

## **SUPPORTING STATEMENT**

### **Approval of a newly approved data collection without an OMB control number for the National Use-of-Force (UoF) Data Collection**

#### **OMB Control #**

#### Part A. Justification

##### 1. Necessity of Information

Police-involved shootings and use of force have long been topics of national discussion, but a number of high-profile cases in which subjects died or were injured during arrests have heightened awareness of these incidents in recent years. The opportunity to analyze information related to use-of-force incidents and to have an informed dialogue is hindered by the lack of nationwide statistics. The National UoF Data Collection will facilitate important conversations with communities regarding law enforcement actions in relation to decisions to use force, and works in concert with recommendations from former President Barack Obama's Task Force on 21<sup>st</sup> Century Policing. Given a growing desire among law enforcement organizations to increase their own transparency and embrace principles of procedural justice, this collection expands the measure to a broader scope of Use-of-Force incidents to include nonfatal instances.

There is no legal mandate to participate in this collection; however, the Federal Bureau of Investigation (FBI) vetted this topic through its Criminal Justice Information Services (CJIS) Advisory Policy Board (APB) for approval. The CJIS APB is a committee comprised of representatives from the law enforcement and criminal justice communities who advise the FBI Director on matters related to the criminal justice information systems the CJIS Division manages. The APB meets semi-annually and provides recommended actions on policy and technical issues, to include the Uniform Crime Reporting (UCR) Program. On December 3, 2015, the CJIS APB made the following recommendations which were signed by then FBI Director James B. Comey in February 2016.

#### **APB Recommendation 1**

“The APB recommends the collection and reporting of use of force by a law enforcement officer (as defined by LEOKA) to the FBI. The collection and reporting would include use of force that results in 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 definition of serious bodily injury will be based, in part, upon 18 USC Section 2246 (4). The term ‘serious bodily injury’ means 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.”

## **APB Recommendation 2**

“The APB recommends collection of data elements included in the DICRA and other data elements as determined by a Task Force, to include at a minimum:

- Age, sex, race, ethnicity, height, and weight of the officer(s)
- Age, sex, race, ethnicity, height, and weight of the subject(s)
- Date and time of the incident
- Location of the incident [location codes from the NIBRS]
- Injury/Death of subject(s) [gunshot wound/apparent broken bones/possible internal injury/severe laceration/loss of teeth/other major injury/death]
- Officer(s) injured [yes/no]
- Officer injury type(s) [apparent broken bones/possible internal injury/severe laceration/loss of teeth/other major injury/unconsciousness/death]
- Reason for initial contact between subject and officer [request for response to criminal or suspicious activity/request for medical, mental health, or welfare assistance/routine patrol other than traffic stop/traffic stop/warrant service/other/unknown]
- Subject(s) resisted [yes/no]
- Was the threat of force by the subject(s) directed to the officer or to another party?
- Type of subject resistance/weapon involvement
- Apparent physical impairment of the subject (Yes/No/Unknown)
- Was the subject(s) armed or believed to be armed?
- Type of force used to cause injury or death [firearm/conducted energy device (Taser)/explosive device/pepper or OC spray/baton or blunt instrument/personal weapons/other]”

## **APB Recommendation 3**

“The APB recommends the creation of a separate collection mechanism under the FBI CJIS for the reporting of use-of-force data. The new data collection will be maintained separately by the national UCR Program and apart from the criminal incident and offense information. CJIS Systems Officers, in consultation with UCR Program Managers, will determine if agencies within their jurisdiction may submit directly to the FBI. UCR Programs will have timely and on-going access to all data submitted directly to the FBI.”

### **2. Needs and Uses:**

The goal of this new data collection on law enforcement officer use of force is to produce a national picture of the trends and characteristics of use of force by a law enforcement officer (as defined by the Law Enforcement Officer Killed and Assaulted [LEOKA] Program) for law enforcement and the communities they serve. The collection and reporting includes use of force which results in 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 data collected includes information on the officers, the subjects, and the circumstances surrounding the incident itself. The data collection focuses on information readily known and attainable by law enforcement with the initial investigation following an incident rather than any assessment of whether the officer acted lawfully or within the bounds of department policies.

### **Pilot**

The pilot study consisted of two phases. Each phase included a set of target agencies and states allowing for sufficient data to evaluate intercoder reliability in the application of definitions and guidance. While survey design “best practices” can be used to inform the process of eliciting information from individuals providing law enforcement statistics for the FBI UCR Program, the data collection is more similar to an extensive process of content analysis. Information captured within law enforcement records and narratives serve as the basis for the statistical information forwarded to the FBI. The challenge for the FBI UCR Program is to communicate coding schemes based upon a common set of definitions. Instructions and manuals, as well as training modules and curricula, were developed and served to help guide individuals at law enforcement agencies (LEAs) to translate their local records into a uniform manner. While basic instructions were provided during the pilot study, the results of the pilot study identified concepts with less consensus across locations and types of LEAs for the future development of in-depth instructions, manuals, training modules, and curricula.

### ***Phase I***

The activities of the first phase of the pilot focused on a prospective comparison of reported incidents submitted in the UoF data collection through the data collection tool on the Law Enforcement Enterprise Portal (LEEP) to the original records voluntarily provided by the reporting agency to the FBI. Those recruited agencies agreed to participate in the pilot study and understood local records would be forwarded to the FBI upon submission of statistical information to the UoF data collection tool. The local case information was redacted of any personally identifiable information prior to its forwarding to the FBI, and the FBI destroyed all local records upon completion of the pilot study.

The targeted agencies for participation in the pilot study included three groups of agencies, while also accepting agencies of any size who voluntarily approached the FBI to provide their information:

- The largest local LEAs with a workforce of 750 or more sworn officers were targeted. The group of the largest agencies included at least 68 agencies across 23 states based on information submitted to the FBI UCR Program. Each state/local agency was approached through their UCR Program Manager for their voluntary agreement to provide data for submission to the UoF data collection and participate in the pilot study activities.
- The FBI identified state UCR programs to participate on a voluntary basis.
- All four Department of Justice (DOJ) LEAs voluntarily participated.

These state UCR programs were selected based upon the results of the canvass of the states during pre-testing and subsequent conversations with state representatives about the pilot study. These identified states represented UCR programs using the data collection tool on LEEP to manage the data collection for their UCR Programs.

The Phase I assessment consisted of an administrative review and data quality review. As a prelude to the review of local agency records, the FBI asked each LEA specific questions about their participation in the National UoF Data Collection. The intent was to assess their understanding of and capabilities to comply with data collection guidelines. This occurred upon the submission of the first incident to the National UoF Data Collection pilot. Agencies who opted to participate in the pilot study were provided an overview of the intent of the collection and expressed an interest in wanting to assist the FBI with its development. In addition, information regarding the reasons for refusal were systematically recorded and reviewed for agencies who opted not to participate in the pilot. This data was analyzed for detectable patterns by type of agency, region, or any other agency characteristic.

Following review of the LEAs provided documentation on the UoF incident, the FBI independently and blindly completed the fields in the Incident, Subject, and Officer sections of the data collection. The FBI assisted with assessing whether data collection guidelines were consistently interpreted and applied. The FBI will share a copy of the pilot study report with all participating agencies following OMB approval.

The overall objectives of the Phase I of the pilot study were:

- To measure the extent LEAs exhibit a consistent interpretation of the variables in the National UoF Data Collection with the FBI as measured by the intercoder reliability measure of Cohen's kappa.
- To measure the extent LEAs exhibit a consistent interpretation of serious bodily injury as measured by intercoder reliability between FBI and agency.
- For the FBI to make corresponding recommendations regarding coding schemes and definitions.
- To identify what additional concepts may need to be explored with the subset of LEAs for Phase II.
- To systematically record reasons for refusals to participate in the pilot study.
- To work with state UCR Program Managers in the pilot states to identify any potential problems with record-keeping impeding the ability to provide the UoF information to the FBI.

Phase I of the pilot study lasted three months; began July 1, 2017; and concluded on September 30, 2017

### ***Phase II***

LEAs participating in Phase I served as the sampling frame for Phase II. Phase II was an extension of the records review and comparison with targeted, on-site visits to a sample of

agencies. The FBI worked with the Bureau of Justice Statistics (BJS) in the development of a statistically defensible sampling strategy. LEA participation in this phase was also voluntary and occurred during a three-month time-period following the conclusion of Phase I.

The original set of agencies recruited for the first phase served as a basis for the selection of agencies in the second phase. The FBI also continued to accept agencies providing data voluntarily to the collection.

The activities of Phase II primarily centered on an extension of the records review and comparison with targeted, on-site visits with a sample of pilot agencies. Due to the small numbers of incidents submitted to the data collection and the wide dispersion of pilot agencies, the FBI used a purposefully chosen sample of agencies for on-site visits by FBI personnel. The FBI, in consultation with the BJS, selected six agencies in four locations to represent key areas of variation and diversity for reporting agencies. There were three major metropolitan police departments and two county agencies. In addition, a state agency with primary responsibility for reporting data for all agencies in the state was also included.

The primary objective of the on-site visits was to understand factors which contributed to the level of underreporting of within-scope incidents—especially those with serious bodily injury or firearm discharges. The on-site visits also allowed for an assessment of local record-keeping capabilities. While this did not allow for an estimate of the level of underreporting by agencies, the information and insight gained from the on-site visits allowed the FBI to develop appropriate responses to mitigate those effects.

The objectives of Phase II were:

- To ascertain factors which contributed to either underreporting or over-reporting of incidents.
- To assess whether any incidents occurred which should have been reported to the National UoF Data Collection, based upon the definition of serious bodily injury or firearm discharges, but were not.
- To further explore factors negatively impacting the reliable recording of characteristics of incidents of law enforcement UoF as measured in the National UoF Data Collection.

To allow for an assessment of local-record-keeping capabilities and testing of any possible adjustments made to the language of instructions and data elements or changes to the data collection which may have been implemented during Phase I.

The Phase II of the pilot study lasted three months and began at the conclusion of Phase I on October 1, 2017 concluding on December 31, 2017. The results of Phase II of the pilot study were provided to the OMB at its conclusion and did not include any substantive changes. The full collection of the data will not proceed until clearance from OMB is received.

### ***Analytical Plan and Publication from Pilot Study***

Following OMB approval, the FBI will release a report at the request of law enforcement, detailing the results of its pilot study data collection and analysis. The results from the pilot study will be released to the public and will consist of primarily three sections. The first section will provide the results of the on-site assessment regarding underreporting and completeness, as well as an assessment of the reliability of reported data from the Phase I records review. All results in this section will be pooled, and no individual agency will be identified. The second section will provide results of the analysis of nonresponse and missing data—to include refusals to participate in the pilot study. This section will also identify whether a need clearly exists for a nonresponse bias study and a proposed methodology for the study. Again, all results will be pooled, and no individual agency will be identified in the second section. As the pilot study only has two phases, the third section of the report will detail the data collection policies and procedures which will assist with maintaining data quality and completeness as a permanent and final data collection. The third section will also detail any on-going collaboration and partnership between the FBI and the BJS to achieve and maintain a high-level of data quality. Finally, an optional fourth section will list basic agency-level counts of reported data from all participating agencies as a showcase of item completeness and quality. In addition to the public report, the FBI will provide opportunities for the participating agencies in the two phases of the pilot study to hear the results directly and ask questions. This will occur through teleconferences.

### ***Terms of Clearance***

The FBI recognizes the importance of response rates and population coverage for the ability of the National UoF Data Collection to generate valid national estimates of the UoF by police officers. After consultation with OMB, FBI agrees to the following terms of clearance describing the quality standards which will apply to the dissemination of the results. For the purpose of these conditions, “coverage rate” refers to the total law enforcement officer population covered by UoF. In addition, “coverage rate” will be considered on both a state-by-state basis, as well as a national scale. “Key variables” include subject injuries received and type of force used. Item non-response refers to the percent of respondents that either do not answer the question associated with a key variable or answer “unknown and unlikely to ever be known.”

For the first year of collection,

- 1) If the coverage rate is 80 percent or greater and the item non-response is 30 percent or less, then no conditions apply to the dissemination of the results.
- 2) If the coverage rate is between 60 percent and 80 percent or the item non-response is greater than 30 percent, then the FBI will not release counts or totals, but may release ratios or percentages.
- 3) If the coverage rate is between 40 percent and 60 percent, then the FBI may release only the response percentages for the key variables across the entire population and for subpopulations which represent 20 percent or more of the total population.
- 4) If the coverage rate is less than 40 percent, the FBI will not disseminate results.

In subsequent years, if any combination of conditions three and four are met for three consecutive years, or if condition four is met for two consecutive years, then the FBI will discontinue the collection and explore alternate approaches for collecting the information, for example by working cooperatively with the BJS to expand their current efforts to collect information on deaths in custody, to include law enforcement.

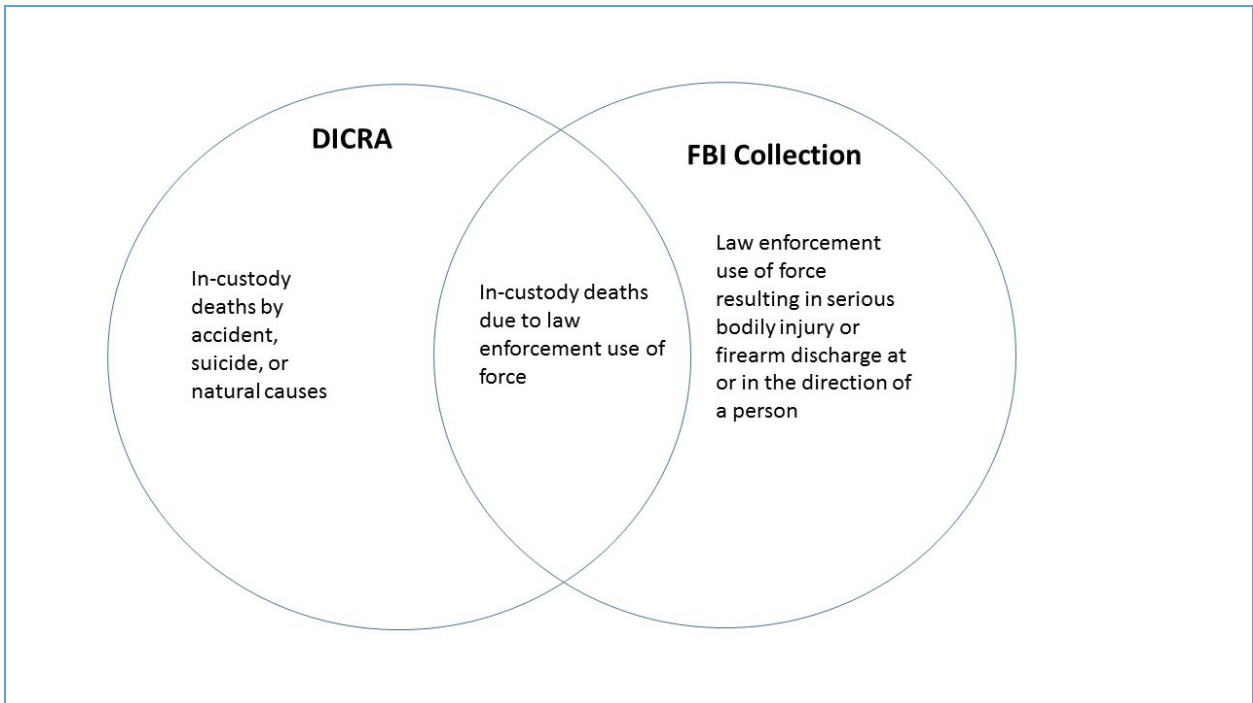
### 3. Use of Technology

The National UoF Data Collection provides a centralized repository for the responsible (local, state, tribal, and federal law enforcement) representatives to submit data on the circumstances, individuals, and officers involved in use-of-force incidents. The system is a robust tool that enables the nation's law enforcement communities to capture, submit, and publish timely and accurate use-of-force data. Two types of interfaces are available for the final system: The National UoF Data Collection portal for users who wish to utilize an FBI-developed interface to submit and manage their agencies use-of-force incidents, or a Bulk Data Submission capability, allowing agencies with existing automated data capture and reporting system to generate a standards based electronic file for submission. This gives agencies the choice to report data in a manner that best aligns with their current technical capabilities and reporting processes. Within the portal, users are provided prompted-navigation through each screen, values such as: "Save", "Pending Investigation", and "Unknown" enable contributors to start an incident report without having all of the data, and then return to complete and submit the report at a later time. A Zero Report feature allows agencies who have no use-of-force incidents within a month to report there were no incidents. Zero Reports allow the FBI to understand jurisdictions which had no incidents versus agencies who did not report. Detailed information about these and other features are included within this document.

All users access the portal through the LEEP. The portal uses the LEEP authentication and the related user account within the use-of-force application to provide role-based access to information and functionality within the software. The FBI established a UoF Data Collection help desk which provides a full range of support including user enrollment, workflow navigation, and troubleshooting technical or access issues.

### 4. Efforts to Identify Duplication

The National UoF Data Collection has the potential to create duplicative reporting of similar information by LEAs to the DOJ. Both the National UoF Data Collection and the DOJ's Death in Custody Reporting Act of 2013 (DICRA) collection amass data on fatalities that result from a use of force by law enforcement. However, information in the DOJ's collection on in-custody deaths which result from accidents, suicides, and natural causes will not be a part of the National UoF Data Collection. Conversely, the FBI is collecting information on some nonfatal encounters between law enforcement and subjects which are not within the scope of the DOJ's collection. The National UoF Data Collection also provides a way to ascertain information about the officers involved in instances of use of force by law enforcement which is not collected within the DOJ's collection.



*Figure 1. Scope of Data Collections from the DICRA and the National Use-of-Force Collection*

While duplicative reporting may be unavoidable in the maintenance of two data collections within the DOJ, the FBI is working closely with the DOJ to ensure there is no duplicative record-keeping by law enforcement. The FBI and the BJS will develop a communications strategy in order to manage any release of information on the subject of law enforcement use-of-force. This strategy will specifically address any differences between the two agencies' collections of use-of-force data in order to facilitate the proper interpretation of the data.

5. Methods to Minimize Burden on Small Businesses

Small government entities may be impacted by the National UoF Data Collection. In mitigation, the FBI built the data collection tool as a web portal which serves as a low/no-cost solution to LEAs who do not have or plan to build their own collection system.

6. Consequences of Less Frequent Collection

Community leaders have called for changes to existing data collections on law enforcement use of force to understand facts and circumstances surrounding these incidents. The response and leadership from the law enforcement community has been overwhelmingly positive, as law enforcement executives clearly recognize the need for better use-of-force data in support of their own mission and for greater transparency with the communities they serve. Many of the major national and state law enforcement organizations have passed or are proposing resolutions and modeling policies to encourage their membership to provide better information on use-of-force incidents for the benefit of their diverse communities.



The United States Congress and state legislatures also are focusing attention on the current lack of standardized data available on law enforcement use-of-force incidents. The FBI reviewed and provided comment on seven separate pieces of legislation which were introduced into Congress from 2014 to Present. The DICRA was signed into law by then President Barack Obama in December 2014, reestablishing the DOJ data collection on in-custody deaths. In addition to activity on the national-level, many states, including Colorado and California, have passed additional legislation that requires the collection of use-of-force data by their law enforcement/criminal justice agencies.

Finally, national leaders including former President Obama and former FBI Director James B. Comey have highlighted the need for greater understanding of the dynamics of law enforcement use of force. President Obama convened the President's Task Force on 21<sup>st</sup> Century Policing, which released its final report in May 2015. In the final report's recommendations was a call for greater transparency and more data about police interactions with the public. In his "Hard Truths" speech delivered at Georgetown University in February 2015, then FBI Director Comey stated, "Without complete and accurate data, we are left with 'ideological thunderbolts.'" With the goal of increasing our understanding of law enforcement use of force, the FBI is leading an intensely collaborative process to both improve the information already collected on law enforcement use-of-force fatalities, as well as begin collecting nonfatal uses of force, to assist our society in understanding and dealing with these situations more effectively.

#### 7. Special Circumstances Influencing Collection

The FBI is requesting all local, state, tribal, and federal LEAs submit monthly reports of use-of-force incidents, to also include Zero Reports if no law enforcement use-of-force incident occurred to better qualify any existing national trends. This is the same frequency of reporting requested for other FBI UCR Program initiatives.

#### 8. Public Comments and Consultations

##### **October 5, 2016 Pages 69084-69087 Comments Received During 60-day Federal Register Notice (FRN)**

The FBI received comments from nineteen individuals and organizations during the 60-day FRN posted from October 5, 2016 to December 5, 2016. The notice asked for comments in four major areas:

- Whether the proposed collection is necessary for the proper performance for the functions of the FBI, including whether the information will have practical utility
- 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
- Whether and, if so, how the quality, utility, and clarity of the information to be collected can be enhanced

- 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

Three of the nineteen comments received were from potential contributing LEAs. Their comments centered more on questions regarding the implementation of the data collection rather than directly commenting on the four major areas requested. Those implementation questions were addressed directly to each commenter. In general, the remaining comments received through the 60-day notice did not raise any issues the necessitated changing the methodology of collection or the information collected. The FBI used a process to determine the content and scope of the National UoF Data Collection focused on maximizing the participation of the law enforcement community. The initial content of the data collection reflects the level of detail on these use-of-force incidents which is both known immediately after the occurrence and could be shared. The additional information suggested by the agencies who submitted comments will be held in abeyance by the FBI until the next revision of the data collection. The content of these comments are summarized by area. Detailed information on each comment is available upon request.

#### Whether the collection is necessary

There were some comments regarding whether a data collection such as this is appropriate for the FBI to manage. One commenter in particular mentioned this information would be more appropriately gathered from death certificate information. Others stated concerns about the voluntary nature of the data collection and whether it would contribute to a skewed perception of law enforcement use of force—especially since federal participation appears to be compulsory.

#### Accuracy of burden estimate

Only one commenter expressed a concern that burden estimate for reporting by LEAs is not accurate.

#### Quality, utility, and clarity of the information to be collected

The majority of the comments centered upon the quality, utility, and clarity of the information to be collected. While some commenters expressed a desire for more information to be collected on the incidents, subjects, and officers involved, others were apprehensive of the amount of information being collected on the officers and its impact on officer privacy. In many cases, the information requested by the commenter was already included as part of the proposed data collection.

In addition, there were a few commenters that wanted to see the scope of the entire data collection be expanded to include all uses of force by law enforcement regardless of the result to the subject; other injuries sustained in law enforcement custody (e.g., “rough rides”

in a police vehicle); or to encompass potentially criminal acts by law enforcement (e.g., sexual assault by a law enforcement officer under the color of law).

Beyond specific information which either should or should not be included in the data collection, questions were raised about reporting requirements and guidance. Commenters expressed a need for clear directions and standards for use during the data collection. Some commenters asked for the pilot collection to be made a permanent, mandatory collection for all law enforcement.

#### Minimizing the burden through technology

A small number of commenters, including two with information technology companies, advocated for the use of automated systems to collect information on law enforcement use of force.

#### **Development and Stakeholder Engagement**

In addition to receiving comments during the initial 60-day FRN, the FBI also pursued a significant amount of stakeholder engagement over the course of 2015 and 2016.

#### **CJIS Advisory Policy Board - Spring 2015**

The FBI's initial proposal was to pursue the addition of nonfatal officer-involved shootings to the existing information on justifiable homicide. Beginning in March 2015, the FBI CJIS Division worked with its APB to consider the question of whether to pursue the collection. The CJIS APB is a committee comprised of representatives from the law enforcement and criminal justice communities who advise the FBI Director on matters related to the criminal justice information systems the CJIS Division manages. The APB meets semi-annually and provides recommended actions on policy and technical issues, to include the FBI UCR Program.

While this body does not have the expertise to provide advice on matters of statistical methodology, the APB does provide two important functions. First, its membership is a geographically-diverse group of experts on criminal justice records maintained by LEAs at all levels of government—local, state, tribal, and federal. These representatives can provide important feedback on the potential impact of any change or addition to the UCR data collections on the law enforcement community. Secondly, the APB represents the universe from which the UCR data are collected. Through the APB process, the FBI is able to engage in critical discussions that inform decisions about content and scope of law enforcement statistics.

On June 3, 2015, the APB received the recommendation to approve the data collection and passed the following amended motion:

“The UCR Program to develop a method to collect information on nonfatal/fatal shootings by law enforcement in the line-of-duty. The UCR Program will work with local law enforcement agencies and the five major national law enforcement organizations to develop what information to collect and the best method to do so and bring the topic back through the APB Process.”

### **Meeting of Major Law Enforcement Organizations**

Based upon the direction of the CJIS APB, the FBI also began efforts to solicit input from the major law enforcement organizations. Representatives from the major law enforcement organizations including the International Association of Chiefs of Police (IACP), Major City Chiefs Association (MCCA), National Sheriffs’ Association (NSA), Major County Sheriffs’ of America (MCSA), Association of State Criminal Investigative Agencies (ASCIA), and the Police Executive Research Forum (PERF) met with representatives from the CJIS APB, FBI, and the DOJ to discuss the next steps regarding the creation of the new data collection on officer-involved shootings. The result of the meeting was a unanimous endorsement of a data collection system, to include the following definition and content.

The participants at the meeting on September 18, 2015, proposed the following definition:

“Law Enforcement Officer’s as defined by the Law Enforcement Officer Killed and Assaulted (LEOKA) Program Use of Force (LEOUF) that results in the death or serious physical injury to a person, or when the law enforcement officer discharges a firearm at or in the direction of a person.”

The effects of this definition were threefold. First, it expanded the collection to include the use of force which results in serious physical injury, rather than the original focus of officer-involved shootings. Secondly, the inclusion of the definition of law enforcement as set by the LEOKA Program would allow for some flexibility to expand the scope of the National UoF Data Collection in parallel with the LEOKA data collection. Finally, the definition does not require a law enforcement agency determine that the use of force was justified.

In addition to the proposed definition for the types of incidents eligible for reporting in the National UoF Data Collection, the representatives from the major law enforcement organizations proposed content to be collected on every incident that meets the criteria of the definition. The proposed data elements included basic information on the officers involved, the subjects of the use of force, and circumstances related to the use of force, which served as the basis for the final recommendation approved by the CJIS APB. These data should be collected by the FBI as a part of its UCR Program, but collected separately from the rest of the criminal incident and offense information the FBI currently maintains. These proposals were brought to the CJIS APB for consideration.

### **CJIS Advisory Policy Board - Fall 2015**

After the meeting with the law enforcement representatives in September 2015, the FBI

introduced a topic to address the question of whether a new data collection on law enforcement officer use of force would be recommended to the FBI Director. On December 3, 2015, the CJIS APB approved the motions set forth in the response to Question 1 in Supporting Statement, Part A.

### **Task Force**

As specified in the CJIS APB Recommendation 2, the FBI moved to establish a Use-of-Force Task Force to make the decision on the additional content of the new data collection in January 2016. Central to the discussion on the content of the final data collection was ensuring law enforcement would not be overly burdened by duplicate reporting which could arise because of requirements in the DICRA of 2013. The Use-of-Force Task Force is comprised of representatives from major law enforcement organizations and local, tribal, and federal law enforcement representatives. Specifically, the following organizations are represented on the Use-of-Force Task Force:

- IACP
- NSA
- MCCA
- MCSA
- PERF
- ASCIA
- National Organization of Black Law Enforcement Executives
- Association of State UCR Programs (ASUCRP)

In addition to representatives from these major organizations, the task force welcomed observers from the Office of the Deputy Attorney General (ODAG), the Community Oriented Policing Services Office, DOJ, and the BJS.

The Task Force held monthly teleconferences, and met in person on six occasions (January 27, 2016; March 17, 2016; May 4-5, 2016; August 3, 2016; September 7, 2017; and February 22, 2018). The Task Force will meet a seventh occasion on September 12, 2018. On May 4, 2016, the Task Force discussed the scope of the data collection, specific responsibilities related to the reporting and handling of use-of-force data, and a final set of data elements for consideration. This final set of data elements is provided in the Appendix and builds upon the first set of recommended data elements that was a result of the December 2015 CJIS APB Meeting. The Task Force have also provided recommendations that address marketing and dissemination plans.

### **Coordination with DOJ**

The FBI was in close contact with the DOJ leadership in the ODAG and the Office of Legal Policy for the last quarter of 2016 and early in 2017 prior to the change in presidential administration. This coordination took the form of weekly teleconferences where the

stakeholder agencies and groups impacted by the collection of use-of-force data were able to provide regular updates to each group's or agency's initiatives. While the calls were suspended after the change in administration, the FBI remains committed to coordinate with efforts to minimize any potential burden to law enforcement.

9. Payment of Gift to Claimants

Not applicable.

10. Assurance of Confidentiality

As discussed above, the greatest privacy risk from the National UoF Data Collection arises from the linkability of the information collected with outside sources of information to potentially identify the officer(s) or subject(s) involved in a specific use-of-force incident. To mitigate this risk, access to individual incident information is restricted to the submitting agency of the incident and FBI employees supporting the National UoF Data Collection. Access to information within the National UoF Data Collection system is controlled by user role. The FBI has completed a Privacy Impact Assessment on the National UoF Data Collection and is under review by the DOJ. A system of records notice was not completed because submission of incidents to the National UoF Data Collection system is voluntary. Discretion for submittal lies with the law enforcement unit/department involved. The National UoF Data Collection is not a system of records under the Privacy Act and, similar to the UCR system, does not notify individuals involved in the incident (law enforcement or civilian) that the information is being submitted. No personally identifiable information on living individuals is collected by the National UoF Data Collection.

Statistical information from the National UoF Data Collection will be published according to the terms of clearance established by OMB provided in this document. The statistical information published will use aggregated data from incident submissions to the National UoF Data Collection which will limit the ability of the reader or user to link information back to a particular individual. For example, agencies will submit the specific address location of a use-of-force incident; however, the published statistics will not include incident information from a specific address. Rather, the location information will be used to provide information about use-of-force incidents to refine geographical presentations for states, regional areas, or nationally. Information regarding use-of-force incidents by a specific law enforcement agency will be limited to basic numeric counts of incidents. The FBI anticipates it will receive research requests for the underlying raw data from use-of-force incident submissions. To meet research needs, the FBI will create a sanitized data set from submitted incidents to the National UoF Data Collection to ensure that information cannot be linked back to specific individuals while still allowing data to be used for statistical research purposes. The FBI will collaborate with other federal statistical agencies, as well as the Federal Committee on Statistical Methodology to identify "best practices" in the development of the sanitized data set.

Access to the raw data within the National UoF Data Collection is restricted to contributing

LEAs and FBI personnel supporting the National UoF Data Collection. A sanitized data set from submitted National UoF Data Collection incidents will be created using industry standards to ensure that the information cannot be linked back specific individuals while still allowing raw data to be used for statistical research purposes.

11. Justification for Sensitive Questions

Not applicable.

12. Estimate of Hour Burden

An estimated 701,486 law enforcement officers will participate in the National UoF Data Collection. The estimated burden hours per incident is 0.63 for completion.

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 LEAs. 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. This simple estimate was used for the number of firearm discharges at or in the direction of a person, but did not strike the individual. In addition, the FBI UCR Program collects counts of the number of law enforcement sworn and civilian employees in LEAs.

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 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.

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



13. Estimate of Cost Burden

There are no direct costs to law enforcement to participate in the FBI UCR Program other than their time to respond to the data collection and for any additional follow-up between the agency and the FBI UCR Program. Respondents may incur capital or start-up costs associated with this information collection, although it is difficult to obtain the costs to agency Records Management Systems as the vendor costs vary from agency-to-agency. Many costs are built into the vendors Service Level Agreement contracts. Depending on the vendor contracts, changes may be included within the original contract with no other additional costs. However, an estimate was projected that agencies pay a \$107,000 maintenance fee every year for system maintenance costs. However, these agencies are required to maintain their systems for their own purposes regardless of whether they report crime data to the FBI UCR Program.

14. Estimated Annualized Costs to Federal Government

The development of the National UoF Data Collection system is being performed by contract, as well as government support staff. Below is an estimated cost for Fiscal Years 2016, 2017, and 2018 for contract support, as well as government support.

<b>Use-of-Force Contract Services / Operations &amp; Maintenance Services Costs</b>						
		<b>FY16</b>	<b>FY17</b>	<b>FY18</b>		
Project Manager		\$ 211,200.00	\$ 216,480.00	\$ 221,892.00		
Senior Application Developer		\$ 144,806.00	\$ 148,427.00	\$ 152,137.00		
Senior Application Developer		\$ 144,806.00	\$ 148,427.00	\$ 152,137.00		
System Administrator		\$ 176,640.00	\$ 181,056.00	\$ 185,582.00		
Database Administrator		\$ 157,440.00	\$ 161,376.00	\$ 165,410.00		
Technical Writer		\$ 82,974.00	\$ 85,916.00	\$ 87,143.00		
<b>Use-of-Force Staff Cost Estimates</b>						
<b>Contract Services Totals</b>	GS- Level	<b>\$ 917,836.00</b>	<b>\$ 940,784.00</b>	Fiscal Year 2016	Fiscal Year 2017	Fiscal Year 2018
Software			\$	\$	\$ 50,000.00	
Project Manager	GS-14	33%	38,000.00	38,000.00	10,000.00	\$ 38,000.00
Software Maintenance			\$	\$	\$ 10,000.00	
Operations & Maintenance Services			\$	\$	\$ 561,880.00	
Technical Lead	GS-13	25%	24,000.00	24,000.00		\$ 24,000.00
Survey Statistician	GS-14	80%	\$90,473.00	\$90,473.00		\$90,473.00
<b>Total Yearly Costs</b>		<b>\$ 917,836.00</b>	<b>\$ 940,784.00</b>	<b>\$ 48,289.00</b>	<b>\$ 48,289.00</b>	<b>\$ 1,586,181.80</b>
Management and Program Analyst	GS-12	60%	\$48,289.00	\$48,289.00		\$48,289.00
Management and Program Analyst	GS-14	100%	\$113,091.00	\$113,091.00		\$113,091.00
Supervisory Management and Program Analyst	GS-14	20%	\$22,618.00	\$22,618.00		\$22,618.00
Unit Chief	GS-15	20%	\$26,606.00	\$26,606.00		\$26,606.00
Contracting Officer Representative	GS-13	20%	\$19,000.00	\$19,000.00		\$19,000.00
System Engineer	NA	25%	\$59,773.00	\$59,773.00		\$59,773.00
System Engineer	NA	50%	\$119,545.00	\$119,545.00		\$119,545.00

15. Reasons for Change in Burden

Not applicable.

16. Plans for Publication

Following OMB approval, the FBI will release a report at the request of law enforcement, detailing the results of its pilot study data collection and analysis. The results from the pilot study will be released to the public and will primarily consist of three sections. The first section will provide the results of the on-site assessment regarding underreporting and completeness, as well as an assessment of the reliability of reported data from the Phase I records review. All results in this section will be pooled, and no individual agency will be identified. The second section will provide results of the analysis of nonresponse and missing data—to include refusals to participate in the pilot study. This section will also identify whether a need clearly exists for a nonresponse bias study and a proposed methodology for the study. Again, all results will be pooled, and no individual agency will be identified in the second section. As the pilot study only has two phases, the third section of the report will detail the data collection policies and procedures which will assist with maintaining data quality and completeness as a permanent and final data collection. The third section will also detail any on-going collaboration and partnership between the FBI and the BJS to achieve and maintain a high-level of data quality. Finally, an optional fourth section will list basic agency-level counts of reported data from all participating agencies as a showcase of item completeness and quality. In addition to the public report, the FBI will provide opportunities for the participating agencies in the two phases of the pilot study to hear the results directly and ask questions. This will occur through teleconferences.

Terms of Clearance

The FBI recognizes the importance of response rates and population coverage for the ability of the National UoF Data Collection to generate valid national estimates of the UoF by police officers. After consultation with OMB, FBI agrees to the following terms of clearance describing the quality standards which will apply to the dissemination of the results. For the purpose of these conditions, “coverage rate” refers to the total law enforcement officer population covered by UoF. In addition, “coverage rate” will be considered on both a state-by-state basis, as well as a national scale. “Key variables” include subject injuries received and type of force used. Item non-response refers to the percent of respondents that either do not answer the question associated with a key variable or answer “unknown and unlikely to ever be known.”

For the first year of collection,

- 5) If the coverage rate is 80 percent or greater and the item non-response is 30 percent or less, then no conditions apply to the dissemination of the results.

- 6) If the coverage rate is between 60 percent and 80 percent or the item non-response is greater than 30 percent, then the FBI will not release counts or totals, but may release ratios or percentages.
- 7) If the coverage rate is between 40 percent and 60 percent, then the FBI may release only the response percentages for the key variables across the entire population and for subpopulations which represent 20 percent or more of the total population.
- 8) If the coverage rate is less than 40 percent, the FBI will not disseminate results.

In subsequent years, if any combination of conditions three and four are met for three consecutive years, or if condition four is met for two consecutive years, then the FBI will discontinue the collection and explore alternate approaches for collecting the information, for example by working cooperatively with the BJS to expand their current efforts to collect information on deaths in custody, to include law enforcement.

#### 17. Expiration Date Approval

The FBI does not want to display the expiration date for OMB approval of the information collection due to the mode of data collection. The National UoF Data Collection is collected via Web form available on the restricted-access LEEP. To keep an expiration date current would require programming changes on the Web form.

18. Exceptions to the Certification Statement

Not applicable.