



U.S. Department of Justice

Office of the Associate Attorney General

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MEMORANDUM

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FROM: Vanita Gupta 
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SUBJECT: The Department's Implementation and Administrative Enforcement of Title VI and the Safe Streets Act.

On September 15, 2021, I directed the Civil Rights Division, working in partnership with the Office of Justice Programs, the Office of Community Oriented Policing Services, and the Office on Violence Against Women, to review the implementation and administrative enforcement of Title VI and the nondiscrimination provisions of the Safe Streets Act in connection with federal financial assistance provided by the Department of Justice. Those offices prepared a thorough and thoughtful review that recommends a number of changes to strengthen the Department's enforcement of the critical nondiscrimination obligations that apply to recipients of federal financial assistance. This Memorandum summarizes the results of that review and identifies several steps the Department will take to improve our implementation and enforcement of those statutes. Specifically, we will:

- (1) assign senior attorneys from both the Civil Rights Division and the Office of Justice Programs' Office for Civil Rights to serve jointly as Title VI and Safe Streets Act Administrative Enforcement Coordinators, to streamline and strengthen the Department's enforcement efforts;
- (2) establish a Compliance Working Group to centralize and coordinate the Department's implementation of Title VI and the Safe Streets Act, and task that Working Group with (a) identifying best practices in data collection,

- (b) developing an early-warning system pilot using pre-award screening questions to promote compliance and identify grant applicants that warrant additional follow-up or are in need of assistance, (c) issuing public guidance documents, (d) reviewing and revising internal standards and procedures, and (e) conducting public outreach with stakeholders;
- (3) revise Department protocols to provide that the Civil Rights Division and the Office of Justice Programs will share joint responsibility for conducting compliance reviews of recipients of Department funds;
- (4) establish a centralized, electronic platform for filing Title VI and Safe Streets Act complaints; and
- (5) strengthen interagency coordination by, among other things, increasing data sharing among agencies and reducing reporting burdens on grantees.

I. Introduction.

Title VI of the Civil Rights Act of 1964 (“Title VI”) prohibits recipients of federal financial assistance from discriminating against any person on the basis of race, color, or national origin in the provision of services. 42 U.S.C. § 2000d. The nondiscrimination provisions of the Omnibus Crime Control and Safe Streets Act (“Safe Streets Act”) are modeled on Title VI and prohibit discrimination in service provision as well as in employment, on the basis of race, color, national origin, religion, and sex, in connection with any program or activity funded with specific criminal justice-related funds. 34 U.S.C. § 10228(c)(1). Together, these statutes are critical tools in achieving the government’s obligation to ensure that public funds are not being used to finance illegal discrimination.

The effective implementation and enforcement of Title VI and the Safe Streets Act are especially important for the Department of Justice. Each year, the Department provides billions of dollars in federal financial assistance, mostly in the form of grants. The overwhelming majority of the Department’s recipients are involved in the justice system, including law enforcement agencies, correctional and juvenile justice institutions, state and local courts, and organizations that provide support to victims of crime. Given the Department’s mission to enforce the law, enhance public safety, and ensure fair and impartial administration of justice for all, the Department must use all of its tools, including robust enforcement of Title VI and the Safe Streets Act, to ensure that its funding recipients do not engage in discrimination. The Department’s role in reviewing recipients’ compliance with their nondiscrimination mandates is critical to promoting trust and legitimacy between the Department, our funding recipients, and the communities that we collectively serve.

Effective implementation of Title VI and the Safe Streets Act also serves as an important early warning system for federally funded recipients. Law enforcement stakeholders and other recipients of Department funding have often expressed the desire to have the opportunity to proactively address potentially unlawful practices, including before the Department takes enforcement actions against them. The administrative processes under both Title VI and the Safe Streets Act – which require the Department seek voluntary compliance to remedy potential

violation of these statutes – provide that opportunity. *See, e.g.*, 28 C.F.R. §§ 42.106(a), 50.3. Through pre- and post-award compliance reviews, the Department can identify potentially discriminatory policies and practices at an earlier stage and engage recipients to achieve voluntary compliance and cure any discriminatory impacts of such practices before federal court intervention or other enforcement mechanisms are required.

II. Scope of the Review Process.

On September 15, 2021, I issued a memorandum directing the Civil Rights Division (CRT), the Office of Justice Programs (OJP), the Office of Community Oriented Policing Services (COPS), and the Office on Violence Against Women (OVW), to review the Department's current practices for implementation and administrative enforcement of Title VI and the Safe Streets Act, and to provide me with their recommendations based on that review. A team of senior officials from CRT, OJP, COPS, and OVW (collectively, the "review team") conducted an extensive review that consisted of three main steps. First, the review team surveyed Department components and offices responsible for the implementation and enforcement of statutes that impose nondiscrimination obligations on recipients of federal financial assistance, including CRT, OJP, COPS, OVW, the Criminal Division's Money Laundering and Asset Recovery Section (MLARS),¹ and the Office of Tribal Justice, to learn about their current practices for implementing Title VI, the Safe Streets Act, and similar nondiscrimination statutes.² The review team also analyzed existing statutes and regulations governing Title VI, the nondiscrimination provisions of the Safe Streets Act, and other similar statutes. Furthermore, the team examined documents related to administrative enforcement, including enforcement and grant administration protocols, standard grant assurances and conditions, training modules, and manuals.

Second, the review team met with representatives from other federal agencies involved in Title VI enforcement, including the Department of Housing and Urban Development, the Department of Education, and the Department of Transportation.

Finally, the review team convened over 50 listening sessions with over 300 stakeholders. These listening sessions included individuals with a wide range of perspectives, including representatives from current recipients of Department funding (such as law enforcement

¹ MLARS is tasked with, among other things, managing the Department's Asset Forfeiture Program, through which the Department can share federally forfeited property (tangible and real property or financial assets) with participating state, local, and Tribal law enforcement agencies.

² Recipients of federal financial assistance from the Department must comply with a variety of civil rights statutes and provisions, depending on the source of funding, including: Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794; 28 C.F.R. pt. 42 subpt. G); Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681; 28 C.F.R. pt. 42 subpt. D and pt. 54); the Age Discrimination Act of 1975 (42 U.S.C. § 6102; 28 C.F.R. pt. 42 subpt. I); the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. § 10228(e); 28 C.F.R. pt. 42 subpt. D); the Victims of Crime Act of 1984 (34 U.S.C. § 20110(e); 28 C.F.R. pt. 94 subpt. B); and the Violence Against Women Act of 1994, as amended (34 U.S.C. § 12291(b)(13); 28 C.F.R. pt. 42 subpt. D).

agencies, courts, juvenile justice and correctional facilities, domestic violence service providers and disability rights grant recipients); technical assistance providers for the Department's grantees; advocates involved in a diverse array of relevant issues, such as the criminal and juvenile legal systems, language access, education/youth law, gender, and environmental justice; philanthropic organizations; academics and researchers; and community members impacted by the Department's funding.

The review team reported that these listening sessions revealed remarkable consistency around several key themes. There was nearly universal appreciation for the Department's efforts to consider how it can meaningfully advance principles of nondiscrimination among the Department's federal financial assistance recipients. Stakeholders expressed a deep commitment to the advancement of nondiscrimination in programs receiving Department funds.

At the same time, stakeholders emphasized ways that the Department can improve its implementation of Title VI and the Safe Streets Act. Stakeholders expressed widespread support for greater information and transparency regarding the requirements of Title VI and the Safe Streets Act and the Department's enforcement process with respect to these laws. Stakeholders, especially recipients of federal financial assistance, also identified ways that the Department can improve its compliance efforts, including by providing additional training and technical assistance related to compliance with these statutes. Stakeholders stressed that these types of supports would allow recipients to identify potential problems earlier in the process and take corrective actions before there is a need for enforcement. Stakeholders also stressed the need for greater education for victims of discrimination, recipients, and the public more generally about what Title VI and the Safe Streets Act require, how the Department assesses compliance, and how the administrative complaint processes work.

Stakeholders also recognized the importance and benefits of data collection to help better understand and analyze the impacts of a recipient's programs and activities. Many recipients of Department funding, while recognizing the need for data collection, expressed concerns about increased reporting requirements, noting that different federal and state grant programs already impose numerous data reporting requirements. Some recipients noted that additional data collection requirements could prove to be cost-prohibitive and prevent entities, particularly smaller organizations with more limited resources, from applying for Department grants and related programs.

Based on this feedback, and to advance the important goal of promoting nondiscrimination by recipients of federal funds, I am directing CRT, OJP, COPS, and OVW to take steps to increase coordination and resources for administrative enforcement of Title VI and the Safe Streets Act; to provide greater clarity and transparency about how the Department implements these statutes, including methods to achieve compliance; to seek additional input from stakeholders and the public; to improve and make more efficient data collection and analysis; and to increase interagency coordination on the implementation and enforcement of Title VI.

This memorandum provides internal Department guidance only. It is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable

by law by any party in any matter or proceeding. Nor are any limitations hereby placed on otherwise lawful litigation or enforcement prerogatives of the Department of Justice.

III. Actions to Improve the Implementation and Enforcement of Title VI and the Safe Streets Act.

A. Assign a senior attorney from both the Civil Rights Division and the Office of Justice Programs to serve jointly as Administrative Enforcement Coordinators.

The Department's enforcement of Title VI and the nondiscrimination provisions of the Safe Streets Act can be streamlined and considerably strengthened by assigning shared leadership of administrative enforcement efforts to the Civil Rights Division and the Office of Justice Programs. I am therefore charging CRT and OJP to assign a senior attorney from each component to serve jointly as the Department's Administrative Enforcement Coordinators for Title VI and the Safe Streets Act.

CRT and the OJP Office for Civil Rights (OJP-OCR) share responsibility for ensuring that the Department's recipients do not engage in unlawful discrimination. The Civil Rights Division is responsible for general enforcement of all federal statutes affecting civil rights.³ Under Executive Order 12250, the Department is responsible for ensuring the consistent and effective implementation of Title VI and other civil rights laws that prohibit discriminatory practices in programs receiving federal financial assistance.⁴ The Attorney General has delegated this responsibility to the Civil Rights Division.⁵ The Civil Rights Division's Federal Coordination and Compliance Section ("FCS") oversees a comprehensive government-wide program of regulatory and policy review, legal and technical assistance, and training related to Title VI and also maintains an active docket of Title VI administrative enforcement matters.

OJP-OCR has extensive experience with and primary responsibility for conducting administrative complaint investigations and compliance reviews under Title VI and the Safe Streets Act.⁶ Although housed in OJP, OJP-OCR is the external facing civil rights enforcement office for OVW and COPS as well as for OJP's program offices. OJP-OCR therefore provides technical assistance and advice on civil rights matters, including Title VI and Safe Streets Act compliance, to all Department grantmaking program offices.

Greater coordination between CRT and OJP-OCR to address overlapping jurisdiction in the Department's Title VI and Safe Streets Act compliance could more effectively ensure consistency across the Department's administrative enforcement and compliance efforts. The current bifurcated approach provides CRT and OJP-OCR limited visibility into the other components' and offices' work, which may limit the Department's ability to identify emerging issues of concern or trends in complaints against specific recipients or involving certain types of

³ 28 C.F.R. § 0.50(a).

⁴ Exec. Order No. 12250, 45 Fed. Reg. 2,995 (Nov. 4, 1980).

⁵ 28 C.F.R. § 42.412; 28 C.F.R. § 0.51.

⁶ See 28 C.F.R. §§ 42.102(a), 42.107(a), 42.108(d), 42.205, 42.206.

practices. Identifying such issues and trends can help pinpoint areas that the Department should prioritize for compliance reviews, proactive enforcement actions, issuance of guidance, and/or the development of best practices.

To enhance coordination of the Department's Title VI and Safe Streets Act enforcement, the Assistant Attorney General for CRT and the Assistant Attorney General for OJP will each designate a senior attorney from their components as Title VI and Safe Streets Act Administrative Enforcement Coordinators. The Administrative Enforcement Coordinators will be responsible for maximizing the effectiveness of the Department's administrative enforcement by working with components across the Department to identify potential civil rights compliance concerns under Title VI, the Safe Streets Act, and other federal laws prohibiting discrimination in programs and activities receiving federal financial assistance. The Administrative Enforcement Coordinators will consider how the Department can strategically and effectively address systemic civil rights concerns and will identify priority areas to guide the Department's use of compliance reviews and proactive investigations under these statutes. They will help ensure that Department components, recipients, advocates, and other stakeholders have ready access to relevant guidance and materials. The Administrative Enforcement Coordinators will also work with the Department's Title VI and Safe Streets Act enforcement staff to facilitate the review of potential administrative enforcement actions and to develop best practices that can expedite and strengthen the Department's enforcement efforts.

B. Establish a Title VI and Safe Streets Act Compliance Working Group.

The following Department components -- CRT, OJP, COPS, and OVW⁷ -- will each identify senior staff to form a working group to address various issues related to compliance with Title VI and the Safe Streets Act. The Working Group, which will work closely with the offices that oversee and administer the Department's grant programs, will be responsible for coordinating actions taken pursuant to this memorandum. In order to ensure the effective use of resources, the Working Group will also coordinate other ongoing efforts within the Department related to compliance with Title VI, the Safe Streets Act, and similar statutes and mandates, including the Department's implementation of Executive Order 13985. CRT and OJP will each appoint a senior member of their leadership teams to serve as the co-chairs of the Working Group, and the Administrative Enforcement Coordinators will consult regularly with the Working Group.

The Working Group will be tasked with carrying out the following actions:

- 1. Identify best practices in data collection, analysis, and dissemination, and improve the Department's data collection practices.**

The review team's engagement with stakeholders consistently highlighted that data analysis is a critically important aspect for ensuring compliance with nondiscrimination requirements. Data that are consistently and carefully defined, identified, collected, and evaluated can help point out disparities and other inequities, and can be used to inform

⁷ Other relevant components, such as MLARS, may be invited to participate in this working group.

grantmaking decisions, identify avenues of further inquiry, and develop effective remedies. Data can serve as an “early warning” system for recipients, allowing them to identify and self-correct potential problems before any enforcement actions occur. Analysis of aggregated data also can assist the Department in identifying broad trends and challenges, and can help ensure that the Department is directing its federal financial assistance effectively.

However, the Department recognizes that data collection requirements can use up scarce resources, and the different reporting requirements among federal programs can be confusing and potentially cost-prohibitive—particularly for smaller entities for which federal financial assistance may be critical. The Working Group will take the following steps to make data collection and analysis more efficient and effective:

Catalog existing data collections related to compliance with nondiscrimination requirements and identify gaps in needed data. The Department’s collection of data from recipients of federal financial assistance is decentralized and is not always consistent across the Department’s components. There are numerous reasons for these inconsistencies, including that current recipient data collection and reporting obligations are governed by different statutory, regulatory, and programmatic requirements, and because recipients collect and report data for purposes other than compliance with nondiscrimination requirements. However, such a decentralized approach can be confusing and create administrative burdens for recipients and applicants and can present challenges to the public’s understanding of what data can be collected and is considered by the Department.

The Working Group will conduct a comprehensive review of the Department’s grantmaking programs to evaluate datasets that are being collected and to identify baseline data that are necessary and obtainable to monitor and assess compliance with nondiscrimination requirements. By identifying datasets that recipients already provide to various components or federal agencies, the Department can evaluate the impacts of a recipient’s programs and activities without requiring additional data from recipients.

In addition, the Working Group will identify any gaps in data that are necessary to monitor and assess compliance with Title VI and the Safe Streets Act. By identifying the available data, and by identifying any gaps in the collection of data for compliance purposes, the Department will be able to recognize program-specific data requirements and performance measures that are needed to better discern disparities in access to services and ensure compliance with nondiscrimination mandates, and, where appropriate, will add those requirements to the solicitations or compliance reviews for those grant programs. The Department will also be able to streamline additional data requests, if any, that are made to recipients.

As part of this effort, the Working Group should also document and make public an overview of relevant statutory data collection requirements and any legal limitations on the collection and use of certain data. Providing greater insight into current data collection and reporting requirements will provide greater transparency to the public and recipients about how the Department can and cannot use its data to better ensure compliance with Title VI and the Safe Streets Act.

Identify best practices in data collection, analysis, and dissemination. Many recipients who participated in the review process requested additional assistance from the Department about how to fulfill their data collection and reporting obligations efficiently. The Working Group should, in consultation with external stakeholders, identify best practices that can be shared with recipients. This information should highlight how the effective use of data can drive better decision-making processes within organizations and prevent occurrences of discrimination and the need for enforcement action.

As part of this effort, the Working Group will consider whether the Department should launch initiatives similar to OJP's Diagnostic Center, which once served as a technical assistance resource for state, local, and Tribal policymakers, and the Police Foundation's Police Data Initiative, which was funded by COPS and was a community of practice that included leading law enforcement agencies, technologists, and researchers committed to improving the relationship between citizens and police through uses of data that increase transparency, build community trust, and strengthen accountability. Many recipients reported that these initiatives were very helpful in building capacity and support around better data collection and reporting practices in other contexts. The Working Group will consult stakeholders and consider these and other initiatives to increase support and technical assistance to recipients to help them build their data collection capacities and analyze data that is collected.

Develop and implement an Early Warning System initiative to increase Title VI and Safe Streets Act compliance data. The Department's regulations have long provided for pre-award reviews for applications that are \$500,000 or more to "determine whether the application presents a possibility of discrimination in the services to be performed under the grant," and, if so, to "disapprove or take other action with respect to the application to assure that the project complies" with the nondiscrimination obligations of federal law. 28 C.F.R. §§ 42.206(a)(1), (b); *see also id.* §§ 42.407(b), 50.3. Pre-award reviews can be an important tool both to help grant applicants identify and take steps to cure possible discrimination so they remain eligible for a grant award; or—in instances where the applicant is unwilling to cure possible discrimination—to help the Department identify applications that warrant additional follow-up or need assistance. These pre-award reviews could be strengthened to the benefit of grant applicants, communities, and the Department alike by identifying the key compliance data needed to most effectively conduct these early screenings.

The Working Group and the grantmaking components will consult with external stakeholders to identify a cross-section of grant programs to participate in an Early Warning System initiative. Under this initiative, the Working Group will use information learned from the cataloguing and best-practices projects described above to develop pre-award screening questions that will be included in select program solicitations for Fiscal Year 2023 to collect baseline compliance data upfront. The grantmaking components, in consultation with the Working Group, will collect and analyze responses to pre-award screening questions and baseline compliance data to inform grantmaking decisions and to further inform baseline data needed to monitor and assess compliance with Title VI and the Safe Streets Act.

Selection of grant programs for this initiative, and the scope of the pre-award screening questions, will take into account a number of factors, including the need to incentivize applicants

to participate in the application process and how to share information regarding possible discrimination with enforcement offices.

Starting one year from the issuance of this memorandum, the Working Group will report to me annually on the results of this initiative, including which programs were selected for the initiative, what data requirements, if any, were added to those programs, and the lessons learned from the initiative, including lessons about areas where the Department can improve on its data collection practices and whether those lessons can be applied to other grant programs.

2. Provide greater clarity and transparency about the scope of, and the Department's processes for enforcement under, Title VI and the nondiscrimination provisions of the Safe Streets Act.

Stakeholders -- both inside and outside of the Department -- emphasized the need for increased clarity about the scope of prohibited discriminatory conduct under Title VI and the nondiscrimination provisions of the Safe Streets Act and the administrative processes to implement and enforce these provisions. It is also critically important that grantmaking and program offices have clear guidance about their responsibilities during the solicitation process and program administration to help ensure that recipients comply throughout the entire grantmaking process. To achieve those ends, the Working Group will take the following steps:

Revise or develop internal standards and procedures. The Working Group will work with the grantmaking components and develop internal resources for all relevant Department components and offices about the scope of discriminatory conduct prohibited by Title VI and the Safe Streets Act. These internal guidance materials, which should be distributed to all grantmaking components and program offices, should include high-level policy direction, standards, and minimum requirements to ensure that all Department recipients comply with their nondiscrimination obligations. Among other things, the guidance should instruct grantmaking program staff on actions that should be taken to ensure compliance with Title VI, the Safe Streets Act, and other nondiscrimination requirements at every step of the process--ranging from pre-award reviews to compliance reviews to complaint investigations.

Issue publicly available guidance and other documents to recipients. The Working Group will issue publicly available guidance and other documents to recipients that provides greater clarity about the broad range of discriminatory conduct prohibited by Title VI and the Safe Streets Act and the administrative processes for enforcing and implementing these laws. The guidance should not only identify the legal requirements of the relevant statutes, but also should provide information on common issues of concern related to Title VI and Safe Streets Act compliance and ways recipients can remediate those concerns. The Working Group will also identify opportunities to convey this guidance more effectively to recipients and the public. The Working Group will periodically review and update guidance for recipients as it develops best practices and obtains results from the other measures identified in this memorandum.

In addition, the Working Group will develop and publish guidance on the Department's processes for complaint investigations and compliance reviews. Ensuring transparency and visibility around the Department's efforts can promote public trust and confidence in our enforcement efforts. Moreover, such guidance will assist recipients with fulfilling their

obligations under Title VI and the nondiscrimination provisions of the Safe Streets Act on the “front end”—*i.e.*, when first applying for federal financial assistance and during the early implementation phases of any federally funded program or activity, thereby leading to more equitable decision-making processes by recipients and less need for “back end” enforcement.

To more effectively educate and engage with recipients and the public around the Department’s administrative enforcement mechanisms, the Working Group will issue guidance that addresses the following:

- *General information about the standards used to open and conduct investigations and compliance reviews.* More information about how the Department conducts its administrative enforcement work would be beneficial to recipients and the public, including victims of discrimination and Department recipients. Any public-facing materials should be written in a manner that is accessible to a wide range of audiences.
- *Information about the differences between the substantive coverages and administrative enforcement processes under Title VI and the Safe Streets Act.* Although the administrative enforcement mechanisms for Title VI and the Safe Streets Act are generally very similar, and both rely primarily on voluntary compliance, there are some notable statutory differences, especially pertaining to when fund suspension and termination measures are triggered. It is important that recipients and the public understand the ways in which the administrative enforcement processes operate under these two statutes.
- *The obligations of subrecipients.* The Department administers several formula grant programs to the states and territories and similar grant programs where funds are then distributed to subrecipients. As a condition of receiving the funding, these “pass-through” primary recipients agree to ensure that subrecipients comply with the obligations attached to the Department’s federal financial assistance, including nondiscrimination requirements. However, the review team frequently heard that subrecipients may not be fully aware of or may not comply with their nondiscrimination obligations. The Working Group will identify ways to provide pass-through primary recipients with guidance about how they should engage with subrecipients on their compliance with Title VI, the Safe Streets Act, and similar statutes.

The Working Group will also develop a uniform notice for beneficiaries that incorporates their rights under 28 C.F.R. Part 38, as amended, and other nondiscrimination statutes.

Finally, the Working Group will develop protocols to provide greater uniformity about how the Department tracks and reports information about its recipients and subrecipients and will consider whether to require additional reporting mechanisms for pass-through primary recipients about their subrecipients. Currently, it can often be very difficult to identify recipients and subrecipients of Department funding. Ensuring that the public can readily identify the recipients and subrecipients of Department funds will help promote transparency. In addition, it will assist members of the public in identifying situations where filing complaints about potential discriminatory practices and policies may be appropriate, which can augment the Department’s

ability to enforce these laws and engage with the recipient or subrecipient to take corrective actions.

3. Continue to engage stakeholders and the public.

As noted earlier, the review team met with a wide range of stakeholders and received critical feedback and insights about how the Department can improve its Title VI and Safe Streets Act implementation and administrative enforcement. These stakeholders, including recipients, community groups, and advocates, expressed a desire to provide additional input and continue to engage with the Department, including on any additional data requirements or processes being developed by the Department. The Working Group will continue to consult with stakeholders, as appropriate, as it takes the steps described in this memorandum.

To ensure that the Department's work is informed by the views of interested stakeholders and members of the public, the Department intends to publish in the Federal Register a Request for Information (RFI) to solicit feedback regarding its ongoing efforts to ensure compliance with Title VI and the nondiscrimination provisions of the Safe Streets Act. The Working Group will develop the RFI, which will include, at a minimum, requests for input about (i) how the Department can strengthen administrative enforcement of Title VI and the Safe Streets Act, (ii) additional efforts that can be taken to minimize burdens on the Department's recipients, (iii) the types of data that should be collected by recipients, and (iv) how technology could simplify data collection and reporting obligations.

C. Vest the Civil Rights Division and the Office of Justice Programs Office for Civil Rights with joint responsibility for conducting compliance reviews of recipients of Department federal financial assistance.

The Department's existing regulations establish two principal means to evaluate recipients' compliance with the nondiscrimination obligations of Title VI and the Safe Streets Act: through complaint investigations initiated by a complaint from someone who believes they were subjected to prohibited discrimination,⁸ or through compliance reviews commenced by the Department itself "from time to time" to determine whether recipients are complying with the law.⁹

Compliance reviews can serve as an effective mechanism for ensuring that recipients are meeting their nondiscrimination obligations. Targeted effectively, compliance reviews can allow the Department to identify possible discriminatory conduct and provide recipients the opportunity to engage with the Department and achieve voluntary compliance with nondiscrimination obligations. The Department can also use lessons learned from compliance reviews to develop guidance, technical assistance, and other resources that can benefit recipients more broadly.

The Department's review of our administrative enforcement of Title VI, however, identified a number of ways that our approach to compliance reviews could be strengthened and

⁸ 28 C.F.R. §§ 42.107(b), 42.107(c), 42.205(a).

⁹ *Id.* §§ 42.107(a), 42.206.

made more effective. As noted above, OJP-OCR has primary responsibility under the Department's regulations for handling complaint investigations and compliance reviews under Title VI and the Safe Streets Act, and CRT has specialized experience bringing actions to enforce civil rights statutes and conducting investigations under Title VI and similar statutes. Our review indicated that shared enforcement authority between OJP-OCR and CRT has resulted in some inefficiencies in Title VI and Safe Streets Act enforcement. It has also created confusion for victims of discrimination and the public more generally with respect to the specific roles and responsibilities of OJP-OCR and CRT.

To further enhance coordination and to augment the Department's capacity to conduct compliance reviews, I am directing CRT and OJP to revise Department protocols so that CRT and OJP-OCR share responsibility for conducting compliance reviews, share information and data about recipients of federal financial assistance, and coordinate the use of Department resources. By conducting the initiative jointly, CRT and OJP-OCR will provide their respective institutional knowledge and resources and can collectively identify and respond to priority civil rights concerns for the Department as a whole. This joint initiative will also help ensure that, where voluntary compliance cannot be achieved, the Department can dedicate appropriate resources to use the full range of enforcement tools, including enforcement actions and fund termination and suspension, warranted under the circumstances.

CRT and OJP-OCR will provide an annual report to me about their efforts to ensure that recipients of Department funds comply with Title VI, the Safe Streets Act, and similar statutes. This report will include an overview of the Department's compliance reviews, the areas of concern identified by such compliance reviews, the results of those reviews, and whether and if so, how compliance was achieved (i.e., voluntary compliance, enforcement actions, funds suspension or termination).

D. Adopt a centralized, electronic platform for filing Title VI and Safe Streets Act complaints.

OJP-OCR, in consultation with the Civil Rights Division, will develop a centralized, electronic platform for filing and managing Title VI and Safe Streets Act discrimination complaints. Currently, OJP-OCR largely relies on a paper-based system for receiving complaints relating to Title VI, the Safe Streets Act, and other federal civil rights statutes. Maintaining the paper system is important for certain constituencies, such as individuals who are currently incarcerated and do not have access to electronic means of communication. However, the lack of an electronic complaint system is inefficient for receiving complaints from the general public and may add unnecessary hurdles for certain individuals seeking to file a complaint.

Using a centralized electronic platform will take advantage of technological developments that allow for the online receipt and processing of complaints; it could also make document filing and management easier and more accessible to complainants and respondents. A system with increased management capabilities will also allow OJP-OCR and CRT to improve their ability to collect and analyze complaint data. As there are a number of populations—such as undocumented individuals, victims of domestic violence and abuse, and members from historically marginalized communities—who may be deterred from filing formal complaints with

the Department, OJP-OCR should consider adding mechanisms for receiving anonymous or generalized complaints.¹⁰

E. Strengthen Interagency Coordination.

This review was designed to focus on the Department of Justice's implementation and administrative enforcement of Title VI and the Safe Streets Act as to federal financial assistance that the Department provides. However, during the review process, many stakeholders identified a need for greater interagency coordination to strengthen the implementation of Title VI and similar statutes through improved administrative enforcement by other federal agencies as well. This feedback falls squarely within a longstanding function that the Department of Justice has performed for many years: as noted above, Executive Order 12250 has since 1980 required the Attorney General to coordinate the implementation and enforcement by Executive agencies of the nondiscrimination provisions of laws involving federal financial assistance. We should take the opportunity presented by this review of the Department's own administrative enforcement efforts to extend these lessons to other federal agencies as well.

Consistent with the Civil Rights Division's authority under Executive Order 12250 and the Department's regulations, the Division, through the Federal Coordination and Compliance Section, will disseminate the recommendations and best practices resulting from this review to other federal agencies. In addition, the Civil Rights Division's Administrative Enforcement Coordinator described in Part III.A of this memorandum will serve as the Department's primary contact for other federal agencies to assist them, as needed, in their enforcement efforts. The Civil Rights Division will also work with other agencies to take the following steps:

- *Review the Title VI Enforcement Guidelines.* The Attorney General's Guidelines for Enforcement of Title VI,¹¹ which provide procedural guidance to federal agencies as they work to implement the statute, have not been updated since 1966. The Civil Rights Division will review and, where appropriate, recommend updates to these guidelines to reflect changes in the law and to help facilitate greater interagency coordination around Title VI implementation and enforcement.
- *Consider establishing an interagency Title VI data collection/sharing initiative.* A number of agencies are assessing how to better use data to support their Title VI compliance efforts. The Civil Rights Division, through the existing interagency Title VI/IX Working Group, will consider whether to establish an interagency effort to enhance collaboration, coordination, and the development of best practices around data collection and reporting. For example, this effort can seek to identify whether data requests to recipients can be streamlined and better shared across agencies.

¹⁰ While anonymous complaints may not be a sufficient predicate for individual complaint investigations, they may be useful when the Department is conducting compliance reviews or investigating whether a recipient is engaging in a pattern or practice of discrimination.

¹¹ 28 C.F.R. § 50.3.

IV. Conclusion

As President Kennedy explained in his message to Congress proposing the enactment of Title VI: “Simple justice requires that public funds, to which taxpayers of all races contribute, not be spent in any fashion which encourages, entrenches, or results in racial discrimination.” *Civil Rights and Job Opportunities—Message from the President*, 109 Cong. Rec. 11,156, 11,161 (1963), *reprinted in* 1963 U.S.C.C.A.N. 1526, 1534. The improvements identified in the course of this review will move the Department closer to ensuring that the federal government achieves this goal of simple justice by effectively and efficiently implementing and enforcing Title VI and the nondiscrimination provisions of the Safe Streets Act.