

## QUESTIONS POSED BY SENATOR FRANKEN

7. **Last November, the Equal Employment Opportunity Commission (EEOC) issued a report in which it concluded that Bureau of Prisons (BOP) employees “have an unusually heightened fear of retaliation.” See United States Equal Employment Opportunity Commission Final Program Evaluation Report: Federal Bureau of Prisons at p. 3 (Nov. 24, 2010). The EEOC found that the “vast majority of BOP non-supervisory employees interviewed reported an atmosphere of overall retaliation by management” and that BOP employees often “do not report discrimination, harassment, and retaliation because they believe they involuntarily will be transferred.” Id. at pp. 12, 16. The EEOC also found that BOP’s equal employment opportunity program “has several deficiencies that might adversely affect its employees’ perception of it.” Id. at pp. 3-4.**

**What is BOP doing to address the problems outlined in the EEOC report? In answering this question, please specify (a) whether BOP has made any changes to its equal employment opportunity program, and, if so, please provide the current status of those changes; (b) whether and to what extent BOP has engaged with union representatives about issues of retaliation, harassment, and discrimination; and (c) whether and to what extent BOP has provided guidance or training to its supervisory employees in response to the EEOC report.**

### Response:

We are committed to equal employment opportunity and to ensuring a workplace free of discrimination and retaliation. The Bureau of Prisons (Bureau) has taken many significant steps to modify its Equal Employment Opportunity (EEO) program and implement the recommendations in the Equal Employment Opportunity Commission (EEOC) report.

- A. On October 21, 2010, the EEO Office was moved from the Office of General Counsel to the Program Review Division (PRD), which is the independent audit arm of the Bureau of Prisons (BOP). In addition, the PRD Assistant Director was designated as the EEO Director, reporting directly to the Bureau Director.

The BOP hired 13 additional full time EEO counselors. Now, with the exception of the staff located in the Bureau facilities in Puerto Rico and Hawaii (due to their locations, these two facilities are serviced by BOP staff who serve as EEO Counselors in addition to their full-time BOP assignment), all facilities are serviced by full time EEO counselors (18 in total).

- B. The BOP EEO Officer, who has day-to-day supervision of the EEO Office and its functions, has met with the union to discuss issues of retaliation, harassment, and discrimination. BOP EEO management and union representatives have worked jointly to draft an anti-harassment policy that is almost complete. This workgroup is also collaborating to update the EEO complaints processing policy.

- C. Since the report, the BOP EEO Officer has provided live training on two occasions to all BOP wardens. The first training focused on retaliation and the second on more general EEO issues. In addition, the EEO Officer provided video-conference training to all Bureau supervisors on two occasions. The first training focused on the EEO process generally, and the second focused on the full-time EEO Counselor program and confidentiality within the EEO process. All supervisors were also required to review an online training on retaliation developed by the EEO Officer.

All BOP staff received EEO training, to include training on the mediation process, during the agency's mandatory 2011 Annual Training. Finally, the BOP has been in compliance with the No FEAR Act of 2002 training requirements for all staff since its implementation.

8. **The media recently reported that the FBI will soon roll out a "facial recognition" identification service in four states: Michigan, Washington, Florida, and North Carolina. This service will allow federal and state law enforcement officers to identify a suspect on the street by taking his or her picture and running it past a federal database of faces. Since then, civil liberties advocates from the Electronic Frontier Foundation to the Cato Institute cautioned that this database would allow the uploading of photos of innocent people that had never been convicted of a crime.**

- A. **What legal or procedural restrictions are there on the type or source of photos that can be submitted?**

**Response:**

The FBI's Next Generation Identification (NGI) program is in the early stages, with preparations currently underway to deploy the Interstate Photo System Facial Recognition Pilot (hereafter Pilot). State participation in the Pilot has not yet been established. We anticipate that full facial recognition services may be deployed in 2014.

The Pilot Repository will contain only photos provided by authorized criminal justice agencies for criminal justice purposes and associated with fingerprints from a criminal arrest or booking. Participating agencies will be required to comply with appropriate quality assurance procedures to ensure that only complete, accurate, and valid information is maintained in the Pilot Repository. Photos will be searched against those in the Repository only when the photos are obtained from authorized criminal justice agencies, only for criminal justice purposes, and only when consistent with parameters established in a memorandum of understanding (MOU) with criminal justice agencies. These parameters will address purpose, authority, scope, disclosure, use, and security. The information derived from Pilot searches will be used only as investigative leads and will not be considered positive identifications.

**B. Will the FBI allow the photos of citizens who have never been convicted of a crime to be included in its facial recognition database?**

**Response:**

As noted above, the Pilot Repository will contain only facial images associated with fingerprints from a criminal arrest or booking.

The FBI's collection and retention of identifying information is governed by statute: 28 U.S.C. § 534(a) requires that the "Attorney General shall - (1) acquire, collect, classify, and preserve identification, criminal identification, crime, and other records." As interpreted by federal case law, the word "shall" not only provides authorization, it also provides imperative direction, requiring that identification materials and records be acquired and preserved. (United States v. Rosen, 343 F. Supp. 804, 806 (S.D.N.Y. 1972). "[E]ven in the situation where a person has been acquitted of charges against him, the arrest records and other materials of identification . . . may be retained *unless*: (1) there is a statute that directs return of such arrest records; (2) the arrest was unlawful; or (3) the record of the arrest is the 'fruit' of an illegal seizure." (Rosen at 808 (emphasis in original).) The retention of identification records has been addressed by the federal courts in other contexts, including in a 1976 case in which the court found that the maintenance and dissemination of arrest records of persons never convicted of a criminal charge arising from the conduct for which they were arrested does not violate constitutional due process protections or the constitutional right to privacy. (See Hammons v. Scott, 423 F. Supp. 625, 628 (N.D. Cal. 1976).)

**C. Will private citizens be able to correct any inaccurate information in the FBI's database?**

**Response:**

The FBI is primarily the custodian of criminal history information submitted by federal, state, and local criminal justice agencies. To assist in ensuring the integrity of information housed in the Pilot Repository, the FBI will require that retainable photo data be accompanied by fingerprints to verify the individual's identity, unless the MOU between the FBI and the contributor memorializes that identification will be confirmed by the state agency. Authorized criminal justice agencies may amend, modify, or delete their photo information should errors or court-ordered expungements require it.

As with all identification information, the subject of photo information may obtain a copy of the record by submitting a written request to the FBI (see the Guide for Obtaining Your FBI Identification Record on [www.fbi.gov](http://www.fbi.gov)). If, after reviewing the identification record, the subject believes that it is incorrect or incomplete and wishes to change, correct, or update the record, the subject should apply directly to the agency that contributed the challenged information. If the subject of a record submits the challenge directly to the FBI, we will forward the challenge to the contributing agency, asking that agency to verify or correct the challenged entry. Upon receipt of an official communication directly from the contributing agency, the FBI will make any necessary changes to the record.

**D. Can photos be submitted that are obtained from commercial social networking sites or similar sites?**

**Response:**

As noted above, the Pilot Repository will contain only photos provided by authorized criminal justice agencies for criminal justice purposes and associated with fingerprints from a criminal arrest or booking. Only photos obtained from authorized criminal justice agencies will be searched against those in the Repository. Authorized criminal justice agencies may submit photos obtained from commercial social networking sites so they may be searched against the Pilot Repository for criminal justice purposes.

**E. What entities (local, state, national, international) can add photos to the database?**

**Response:**

As noted above, the Pilot Repository will contain only photos provided by authorized criminal justice agencies for criminal justice purposes and associated with fingerprints from a criminal arrest or booking.

**F. What entities (local, state, national, international) can search the database?**

**Response:**

Search of the Pilot Repository will be restricted to authorized criminal justice agencies for criminal justice purposes.

**G. What safeguards are in place to prevent authorized users from searching outside of the authorized scope of use?**

**Response:**

Searches of the Pilot Repository will be subject to the same security and privacy protocols that apply to searches of other FBI information systems and are articulated in established FBI Security Policy. The dissemination of any information obtained from these systems is also restricted; this information will be treated as "law enforcement sensitive" and protected from unauthorized disclosure in accordance with the Privacy Act of 1974 and the "Disclosure and Use of Information" section of the MOU. 28 U.S. C. § 534 and 28 C.F.R. §§ 20.33 and 50.12 require that disseminated records be used only for authorized purposes and provide that a user's access will be subject to cancellation if shared information is further shared improperly.

**H. What other protections will the FBI take to safeguard civil liberties?**

**Response:**

NGI program managers have worked closely with privacy and civil liberties attorneys in the FBI's Office of the General Counsel (OGC), as well as with Department of Justice (DOJ) attorneys, and have briefed privacy advocacy groups regarding the privacy and civil liberties considerations and planned safeguards. These considerations have been addressed in the FBI Security Policy. In addition, an Interstate Photo System Privacy Impact Assessment (PIA) has been completed and approved. A Privacy Threshold Analysis will be conducted to update the PIA as part of the ordinary process and in support of the full facial recognition service.

To ensure full implementation of the security policies and to prevent the misuse of data, all federal, state, and local users are subject to periodic audits conducted by both an FBI Audit Unit and appropriate state auditors. Access to an FBI information system may be terminated or restricted in response to improper access, use, or dissemination of the system's records.

9. **Under the Debbie Smith Act (DSA), Congress has appropriated to NIJ more than \$700 million for use in eliminating rape kit backlogs. However, only a fraction of those funds actually have been spent on direct backlog reduction. Please (a) provide data on the percentage of DSA funds that have been used for direct support to crime laboratories and law enforcement agencies to reduce rape kit backlogs; (b) provide data on the percentage of DSA funds that have been used for other purposes, identifying what those purposes are; and (c) explain why NIJ believes that its existing funding breakdown is appropriate in light of persistently large rape kit backlogs.**

**Response:**

NIJ's principal forensics-related appropriations in Fiscal Year 2012, under the Department of Justice Appropriations Act, 2012 provides "\$117,000,000 for a DNA analysis and capacity enhancement program and for other local, State, and Federal forensic activities, including the purposes authorized under section 2 of the DNA Analysis Backlog Elimination Act of 2000 (the Debbie Smith DNA Backlog Grant Program)." Previous years' appropriations (referred to hereafter as the "DNA and other forensics" appropriation) have had similar language.

In Fiscal Year (FY) 2011, NIJ awarded \$88.7 million – over 70% of all funds received by NIJ from the FY 2011 "DNA and other forensics" appropriation – directly to states and units of local government under the FY 2011 DNA Backlog Reduction Program. One of the major purposes of that program was to cover costs of laboratory analysis of forensic DNA casework samples, a category that includes samples from rape kits or other sexual assault evidence.

Remaining funds from the FY 2011 "DNA and other forensics" appropriations were used to support basic and applied research to find faster and more efficient methods for analyzing DNA and other forensic evidence; assist with solving cold cases with DNA; perform social

science research (e.g., to identify best practices for addressing untested sexual assault kits); and provide training and technical assistance in the areas of DNA and other forensic sciences.

Although the FY 2012 appropriation for DNA and other forensics is lower than in FY 2011, NIJ will continue to use a similarly high-percentage of that appropriation exclusively for the FY 2012 DNA Backlog Reduction Program. As in FY 2011, funds awarded under the FY 2012 DNA Backlog Reduction Program will be available, among other things, to cover costs of laboratory analysis of forensic DNA casework samples, a category that includes samples from rape kits or other sexual assault evidence. While making funds available to state and local crime laboratories for analysis of forensic DNA casework samples is a top priority, NIJ also believes that other DNA- and forensics-related programs and activities are important in reaching the same goal of reducing backlogs, albeit indirectly, by enhancing capacity within crime laboratories, training personnel, solving “cold” cases, and developing modern methods to analyze evidence.

**10. The National Institute of Justice (NIJ) defines a backlogged rape kit as one that has not been tested 30 days after it was submitted to a laboratory. This definition excludes rape kits held in police storage facilities. Why does NIJ define backlogs in this manner, and what is being done to account for and reduce the backlog of rape kits in law enforcement custody?**

**Response:**

The NIJ definition of backlogs is designed as a measure of timeliness specifically for forensic evidence that has been submitted to a crime laboratory for analysis. It does not include forensic evidence that has not been submitted to a crime laboratory for testing.

NIJ refers to evidence in law enforcement custody that has not been submitted to a crime laboratory as untested evidence. Untested sexual assault kits (SAK), previously referred to as rape kits, can be stored in a number of places: police department evidence rooms, crime labs, hospitals, clinics, rape-crisis centers. It is unknown how many unanalyzed SAKs there are nationwide. There are many reasons for this, but one of the primary reasons is that tracking and counting SAKs is an antiquated process in many U.S. jurisdictions. A recent NIJ study found that 43 percent of the nation’s law enforcement agencies do not have a computerized system for tracking forensic evidence, either in their inventory or after it is sent to the crime lab.

There may be legitimate reasons that SAKs are not sent to a lab. Not all evidence collected in an alleged sexual assault is going to be probative. In cases where consent is an issue (the suspect admits sexual contact, but maintains it was consensual), detectives may consider that the SAK does not add any important information to the investigation. Also, evidence may not be sent to a lab for analysis if charges against the alleged perpetrator have been dropped or the suspect has pled guilty.

NIJ has invested funds in a comprehensive study of the outcomes of the testing of over 10,000 previously untested SAKs in Los Angeles and is assisting the New Orleans Police Department in dealing with their untested SAK issues. NIJ is currently studying the SAK

backlogs and untested sexual assault evidence that has not been sent to a crime lab for testing in Detroit, Michigan and Houston, Texas. The purpose of this project is to help the nation move beyond the DNA backlog crisis management of the moment — to the adoption of systematic practices, procedures, and protocols that will prevent the accumulation of untested SAKs in police departments from ever happening again.

11. **The Department has issued almost double the number of National Security Letters (NSLs) involving different U.S. persons in 2010 as it did in 2008 or 2009. In your November 2, 2011 response to a question for the record regarding NSLs, you explained that “[t]o the extent these numbers may indicate an upward trend, we are unable to explain the increase because we do not collect statistics or other information that would enable us to discern the reason for the increase.” This is unacceptable, especially given the previous Inspector General reports that have demonstrated widespread and systematic abuse of NSLs. Please explain how the Department exercises oversight over the issuance of NSLs, and what steps the Department plans to implement to better track how and why these NSLs are issued.**

**Response:**

An increase, even a significant one, in the number of National Security Letters (NSLs) is not necessarily a sign of NSL misuse or abuse, as opposed to effective and productive intelligence gathering to protect the nation. The FBI has in place robust rules, policies, procedures, and training to ensure that NSL issuance and use are appropriate. In addition, the FBI and DOJ exert significant oversight of NSLs.

As indicated in the Department’s response to Questions for the Record arising from the May 4, 2011, Senate Judiciary Committee hearing regarding “Oversight of the U.S. Department of Justice,” changes in the numbers of NSLs issued from year to year may be based on the types of threats being investigated or the locations of the threats (in the United States versus outside the United States). These variables affect the way we gather information and what information we need to address the threat. For example, if more threats involving U.S. persons arise because known U.S. persons become radicalized, the FBI will investigate those threats. Such investigations may include issuing NSLs to help determine whether a U.S. person poses a terrorism threat.

The question indicates that DOJ’s Inspector General (IG) reported “widespread and systematic abuse” of NSLs. The conduct addressed in the IG’s March 2007 report entitled, “A Review of the Federal Bureau of Investigation’s Use of National Security Letters” occurred between 2003 and 2005 and, although serious, was not pervasive. Importantly, the IG found that FBI agents had not intentionally sought to misuse NSLs, but that the errors were the product of a lack of adequate guidance and oversight. Both issues were immediately addressed and are continually assessed by both the FBI and DOJ. Indeed, in its March 2008 review of the FBI’s use of NSLs, the IG found that the FBI and DOJ had made significant progress in implementing its recommendations and in adopting other corrective actions to address problems in the use of NSLs.

As has been briefed to Congress, mandatory use of the FBI's automated NSL creation system, mandatory legal review of each NSL, and clear and widely distributed policy guidance regarding NSL usage have prevented most of the errors identified in the 2007 IG report. In addition, audits and reviews of FBI NSL usage by DOJ's National Security Division, the FBI's Inspection Division, and the FBI's OGC have shown that the errors identified in the 2007 IG report have been reduced dramatically. These results demonstrate that the policies, procedures, training, and oversight mechanisms that are in place are working effectively to reduce the risk that this tool is being misused or abused, and to ensure that NSLs are issued in accordance with the law.

- 12. The GAO recently published a report on suspension and debarment programs in the federal government. GAO found that the Department of Justice had relatively few suspensions and debarments, and it recommended several steps DOJ should take to improve its suspension and debarment program. Please indicate the status of the Department's efforts to implement these recommendations. In addition to the steps recommended by GAO, will the Department take steps to improve and promote inter-agency communication and case referrals, especially when the Department is investigating a government contractor in a civil or criminal matter and has relevant information as to the responsibility of that contractor?**

**Response:**

In its report, *Suspension and Debarment: Some Agency Programs Need Greater Attention and Governmentwide Oversight Could be Improved*, GAO-12-270T (Oct. 6, 2011) (Report), the Government Accountability Office (GAO) recommended that agencies conform their suspension and debarment programs to those programs at agencies that engage in a large number of suspensions and debarments. GAO issued three recommendations to various agencies, including the Departments of Justice, Commerce, Health and Human Services, and Treasury. Specifically, the report recommended that agencies: (1) promote the case referral process; (2) assign dedicated full-time staff to its suspension and debarment program; and (3) develop and implement additional policies and procedures to supplement the guidance contained in the Federal Acquisition Regulation (FAR), 48 C.F.R. Subpart 9.4. The recommendations are based on GAO's review of the "shared traits" of the four agencies with the largest total number of suspension and debarment cases for Fiscal Years 2006 to 2010, as identified in the General Service Administration's (GSA) Excluded Parties List System (EPLS). The Report neither addresses in detail the policies and practices of the other federal agencies, nor considers certain factors that may impact the number of suspension and debarment cases, including, for example, the total number of contractors and grantees conducting business with an agency, or the types of products or services being acquired by an agency. Importantly, GAO recognized that, because each agency's fundamental mission and organizational structure is unique, each agency must determine for itself whether, and to what extent, it can benefit from conforming its suspension and debarment programs to those agencies' programs.

As the Department informed GAO in its July 20, 2011, response to the draft Report, DOJ concurs with much of the Report's findings and conclusions, and in particular with the Report's emphasis on the need for agencies to devote sufficient attention to suspension and debarment to ensure that the government conducts business only with responsible parties. DOJ also agrees that suspension and debarment are powerful administrative tools available to federal agencies and, when used appropriately, help protect the government's interests. DOJ fully and actively supports the use of suspension and debarment.

In order to ensure that DOJ continues to protect the integrity of federal programs by conducting business with responsible parties, the Department has implemented a number of measures consistent with the recommendations of GAO, as well as those contained in the recent report of DOJ's Office of the Inspector General (OIG), *Audit of Administrative Suspension, Debarment, and Other Internal Remedies Within the Department of Justice*, Audit Report 12-01 (Oct. 2011). Among these measures, the Attorney General recently issued a memorandum to all U.S. Attorneys, Assistant U.S. Attorneys, DOJ litigating divisions and Trial Attorneys, and the Director of the Federal Bureau of Investigation, titled *Coordination of Parallel Criminal, Civil, and Administrative Proceedings* (Jan. 30, 2012) (Memorandum), promoting the case referral process, including suspension and debarment. The Memorandum reiterates that DOJ has placed a high priority on combating white-collar crime, including fighting against fraud, waste, and abuse, whether in connection with healthcare, procurement, or other financial fraud. The Memorandum also reiterates DOJ's longstanding policy that criminal prosecutors, civil trial counsel, and investigators timely communicate, coordinate, and cooperate with one another and with agency attorneys inside and outside DOJ to the fullest extent appropriate and permissible whenever an alleged offense or violation of federal law gives rise to the potential for parallel (whether simultaneous or successive) criminal, civil, regulatory, and/or administrative proceedings. The Memorandum also emphasizes the need for litigating and investigating activities to have in place policies and procedures for early coordination of parallel proceedings, and the need for these policies and procedures to stress effective, timely, and regular communication between criminal, civil, and agency attorneys. The Memorandum underscores that, at every point throughout the process -- from case intake and investigation to final case resolution -- DOJ attorneys and investigators need to assess the potential impact of any action on potential criminal, civil, regulatory, and administrative proceedings to the extent possible and permissible. The Memorandum also directs DOJ's Office of Legal Education, in consultation with the United States Attorney's Offices, the Civil Division, the Criminal Division, and other DOJ litigating divisions, to facilitate the provision of instruction and training materials on parallel proceedings, including suspension and debarment.

Additionally, DOJ's Senior Procurement Executive (SPE) recently issued a Procurement Guidance Document (PGD), PGD 12-08 (Feb. 1, 2012), directed to all Bureau Procurement Chiefs (BPCs) and contracting officers, emphasizing the FAR and Justice Acquisition Regulation (JAR) requirement that DOJ solicit offers from, award contracts to, and consent to subcontracts with responsible contractors only. The PGD reiterates the importance of the FAR requirement that contracting officers review the EPLS both after opening bids or receipt of proposals and immediately prior to contract award to ensure that no award is made, option exercised, or order issued to a contractor listed on the EPLS. The PGD also reminds contracting officers that agencies may not solicit offers from, award contracts and orders to, or consent to subcontracts

with a contractor suspended, proposed for debarment, or debarred, unless the head of the agency (or his or her delegate) determines in writing that there is a compelling reason to do so. The PGD also directs contracting officers to consider termination of any existing contract or order with a contractor if, during performance of the contract or order, the contracting officer learns that the contractor is suspended, proposed for debarment, or debarred. The PGD explains that, in accordance with the procedures in the FAR and the JAR, prior to making a decision to terminate an existing contract or order, the contracting activity should consult with both the program office and the activity's legal counsel.

DOJ also has implemented an electronic suspension and debarment case tracking system. The system is accessible to those persons within DOJ with responsibility for the suspension and debarment program, including the suspending and debarring official (SDO), the SDO's legal counsel, and those responsible for entering information into the EPLS. The system will help ensure that suspension and debarment case referrals are acted upon in a timely manner, thereby providing an additional level of protection for DOJ and other Executive Branch agencies from conducting business with persons and organizations who have demonstrated fraudulent behavior or a pattern of poor performance. The system also will help ensure that persons and organizations referred for suspension and debarment are provided due process.

DOJ also participates in the activities of the Interagency Suspension and Debarment Committee (ISDC) -- a government-wide organization created to monitor and coordinate suspension and debarment activities. DOJ participates with the ISDC on an on-going basis regarding, among other things, the facilitation of lead agency coordination of prospective suspension and debarment cases and the development of a unified Federal policy as it relates to suspension and debarment. On February 8, 2012 an Assistant Director within the Civil Division's Commercial Litigation Branch (Fraud Section), provided a presentation to the ISDC, discussing DOJ's longstanding policy outlined in the Attorney General's January 30, 2012 Memorandum, emphasizing DOJ's commitment to engaging in effective, early, and regular communication during the investigation and litigation processes with agency attorneys, to ensure that the Government makes use of all available remedies in its fight against fraud, waste and abuse, including administrative remedies such as suspension and debarment.

DOJ considered carefully GAO's view that some agencies will benefit from the implementation of additional policies and procedures, but has concluded that additional policies and procedures are not necessary at this time. As explained in DOJ's letter to GAO, DOJ already relies upon a number of policies, procedures, and guidelines in its suspension and debarment program, including the FAR, JAR, OMB's guidelines related to non-procurement suspension and debarment, and DOJ's regulations related to non-procurement suspension and debarment at 2 C.F.R. § 2867. The JAR specifically outlines DOJ's internal processes when a possible cause for suspension or debarment arises, including directing the contracting activity to actively seek review by the activity's legal counsel and the BPC. Additionally, the Attorney General's Memorandum, as well as the United States Attorney's Manual (USAM) and the Environmental Crimes Manual (ECM), inform litigating and investigating activities of DOJ's longstanding policy requiring coordination of criminal, civil, and administrative actions -- including emphasizing the need for timely and effective communication with agencies' suspension and debarment authorities. Likewise, DOJ does not believe that it is either necessary

or practical at this time to assign dedicated full-time staff to its suspension and debarment program.

DOJ believes that the measures described above, coupled with those measures already in place -- including close cooperation with the OIG -- will improve DOJ's suspension and debarment program and demonstrate, both within and outside the agency, that DOJ is serious about holding entities with which it does business accountable. DOJ also believes that these measures will help ensure that DOJ continues to protect the integrity of Federal programs by conducting business with responsible parties only.

**13. As you said in your testimony, the recently disclosed anti-Muslim statements in FBI training materials are inconsistent with the views of the Department of Justice and the FBI and have set back your substantial outreach efforts with Muslim and other minority communities around the country. These communities can and should be important partners in our counterterrorism efforts. The Department is undertaking a comprehensive review of its counterterrorism training and reference materials. What will the Department do beyond removing existing problematic statements in training materials to ensure that the FBI's efforts to communicate and work with Muslim and other minority communities around the country are not undermined by such bias in the future?**

**Response:**

Since September 2011, when several articles were published regarding the FBI's counterterrorism training materials, senior FBI officials have held more than 100 meetings with community advocates and leaders from the Muslim, Arab, Sikh, South Asian, and interfaith communities to discuss these training materials. These meetings have been held at FBI Headquarters and all 56 FBI field offices to discuss the training issue, explain how these events came to pass, and identify the corrective actions being taken moving forward. These efforts continue. As recently as February 8, 2012 FBI Director Mueller met with many of these groups to continue this dialogue. Among other things, they discussed in detail the FBI's review of its training materials, which was conducted by a team of 25 FBI inspectors with training and assistance provided by a five-person team of subject matter experts (SMEs). The SME team included both FBI and non-FBI personnel with academic backgrounds in Islamic studies and Arab history from prestigious institutions.

The review has included approximately 160,000 pages of counterterrorism training materials, more than 4,500 presentations, and more than 1,000 minutes of video.

The materials were measured against the following requirements:

- Training must be consistent with both Constitutional principles and the FBI's core values. (The FBI's core values are available on its website, [www.fbi.gov](http://www.fbi.gov), and include respect for the dignity of all those we protect, compassion, and fairness.)
- Training must be tailored, focused, and supported with appropriate course materials.

- Training must be properly reviewed and trainers must know their subject areas.
- Training must facilitate further learning and professional development.

The review team authored concrete enterprise-wide guidelines regarding training related to counterterrorism and countering violent extremism, to be used both to evaluate current training and as the basis of future curriculum development. While the vast majority of the reviewed training materials met these high standards, some did not. Fewer than one percent of the documents were determined to have factual or other problems and were removed from FBI training curricula. The review revealed that the problems with the FBI's training materials were related to the absence of a centralized process to ensure that all training is reviewed, validated, standardized, and mapped to appropriate learning objectives. Moving forward, all training materials produced or used by the FBI will be subject to such a process.