policies.** In response to the directive, the agencies submitted detailed information on existing training programs, policies and practices regarding the use of race, ethnicity, and gender in federal law enforcement activities.. There are some interim improvements that agencies will take immediately, including a full review of Justice Department training provided for federal and state and local law enforcement on use of race/ethnicity. You should also be aware that Customs has recently instituted a number of important changes, including inspector training on cultural interaction, the establishment of a Customer Satisfaction Unit, and the creation of an independent Personal Search Review Commission to review Customs policies and procedures for international air passenger processing.
- **New working group to make long-term improvements to current policies and practices.** As data collection proceeds, the Justice Department will establish a working group headed by the Deputy Attorney General to further evaluate and recommend improvements to current policies and training. This working group, which will include representatives from the Department's law enforcement agencies and the Civil Rights Division, will evaluate existing policies as well as results from the data collection field tests as they become available. The working group will welcome your organization's input. In addition, the Independent Commission at Customs is reviewing Customs policies and procedures to further improve

passenger processing and search procedures.

Next Steps

- **This is the first stage of a more than year-long effort.** We know this is an issue that is of critical importance to your organization. The document we've sent to you represents the first stage in a multistage effort to carry out the President's directive. We believe that the field tests developed by the agencies are a serious effort to carry out the President's directive.
- **We will continue to keep you abreast and seek your input of this important initiative.** Take some time to review the documents we've sent and let us know if you have further questions or concerns. We will be happy to answer any questions you have, and if you think it would be helpful, we can set up a meeting once you've had some time to review the documents. We will continue to keep you apprised of the field tests and appreciate your input of our efforts to improve existing policies, practices and training.



U.S. Department of Justice

Office of the Associate Attorney General

Deputy Associate Attorney General

Washington, D.C. 20530

November 8, 1999

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ^{acting} ASSOCIATE ATTORNEY GENERAL

FROM: Anthony S. Murry *ASM*
Associate Deputy Attorney General

Richard B. Jerome *RBJ*
Deputy Associate Attorney General

Kim L. Simmons *KS*
Counsel to the Deputy Attorney General

SUBJECT: President's Memorandum on Fairness in Law Enforcement

PURPOSE: To obtain the Attorney General's signature on a letter to the President transmitting a report on the Department's policies and practices regarding the use of race and ethnicity in law enforcement activities; to obtain the Attorney General's approval of a Departmental working group to develop additional Department policies on the use of race, ethnicity and gender in law enforcement activities.

TIMETABLE: As soon as possible.

DISCUSSION:

On June 9, 1999, the President issued an executive memorandum to the Secretary of the Interior, the Attorney General, and the Secretary of the Treasury directing them to design a system for collecting statistics relating to race, ethnicity and gender for law enforcement activities in each department. The memorandum also asked for a report describing each agency's training programs, policies and practices regarding the use of race, ethnicity and gender in its law enforcement activities. We have already sent to the President our proposal for a data collection field test. The attached report summarizes the Department's training programs, policies and practices.

As we state in the report, the guarantee of equal protection under the law to all persons is one of the most fundamental principles of our democratic society. To protect this essential right, Federal law enforcement agencies must adopt policies that ensure fairness in their activities. Federal law enforcement officers are prohibited from discriminating on the basis of race, ethnicity, religion, gender, and disability in performing their law enforcement duties.

Illegal activity transcends racial or ethnic parameters. The fact that a person is African-American, Hispanic, Asian, or of another racial or ethnic minority group is not a reason for law enforcement to suspect that person of wrongdoing. There is universal recognition, in both policy and case law, that a law enforcement officer may not rely on race or ethnicity as the sole basis for law enforcement action such as a traffic stop, pedestrian stop, or request for consent to search. At the same time, where a law enforcement officer has information linking specific criminal activity to an individual whose race, ethnicity or other identifying characteristic is known, that information is appropriately used to identify and locate that individual.

The challenge for law enforcement is (1) to develop policies and training programs enabling law enforcement officers to determine when information relating to the race or ethnicity of persons engaged in past or current illegal activities may be used in law enforcement operations; (2) to supervise and monitor law enforcement activities to ensure that these policies are implemented in the field; and (3) to identify and remedy those situations where race is inappropriately used to target individuals.

In addition to describing the existing policies and training programs of the Department's law enforcement components, the attached report recommends that the Department create a working group, headed by the Deputy Attorney General, to further evaluate current policies and training with regard to the use of race, ethnicity, and gender in DOJ law enforcement agencies and make recommendations as appropriate.

We propose that the working group, which will include representatives from the Department's law enforcement agencies and the Civil Rights Division, evaluate existing agency materials as well as results from the data collection field tests as they become available in order to:

- (1) Develop policy recommendations on the appropriate use of race and ethnicity in all agency law enforcement activities. This will include an examination of the appropriate use of intelligence reports and when information obtained as part of a law enforcement

investigation is specific enough to warrant the use of a racial or ethnic identifier. This will also include an analysis by the INS to determine if some factors are more accurate than others in predicting alienage;

- (2) Expand and strengthen the training provided by Department law enforcement agencies to federal, state, and local law enforcement concerning the use of race and ethnicity; and
- (3) Ensure that the law enforcement agencies are appropriately supervising and monitoring their agents and employees and operations for any impermissible use of race and/or ethnicity.

We expect to conclude this review and make recommendations for reforms, as appropriate, by June, 1999, soon after the receipt of interim results from the data collection effort.

We also propose that in the interim, the Department's law enforcement agencies take the following steps:

- (1) The INS will issue interim policy guidance that clarifies that ethnicity cannot be the sole or determinative factor in the decision to conduct any encounter — including those not requiring "reasonable suspicion" under the Fourth Amendment. This will result in a consistent agency policy with regard to all encounters.
- (2) Each agency will review its training materials to ensure that all new, incumbent, line, and supervisory agents and analysts receive training on the agency's policies with regard to the use of race and/or ethnicity in all law enforcement activities. This will include a review of the training provided to state and local law enforcement to better ensure that officers trained by federal agencies are not basing their law enforcement activities on race or ethnicity.
- (3) The Department of Justice will explore ways to promote data collection on race, ethnicity, and gender of people stopped or searched by state and local law enforcement officers trained by Department agencies. This data collection will assist state and local law enforcement officers in complying with principles of non-discrimination.

In preparing this report and these recommendations, we have worked closely with the Civil Rights Division and the Department's law enforcement components.

RECOMMENDATION:

That the Attorney General approve the creation of the working group described above, and that the Department forward the attached report to the President.

APPROVE: _____

Concur
CRT

DISAPPROVE: _____

COMMENTS: _____

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The Honorable John Conyers, Jr.
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The Honorable James E. Clyburn
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The Honorable Danny K. Davis
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The Honorable Lucille Roybal-Allard
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The Honorable Robert A. Underwood
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Richard Gallo, President
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**Outreach Plan for the
Fairness in Law Enforcement Directive
November 19, 1999**

Timing

- Mail the reports to the groups (see list below) on Friday, November 19, 1999.
- Leanne and Irene will call the groups on Friday to inform them that we are sending them a report that is the first stage of the requirement of the President's Executive Memorandum. This report: (1) describes the extensive data collection effort that begins next month and will result in a comprehensive analysis of current policies and practices; the results will be available later next year; 2) in the meantime, we are reviewing our own policies to determine which need to be revised or clarified and if appropriate, we will not wait for the data analysis to make these changes; and 3) we want your reaction to the data collection plan and our survey of current policies of federal agencies. Leanne has drafted detailed talking points that we will send you shortly.
- If the groups would like a meeting to discuss their concerns we would accommodate their request. However, at this time, we think it is more helpful for them to review the report before having a meeting. DOJ (Richard Jerome and Julie Fernandes) agree that this is the correct approach.

Civil Rights Groups

Laura Murphy, ACLU

Wade Henderson, Leadership Conference on Civil Rights

Kwisi Mfume - NAACP - Baltimore

Hilary Shelton, NAACP -DC

Raul Yzaguirre, President, National Council of La Raza (NCLR)

Karen Narasaki, National Asian Pacific American Legal Consortium (NAPALC)

Hugh Price, Urban League

Jim Zogby, Arab American Institute (we are verifying this group).

Jesse Jackson - Rainbow Push

Sandy Cloud, National Conference on Christian and Jews – DC office

Police Groups

International Association of Chiefs of Police

Fraternal Order of Police

National Association of Police Organizations

National Organization of Black Law Enforcement Executive (NOBLE)

Police Executive Research Forum

Police Foundation

National Sheriff Association

Federal Law Enforcement Officers Association

Hill

House

Rep. Conyers, Ranking Member on Judiciary Committee

Congressional Black Caucus

- Rep. James Clyburn, Chairman
- Rep. Danny Davis, head of the Task Force on Race Profiling

Congressional Hispanic Caucus

- Rep. Roybal-Allard, Chairman

Congressional Asian Pacific Caucus

- Rep. Underwood, Chairman

Senate

- Senator Kennedy, Ranking Member, Judiciary Committee

 Leanne A. Shimabukuro

06/09/99 03:00:29 PM

Record Type: Record

To: Irene Bueno/OPD/EOP@EOP

cc:

Subject: Memorandum: Fairness in Law Enforcement

----- Forwarded by Leanne A. Shimabukuro/OPD/EOP on 06/09/99 03:04 PM -----



Jason H. Schechter
06/09/99 02:45:48 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: Memorandum: Fairness in Law Enforcement

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

June 9, 1999

June 9, 1999

MEMORANDUM FOR THE SECRETARY OF THE TREASURY
THE ATTORNEY GENERAL
THE SECRETARY OF THE INTERIOR

SUBJECT: Fairness in Law Enforcement: Collection of Data

We must work together to build the trust of all Americans in law enforcement. We have great confidence in our Federal law enforcement officers and know that they strive to uphold the best principles of law enforcement in our democratic society. We cannot tolerate, however, officers who cross the line and abuse their position by mistreating law-abiding individuals or who bring their own racial bias to the job. No person should be

subject to excessive force, and no person should be targeted by law enforcement because of the color of his or her skin.

Stopping or searching individuals on the basis of race is not effective law enforcement policy, and is not consistent with our democratic ideals, especially our commitment to equal protection under the law for all persons. It is neither legitimate nor defensible as a strategy for public protection. It is simply wrong.

To begin addressing the problem of racial profiling, Federal agencies should collect more data at all levels of law enforcement to better define the scope of the problem. The systematic collection of statistics and information regarding Federal law enforcement activities can increase the fairness of our law enforcement practices. Tracking the race, ethnicity, and gender of those who are stopped or searched by law enforcement will help to determine where problems exist, and guide the development of solutions.

I therefore direct you to design and implement a system to collect and report statistics relating to race, ethnicity, and gender for law enforcement activities in your department. Specifically, you shall:

- (1) develop a proposal within 120 days, in consultation with the Attorney General, for a system of data collection and an implementation plan for a field test of that system, including the law enforcement agency components, sites, data sets, training, and other methods and procedures to be included in the field testing. You shall implement field tests within 60 days of finalizing their proposals;

- (2) to the extent practicable, collect data that is sufficiently detailed to permit an analysis of actions relevant to the activities of the included law enforcement agencies by race, ethnicity, or gender. Such actions may include traffic stops, pedestrian stops, a more extensive inspection or interview than that customarily conducted

more

(OVER)

with entrants to the United States, requests for consent to search, or warrantless searches. Data acquired pursuant to this memorandum may not contain any information that may reveal the identity of any individual; and

(3) provide to the Attorney General a summary of the information collected during the first year of your field test, including civilian complaints received alleging bias based on the race, ethnicity, or gender of the complainant in law enforcement activities; your process for investi-gating and resolving such complaints; and the outcomes of any such investigations. The Attorney General shall report to me, in consultation with relevant agency heads, on the results of the field tests with: (i) an evaluation of the first year of the field test; (ii) an implementation plan to expand the data collection and reporting system to other components and locations within the agency and to make such system permanent; and (iii) recommendations to improve the fair administration of law enforcement activities.

In addition, within 120 days of the date of this directive, you shall provide a report to me on your training programs, policies, and practices regarding the use of race, ethnicity, and gender in your law enforcement activities, along with recommendations for improving those programs, policies, and practices.

WILLIAM J. CLINTON

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Message Sent To: _____