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May 11, 2018

Jennifer Truman
Statistician
Bureau of Justice Statistics
810 Seventh Street, N.W.
Washington, DC 20531
Via email: Jennifer.Truman@ojp.usdoj.gov

RE: States' comments re Revision to National Crime Victimization Survey, OMB Number 1121-0111

Dear Ms. Truman:

We, the undersigned Attorneys General of California, Illinois, Iowa, Maryland, Massachusetts, New Jersey, New Mexico, Oregon, Virginia, and Washington, write to oppose the United States Department of Justice's (USDOJ) proposal to terminate the collection of data relating to violence against LGBTQ youth aged 16-18.

The National Crime Victimization Survey ("the Survey")—administered by the Census Bureau on behalf of USDOJ—is a critical source of data for us and other law enforcement officials. Leading research institutions on crime describe the Survey as “the primary source of information on the characteristics of criminal victimization and on the number and types of crimes not reported to law enforcement authorities . . . provid[ing] the largest national forum for victims to describe the impact of crime and characteristics of violent offenders.”¹ The National Academy of Sciences describes it as “a uniquely valuable source of information on the ‘dark

¹ National Archive of Criminal Justice Data, *Resource Guide: National Crime Victimization Survey* <<https://www.icpsr.umich.edu/icpsrweb/NACJD/NCVS/>> (as of April 30, 2018).

figure of crime’—those crimes not reported to police.”² Indeed, the FBI relies on the Survey “to achieve a greater understanding of crime trends and the nature of crime in the United States.”³

Following an extensive process, including years-long studies of methodology relating to the questions at issue,⁴ in July 2016 USDOJ added questions about respondents’ sexual orientation and gender identity to the Survey, specifying that household members 16 and older were to be asked to respond.⁵ On April 11, 2018, USDOJ issued notice of its intention to raise the minimum age of respondents of whom questions relating to sexual orientation and gender identity are asked from 16 to 18.⁶ USDOJ’s only justification for this change is as follows: “The minimum age for these questions will be raised to 18 due to concerns about the potential sensitivity of these questions for adolescents.”⁷ This proposed rollback in data collection would keep parents, schools, law enforcement, and policy experts in the dark about the all-too-common victimization of LGBTQ youth.⁸

While some youth may be sensitive to questions relating to sexuality, including their sexual orientation and gender identity, it is important to note that this is a completely voluntary, confidential survey; further, the survey questions are not intrusive inquiries into respondents’ sexual activity, but rather straightforward questions about how they identify. And many young

² Panel on Measuring Rape and Sexual Assault in Bureau of Justice Statistics Household Surveys, C. Kruttschnitt, et al., eds., *Estimating the Incidence of Rape and Sexual Assault* (Apr. 7, 2014) <<https://www.ncbi.nlm.nih.gov/books/NBK202265/>> (as of Apr. 30, 2018).

³ FBI Criminal Justice Information Services Division, *The Nation’s Two Crime Measures* <https://ucr.fbi.gov/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/resource-pages/nations-two-crime-measures/nations_two_crime_measures> (as of Apr. 30, 2018). The FBI uses the Survey in conjunction with the complementary Uniform Crime Reporting program for this purpose.

⁴ See, e.g., USDOJ Bureau of Justice Statistics, *NCVS Redesign: Survey Instrument Redesign* <<https://www.bjs.gov/index.cfm?ty=tp&tid=912>> (as of Apr. 30, 2018); see also Mandi Martinez, et al., *Cognitive Pretesting of the National Crime Victimization Survey Supplemental Victimization Survey*, U.S. Census Bureau (Feb. 23, 2017) <<https://www.census.gov/srd/papers/pdf/rsm2017-03.pdf>> (as of May 7, 2018).

⁵ USDOJ Bureau of Justice Statistics, *National Crime Victimization Survey, NCVS-1 Basic Screen Questionnaire* <https://www.bjs.gov/content/pub/pdf/ncvs16_bsq.pdf> (as of May 9, 2018).

⁶ 83 Fed.Reg. 15634 (Apr. 11, 2018) <<https://www.gpo.gov/fdsys/pkg/FR-2018-04-11/pdf/2018-07448.pdf>> (as of Apr. 30, 2018).

⁷ *Id.* at 15635.

⁸ See, e.g., Centers for Disease Control and Prevention, *Health Risks Among Sexual Minority Youth* (Aug. 2016) <<https://www.cdc.gov/healthyyouth/disparities/smy.htm>> (as of May 1, 2018) (study showing that LGB students were three times more likely than heterosexual students to have been raped; skipped school far more often because they did not feel safe; were frequently bullied on school property; and were twice as likely as heterosexual students to have been threatened or injured with a weapon on school property).

people are dealing with sexual orientation and gender identity issues,⁹ and experience bullying based on these characteristics,¹⁰ well before they turn 16. The Census Bureau’s detailed testing of these questions showed that “16 and 17-year-old respondents were all able to understand and easily answer the sexual orientation questions. There were no significant differences between the responses to the questions and probes given by adults and teens.”¹¹ It is irresponsible to halt collection of this data based on the “potential sensitivity” of these questions. Without this data, stakeholders will be denied an important tool to help them address the widespread bullying, threats, and actual violence against students based on these characteristics.¹²

A significant report reflecting these serious problems was recently published by USDOJ and the United States Department of Education. It showed, among other things, that LGB youth were almost twice as likely to be bullied and threatened or injured by a weapon at school; almost twice as likely to be in a physical fight; and were more likely to be offered, sold, or given illegal drugs at school.¹³ A comprehensive 2016 Human Rights Watch report showed not only that such problems were widespread, but that many schools’ policies failed to address—and in some cases even exacerbated—these problems.¹⁴ Sadly, studies have also clearly shown that LGBT youth are at elevated risk of adverse mental health outcomes, including depression, anxiety, substance abuse, and suicidality.¹⁵ The Survey is a vital source of national data on violence against LGBTQ youth and a critical tool in combating such violence and reversing these trends, both as a law enforcement matter and on a policy level.

The USDOJ has not pointed—and cannot point—to any new facts or compelling reasons for the proposed regulation. LGBTQ youth count on law enforcement officials like USDOJ and the state Attorneys General to protect them, and depriving us of relevant data will unnecessarily

⁹ See Pew Research Center, *A Survey of LGBT Americans* (June 13, 2013) (median age for LGB survey respondents realizing they might not be “straight” is 12) <<http://www.pewsocialtrends.org/2013/06/13/chapter-3-the-coming-out-experience/>> (as of May 9, 2018).

¹⁰ Ryan Thoreson, “*Like Walking through a Hailstorm*”: *Discrimination against LGBT Youth in US Schools*, Human Rights Watch (Dec. 7, 2016) (discussing bullying of LGBT students as young as 8 years old) <https://www.hrw.org/sites/default/files/report_pdf/uslgbt1216web_2.pdf> (as of Apr. 30, 2018).

¹¹ *Cognitive Pretesting*, supra note 4.

¹² See *id.* (stating that “[i]ncluding the respondents’ sexual orientation and gender identity . . . provides more accurate and detailed data that can be used to inform public policy debates and funding decisions regarding this vulnerable population”).

¹³ Lauren Musu-Gillette, et al., *Indicators of School Crime and Safety: 2017*, USDOJ Bureau of Justice Statistics (Mar. 29, 2018) <<https://www.bjs.gov/index.cfm?ty=pbdetail&iid=6206>> (as of Apr. 30, 2018).

¹⁴ *Hailstorm*, supra note 10.

¹⁵ Centers for Disease Control and Prevention, *LGBT Youth* (Nov. 12, 2014) <<http://www.cdc.gov/lgbthealth/youth.htm>> (as of Apr. 30, 2018); Youth.gov, *Behavioral Health* <<http://youth.gov/youth-topics/lgbtq-youth/health-depression-and-suicide>> (as of Apr. 30, 2018).

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constrain our efforts to do so. For all the reasons discussed above, we call on USDOJ to continue to fulfill its responsibilities to LGBTQ youth and withdraw its proposal to terminate the collection of data relating to violence against them.

Thank you for your consideration of our views.

Sincerely,



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Illinois Attorney General



TOM MILLER
Iowa Attorney General



BRIAN FROSH
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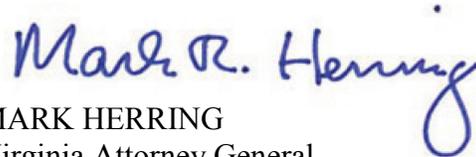
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