



Office of the Director

Washington, DC 20531

JUN 20 2000

To whom it may concern:

In the context of a solicitation and a report issued by the National Institute of Justice (NIJ), a question has been asked about the authority of NIJ to set policy for the United States Department of Justice. It should be noted that NIJ is one of many components of the Department of Justice and its primary function is research and evaluation. 42 U.S.C. § 3722(b), 42 U.S.C. §3766. NIJ does not set policy for the Department of Justice, has never asserted that it has this authority, and has not attempted to exercise this authority.

The Attorney General of the United States is “the head of the Department of Justice.” 28 U.S.C. § 503. Further, “[a]ll functions of other officers of the Department of Justice and all functions of agencies and employees of the Department of Justice are vested in the Attorney General” 28 U.S.C. § 509. Therefore, absent a delegation by the Attorney General, only the Attorney General may establish an official policy for the Department of Justice. The Attorney General has not delegated the authority to determine policy for the Department of Justice to NIJ.

NIJ is a component agency of the Office of Justice Programs (OJP) within the Department of Justice. However, NIJ, as a research agency, has been vested with certain independence from OJP 42 U.S.C. § 3722(h); *see S. REP. NO. 96-142, at 51 (1979), reprinted in 1979 U.S.C.C.A.N. 2471, 2521-2522*. Also, as noted in the Senate Report accompanying the Fiscal Year 1999 appropriations act, when the general grant-making authority for several component agencies of OJP was transferred to the Assistant Attorney General for OJP, the Director of NIJ retained grant-making authority for NIJ, in order to maintain the independence that is desirable for research and evaluation activities. § 112, Pub. L. 105-277, 112 Stat. 2681-67, S. REP. NO. 105-235 at 68 (1998). Thus, the NIJ Director maintains independence in NIJ’s grant-making and publications.

Most recently, this issue of NIJ’s authority to make policy has arisen in relation to fingerprinting. Accordingly, NIJ wishes to clarify its *Forensic Friction Ridge (Fingerprint) Examination Validation Studies*, a solicitation issued in March 2000, and *Forensic Sciences: Review of Status and Needs*, a research report issued in February 1999. What underlies this solicitation is a desire for more research to further confirm the already existing basis that permits fingerprints to be used as a means to individualize. NIJ wishes to note that it is accepted that fingerprints are unique to the individual. NIJ has no basis to believe that this is not the case. Further, NIJ notes that, even given the success of the current procedures, such procedures should be periodically examined and research conducted to enhance their empirical foundation. The

products and findings from the research funded under NIJ's March 2000 solicitation should result not only in improvements in fingerprinting but in further research studies that will expand the utility of fingerprint identification.

Sincerely,

A handwritten signature in cursive script, appearing to read "Julie Samuels". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

Julie Samuels
Acting Director