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DEPARTMENT OF JUSTICE

[OMB Number 1110-0057]

Agency Information Collection Activities;

Proposed eCollection eComments Requested;

A Newly Approved Data Collection

National Use-of-Force Data Collection

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: 30-day Notice.

SUMMARY:

The Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division (CJIS) has submitted the following Information Collection Request to the Office of Management and Budget (OMB) for review and clearance in accordance with the established review procedures of the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the Federal Register on October 5, 2016, Volume 81, Number 193, Pages 69084-69087 allowing for a 60-day comment period.

DATES: Comments are encouraged and will be accepted for an additional days until **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT:

To ensure that comments on the information collection are received, OMB recommends that written comments be e-mailed to <useofforcepublicnotice@ic.fbi.gov>.

If you have additional comments especially on the estimated public burden or associated response time, suggestions, or copy of the proposed information collection instrument with instructions or additional information, please contact Ms. Amy Blasher, Unit Chief, FBI CJIS Division, Module D-3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306.

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SUPPLEMENTARY INFORMATION:

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and/or
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

- 1 *Type of Information Collection:* New collection.
- 2 *The Title of the Form/Collection:* National Use-of-Force Data Collection
- 3 *The agency form number:* The form number is unnumbered. The applicable component within the DOJ is the FBI CJIS Division.
- 4 *Affected public who will be asked or required to respond, as well as a brief abstract:*
Primary: Local, state, tribal, and federal law enforcement agencies.

Other: Local, state, tribal, and federal government.

Abstract: The FBI has a long-standing tradition of providing crime statistics collected from local, state, tribal, and federal law enforcement agencies on Law Enforcement Officers Killed and Assaulted (LEOKA) and justifiable homicides which enable transparency and accountability. To provide a better understanding of the incidents of use of force by law enforcement, the Uniform Crime Reporting (UCR) Program is proposing a new data collection for law enforcement agencies to provide information on incidents where use of force by a law enforcement officer (as defined by the LEOKA Program) has led to the death or serious bodily injury of a person, as well as when a law enforcement officer discharges a firearm at or in the direction of a person.

The current LEOKA definition of a law enforcement officer is: “All local, county, state, and federal law enforcement officers (such as municipal, county police officers, constables, state police, highway patrol, sheriffs, their deputies, federal law enforcement officers, marshals, special agents, etc.) who are sworn by their respective government authorities to uphold the law and to safeguard the rights, lives, and property of American citizens. They must have full arrest powers and be members of a public governmental law enforcement agency, paid from government funds set aside specifically for payment to sworn police law enforcement organized for the purposes of keeping order and for preventing and detecting crimes, and apprehending those

responsible.”

The definition of “serious bodily injury” will be based, in part, on 18 United States Code (U.S.C.), Section 2246 (4), to mean “bodily injury that involves a substantial risk of death, unconsciousness, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.”

These actions include the use of a firearm; an electronic control weapon (e.g., Taser); an explosive device; pepper or OC (oleoresin capsicum) spray or other chemical agent; a baton; an impact projectile; a blunt instrument; hands-fists-feet; or canine.

Local, state, tribal and federal law enforcement agencies will provide information on characteristics of the incident, subjects of the use of force, and the officers that applied force in the incident. Agencies will also be asked to positively affirm, on a monthly basis, whether they did or did not have any use of force that resulted in a fatality, a serious bodily injury to a person, or firearm discharges at or in the direction of a person. Enrollment information from agencies and state points of contact will be collected at the initiation of the collection and updated no less than annually to assist with the managing of this data. The process for developing a robust national collection on use of force involves a multistage, collaborative approach. With this request, the FBI proposes a pilot study. The pilot study will be conducted in two

phases, each with its own focus. The pilot study design will be informed by pretesting activities conducted under the FBI's generic clearance [OMB 1110-0057] as discussed briefly here. Both pretesting and pilot efforts will rely upon effective collaboration between the FBI and the Bureau of Justice Statistics (BJS) to achieve and maintain a high level of data quality in an efficient manner.

Pretesting

Pretesting activities were conducted prior to the initiation of a pilot study and allowed for finalization of the data collection instructions and associated instructions before the pilot data collection. These activities provided the preliminary information needed to both construct the sample of targeted agencies for the pilot study and identify early problem areas that could be resolved prior to formal testing. The pretesting consisted of three parts: cognitive testing of survey items (including those relating to the time of the incident and measures of serious bodily harm), testing of questionnaire design (to better assess respondent burden and functionality), and a canvass of state UCR program managers (to assist with developing the sample frame for the proposed pilot). Cognitive testing was conducted in a manner to capture differences in measurement by region and law enforcement agency type, should they exist. Testing of questionnaire design includes follow-up with respondents to assess any difficulty with definitions or administration. Canvassing state UCR programs

indicates the means by which use-of-force statistics are reported—either through the UCR Program itself or directly from state and local law enforcement agencies.

Pilot

The purpose of the pilot study is to evaluate the quality of information collected through the use-of-force data collection tool against information collected through coding of state law enforcement records. Instructions and manuals, as well as training modules and curricula, all serve to help guide individuals at law enforcement agencies to translate their local records into a uniform manner when reporting. However, it may be difficult to communicate coding schemes based upon a common set of definitions. Therefore, after providing basic instructions to respondents, the pilot study will evaluate the accuracy of codes assigned by respondents to identify concepts with less consensus across locations and types of law enforcement agencies and thereby improve coding instructions. Potential sources of nonresponse and incomplete information will also be evaluated. Both phases of the pilot will include a set of target agencies and states that will allow for sufficient data to evaluate intercoder reliability in the application of definitions and guidance. The phases of the pilot differ by the mode of submission for incident data, the addition of site visits, and the number of sites recruited.

Phase 1

The first phase of the pilot will provide a prospective comparison of reported incidents in the use-of-force data collection through the use-of-force data collection

tool to the original records voluntarily provided by the reporting agency to the FBI. Those agencies that are recruited and agree to participate in the pilot study will understand that local records will be forwarded to the FBI upon submission of statistical information to the use of force data collection tool. The local case information will be redacted of any personally identifiable information prior to being forwarded to the FBI, and all local records will be destroyed upon completion of the pilot study.

The goal of this review is to ascertain whether the agencies are applying the definitions and using the provided instructions in a uniform manner. The records review and comparison will also identify problematic areas where instructions need more detail or more training should be provided to agencies. The data will also be used in the planning of the second phase of the pilot that will involve a site visit to a subset of agencies. Finally, the FBI will work with state UCR program managers in the pilot states to identify any potential problems with local and state record-keeping that impedes the ability to provide the use-of-force information to the FBI.

Phase II

The second phase of the pilot will include the set of agencies recruited for the first phase, as well as two additional states recruited to provide their use-of-force data in a

bulk data submission. These states will be nominated based upon the information gained from the canvass of state UCR program managers during pretesting. The FBI will also continue to accept agencies and states that voluntarily provide data to the data collection.

In addition to the records review and comparison begun during Phase 1, Phase II will include targeted, on-site visits with a subsample of pilot agencies. The subsample will be selected to include different geographic areas. The primary goal of the on-site visits is to ascertain the level and source of underreporting of within-scope incidents—especially those with serious bodily injury or firearm discharges. The on-site visits will also allow for an assessment of local record-keeping capabilities and changes to the data collection process.

At the conclusion of Phase II, the FBI will release a report detailing the results of its data collection, analysis, and recommendations to inform the design of a main study.

- 5 *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 701,486 law enforcement officers will participate in the National Use-of-Force Data Collection. The estimated burden hours per incident is 0.63 for completion.

6 *An estimate of the total public burden (in hours) associated with the collection:*

Two separate burden estimates are provided for the proposed collection—one for the pilot study and a second for the annual collection to include all law enforcement agencies. Burden estimates were based on sources from the FBI UCR Program, the BJS, and the Centers for Disease Control (CDC). The BJS has recently estimated that approximately 1,400 fatalities attributed to a law enforcement use of force occur annually (Planty, et al., 2015, *Arrest-Related Deaths Program: Data Quality Profile*, <<http://www.bjs.gov/index.cfm?ty=pbdetail&iid=5260>>). In addition, the CDC estimates the incidences of fatal and nonfatal injury—including those due to legal intervention—from emergency department data. In their piece entitled, “The real risks during deadly police shootouts: Accuracy of the naïve shooter,” Lewinski, et al. (2015) estimates law enforcement officers miss their target approximately 50 percent of the time at the firing range and was used as a simple estimate for the number of firearm discharges at or in the direction of a person, but did not strike the individual. In addition, the UCR Program collects counts of the number of law enforcement sworn and civilian employees in law enforcement agencies.

The table below uses a rate per officer to estimate the anticipated number of reports that could be received within the two pilot phases and an annual collection. Because

Estimated Burden for Pilot Study									
Timeframe	Reporting Group	Approximate Number of officers	Annual Rate per officer		Estimated Number of Incidents		Estimated burden hours		
			Maximum	Minimum	Maximum (3 mos)	Minimum (3 mos)	Estimated burden hours per incident	Maximum	Minimum
Pilot I (3 months)	Large agencies	178,557	0.112	0.012	5,000	536	0.63	3,150	338
	Pilot I States	54,781	0.112	0.012	1,534	165	0.63	966	104
Pilot II (3 months)	Large agencies	178,557	0.112	0.012	5,000	554	0.63	3,150	349
	Pilot I & II States	82,172	0.112	0.012	2,300	247	0.63	6,140	156
Pilot Total (6 months)	--	--	--	--	13,834	1,502	0.63	13,406	947

Estimated Burden for All Law Enforcement Agencies in Annual Collection									
Timeframe	Reporting Group	Approximate Number of officers	Maximum	Minimum	Maximum	Minimum	Estimated burden hours per incident	Maximum	Minimum
Collection (Annual)	All agencies	701,486	0.112	0.012	83,200	8,700	0.63	52,416	5,481

the nonfatal injury due to legal intervention estimate from the CDC does not provide any overt measure of severity, these injuries are estimated to be as high as 82,283 or as low as 5,546. Based upon these estimates, the FBI is requesting 52,416 burden hours for an annual collection of this data.

If additional information is required contact: Ms. Amy Blasher, Unit Chief, United States DOJ, FBI CJIS Division, Crime Data Modernization Team, Module D-3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306.

Dated: December 27, 2016

Melody Braswell,

Department Clearance Officer for PRA,

U.S. Department of Justice.

Billing Code: 4410-02

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