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MONTEREY, CALIFORNIA

THESIS

**BREAKING THE GLASS CEILING:
A PATH FORWARD FOR FBI AGENT RECRUITMENT**

by

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September 2021

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**BREAKING THE GLASS CEILING:
A PATH FORWARD FOR FBI AGENT RECRUITMENT**

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Submitted in partial fulfillment of the
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ABSTRACT

America has faced a racial reckoning as tensions have boiled over between law enforcement and communities of color. The killings of Philando Castile, George Floyd, Breonna Taylor, and countless others have led to extensive protests. As the lead agency for investigating federal civil rights and color-of-law violations, the FBI has often been called upon to investigate police actions in these deadly encounters. However, many have questioned the bureau's ability to be impartial, due to the agency's history of questionable treatment of minorities and the fact that most FBI special agents are white males. In order for the FBI to gain the trust of minority communities, it needs to start reflecting the diversity of the country. Using Bardach and Patashnik's eight-step policy analysis framework, this thesis examines the FBI's recruitment processes and suggests some solutions for a more diverse special agent workforce. This research demonstrates that factors such as the perception of law enforcement, FBI promotional policies and practices, and an absent nationwide recruitment strategy affect the bureau's ability to recruit a more diverse pool of agents. This research recommends that in order to create a more diverse workforce, the FBI needs to 1) develop a nationwide recruitment strategy, 2) foster strategic partnerships, 3) develop and utilize data analytics to drive diversity targets, and 4) engage a third party to review and evaluate the FBI's special agent selection process.

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LIST OF ACRONYMS AND ABBREVIATIONS

FBI	Federal Bureau of Investigation
CCMS	Cross-Cultural Mentorship Program
CRA	Civil Rights Act (of 1964)
DAC	Diversity Advisory Committee
DAR	Diversity Agent Recruitment
DOD	Department of Defense
DOJ	Department of Justice
EO	executive order
EEO	equal employment opportunity
EEOA	Equal Employment Opportunity Act
HR	human resource(s)
LGBT	lesbian, gay, bisexual, and transgender
No FEAR	Notification and Federal Employee Anti-discrimination and Retaliation (Act)
ODI	Office of Diversity and Inclusion
OPM	Office of Personnel Management
PFT	physical fitness test
SES	Senior Executive Service

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EXECUTIVE SUMMARY

In fatal law enforcement shootings of minorities—such as Philando Castile’s (2016) and George Floyd’s (2020) killings in Minnesota and Breonna Taylor’s (2020) in Kentucky, to name a few—the Federal Bureau of Investigation (FBI) is often called upon to review potential civil rights violations by local police.¹ Despite the FBI’s role in these matters, the agency faces its own accusations from minority communities of racial and gender discrimination, raising the question of whether it can effectively investigate such deaths.² Internally, Black special agents and others have also called into question the FBI’s ability to investigate matters involving race, given its lack of diversity.³ Such accusations undermine the FBI’s legitimacy and ability to help provide justice.

Historically, the FBI’s external relationship with the public and internal obstacles—a history of discriminatory practices as revealed in lawsuits, actual and potential retribution against employees, subjective merit-based promotional practices, and a lack of cultural communication within the agency—obstruct the FBI’s ability to recruit a more diverse workforce. A lack of internal minority representation adds to the perception that the FBI does not represent minority communities despite attempts by the organization to address this problem. A glance at the FBI’s personnel statistics reveals that it does not reflect the American population’s diversity.⁴ According to statistics posted on the FBI’s hiring website, 83.4 percent of special agents are white, 4.5 percent are Black or African American, 6.5 percent are Hispanic or Latino, and 4.5 percent are Asian.⁵ Across all racial

¹ Masood Farivar, “FBI Probing Police Role in Death of Black Man in Minneapolis,” *Voice of America*, May 30, 2020, <https://www.voanews.com/usa/fbi-probing-police-role-death-black-man-minneapolis>.

² Adam Goldman, “Women Sue F.B.I., Claiming Discrimination at Training Academy,” *New York Times*, May 29, 2019, <https://www.nytimes.com/2019/05/29/us/politics/fbi-discrimination-lawsuit.html>.

³ Jeff Pegues, Andrew Bast, and Michael Kaplan, “Former Black Special Agents Say FBI’s Culture Is ‘Not Conducive to Minorities,’” *CBS News*, October 7, 2020, <https://www.cbsnews.com/news/fbi-culture-minorities-black-special-agent/>.

⁴ Topher Sanders, “The FBI Has a Serious Diversity Problem,” *Pacific Standard*, March 20, 2018, <https://psmag.com/social-justice/the-fbi-has-an-ongoing-diversity-problem>.

⁵ “Working at FBI: Diversity,” Federal Bureau of Investigation, accessed October 3, 2020, <https://www.fbijobs.gov/working-at-FBI/diversity>.

lines, women only make up approximately 20 percent of the special agent workforce.⁶ The American population, in contrast, comprises 39.6 percent ethnic and racial minorities and over 50 percent women.⁷

In 2015, former FBI Director James Comey acknowledged a correlation between the lack of community trust and the FBI's lack of diversity among its special agent ranks.⁸ Studies also show that when an organization is diverse and inclusive, its employees can solve complex problems more efficiently, increase innovation and creativity, and improve engagement and cultural understanding—in other words, be a legitimate organization.⁹ Therefore, the FBI's and law enforcement's ability to maintain credibility and connect with the American people may depend on minority communities' perception of law enforcement and its ability to reflect the diversity that makes America.¹⁰ The FBI's diversity numbers clearly reflect the need for more diversity among its special agent ranks.

This thesis addresses the problem of a lack of diversity in the FBI by examining its policies and procedures related to recruitment and hiring by asking the question how can the FBI recruit a more diverse special agent workforce? To answer this important question, this thesis employed Bardach and Patashnik's policy analysis framework: defining the problem, assembling evidence, constructing alternatives, selecting criteria, projecting outcomes, confronting trade-offs, making decisions, and sharing the results of the process.¹¹ Based on the findings, it also makes recommendation for addressing internal recruiting challenges that are essential for building community trust.

⁶ Federal Bureau of Investigation.

⁷ "QuickFacts: United States," Census Bureau, accessed October 3, 2020, <https://www.census.gov/quickfacts/fact/table/US/PST045219>.

⁸ Alice Speri, "The FBI's Race Problems Are Getting Worse: The Prosecution of Terry Albury Is Proof," *Intercept*, April 21, 2018, <https://theintercept.com/2018/04/21/terry-albury-fbi-race-whistle-blowing/>.

⁹ David Rock and Heidi Grant, "Why Diverse Teams Are Smarter," *Harvard Business Review*, November 4, 2016, <https://hbr.org/2016/11/why-diverse-teams-are-smarter>.

¹⁰ Sana Sekkarie, "The FBI Has a Racism Problem and It Hurts Our National Security," *Georgetown Security Studies Review*, August 19, 2020, <https://georgetownsecuritystudiesreview.org/2020/08/19/the-fbi-has-a-racism-problem-and-it-hurts-our-national-security/>.

¹¹ Eugene Bardach and Eric M. Patashnik, *A Practical Guide for Policy Analysis: The Eightfold Path to More Effective Problem Solving*, 6th ed. (Washington, DC: CQ Press, 2020).

As part of the framework, this thesis examined current FBI recruitment and hiring practices, as well as internal and external factors that impact diverse recruitment; explored alternatives to fixing the diversity issues; and proposed solutions, with the goal of increasing gender and racial equity among the FBI's special agent workforce. This thesis relied heavily on information from the FBI's Office of Diversity and Inclusion; the FBI's external career website, FBIjobs.gov; various FBI policy guides; reports on diversity from the Department of Justice's Office of the Inspector General and the Office of Management and Budget; public sources of information from books, journal articles, and newspaper articles; and congressional testimony and reports.

The FBI currently lacks diversity in its special agent workforce despite the fact that improving diversity has been a priority at the FBI for the past decade. In the late 1980s to mid-1990s, a hiring surge and focus on minority recruitment increased the ethnic and racial diversity of the FBI's workforce.¹² However, minority retirement has outpaced minority hiring, resulting in overall declining of diversity to percentages well below those of the civilian labor force. In 2019, the Department of Justice (DOJ)'s Office of the Inspector General issued a report acknowledging that "fostering a diverse, highly skilled workforce" was a top management challenge for the FBI and other DOJ components.¹³

Despite the FBI's efforts, workforce composition has largely remained the same.¹⁴ The FBI's prohibition on women as special agents until the early 1970s and its compliance with Executive Order 13583 today suggests that past hiring practices laid the foundation for the FBI's current gender gap.¹⁵ In 2016, former FBI Director James Comey recognized

¹² Bruce Taylor et al., *Cop Crunch: Identifying Strategies for Dealing with the Recruiting and Hiring Crisis in Law Enforcement* (Washington, DC: Police Executive Research Forum, 2006), <https://www.ojp.gov/pdffiles1/nij/grants/213800.pdf>.

¹³ Michael E. Horowitz, *Semiannual Report to Congress: April 1, 2019–September 30, 2019* (Washington, DC: Department of Justice, Office of the Inspector General, 2019), <https://www.oversight.gov/sites/default/files/oig-sa-reports/1911.pdf>.

¹⁴ Courtney Bubl , "FBI Has Failed to Move the Needle on Diversity over the Past Decade, Despite Efforts of Recent Directors," *Government Executive*, February 14, 2020, <https://www.govexec.com/workforce/2020/02/fbi-has-failed-move-needle-diversity-over-past-decade-despite-efforts-recent-directors/163127/>.

¹⁵ Kali deVarennes, "Consider the Source: The Media's Coverage of Female FBI Agents in the 1970s," *Forum: Journal of History* 12, no. 1 (2020): 88, <https://digitalcommons.calpoly.edu/forum/vol12/iss1/10>.

the FBI's special agent workforce was becoming more homogeneous, despite the U.S. population becoming more diverse.¹⁶ Notably, minority special agents had dropped from 18.9 percent in 2006 to 17.9 percent in 2016.¹⁷ As a result, Director Comey charged the FBI's Human Resources Division with fixing the issue. An internal study revealed the FBI's diversity hiring process had several issues with outmoded processes and attitudes, a lack of planning, and limited access to recruitment data.¹⁸ The review also found that women and people of color were more likely to drop out of the application process before completing the first phase.¹⁹

Despite its internal and external challenges, in recent years, the FBI has taken various steps to improve diversity across the FBI workforce including the special agent ranks. Currently, the FBI has approximately 35,000 employees spread across 56 field offices, FBI Headquarters in Washington, DC, and around the world at legal attachés. Approximately 13,500 of those employees are FBI special agents.²⁰ In 2020, 79.1 percent of special agents were male and 20.9 percent were female—a slight improvement from 2010, when 79.6 percent were male and 18.8 percent were female.²¹ The proportion of ethnic minorities as special agents also increased slightly, from 17 percent in 2010 to 18.4 percent in 2020.²² In May 2021, the FBI appointed its first chief diversity officer and issued a press release touting FBI Director Christopher Wray's selection of the most diverse

¹⁶ Samantha McLaren, "How the FBI Overhauled Its Hiring Process to Improve Diversity and Create a Better Candidate Experience," *LinkedIn Talent Blog*, November 4, 2019, <https://business.linkedin.com/talent-solutions/blog/talent-connect/2019/how-fbi-overhauled-hiring-process-to-improve-diversity-and-candidate-experience>.

¹⁷ McLaren.

¹⁸ McLaren.

¹⁹ McLaren.

²⁰ Erin Duffin, "Number of Federal Bureau of Investigation Employees in the United States in 2019, by Role and Gender," Statista, October 2, 2020, <https://www.statista.com/statistics/745497/number-of-fbi-employees-by-gender/>.

²¹ Duffin.

²² Duffin.

executive leadership team in the bureau's history.²³ The executive assistant director's appointments consisted of an Asian American woman to oversee the Human Resources Branch and two African American men to each oversee the Intelligence Branch and the Criminal, Cyber, Response, and Services Branch, respectively.²⁴ Furthermore, according to the Office of Personnel Management, minority representation among the FBI workforce as a whole improved over the past five years, increasing from about 24.4 percent in 2016 to approximately 25.8 percent in 2021.²⁵ The FBI received recognition for its efforts; in 2020 and 2021, the FBI was named a top employer by DiversityJobs.²⁶ In 2020, *Woman Engineer* magazine and *Equal Opportunity Magazine* both listed the FBI among the top 20 government employers based on the bureau's efforts to increase diversity and equality in its workforce.²⁷

Despite these efforts, the research here finds that external community challenges and internal obstacles—such as the FBI's history of discrimination, merit-based promotion process, and bias embedded within its culture—have challenged the bureau's recruitment of a diverse special agent work force. Simple recommendations that the FBI improve its strategies to recruit a more diverse special agent workforce is not enough as racial minorities and women remain underrepresented despite all previous efforts and progress over the last few decades. This thesis offers four recommendations for the FBI to increase diversity in the special agent workforce: develop a national recruitment strategy; foster strategic partnerships to increase the special agent candidate pool; develop and utilize data analytics tools to drive diversity targets/benchmarks; and engage a third party to review

²³ Stephanie Pagonis, "FBI Director Wray Appoints Agency's First-Ever Chief Diversity Officer," Fox News, April 21, 2021, <https://www.foxnews.com/us/fbi-first-chief-diversity-officer-scott-mcmillion>; "FBI Leadership: New Executives Reflect FBI's Push for Diversity," Federal Bureau of Investigation, May 12, 2021, <https://www.fbi.gov/news/stories/new-executives-reflect-fbis-push-for-diversity-051221>.

²⁴ Federal Bureau of Investigation, "New Executives Reflect FBI's Push for Diversity."

²⁵ Jessica Schneider, "FBI Faces Its Own Racial Reckoning while Leading Probes into Police Shooting Deaths," CNN, June 10, 2021, <https://www.cnn.com/2021/06/09/politics/fbi-race-diversity-officer/index.html>.

²⁶ "Top Diversity Employers 2021," DiversityJobs, accessed July 31, 2021, <https://www.diversityjobs.com/top-employers/>.

²⁷ "Diversity at the FBI," Federal Bureau of Investigation, accessed July 31, 2021, <https://www.fbijobs.gov/working-at-FBI/diversity>.

and evaluate the FBI's special agent selection process and develop an action plan to make necessary improvements.

ACKNOWLEDGMENTS

We've got a responsibility to live up to the legacy of those who came before us by doing all that we can to help those who come after us.

—Michelle Obama

I stand on the shoulders of those who paved the way for someone like me to join the ranks of the FBI, the premiere law enforcement agency in the world. Often when the word “diversity” comes about, people see it as a matter of compliance or a “check-the-box” type of thing. However, I truly believe that diversity of background, race, ethnicity, and gender contributes to the skill set of the organization and greater good and to what America stands for in our global society. This thesis emerges from such firm beliefs.

To my colleagues in law enforcement and across the federal government, I task you to bring your best self to work every day. When things get tough, don't give up. While you may not receive the acknowledgment you deserve, keep pressing—your country and its future depends on you.

Thank you to my wife who continues to support and inspire me daily as a friend and role model to our children. Thank you to the FBI and NPS-CHDS for the amazing opportunity to participate in this master's program. Thank you to my advisors, Dr. Christopher Bellavita and Dr. Anshu N. Chatterjee, for their words of wisdom, critique, and guidance. Given the challenges of the COVID-19 pandemic, Cohort 2001/2002 has been an amazing source of encouragement, and I thank you for that.

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I. INTRODUCTION

In fatal law enforcement shootings of minorities—such as the Philando Castile (2016) and George Floyd (2020) killings in Minnesota and Breonna Taylor’s (2020) in Kentucky, to name a few—the Federal Bureau of Investigation (FBI) is often called upon to review potential civil rights violations by local police.¹ Despite the FBI’s role in these matters, the agency faces its own accusations of racial and gender discrimination, raising the question of whether it can effectively investigate such deaths.² Black special agents and others have called into question the FBI’s ability to investigate matters involving race, given its lack of diversity.³

A glance at the FBI’s personnel statistics reveals that it does not reflect the American population’s diversity, which presents a problem for approaching and gaining trust of America’s diverse communities as well as internally understanding the pulse of these communities.⁴ According to statistics posted on the FBI’s hiring website, 83.4 percent of special agents are white while 4.5 percent are black or African American, 6.5 percent are Hispanic or Latino, and 4.5 percent are Asian.⁵ Across all racial lines, women make up only approximately 20 percent of the special agent workforce.⁶ The American population, in contrast, comprises 39.6 percent ethnic and racial minorities and over 50 percent women.⁷ In 2015, former FBI Director James Comey acknowledged a correlation

¹ Masood Farivar, “FBI Probing Police Role in Death of Black Man in Minneapolis,” *Voice of America*, May 30, 2020, <https://www.voanews.com/usa/fbi-probing-police-role-death-black-man-minneapolis>.

² Adam Goldman, “Women Sue F.B.I., Claiming Discrimination at Training Academy,” *New York Times*, May 29, 2019, <https://www.nytimes.com/2019/05/29/us/politics/fbi-discrimination-lawsuit.html>.

³ Jeff Pegues, Andrew Bast, and Michael Kaplan, “Former Black Special Agents Say FBI’s Culture Is ‘Not Conducive to Minorities,’” *CBS News*, October 7, 2020, <https://www.cbsnews.com/news/fbi-culture-minorities-black-special-agent/>.

⁴ Topher Sanders, “The FBI Has a Serious Diversity Problem,” *Pacific Standard*, March 20, 2018, <https://psmag.com/social-justice/the-fbi-has-an-ongoing-diversity-problem>.

⁵ “Working at FBI: Diversity,” Federal Bureau of Investigation, accessed October 3, 2020, <https://www.fbijobs.gov/working-at-FBI/diversity>.

⁶ Federal Bureau of Investigation.

⁷ “QuickFacts: United States,” Census Bureau, accessed October 3, 2020, <https://www.census.gov/quickfacts/fact/table/US/PST045219>.

between the lack of community trust and the FBI's lack of diversity among its special agent ranks.⁸ Studies also show that when an organization is diverse and inclusive, its employees can solve complex problems more efficiently, increase innovation and creativity, and improve engagement and cultural understanding—in other words, be a legitimate organization.⁹ Therefore, the FBI's and law enforcement's ability to maintain credibility and connect with the American people may depend on minority communities' perception of law enforcement and its ability to reflect the diversity that makes America.¹⁰ The FBI's diversity numbers clearly reveal the need for more diversity among its special agent ranks.

As America becomes increasingly diverse, American law enforcement agencies continue to face difficulties in recruiting minorities.¹¹ In response, the federal government is using innovative methods to build trust and understanding between law enforcement and local communities. For example, in August 2011, President Barack Obama issued Executive Order 13583, which challenged the federal government to enhance its ability to recruit, hire, and promote a more diverse workforce pool.¹² In 2014, President Obama went a step further with Executive Order 13684, establishing the Task Force on 21st Century Policing as a partnership between law enforcement and local communities to reduce crime and increase trust.¹³ However, the number of minority agents being promoted to positions within the Senior Executive Service, the highest decision-making authority, have yet to

⁸ Alice Speri, "The FBI's Race Problems Are Getting Worse: The Prosecution of Terry Albury Is Proof," *Intercept*, April 21, 2018, <https://theintercept.com/2018/04/21/terry-albury-fbi-race-whistle-blowing/>.

⁹ David Rock and Heidi Grant, "Why Diverse Teams Are Smarter," *Harvard Business Review*, November 4, 2016, <https://hbr.org/2016/11/why-diverse-teams-are-smarter>.

¹⁰ Sana Sekkarie, "The FBI Has a Racism Problem and It Hurts Our National Security," *Georgetown Security Studies Review*, August 19, 2020, <https://georgetownsecuritystudiesreview.org/2020/08/19/the-fbi-has-a-racism-problem-and-it-hurts-our-national-security/>.

¹¹ Equal Employment Opportunity Commission, *Advancing Diversity in Law Enforcement* (Washington, DC: Equal Employment Opportunity Commission, 2016), <https://www.eeoc.gov/advancing-diversity-law-enforcement>.

¹² Barack Obama, Executive Order 13583, "Establishing a Coordinated Government-Wide Initiative to Promote Diversity and Inclusion in the Federal Workforce," *Federal Register* 76, no. 163 (August 23, 2011): 52847–49, <https://www.hsdl.org/?abstract&did=685069>.

¹³ Barack Obama, Executive Order 13684, "Establishment of the President's Task Force on 21st Century Policing," *Federal Register* 79, no. 246 (December 18, 2014): 76865–66, <https://www.hsdl.org/?abstract&did=760795>.

reflect America's diversity. In 2021, in an effort to change that trajectory, FBI Director Christopher Wray appointed the most diverse leadership team in FBI history.¹⁴ Two of the five executive assistant directors were women, two were Black men, in addition to a white man.¹⁵

Although multiple factors such as relocation, perceived danger or a lack of safety, cultural perceptions about law enforcement, and physical fitness requirements may prevent hiring from diverse communities in federal law enforcement, agency recruitment and promotional practices have a disparate impact on racial/ethnic minorities and women, both within the agencies and among those the agencies serve.¹⁶ Reviews of several federal law enforcement agencies illustrate that minority and female applicants have lower passage rates on initial entry exams and suitability requirements measured by background investigations.¹⁷ In 2001, a federal judge approved a settlement between the FBI and a group of black agents who alleged that they had been denied promotions based on their race.¹⁸ Similarly, in 2019, 16 women sued the FBI, alleging gender and racial discrimination while training as special agents at the FBI Academy in Quantico, Virginia.¹⁹ Yet, minimal research is available to explain why hiring standards result in different passage rates among ethnic groups. Addressing this phenomenon is essential for making the FBI more legitimate in the eyes of the communities it serves. The FBI's legitimacy is paramount to carrying out its law enforcement and intelligence mission successfully.

¹⁴ "FBI Leadership: New Executives Reflect FBI's Push for Diversity," Federal Bureau of Investigation, May 12, 2021, <https://www.fbi.gov/news/stories/new-executives-reflect-fbis-push-for-diversity-051221>.

¹⁵ Federal Bureau of Investigation.

¹⁶ Robert M. Shusta, Deena R. Levine, and Aaron T. Olson, *Multicultural Law Enforcement: Strategies for Peacekeeping in a Diverse Society*, 7th ed. (New York: Pearson, 2017).

¹⁷ George H. Stalcup, *Equal Employment Opportunity: Hiring, Promotion, and Discipline Processes at DEA*, GAO-03-413 (Washington, DC: Government Accountability Office, 2003), <https://www.gao.gov/products/GAO-03-413>.

¹⁸ Eric Lichtblau, "FBI Settles Black Agents' Discrimination Lawsuit," *Los Angeles Times*, May 1, 2001, <https://www.latimes.com/archives/la-xpm-2001-may-01-mn-57894-story.html>.

¹⁹ Luke Barr, "Congressional Leaders Call for Probe into Claims of Sex Discrimination at FBI Academy," ABC News, June 27, 2019, <https://abcnews.go.com/Politics/congressional-leaders-call-probe-claims-sex-discrimination-fbi/story?id=63987835>.

A. RESEARCH QUESTION

How can the FBI recruit a more diverse special agent workforce?

B. LITERATURE REVIEW

The FBI's lack of diversity among its special agent workforce is not unique. However, as the country's main investigative agency, it is important for the bureau to strive to be a model for other government agencies. A review of previous research on workforce integration across America is essential to uncover gaps that hinder employment diversity. This review first examines research on the importance of diversity in law enforcement. Next, it focuses on diversity across the federal government to explore potential barriers to a diverse workforce. Last, it examines strategies used to manage diversity across organizations.

The ethnic and racial composition of the U.S. workforce has experienced drastic changes in the past two decades that highlight the need to promote diversity in the workplace. It is estimated that people of color comprise at least 33.7 percent of the present civilian labor force in the United States, compared to 27.4 percent in early 2000.²⁰ Statistics also indicate that Latinos and Asians are the fastest-growing groups in the U.S. labor market. The proportion of Latinos in the workplace increased from 10.9 percent in 2000 to 14.6 percent in 2010.²¹ Recently, the Bureau of Labor Statistics projected that by 2050, the U.S. workforce will include 51.4 percent whites, 24.3 percent Latinos, 8 percent Asian Americans, and 14 percent African Americans.²² However, the projections for law enforcement employment are not trending in the same direction.

²⁰ "Labor Force Statistics," Census Bureau, accessed January 21, 2021, <https://www.census.gov/topics/employment/labor-force.html>.

²¹ Census Bureau.

²² Tania Israel et al., "Reactions of Law Enforcement to LGBTQ Diversity Training," *Human Resource Development Quarterly* 28, no. 2 (Summer 2017): 197–226, <https://doi.org/10.1002/hrdq.21281>.

1. Diversity in Law Enforcement

Diversity can be measured with various demographics including race, gender, religion, and sexual orientation.²³ Law enforcement in America has traditionally been a white male-dominated occupation; women and minorities have been historically excluded from these institutions for different reasons. Dovidio, Kawakami, and Gaertner's research on implicit bias in the hiring process illustrates the stereotyping of African Americans as uneducated and women as uncommitted to careers.²⁴ In her research, Secret Service Agent Dione Neely examines this stereotyping of women, illustrating the typical law enforcement perception of women as less dedicated to their law enforcement careers, based on childcare responsibilities, compared to their male counterparts.²⁵

However, diversity is good for building trust. Indeed, important research has linked the lack of representation of different communities in law enforcement to trust issues within communities of color.²⁶ Diangelo contends groups that do not engage with communities of color regularly fail to recognize the impact a lack of diversity has on people.²⁷ Wasserman notes law enforcement has to establish legitimacy in the communities it serves to establish trusting relationships.²⁸ Similarly, Schuck maintains communities are likely to distrust law enforcement if the people serving them are not from their communities or not part of their

²³ Israel et al.

²⁴ J. Dovidio, K. Kawakami, and S. Gaertner, "Implicit and Explicit Prejudice and Interracial Interaction," *Journal of Personality and Social Psychology* 82, no. 1 (2002): 62–68, <https://doi.org/10.1037//0022-3514.82.1.62>.

²⁵ Dione A. Neely, "Level the Playing Field: Are Law Enforcement Policies and Practices Rigged against Women and Mothers?" (master's thesis, Naval Postgraduate School, 2019), <https://www.hsdl.org/?abstract&did=831037>.

²⁶ Amie M. Schuck, "Female Officers and Community Policing: Examining the Connection between Gender Diversity and Organizational Change," *Women & Criminal Justice* 27, no. 5 (2017): 341–62, <https://doi.org/10.1080/08974454.2017.1303659>.

²⁷ Robin Diangelo, *White Fragility: Why Is It So Hard for White People to Talk about Racism* (Boston: Beacon Press, 2018).

²⁸ Robert Wasserman, *Guidance for Building Communities of Trust* (Washington, DC: Office of Community Oriented Policing Services, 2010), <https://www.hsdl.org/?abstract&did=14859>.

own.²⁹ The implication is that people will trust law enforcement if they feel policies and practices are made by individuals who represent their communities and interests.³⁰

When community members feel represented, they are more likely to cooperate with law enforcement. Fridell et al. also establish that community members are likely to believe in law enforcement institutions when they feel those organizations represent them and perceive law enforcement to be fair, legitimate, and accountable.³¹ Similarly, Wolfe et al. posit that community members who feel represented in law enforcement agencies—and whose needs and concerns are addressed without bias or discrimination—are likely to improve their collaboration with law enforcement officers and help them solve social problems.³²

Diversity in law enforcement helps create the perception within the community of a fair law enforcement system. According to Dukes, increased diversity is expected to engender trust and loyalty from the public, instill public confidence, and develop a sense of integrity and democracy.³³ Wolfe et al. support Dukes' assertion that public trust is a consequence of promoting diversity in law enforcement and can defuse tensions between community members and the police, leading to solving crimes in the community as people become more open and collaborate with law enforcement. According to Wolfe et al., when a community feels the law enforcement system is skewed and favors only certain groups of people, it distrusts police officers and may be unwilling to cooperate. Victims or witnesses may not approach law enforcement officers to report crimes or engage at all if they feel law enforcement agencies do not represent their image.³⁴ In agreement with Wolfe

²⁹ Schuck, "Female Officers and Community Policing."

³⁰ Schuck.

³¹ Lorie Fridell et al., *Racially Biased Policing: A Principled Response* (Washington, DC: Police Executive Research Forum, 2008), <https://www.ojp.gov/ncjrs/virtual-library/abstracts/racially-biased-policing-principled-response>.

³² Scott E. Wolfe et al., "Why Does Organization Justice Matter? Uncertainty Management among Law Enforcement Officers," *Journal of Criminal Justice* 54 (2018): 20–29, <https://doi.org/10.1016/j.jcrimjus.2017.11.003>.

³³ Warren V. Dukes, "Measuring Double Consciousness among Black Law Enforcement Officers to Understand the Significant Role of Race in Law Enforcement Occupational Culture," *Journal of Ethnicity in Criminal Justice* 16, no. 1 (2018): 1–21, <https://doi.org/10.1080/15377938.2017.1414008>.

³⁴ Wolfe et al., "Why Does Organization Justice Matter?"

et al., Yongbeom asserts diversity in police organizations makes it easier for law enforcement officers to execute their duties.³⁵ Communities that feel represented are more likely to provide police officers with intelligence to help arrest individuals who engage in criminal activities.³⁶ Generally, people are more likely to respect law enforcement when they feel represented.³⁷ Conversely, police officers often face confrontation or even obstruction when community members feel that law enforcement does not represent them.³⁸

Diverse law enforcement organizations are more considerate of multifaceted issues affecting communities. Yongbeom and Wolfe et al. suggest increased diversity in law enforcement institutions may make organizations more open and willing to support community reforms.³⁹ For example, diversity in law enforcement brings with it individuals who understand the unique social and cultural issues of communities and thus have insight into reducing crime there.⁴⁰ The implication is that diverse law enforcement organizations are likely to consider the interest of every individual represented in a given community and not impose overly ambitious law enforcement plans that may eventually fail.⁴¹

Wilson, Wilson, and Gwann argue that diversity is a major catalyst for police reforms. With the murders of African American men at the hands of police officers, the public has called for reforms in law enforcement by increasing the representation of minorities in top positions and defunding police organizations.⁴² However, successful

³⁵ Hur Yongbeom, "Gender Diversity and Organisational Performance: Assessing the Effects of Gender Diversity in US Law Enforcement Agencies," *International Journal of Public Sector Performance Management* 4, no. 3 (2018): 313–30, <https://doi.org/10.1504/ijpspm.2018.093465>.

³⁶ Yongbeom.

³⁷ Wolfe et al., "Why Does Organization Justice Matter?"

³⁸ Yongbeom, "Gender Diversity and Organisation Performance."

³⁹ Yongbeom.

⁴⁰ Yongbeom.

⁴¹ Yongbeom.

⁴² Charles P. Wilson, Shirley A. Wilson, and Mary Gwann, "Identifying Barriers to Diversity in Law Enforcement Agencies," *Journal of Ethnicity in Criminal Justice* 14, no. 4 (2016): 231–53, <https://doi.org/10.1080/15377938.2016.1187234>; Michael J. D. Vermeer, Dulani Woods, and Brian A. Jackson, *Would Law Enforcement Leaders Support Defunding the Police? Probably—If Communities Ask Police to Solve Fewer Problems* (Santa Monica, CA: RAND Corporation, 2020).

reforms also require diversity. Sklansky asserts diverse law enforcement organizations have the opportunity to support fundamental reforms that address the community's problems.⁴³ Lonsway and Spillar posit that promoting diversity in law enforcement aims to reduce the over-dominance of one majority group in the field, especially in top positions, by introducing laws that support all people regardless of color, gender, or race.⁴⁴ Wilson, Wilson, and Gwann assert diverse law enforcement organizations have the opportunity to support fundamental reforms that address their communities' problems.⁴⁵ The key areas where law enforcement diversity can help initiate reforms include civilian oversight, community policing, and racial bias.⁴⁶ From the literature reviewed for this thesis, it is evident that diversity supports fair, effective policing and facilitates law enforcement duties in a supportive environment.⁴⁷ Therefore, stakeholders need to ensure that they support diversity among law enforcement organizations.

In sum, a diverse team in law enforcement organizations supports organizational performance and officers' ability to carry out their duties. Diverse law enforcement organizations are better at formulating policies that address communities' needs than less-diverse law enforcement organizations, which often impose ambitious policing policies that are unsuitable for communities' unique needs. The types of communities policed by law enforcement agencies are another critical area for exploration. A crucial first step in identifying the needs of communities involves assessing what is already there and what is needed.

⁴³ David Alan Sklansky, "Not Your Father's Police Department: Making Sense of the New Demographics of Law Enforcement," *Journal of Criminal Law and Criminology* 96, no. 3 (Spring 2006): 1209–44, <https://scholarlycommons.law.northwestern.edu/jclc/vol96/iss3/9/>.

⁴⁴ Kimberly A. Lonsway, *Hiring & Retaining More Women: The Advantages to Law Enforcement Agencies* (Los Angeles: Feminist Majority Foundation, 2000); Katherine Spillar, "How More Female Police Officers Would Help Stop Police Brutality," *Washington Post*, July 2, 2015, <https://www.washingtonpost.com/posteverything/wp/2015/07/02/how-more-female-police-officers-would-help-stop-police-brutality/>.

⁴⁵ Wilson, Wilson, and Gwann, "Identifying Barriers to Diversity."

⁴⁶ Wilson, Wilson, and Gwann.

⁴⁷ Wilson, Wilson, and Gwann.

2. A Lack of Diversity across the U.S. Federal Government

Over the past two decades, diversity has become an important aspect of law enforcement, as illustrated in the previous section. Raganella, White, and Scrivner contend that when law enforcement organizations embrace diverse racial and gender backgrounds, officers gain a better cultural understanding and improve their competencies and skills in managing people in the community.⁴⁸ Diversity is an important aspect of successfully implementing key community-based policing policies.⁴⁹ Police officers and different agencies collaborate with individuals in the community to address public safety issues. Viverette suggests that diversity creates a sense of legitimacy among the public, thereby providing avenues for collaboration, trust, and loyalty between the community and law enforcement officers.⁵⁰ Increased diversity supports law enforcement officers in collaborating with individuals to introduce effective reforms that serve public interests.⁵¹

Amorelli and Garcia-Sanchez contend allegations of profiling and discrimination against employees based on gender, ethnicity, or other characteristics only work to increase an agency's diversity gap.⁵² In this regard, as of this writing, the demographics of federal government employees do not reflect the country's communities.⁵³ For instance, results released by law enforcement management and administrative agencies suggest that women comprise fewer than 13 percent of total law enforcement officers and account for an even

⁴⁸ Anthony J. Raganella and Michael D. White, "Race, Gender, and Motivation for Becoming a Police Officer: Implications for Building a Representative Police Department," *Journal of Criminal Justice* 32, no. 6 (2004): 501–13, <https://doi.org/10.1016/j.jcrimjus.2004.08.009>.

⁴⁹ Eros R. DeSouza, Eric D. Wesselmann, and Dan Ispas, "Workplace Discrimination against Sexual Minorities: Subtle and Not-So-Subtle," *Canadian Journal of Administrative Sciences* 34, no. 2 (2017): 121–32, <https://doi.org/10.1002/cjas.1438>.

⁵⁰ Mary Ann Viverette, "President's Message: Diversity on the Force," *Police Chief* 72, no. 12 (December 2005), <https://www.policechiefmagazine.org/presidents-message-diversity-on-the-force/>.

⁵¹ Helen H. Yu, "An Exploratory Analysis of the Strategies Women Employ to Cope with the Challenges They Face in Federal Law Enforcement," *Women & Criminal Justice* 28, no. 4 (2018): 301–12, <https://doi.org/10.1080/08974454.2018.1443871>.

⁵² Maria-Florencia Amorelli and Isabel-Maria Garcia-Sanchez, "Trends in the Dynamic Evolution of Board Gender Diversity and Corporate Social Responsibility," *Corporate Social Responsibility and Environmental Management* 28, no. 2 (March/April 2021): 537–54, <https://doi.org/10.1002/csr.2079>.

⁵³ "Demographics of Federal Workforce Summarized," FEDweek, February 24, 2016, <https://www.fedweek.com/issue-briefs/demographics-of-federal-workforce-summarized/>.

smaller portion of leadership roles.⁵⁴ Dahanayake posits such statistics indicate a lack of diversity not only in law enforcement institutions but also across the U.S. federal government.⁵⁵ He calls for stakeholders to initiate policies that directly promote accountability in the federal government, especially when diversity is contextualized.

Statistics released by different watchdog agencies suggest that people of color comprise only 46 percent of the U.S. labor force and 32 percent of senior positions.⁵⁶ According to Sklansky, their representation in top leadership positions within the federal government remains disproportionate to the population.⁵⁷ A 2017 study revealed 27 percent of Senior Executive Service (SES) employees across the federal government are women, and a mere 12 percent are minorities.⁵⁸ Corrington asserts that the government fails not only to promote diversity among employees—for example, by not promoting people of color to top positions—but also to recruit them into key positions in the first place.⁵⁹ Statistics suggest that African Americans and other people of color constitute 53 percent of clerical jobs, yet only 31 percent are recruited into the federal government’s professional workforce.⁶⁰

Not only does the federal government fail to achieve diversity in the workplace, but it also fails to create a representative workforce. Further statistics indicate that 77 percent of office management and budget employees within the federal government are white.⁶¹ According to one study, the percentage of people of color in the SES ranks remained the

⁵⁴ Rianna P. Starheim, *Women in Policing: Breaking Barriers and Blazing a Path* (Washington, DC: National Institute of Justice, 2019), <https://www.ojp.gov/pdffiles1/nij/252963.pdf>.

⁵⁵ Pradeepa Dahanayake et al., “Justice and Fairness in the Workplace: A Trajectory for Managing Diversity,” *Equality, Diversity and Inclusion: An International Journal* 37, no. 5 (2018): 470–90, <https://doi.org/10.1108/edi-11-2016-0105>.

⁵⁶ Dahanayake et al.

⁵⁷ Sklansky, “Not Your Father’s Police Department.”

⁵⁸ “The Times Call for Renewed Discussion of Equal Opportunity, Diversity and Inclusion in the United States Government,” Robertson Foundation for Government, June 30, 2020, <https://rfg.org/news/times-call-renewed-discussion-equal-opportunity-diversity-and-inclusion-united-states>.

⁵⁹ Garrett Shea, “Diversity & Inclusion,” National Aeronautics and Space Administration, August 8, 2018, <http://www.nasa.gov/offices/odeo/diversity-and-inclusion>.

⁶⁰ Shea.

⁶¹ Shea.

same between 2016 and 2015. Within the study period, while women demonstrated a more significant increase in workforce diversity, only 22 percent served in senior positions, with a stark underrepresentation of African American women. Compared to men of color, white males constitute at least 36.1 percent of the nation's labor force as of 2016.⁶² Abby Corrington and colleagues propose that to achieve diversity in federal institutions, the state needs to create equal opportunity for people despite gender, race, and other demographic factors that differentiate them from other individuals.⁶³ They emphasize that all people should be given equal opportunities to apply for jobs in federal institutions and be vetted based on their academic level, qualifications, and other key qualifying aspects.⁶⁴

3. Solutions to Diversity Issues

Effectively managing diversity in institutions is central to their sustainability. Urbancová, Hudáková, and Faicikova assert managers who manage diversity well have the capacity to improve productivity and performance of the institution.⁶⁵ The current literature outlines several strategies for managing diversity in organizations.

First, Amin et al. suggest conducting a targeted recruitment strategy whereby employers recruit individuals from specific communities or individuals who have not been employed or are underrepresented in the labor force.⁶⁶ For example, organizations can target African Americans or Asian Americans for certain positions in the agency where they are underrepresented. Amin et al. warn that employees might view a targeted employment strategy as a form of affirmative action when minorities are offered jobs

⁶² Henry Inegbedion et al., "Managing Diversity for Organizational Efficiency," *SAGE Open* 10, no. 1 (January 2020), <https://doi.org/10.1177/2158244019900173>.

⁶³ Abby Corrington et al., "Diversity and Inclusion of Understudied Populations: A Call to Practitioners and Researchers," *Consulting Psychology Journal: Practice and Research* 72, no. 4 (December 2020): 303–23, <https://doi.org/10.1037/cpb0000188>.

⁶⁴ Corrington et al.

⁶⁵ Hana Urbancová, Monika Hudáková, and Adéla Fajčíková, "Diversity Management as a Tool of Sustainability of Competitive Advantage," *Sustainability* 12, no. 12 (2020): 1–16, <https://doi.org/10.3390/su12125020>.

⁶⁶ Emaan Amin et al., "Gender Disparity in Academic Radiology: Leaky Pipeline by Design or Default," *Canadian Journal of Physician Leadership* 7, no. 1 (2020), <https://doi.org/10.37964/cr24726>.

without having the requisite education or other qualifying factors.⁶⁷ However, the intention is to ensure that minorities are given opportunities to work in organizations and have access to resources that dominant cultures enjoy.

Second, Lim, Leong, and Suliman propose that organizations focus on job requirements rather than demographic factors and that recruitment panels represent diverse opinions in hiring decisions.⁶⁸ They maintain that the recruitment process should concentrate on experience and other factors related to the job, not on applicant demographics such as gender, age, race, and ethnicity.⁶⁹ Furthermore, Lim, Leong, and Suliman assert that an organization could manage diversity through affirmative action, promoting the employment of minorities in positions where they would not have otherwise been employed based on skill and experience level.⁷⁰ To achieve diversity, employers must purposively target groups of people for recruitment and set specific recruitment goals—not to be confused with quotas—with diversity in mind.

Third, Warwood posits that managers should define and create a diversity management plan in the workplace. The purpose of such a strategy is to monitor and manage diversity.⁷¹ A diversity management plan will inform managers and employees of the challenges facing the implementation of diversity, as well as the opportunities and corrective measures to be adopted in managing diversity. Researchers have also affirmed that an effective diversity management plan will help managers understand different factors that influence diversity and integrate them in the workplace—including an organizational culture used as a conduit to implement diversity management strategies.⁷²

⁶⁷ Amin et al.

⁶⁸ Travis Lim, Chan-Hoong Leong, and Farzaana Suliman, “Managing Singapore’s Residential Diversity through Ethnic Integration Policy,” *Equality, Diversity and Inclusion: An International Journal* 39, no. 2 (2019): 109–25, <https://doi.org/10.1108/edi-05-2019-0168>.

⁶⁹ Lim, Leong, and Suliman.

⁷⁰ Alex Warwood, “Philadelphia Water Department’s Effort to Make Diversity and Inclusion a Priority When Hiring Engineers,” *Journal of the American Water Works Association* 111, no. 12 (December 2019): 67–70, <https://doi.org/10.1002/awwa.1417>.

⁷¹ Warwood.

⁷² Lim, Leong, and Suliman.

4. Conclusion

The purpose of this literature review was to examine research on barriers to diversity and understand gaps that hinder diversity in the workplace. Despite a lack of diversity across the federal government and law enforcement, research indicates diversity is good for building trust. Important literature links the representation of different communities in law enforcement to trust issues within communities.⁷³ The American population comprises 39.6 percent ethnic and racial minorities and over 50 percent women.⁷⁴ However, the current preferential treatment within the federal government toward a given race is likely to curtail the process of realizing a diverse labor force. The federal government must reflect the drastic changes in the country's current workforce demographics.

C. RESEARCH DESIGN

This research addresses the problem of a lack of diversity within the FBI special agent workforce by examining the agency's recruitment, promotional policies and practices, history of discrimination, and culture. To answer the central research question of how can the FBI recruit a more diverse special agent workforce, this thesis employed Bardach and Patashnik's policy analysis framework: defining the problem, assembling evidence, constructing alternatives, selecting criteria, projecting outcomes, confronting trade-offs, making decisions, and sharing the results of the process.⁷⁵

As part of the framework, this thesis examines current FBI recruitment and hiring practices and internal and external factors that impact diverse recruitment, explores alternatives to fixing the diversity issues, and proposes solutions, with the goal of increasing gender and racial equity among the FBI's special agent workforce. After a thorough review, this thesis offers recommendations to increase the pool of diverse special agent candidates.

⁷³ Schuck, "Female Officers and Community Policing."

⁷⁴ Census Bureau, "QuickFacts: United States."

⁷⁵ Eugene Bardach and Eric M. Patashnik, *A Practical Guide for Policy Analysis: The Eightfold Path to More Effective Problem Solving*, 6th ed. (Washington, DC: CQ Press, 2020).

The research here relied heavily on information from the FBI's Office of Diversity and Inclusion; the FBI's external career website, FBIjobs.gov; various FBI policy guides; reports on diversity from the Department of Justice's Office of the Inspector General and the Office of Management and Budget; public sources of information from books, journal articles, and newspaper articles; and congressional testimony and reports.

D. CHAPTER OVERVIEW

Chapter II provides context for societal challenges that law enforcement agencies generally face and highlights the specific role of the FBI in these matters. In addition, it examines internal obstacles for the FBI including a history of discriminatory practices against women and minorities, a lack of transparency within the bureau's promotion process, and bias embedded within the bureau's culture. Chapter III discusses failed attempts by the federal government to promote diversity within its workforce, offering insight into the FBI's special agent application and recruitment process while highlighting specific challenges. Chapter IV details the FBI's initiatives to increase diversity such as the Diversity Agent Recruitment Program, diversity training and mentorship, and others. Finally, Chapter V applies recommendations from the Department of Defense's internal review of diversity to FBI recruitment and inclusion policies.

II. SOCIAL JUSTICE: LACK OF REPRESENTATION

In the past decade, the United States has seen increased public participation in social justice movements, seeking to reform the justice system and its relationship with the country's minorities. While some have focused on defunding the police, others have criticized the FBI for not providing justice in a fair and impartial manner for all American minorities.⁷⁶ Many minority communities still associate the FBI with its Counterintelligence Program of the 1960s, which targeted activists like Dr. Martin Luther King Jr. and Huey P. Newton, among others.⁷⁷ As a national justice institution, the FBI needs to examine and address such complaints.⁷⁸

This chapter highlights some notable incidents when the FBI and the Department of Justice (DOJ) at large ostensibly failed to provide justice for marginalized communities, thereby producing perceptions among the communities that makes it difficult to recruit a diverse special agent workforce. Such issues with recruitment then lead to the lack of representation reinforcing the complaints from the community. This chapter also examines both external and internal obstacles, illustrating that the lack of diversity raises the question of whether the FBI can be fair and impartial. Then, it focuses on internal practices that adversely affect minorities. Such internal and external allegations have affected the FBI's ability to recruit a more diverse special agent workforce.

A. EXTERNAL COMMUNITY CHALLENGES

The cases of Eric Garner in New York, Breonna Taylor in Kentucky, following that of George Floyd in Minnesota, illustrate why a lack of minority representation in law enforcement impacts relationships between officers and marginalized communities and,

⁷⁶ Jessica Schneider, "FBI Faces Its Own Racial Reckoning while Leading Probes into Police Shooting Deaths," CNN, June 10, 2021, <https://www.cnn.com/2021/06/09/politics/fbi-race-diversity-officer/index.html>.

⁷⁷ Select Committee to Study Governmental Operations with Respect to Intelligence Activities, *COINTELPRO: The FBI's Covert Action Programs against American Citizens* (Washington, DC: Senate, 1976), <https://www.hsdl.org/?view&did=479830>; "A Huey P. Newton Story: COINTELPRO," PBS, accessed August 27, 2021, https://www.pbs.org/hueypnewton/actions/actions_cointelpro.html.

⁷⁸ Schneider, "FBI Faces Its Own Racial Reckoning."

thus, diminishes the FBI's ability to recruit from that subset of the population. Recruiting minorities has always been difficult for law enforcement agencies due to poor relations with the communities served.⁷⁹

In 2014, Garner, a Black man, died after a white New York City police officer placed him in a banned chokehold. Although the events were caught on video, none of the officers involved in the incident were indicted. To the black community, the Garner acquittal reinforced their perceptions of a justice system that did not represent them.⁸⁰ As a result of the acquittal, Garner's mother—along with others such as Iris Baez and Constance Malcom, who also lost their sons to police interactions—joined New York Attorney General Leticia James in calling for grand jury reform and for the assignment of a special prosecutor in fatal police incidents involving an unarmed civilian.⁸¹

In 2020, Taylor, a black female emergency medical technician, became a symbol for police violence against minorities when she was killed by Louisville police officers who entered the wrong home while conducting a search for a suspect.⁸² The grand jury's failure to indict the officers involved led to outrage and protests in Louisville, Atlanta, Portland, Oregon, and other American cities.⁸³ The national media attention that Taylor's death received only furthered tensions between racial minorities and law enforcement.⁸⁴

⁷⁹ Ivan Pereira, "After George Floyd's Death, Police Confront Lack of Diversity in Leadership," ABC News, June 14, 2020, <https://abcnews.go.com/US/george-floyds-death-police-confront-lack-diversity-leadership/story?id=71172170>.

⁸⁰ Vanessa Romo, "NYPD Judge Recommends That the Officer Involved in Eric Garner's Death Be Fired," NPR, August 2, 2019, <https://www.npr.org/2019/08/02/747573379/nypd-judge-recommends-termination-for-officer-involved-in-eric-garners-death>.

⁸¹ Christina Carrega, "5 Years after Eric Garner's Death, a Look Back at the Case and the Movement It Sparked," ABC News, July 16, 2019, <https://abcnews.go.com/US/years-eric-garners-death-back-case-movement-sparked/story?id=63847094>.

⁸² Brakkton Booker and Rachel Treisman, "A Year after Breonna Taylor's Killing, Family Says There's 'No Accountability,'" NPR, March 13, 2021, <https://www.npr.org/2021/03/13/973983947/a-year-after-breonna-taylors-killing-family-says-theres-no-accountability>.

⁸³ Booker and Treisman.

⁸⁴ Marlene Lenthag, "Breonna Taylor's Death 1 Year Later: Activists and Lawmakers Still Fighting for Justice," ABC News, March 13, 2021, <https://abcnews.go.com/US/breonna-taylors-death-year-activists-lawmakers-fighting-justice/story?id=76340324>.

Also in 2020, George Floyd, whose death was captured in graphic details by a phone camera, drew attention to the lack of diversity in police departments across the country.⁸⁵ Derek Chauvin, a white officer, arrived on scene after receiving information that Floyd had allegedly used a counterfeit \$20 bill to purchase groceries at a neighborhood store.⁸⁶ After confronting Floyd, Chauvin used excessive force, kneeling on Floyd's neck for more than nine minutes until Floyd could no longer breathe and then died.⁸⁷ According to the Hispanic American Police Command Officers Association, "George Floyd's death damaged years of progress" officers made in building trust in minority communities.⁸⁸

These three cases are just a few examples of several deadly high-profile cases involving minority interactions with law enforcement that have led to mass protests, calls for police reform, and campaigns to diversify law enforcement agencies.⁸⁹ Though the cases involved police officers, the resulting negative perception has affected the entire law enforcement community and justice institutions.⁹⁰ As the federal government's lead investigative agency, the FBI has also faced scrutiny and sentiments of distrust from minority communities.⁹¹ Eric Jackson, retired FBI special agent in charge, stated the importance of "gaining trust in the long term from minority communities. If the community doesn't trust you, they're not going to bring their issues to you, they're not

⁸⁵ Frank Scandale, "Police Department Diversity Lags Badly across Mid-Atlantic Region, When You Can Get Data," *Journal News*, May 23, 2021, <https://www.lohud.com/in-depth/news/investigations/2021/05/24/diversity-police-departments-lag-new-york-new-jersey-delaware-pennsylvania-george-floyd/5143660001/>.

⁸⁶ John Felipe Acevedo, "Reclaiming Black Dignity," *Texas Law Review* 99 (2020), <https://texaslawreview.org/reclaiming-black-dignity/>; Tamara F. Lawson, "Awakening the American Jury: Did the Killing of George Floyd Alter Juror Deliberations Forever?," *Houston Law Review* 58, no. 4 (2021), <https://houstonlawreview.org/article/22271-awakening-the-american-jury-did-the-killing-of-george-floyd-alter-juror-deliberations-forever>.

⁸⁷ Acevedo, "Reclaiming Black Dignity"; Lawson, "Awakening the American Jury."

⁸⁸ Pereira, "Police Confront Lack of Diversity in Leadership."

⁸⁹ Lynne Peeples, "What the Data Say about Police Shootings," *Scientific American*, September 5, 2019, <https://www.scientificamerican.com/article/what-the-data-say-about-police-shootings/>.

⁹⁰ Nicholas Medeiros, "Obtaining a Career with the Federal Bureau of Investigations (FBI)" (Merrimack College, 2021), 27, https://scholarworks.merrimack.edu/cgi/viewcontent.cgi?article=1024&context=crm_studentpub.

⁹¹ Medeiros.

going to look at your motives as honorable.”⁹² New research indicates more diversity in law enforcement could lead to improvements in how minorities are treated.⁹³

As the lead investigative agency for potential civil rights and color-of-law violations, the FBI opened investigations into the deaths of Taylor, Garner, and Floyd to identify any violations under federal law. In 2014, after the Office of the District Attorney of Staten Island failed to obtain a grand jury indictment for Garner’s death, the DOJ announced a probe into the matter.⁹⁴ However, in July 2019, Attorney General William Barr announced there would be no charges against the officers involved and ordered the case dropped.⁹⁵ This announcement led to outcries of racial injustice by Garner’s family, New York Attorney General Letitia James, and New York City Mayor Bill de Blasio.⁹⁶ On April 26, 2021, the DOJ announced a probe into Taylor’s death at the hands of Louisville police officers.⁹⁷ Meanwhile, a Minneapolis jury found Chauvin guilty of murdering Floyd.⁹⁸ Following the trial, U.S. Attorney General Merrick Garland announced a DOJ civil rights investigation into the Minneapolis Police Department to determine whether it “engaged in a pattern or practice of unconstitutional . . . policing.”⁹⁹ In May 2021, the DOJ

⁹² Schneider, “FBI Faces Its Own Racial Reckoning.”

⁹³ Christine Fernando and Marion Renault, “Law Enforcement Diversity May Improve Policing, Study Shows,” AP News, February 11, 2021, <https://apnews.com/article/science-race-and-ethnicity-police-chicago-040a8188e26a355ead3a53b4bdbd920>.

⁹⁴ “Statement by Attorney General Holder on Federal Investigation into Death of Eric Garner,” Department of Justice, December 3, 2014, <https://www.justice.gov/opa/speech/statement-attorney-general-holder-federal-investigation-death-eric-garner>.

⁹⁵ Katie Benner, “Eric Garner’s Death Will Not Lead to Federal Charges for N.Y.P.D. Officer,” *New York Times*, July 16, 2019, <https://www.nytimes.com/2019/07/16/nyregion/eric-garner-case-death-daniel-pantaleo.html>.

⁹⁶ Bobby Allyn, “NYPD Officer Will Not Face Federal Criminal Charges in Eric Garner’s Death,” NPR, July 16, 2019, <https://www.npr.org/2019/07/16/742186042/nypd-officer-wont-face-federal-criminal-charges-in-eric-garner-s-death-sources-s>.

⁹⁷ Alana Wise, “DOJ to Investigate Louisville Police in Response to Death of Breonna Taylor,” NPR, April 26, 2021, <https://www.npr.org/2021/04/26/990935662/justice-dept-to-investigate-louisville-police-in-response-to-death-of-breonna-ta>.

⁹⁸ Tucker Higgins, “Former Police Officer Derek Chauvin Found Guilty of Murder, Manslaughter in the Death of George Floyd,” CNBC, April 20, 2021, <https://www.cnbc.com/2021/04/20/derek-chauvin-trial-verdict.html>.

⁹⁹ “Attorney General Merrick B. Garland Announces Investigation of the City of Minneapolis, Minnesota, and the Minneapolis Police Department,” Department of Justice, April 21, 2021, <https://www.justice.gov/opa/pr/attorney-general-merrick-b-garland-announces-investigation-city-minneapolis-minnesota-and>.

announced federal criminal charges against Chauvin for using excessive force and violating the rights of Floyd.¹⁰⁰

In the aftermath of Floyd's death, a review of police departments across the mid-Atlantic region revealed most law enforcement agencies have failed to diversify their ranks on par with the communities they serve.¹⁰¹ In Delaware, for example, law enforcement officials asserted they had a hard time attracting people of color to the profession.¹⁰² This has been the case with the FBI as well. Considering the FBI's internal diversity issues, several former agents have raised questions about the agency's ability to fairly investigate these police-involved killings and similar situations across the country.¹⁰³ To have credibility and bolster relationships with marginalized communities, the FBI should focus on creating a more diverse special agent workforce.¹⁰⁴

B. INTERNAL OBSTACLES TO MINORITY REPRESENTATION

In addition to the FBI's external relationship with the public, internal obstacles—including a history of discriminatory practices as revealed in lawsuits, actual and potential retribution against employees, subjective merit-based promotional practices, and a lack of cultural communication within the bureau—have hindered efforts to recruit people of color. Moreover, a lack of internal representation has added to the perception that the FBI does not represent minority communities despite attempts by the organization to address this problem.

¹⁰⁰ Carrie Johnson, "Justice Department Brings Federal Criminal Charges against Derek Chauvin," NPR, May 7, 2021, <https://www.npr.org/2021/05/07/994812144/justice-department-brings-federal-criminal-charges-against-derek-chauvin>.

¹⁰¹ Scandale, "Police Department Diversity Lags Badly."

¹⁰² Scandale.

¹⁰³ Pegues, Bast, and Kaplan, "FBI's Culture Is 'Not Conducive to Minorities.'"

¹⁰⁴ Schneider, "FBI Faces Its Own Racial Reckoning."

1. History of Discriminatory Practices

The FBI has acknowledged a public history of civil rights abuses, as illustrated with its Counterintelligence Program of the 1960s, which targeted activists like Dr. Martin Luther King Jr. and Huey P. Newton, among others.¹⁰⁵ In addition, the agency has also faced various allegations of racial and gender-based discrimination among its own special agent personnel, which have demonstrably diminished the FBI's ability to recruit a more diverse special agent workforce.¹⁰⁶ The following pages detail examples of class-action lawsuits filed against the FBI based on discriminatory practices that have undermined the institution's ability to foster a diverse workforce.

a. “*BADGE Settlement*”: *Black Agents’ Class-Action Suit*

Specific to black agents, the BADGE lawsuit in *Rochon v. FBI*, settled in 1993 between a group of black special agents and the FBI, illustrated that even after the Civil Rights Act of 1964 and affirmative action policies, discrimination persisted in the FBI's recruitment and selection practices.¹⁰⁷ After being employed with the FBI from January 1973 to May 1999, the plaintiff along with other black agents brought a class-action lawsuit to the U.S. District Court, alleging that their employer engaged in discriminatory practices.¹⁰⁸ In particular, the plaintiffs alleged white agents were more likely than their minority counterparts to be assigned to high-profile investigations and receive awards and promotions. An attorney for the agents asserted that the FBI condoned a system that “allowed people to be promoted based on who they knew and not how they did their job.”¹⁰⁹

¹⁰⁵ Select Committee to Study Governmental Operations with Respect to Intelligence Activities, *COINTELPRO: The FBI's Covert Action Programs against American Citizens* (Washington, DC: Senate, 1976), <https://www.hsdl.org/?view&did=479830>; “A Huey P. Newton Story: COINTELPRO,” PBS, accessed August 27, 2021, https://www.pbs.org/hueypnewton/actions/actions_cointelpro.html.

¹⁰⁶ Speri, “The FBI's Race Problems Are Getting Worse.”

¹⁰⁷ *Rochon v. FBI*, 691 F. Supp. 1548 (D.D.C. 1988), *Johnson v. Gonzales*, No. 04-1158 (RMU) (D.D.C. filed March 27, 2007).

¹⁰⁸ Lichtblau, “FBI Settles Black Agents’ Discrimination Lawsuit.”

¹⁰⁹ Lichtblau.

Settled in October 1993, the BADGE case required the FBI to change the way it selected its supervisors, the judge assigned an outside mediator to assess discrimination complaints, and that the FBI could not retaliate against the plaintiffs.¹¹⁰ However, the plaintiffs brought another lawsuit alleging retaliation by the FBI based on the preceding circumstances, claiming the FBI had created a hostile work environment.¹¹¹ While the class-action lawsuit ruled in favor of the plaintiffs, it provided additional evidence of discrimination within the FBI. In the mid-90s, African Americans made up approximately 5.3 percent of the special agent workforce.¹¹² Since the lawsuit, the proportion of African American special agents has hovered around 4.4 percent.¹¹³ This case, along with others, led to mistrust of the FBI by minority communities.

b. “Taco Circuit”: Hispanic Agents’ Class-Action Suit

While tensions between the FBI and its African American personnel are well recognized, Latinos have faced similar forms of discrimination while employed as FBI agents. Discriminatory practices against Latinos in the bureau date back to J. Edgar Hoover’s FBI, from 1935 to 1972.¹¹⁴ Under Hoover, the FBI engaged in some of its most egregious discriminatory and racist practices by relegating Latino agents to a “taco circuit,” which prevented their upward mobility in the bureau.¹¹⁵ Latino agents were assigned to lower-level tasks, such as translating and monitoring phone conversations, and were generally overlooked for promotions.¹¹⁶ Some agents were referred to as “lazy spics” by colleagues and told they looked “too ethnic” to represent the FBI.¹¹⁷ While the agents filed

¹¹⁰ Lichtblau.

¹¹¹ *Johnson*, No. 04-1158 (RMU).

¹¹² Speri, “The FBI’s Race Problems Are Getting Worse.”

¹¹³ Speri.

¹¹⁴ Robert García, “Latinos and Criminal Justice,” *Chicana/o-Latina/o Law Review* 14, no. 1 (1994): 12, <https://doi.org/10.5070/C7141021021>.

¹¹⁵ García, 12–13.

¹¹⁶ “Off the ‘Taco Circuit,’” *Washington Post*, May 11, 1989, <https://www.washingtonpost.com/archive/opinions/1989/05/11/off-the-taco-circuit/0b2ad56c-df04-435c-bf8c-76dab66d5960/>.

¹¹⁷ Raul Hernandez, “The ‘Taco Beat,’ the FBI and Ferguson,” *American Justice Notebook* (blog), April 7, 2015, <https://cjnotebook.com/the-taco-beat-the-fbi-and-ferguson/>.

and successfully won a class-action lawsuit in 1988, they were subjected to retaliation and other forms of discriminatory misconduct which illustrated ongoing issues in the organization.¹¹⁸ This case illustrates the systemic bias rooted in the FBI's history. According to the FBI's 2020 statistics, Latino agents account for only 6.5 percent—comprising 4.9 percent men and 1.6 percent women—of the special agent workforce, reflecting anti-Latin and an additional gender bias within the bureau.¹¹⁹ The latter has also led to gender legal ramifications for the FBI.

c. 2019 Women's Lawsuit

Bird v. Barr, a lawsuit filed in 2019 by 16 women employed by the FBI, demonstrates yet again how FBI recruitment and hiring practices reinforce gender discrimination and create a toxic organizational environment. Agents party to the lawsuit alleged they had first reported sexual harassment and inappropriate comments by male agents in 2015.¹²⁰ They also claimed training exercises appeared to favor successful outcomes for male recruits over female counterparts. For example, the women alleged a double standard in training whereby they were admonished for not following instructions carefully while their male counterparts received praise for similar decisions.¹²¹ Moreover, the plaintiffs in this lawsuit remained anonymous because they feared the organizational environment would become even more hostile.¹²² While the civil action is still pending, congressional leaders have asked the DOJ's Office of the Inspector General to investigate the allegations.¹²³

The FBI has not commented on the lawsuit but expressed future commitment to fostering a more inclusive work environment. A 2016 survey of all DOJ law enforcement components revealed 43 percent of female criminal investigator respondents believed they

¹¹⁸ Hernandez.

¹¹⁹ "Diversity at the FBI," Federal Bureau of Investigation, accessed July 31, 2021, <https://www.fbijobs.gov/working-at-FBI/diversity>.

¹²⁰ *Bird v. Barr*, No. 19-cv-1581 (D.D.C. filed July 3, 2019); Goldman, "Women Sue F.B.I."

¹²¹ Goldman.

¹²² Goldman.

¹²³ Barr, "Claims of Sex Discrimination at FBI Academy."

had experienced workplace discrimination at some point in the previous five years.¹²⁴ The lawsuit, along with the survey, is indicative of the barriers women face in the FBI and at the DOJ as criminal investigators. These barriers may impact the FBI's ability to recruit women. According to FBI statistics, in fiscal year 2018, 47 percent of FBI special agent applicants were minorities, and 26 percent were women.¹²⁵ In 2020, only about 20 percent of special agents were women.¹²⁶ Given the recentness of this lawsuit, its implications present opportunities to introduce more precise recruiting practices that support diversity and inclusion throughout the agency.

d. Summary

The three lawsuits discussed in this brief history of discrimination illustrate that recruitment issues caused by the bureau's internal struggle with diversity adds to the public's distrust of the FBI. The FBI's history also illustrates that anti-discrimination policies are often ineffective and that special agents who complain may face retaliation. Although retaliation against whistleblowers is illegal under federal employment law, the practice remains tied to traditional, largely stereotyped assumptions about racial minorities and women as inherently inferior and therefore, can be discounted.

Ironically, attempts to recruit more diverse special agents are further undermined by the FBI's history of gender and racial discrimination, which is embedded in the bureau's culture.¹²⁷ Such issues need to be addressed as research into community complaints repeatedly confirms that when community members perceive that law enforcement represents, understands, and treats them fairly, trust is enhanced and public confidence

¹²⁴ Department of Justice, Office of the Inspector General, *Review of Gender Equity in the Department's Law Enforcement Components*, Evaluation and Inspections Division 18-03 (Washington, DC: Department of Justice, 2018), <https://oig.justice.gov/reports/2018/e1803.pdf>.

¹²⁵ Aruna Viswanatha and Byron Tau, "FBI's Most Wanted: More Applicants for Special Agents," *Wall Street Journal*, February 24, 2019, <https://www.wsj.com/articles/fbis-most-wanted-more-applicants-for-special-agents-11551023975>.

¹²⁶ Callan Gray, "In Push to Diversify Force, FBI Works to Recruit Women to Become Special Agents," ABC News St. Paul, July 21, 2021, <https://kstp.com/news/in-push-to-diversify-force-fbi-works-to-recruit-women-to-become-special-agents/6179374/>.

¹²⁷ Schneider, "FBI Faces Its Own Racial Reckoning."

increased.¹²⁸ Lack of diverse representation in the FBI is a problem, and diversity is needed to enhance recruitment practices.¹²⁹

2. Merit-Based Promotions and Embedded Bias

Another internal issue that affects the recruitment of diverse special agents is the FBI's merit-based promotion system. On its surface, merit promotion system may appear impartial as it focuses on performance. However, in practice, the fact that hiring managers are allowed to use their discretion, allows them to manipulate promotional decisions to favor those they consider as their own community.¹³⁰ Sometimes referred to as the “good old boys club,” this system promotes agents based on personal relationships rather than the quality of their work.¹³¹ While agents enter at GL-10 on the law enforcement government pay scale, they can advance in a non-supervisory role to a GS-13 through routine non-competitive promotions.¹³² However, when seeking a promotion to a GS-14 supervisory role, agents must submit an application to a local career board, which reviews and compares applications.¹³³ The board decides “based on specified criteria” who should be selected. The selection is then validated by an FBI Headquarters career board based on the local career board's written recommendation and justification—but only members of the career board are privy to the decision-making process for each promotion.¹³⁴ Thus, the selection process can be problematic due to a lack of transparency.¹³⁵ A 2018 review of the

¹²⁸ “Procedural Justice,” National Initiative for Building Community Trust and Justice, 2016, <https://uploads.trustandjustice.org/misc/PJBrief.pdf>.

¹²⁹ James B. Comey, “Hard Truths: Law Enforcement and Race,” Federal Bureau of Investigation, February 12, 2015, <https://www.fbi.gov/news/speeches/hard-truths-law-enforcement-and-race>.

¹³⁰ “FBI Promotion System Hopelessly Corrupt,” Brick Agent Underground, accessed August 5, 2021, <http://brickagentunderground.com/menu>.

¹³¹ Julia Manchester, “Former FBI Agent: There Is a ‘Good Old Boys Club’ in Law Enforcement Agencies,” Hill, June 27, 2018, <https://thehill.com/hilltv/rising/394365-former-fbi-agent-there-is-a-good-old-boys-club-in-law-enforcement-agencies>.

¹³² “Special Agents: FAQs,” Federal Bureau of Investigation, accessed August 5, 2021, <https://www.fbijobs.gov/career-paths/special-agents/FAQs>.

¹³³ Richard D. Schwein Jr., “Transforming Leadership in the FBI: A Recommendation for Strategic Change” (master's thesis, Naval Postgraduate School, 2007), <https://www.hsdl.org/?view&did=471881>.

¹³⁴ Schwein.

¹³⁵ Schwein.

DOJ's law enforcement components by the Office of the Inspector General found numerous disparities among merit-based promotion selections and maintained that the biased and unfair practices had an impact on employees applying for promotions.¹³⁶

Interestingly, studies of merit-based recruitment and selection processes have found that civil service organizations are less prone to corruption when educational achievement or examination results are used to determine professional competency, as opposed to merit-based determinants involving individuals.¹³⁷ Researchers also note that few studies present valid empirical insight into merit-based promotions in law enforcement or account for the role merit-based promotions play in perpetuating discriminatory practices.¹³⁸ Despite these gaps, the merit-based system based on managerial decisions remains central to recruitment.

A 2009 U.S. Merit Systems Protection Board study found few disparities in how white and minority employees perceived minority workplace treatment across the federal government.¹³⁹ Nevertheless, the study revealed large discrepancies in how white and minority employees perceived the level of workplace discrimination.¹⁴⁰ This vast discrepancy in perception among racial groups influenced their ability to accept others' perspectives.¹⁴¹ Such difficulties in mutual understanding underscore the challenges in addressing the problem. However, attempts to address the lack of diversity among higher-ranking positions have not panned out. According to the Office of Personnel Management, white individuals held 79.5 percent of the FBI's top GS-scale positions in 2009 and 77.6

¹³⁶ Department of Justice, Office of the Inspector General, *Review of Gender Equity*.

¹³⁷ Department of Justice, Office of the Inspector General.

¹³⁸ Jan-Hinrik Meyer-Sahling, Kim Sass Mikkelsen, and Christian Schuster, "Civil Service Management and Corruption: What We Know and What We Don't Know," *Public Administration* 96, no. 2 (June 2018): 277, <https://doi.org/10.1111/padm.12404>.

¹³⁹ U.S. Merit Systems Protection Board, *Fair and Equitable Treatment: Progress Made and Challenges Remaining* (Washington, DC: U.S. Merit Systems Protection Board, 2009), https://www.mspb.gov/studies/studies/Fair_Equitable_Treatment_Progress_Made_and_Challenges_Remaining_472678.pdf.

¹⁴⁰ U.S. Merit Systems Protection Board.

¹⁴¹ U.S. Merit Systems Protection Board.

percent in 2019.¹⁴² Low promotion rates of minority group employees perpetuate the perception that women and racial minorities lack opportunities to achieve upward mobility in their careers as special agents—thus mirroring the perception of the FBI in communities.¹⁴³

While discrimination in the FBI’s promotional system may not be overt enough for senior leaders to address, the lack of diversity among higher-ranking personnel is evidence of systemic issues that need tackling to gain community trust. Practices such as merit-based promotions cannot address implicit racial biases among hiring managers; thus, these systems retain their discriminatory nature and continue to affect racial minorities and women disproportionately in law enforcement.¹⁴⁴ Given the lack of minorities in senior leadership roles at the FBI, hiring managers responsible for promotional career boards may have a limited understanding or awareness of the need for a diverse, inclusive workforce in fostering community relations.

In a 2020 CBS news interview, a minority cadre of former FBI agents discussed the demoralizing feeling of hitting the “glass ceiling,” a reference to their lack of career progression in the bureau.¹⁴⁵ The agents described the lack of diverse leadership within the FBI and the impact it had on recruiting a diverse workforce.¹⁴⁶ According to these former agents, the bureau’s predominately white leadership posed a problem in attracting a diverse

¹⁴² Courtney Bubl , “FBI Has Failed to Move the Needle on Diversity over the Past Decade, Despite Efforts of Recent Directors,” *Government Executive*, February 14, 2020, <https://www.govexec.com/workforce/2020/02/fbi-has-failed-move-needle-diversity-over-past-decade-despite-efforts-recent-directors/163127/>.

¹⁴³ Devin English et al., “Measuring Black Men’s Police-Based Discrimination Experiences: Development and Validation of the Police and Law Enforcement (PLE) Scale,” *Cultural Diversity and Ethnic Minority Management* 23, no. 2 (April 2017): 195, <https://doi.org/10.1037/cdp0000137>; Ngozi Cale Kamalu, “African Americans and Racial Profiling by U.S. Law Enforcement: An Analysis of Police Traffic Stops and Searches of Motorists in Nebraska, 2002–2007,” *African Journal of Criminology and Justice Studies* 9, no. 1 (May 2016): 189, https://www.umes.edu/uploadedFiles/_WEBSITES/AJCJS/Content/VOL9.%20KAMALU%20%20FINAL.pdf.

¹⁴⁴ Jalila Jefferson-Bullock and Jelani Jefferson Exum, “That Is Enough Punishment: Situating Defunding the Police within Antiracist Sentencing Reform,” *Fordham Urban Law Journal* 48, no. 3 (2021): 639, <https://ir.lawnet.fordham.edu/ulj/vol48/iss3/1>; Equal Employment Opportunity Commission, *Advancing Diversity in Law Enforcement*.

¹⁴⁵ Pegues, Bast, and Kaplan, “FBI’s Culture Is ‘Not Conducive to Minorities.’”

¹⁴⁶ Pegues, Bast, and Kaplan.

workforce. Their complaints go to the heart of the issue—that only through understanding the importance of diverse perspectives does law enforcement gain community trust. Moreover, the agents discussed the lack of accountability in the development and promotion of diverse employees.¹⁴⁷ In the FBI, a lack of transparency in the hiring process creates the perception that hiring managers can select whomever they choose while giving the appearance the individual was selected based on established criteria.¹⁴⁸ The perception that personnel decisions are made based on “who you know” instead of actual merit can impede efforts to increase the representation of women and minorities.¹⁴⁹ Such perceptions may discourage qualified applicants from applying for promotions or career-enhancing activities.¹⁵⁰

In addition to merit-based promotion policies, a lack of cultural communication diminishes the FBI’s ability to recruit a more diverse workforce. When the topic of diversity is raised in discussions with leadership from around the bureau, comments about “lowering standards” or “not wanting to change the culture” are brought up in response, which illustrate that the idea of adding diversity to the FBI workforce is seen as lowering standards. Such comments reflect an understanding of the importance of diversity.¹⁵¹

The FBI has a formal policy that advances diversity and inclusion both at field offices and at FBI Headquarters in Washington, DC; however, it is largely unknown where the resistance to these policies may lie.¹⁵² The relationship between compliance of the agency’s rules and commitment to diversity appears faulty when that commitment is not evidenced in recruitment and promotional practices or results.¹⁵³ Within the FBI, some may question whether diversity and inclusion initiatives promote fairness. Indeed, social,

¹⁴⁷ Pegues, Bast, and Kaplan.

¹⁴⁸ Schwein, “Transforming Leadership in the FBI.”

¹⁴⁹ Department of Justice, Office of the Inspector General, *Review of Gender Equity*.

¹⁵⁰ Department of Justice, Office of the Inspector General.

¹⁵¹ Pegues, Bast, and Kaplan, “FBI’s Culture Is ‘Not Conducive to Minorities.’”

¹⁵² Federal Bureau of Investigation, “Diversity at the FBI.”

¹⁵³ Iveta Cherneva, “The FBI’s Diversity Problem,” Crime Report, February 10, 2021, <https://thecrime.report.org/2021/02/10/the-fbis-diversity-problem/>.

political, and cultural factors influence perceptions of organizational fairness.¹⁵⁴ For example, individuals involved in the hiring and recruitment process may draw from utilitarian norms in assuming the FBI already confers equal benefits to individuals from underrepresented or marginalized populations. Arguments in favor of diversity assert that diversity and inclusion should be treated as a business necessity instead of an ethical imperative.¹⁵⁵ However, increasing diversity in numerical figures alone does not improve organizational effectiveness.¹⁵⁶ Organizational effectiveness will increase when marginalized communities feel represented and can trust the FBI's actions.

Strained employee relations, a perceived lack of trust, the application process, clearance requirements, and fitness assessments all represent hiring challenges that FBI human resource (HR) officials must address. Regarding the first challenge, the complex relationship between diversity and organizational effectiveness is one that researchers identify as producing inconsistent empirical evidence of the outcomes of diversity and inclusion initiatives.¹⁵⁷ When HR managers consider contextual factors like organizational culture and demographic characteristics that influence hiring decisions, they also appear more likely to support diversity and inclusion initiatives.¹⁵⁸ Researchers note the hiring challenges associated with contextual factors produce short-term consequences that shape long-term outcomes for organizations.¹⁵⁹ More specific to employee relations, how employees perceive other employees of differing gender and ethnicity has an impact on hiring decisions and overall organizational performance, which may not align with agency goals.¹⁶⁰

¹⁵⁴ Cherneva.

¹⁵⁵ Robin J. Ely and David A. Thomas, "Getting Serious about Diversity: Enough Already with the Business Case," *Harvard Business Review*, November 1, 2020, <https://hbr.org/2020/11/getting-serious-about-diversity-enough-already-with-the-business-case>.

¹⁵⁶ Ely and Thomas.

¹⁵⁷ Sungjoo Choi and Hal G. Rainey, "Managing Diversity in U.S. Federal Agencies: Effects of Diversity and Diversity Management on Employee Perceptions of Organizational Performance," *Public Administration Review* 70, no. 1 (December 2009): 109, <https://doi.org/10.1111/j.1540-6210.2009.02115.x>.

¹⁵⁸ Choi and Rainey.

¹⁵⁹ Choi and Rainey, 110.

¹⁶⁰ Choi and Rainey.

Instead, problems such as integration, coordination, motivation, and conflict management shape whether HR managers select the best possible candidates when the internal environment becomes increasingly heterogeneous.¹⁶¹ The same problems also reinforce assumptions that heterogeneous groups of employees feel disinclined to practice groupthink, as diversity suggests cooperation yet might not support collaboration when personality clashes between individual employees become apparent.¹⁶² Despite the commonly held assumptions that collaborative organizational environments serve broader institutional aims, these environments may reinforce stereotypes and social dominance hierarchies. Notably, law enforcement tends to have a higher social-dominance orientation, which reflects ideological biases yet remains congruent with socialization processes.¹⁶³ While diversity and inclusion initiatives aim to promote unity through social cohesion, their implementation currently reinforces hiring challenges when differences in academic training and professional experience make the organizational environment more heterogeneous.

Along the same line, challenges related to a lack of trust indicate that recruitment and selection decisions made by HR managers should reinforce broader perceptions of the FBI as a fair, impartial public service agency. Considering that the FBI strives to maintain public safety and increase public confidence in policing, its reputation also depends on whether HR managers foster collaboration through hiring practices geared toward increasing diversity and promoting inclusion.¹⁶⁴ However, decreased public trust in law enforcement makes it difficult for hiring decisions to reflect what HR managers believe

¹⁶¹ Choi and Rainey, 111.

¹⁶² Choi and Rainey, "Managing Diversity in U.S. Federal Agencies," 111; David A. Hyman and William Kovacic, "Why Who Does What Matters: Governmental Design and Agency Performance," *George Washington Law Review* 82, no. 5 (October 2014): 1503, http://www.gwlr.org/wp-content/uploads/2014/12/Kovacic_82_5_redacted.pdf.

¹⁶³ John F. Decker, "Police Sensitivity and Responsiveness to Minority Community Needs: A Critical Assessment," *Valparaiso University Law Review* 12, no. 3 (Spring 1978): 480–81, <https://scholar.valpo.edu/vulr/vol12/iss3/2>; Alison V. Hall, Erika V. Hall, and Jamie L. Perry, "Black and Blue: Exploring Racial Bias and Law Enforcement in the Killings of Unarmed Black Male Civilians," *American Psychologist* 71, no. 3 (2016): 179.

¹⁶⁴ Michael Outram et al., "Law Enforcement Leadership for a Changing World," *Journal of Futures Studies* 18, no. 4 (June 2014): 97, <https://jfsdigital.org/wp-content/uploads/2014/06/Report1-Outram.pdf>.

about the underlying values of diversity and inclusion.¹⁶⁵ The context established here indicates that hiring challenges will remain virtually impossible to overcome if the organization's recruitment and hiring representatives have not bought into the leadership's vision for a diverse workforce.¹⁶⁶ Furthermore, while external factors like statements made by politicians and public sentiment regarding law enforcement as a community may impact FBI recruitment, the bureau must address internal, systemic failures that impede the special agent application process.¹⁶⁷

Law enforcement as a profession is often attractive to individuals with a high social-dominance orientation, reinforcing hierarchical interactions with others.¹⁶⁸ HR managers believe that by recruiting and selecting candidates to fulfill organizational duties of protecting and serving the public, such candidates will maintain traditional practices.¹⁶⁹ In 2018, former FBI Special Agent Michael German asserted, "The FBI is a very conformist organization. So, anybody who publicly criticizes the FBI is ostracized from the wider FBI fraternity—and I say fraternity because it is still almost all male, as well as almost all white."¹⁷⁰ The FBI is still considered by some a para-military organization and maintains a traditional organizational structure dominated by white men with military and law enforcement experience.¹⁷¹ Law enforcement officers tend to have a higher social-dominance orientation that reflects ideological biases yet remains congruent with socialization processes.¹⁷² Law enforcement work remains typified by a vast power

¹⁶⁵ Outram et al., 98.

¹⁶⁶ Brian J. O'Leary and Bart L. Washington, "Beyond the Business Case for Diversity in Organizations," *Employee Responsibilities and Rights* 18, no. 4 (December 2006): 288.

¹⁶⁷ Sanders, "The FBI Has a Serious Diversity Problem."

¹⁶⁸ Felicia Pratto, Jim Sidanius, and Shana Levin, "Social Dominance Theory and the Dynamics of Intergroup Relations: Taking Stock and Looking Forward," *European Review of Social Psychology* 17 (2006): 271–320.

¹⁶⁹ Hall, Hall, and Perry, "Black and Blue," 179.

¹⁷⁰ Bubl , "FBI Has Failed to Move the Needle on Diversity."

¹⁷¹ John Drabble, *COINTELPRO-WHITE HATE, the FBI, and the Cold War Political Consensus* (Berkeley: University of California, 1997).

¹⁷² Decker, "Police Sensitivity and Responsiveness," 480–81; Hall, Hall, and Perry, "Black and Blue," 179.

distance between internal rankings, thus allowing officers to exert authority.¹⁷³ In this context, fostering diversity and inclusion remains difficult when structural factors reward behaviors that reinforce traditional assumptions about the status of racial minorities and women.¹⁷⁴

C. CONCLUSION

In summary, while external factors pose challenges to diverse recruitment, the FBI must address the numerous internal factors—the promotional system, the good old boys club, the lack of transparency, and the perception of disparate treatment along racial and gender lines—to change its demographics. Unless the bureau confronts these internal barriers, recruitment of minorities will remain problematic and qualified special agents may be dissuaded from even applying for promotions, thus contributing to minority communities’ not feeling represented by the FBI’s upper echelon.

¹⁷³ Hall, Hall, and Perry, “Black and Blue,” 179.

¹⁷⁴ Hall, Hall, and Perry, 4.

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III. LAWS, POLICIES, AND INITIATIVES: PARTIAL EFFORTS TO PROMOTE DIVERSITY

The FBI has historically faced challenges related to hiring and retaining a workforce that reflects the diversity of America. This chapter provides an overview of select laws, policies, and government initiatives by examining previous incomplete efforts across the federal government to promote workforce diversity. As a result of laws such as the Civil Rights Act of 1964, advancing diversity and inclusion in law enforcement means that HR managers must grant applicants equal employment opportunities in recruitment and selection practices. In this current context, this chapter then examines the overall status of diverse recruitment in U.S. law enforcement, the FBI's recruitment process, and the bureau's challenges in recruitment and hiring.

A. CIVIL RIGHTS ACT OF 1964

A watershed moment in American political and legal history, the Civil Rights Act (CRA) of 1964, banned discrimination in the workplace based on race, color, religion, sex, and national origin.¹⁷⁵ When Congress protected employment civil rights in Title VII of the CRA, it effectively granted the public more opportunities to pursue a sustainable economic livelihood.¹⁷⁶ Title VII banned discrimination and provided the impetus for employers to follow affirmative action policies specifically impacting African Americans.¹⁷⁷

The original CRA text appears to be comprehensive, yet President Lyndon B. Johnson declared that providing all Americans with an equal opportunity was not enough.¹⁷⁸ President Johnson believed that if employers continued to hire based on ability

¹⁷⁵ Juliet R. Aiken, Elizabeth D. Salmon, and Paul Hanges, "The Origins and Legacy of the Civil Rights Act of 1964," *Journal of Business and Psychology* 28, no. 4 (December 2013): 383, <https://www.jstor.org/stable/24709875>.

¹⁷⁶ John D. Skrentny, "Have We Moved beyond the Civil Rights Revolution?" *Yale Law Journal* 123, no. 8 (June 2014): 3006.

¹⁷⁷ Skrentny, 3007.

¹⁷⁸ Raymond Rodriguez, "Affirmative Action in Law Enforcement Agencies," *Illinois Law Enforcement Executive Forum* 2, no. 2 (2002): 172.

but were prohibited from discriminating, the result would be greater equality and diversity. Once the Johnson administration strengthened the CRA through Executive Orders (EOs) 11246 and 11375—eliminating discriminatory barriers in the hiring of government contractors—it ensured further that racial minorities and women could achieve progress through expanded employment opportunities in other areas.¹⁷⁹ The EO 11246 served to protect the rights of African Americans and other racial minorities from employment discrimination, and the EO 11375 specifically extended civil rights protections to women employed by the federal government.¹⁸⁰

Since the late 1960s and early 1970s, women have held a steadily increasing number of positions in state and federal government.¹⁸¹ However, the federal government’s focus on achieving gender equality may have diverted attention away from the needs of racial minorities.¹⁸² Primarily because of this shift in awareness, new efforts toward protecting the rights of racial minorities were necessary to improve their opportunities for employment in the federal government. One such effort was affirmative action.

Affirmative action policies imply that employers must ignore prospective employees’ racial and other immutable traits when reviewing applications.¹⁸³ Since the *Brown v. Board of Education* decision banned racial segregation in public schools, many employers began relying on government definitions to define racial categories.¹⁸⁴ Title VII does not require employers to practice affirmative action but suggests that organizations achieve hiring quotas for underrepresented groups. Furthermore, the Equal Employment Opportunity Commission’s interpretation and enforcement of Title VII forbids

¹⁷⁹ Aiken, Salmon, and Hanges, “Origins and Legacy of the Civil Rights Act,” 388–89.

¹⁸⁰ Aiken, Salmon, and Hanges, 392.

¹⁸¹ Mitra Toossi and Teresa L. Morisi, *Women in the Workforce before, during, and after the Great Recession* (Washington, DC: Bureau of Labor Statistics, 2017), 20, <https://www.bls.gov/spotlight/2017/women-in-the-workforce-before-during-and-after-the-great-recession/pdf/women-in-the-workforce-before-during-and-after-the-great-recession.pdf>.

¹⁸² Toossi and Morisi.

¹⁸³ Toossi and Morisi.

¹⁸⁴ *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954); Skrentny, “Beyond the Civil Rights Revolution,” 3008–9.

discrimination along multiple lines.¹⁸⁵ Since affirmative action policies became federal law, their impact has remained tied to ensuring that employers serve the needs of legally protected groups and overriding an extensive history of racial and gender discrimination.

The 1970s saw headway in protecting the employment rights of racial minorities and women. The Equal Employment Opportunity Act (EEOA) of 1972, which remains in effect today, requires state and local governments with at least 15 employees to keep administrative records of employees representing specific racial groups.¹⁸⁶ EEOA assisted in helping to hold government officials accountable for diverse representation throughout their workforce. Also in 1972, President Richard Nixon granted women opportunities to work in the Secret Service, the Drug Enforcement Administration, and the Bureau of Alcohol, Tobacco, and Firearms through EO 11478. Furthermore, law enforcement agencies with more than 100 employees are legally required to complete the State and Local Government Report, or EEO-4, detailing the number of female and male employees from diverse racial and ethnic groups according to departmental function, job function, and salary category.¹⁸⁷

All state and local governments with 15 or more employees must publish accurate employee demographic data in compliance with Title 18, Section 1001, of the *U.S. Code* or face considerable fines and risk imprisonment.¹⁸⁸ According to this data, the impacts of Title VII and EEOA between 1973 and 2005 were such that police departments reported significant reduction in racial representation gaps for African American officers.¹⁸⁹ However, while EEOA undoubtedly had positive impacts on employment for African Americans, it produced negligible effects in hiring rates for women.¹⁹⁰

¹⁸⁵ Epstein, “The Civil Rights Juggernaut,” 202.

¹⁸⁶ Amalia R. Miller and Carmit Segal, “Does Temporary Affirmative Action Produce Persistent Effects? A Study of Black and Female Employment in Law Enforcement,” *Review of Economics and Statistics* 94, no. 2 (2012): 1109.

¹⁸⁷ Miller and Segal.

¹⁸⁸ Miller and Segal.

¹⁸⁹ Miller and Segal, 1117.

¹⁹⁰ Miller and Segal.

To further address disparities within the federal workforce, on May 15, 2002, President George W. Bush signed the Notification and Federal Employee Anti-discrimination and Retaliation (No FEAR) Act into law; the act mandates that federal agencies release quarterly statements containing statistical data related to EEO issues and any complaints from employees about discrimination.¹⁹¹ The No FEAR Act also requires federal agencies to notify employees of their rights to anti-discrimination and whistleblower protections under federal law. In doing so, the act ensures that HR managers receive training on managing a diverse workforce.¹⁹² The training recommendations extend to conflict resolution and improving communication skills when managing and observing misconduct. Federal agencies are also required to produce annual reports detailing the status and progress of their workplace diversity initiatives to Congress, the attorney general, and the Equal Employment Opportunity Commission.

B. EXECUTIVE ORDER 13583

When Barack Obama signed EO 13583 into law in 2011, he instituted a government-wide Diversity and Inclusion Strategic Plan that required diversity in workplace organizations and coordinated resources with the federal government.¹⁹³ Following the executive order, the Office of Personnel Management (OPM) designed a strategic plan encouraging federal agencies to promote diversity and inclusion.¹⁹⁴ The OPM plan includes a broad definition of diversity that expands Title VII legislation to include disability, sexual orientation, gender identity, socioeconomic status, and family structure.¹⁹⁵ Diversity also encompasses differences between the lived experiences of

¹⁹¹ Choi and Rainey, “Managing Diversity in U.S. Federal Agencies,” 118.

¹⁹² Choi and Rainey.

¹⁹³ Anastacia Kurylo, “Stereotyping the Field: The Case for Disentangling Interpersonal and Inter/Cultural Communication,” *Atlantic Journal of Communication* 25, no. 4 (August 2017): 236, <https://doi.org/10.1080/15456870.2017.1350681>; Norma M. Riccucci and Greg G. Van Ryzin, “Representative Bureaucracy: A Lever to Enhance Social Equity, Coproduction, and Democracy,” *Public Administration Review* 77, no. 1 (January/February 2017): 24, <https://doi.org/10.1111/puar.12649>.

¹⁹⁴ Lynn M. Shore, Jeanette N. Cleveland, and Diana Sanchez, “Inclusive Workplaces: A Review and Model,” *Human Resource Management Review* 28, no. 2 (July 2017): 177, <https://doi.org/10.1016/j.hrmr.2017.07.003>.

¹⁹⁵ Shore, Cleveland, and Sanchez, 177–78.

employees in accordance with academic treatments of the concept.¹⁹⁶ The OPM defines inclusion as an organizational culture in which employees collaborate, achieve fairness, and promote equal participation.¹⁹⁷ Therefore, agencies complying with EO 13583 encourage employees to feel accepted at work as anti-discrimination laws expand. In doing so, they mitigate the risk of institutional failure when political controversies emerge.

The EO suggests further that policing culture in federal law enforcement change to reflect community interests. Specifically, EO 13583 impacts how HR managers recruit, select, promote, and retain federal agents while delivering professional development and training opportunities.¹⁹⁸ HR managers complying with this federal law must also recognize which best practices remain consistent with merit-based principles and current anti-discrimination law.¹⁹⁹ While EO 13583 solidifies how agencies like the FBI must remove barriers to employment for racial minorities and women, it incentivizes all federal employers to clarify definitions of diversity and inclusion, thus informing decision-making frameworks used in recruiting and selecting applicants.²⁰⁰ Nevertheless, more scholarly research on the impacts of EO 13583 is needed.

In signing EO 13822 into federal law on January 9, 2018, President Donald Trump solidified the rights of military veterans, perhaps at the expense of equal opportunity for minorities.²⁰¹ The EO enlisted the secretary of defense, the secretary of veterans affairs, and the secretary of homeland security to design a Joint Action Plan to secure mental health and suicide prevention resources for veterans returning from overseas deployments.²⁰² Notably, even though both EO 13583 and EO 13822 are often described as bolstering

¹⁹⁶ Shore, Cleveland, and Sanchez, 178.

¹⁹⁷ Shore, Cleveland, and Sanchez.

¹⁹⁸ Helen H. Yu and David Lee, "Gender and Public Organization: A Quasi-Experimental Examination of Inclusion on Experiencing and Reporting Wrongful Behavior in the Workplace," *Public Personnel Management* 49, no. 1 (2020): 18, <https://doi.org/10.1177/0091026019836196>.

¹⁹⁹ Yu and Lee.

²⁰⁰ Girvin L. Liggans et al., "Diversity and Inclusion Efforts in Federal Agencies: A Context for Exploring Perceptions of Military Veterans," *Journal of Veterans Studies* 3, no. 1 (June 2018): 141, <https://doi.org/10.21061/jvs.48>.

²⁰¹ Liggans et al., 142.

²⁰² Liggans et al.

diversity and inclusion in the workforce, the latter refers solely to veterans. Furthermore, while these EOs and the strategic plans that followed support the needs of federal employees, they do not indicate how HR managers have changed recruitment and selection practices.²⁰³ The steps taken by President Obama to promote inclusion—not to mention the impacts of President Trump’s veteran policy—demand further research to gauge whether they have achieved their intended outcomes.²⁰⁴ Such an initiative could inform the FBI’s resolution to institute successful recruitment and hiring practices to close disparities that disproportionately affect marginalized groups.

C. ADVANCING DIVERSITY IN LAW ENFORCEMENT

The case for advancing diversity in federal law enforcement reflects changes made to recruitment and hiring practices by HR managers. Nevertheless, ongoing racial divisions among employees of different ethnicities confirm that simply hiring a diverse workforce to comply with legal requirements is insufficient.²⁰⁵ HR managers may hire racial minorities as “tokens” to demonstrate organizational commitments to diversity, but such efforts do not ensure that racial minorities and women receive adequate representation and acquire leadership positions in the law enforcement workforce.²⁰⁶ While diversity initiatives aim to buffer the impacts of discrimination, they rarely dismantle racial and other social hierarchies that preserve the dominant political ideology.²⁰⁷ Accordingly, some HR managers may institute policies designed to reduce inequality while reinforcing disparities between employees who represent different social groups. Others may actively defend a position that hiring applicants on demographic features alone will imperil the organization.²⁰⁸ However, basing hiring decisions solely on race or gender encourages HR

²⁰³ Michael T. Zugelder, “Toward Equal Rights for LGBT Employees: Legal and Managerial Implications for Employers,” *Ohio Northern University Law Review* 43, no. 1 (2019): 201.

²⁰⁴ Epstein, “The Civil Rights Juggernaut.”

²⁰⁵ O’Leary and Washington, “Beyond the Business Case for Diversity,” 288.

²⁰⁶ O’Leary and Washington.

²⁰⁷ Frank W. Munger and Carroll Seron, “Race, Law, and Inequality, 50 Years after the Civil Rights Era,” *Annual Review of Law and Science* 13 (October 2017): 335, <https://doi.org/10.1146/annurev-lawsocsci-110316-113452>.

²⁰⁸ Epstein, “The Civil Rights Juggernaut,” 1544.

managers to circumvent affirmative action policies and disregard whether applicants can meet the requirements of each stage of the recruitment process.

Notwithstanding that many police departments have ethnic minorities and women in leadership positions and offer programs to improve race relations, their ability to place diversity and inclusion at the center of hiring practices depends mostly on how those practices are interpreted by newly recruited applicants.²⁰⁹ Research has suggested that having more diversity in law enforcement agencies can serve as a catalyst for reform.²¹⁰ By hiring more diverse employees, law enforcement agencies can be more introspective about potential problems within their departments.

Still, diversity in law enforcement remains a contentious issue given accusations that racial and gender biases influence hiring decisions—and despite evidence that recruitment and hiring practices have confronted such biases head-on.²¹¹ The ongoing lack of representation suggests differently. A lack of diversity might be the product of implicit rather than explicit bias in hiring. As HR managers receive implicit bias training, officers increase the likelihood of holding themselves and colleagues accountable for inequitable policies and practices.²¹² Moreover, greater representation of racial minorities in law enforcement produces a “transformative effect” in officers and communities.²¹³ Law enforcement officers are often the public face of the government for a town or community, so a community that feels represented by these government representatives are more likely to trust the officials.²¹⁴

While the presence of diversity and inclusion affinity groups in federal agencies encourages law enforcement officers to feel valued, racial equity remains challenging to implement when law enforcement agencies continue to be white male-dominated

²⁰⁹ Epstein, 1566.

²¹⁰ Equal Employment Opportunity Commission, *Advancing Diversity in Law Enforcement*.

²¹¹ Epstein, “The Civil Rights Juggernaut,” 1544.

²¹² Riccucci and Van Ryzin, “Representative Bureaucracy.”

²¹³ Riccucci and Van Ryzin, 23.

²¹⁴ Equal Employment Opportunity Commission, *Advancing Diversity in Law Enforcement*.

organizations.²¹⁵ Indeed, researchers note diversity and inclusion efforts in federal law enforcement agencies mainly benefit military veterans. Hiring practices that allow special considerations for veterans have resulted in this demographic occupying 31.1 percent of federal positions.²¹⁶ The more service members who return from deployment, the greater the proportion of veterans who seek civilian employment in the federal workforce.²¹⁷ Although federal agencies and police departments provide military veterans with employment opportunities, their hiring preference do not achieve justice and equality when most candidates are white men.²¹⁸

HR managers at federal law enforcement agencies and police departments may believe they are applying best practices, but the impacts of hiring and recruitment policies on the career advancement, retention, and turnover of racial and gender minorities profoundly shape organizational performance.²¹⁹ Regardless of how strongly federal law enforcement agencies institute diversity and inclusion initiatives, there are many ethical and legal dilemmas to resolve before ensuring that racial minorities and women feel respected for their service. Given that federal agencies seek candidates to meet the needs of communities, they also face challenges in representing the needs of racial minorities and women employed as special agents.

Hiring practices concerning racial and gender representation in law enforcement reflect observable changes to police departments starting in the 1990s, when HR managers hired minority and female officers. The FBI reported that by 1999, the percentage of female officers had increased by 19 percent, based on data collected from 15,000 agencies across the United States.²²⁰ However, the representation of minority female officers was

²¹⁵ Yu and Lee, “Gender and Public Organization,” 4.

²¹⁶ Liggans et al., “Context for Exploring Perceptions of Military Veterans,” 139.

²¹⁷ Liggans et al.

²¹⁸ Liggans et al.

²¹⁹ Kurylo, “Stereotyping the Field,” 236.

²²⁰ Jihong “Solomon” Zhao, Ni He, and Nicholas P. Lovrich, “Pursuing Gender Diversity in Police Organizations in the 1990s: A Longitudinal Analysis of Factors Associated with the Hiring of Female Officers,” *Police Quarterly* 9, no. 4 (2006): 463–64, <https://doi.org/10.1177/1098611105277210>.

concentrated mainly in major metropolitan areas.²²¹ While population-level factors influence hiring practices in police departments, they also control other variables that determine the impacts of workplace diversity initiatives.²²²

Even though police departments and federal agencies must comply with affirmative action policies and federal and state anti-discrimination laws, they have yet to implement long-term strategic efforts for hiring, recruiting, promoting, and retaining minorities and women in law enforcement.²²³ The progress of workplace diversity initiatives remains painstakingly slow even as white women receive more representation.²²⁴ Suffice it to say, given the relative lack of progress in this area, federal law enforcement agencies have vast work to do in recruiting a more diverse workforce. Moreover, resolving diversity and inclusion dilemmas will require federal law enforcement agencies to consider the impacts of laws enacted by the Executive Branch of government.

D. THE FBI’S RECRUITMENT AND HIRING CHALLENGE

From the late 1980s to mid-1990s, a hiring surge and focus on minority recruitment increased the ethnic and racial diversity of the FBI’s workforce.²²⁵ However, in recent years, minority retirement has outpaced minority hiring, resulting in overall workforce diversity declining to percentages well below those of the civilian labor force. Specifically, the FBI has a significant gap in the diversity of the special agent workforce although increasing diversity has been a priority at the FBI for over a decade.²²⁶ In 2019, the DOJ’s Office of the Inspector General issued a report acknowledging that “fostering a diverse, highly skilled workforce” was a top management challenge for the FBI and other DOJ

²²¹ Zhao, 466.

²²² Zhao.

²²³ Riccucci and Van Ryzin, “Representative Bureaucracy,” 24.

²²⁴ Riccucci and Van Ryzin.

²²⁵ Bruce Taylor et al., *Cop Crunch: Identifying Strategies for Dealing with the Recruiting and Hiring Crisis in Law Enforcement* (Washington, DC: Police Executive Research Forum, 2006), <https://www.ojp.gov/pdffiles1/nij/grants/213800.pdf>.

²²⁶ Bubl , “FBI Has Failed to Move the Needle on Diversity.”

components.²²⁷ Despite past efforts, the FBI's workforce composition has largely remained the same.²²⁸ Considering how the FBI prohibited women from becoming special agents until the early 1970s, its compliance with EO 13583 today suggests that past recruitment and hiring practices may have reinforced negative stereotypes of applicants who represented marginalized populations.²²⁹

In 2016, former FBI Director James Comey recognized the FBI's special agent workforce was becoming more homogeneous, despite the U.S population becoming more diverse.²³⁰ Minority special agents had dropped from 18.9 percent in 2006 to 17.9 percent in 2016.²³¹ As a result, Director Comey charged the FBI's Human Resources Division with fixing the issue. An internal study revealed the FBI's diversity hiring process had several issues with outmoded processes and attitudes, a lack of planning, and limited access to recruitment data.²³² The review also found that women and people of color were more likely to drop out of the application process before completing the first phase.²³³

Today, the FBI has approximately 35,000 employees spread across 56 field offices, FBI Headquarters in Washington, DC, and around the world at legal attachés. Approximately 13,500 of those employees are FBI special agents.²³⁴ In 2020, 79.1 percent of special agents were male, and 20.9 percent were female—a slight improvement from

²²⁷ Michael E. Horowitz, *Semiannual Report to Congress: April 1, 2019–September 30, 2019* (Washington, DC: Department of Justice, Office of the Inspector General, 2019), <https://www.oversight.gov/sites/default/files/oig-sa-reports/1911.pdf>.

²²⁸ Bubl , "FBI Has Failed to Move the Needle on Diversity."

²²⁹ Kali deVarenese, "Consider the Source: The Media's Coverage of Female FBI Agents in the 1970s," *Forum: Journal of History* 12, no. 1 (2020): 88, <https://digitalcommons.calpoly.edu/forum/vol12/iss1/10>.

²³⁰ Samantha McLaren, "How the FBI Overhauled Its Hiring Process to Improve Diversity and Create a Better Candidate Experience," *LinkedIn Talent Blog*, November 4, 2019, <https://business.linkedin.com/talent-solutions/blog/talent-connect/2019/how-fbi-overhauled-hiring-process-to-improve-diversity-and-candidate-experience>.

²³¹ McLaren.

²³² McLaren.

²³³ McLaren.

²³⁴ Erin Duffin, "Number of Federal Bureau of Investigation Employees in the United States in 2019, by Role and Gender," Statista, October 2, 2020, <https://www.statista.com/statistics/745497/number-of-fbi-employees-by-gender/>.

2010, when 79.6 percent were male and 18.8 percent were female.²³⁵ The proportion of ethnic minorities as special agents also increased slightly, from 17 percent in 2010 to 18.4 percent in 2020 (see Figure 1).²³⁶

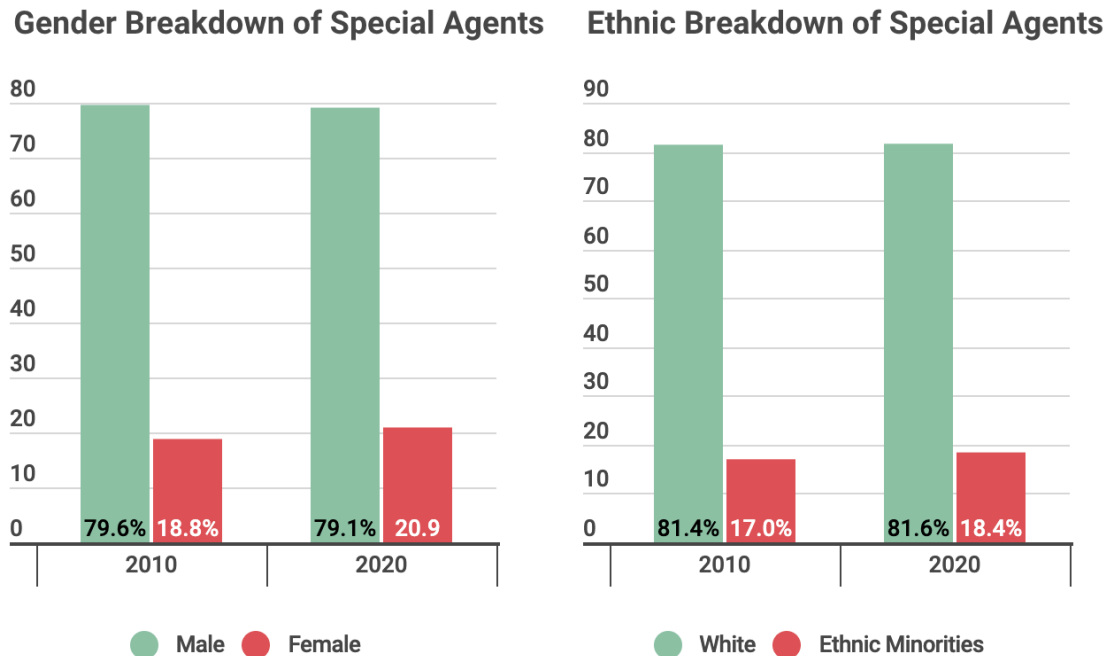


Figure 1. Gender and Ethnic Breakdown of Special Agents from 2010 to 2020²³⁷

E. THE FBI’S SPECIAL AGENT APPLICATION PROCESS

The FBI’s special agent application process is notoriously lengthy and complicated. However, in 2019, the FBI received 32,000 applications for 900 special agent trainee slots at the FBI Academy.²³⁸ The FBI’s website lays out the intensive process, which begins with submission of an application including a resume, school transcripts, and other forms.

²³⁵ Duffin.

²³⁶ Duffin.

²³⁷ Source: Bubl , “FBI Has Failed to Move the Needle on Diversity.”

²³⁸ Pete Williams, “FBI Agent Applications up Sharply, along with Job Satisfaction,” NBC News, August 15, 2019, <https://www.nbcnews.com/news/us-news/fbi-agent-applications-sharply-along-job-satisfaction-n1042981>.

If the applicant is competitive, the applicant is invited to take the Phase I test. This three-hour computer-based assessment gauges the applicant's logic-based reasoning, figural reasoning, personality, preferences and interests, and situational judgement.²³⁹ If the applicant passes the exam, he or she must complete additional application requirements and pass a special agent physical fitness test (PFT) self-evaluation. Next, applicants may be invited to a meet-and-greet session at their processing field office, where an evaluator may conduct in-person interviews and validate the information in the applications. The applicants' information may then be assessed for competitiveness to move to Phase II. On average, it takes 23 weeks to transition from Phase I to Phase II.²⁴⁰

In Phase II, the candidate must go through a writing assessment and structured panel interview by three special agents.²⁴¹ After passing Phase II, applicants have only 14 days to pass a PFT proctored by trained FBI personnel. Finally, applicants who pass Phase II and the PFT receive a conditional appointment offer. Applicants must still complete medical requirements, a background investigation, and polygraph examination. On average, candidate background investigations take six months, but they can take upwards of 18 months based on where the applicant has previously lived, worked, and traveled.²⁴² After meeting all these requirements, an applicant is considered eligible for the Basic Field Training Course at the FBI Academy in Quantico, Virginia.²⁴³ The course lasts approximately 19 weeks, and after completing it, applicants are considered FBI special agents.²⁴⁴

F. CONCLUSION

Despite the extent of the FBI's recruitment and hiring practices, a lack of trust and awareness from underrepresented communities may be contributing to the bureau's hiring

²³⁹ "Application Process," Federal Bureau of Investigation, accessed July 24, 2021, <https://fbijobs.gov/career-paths/special-agents/application-process>.

²⁴⁰ Federal Bureau of Investigation.

²⁴¹ Federal Bureau of Investigation.

²⁴² Federal Bureau of Investigation.

²⁴³ Federal Bureau of Investigation.

²⁴⁴ Federal Bureau of Investigation.

challenges. The FBI must recognize these barriers and tailor its strategies to counter the impact on recruiting from minority communities. The case for advancing women and racial minorities in law enforcement is clear. The FBI must do more than the status quo in order to have a substantial impact on attracting a more diverse special agent candidate pool.

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IV. FBI'S PROMOTION OF WORKFORCE DIVERSITY

In recent years, the FBI has taken various steps to improve diversity across the entire FBI workforce and the special agent ranks which may be moving the needle, albeit slowly. In May 2021, the FBI appointed its first chief diversity officer and issued a press release touting FBI Director Christopher Wray's selection of the most diverse executive leadership team in the bureau's history.²⁴⁵ The executive assistant director's appointments consisted of an Asian American woman to oversee the Human Resources Branch and two African American men to each oversee the Intelligence Branch and the Criminal, Cyber, Response, and Services Branch, respectively.²⁴⁶ Furthermore, according to the OPM, minority representation among the FBI workforce as a whole improved over the past five years, increasing from about 24.4 percent in 2016 to approximately 25.8 percent in 2021.²⁴⁷ The FBI received recognition for its efforts; in 2020 and 2021, the FBI was named a top employer by DiversityJobs.²⁴⁸ In 2020, *Woman Engineer* magazine and *Equal Opportunity Magazine* both listed the FBI among the top 20 government employers based on the bureau's efforts to increase diversity and equality in its workforce.²⁴⁹

While these appointments and recognitions are noteworthy, the FBI still has a long way to go in achieving diversity among the special agents ranks on par with American society. According to the FBI's latest diversity statistics, 6.5 percent of special agents are Hispanic or Latino, 4.4 percent are black or African American, and 4.5 percent are Asian.²⁵⁰ To further address the FBI's diversity gaps in recruitment, the bureau has focused on several hiring initiatives, including the Diversity Agent Recruitment (DAR) Program,

²⁴⁵ Stephanie Pagones, "FBI Director Wray Appoints Agency's First-Ever Chief Diversity Officer," Fox News, April 21, 2021, <https://www.foxnews.com/us/fbi-first-chief-diversity-officer-scott-mcmillion>; "FBI Leadership: New Executives Reflect FBI's Push for Diversity," Federal Bureau of Investigation, May 12, 2021, <https://www.fbi.gov/news/stories/new-executives-reflect-fbis-push-for-diversity-051221>.

²⁴⁶ Federal Bureau of Investigation, "New Executives Reflect FBI's Push for Diversity."

²⁴⁷ Schneider, "FBI Faces Its Own Racial Reckoning."

²⁴⁸ "Top Diversity Employers 2021," DiversityJobs, accessed July 31, 2021, <https://www.diversityjobs.com/top-employers/>.

²⁴⁹ Federal Bureau of Investigation, "Diversity at the FBI."

²⁵⁰ Federal Bureau of Investigation.

the Collegiate Hiring Initiative, and the Honors Internship Program. The FBI also focuses on special emphasis groups under its Office of Diversity and Inclusion. This chapter analyzes the viability of these initiatives and special emphasis programs. Overall, a review of these programs reveals there is a lack of scholarly research on the impact these initiatives and programs have on diversifying the special agent workforce.

A. DIVERSITY AGENT RECRUITMENT PROGRAM

Through the DAR Program, the FBI holds invitation-only events around the country aimed at attracting skilled and diverse talent.²⁵¹ However, there is lack of transparency on what specific criteria leads to an invitation. Again, this impacts who can apply. At the events, applicants can speak with recruiters, participate in small-group sessions with agents, and engage in live question-and-answer sessions with special agents from various branches of the FBI.²⁵²

Academic research on the impact of DAR events is severely lacking. However, Debra Evans-Smith—former FBI deputy assistant director of counterintelligence and member of the President’s Commission on Diversity and Inclusion at Indiana University of Pennsylvania—views DAR as a positive example of a diversity initiative.²⁵³ To fully determine the value proposition of DAR, the FBI would have to aggregate statistics to determine how many special agent applications resulted from DAR events. At this time, metrics surrounding DAR are not available to the public. Given the challenges associated with successfully recruiting and selecting qualified applicants, the DAR Program is one area that could benefit from more in-depth research.

²⁵¹ Federal Bureau of Investigation.

²⁵² Federal Bureau of Investigation.

²⁵³ “Diversity Panel Preview: Debra Evans-Smith ’81,” Indiana University of Pennsylvania, November 24, 2020, <https://www.iup.edu/news-events/news/2020/11/diversity-panel-preview-debra-evans-smith-81.html>.



Figure 2. Online Campaign for the FBI's DAR Program²⁵⁴

B. COLLEGIATE HIRING INITIATIVE

Along the same lines, the FBI's Collegiate Hiring Initiative promotes recruitment of fourth-year undergraduate students and those with advanced degrees by individual field offices; see Figure 3.²⁵⁵ The Collegiate Hiring Initiative is a direct pipeline to diverse students who may have an interest in the FBI and in ultimately becoming FBI special agents. Similarly, the FBI uses this approach with minority-serving institutions with diverse populations, including indigenous people, Latinos, Asian Pacific Islanders, and those of Middle Eastern descent.²⁵⁶

²⁵⁴ Source: "Diversity Agent Recruitment Program," Federal Bureau of Investigation, accessed August 2, 2021, <https://www.fbijobs.gov/career-paths/special-agents/diversity-agent-recruitment-program>.

²⁵⁵ "Beginning a Career with the FBI," Federal Bureau of Investigation, accessed May 13, 2021, <https://www.fbijobs.gov/students/undergrad>.

²⁵⁶ "HLAA Newsletter," Harvard Latino Alumni Alliance, accessed August 8, 2021, <https://harvardlatino.sigs.harvard.edu/article.html?aid=191>; "Diversifying the FBI: Beacon Project Connects FBI, Historically Black Colleges and Universities," Federal Bureau of Investigation, September 7, 2021, <https://www.fbi.gov/news/stories/beacon-project-connects-fbi-and-hbcus-090721>.

Recent graduates from an accredited college or university often participate in this program to explore possible career paths in the FBI, the federal government, or the private sector.²⁵⁷ Career paths outlined in the Collegiate Hiring Initiative include computer scientists, data analysts, digital operations specialists, electronics technicians, general information-technology specialists or forensic examiners, budget analysts, security specialists, HR specialists, and management and program analysts. The computer scientist career path invites applicants to acquire skills in developing and implementing tools, techniques, and procedures in conducting investigations.²⁵⁸ As interns and new hires following this career path learn how to analyze and preserve digital evidence in virtual environments, they strengthen creativity and engineering skills that impact the FBI's institutional mission.

Unfortunately, scholarly research into the College Hiring Initiative is not available, leaving open questions such as does the lack of diversity in college shape the college recruitment? This needs to be studied more and should receive more attention in future studies. Here, the implications for promoting diversity and inclusion among special agents reflect the FBI's need to build working partnerships with local agencies, private-sector companies, and academic institutions.

²⁵⁷ "Grad Students," Federal Bureau of Investigation, accessed August 8, 2021, <https://www.fbijobs.gov/students/grad-students>.

²⁵⁸ Federal Bureau of Investigation.



Figure 3. Example of Marketing for the FBI’s Collegiate Hiring Initiative²⁵⁹

C. FBI HONORS INTERNSHIP

The Honors Internship Program is yet another FBI program designed to support diversity and inclusion in hiring practices. It promises opportunities to find diverse special agents. While most Honors interns receive assignments to work in FBI field offices, some work at FBI Headquarters in Washington, DC; the FBI Academy in Quantico, Virginia; or

²⁵⁹ Source: “Collegiate Hiring Initiative, FBI,” University of Hawaii, West Oahu, accessed August 2, 2021, <https://westoahu.hawaii.edu/career/collegiate-hiring-initiative-fbi-2/>.

the Criminal Justice Information Services' Division in Clarksburg, West Virginia.²⁶⁰ Given the competitive nature of this program, representatives affiliated with each field office are responsible for recruiting the best possible talent and conducting interviews.²⁶¹

Field offices typically review internship applicants for academic achievement, study interests, life and work experience, and organizational needs.²⁶² Eligibility requirements state that all interns must demonstrate proof of U.S. citizenship, attend an accredited college or university, have an official full-time student enrollment status, maintain good academic standing with a grade point average of 3.0 or higher, pass a background check, and receive a security clearance.²⁶³

In 2018, the FBI selected 700 interns for the program out of 15,000 applications.²⁶⁴ The interest in this program is crucial to the FBI's diversity efforts as the FBI needs approximately 16,000 special agent applicants for a healthy pool of candidates to fill 900 agent openings per year.²⁶⁵ In 2016, the FBI received only 12,000 special agent applications, which was a sharp decline from previous years.²⁶⁶ A downward trend in the FBI's applicant pool negatively affects the bureau's ability to select a more diverse workforce. The assumption is that interest in the FBI's Honors Internship Program will lead to more applicants for special agent positions.²⁶⁷

²⁶⁰ "FBI Honors Internship Program," American Psychological Association, 2008, <https://www.apa.org/about/awards/fbi-honorsint?tab=1>.

²⁶¹ Federal Bureau of Investigation, "Honors Interns."

²⁶² American Psychological Association, "FBI Honors Internship Program."

²⁶³ American Psychological Association.

²⁶⁴ Federal Bureau of Investigation, "Honors Interns."

²⁶⁵ Viswanatha and Tau, "FBI's Most Wanted."

²⁶⁶ Viswanatha and Tau.

²⁶⁷ Federal Bureau of Investigation, "Honors Interns."



Figure 4. Introduction to the FBI's Honors Internship Program²⁶⁸

D. THE FBI OFFICE OF DIVERSITY AND INCLUSION

The FBI's Office of Diversity and Inclusion (ODI) emerged in response to Section 3 of EO 13583, which requires that all federal agencies institute strategic diversity and inclusion plans into organizational structures. The ODI supports the FBI's Diversity Advisory Committees (DACs): American Indian/Alaska Native Advisory Committee, Asian Pacific American Advisory Committee, Black Affairs Diversity Committee, Hispanic Advisory Board, Bureau Equality Advisory Committee, Near and Middle East Advisory Committee, Veterans Affairs Committee, and Woman's Advisory Committee.²⁶⁹

The FBI's DACs encourage employee engagement on diversity and inclusion programs and participate in commemorative events and cultural awareness activities.²⁷⁰

²⁶⁸ Source: "Honors Interns: 10-Week Summer Program Offers Working Introduction to the FBI," Federal Bureau of Investigation, June 11, 2018, <https://www.fbi.gov/news/stories/10-week-summer-program-offers-working-introduction-to-the-fbi-061118>.

²⁶⁹ Federal Bureau of Investigation, "Diversity at the FBI."

²⁷⁰ Department of Justice, Office of the Inspector General, *Review of Gender Equity*.

The ODI supports DACs with members addressing specific issues that impact cultural, ethnic, and racial minorities employed by the FBI. The Diversity Executive Council, a group of 19 executives, serves as the “executive champions” for the FBI’s diversity committees.²⁷¹ In 2016, the council raised concerns about the lack of women in leadership at the FBI, which resulted in a study that found few women were being selected for SES special agent promotions. The study further revealed that the disparity in selections was due not to a shortage of applicants but to potential bias.²⁷²

Despite the extent to which EO 13583 has shaped the ODI’s development, its impacts on the FBI’s diversity and inclusion programs remain largely absent from the current research literature.²⁷³ However, monthly internal reports providing demographic information on the racial and ethnic composition of special agents offer insight into the effectiveness of the ODI’s efforts. Statistics provided by the ODI account not only for special agents but also for FBI intelligence analysts and all other employees, referred to as professional staff members. The ODI also produces quarterly internal reports documenting the number of recruitment events that target applicants from marginalized or underrepresented groups.

While the ODI’s internal reports are not publicly available, the OPM underscored that the percentage of African American employees at the FBI has declined over the past five years. According to the OPM, the percentage of African American employees at the FBI dropped from 12 percent in 2016 to 10.7 percent in 2021.²⁷⁴ Nevertheless, in fiscal year 2021, minorities made up 47 percent of applicants.²⁷⁵ Additionally, over the past six years, the percentage of African American agents at the FBI Academy doubled from 4 percent in 2014 to 8 percent in 2020.²⁷⁶

²⁷¹ Department of Justice, Office of the Inspector General.

²⁷² Department of Justice, Office of the Inspector General.

²⁷³ Yu and Lee, “Gender and Public Organization,” 3–4.

²⁷⁴ Schneider, “FBI Faces Its Own Racial Reckoning.”

²⁷⁵ Schneider.

²⁷⁶ Bubl , “FBI Has Failed to Move the Needle on Diversity.”

Because these reports are internally produced, only FBI employees with access to the ODI intranet page may retrieve the information.²⁷⁷ While the quarterly reports are commendable and they suggest that the FBI is moving in the right direction, arguably more changes and statistical data are needed to show the value proposition for all the FBI's diversity recruitment initiatives.

E. DIVERSITY TRAINING AND MENTORSHIP

On April 30, 2010, the DOJ issued its Diversity Management Plan, which mandated diversity training for all supervisors and managers to provide them with tools to enhance their effectiveness.²⁷⁸ Moreover, this plan has vast implications for developing effective strategies to promote inclusion.²⁷⁹ However, in September 2020, President Trump issued an executive order banning all diversity and inclusion training at federal agencies.²⁸⁰ As such, the FBI paused any further diversity and implicit bias training. On January 20, 2021, President Biden reversed President Trump's ban on diversity training, but due to the COVID-19 pandemic, in-person FBI training has been limited.²⁸¹

As a result of a 2016 analysis of the FBI's SES workforce, which highlighted insufficient representation of minorities and women in the FBI workforce, the FBI launched the Cross-Cultural Mentorship (CCMS) Program in 2017.²⁸² The CCMS was implemented to mitigate and increase the pipeline of female and minority candidates for SES positions within the FBI.²⁸³ The CCMS Program encourages senior leaders and

²⁷⁷ Bubl .

²⁷⁸ "Diversity," United States Attorney's Office, Southern District of Iowa, April 18, 2019, <https://www.justice.gov/usao-sdia/diversity>.

²⁷⁹ United States Attorney's Office, Southern District of Iowa.

²⁸⁰ Paul Kiernan and Andrew Restuccia, "All Federal Agencies Told to Suspend Diversity Training Programs," *Wall Street Journal*, October 4, 2020, <https://www.wsj.com/articles/all-federal-agencies-told-to-suspend-diversity-training-programs-11601812800>.

²⁸¹ Jessie Bur, "Biden Overrides Trump Orders on Diversity Training," *Federal Times*, January 20, 2021, <https://www.federaltimes.com/management/hr/2021/01/21/biden-overrides-trump-orders-on-diversity-training/>.

²⁸² Department of Justice, Office of the Inspector General, *Review of Gender Equity*.

²⁸³ Kristy N. Kamarck, *Diversity, Inclusion, and Equal Opportunity in the Armed Services: Background and Issues for Congress*, CRS Report No. R44321 (Washington, DC: Congressional Research Service, 2016), <https://www.hsdl.org/?abstract&did=794203>.

executives to engage in cross-cultural mentoring of minorities and women who are often not part of the informal networks or mentoring relationships that help advance careers.²⁸⁴ As of March 2018, 92 percent of the FBI's SES employees were serving as mentors, despite the FBI's goal of having 100 percent SES participation.²⁸⁵

F. CONCLUSION

In summary, the FBI has taken incremental steps to boost the diversity of its special agent workforce by utilizing DAR, the Collegiate Hiring Initiative, the Honors Internship Program, and affinity groups under the ODI. The FBI can expand these programs to create brand ambassadors and maintain a pipeline of already-vetted individuals who have shown an interest in the bureau. The FBI's CCMS Program and diversity training initiatives are important steps in bridging the gap between employees from differing backgrounds.

As the premier law enforcement agency in the world, the FBI must lead the charge in successfully building a diverse and inclusive workforce that mirrors the communities it serves—not solely to check the box of being a diverse employer but also to genuinely connect with the American public and build trust in communities where trust has been lost.

²⁸⁴ Office of Intelligence Community Diversity, Equity, and Inclusion, *Annual Demographic Report Fiscal Year 2020: Hiring and Retention of Minorities, Women, and Persons with Disabilities in the United States Intelligence Community* (Washington, DC: Office of the Director of National Intelligence, 2021), https://www.dni.gov/files/EEOD/documents/IC_Annual_Demographic_Report.pdf.

²⁸⁵ Department of Justice, Office of the Inspector General, *Review of Gender Equity*.

V. RECOMMENDATIONS AND CONCLUDING COMMENTS

Across the federal government, many agencies face similar challenges in building and sustaining a workforce that represents the racial diversity of society. This thesis has illustrated that diversity is essential for increasing legitimacy with the communities these agencies serve. Federal leaders have attempted to address these issues, launching numerous programs, initiatives, and policies to enable greater diversity and a more inclusive work environment.²⁸⁶ In the last decade, the FBI has made progress in recruiting a more diverse special agent workforce. This progress is illustrated by some improvements in qualitative measures, such as the appointment of the first ever Chief Diversity Officer and the executive assistant director's 2021 appointments of the most diverse leadership team in FBI history. Yet, the FBI still has to address some deep-rooted internal issues in order to effectively represent minority communities. The research identifies some barriers within the FBI that prevent recruiting a more diverse workforce.

External factors, such as ongoing racial tension between minorities and the law enforcement community and public perception of the FBI, have contributed to distrust of the agency, which adversely impacts its ability to recruit a more diverse special agent workforce. Additionally, internal factors that affect the FBI's diversity efforts include its history of discriminatory practices, actual and potential retribution against employees, a lack of transparency in the merit-based promotion process, and a lack of cultural communication. Notably, the bureau cannot erase its known history of discrimination against minorities nor the public's perception from such societal events as the deaths of Eric Garner, George Floyd, and Breonna Taylor.

As racial minorities and women remain underrepresented despite all previous efforts and progress over the last few decades, simply recommending that the FBI improve its strategies to recruit a more diverse special agent workforce is not enough. Subsequently, chapter examines the Department of Defense's policies and practices related to diversity in recruitment and its criteria for evaluating success and then offers four recommendations

²⁸⁶ Equal Employment Opportunity Commission, *Advancing Diversity in Law Enforcement*.

for the FBI to increase diversity in the special agent workforce: develop a national recruitment strategy; foster strategic partnerships to increase the special agent candidate pool; develop and utilize data analytics tools to drive diversity targets/benchmarks; and engage a third party to review and evaluate the FBI's special agent selection process and develop an action plan to make necessary improvements.

A. THE EXAMPLE OF THE DEPARTMENT OF DEFENSE

The FBI shares many similarities with the DOD in mission sets and hierarchical command structure.²⁸⁷ According to the FBI, to carry out its mission to “protect the American people and uphold the Constitution of the United States,” the FBI needs people from “different backgrounds, experiences, and perspectives.”²⁸⁸ Similarly, the Department of Defense (DOD) aims to attract men and women who represent a variety of races, ethnicities, and other attributes to defend the nation and its interests.²⁸⁹ Additionally, along with prior law enforcement, military veterans make up a substantial portion of the FBI's workforce.²⁹⁰ Given its similarity to and relationship with the DOD, the FBI could benefit from implementing some recruitment initiatives similar to those in the defense institution.

In June 2020, noting issues of bias and prejudice affecting minority service members, Secretary of Defense Mark T. Esper sought to adopt a wholistic approach to improving diversity at the DOD.²⁹¹ Using the following three-pronged approach, the DOD conducted a review of its policies, programs, and practices:

1. Identification of immediate actions that can be implemented to support a more diverse and inclusive force.
2. Establishment of a Department of Defense Board on Diversity and Inclusion tasked with identifying additional actions related to D&I [diversity and inclusion] policies and process.

²⁸⁷ “FBI Phoenix Honors Veterans while Providing Opportunity,” Federal Bureau of Investigation, November 10, 2020, <https://www.fbi.gov/contact-us/field-offices/phoenix/news/press-releases/fbi-phoenix-honors-veterans-while-providing-opportunity>.

²⁸⁸ Federal Bureau of Investigation, “Diversity at the FBI.”

²⁸⁹ Department of Defense, *Department of Defense Board on Diversity and Inclusion Report: Recommendations to Improve Racial and Ethnic Diversity and Inclusion in the U.S. Military* (Washington, DC: Department of Defense, 2020), <https://www.hsdl.org/?view&did=848947>.

²⁹⁰ Federal Bureau of Investigation.

²⁹¹ Department of Defense, *Diversity and Inclusion Report*.

3. Founding of an independent federal advisory committee, the Defense Advisory Committee on Diversity and Inclusion, to provide autonomous, continuous review and assessment of the military's action in the mission area.²⁹²

Additionally, the board reviewed industry best practices for diversity and inclusion, pertinent data, and direct feedback from service members. As a result, the board consolidated 70 recommendations from multiple sources into 52.²⁹³ Each recommendation was assessed according to the following three criteria: feasibility for successful implementation, legal barriers to implementation across the DOD, and relevance to the board's mission and focus area.²⁹⁴ The board's recommendations fell into the following six categories: 1) recruitment and accessions, 2) retention, 3) barriers, 4) career development, 5) organizational climate, and 6) culture, worldview, and identity.²⁹⁵

The board's recommendations concerning recruitment and accessions offer insights for the FBI's recruitment process. The DOD states that the purpose of this category is to strengthen ties with the community and recruit more diverse candidates by changing the narrative about the military.²⁹⁶ Its four recommendations under this category include "updat[ing] recruitment content to represent all service members . . . develop[ing] and publish[ing] a data-driven accessions and retention strategy . . . increas[ing] the pool of qualified ROTC enrollment, scholarship, and commission applicants from minority serving institutions . . . [and] remov[ing] aptitude test barriers that adversely impact diversity."²⁹⁷ A detailed report of the DoD's findings is set to be released sometime in 2021.²⁹⁸ Even though there is not a complete set of data regarding the applicability of these measures, they are still a useful basis in formulating recommendations for the FBI.

²⁹² Department of Defense.

²⁹³ Department of Defense.

²⁹⁴ Department of Defense.

²⁹⁵ Department of Defense.

²⁹⁶ Department of Defense.

²⁹⁷ Department of Defense, ix.

²⁹⁸ Department of Defense.

B. RECOMMENDATIONS

Using a modified version of the DOD’s assessment criteria—and considering their relevance to the FBI’s mission of creating a more diverse workforce, feasibility for successful implementation, and legal barriers to implementation across the FBI enterprise—this chapter offers the following recommendations.

1. Develop a Written Nationwide Recruitment Strategy

a. Relevance

This recommendation is directly related to the FBI’s diverse recruitment goal as it aims to set recruitment standards for its 56 field offices. Currently, the FBI does not have a written bureau-wide recruitment plan. Instead, it sets national recruiting priorities, which are inadequate in providing guidance to field offices.²⁹⁹ A written strategy will help hold officials accountable for recruitment processes and decisions by adding more transparency to the process and providing consistency across the FBI’s field offices and more credibility to the FBI. While every geographic area varies in population, the size of universities, and other important variables related to recruitment, having an overarching strategy guides field offices in allocating time and resources to achieve the FBI’s overall recruitment goals.

b. Feasibility

Implementing a written national recruitment strategy should be feasible given that each FBI field office already submits a written recruitment plan for FBI Headquarters’ review. While some offices may balk at having to edit their recruitment plans, others may appreciate having less administrative burden.

c. Legal Barriers

There are no foreseeable legal barriers to creating a written recruitment strategy. The Drug Enforcement Administration, another sub-component of the DOJ, has an agency-wide recruitment strategy that includes targeted recruitment events for women and minority groups.

²⁹⁹ Department of Justice, Office of the Inspector General, *Review of Gender Equity*.

2. Foster Strategic Partnerships to Increase the Pool of Qualified Special Agent Applicants

a. Relevance

The FBI should establish strategic diversity recruitment programs by investing in relationships with target universities and diverse organizations. In addition to current recruitment programs, the FBI should focus on employee referral programs and alumni outreach to foster relationships with underrepresented groups such as women and minorities. The FBI could also leverage its Honors interns to serve as liaisons between the bureau and schools to increase knowledge about its programs. This will help build trust in the community and potentially forge relationships with diverse candidates.

b. Feasibility

This recommendation is feasible. The FBI would have to dedicate specific resources within the ODI to focus on creating and maintaining strategic partnerships.

c. Legal Barriers

There are no foreseeable legal barriers to implementation because the FBI already has strategic partnerships with universities and private entities for information-sharing purposes. The focus of these relationships can now include diverse recruitment.

3. Develop and Utilize Data Analytics Tools to Drive Diversity Targets/Benchmarks

a. Relevance

To bring about a more diverse special agent workforce, the FBI must use data to drive leadership decisions on diversity initiatives and recruitment benchmarks/targets, particularly historical hiring information to identify predictors of candidate success in the FBI hiring process. The FBI must also evaluate its employees' awareness, understanding, and buy-in of a diverse and inclusive environment.

b. Feasibility

The FBI must invest in the appropriate software to capture more statistical data. The bureau already uses statistical data to drive innovation on various projects and report statistical accomplishments to the DOJ and Congress. The implementation of this recommendation is long overdue.

c. Legal Barriers

Ethnicity and gender-based information is provided by employees on a voluntary basis. There is no legal requirement for applicants or employees to provide such data. Individuals may have privacy concerns, but if the FBI explains the purpose of capturing the data and ensures individual data are protected and secured, employees and applicants may be more open to assisting in the process.

4. Engage a Third Party to Review and Evaluate the FBI's Special Agent Selection Process and Develop an Action Plan to Make Necessary Improvements

a. Relevance

For the DOD, having an impartial review of its policies, programs, and processes affecting diverse recruitment meant selecting a 15-member review board composed of civilians and commissioned officers. By contrast, the FBI over the last decade has relied on internal reviews to increase diversity among the special agent ranks. However, the numbers have remained largely the same. An impartial party with an outsider's perspective may bring some clarity to the FBI's special agent selection process.

While such a review would be a significant change, as evidenced by FBI reforms after the *9/11 Commission Report*, the FBI can make drastic adjustments when Congress has some oversight.³⁰⁰ After countless testimonies to Congress by FBI leadership and critiques from outside parties, the FBI shifted priorities to enhance its mission as a law

³⁰⁰ Alfred Cumming and Todd Masse, *FBI Intelligence Reform since September 11, 2001: Issues and Options for Congress*, CRS Report No. RL32336 (Washington, DC: Congressional Research Service, 2004), 65, <https://irp.fas.org/crs/RL32336.pdf>.

enforcement and intelligence agency.³⁰¹ To solidify the FBI's commitment to a more diverse special agent workforce, the bureau could allow a third-party review of each stage of the recruitment process—even though such a step might be controversial to some. Arguably, to sustain this commitment, the FBI must be held accountable through formal reporting to Congress, the DOJ, and the Office of the Inspector General. While adding more bureaucracy to the review process may be more burdensome, its potential for success and improvement of the selection process far outweighs its negative aspects.

b. Feasibility

This recommendation is feasible. The FBI is already subject to oversight from Congress, the DOJ, and the Office of the Inspector General on funding, disciplinary actions, and a host of other substantial matters. The main controversy would be adding more bureaucracy to the hiring process.

c. Legal Barriers

As a DOJ component, the FBI already provides all sorts of documents to members of Congress, the DOJ, and the Office of the Inspector General. Potential legal considerations would include deciding what type of enforcement authority the third party would have with respect to the recruitment process.

C. CONCLUSION

As evidenced by this research, the FBI has undoubtedly made strides in developing initiatives to support the recruitment of a more diverse special agent cadre. Despite these steps, the FBI's special agent demographics have remained largely unchanged which is impacting its legitimacy with minority communities as illustrated in Chapter 2. In a 2016 speech to representatives of historically black colleges and universities, former FBI Director James Comey stated, "We have a crisis in the FBI, and it is this: Slowly but steadily over the last decade or more, the percentage of special agents in the FBI who are

³⁰¹ Robert S. Mueller III, "Testimony before the House Appropriations Subcommittee on Science, the Departments of State, Justice and Commerce, and Related Agencies, Washington, DC," Federal Bureau of Investigation, September 14, 2006, <https://www.fbi.gov/news/testimony/the-fbi-transformation-since-2001>.

white has been growing.”³⁰² In March 2020, Director Christopher Wray testified to Congress that the FBI was not systematically racist and made a commitment to making more strides in diversifying personnel and leadership at the bureau.³⁰³ This same commitment was made by former FBI Directors Robert Mueller and James Comey, but the diversity among special agents has largely remained the same.³⁰⁴

This research establishes that recruiting a more diverse workforce in the FBI will require more substantive efforts by FBI executive leadership and all individuals within the FBI responsible for recruitment, hiring, and promotional policies. According to Cindy-Ann Thomas, principal at Littler Mendelson and co-chair of the firm’s EEO and Diversity Practice Group, “If you want something you’ve never had before, you have to do something you’ve never done before.”³⁰⁵ A more proactive, uniform, bureau-wide recruitment strategy and third-party review, in addition to a bottom-up approach to diverse agent recruitment, is necessary. All FBI personnel must be fully committed to the belief that having a more diverse special workforce is better for the FBI and the American public. Understanding cultural communication—necessary “soft” skill competencies—are vital to improving relations with minority communities.³⁰⁶ Inadequate communication may result in a suboptimal degree of buy-in across the organization for initiatives that support greater diversity in recruitment.

Moving forward, the FBI can maintain the status quo by continuing to make incremental changes to its recruitment efforts, as recommended here, or be more radical in making larger changes, which may have an immediate impact on its recruitment process.

³⁰² Devlin Barrett, “FBI Director Comey Calls Agency’s Lack of Diversity a ‘Crisis,’” *Wall Street Journal*, July 13, 2016, <https://www.wsj.com/articles/fbi-director-comey-calls-agencys-lack-of-diversity-a-crisis-1468426138>.

³⁰³ Harper Neidig, “Wray Says FBI Not Systemically Racist,” *Hill*, March 2, 2021, <https://thehill.com/policy/national-security/541238-wray-says-fbi-not-institutionally-racist>.

³⁰⁴ Speri, “The FBI’s Race Problems Are Getting Worse.”

³⁰⁵ Riia O’Donnell, “5 First Steps for Improving Your Diversity Recruiting Efforts,” *HR Dive*, April 26, 2018, <https://www.hrdive.com/news/5-first-steps-for-improving-your-diversity-recruiting-efforts/522078/>.

³⁰⁶ Nancy Wood and Christine Sereni-Massinger, “Improving Law Enforcement Cross Cultural Competencies through Continued Education,” *Journal of Education and Learning* 5, no. 2 (2016), <https://doi.org/10.5539/jel.v5n2p258>.

The recommendations offered in this thesis follow a scholarly tradition in which researchers argue that bottom-up strategies integrated into organizational practice make leaders more accountable. Regardless of how promising current diversity recruitment initiatives may appear, the FBI needs to conduct quantitative scholarly research on its programs to reveal valuable insights into the value proposition of such efforts.

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