



U.S. Department of **JUSTICE**

This is archived content from the U.S. Department of Justice website. The information here may be outdated and links may no longer function.

**GUIDANCE FOR FEDERAL LAW ENFORCEMENT AGENCIES
REGARDING THE USE OF RACE, ETHNICITY, GENDER, NATIONAL
ORIGIN, RELIGION, SEXUAL ORIENTATION, GENDER IDENTITY,
AND DISABILITY**



MAY 2023

GUIDANCE FOR FEDERAL LAW ENFORCEMENT AGENCIES REGARDING THE USE OF RACE, ETHNICITY, GENDER, NATIONAL ORIGIN, RELIGION, SEXUAL ORIENTATION, GENDER IDENTITY, AND DISABILITY

INTRODUCTION AND EXECUTIVE SUMMARY

Every day, the professionals of the Department of Justice work with skill, integrity, and fidelity to our mission to uphold the rule of law; to keep our country safe from all threats, foreign and domestic; and to protect civil rights. We stand shoulder to shoulder with our Federal, state, local, territorial, and Tribal law enforcement partners to protect the American public from threats posed by nation states and terrorist groups, as well as from violent crime, drug trafficking, hate crimes, financial fraud, cybercrime, environmental crime, and much more. Together, we police our communities with professionalism, respect, bravery, and commitment to building the bonds of trust between law enforcement and communities that are necessary to ensure public safety.

This Guidance is designed to support Federal law enforcement personnel¹ as we endeavor to ensure that fairness, equality, and impartiality are hallmarks of the American justice system. It establishes imperatives for engaging in law enforcement activity in a manner that protects the rights guaranteed by the Constitution and laws of the United States.

This Guidance supersedes the Department of Justice’s 2014 Guidance for Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin,² Religion, Sexual Orientation, or Gender Identity. It builds upon and expands the framework of the 2014 Guidance, reaffirms the Federal government’s deep commitment to ensuring that its law enforcement agencies gather and depend on information that is reliable and trustworthy, and promotes unbiased conduct during Federal law enforcement and intelligence activities.

As the Federal government has long recognized, biased practices are unfair; negatively impact privacy, civil rights, and civil liberties; engender mistrust; and perpetuate negative and harmful stereotypes. Law enforcement practices free from inappropriate

¹ As used in this Guidance, the term “Federal law enforcement personnel” means agents, officers, investigators, analysts, attorneys, paralegals, contractors, and other professionals when engaged in or supporting Federal law enforcement activity, as further explained in Footnote #4 below.

² As used in this Guidance, “national origin” refers to an individual’s or his or her ancestors’ country of birth or origin, or an individual’s possession of the physical, cultural, or linguistic characteristics commonly associated with a particular country. It does not refer to an individual’s “nationality” (*i.e.*, country of citizenship or country of which the person is deemed a national), which may be relevant to the administration and enforcement of certain statutes, regulations, and executive orders.

considerations, by contrast, strengthen trust in law enforcement agencies and foster collaborative efforts between law enforcement and communities to fight crime and keep the Nation safe. In other words, fair and unbiased law enforcement practices are smart and effective law enforcement practices.

Even-handed law enforcement is therefore central to the integrity, legitimacy, and efficacy of all Federal law enforcement activities. The highest standards can – and should – be met across all Federal law enforcement and intelligence activities. Doing so will not hinder – and indeed, will bolster – the performance of Federal law enforcement agencies’ core responsibilities.

Accordingly, this Guidance prohibits consideration of a person’s race, ethnicity, gender, national origin, religion, sexual orientation, gender identity, or disability status unless specific conditions are present. Those conditions are described in the Standard set forth below. Further, it prohibits the use of generalized assumptions or stereotypes about individuals or groups bearing these characteristics as a basis for law enforcement decision-making.

This Guidance applies to the performance of Federal law enforcement and intelligence activities by personnel in Federal law enforcement agencies, including those related to national security, and describes not only the limited circumstances in which a person’s race, ethnicity, gender, national origin, religion, sexual orientation, or gender identity may be considered – as the 2014 Guidance did – but also those in which disability³ may be a consideration.

This Guidance reflects the commitment of Federal law enforcement agencies to gather and act on trustworthy information and intelligence that contains context- and content-specific details that ensure reliability. It applies not only to Federal law enforcement officers, but also to state, local, territorial and Tribal law enforcement officers while participating in Federal law enforcement task forces, and to non-law enforcement Federal personnel when engaged in or directly supporting law enforcement activity and intelligence activity conducted by Federal law enforcement agencies.⁴ Finally, this Guidance establishes clear guidelines for implementing required training, data collection,

³ Nothing in this Guidance prohibits activity or alters the obligation to make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability. 28 C.F.R. § 35.130(b)(7)(i).

⁴ This Guidance applies as a requirement for Department of Justice personnel and for non-Department of Justice personnel when they are engaged in or supporting Department of Justice-led activities, as well as for Federal law enforcement personnel in other Federal agencies that adopt this Guidance. Non-Department of Justice Federal law enforcement agencies are strongly encouraged to adopt policies and procedures that ensure full application of the requirements of this Guidance to all relevant law enforcement activity. The directives within this document apply as guidance for non-Department of Justice Federal law enforcement personnel until adoption by their agencies.

and accountability measures, to ensure that its contents are understood and implemented effectively.

Biased law enforcement practices, as the 2014 Guidance recognized, exact a terrible cost not only for individuals but also for the Nation as a whole. This revised Guidance reflects the Federal government's ongoing commitment to keeping the Nation safe while upholding our dedication to equal justice under law.

STANDARD

Effective Federal law enforcement operations depend on intelligence and information that are reliable and trustworthy. Characteristic information has increased potential to lack trustworthiness when it is considered on its own, not combined with context- and content-specific details that ensure its reliability. Accordingly, Federal law enforcement personnel may not consider race, ethnicity, gender, national origin, religion, sexual orientation, gender identity, or disability in law enforcement or intelligence activities unless the following conditions are met:

- (1) There is trustworthy context- and content-specific information, with sufficient details regarding factors such as locality, time frame, method, and purpose to provide assurance that the information is reliable and links persons possessing a particular listed characteristic to: an identified criminal incident, scheme, or organization; a threat to national or homeland security; a violation of Federal immigration or customs law; or an authorized intelligence activity; and
- (2) Law enforcement personnel reasonably believe the law enforcement activity, including national or homeland security operations or intelligence activity to be undertaken is merited under the totality of the circumstances, weighing all factors, including any temporal exigency or the nature of any potential harm to be averted.

This standard applies to all Federal law enforcement and intelligence activity conducted by Federal law enforcement agencies, including when carried out solely or in part by automated systems or artificial intelligence and substantively similar tools. This standard applies even when the use of a listed characteristic might otherwise be lawful.⁵

⁵ (a) This Guidance is intended only to improve the internal management of the executive branch. It is not intended to, and does not, create any right, benefit, trust, or responsibility, whether substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, instrumentalities, entities, officers, employees, or agents, or any person, nor does it create any right of review in an administrative, judicial, or any other proceeding.

(b) This Guidance applies to non-law enforcement Federal personnel only when engaged in or directly supporting Federal law enforcement activity or intelligence activity conducted by Federal law enforcement agencies. In

APPLICATION

In making decisions and engaging in law enforcement and intelligence activities, Federal law enforcement agencies, their officers, and personnel act on varying levels of information. The amount of trustworthy information and intelligence they have affects the propriety of relying on listed characteristics.

Officers enforcing traffic laws, engaged in foot patrols, making custodial and noncustodial stops, conducting searches of persons or property, or undertaking routine screening activities that are core to their job function, may have no information beyond their immediate observations regarding specific criminal activities or the prevention of harm to national or homeland security. Absent additional information, law enforcement and intelligence responsibilities should be carried out without any consideration of race, ethnicity, gender, national origin, religion, sexual orientation, gender identity, or disability, to mitigate the risk that law enforcement decisions could rest on stereotypes or generalized assumptions, instead of information and intelligence that is reliable and trustworthy.

A. Prohibited Uses

Reliance on generalized assumptions or stereotypes involving a person's race, ethnicity, gender, national origin, religion, sexual orientation, gender identity, or disability is forbidden.

- **Example:** While investigating an auto theft ring in a Federal park, law enforcement personnel could not properly choose to target individuals of a particular national origin as suspects based on a generalized assumption or stereotype that individuals of that national origin are more likely to commit crimes.

This bar extends to the use of pretexts as an excuse to target individuals of a particular race, ethnicity, gender, national origin, religion, sexual orientation, gender identity, or

addition, this Guidance applies to security-screening activities at Federal government facilities, checkpoints, and prior to prisoner transport.

(c) This Guidance does not apply to U.S. military, diplomatic, or non-Department of Justice intelligence agencies and their activities. In addition, this Guidance does not apply to interdiction activities at the border or its functional equivalent (e.g., airports, seaports, and other ports of entry; see generally *Almeida-Sanchez v. United States*, 413 U.S. 266, 273 (1973), *United States v. Ramsey*, 431 U.S. 606, 620 (1977)) and related traveler and cargo vetting activities or to protective and inspection activities, as to which the Department of Homeland Security has indicated it will issue an updated policy consistent with this Guidance. All activities not governed by this Guidance must be conducted consistent with the Constitution and applicable Federal law and policy, in a manner that respects privacy, civil rights, and civil liberties, and subject to appropriate oversight. Federal law enforcement agencies must assess their own nondiscrimination policies to ensure consistency with this Guidance. Those Federal law enforcement agencies conducting activities excluded from or not governed by this Guidance are encouraged to determine whether new or updated policies, to ensure consistency with the standards in this Guidance, are required for those activities.

disability. Law enforcement personnel may not use such pretexts. Moreover, other facially neutral factors may not serve as a proxy for overtly targeting persons because they possess a listed characteristic. This concern arises most frequently when law enforcement efforts are focused on areas associated with high crime rates.

The issue is ultimately one of motivation and evidence; certain seemingly characteristic-based efforts, if properly supported by reliable, empirical data can in fact be neutral and appropriate.

- **Example:** Law enforcement personnel seeking to reduce gun violence use data visualization and other analytic tools to identify where shootings and other gun-related crimes are occurring in a city and discover that the majority of such activity is concentrated in one neighborhood that happens to be predominantly occupied by people of a single race. The decision to focus law enforcement activity on that neighborhood is not based on race, but rather on reliable and trustworthy data and information. Officers can properly decide to enforce all laws in that area, including less serious offenses, in order to reduce gun-related crime.
- **Example:** While parked by the side of the George Washington Memorial Parkway, a law enforcement officer notices that nearly all vehicles on the road are exceeding the posted speed limit. Although each such vehicle is committing an infraction that would legally justify a stop, the officer may not use a listed characteristic as a factor in deciding which motorists to pull over. Likewise, the officer may not use a listed characteristic in deciding which detained motorist to ask for consent to a vehicle search.
- **Example:** A security officer is under contract by the Federal Government to screen individuals entering a Federal courthouse facility. The officer may not use a listed characteristic to deviate from established routine screening procedures based on a generalized assumption that individuals bearing that characteristic are more likely to commit crimes or be carrying prohibited items. However, the officer could determine that modified screening procedures are necessary to accommodate a person for whom a disability limits mobility or comprehension.

It is unacceptable and thus prohibited under this Guidance for law enforcement personnel to act on the belief that possession of a listed characteristic signals a higher risk of criminality or dangerousness. This is the core of invidious profiling and must not occur.

B. Required Conditions for Use of Listed Characteristics

The standard articulated in this Guidance allows for limited circumstances in which law enforcement personnel engaged in activities relating to particular identified criminal incidents, schemes, organizations, threats to national or homeland security, violations of Federal immigration or customs law, or authorized intelligence activities may consider personal identifying characteristics of potential suspects, including race, ethnicity, gender, national origin, religion, sexual orientation, gender identity, or disability.

For instance, when a victim describes an assailant as possessing a certain characteristic, law enforcement personnel may properly focus their search for suspects on persons possessing that characteristic. Likewise, where law enforcement personnel are investigating a crime and have received specific information that the suspect possesses a certain listed characteristic (*e.g.*, through direct observations by the victim or other witnesses), they may reasonably use that information, even if it is the primary descriptive information available. In such an instance, it is the victim or other witness making the classification, and law enforcement personnel may use reliable, incident-specific, identifying information to apprehend criminal suspects.

Similarly, in conducting activities directed at a specific criminal organization or terrorist group whose membership has been identified as overwhelmingly possessing a listed characteristic, law enforcement can consider such facts in taking investigative or preventive steps aimed at the activities of that criminal organization or terrorist group.

Law enforcement personnel must use caution when a suspect's possession of a listed characteristic is the only available information. Although the use of that information may not be unconstitutional, broad targeting of individuals or groups possessing listed characteristics always raises serious fairness concerns.

- **Example:** The victim of an assault describes her assailant as an older man of a particular race with a birthmark on his face. The investigation focuses on whether any men in the surrounding area fit the victim's description. Here, investigators are properly relying on a description given by the victim, which included the assailant's race and gender, along with his age and an identifying personal characteristic. Although the ensuing investigation affects individuals of a particular race and gender, the use of those characteristics as factors in the investigation is permissible. If, however, the victim had only described the race and gender of her assailant, with no other details provided, investigators should exercise caution in relying on the victim's description as the sole basis for questioning individuals in the vicinity.

The following policy statements and examples more fully explain the conditions that must be present for use of a listed characteristic.

1. The Information Must be Trustworthy

In determining whether information is trustworthy, law enforcement personnel should consider the totality of the circumstances, such as the reliability of the source, the specificity of the information, other applicable legal standards,⁶ and the context in which it is being used.

- **Example:** A Federal law enforcement agency received an uncorroborated anonymous tip indicating that women from a specific Eastern European country have been trafficked into the United States and are working at a local bar in a certain town. Agents identify a group of women wearing T-shirts with the logo of that local bar who appear to be speaking the language of that specific Eastern European country. The agents approach the group to conduct an interview. Because the information gathered by the Federal law enforcement agency corroborates the specific information provided by the tipster, even though uncorroborated and anonymous, the information is sufficient under the circumstances to justify the agents' initial action.

Where the information relied upon by law enforcement personnel linking a person possessing a listed characteristic to potential criminal activity, a threat to national or homeland security, a violation of Federal immigration or customs law, or an authorized intelligence activity is too generalized and unspecific, reliance upon that characteristic to take law enforcement action is prohibited. Characteristic information, when not combined with context- and content-specific details that ensure its reliability, has limited evidentiary value.

- **Example:** Federal law enforcement special agents receive an uncorroborated anonymous tip that a male of a particular ethnicity will purchase an illegal firearm at a Greyhound bus terminal in an ethnically diverse Philadelphia neighborhood. Although agents surveilling the location are free to monitor the movements of people at the terminal, the agents are prohibited from using the tip's characteristic information, without more, to target males of that ethnicity in the bus terminal. The information is neither sufficiently reliable nor sufficiently specific to be trustworthy.

⁶ For example, in certain situations involving noncitizen victims of domestic violence, human trafficking, or other qualifying crimes, DOJ, DHS, and Department of State personnel may not "make an adverse determination of admissibility or deportability. . . under the Immigration and Nationality Act using information furnished solely" by prohibited sources. 8 U.S.C. § 1367(a)(1). Furthermore, DHS officers must certify compliance with 8 U.S.C. § 1367 in cases where an enforcement action leading to a removal proceeding was taken against a noncitizen at certain sensitive locations. *See*, 8 U.S.C. § 1229(e).

2. The Information Must Be Context and Content-Specific

Any information that law enforcement personnel rely on concerning a listed characteristic possessed by persons who may be linked to a specific criminal activity, a threat to national or homeland security, a violation of Federal immigration or customs law, or an authorized intelligence activity must be context- and content-specific, *e.g.*, contain details such as locality, time frame, method, or purpose.

- **Example:** Two years ago, a Federal law enforcement agency issued an intelligence report indicating that a drug ring whose members are known to be predominantly of a particular ethnicity is trafficking drugs in Charleston, SC. An agent assigned to the Los Angeles office reads this intelligence report. Without information establishing that this intelligence is also applicable in present-day Southern California, the agent may not rely on that intelligence report as a factor in deciding to focus law enforcement activity in Los Angeles on individuals of the same ethnicity as the individuals associated with the Charleston ring in the past.

In the context of routine or spontaneous law enforcement decisions, such as ordinary traffic stops, this requirement prohibits Federal law enforcement personnel from using race, ethnicity, gender, national origin, religion, sexual orientation, gender identity, or disability to any degree, except that officers may rely on the listed characteristics in a specific suspect description or as necessary to make reasonable modifications to afford equal opportunity to people with disabilities.

When law enforcement has specific information, based on trustworthy sources, to “be on the lookout” for specific individuals identified at least in part by a specific listed characteristic, the personnel do not act based on a generalized assumption about individuals possessing certain characteristics; rather, they are helping locate specific individuals previously identified as involved in a crime.

- **Example:** While parked by the side of the George Washington Memorial Parkway, as officer receives an “all-points bulletin” to be on the lookout for a bank robbery suspect, a man of a particular race and particular hair color in his 30s, fleeing the scene in a blue automobile. While enforcing traffic laws along the Parkway, the officer may use this description, including the race and gender of the suspect, in deciding which motorist to pull over.

3. Characteristic-Based Information Must Always be Specific to Particular Suspects or Incidents; Identified Criminal Activities, Schemes, or Enterprises; a Threat to National or Homeland Security; a Violation of Federal Immigration or Customs Law; or an Authorized Intelligence Activity

These standards contemplate the appropriate use of both “suspect-specific” and “incident-specific” information. Law enforcement personnel may not use information linking persons possessing a listed characteristic to a particular incident, criminal activity, scheme, or ongoing criminal enterprise, a threat to national or homeland security, a violation of Federal immigration or customs law, or an authorized intelligence activity unless the information is reliable and locally or temporally relevant, regardless of whether there is a description of any individual suspect. In certain cases, the surrounding circumstances will point strongly to a perpetrator possessing a specific listed characteristic, even though law enforcement personnel lack an eyewitness account.

- **Example:** A Federal law enforcement agency is investigating the murder of a known gang member and has information that the shooter is a member of a rival gang. The law enforcement agency knows that the members of the rival gang are exclusively members of a certain ethnicity. Although this information is not suspect-specific (*i.e.*, there is no description of the assailant), because law enforcement personnel have reliable, locally, or temporally relevant information linking a rival group with a distinctive ethnic characteristic to the murder, the law enforcement agency could properly consider ethnicity in conjunction with other appropriate factors while conducting their investigation. Agents could properly decide to focus on persons dressed in a manner consistent with gang activity, but ignore persons dressed in that manner who do not appear to be members of that ethnicity. However, the number of people in the vicinity who are of the ethnicity and dressed in the particular manner may affect whether the information, standing alone, is sufficiently specific to serve as the basis for law enforcement action with respect to an individual.
- **Example:** Local law enforcement arrests an individual, and during custodial interrogation the individual states that he was born in a foreign country and provides other information that reasonably leads local law enforcement to question his immigration status. Criminal background checks performed by the local law enforcement agency reveal that the individual was recently released from state prison after completing a lengthy sentence for aggravated sexual assault. Local law enforcement contacts a Federal law enforcement agency to inquire as to the individual’s immigration status. When the agency’s database check on the immigration status of the individual does not locate a record of the individual’s lawful immigration status, the law enforcement agency sends an officer to the jail

to question the individual about his immigration status. Here, the officer properly relied on the facts presented to it, including that the individual was born in a foreign country, in searching its immigration database and questioning the individual about his immigration status.

- **Example:** Multiple neighborhoods within a particular U.S. city are experiencing a significant uptick in assaults and vandalism targeting individuals and businesses associated with a certain ethnicity. To aid enforcement of civil rights laws, and protection of victims, the applicable Federal law enforcement agency may gather information about the locations of businesses and other facilities in those neighborhoods run or frequented by individuals of that particular ethnicity to gain awareness of potential threats and vulnerabilities. Collection of information concerning these communities should be limited to information reasonably relevant to assess the threat in those neighborhoods and in support of the applicable Federal law enforcement agency's mission, for example, to prevent hate crimes, transnational repression, or other crimes against individuals based on a protected characteristic.

In addition, law enforcement personnel may not use a listed characteristic in connection with source recruitment, unless that characteristic bears on the potential source's placement and access to information relevant to an identified criminal incident, scheme, or organization; a threat to national or homeland security; a violation of Federal immigration or customs law; or an authorized intelligence activity.

- **Example:** A terrorist organization releases poisonous gas in a foreign country in an area known to be frequented by American tourists. Intelligence establishes that the organization is based primarily in southeast Asia and that members of the organization are overwhelmingly members of a particular ethnic group. There is no specific information that the organization is currently a threat to the United States. To gain intelligence on the evolving threat posed by the organization, and to gain insight into its intentions regarding the U.S. homeland and U.S. interests, a Federal law enforcement agency may properly consider ethnicity and recent travel to southeast Asia when developing sources with information that could assist the law enforcement agency in mitigating any potential threat from the organization.

4. The Action Must Be Reasonably Merited Under the Totality of Circumstances

Finally, when law enforcement personnel rely on a listed characteristic in undertaking an action, they must have a reasonable belief that the action is merited under the totality of circumstances. This standard ensures that under the circumstances, they are acting in good faith when relying in part on a listed characteristic to act.

- **Example:** A local law enforcement officer working as part of a Federal task force has received a reliable tip that an individual intends to detonate a bomb in a train station during rush hour, but the tip does not provide any information about the date or purpose of the attack or a description of the suspect. The officer may not decide that investigators should focus on individuals of a particular faith because it is commonly depicted in the media or widely believed that members of that faith are more likely to commit such an act. Doing so would be impermissible because stereotypical beliefs never provide a reasonable basis to undertake a law enforcement or intelligence action.

Note that these standards allow the use of reliable identifying information about planned future crimes, attacks, or other violations of Federal law. Where law enforcement personnel receive a credible tip from a reliable source regarding a planned crime or attack that has not yet occurred, they may use this information to the same degree and under the same restrictions applying to information obtained regarding a past incident. A prohibition on the use of reliable prospective information would severely hamper law enforcement efforts by essentially compelling law enforcement personnel to wait for incidents to occur, instead of taking proactive measures to prevent them from happening.

- **Example:** While investigating a specific drug trafficking operation, Federal special agents learn that a particular methamphetamine distribution ring is based in California and plans to have couriers pick up shipments at the Sacramento airport and drive the drugs to Oklahoma for distribution. The agents also receive trustworthy information that the distribution ring has specifically chosen to hire older women of a particular race to act as the couriers. Federal agents may not properly target older women of that race without additional indicia, such as their driving of vehicles with Oklahoma plates near the Sacramento airport.

C. National and Homeland Security and Intelligence Activities

Since the terrorist attacks on September 11, 2001, Federal law enforcement agencies have used every legitimate tool to prevent future attacks and deter those who would cause devastating harm to our Nation and its people using biological or chemical weapons, other weapons of mass destruction, suicide hijackings, or any other means. “It is ‘obvious and unarguable’ that no governmental interest is more compelling than the security of the Nation.” *Haig v. Agee*, 453 U.S. 280, 307 (1981) (quoting *Aptheker v. Secretary of State*, 378 U.S. 500, 509 (1964)).

The years since September 11 have also demonstrated that Federal law enforcement can achieve this critical goal without compromising our commitment and dedication to ensuring equal justice under law. Every day, Federal law enforcement personnel work to keep our Nation safe, and they do so without invidious profiling. The standard embodied in this Guidance thus applies to Federal law enforcement agencies’ national and homeland security operations, which will continue to focus on protecting the public while upholding our values.

Federal law enforcement activity, including national and homeland security operations and intelligence activities are often national in scope and focused on prevention of attacks by both known and unknown actors, not just prosecution. Terrorist organizations might aim to engage in acts of catastrophic violence in any part of the country (indeed, in multiple places simultaneously).

These facts do not change the applicability of this Guidance, however. To undertake a national or homeland security operation, or an intelligence action based on a listed characteristic, law enforcement personnel must have trustworthy information that contains context- and content-specific details linking persons possessing that characteristic to a threat to national or homeland security, or intelligence authorized activity, and the actions undertaken must be reasonable under the totality of circumstances.

- **Example:** A Federal law enforcement agency receives reliable information that persons affiliated with a foreign ethnic insurgent group intend to use hand-delivered explosive devices to assassinate that country’s president and his entire entourage during an official visit to the United States. Agents may appropriately focus investigative attention on identifying members of that ethnic insurgent group who may be present and active in the United States and who, based on other available information, might be involved in planning some such attack during the state visit.

- **Example:** A citizen of Country A, who was born in Country B, lawfully entered the United States on an F-1 student visa. The school in the United States that the individual was supposed to attend notifies a Federal law enforcement agency that the individual failed to register for or ever attend the school, in violation of the terms of his admission. The Federal law enforcement agency has trustworthy intelligence that links individuals with ties to Country B who have also registered at that school to a designated terrorist organization that has made statements about launching an attack against the United States. The Federal law enforcement agency selects the individual for investigation and arrest. This decision is proper because it is based on a combination of the factors known about the individual, including his national origin, school affiliation, and behavior.
- **Example:** A Federal law enforcement agency has reliable information from a trusted source that three people wanted for smuggling offenses – two of whom are college-age males of one ethnicity and one of whom is an older male of another ethnicity – will visit a university campus together in Boston during the afternoon hours of a particular date. Agents may visit the campus, proximate to that date and time, to locate and investigate groups of individuals matching this description.
- **Example:** An intelligence analyst receives information from a local sheriff reporting that over the past few years, three scientists from Country A working at the local college have gone missing. He notes that about the time the disappearances began, a new business opened in a facility just outside the city limits. That business posts signage featuring symbols widely understood to be associated with the regime in power in Country A. The sheriff asserts that everyone knows that businesses that post signage featuring those symbols are loyal to the Country A regime. Because the missing scientists were outspoken opponents of the Country A regime, he has a hunch that the business is somehow involved in their disappearances. The intelligence analyst shares this information with a case agent. Absent additional information, the case agent could not initiate an assessment of the business or its visitors. However, the intelligence analyst could conduct research using publicly available sources to determine whether there is a potential threat to national or homeland security from a foreign actor that may warrant the initiation of law enforcement activity.

Good law enforcement work also requires that officers take steps to know their surroundings even before there is a specific threat to national security. Getting to know a community and its features can be critical to building partnerships and facilitating dialogue, which builds trust between law enforcement and the communities they serve. Law enforcement personnel may not, however, target only those persons or communities

possessing a specific listed characteristic without satisfying the requirements of this Guidance.

- **Example:** A field office of a Federal law enforcement agency attempts to map out the features of the city within its area of responsibility to gain a better understanding of potential liaison contacts and outreach opportunities to facilitate improved engagement with disadvantaged communities. In doing so, the office acquires information from public sources regarding population demographics, including concentrations of ethnic groups. This activity is permissible if it is undertaken pursuant to an authorized intelligence or investigative purpose. The activity would not be permitted without such an authorized purpose or in circumstances that do not otherwise meet the requirements of this Guidance.

ADDITIONAL REQUIREMENTS

To ensure its implementation, this Guidance requires that Federal law enforcement agencies take the following steps on training, data collection, and accountability.

A. Training

Within six months of the issuance of this Guidance, Department of Justice components must administer training on this Guidance to all current personnel engaged in and directly supporting law enforcement activity and to all state, local, territorial, and Tribal law enforcement officers participating in Federal law enforcement task forces and joint operations. As soon as practicable and within no more than one year of this Guidance, Department of Justice components must begin training personnel conducting and supporting law enforcement activity on the application of this Guidance on a regular basis, including at the beginning of each individual's tenure with that agency. As soon as practicable and within no more than one year of the issuance of this Guidance, Department of Justice components must begin training all state, local, Tribal, and territorial law enforcement officers deputized for performance as part of a Federal law enforcement task force.

Training should address the substance and application of this Guidance. Training will be reviewed and cleared by the Department's Chief Training Officer to ensure consistency throughout the Department.

B. Data Collection

Data collection can be a tremendously powerful tool to help managers assess the relative success or failure of policies and practices. At the same time, data collection is only useful to the extent that the collected data can be analyzed effectively and that conclusions can be drawn with confidence.

As soon as practicable and within no more than six months of the issuance of this Guidance, Department of Justice law enforcement agencies must establish criteria to govern collection of data necessary to analyze the effectiveness of implementation of this Guidance. Within six months of this Guidance, Federal law enforcement agencies will (i) begin tracking complaints that a law enforcement action inappropriately relied on a listed characteristic to engage in law enforcement activity; and (ii) begin studying the implementation of this Guidance through targeted, data-driven research projects. Department of Justice law enforcement agencies will report the results of this research to the Deputy Attorney General within one year of initiating the relevant study.

C. Accountability

Accountability is essential to the integrity of Federal law enforcement agencies and their relationship with the individuals and communities they are sworn to protect. Therefore, allegations of civil rights violations and/or of violations of this Guidance will be treated like other allegations of misconduct and referred to the appropriate Department office(s) that handle such allegations. Moreover, all sustained violations will be brought to the attention of the Director or Administrator of the relevant law enforcement agency, at least on a quarterly basis.

Within 30 days of the date of the issuance of this Guidance, Federal law enforcement agencies shall designate a responsible official who will coordinate implementation of this Guidance.