

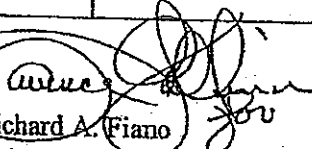
# Memorandum



Subject  
Executive Order on Fairness in Law Enforcement  
Guidance and Practices for Data Collection  
(FFS: 060-01.3)

Date  
MAY 19 2000

To  
All Special Agents in Charge  
Designated Asst. Special Agents in Charge

From   
Richard A. Fiano  
Chief of Operations

On May 17, 2000, Acting Deputy Administrator Mercado issued a memorandum to all Special Agents in Charge advising that DEA's Operation Jetway has been selected to participate in the President's 1999 Executive Order (E.O.) on Fairness in Law Enforcement. DEA will begin collecting data at airports nationwide on the race, ethnicity, and gender of individuals stopped under Operation Jetway. This memorandum sets out guidelines and procedures for collecting and submitting this data.

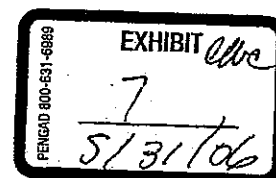
**Airport Groups Must Submit Data:** Beginning Thursday, June 1, 2000, SACs shall begin collecting data at airports throughout their area of responsibility using the attached "Field Encounter Form." DEA must capture data on all airport stops that involve DEA agents or DEA-authorized state and local counterparts. SACs, therefore, shall ensure that data is collected from every encounter with a citizen in the following two circumstances:

- Encounters involving DEA Special Agents or state and local police officers assigned to airport groups operating under the direct supervision of a DEA Group Supervisor or Special Agent.
- Encounters involving DEA Special Agents or deputized Task Force Officers at any airport.

**Completing the Form:** This form must be completed by a DEA Agent or authorized Task Force Officer for every encounter with a citizen, regardless of whether or not the stop resulted in a seizure or an arrest. The one-page form contains 13 data fields. All of them must be filled out completely or with "NA" for fields not applicable. In the field, "Reason/Indicators for Contact Initiation," Agents/Officers must cite the factors that led them to stop the individual. The factors may include, but may not be limited to, intelligence, suspicious behavior, excessive nervousness, and arrival from a drug source city.

**No Identifying Data or Racial Questioning:** Data acquired through the form pursuant to the E.O. may not contain any information that may reveal the identity of any individual, such as names, social security numbers, drivers license numbers, etc. Further, while the intent of the E.O. is to collect racial data in order to prevent profiling and ensure fairness in law enforcement, DEA Agents/Officers shall not question individuals about their race or ethnicity. Although there is no legal barrier to such questions, they would nonetheless be rightly viewed as intrusive and offensive to many people. DEA will make a good faith effort to balance its obligation to comply with the E.O. and to protect public privacy.

Exhibit B



**Discovery Issues:** According to Chief Counsel, Special Agents who complete the Field Encounter Form after an encounter provides substantive information of that encounter, i.e., why the individual was contacted, action taken following the encounter, and the items and amounts taken from the individual. This kind of information, collected through the Field Encounter Form, should be considered a "statement" of the witness for the purposes of 18 USC §3500.1 The Field Encounter Form is discoverable and should be provided to the United States Attorney's Office for possible disclosure to the defense. Therefore, the Form should be preserved for those instances where a criminal case is filed and/or assets seized.

**Submitting the Encounter Forms:** The Field Encounter Forms should be submitted by fax at 202-307-7992 on a weekly basis to:

Dr. Patrick R. Gartin  
 Chief, Statistical Services Section (ADSA)  
 Drug Enforcement Administration  
 700 Army Navy Drive  
 Arlington, VA 22202  
 202-307-8276 (voice) and 202-307-7992 (Fax)  
 (If faxing, please DO NOT send a cover sheet)

Beginning in the next four to six weeks, Headquarters will begin issuing monthly reports to SACs providing them with an analysis of the data submitted by their division for this Order.

Finally, at every opportunity, I try to protect the time and energy of our Field Divisions, believing that is where the real work gets done. Racial profiling and race-based policing harm the public, as well as its trust and respect for law enforcement. I support the President's E.O. and believe this short form reflects DEA's commitment to fair policing. For more information, please contact Dr. Gartin at the number above or Martin W. Pracht, Chief, Executive Policy & Strategic Planning in the Office of the Deputy Administrator, at 202-307-7420.

**Attachment**

- DEA Field Encounter Form
- May 17, 2000 Memorandum from A/AD Mercado to all SACs

cc: Office of the Deputy Administrator  
 Chief of Domestic Operations  
 Chief Counsel  
 Chief of Intelligence  
 Chief of Congressional & Public Affairs  
 Executive Policy & Strategic Planning Staff  
 ASAC Points of Contact as designated by SACs

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<sup>1</sup> Pursuant to 18 USC §3500(b), "[a]fter a witness is called by the United States has testified on direct examination, the court shall, on motion of the defendant, order the United States to produce any statement...of the witness in the possess of the United States which relates to the subject matter as to which the witness has testified." Section 3500(e)(1) defines "statement," among other things, as a "written statement made by said witness and signed or otherwise adopted or approved by him."