

JUSTICE IN AGING

FIGHTING SENIOR POVERTY THROUGH LAW

April 12, 2023

Dr. Karin Orvis, Chief Statistician of the United States
Office of Management & Budget
1600 Pennsylvania Ave NW
Washington, DC 20500

Submitted electronically via <http://www.regulations.gov>

Re: OMB-2023-0001; Initial Proposals For Updating OMB's Race and Ethnicity Statistical Standards

Justice in Aging appreciates the opportunity to provide feedback on proposed updates to OMB's Race and Ethnicity Statistical Standards. Justice in Aging is a national advocacy organization with the mission of improving the lives of low-income older adults. We use the power of law to fight senior poverty by securing access to affordable housing, economic security, and the courts for older adults with limited resources. We focus on the needs of low-income populations that have traditionally lacked legal protections, such as women, people of color, LGBTQ+ individuals, and people with limited English proficiency.

We support OMB's commitment to updating the Race and Ethnicity Statistical Standards to better reflect the nation's diversity and improve federal services using collected data. In accordance with the Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,¹ we encourage OMB to identify the best methods to assess and measure equitable impacts.

I. Combined Race and Ethnicity Question (1a, 1b, and 1d)

Justice in Aging opposes removing the independent ethnicity question and combining Hispanic or Latino as an option for the race categories. The combined question format would create data analysis problems, including difficulties comparing previous data to future data, and would be a step backward for federal agencies in terms of identifying race-based inequities. Specifically, this would harm the Afro-Latinx community and other Latinos who would select a racial category by masking unique or intersecting disparities for these groups. Additionally, combining the race and ethnicity categories may be confusing for many, including older adults, who may be accustomed to answering the two questions separately, which may impact response rates from older adults and others.

The combined data would become unusable, which would hinder the ability of government and advocates to identify and remedy gaps in services for Afro-Latinx people, including older adults, and evaluate the impact of interventions. It would also prevent the federal government from holding service providers accountable who systemically discriminate against Afro-Latinx people but not white Latinx people.

¹ EO 13985 (Jan. 20, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/>.



The argument that there has been a rise in the selection of “some other race” with the separate ethnicity and race questions is inadequate to support combining the questions. First, there is evidence that shows the combined question will reduce reporting from Latinos, including and especially Black, Asian, and Indigenous Latinos.² Second, the research supporting a combined question was not entirely representative of Afro-Latinos in the U.S. and inadequately conducted.³

Justice in Aging also supports the addition of Caribbean and Latin American nations as examples under the Black or African American racial category, as this is more reflective of people with Afro-Latinx heritage, including older adults, living in the United States.

II. Addition of a MENA Category (2a, 2b, and 2c)

Justice in Aging supports the long overdue addition of a Middle Eastern and North African (MENA) category to OMB’s Race and Ethnicity Statistical standards.

Individuals with Middle Eastern, Arab, or North African heritage make up a significant percent of the U.S. population—anywhere between 1.6 to 5 million individuals.⁴ Roughly 13% of the MENA immigrant population in the United States are aged 65 and over.⁵ Relatedly, 3% of the over 40 million immigrants in the U.S. immigrated from MENA countries.⁶ Yet this sizeable population continues to be undercounted and misidentified across all federal agencies. In light of the extensive structural discrimination that people of MENA origins have experienced in the U.S., especially in recent decades, it is particularly important that OMB add MENA as a category in race and ethnicity data collection.

Numerous studies and records show that people of MENA heritage do not identify as white, but are counted as such under the current OMB standards. Testing has shown that the addition of a MENA category is effective because people who identify as having MENA heritage predominantly select the MENA option when it is present.⁷

We encourage OMB to include examples under the MENA category that are representative of the diverse geography of the MENA nations that includes Arabic speaking countries, Sub-Saharan countries,

² Howard Hogan, *Do Race and Color Still Matter? Considerations on the Combined Question* (2022), https://static1.squarespace.com/static/63e409a2024c2f1c2e88c04f/t/63f7aeed0d79fc1cf0f7758c/1677176558274/Memo_Final_Hogan_Howard_December+2022.pdf.

³ Afro Latino Forum, Fact Sheet: Inadequacies with the Test of OMB Proposal for a Single Question on Race (2023), <https://static1.squarespace.com/static/63e409a2024c2f1c2e88c04f/t/640a1686cbd03b63d3df6f25/1678382726602/Fact+Sheet+2015+NCT+Flaws-1.pdf> (noting that the original testing was done by mail-in surveys without follow up, the testing is now 15 years old, and the testing excluded the Northeast region where the majority of Afro-Latinos in the U.S. live).

⁴ Teresa Wiltz, Pew Research Center, *Counting Americans of Middle Eastern, North African Descent* (2014), <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2014/08/13/counting-americans-of-middle-eastern-north-african-descent>.

⁵ Laura Harjanto and Jeanne Batalova, *Middle Eastern and North African Immigrants in the United States* (2022), <https://www.migrationpolicy.org/article/middle-eastern-and-north-african-immigrants-united-states>.

⁶ Mattea Cumoletti & Jeanne Batalova, Migration Policy Institute, *Middle Eastern and Northern African Immigrants in the United States* (2014), <https://www.immigrationresearch.org/report/migration-policy-institute/middle-eastern-and-north-african-immigrants-united-states>.

⁷ U.S. Census Bureau, 2015 National Content Test Race and Ethnicity Analysis Report, xiii (2020), <https://www2.census.gov/programs-surveys/decennial/2020/program-management/final-analysis-reports/2015nct-race-ethnicity-analysis.pdf>.

non-Arabic speaking countries, Gulf populations, and Trans-national communities. The detailed categories in *Figure 2* are representative of the largest groups by population in the U.S., as well as fairly representative of the various MENA nations. However, we encourage the addition of an Arabic speaking nation in Sub-Saharan Africa (e.g., Sudan) as an example for the open-ended part of the question.⁸

Additionally, it is important to note that people with MENA origins are not a racial monolith. The current Race and Ethnicity Standards places the MENA category squarely in the white box; however, people with MENA origins may identify as a race other than white and may face additional or different barriers based for that reason. For this reason, we encourage OMB to clarify on the self-reported forms that you may select more than one racial group by bolding the statement “Note, you may report more than one group.” The addition of a MENA category will better reflect the nation’s diversity and will better advance equity for MENA older adults.

III. Default Detailed Data Collection (3d, 3e, and 3f)

3D. What should agencies consider when weighing the benefits and burdens of collecting or providing more granular data than the minimum categories?

Justice in Aging supports making detailed data collection the default for federal agencies, unless doing so would compromise the privacy or confidentiality of the reporting individuals. The collection of detailed race and ethnicity data is important for understanding and addressing impacts and gaps of federal benefits programs, and can lead to more targeted solutions for historically marginalized communities. For example, a lack of an accurate and comprehensive snapshot of the racial and ethnic makeup of Social Security claimants and beneficiaries has been a barrier in understanding the scope and causes of racial disparities in the entirety of its benefits system for the Social Security Administration. The lack of this data renders it nearly impossible to craft solutions that would advance equity in line with President Biden’s two executive orders on advancing equity through government.⁹

3E. Is it appropriate for agencies to collect detailed data even though those data may not be published or may require combining multiple years of data due to small sample sizes?

Federal agencies should collect detailed demographic data whenever possible, as it can be used to analyze trends in future years and can be published in a limited capacity. As explained above, detailed data collection is critical for understanding unmet health, economic, and social needs among various racial and ethnic populations; impacts of the programs that address those needs; and the impact of interventions. Detailed data collection is also a form of recognition and status for groups that have historically been marginalized in the United States.

Additionally, there are some groups that are so small that it would be practically impossible to publish data on them without any privacy groups; however, these groups still deserve to be recognized through

⁸ League of Women Voters, *LWVU joins partners in asking OMB to revise standards for federal data on race and ethnicity* (2022), <https://www.lwv.org/census/lwvus-joins-partners-asking-omb-revise-standards-federal-data-race-and-ethnicity>.

⁹ EO 13985 (Jan. 20, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/>; EO 14901 (2023), <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/02/16/executive-order-on-further-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/>.

data collection and in aggregated federal data reporting. Limitations—such as small sample sizes, lack of historical data, or lack of immediate actionability—should not deter federal agencies from collecting detailed data.

Finally, collected data should be made publicly available whenever possible to aid advocates and community groups in understanding unmet needs and impacts of federal programs.

3F. What guidance should be included in SPD 15 or elsewhere to help agencies identify different collection and tabulation options for more disaggregated data than the minimum categories? Should the standards establish a preferred approach to collecting additional detail within the minimum categories, or encourage agencies to collect information while granting flexibility as to the kind of information and level of detail?

We encourage federal agencies to provide trainings and additional guidance on cultural competency for the data providers who collect race and ethnicity data. Specifically, training and resources on why questions about race and ethnicity are being asked; why it is important for people to answer; how to discuss privacy and confidentiality; how to respond to questions from the reporting person; and how to create a welcoming environment for the reporting person. These resources should be developed in collaboration with communities that represent the racial and ethnic diversity of the U.S. population, should include information on creating an inviting environment and clearly stated privacy protections,¹⁰ and should account for the needs of older adults and their preferences for receiving information.

These topics—as well as general cultural competencies, accessibility practices, and trauma-informed practices—are vital for building trust with the reporting person. For example, for older immigrants who have seen or faced persecution by the U.S. government or undocumented older adults who have a fear of retaliation or adverse immigration consequences, these practices can help to mitigate their fears about sharing information with the government and to increase response rates.

Finally, we encourage OMB to emphasize the importance of collecting and reporting intersectional data (i.e., data on multiple demographic identifiers, such as age and race/ethnicity). Given that people with multiple marginalized identities are likely to face additional and unique health, social, and economic impacts throughout their lifetime,¹¹ it is critical that agencies understand the importance of collecting, analyzing, and reporting intersecting demographic data points. At a minimum, agencies should have trainings and resources for agencies that explain the value of intersectional data and guide them on asking questions about other demographic factors, like age, disability, gender identity and sexual orientation, nationality, and primary languages spoken when applicable. Where possible, federal agencies should be granted the flexibility to collect data on intersecting identities.

IV. Instances Where Self Identification Is Not Possible (5e and 5d)

We encourage OMB and federal agencies to rely on self-reported race and ethnicity data as much as possible, and limit demographic data collection by observation. For older adults service providers in

¹⁰ See, e.g., SAGE, *Inclusive Questions for Older Adults* (2015) <https://www.sageusa.org/how-to-collect-data-on-sexual-orientation-gender-identity/> (emphasizing confidentiality and cultural competency).

¹¹ See Tracey Gronniger, *Generations, The Intersections of Inequity in Aging* (2021), <https://generations.asaging.org/intersections-inequity-aging>.

particular, who are not typically trained in race data collection, there is an increased risk of identifying older adult beneficiaries or applicants with little context or consideration, relying on “eyeballing,” or leaving race and ethnicity data fields blank. This results in inaccurate or incomplete data. Because aging service providers are not immune from implicit bias, observer-reported race/ethnicity data could result in inaccurate data collection, rendering it meaningless.

We encourage OMB to limit allowing observer-reported data as a last resort, and to require the observer to use relevant, reliable sources to inform their decision (e.g., information from relatives, medical records). If some or all of a data set are not self-reported, the reports (including any analysis, trend reports etc.) of the data should note what percent of it was collected by observation or through a proxy reporter.

V. Conclusion

Thank you again for the opportunity to comment in support of these important updates to the OMB Race and Ethnicity Statistical Standards. If any questions arise concerning this submission, please contact Sahar Takshi, Staff Attorney, at stakshi@justiceinaging.org.

Sincerely,

A handwritten signature in black ink, appearing to be 'Denny Chan', with a long horizontal line extending to the right.

Denny Chan
Managing Director, Advancing Equity