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[3270-F1]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Request for Information; Criminal Justice Statistics

AGENCY: Office of Science and Technology Policy (OSTP).

ACTION: Notice of request for information.

SUMMARY: Executive Order, *Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety*, states that building trust in policing and criminal justice requires "transparency through data collection and public reporting." The Executive Order calls for issuing a report to the President on the current data collection, use, and data transparency practices with respect to law enforcement activities. This includes data related to calls for service, searches, stops, frisks, seizures, arrests, complaints, law enforcement demographics, and civil asset forfeiture. The White House Office of Science and Technology Policy (OSTP), on behalf of the National Science and Technology Council (NSTC) and in coordination with the Assistant to the President for Domestic Policy, is requesting public input to inform this report.

DATES: Interested persons and organizations are invited to submit comments on or before 5 p.m. ET **[INSERT DATE 42 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments by any of the following methods:

• *Email: equitabledata@ostp.eop.gov,* include "Criminal Justice Statistics RFI" in the message subject line. Email submissions should be machine-readable [PDF, Word], all attachments must be 25MB or less, and responses should not be copy-protected. Due to time constraints, mailed paper submissions will not be accepted, and electronic submissions received after the deadline cannot be ensured to be incorporated or taken into consideration.

Instructions: Response to this RFI is voluntary. Each responding entity (individual or organization) is requested to submit only one response, in English. Respondents may answer as many or as few questions as they wish. Please identify the question number(s) associated with your answer. Submissions must be at most 7 pages in 11-point or larger font (3,500 words). Responses should include the name of the person(s) or organization(s) filing the comment, as well as the respondent type (e.g.*,* academic institution, advocacy group, professional society, community-based organization, industry, member of the public, government, or other).

We encourage all members of the public interested in this initiative to submit their comments. OSTP and the Criminal Justice Statistics Working Group will consider each comment, whether it contains a personal narrative, experiences with the Federal government, or more technical legal, research, or scientific content.

OSTP will not respond directly to submissions. This RFI is not accepting applications for financial assistance or financial incentives. Comments submitted in response to this notice are subject to the Freedom of Information Act (FOIA). Responses to this RFI may be posted online without notice. OSTP requests that no proprietary, copyrighted, or personally identifiable information be submitted in response to this RFI.

In accordance with FAR 15-202(3), responses to this notice are not offers and cannot be accepted by the U.S. Government to form a binding contract. Additionally, the U.S. Government will not pay for response preparation or the use of any information contained in the response.

FOR FURTHER INFORMATION CONTACT: Karin Underwood, at OSTP, by email at *equitabledata@ostp.eop.gov* or by phone at 202-456-6121. Individuals who use telecommunication devices for the deaf and hard of hearing (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION: On May 25, 2022, President Biden signed an Executive Order (E.O.) on *Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety* (E.O. 14074). This E.O. aimed to enhance public trust and public safety by promoting accountability, transparency, equality, and dignity in policing and the criminal justice system. The E.O. recognized that better data practices are a vital component of advancing these objectives, noting that "Building trust between law enforcement agencies and the communities they are sworn to protect and serve also requires accountability for misconduct and transparency through data collection and public reporting."

Improving the collection, use, and transparency of criminal justice data enables a more rigorous assessment of the extent to which law enforcement agency procedures and policies yield fair, just, and impartial treatment of all individuals, including those in underserved communities. To improve outcomes for communities, we need to identify effective and emerging practices and opportunities to accelerate the adoption and adaptation of those practices across the nation's approximately 18,000 State, Tribal, local, territorial (STLT) law enforcement agencies. To help reach this goal, the E.O. directed the Equitable Data Working Group to work with the National Science and Technology Council (NSTC) to create an Interagency Working Group on Criminal Justice Statistics and tasked this group to develop a report about how to collect and publish data on police practices.

In this RFI, we are seeking the following:

1. Information to understand the current data collection, use, and transparency practices across STLT law enforcement activities.

2. Best practice examples and lessons learned from STLT law enforcement agencies and other entities in the criminal justice system related to how they have collected, used, and/or made transparent data disaggregated by demographic

information, geographic information, and other variables to inform changes to policies, procedures, and protocols to produce more equitable outcomes.

3. Recommendations on how to build the capacity and ability of STLT law enforcement agencies to collect, use, and make transparent, comprehensive, high-quality, and disaggregated data on law enforcement activities.

Law enforcement agencies can use data to foster collaborations across all levels of government, neighboring jurisdictions, and a diverse community of external organizations. Public-facing tools and dashboards can allow civil society organizations and communities to visualize and use data about police activities and chart their local law enforcement agency's progress toward equitable outcomes. However, for these efforts to increase police accountability and legitimacy and to improve community participation, they must take into account the data analysis capacity and resources of all stakeholders. The Equitable Data Working Group noted in its recommendations that data disaggregation and transparency need to ensure that individual identities and personally identifiable information (PII) are protected. The stakes of data privacy are exceptionally high in criminal justice, where insufficient privacy and confidentiality can have a chilling effect on victim reporting—including for domestic violence and for hate crimes such as crimes targeted against LGBTQI+ people, religious minorities, and Asian American, Native Hawaiian, and Pacific Islander populations—which, in turn, reduces the ability of law enforcement to respond to, solve, and prevent crimes.[12]

We invite members of the public to share perspectives on what could help achieve comprehensive and transparent criminal justice data and how the Interagency Working Group on Criminal Justice Statistics should address the requirements in E.O. 14074.

Please consider the following when responding to this RFI:

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[1] National Science and Technology Council: Federal Evidence Agenda on LGBTQI+ Equity.
[2] DOJ Office of Violence Against Women: Improving Law Enforcement Response to Sexual Assault and Domestic Violence by Preventing Gender.

- *Datasets:* The Working Group is tasked with issuing a report to the President that assesses current data collection, use, and data transparency practices with respect to law enforcement activities, including but not limited to calls for service, searches, stops, frisks, seizures, arrests, complaints, law enforcement demographics, and civil asset forfeiture. Additional datasets about law enforcement activities to consider include, but are not limited to: use-of-force, officer-involved shootings, de-escalation incidents, incidents (including the federally-reported National Incident-Based Reporting System, NIBRS), hate/bias crimes; solicitations, fees and fines, officer training, community engagement, vehicle pursuits, body-worn camera/dashboard camera metadata, accidents/crashes, patrol locations, and assaults on officers. This RFI does <u>not</u> include surveillance technologies or body-worn camera imagery.

- *Law enforcement agencies*: This Working Group focuses on policing and criminal justice data from STLT law enforcement agencies, *not* Federal law enforcement, which is covered elsewhere in the E.O.

- *Equitable data*: Equitable data refers to data that allow for rigorous assessment of the extent to which government programs and policies yield consistently fair, just, and impartial treatment of all individuals, including those who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality. Equitable data can illuminate opportunities for targeted actions that will result in demonstrably improved outcomes for underserved communities.

- *Disaggregated data*: One key characteristic of equitable data is that it is disaggregated, or broken down into detailed sub-categories that will differ based on the context and desired policy outcomes. For example, data might be disaggregated by demographics (e.g., race, ethnicity, gender identity, sexual

orientation,[3] language spoken, national origin), geography (e.g., rural/urban, police district, neighborhood), or other variables (disability, veteran status, housing status), enabling insights on disparities in access to, and outcomes from, government programs, policies, and services.

Additional context: The Equitable Data Working Group was established by President Biden's first Executive Order, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (E.O. 13985), to study Federal data collection policies, programs, and infrastructure to identify inadequacies and provide recommendations that lay out a strategy to "expand and refine the data available to the Federal Government to measure equity and capture the diversity of the American people." The Criminal Justice Statistics Working Group is now part of the NSTC Subcommittee on Equitable Data. It includes representatives of the Domestic Policy Council, the Office of the Counsel to the President, the Department of Justice, the Office of Management and Budget, the Office of Science and Technology Policy, the Gender Policy Council, the Office of Drug Control Policy, the Centers for Disease Control, the Department of Homeland Security, the Department of Education, and the General Services Administration.

Request for Information

OSTP seeks responses to the following questions about how STLT law enforcement agencies collect, use, and make data transparent to inform policies, procedures, and protocols to reduce disparities. Respondents may provide information for one or more topics below, as desired.

1. What existing reports or research should the Federal government review to better understand and assess the status of data collection, use, and transparency in STLT

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[3] The Federal Evidence Agenda on LGBTQI+ Equity includes guidelines for collecting sexual orientation and gender identity (SOGI) data on forms and in other administrative contexts such as policing and criminal justice.

law enforcement agencies? What are the findings of researchers, groups, and organizations researching the status of law enforcement agencies' data practices in general and disaggregated by sociodemographic and geographic variables in particular?

2. What are promising and effective models for, and what are lessons learned from, how law enforcement agencies collect, use, and share disaggregated data to inform policies, procedures, and training to reduce disparities in policing? What are some examples of law enforcement agencies using these models?

    Note: We are seeking models and examples that collect, use, and share disaggregated data while being intentional about when data are collected and shared, as well as how data are protected.

3. What datasets are critical for law enforcement agencies to collect in order to ensure the comprehensive and disaggregated collection of operational data, incident-based datasets, and other data to produce more equitable outcomes? Why?

4. What communities of practice or collaborations can law enforcement agencies participate in to improve how they collect comprehensive, quality, and disaggregated data to identify and address disparities? How can the Federal government encourage and support the development of collaborations to further promote the exchange of ideas and best practices?

5. What is and is not working regarding how the Federal government supports the collection, use, and transparency of disaggregated data on law enforcement activities, and why?

6. What specific challenges and opportunities do small and resource-constrained STLT law enforcement agencies face in the collection, use, and transparency of disaggregated data to inform more equitable outcomes?

7. How can software vendors (including those that build records management systems (RMS) and other systems) improve software design, development, and deployment to reduce barriers for law enforcement agencies to collect, use, and share comprehensive, quality, and disaggregated data and further incentivize them to produce more equitable outcomes?

8. How might professional, academic, nonprofit, and philanthropic organizations support and/or make investments to help law enforcement agencies advance equitable and disaggregated data practices?

Data Collection

9. How might the Federal government better understand and improve the technologies and data systems that law enforcement agencies use to collect disaggregated data?

10. What standards must be implemented to reduce barriers to data collection from law enforcement? What organizations or models of data standards exist that could serve as a model to inform more standardized police and criminal justice data collection in the future?

11. What are valuable models and lessons learned from data collected by organizations, groups, and researchers other than law enforcement agencies that are related to law enforcement activities? How might these practices lead to the valuable data collection that law enforcement agencies are unable or unwilling to collect on their own?

Use of Data

12. What are effective examples, and what lessons have been learned from how law enforcement agencies use data policies, tools, and practices to improve how police officers interact with underserved populations?

13. What are examples of law enforcement agencies using data policies, tools, and practices that have and have not improved how police officers collect, maintain, review, and act upon data regarding sexual assault, domestic violence, and other forms of gender-based violence?

14. What investments in human capital and data infrastructure can STLT law enforcement agencies make to disaggregate data and conduct equity assessments to inform policies, programs, and protocols to reduce disparities?

15. How might philanthropic organizations and academic researchers work effectively with government officials to evaluate and improve data collection, use, and transparency practices for small and resource-constrained STLT law enforcement agencies?

Data Transparency

16. What are exemplary models of police-community partnerships where police actively work with the community to share data findings and discuss how these data can address community needs? What lessons have been learned?

17. To what extent do law enforcement agencies currently make data publicly available about their efforts to reduce disparities in policing outcomes? What are examples and opportunities for law enforcement agencies to use relevant and accessible approaches to data transparency?

18. How might small and resource-constrained jurisdictions participate in public data sharing and use it to inform decision-making and increase accountability?

19. What relationship-building and what resources would be effective for expanding opportunities for historically underrepresented scholars and research institutions to access law enforcement data while protecting privacy?

20. The E.O. intends to maximize STLT participation in the National Incident-Based Report System (NIBRS). What are the barriers and opportunities for improving

agency participation in NIBRS, including its hate crime reporting section and the FBI's National Use-Of-Force Data Collection?

21. How might the Federal government better share the criminal justice data it collects through surveys and programs like these in a manner that assists and empowers STLT government officials, researchers, and civil society to make use of such data to understand trends and inform policy decisions?

Dated: February 10, 2023.

Rachel Wallace,

Deputy General Counsel.

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