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To: House Judiciary Committee
From: Robin Joy, J.D., Ph.D., Director of Research, Crime Research Group
Date: January 20, 2022
Re: Qualitative Research in H.546

This is a follow-up to my testimony on including qualitative analysis to capture the experiences of people who will not appear in the administrative data in sufficient numbers to perform statistical or meaningful analysis. Or people who will not appear in the data because the government cannot or should not collect information on certain characteristics such as sexual orientation.

Qualitative research takes many forms including interviews, focus groups, surveys, observations, and text analysis of primary or secondary sources. There are several reasons why this research should not be undertaken by the Division of Racial Justice Statistics (DRJS) but rather supported by the Division in Requests for Proposals (RFP) to qualified researchers, preferably those from marginalized communities.

First, representatives of the DRJS will not be able to ethically provide research participants with required protections for research involving human subjects (see [Health and Human Services regulation 45 CFR 46](#)) as the employees of the Division will be state employees. Generally, state employees conducting research aimed at understanding how people without power experience the power of the state represents a conflict of interest. More specifically, determining whether participants have **willingly** chosen to engage in the research would be difficult given the perceived and actual power of the state employee. Furthermore, to obtain valid and reliable responses, researchers must be able to build rapport and gain the trust of participants. Thus, the power imbalance between a state employee and participant may also influence the quality of data obtained. It would not be research best practices to have an employee of the state carry out such sensitive and intimate research.

Second, because the way the state and its agencies operate will be the subject of many qualitative research initiatives, some may question the legitimacy of analyses performed by state employees. The results of research will always be clouded by the thought that the state coded data to their own benefit. Therefore, the research should be conducted not by state employees, but rather, by qualified researchers who have experience and expertise in racial justice research.

Finally, there are concerns about the safety of the participants that independent researchers may be able to handle better than the state. There is no researcher/participant privilege. As researchers, we promise confidentiality that we will not disclose identifying information in our research. However, researchers can be subpoenaed. Certificates of Confidentiality, issued by some federal funders, do offer some protection. There has been a move to expand the program to cover research not federally funded

Crime Research Group (as the statistical analysis center), universities, and state government, have access to research funds that smaller organizations do not have. The bill, which elevates data analysis on marginalized communities, should also elevate the ability of those community members to conduct the analyses. We believe that the use of RFP is one way to do so. Therefore, we support using an RFP process for awarding contracts to conduct qualitative research.