



February 29, 2024

The Honorable Joseph R. Biden  
President of the United States  
The White House  
1600 Pennsylvania Ave. NW  
Washington, DC 20500

*Delivered via e-mail*

**RE: DHS must collect Race and Ethnicity data**

Dear President Biden,

On behalf of the Black Alliance for Just Immigration and the undersigned local, state, and national organizations, we urge you to immediately and publicly commit to mandating that the Department of Homeland Security (DHS), systematically collect race and ethnicity data.

The Biden Administration had promised a commitment to racial equity and specifically identified the collection of race and ethnicity data as a fundamental “first step to promoting [such] equity in Government action.”<sup>1</sup> Department of Homeland Security (“DHS”) Secretary Alejandro Mayorkas echoed that commitment in a memorandum, in which he emphasized the need “to collect detailed, precise, and comprehensive data as to every aspect of the enforcement actions” to “ensure that enforcement actions are not discriminatory and do not lead to inequitable outcomes.”<sup>2</sup> DHS’s recognition of the need for race data collection is an important first step to implementing the Biden administration’s commitments to race equity. A robust data collection regime is critical to identifying racial bias. Drawing on successful examples of race data collection in other law enforcement and federal agencies, DHS should follow this practice and mandate the comprehensive and accurate collection of race data.

Over the past two decades, states and local law enforcement agencies—which are responsible for the vast majority of policing and detention in the United States—have adopted processes of

---

<sup>1</sup> Exec. Order No. 13985, 86 Fed. Reg. 7009, 7011-12 (Jan. 20, 2021).

<sup>2</sup> Alejandro N. Mayorkas, Sec’y, U.S. Dep’t of Homeland Sec., to Tae D. Johnson, Acting Director, U.S. Immigr. and Customs Enf’t, at 5 (Sept. 30, 2021), <https://www.ice.gov/doclib/news/guidelines-civilimmigrationlaw.pdf> [hereinafter *Mayorkas Memorandum*].

race and ethnicity data collection that are used to identify racially discriminatory practices and policies in law enforcement.<sup>3</sup> Indeed, at present, a majority of states have policies—many pursuant to state law—requiring the collection of racial data in law enforcement.<sup>4</sup> In some cases, court settlements mandated such requirements following litigation challenging racially discriminatory practices.<sup>5</sup> In others, state or local agencies voluntarily collected this data.<sup>6</sup> These states' policies are strong models for DHS to create its own race and ethnicity data collection system.

Many of these policies were adopted at the turn of the twenty-first century and in response to heightened tensions between communities of color and police.<sup>7</sup> For example, “[d]uring the time when attention to the concept of ‘driving while black’ or ‘driving while brown’ surged, a number of states passed laws for the first time mandating the collection of data on routine traffic stops.”<sup>8</sup> Another wave of states adopted similar laws following a spate of high-profile officer-involved killings of people of color from 2014 through 2017, which included the murders of Michael Brown, Freddie Gray, and Eric Garner.<sup>9</sup> Specifically, at least eleven states “enacted

---

<sup>3</sup> See generally DEBORAH RAMIREZ, JACK McDEVITT & AMY FARRELL, U.S. DEP’T OF JUST., A RESOURCE GUIDE ON RACIAL PROFILING DATA COLLECTION SYSTEMS, iii (Nov. 2000).

<sup>4</sup> See Appendix A. Specifically, twenty-eight states have such policies; twenty-four of them pursuant to state law. At the state and local level, the most common situation in which race data is collected is in the context of traffic stops. See generally Frank Baumgartner, Leah Christiani, Derek Epp, Kevin Roach & Kelsey Shoub, *Racial Disparities in Traffic Stop Outcomes*, 9 DUKE F. L. & SOC. CHANGE 21, 27 (2017) (stating that “[w]e focus on perhaps the most routine, and certainly the most common, police-citizen interaction: the routine traffic stop” and that “the most common enactment of policies to study traffic stops is through legislation by the state”); see also *It’s Time to Start Collecting Stop Data: A Case for Comprehensive Statewide Legislation*, N.Y.U., POLICING PROJECT (Sept. 30, 2019), <https://www.policingproject.org/news-main/2019/9/27/its-time-to-start-collecting-stop-data-a-case-for-comprehensive-statewide-legislation>. (stating that the traffic stop is “a key element of modern policing and the most common interaction that members of the public have with police officers” and listing a plethora of states that, as of 2019, had begun mandating race/ethnicity data collection at traffic stops); see, e.g., Appendix A: Alaska, Indiana, Michigan, and Pennsylvania are among the states that voluntarily track race data at traffic stops. Additional information on each of these states’ policies can be provided on request.

<sup>5</sup> See, e.g., Agreement for the Sustainable Reform of the P.R. Police Dep’t at 28-29, *U.S. v. P.R.*, No. 3:12-cv-2039 (D.P.R. Dec. 21, 2012), available at [http://www.justice.gov/crt/about/spl/documents/prpd\\_agreement\\_12-21-12.pdf](http://www.justice.gov/crt/about/spl/documents/prpd_agreement_12-21-12.pdf) (mandating that “PRPD’s stop data collection system . . . require officers to document . . . the subject’s apparent race, color, ethnicity or national origin, gender, and age” during all investigatory stops and searches); see also *Arnold v. Ariz. Dep’t Pub. Safety*, No. CV-01-1463-PHX-LOA, 2006 WL 2168637, at \*3, \*12 (D. Ariz. Jul. 31, 2006) (ordering the settlement agreement between the A.C.L.U. and the Arizona Department of Public Safety, which contained a data collection requirement); Settlement Agreement at 11-15, *Arnold v. Ariz. Dep’t Pub. Safety*, No. CIV 01-01463 PCT-JAT (D. Ariz. 2006), available at [https://www.aclu.org/sites/default/files/field\\_document/arizona%20dps%20settlement.pdf](https://www.aclu.org/sites/default/files/field_document/arizona%20dps%20settlement.pdf) (requiring the Arizona Department of Public Safety to collect the “[r]ace/ethnicity of the person contacted” during all traffic stops).

<sup>6</sup> See Appendix A (listing Alaska, Alabama, Indiana, Michigan, Pennsylvania, and South Dakota as among the states that voluntarily track this data).

<sup>7</sup> See RAMIREZ ET AL., *supra* note 38, at iii.

<sup>8</sup> Baumgartner et al., *supra* note 39, at 23.

<sup>9</sup> See *Gov. Jerry Brown Signs Anti-Racial Profiling Bill*, KXTV (October 4, 2015, 11:28 AM), <https://www.abc10.com/article/news/local/california/gov-jerry-brown-signs-anti-racial-profiling-bill/103-32099596> (explicitly linking California’s data collection law to the Michael Brown shooting); see also RAM SUBRAMANIAN & LEAH SKRZYPIEC, VERA INST. JUST., TO PROTECT AND SERVE: NEW TRENDS IN STATE-LEVEL POLICING REFORM, 2015-2016 at 7, 33-35, 48 n.3 (April 2017) (discussing the police killings of Michael Brown, Jeremy Mardis, Akai Gurley, Tamir Rice, Eric Garner, Freddie Gray, Walter Scott, Samuel DuBose, Jamar Clark, Alton Sterling, Philando Castile, Keith Scott, Terence Crutcher, and Deborah Danner as catalysts for new or updated state laws requiring race and

new laws that require police departments to collect and report information related to officer-involved shootings, deaths, or other incidents of force.”<sup>10</sup> More importantly, “some of these laws also require departments to track information on *all* civilian or traffic stops, and the number of civilian complaints, including any outcomes of investigations.”<sup>11</sup>

DHS and ICE should align with and implement anti-discrimination-related best practices for collecting race data adopted by various government and law enforcement agencies. This data collection and its publication would result in a host of benefits for the public, specifically, increased transparency and allow for the identification of racial profiling and biased decision-making.<sup>12</sup>

DHS should implement its own race and ethnicity data collection scheme as follows:

- (1) Mandate the collection of race and ethnicity data, a practice consistent with the vast majority of law enforcement agencies across the country; and
- (2) Make the collected data publicly available to ensure transparency and to help community-based organizations and researchers better understand its law enforcement practices.

---

ethnicity data collection in the context of traffic stops implemented from 2015-2016 in California, Colorado, Illinois, Maryland, and Rhode Island).

<sup>10</sup> SUBRAMANIAN ET AL., *supra* note 44, at 33 (emphasis added).

<sup>11</sup> *Id.*

<sup>12</sup> *See infra* Section IV.

Sincerely,

Black Alliance for Just Immigration

*Joined by:*

AAPI Equity Alliance

Acacia Center for Justice

Advancement Project

ABISA African Bureau for Immigration and Social Affairs (ABISA)

African Commission on Human and Immigrant Rights

African Communities Public Health Coalition

African Communities Together

Al Otro Lado

Alabama Coalition for Immigrant Justice

Alianza Americas

Alliance San Diego

American Humanist Association

American Immigration Lawyers Association New York Chapter

Americans for Immigrant Justice

Arkansas United

Asian American Legal Defense and Education Fund (AALDEF)

Asian Americans Advancing Justice-AAJC

Asian Pacific American Labor Alliance - San Diego Chapter

Asylum Program of Arizona

Asylum Seeker Advocacy Project (ASAP)

Austin Region Justice for Our Neighbors

Black Immigrant Collective

Black LGBTQIA+ Migrant Project

Black Voters Matter Fund

Blasian March

Borderlands Resource Initiative

California Coalition for Women Prisoners

California Gig Workers Union

California Latinas for Reproductive Justice

Cancel the Contract

Capital Area Immigrants' Rights (CAIR) Coalition

Carolina Migrant Network

Catholic Migration Services  
Center for Constitutional Rights (CCR)  
Center for Gender & Refugee Studies  
Center for Immigration Law and Policy; UCLA School of Law  
Center for Law and Social Policy  
Center for Popular Democracy  
Central American Resource Center Los Angeles (CARECEN-LA)  
Centro Binacional para el Desarrollo Indigena Oaxaqueño (CBDIO)  
Children Now  
Co-Counsel NYC  
Coalición de Derechos Humanos  
Coalition for Humane Immigrant Rights (CHIRLA)  
Communities United for Restorative Youth Justice  
Contra Costa Immigrant Rights Alliance  
Cornell Asylum Appeals Clinic  
Courage California  
Divas Against Injustices  
Drug Policy Alliance  
East Bay Refugee and Immigrant Forum  
Ensuring Opportunity Campaign  
Envision Freedom Fund  
Esperanza Community Housing  
Mixteca Organization, Inc.  
Faith in New Jersey  
Faith in New York  
Families For Freedom  
Florence Immigrant & Refugee Rights Project  
Florence Immigrant & Refugee Rights Project  
Freedom for Immigrants  
Friends Committee on National Legislation  
GA Familias Unidas  
Georgia Coalition for the Peoples Agenda  
Georgia Human Rights Clinic  
Global Emergency Response & Assistance  
Global Urban Cultural Community  
Haitian Bridge Alliance  
Harbor Institute for Immigrant & Economic Justice  
Health Care 4 Us

Highlander Research & Education Center  
Houston Immigration Legal Services Collaborative  
Human Rights First  
Human Rights Watch, US Program  
ICE out of Tarrant  
Illinois Coalition for Immigrant and Refugee Rights (ICIRR)  
Immigrant Children Advocates' Relief Effort (ICARE)  
Immigrant Defense Project  
Immigrant Legal Advocacy Project  
Immigrant Legal Resource Center  
Immigration Services and Legal Advocacy (ISLA)  
Indivisible CA: StateStrong  
Indivisible Georgia Coalition  
Indivisible Ventura  
Inland Empire Immigrant Youth Collective  
Institute for Justice & Democracy in Haiti  
International Refugee Assistance Project (IRAP)  
Just Detention International  
Just Neighbors  
Justice in Motion  
JusticeLA  
Karen Organization of San Diego  
La Defensa  
LACAN  
Laredo for Economic Justice  
Laredo Immigrant Alliance  
Las Americas Immigrant Advocacy Center  
Las Americas Immigrant Advocacy Center  
Latino Community Fund Georgia  
LatinoJustice PRLDEF  
Lawyers' Committee for Civil Rights of the San Francisco Bay Area  
Lawyers' Committee for Civil Rights Under Law  
Liberia Chamber of Commerce in the Americas  
Louisiana Advocates for Immigrants in Detention  
Make the Road New York  
Mariposa Legal  
Massachusetts Immigrant & Refugee Advocacy Coalition  
Mijente

Movement for Black Lives (M4BL)  
Muslim Advocates  
National Association for the Advancement of Colored People (NAACP)  
National Coalition on Black Civic Participation  
National Immigrant Justice Center  
National Immigration Law Center  
National Immigration Project  
National Korean American Service & Education Consortium (NAKASEC)  
National Network for Immigrant and Refugee Rights (NNIRR)  
National Urban League  
NETWORK Lobby for Catholic Social Justice  
New Jersey Alliance for Immigrant Justice  
New Jersey Consortium for Immigrant Children  
New Jersey Institute for Social Justice  
New York Immigration Coalition  
New York Law School Asylum Clinic  
Northwest Immigrant Rights Project  
Nourish California  
Oasis Legal Services  
ÓRALE Organizing Rooted in Abolition Liberation and Empowerment  
Orange County Rapid Response Network  
Our Voice Nuestra Voz  
Pennsylvania Immigrant and Citizenship Coalition  
People's Action  
Progressive Leadership Alliance of Nevada  
Pure Justice  
Racial and Ethnic Mental Health Disparities Coalition  
Resilient Advocates Collective  
Robert F. Kennedy Human Rights  
Rocky Mountain Immigrant Advocacy Network  
Safe Harbor Clinic, Brooklyn Law School  
Safe Passage Project  
San Diego Immigrant Rights Consortium (SDIRC)  
San Francisco Public Defender's Office  
Secure Justice  
Senior Advocates for Justice  
Social Justice Collaborative  
Solidarity Analytics & Media

Solutions NOT Punishment Collaborative, Inc.  
South Bay People Power  
Southern Border Communities Coalition(SBCC)  
SPLC Action Fund  
Sur Legal Collaborative  
SURJ Marin  
Survivors of Torture, International  
Texas Civil Rights Project  
The Advocates for Human Rights  
The Mami Chelo Foundation Inc  
The TransLatin@ Coalition  
The Zolberg Institute on Migration and Mobility  
Trade Show Temps  
Tulane Immigrant Rights Clinic  
UCLA Labor Center  
Tsuru for Solidarity  
Unidos MN  
Unitarian Universalist FaithAction NJ  
Unitarian Universalist Refugee & Immigrant Services & Education  
United African Organization  
UnLocal  
Vera Institute of Justice  
Voces Unidas RGV  
White People for Black Lives (WP4BL)  
Whosoever Will Christian Church  
Women's Refugee Commission  
Woori Juntos  
Working Families Parties  
Young Center for Immigrant Children's Rights  
Young Invincibles  
805 Undocufund

Cc: Alejandro N. Mayorkas, Secretary, United States Department of Homeland Security  
Neera Tanden, Domestic Policy Advisor to the President  
Jeffrey Zients, White House Chief of Staff