University of Central Florida

STARS

2019

The Honorary White Population: Fighting for Self-Identification

Reina E. Chehayeb
University of Central Florida

THE HONORARY WHITE POPULATION: FIGHTING FOR SELF-IDENTIFICATION

by

REINA EMILY CHEHAYEB

A thesis submitted in partial fulfillment of the requirements
for the Honors in the Major Program in Legal Studies
in the College of Community, Innovation, and Education
and in the Burnett Honors College
at the University of Central Florida
Orlando, Florida

Spring Term, 2019

Thesis Chair: Dr. James Beckman

Abstract

The intent of this thesis is to explore the history of classification of Arab-Americans within the United States, showcase how Arab-Americans have encountered systematic racism, and give reasons why Arab-Americans should be able to self-identify. Currently, according to the Census definition, Middle Easterners fall under the "White" category. This is a misrepresentation of Middle Easterners as they should be considered a minority in light of societal treatment and policies set forth by policy makers. Even though much research has been conducted by the Census, they have elected to withhold the Middle Eastern or North African (MENA) category from the 2020 Census. Solutions for this issue are: Gaining universities' involvement in the movement for a MENA category, encouraging legislation to place MENA as a minority within affirmative action, and the MENA category being placed on the 2030 census.

DEDICATION

To every Arab-American who has felt underrepresented and
who has struggled to self-identify.
This research is for you.

ACKNOWLEGEMENTS

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Introduction

Throughout history, race has been used to determine "racial hierarchy and separate

outsiders from insiders."[1] Along these lines, many Arab-Americans and Middle Easterners feel

as though their race and ethnicity do not take priority. Whenever Arab-Americans are filling out

surveys, job applications, government documents, or college applications, they typically only see

two options to select: "White" or "Other." Since neither represent Arab-Americans, they find

themselves fitting into the category as *Honorary Whites*. If institutions and universities allow

their students to self-identify on their college applications, it may plant the seed for the Census to

do the same.

Established with the Constitution, the Census was created to apportion seats and taxes to

States according to their population count.[2] Fast forward two centuries later and the same system

is in place to capture every single person residing in the United States. The Census is an

extremely powerful tool and a fundamental part of the United States' democracy and economy.

The concept of individuals - no matter their race, religion, or gender – being counted towards the

population of a country is significant.

> Census results are used to allocate seats and draw district lines for the U.S. House
>
> of Representatives, state legislatures, and local boards; to target more than $800
>
> billion annually in federal assistance to states, localities, and families; and to
>
> guide community decision-making affecting schools, housing, health care
>
> services, business investment, and much more.[3]

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[1] Prewitt, Kenneth. What Is Your Race? The Census and Our Flawed Efforts to Classify Americans. Princeton: Princeton University Press, 2013. Page 20

[2] U.S. Const. Art. I, § 2

[3] Georgetownpoverty.org. (n.d.). Will You Count? Middle Eastern and North African Americans (MENA) in the 2020 Census. [online] Available at: http://www.georgetownpoverty.org/wp-content/uploads/2018/06/Fact-Sheet-MENA-HTC.pdf. Accessed April 4, 2019. Page 1. The information sheet was last updated on April 17, 2018.

These roles can only be accomplished with an accurate count by the Census Bureau. Knowing the magnitude the accuracy of these numbers hold, the Census Bureau should understand and acknowledge that "Middle Easterners or North Africans" are severely different than the "White" population.

Race and Ethnicity Classification Survey

A Race/Ethnicity Classification (REC) survey regarding the possible inclusion of a "Middle Eastern and/or North African" (MENA) category on the 2020 Census was conducted over Summer 2018.[4] These results were collected after the Census Bureau announcement they will <u>not</u> be adding the MENA status on the 2020 Census. Regardless, it is still valuable information as it demonstrates the desire for a MENA category to exist. Once the Institutional Review Board (IRB) approved the survey, volunteers were encouraged through word-of-mouth and social media to participate and to complete the survey. The REC survey consisted of fourteen questions with the first three being demographic-based (e.g. age, gender, and citizenship).[5] Then, the next eleven questions gained the opinion of participants on classification and self-identification.

With 128 participants from across the United States, this survey shows, on a minute scale, how Middle Easterners would like to have an option to self-identify on documents.[6] Even though most REC participants are Millennials and part of Generation Z, this survey coupled with research by the Census Bureau proves the desire to self-identify transcends age.

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[4] The survey's results discussed in this article are based on a SurveyMonkey conducted survey. IRB approved of this survey prior to recognition. Further results can be found in Appendix A.
[5] Survey's complete questions and results can be found in Appendix A.
[6] The survey represents the opinions of 128 individuals.

Since MENA is not an option on many forms, people of Middle Eastern descent find themselves categorizing differently. Eighty-four percent of participants support including a "Middle Eastern or North African" option on future government documents. And, approximately 93 percent of participants support a MENA category on the next census. Note that forty-one of the participants within the REC survey do not self-identify as Middle Eastern. This support from non-Middle Easterners for a "Middle Eastern or North African" category is worth mentioning.

The survey also demonstrates that almost 61 percent of the participants who self-identify as Middle Eastern indicate themselves on government documents as "White/Caucasian," 1.56 percent as "Asian," and 5 percent as "Other." This is an example of **white inflation** which refers to the exaggeration of numbers regarding the White race.

The Census Definition of Race

To many, **white inflation** can be regarded as a non-issue due to the lack of information. Based on the survey alone, individuals who categorized themselves as "White" on government documents, college applications, and so on do not necessarily self-identify as "White." It is here the first issue arises: self-identification vs. categorization. By the Census Bureau's definition, race is "a person's *self-identification* with one or more social groups."[7] However, this welcoming definition does not reflect the truth. In a different section on the Census Bureau's website, race is defined in a different way. "The racial categories included in the census questionnaire generally

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[7] US Census Bureau. "Race and Ethnicity." U.S. Census Bureau. Accessed April 4, 2019. https://www.census.gov/mso/www/training/pdf/race-ethnicity-onepager.pdf.

reflect a social definition of race recognized in this country and not an attempt to define race biologically, anthropologically, or genetically."[8] These two definitions are contradictory.

According to the first definition, if a peer self-identifies to colleagues as Middle Eastern, they should be able to identify as such. However, if someone wants to self-identify on the census as Middle Eastern, they cannot do so because it is not part of a "social definition." It is evident that only those who fit in the social constructs of race can self-identify. If the Census cannot decide whether race is based on social definition or how one self-identifies, Americans will be forced into choosing between categories they ultimately do not identify with or they feel do not describe them.

The Census

In 1790, the census was originally constructed to configure the number of seats and taxation each state would receive.[9] The population count included the three-fifths clause. "All other persons" besides whites and tax-paying Indians must be counted as three-fifths of a person.[10] This was to give states more population without allowing slaves to receive the full benefits of a "free person."[11] This was the first indication of a statistical-race and the power of the census. The count of slaves or "all other persons" made way for policies to be placed in response to the number. Because a majority of the slaves worked in southern states, the southern states were privileged with more seats on Congress and more electoral votes. Another intention of the census was to create a hierarchy of race between the slaves (non-white) and their white

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[8] US Census Bureau. "About Race." U.S. Census Bureau. Accessed April 4, 2019.
https://www.census.gov/topics/population/race/about.html.
[9] Supra Note 1 at Page 38
[10] Supra Note 1 at Page 40
[11] Id.

owners. The belief was that whites were the only ones fit to self-govern, so that when the slaves were being counted in on the census, it was essentially to guarantee they would be counted out. This was an indication that the census could be a device to advance racially motivated policies.

The 1880 Census was another example of the census and policies walking hand-in-hand. On this census, Japanese and Chinese were two of the first nationalities ever to be classified as a race. This "made Asians categorically different from whites, who remained the only population group fit for self-government."[12] Asians were counted in, so they could be counted out. However, by now adding them into the census, the U.S. government was able to know how many Asian immigrants lived in our country. From there, the government was able to construct limitations on the number of Asians allowed to enter the United States.[13]

Based upon the results of the 1880 Census, restrictions on immigration was legislated by Congress.[14] The Chinese Exclusion Act of 1882 stipulated *any* immigration of Chinese is illegal. Not only could one be monetarily penalized by helping a Chinese immigrate to the United States, they could also go to prison.[15] Additionally, registered Chinese in the States prior to the enactment could not attain citizenship.[16] The Japanese also faced a similar fate. Approximately two decades after the repeal of the Chinese Exclusion Act in 1943, restrictions against the Japanese lifted in 1965.[17]

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[12] Supra Note 1 at Page 65
[13] Id.
[14] Id.
[15] Supra Note 1 at Page 65
[16] Id.
[17] Id.

The First Voyagers

Between the 1880s and 1920s, the first wave of Arabs made the voyage to the United States, and by 1924, there were approximately 200,000 Arabs living in the country.[18] Although they successfully traveled across the world to settle and survive in a new land, now Arabs had the task to successfully become naturalized U.S. citizens.

Because of the Naturalization Act of 1790, immigrants from outside of Europe were to be defined as "White" to become a United States citizen. This became a difficulty many immigrants shared across the nation. Revised Statutes §2169 states that the Naturalization Act "shall apply to aliens being free white persons and to aliens of African nativity and to persons of African descent."

In 1923, Bhagat Singh Thind, a full-blooded Indian Hindu, was vying for a United States citizenship.[19] According to §2169, the only immigrants that can naturalize include "white persons and aliens of African nativity." In his reasoning, the presiding justice, Justice Sutherland, gave a nod to Congress's intent on using the phrasing of white person within the provision, however, his reasoning was founded in the common interpretation of "white person" as equivalent to "Caucasian."[20] Due to this comparison, Justice Sutherland stated, "It is a matter of familiar observation and knowledge that the physical group characteristics of the Hindus render them readily distinguishable from the various groups of persons in this country commonly recognized as white."[21] He then went on to state that children from commonly white European

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[18] Arab American National Museum. *Arab Americans An Integral Part of American Society.* Page 33. Accessed April 4, 2019. http://arabamericanmuseum.org/umages/Arab-Americans.pdf
[19] United States v. Bhagat Singh Thind, 261 U.S. 204 (1923)
[20] Supra Note 19 at Page 214
[21] Id.

countries (e.g. France, Italy, Germany) are integrated relatively quickly into the "mass of our population."[22] Alternatively, that Hindu people would maintain their ancestry indefinitely.

He goes on to say, "It is very far from our thought to suggest the slightest question of racial superiority or inferiority. What we suggest is merely racial difference, and it is of such character and extent that the great body of our people instinctively recognize it and reject the thought of assimilation." Based upon this train of thought, Sutherland denied Thind's ability to classify as "White" and, therefore, denied his ability to become a citizen of the United States.

In 1915, George Dow, a Syrian immigrant, sought citizenship in the United States. After two lower court opinions in South Carolina, Dow was denied citizenship on the basis that "Syrian [was] of Asiatic birth [and] is not a free white person within the meaning of the naturalization statute."[23] The Eastern District court interpreted the Naturalization Act of 1790 without regard to the change of immigration patterns. It was as if the court held the rationale that the only acceptable white-skinned individuals migrated from Europe.

Granted, it is well-documented that in the late 1700s and early 1800s, the majority of immigrants arrived from European countries. And the Naturalization Act of 1790 provided those European immigrants a way to become citizens while blocking African-Americans from being naturalized.[24] However, in the case of George Dow, this was a hundred-year-old concept being applied to a case in the early twentieth century. Since the Act endured many amendments and changes, the presiding judge stated, "Certainly, it cannot be said that, after all this legislative discussion and reconsideration and enactment, the present statute must be construed in the light

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[22] Id. at Page 215
[23] Dow v. United States, 226 F. 145-147 (4th Cir. 1915).
[24] Id. at Page 146

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of the knowledge and conception of the legislators who passed the original statute in 1790…"[25] Dow was granted the right to become a citizen of the United States.

Regardless of how he may have self-identified, Dow found it necessary to be classified as "White" to become a United States citizen. It was not until nearly four decades later, with the initiation of the Immigration and Nationality Act of 1952, that any immigrant regardless of race could become a citizen of the United States. Therefore, there is no justification for Arab-Americans to continue to be classified as "white." A valid and timely justification will be including the MENA classification on any and all government and educational documents, including the Census.

History of the MENA Status

Summer 2018 was not the first time that talks of a MENA category occurred. During the 1990s, numerous people contacted the Office of Management and Budget (OMB) and recommended a separate category on the next Census for Middle Easterners and North Africans. The OMB is an agency in charge of providing the guidelines to collecting race and ethnicity data to the Census Bureau.[26] The OMB restricts the census to five racial categories: White, Asian, Black or African American, American Indian or Alaska Native, and Native Hawaiian or Other Pacific Islander and one Hispanic ethnicity question. With the OMB's initial rejection of this recommendation, they then promised to conduct research into a potential category.

In 2010, the Alternative Questions Experiment (AQE) conducted focus groups to gain a perspective from people of different races including Middle Eastern and North African.[27] The

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[25] Id. at Page 147
[26] 2015 National Content Test. Page ix
[27] 2010 Census Race and Hispanic Origin Alternative Questionnaire Experiment. Page 69.

focus groups made the proposal of having a separate MENA category as they felt it was difficult to fit into the OMB categories.[28]

As a response to these continuous requests and recommendations to add a separate category for Arabs and North Africans, the Office of Management and Budget tested the "Middle Eastern or North African" (MENA) category in the 2015 National Content Test, which sampled "1.2 million housing unites."[29] First, they sought to find the number of people who identify as MENA even if the "distinct MENA category" was not present. Table 18 exemplifies the results.

Table 18: Reporting of MENA Responses by Presence of Distinct MENA Category[30]

	Total % Identified as MENA	In which category was MENA response provided?				
		White	Black	MENA	SOR	Another Category
Question with Distinct MENA Category	0.9%(0.03)	20.0%(0.93)	0.6%(0.21)	78.8%(1.03)	3.3%(0.43)	1.0%(0.27)
Question with NO MENA Category	0.9%(0.03)	85.5%(0.99)	1.3%(0.26)	N/A	11.5%(0.88)	2.9%(0.52)

As evident in Table 18, a significant number of people identify as "White" when a MENA category is not present. However, when the MENA category appears, all other categories significantly decrease. A large majority of people who identify as MENA, selected the MENA status when provided, confirming that if a MENA option is given, applicable individuals will respond to it. It also presents evidence that the majority of people who self-identify as MENA,

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[28] Id. At Page 70.
[29] Supra Note 26 at Page 31
[30] 2015 National Content Test data. Page 59. Note: Estimates are weighted with standard errors in parentheses. "SOR" stands for 'Some Other Race.'

will choose white when no other option is given. This is yet another indication of White Inflation.

The Census serves as a tool to showcase the diversity of America. However, when the diversity is masked by an overarching category, MENA Americans are swept under the rug. Arab-Americans are essentially, "honorary whites."

Figure 18: Where MENA Responses are Reported by Presence of MENA Category Percent Alone or in Combination[31]
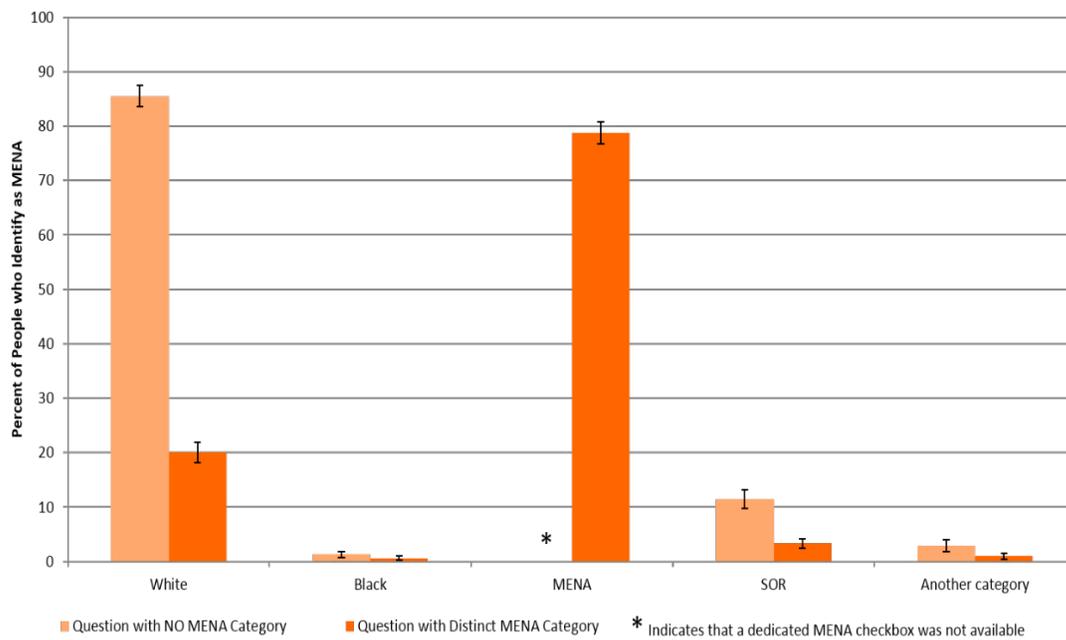
To further discuss the repercussions of not having a distinct MENA category, Figure 18 indicates how many MENA identifiers categorized themselves in the standard options: White, Black, and Some Other Race. This is ultimately compared to how many MENA identifiers continued to self-identify as one of the standard races once a MENA option was added to the questionnaire. Whether it is the fear of identifying as MENA in an Islamophobic country since

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[31] 2015 National Content Test data. Page 60. Note: 95 percent confidence intervals are depicted by the vertical black lines at the top of each bar. "SOR" stands for 'Some Other Race'

9/11 or simply wishing to stay among the majority, it is apparent that some MENA identifiers still want to remain classified as "White." However, it cannot be ignored that almost 80 percent of the MENA identifiers would choose to be part of the MENA category if provided the option to do so.

Figure 19. Detailed Reporting for Selected Groups in the MENA Working Classification by Presence of MENA Category Percent Alone or in Combination[32]
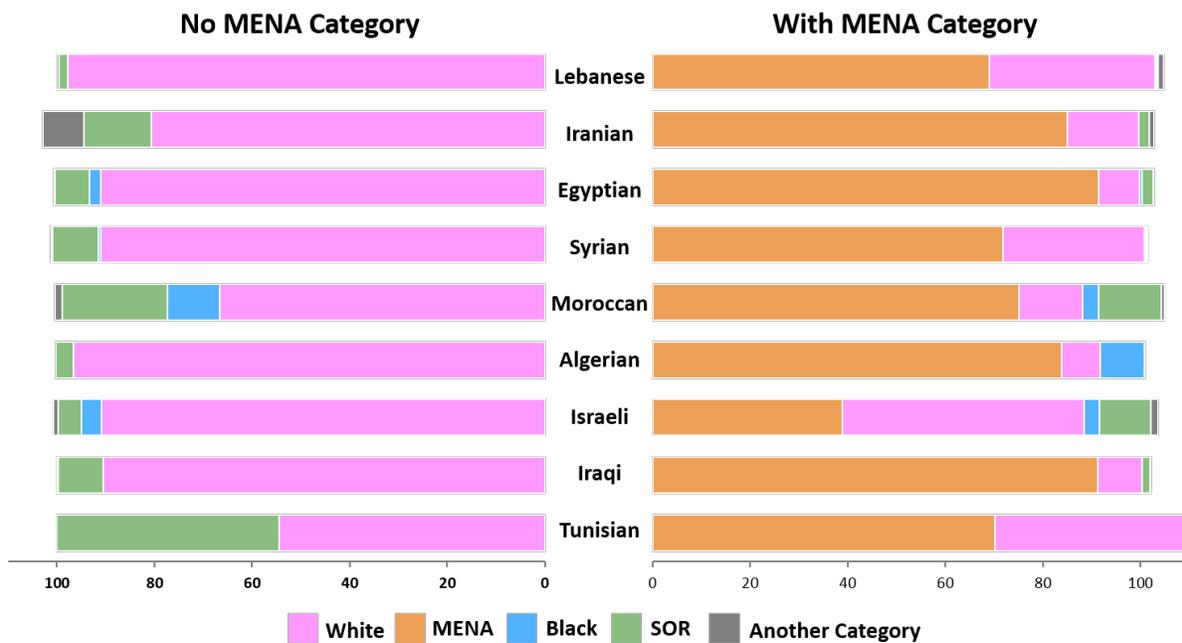

Figure 19 expresses how the main ethnic groups within the working classification of MENA (e.g. Lebanese, Iranian, Egyptian, Moroccan, Algerian, Israeli, Iraqi, Tunisian) classify themselves with a MENA category present. Once again, it can be affirmed that the main ethnic groups that fall under MENA will classify themselves as MENA should an option be given.

This research conducted in 2015 indicated that MENA is "optimal to use [as] a dedicated "Middle Eastern or North African" response category."[33] In early January 2018, the Census Bureau announced that additional testing is needed and MENA would not be added to yet

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[32] 2015 National Content Test data. Page 65.
[33] Id. at Page 72

another census, the 2020 Census.[34] When Arab-Americans have no choice but to classify as something they cannot identify with (White) or something that cannot describe them (Other), it is disheartening. Arab-Americans are treated as a minority and yet cannot identify as such.

Within the REC survey, 84 percent of the participants were in favor of a MENA category on government documents and 92 percent of participants supported a MENA classification within the next census. Research has been conducted and evidence has been supportive. The Census Bureau and the Office of Management and Budget must realize a MENA category is what Americans want and need.

Eligibility for Affirmative Action

Universities across the nation have taken on the challenge of creating a more diverse, inclusive environment for their students. This challenge was enforced when affirmative action came into play. Affirmative action was established in the 1960s to improve employment and educational opportunities to those who are otherwise not able to access such opportunities.[35] Part of the criteria to be a race within affirmative action is the minority must have confronted previous discriminations.[36]

For example, according to a book authored by Dr. John Tehranian, the "only recorded attempt" for Arab-Americans to be included in affirmative action, was directly denied.[37] When the Small Business Administration (SBA) received a petition from the National Association of

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[34] Wang, Hansi Lo. "No Middle Eastern Or North African Category On 2020 Census, Bureau Says." NPR. January 29, 2018. Accessed April 4, 2019. https://www.npr.org/2018/01/29/581541111/no-middle-eastern-or-north-african-category-on-2020-census-bureau-says.
[35] Tehranian, John. White Washed America's Invisible Middle Eastern Minority (2009). Page 38.
[36] Id. At Page 37-38
[37] Id. At Page 37

Iranian Americans for a stake in affirmative action, the petition was discarded. "The program was limited to 'socially disadvantaged groups.'" [38] This is a curious objection to the petition, considering individuals who have lineage that trace back to "Brunei, Palau, Pakistan, Korea, Kiribati, Belize, and Argentina find themselves on the list" of minorities.[39]

It begs the question then what do Middle Eastern Americans have to endure to be a "socially disadvantaged group?" The FBI's Uniform Crime Reporting Program (UCR) is responsible for the construction of yearly Hate Crime Statistics. In 1996, the FBI deemed Anti-Arab crime statistics "invalid" and, in 2001, the category was completely eliminated.[40] Had the category existed during the heightened tension post 9/11, one could draw support for the conclusion that Arab-Americans are "socially disadvantaged."

In 2015, the Anti-Arab category was reinstated into the FBI's UCR Hate Crime Report. Since then, Anti-Arab crime rates have been increasing. Just between 2016 and 2017 alone, crimes against Arabs increased 128 percent for a total rise of 172 percent since 2015.[41] This is while Anti-African American, Anti-Asian, and Anti-Hispanic hate crimes have increased only 11 percent, 16 percent, and 16.9 percent respectively over those two years.[42] It is a lack of judgement and fortune that Anti-Arab hate crimes can only be speculated between 2001 and 2015. During this period, Anti-Arab hate crimes may have been grouped with the Anti-White category, Anti-Other category, or not calculated at all. Yet again, one can see the costs of not

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[38] Id.
[39] Id.·
[40] Omar Baddar, Hate Crimes Continue to Surge in America Arab American Institute (2018), http://www.aaiusa.org/hate_crimes_continue_to_surge_in_america (last visited Apr 4, 2019).
[41] U.S. Federal Bureau of Investigation. Uniform Crime Reporting program. 2015 Hate Crime Statistics. 2016 Hate Crime Statistics. 2017 Hate Crime Statistics. Washington, D.C. Table 4: Victims. Table 5: Offenders. For access to all Hate Crime reports: https://ucr.fbi.gov/hate-crime. The 2015, 2016, 2017 hate crime URLs are within the works cited. For reference I used the percentage formula as follows: (2017-2016)/2016 or (new-old)/old to calculate the percentage increase between the years.
[42] Id. The same formula "(new-old)/old" still applies for the calculations behind this footnote.

having a separate Arab or MENA category. The results can be extremely consequential. Since it is so significant for Arab Americans to be categorically different from White in hate crime reports, they should also be categorically different in any government produced documents, including the Census.

Under Title 13 §124.103 of the Code of Federal Regulation, "Socially disadvantaged individuals are those who have been subject to racial or ethnic prejudice…within the American society because of their identities as members or groups and without regard to their individual qualities."[43] The analysis of the FBI UCR Hate Crime report of Anti-Arab crimes should be enough to meet the criteria of a socially disadvantaged group. Ironically enough, when previewing the data on offender's race, over 50 percent of the crimes committed against Arabs were from White offenders. The very race that Arab-Americans are told to classify as are the ones committing these crimes against them. This realization meets another part of the standards set in the Code of Federal Regulations, "The social disadvantage must stem from circumstances outside of their control." Given this evidence, Arab-Americans should qualify for affirmative action.

A Challenge for Universities

However, with this standard met, another issue arises. How can universities take into account affirmative action for Arab-Americans if the MENA category does not exist on their applications? Higher education institutions across the nation are empowered and encouraged to diversify their student population and create a more inclusive environment. With affirmative action, universities have the backing of the federal government to incorporate race into the

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[43] 13 CFR §124.103; Provides the definition for "socially disadvantaged."

admissions process. However, it seems as though the only races universities are concerned with are the main six categories set forth by the OMB. Universities could easily decrease the number of "White" students by adding the MENA category into their admission application.

Universities have the capability and the means to shape the future of the MENA status. By placing the category onto their applications, universities are providing a way for their school to be more systematically diversified and begin to advance MENA as a social definition. Accomplishing both of these, universities are transforming the way the next generation of intellectuals view diversity and race. Although universities are required by the Department of Education to use the main six categories of race and ethnicity, they can easily collect subcategories of the main six.[44] This gives allowance to the usage of the MENA category under the "White" status. So long as universities are complacent in the fight for their students to self-identify, students - specifically Arab-Americans - are confined to limited opportunities that do not represent the socially disadvantaged minority that they are.

Systematic Discrimination

A working definition of "systematic discrimination" is the unfair or prejudicial treatment of people or groups of people on the grounds of race, age, religion, or sex that is incorporated unintentionally or intentionally into a fixed plan, procedure, or organization. The word is stemmed from the meaning of "systematic" and "discrimination" individually and incorporating both into the definition above.

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[44] National Center for Education Statistics; Collecting Race and Ethnicity Data from students and Staff Using the New Categories. https://nces.ed.gov/ipeds/report-your-data/race-ethnicity-collecting-data-for-reporting-purposes

As a result of the Iranian hostage crisis in 1972, Iranian Americans suffered from state legislation that prevented them from having the same rights as other students. For example, in Mississippi, a bill was passed to increase tuition for students whose native country did not have diplomatic relationship with or had economic sanctions placed on them by the United States government.[45] Even though this bill impacted more than just Iranian students by placing Arab Americans, in general, under the same umbrella, it was directly "in response to the hostage crisis." Similarly, instead of increasing tuition, New Mexico specifically banned Iranians from attending their state universities.[46]

Tensions between Middle Easterners and Americans began to intensify in the 1970s and mushroomed after 9/11. The aftermath of both events only plagued the country with more bias and locked Arab-Americans' position even deeper as a socially disadvantaged minority.

9/11 through Arab-American Eyes

September 11, 2001 is one of the most pivotal days in United States history. This tragic day changed the lives of Americans from all races and backgrounds. A sense of uncertainty for our safety swept the nation. We felt vulnerable on our own land. And yet, a sense of nationalism swept the country as an attack on the Homeland was an attack on all of Americans,[47] or so was thought. The idea and fear of Arab-Americans residing in the United States transformed overnight. A joke told by comedian Dean Obeidallah, "I go to bed September 10th white. I wake

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[45] Supra Note 34 at Page 122.
[46] Supra Note 34 at Page 122.
[47] Reference to the North Atlantic Treaty Organization. North Atlantic Treaty art. 5, Apr. 4, 1949

up September 11th I'm an Arab!"[48] However, this joke can be taken very literal. Arab-American lives were altered forever with the devastating attacks on September 11.

Prior to September 11, American opinion on racial profiling was unfavorable.[49] According to a poll Dr. John Tehranian mentioned, "In late 1999, a Gallup poll found that fewer than 20 percent of Americans considered racial profiling an acceptable practice."[50] After the attacks of 9/11, American opinion changed significantly with "60 percent of Americans" valuing racial profiling.[51] The horrific act of a few men, who allegedly were of Middle Eastern descent, changed the view of Arab-Americans forever. In another Gallup poll, it was found roughly 30 percent of Americans approved of Arab-Americans being placed "under special surveillance, or allowing the U.S. government to take legal immigrants….to internment camps."[52] This started widespread policies to protect the "American people" from the Arab-Americans that live among them.

Desperate to assure the American people, the Bush Administration took measures to "single out" immigrants of Arab descent even if they were not associated with or connected to terrorism. The government's immediate reaction to the September 11th attacks was to play a game of "round-up" with any Arab or Muslim man.[53] During the weeks and months following the attacks, officials practiced "guilty by association" which meant any suspicion could lead to detainment.[54] A notable quote by David Cole,

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[48] Dean Obeidallah was featured along with 3 other Middle Eastern comedians on the "Axis of Evil." It is a parody on the Axis of Evil comment made by President Bush after the attacks on 9/11.
[49] Supra Note 34 at Page 122.
[50] Supra Note 34 at Page 124
[51] Id.
[52] Gallup, Inc, The Impact of the Attacks on America Gallup.com (2001), https://news.gallup.com/poll/4894/impact-attacks-america.aspx (last visited Apr 4, 2019).
[53] Lapp, Kevin, Pressing Public Necessity: The Unconstitutionality of the Absconder Apprehension Initiative (August 17, 2011). 29 N.Y.U. Rev. L. & Soc. Change 573 (2005). Available at SSRN: https://ssrn.com/abstract=1911210
[54] Id. at Page 577

[T]hey were arrested and linked to the September 11 investigation for the
flimsiest of reasons – because of an anonymous tip that 'too many' Muslims
worked at a convenience store, or that a Muslim neighbor kept odd hours, or
simply because investigators happened upon an Arab or Muslim immigrant in a
place the investigators visited.[55]

Americans were given a sense of duty to report these Arabs and Muslims to officials. If anything, it gave Americans of all races a sense of pride to be able to support this practice. For example, mentioned by Dr. Tehranian about Noel Ignatiev's findings that, the Irish established themselves as part of the white status through their "embrace of the rhetoric of racial supremacy and hatred of African Americans." This is apparent with Arab-Americans when shortly after the attacks, the black community expressed more than any other ethnic group their approval for people of Middle Eastern descent to be subject to additional airport screenings.[56]

Before the Department of Justice discontinued keeping an active count on detainees, the last known number documented in November 2001 was 1,182.[57] Of the 738 detainees being of foreign descent, almost half of them were from Egypt and Pakistan alone.[58] The rest of the detainees represented twelve of the top thirteen Arab or Muslim countries.[59] Ironically, not a single foreign detainee was accused of terrorism nor found to have connections with terrorism.[60]

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[55] Id.
[56] Supra Note 34 at Page 124
[57] Amy Goldstein & Dan Eggen, U.S. to Stop Issuing Detention Tallies The Washington Post (2001), https://www.washingtonpost.com/archive/politics/2001/11/09/us-to-stop-issuing-detention-tallies/b7b0867d-db0d-4c87-8ebb-bdba286a417f/?noredirect=on&utm_term=.6eb91797d4f0 (last visited Apr 4, 2019). Supra Note 52 at Page 578.
[58] Id
[59] Id
[60] OFFICE OF INSPECTOR GEN., U.S. DEP'T OF JUSTICE, The September 11 Detainees: A review of the treatment of aliens held on immigration charges in connection with the investigation of the September 11 attacks. Source found from supra note 52 at Page 578.

Other policies included the Absconder Apprehension Initiative or Absconder Operation that the Department of Justice implemented in order to officially fast-track the deportation of Arabs and Muslims as they continued to detain and investigate them. The "Voluntary Interviews" where "some five thousand men between the ages of eighteen and thirty-three from countries with Al Qaeda presence" were instructed to "voluntarily" appear at the local FBI office for questioning. And lastly, the National Security Entry-Exit Registration System (NSEERS) which prompted a "special registration" requiring the Immigration and Naturalization Service to maintain a digital footprint of those entering and leaving the country as well as receiving updates every thirty days of immigrants from Al-Qaeda-present countries. [61] Arabs and Muslims previously residing in the United States were also required to follow the NSEERS policy.[62]

In 2014, thirteen United States citizens filed suit against Eric H. Holder, the United States Attorney General for violation of their due process rights stored within the Fifth Amendment.[63] The majority of these Plaintiffs had Arab-derived names regardless of the background information of each individual plaintiff. The Plaintiffs were banned from boarding flights to or from the United States. They attributed being unknowingly banned to the possibility that they were wrongly included on the "No-Fly List." The "No-Fly List" is a product of the Terrorist Screening Database which is overseen by the Federal Bureau of Investigation.[64] Any complaints travelers have regarding security screening are managed by the Department of Homeland Security Traveler Redress Inquiry Program (DHS TRIP).[65] When the Plaintiffs filed a complaint

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[61] Supra Note 52 at Page 582; Absconder is the definition for an individual in which a judge has ordered them to be deported yet they remained in the United States.
[62] Id. at Page 581
[63] Latif v. Holder 28 F. Supp. 3d 1134 (D. Ore 2014)
[64] Timothy M. Ravich, Aviation Law After September 11th: Cases and Materials (2016). Pages 778-793
[65] Id. At 778

with DHS TRIP, they received no explanation as to why they were not permitted to board their flights.

To highlight just two plaintiffs and the nightmare in which they suddenly found themselves: Stephen Durga Persaud was not permitted to board his flight back to the States because he had been placed on the No-Fly List. Persaud then had to take a boat from St. Thomas to Miami and a train from Miami to California in order "to be back home in time for the birth of his second child."[66] Ayman Latif, a U.S. Marine Corps veteran, and his family moved to Egypt in November 2008 and stayed through April 2010. Upon returning to the United States, Latif was not allowed to "board the flight from Cairo to Madrid."[67] In August 2010, Latif was permitted a "one-time waiver to fly back to the United States."[68] Consequently, because it took Latif too long to return to the States, he lost his disability benefits since he missed the "scheduled evaluations required to keep his benefits."[69]

Because of these and many more factors, the Court found that the DHS TRIP process did not provide a way for passengers to "correct erroneous information in the government's terrorist database" and in turn concluded the process violated the Plaintiff's Fifth Amendment right.[70]

The discriminatory policies adopted and implemented were all on the grounds of national security. As Dr. Tehranian brilliantly points out, the government cannot be so "race-blind" in one aspect of the law and have 20/20 vision in another.[71] Since Arab-Americans are systematically discriminated against in "national security" policies, this gives rise to and reason for Arab-Americans being considered as socially disadvantaged. People within the MENA category have

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[66] Id. At 784
[67] Id. At Page 784
[68] Id. At Page 781
[69] Id. At Page784
[70] Id. At Page 793
[71] Supra Note 34 at Page 125

suffered and endured countless racially-charged incidences from their neighbors, educational institutions, law enforcement officers, and lawmakers. Again, people of Middle Eastern descent are expected to be categorized within the "majority" of society – "White" – when it is correct and justified for them to be classified in a separate and minority classification - MENA.

The "White" Veil

After the horrific tragedy of September 11, 2001, the fear of being discriminated against plagued many Arab-Americans. On paper, Arab-Americans could hide behind the "White" veil, yet in person, even if they classify themselves as white, many found they were consistently treated different. "Unfair and inaccurate stereotyping can make victims of all who share the same race, religion, ethnicity or national origin, sexual orientation, or disability."[72] This means that if one is unfairly stereotyped, they can become a victim because of a shared race, religion, ethnicity, and so on. Unfortunately, the African-American and/or Black race is one of the predominant examples of unfair and inaccurate stereotyping.

A prime and historical illustration of this misjudgment is the Trayvon Martin case in 2012. As one of the most controversial court cases in recent American history, young Trayvon Martin became a nationwide representation of stereotyping. Again, "unfair and inaccurate stereotyping can make victims of all who share the same race…"[73] George Zimmerman, a Hispanic, part-time neighborhood watch volunteer, saw an African-American male in a hoodie walking through his neighborhood. Zimmerman initially called 911 from the sanctuary of his car

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[72] U.S. Federal Bureau of Investigation. Uniform Crime Reporting program. *2001 Hate Crime Statistics*. Washington, D.C. Page: Foreward.

[73] Id.

to alert authorities of the "suspicious" individual, however, he then ignored their clear instructions to not engage and to wait for the police to arrive.

The actions taken by Zimmerman after he stepped out of his car are questionable. And, it is now known that George Zimmerman confronted Trayvon, engaged in a fight, and then shot and killed him. Zimmerman's stereotyping of this young man based on his skin color and his clothing and then taking the law into his own hands, led to Trayvon Martin's tragic fate. The actions taken by Zimmerman will never be forgotten, especially in the African-American community and particularly since no punishment followed.

The issue of unfair stereotyping is true with classifying, too. Inaccurate classification of a group can lead that whole group to be labeled in a category that ultimately does not accurately represent them. A story told by Dr. John Tehranian, an Arab-American of Iranian descent, captures the essence of being a minority when classified as "white."

Dr. Tehranian was seeking a position at a law school with a tenure track.[74] A day after the interview, he received a call from one of the faculty members at the law school informing Dr. Tehranian of the voting results. The faculty member apologized for not having good news then commented on how the group did not want another "white male" faculty member. Dr. Tehranian was taken aback. Even though the faculty was aware that Dr. Tehranian was, in fact, Middle Eastern, to some, Dr. Tehranian was not considered to be part of a minority.[75] This is a prime example of MENA Americans being placed in a wide category that does not capture the true essence of who they are.

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[74] Tehranian, John (2007) "Compulsory Whiteness: Towards a Middle Eastern Legal Scholarship," *Indiana Law Journal:* Vol. 82: Iss. 1, Article 1. Page 2. Available at: http://www.repository.law.indiana.edu/ilj/vol82/iss1/1
[75] Id. At Page 3

Conclusion

Middle Easterners are considered *Honorary Whites*. They have been fighting to detach from that label and become full-fledged Arab-Americans. If institutions, such as universities, allow their students to self-identify on their college applications, it will plant the seed for the census to do the same. Granted, it is a small step, but having a MENA category option will instill self-worth and gratification in the affected students, and will encourage future race questions to be all-inclusive. The Census Bureau said itself that race is determined by how society defines "race." So long as the 3.6 million Arab-Americans living in the United States are disregarded as nothing more than *Honorary Whites,* there will never be an option for Middle Easterners to self-identify.[76] Since the 2020 Census will neglect the hard work set forth by researchers, experts, and Census officials, it is apparent that the change must start at a small level. It is an obligation for the innovation centers of the United States to take on this movement and for legislation to support affirmative action for Middle Easterners or North Africans. Middle Easterners have no choice but to sit on the sidelines for another decade – until the 2030 Census - while they inflate a category that does not represent them. The burden to change this pattern and create a better, more inclusive future for all MENAs should be on every single American.

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[76] Arab American Institute Foundation. "Demographics." 2014. https://d3n8a8pro7vhmx.cloudfront.net/aai/pages/9843/attachments/original/1460668240/National_Demographic_Profile_2014.pdf?1460668240. Accessed: April 4, 2019.

References

Amy Goldstein & Dan Eggen, U.S. to Stop Issuing Detention Tallies The Washington Post (2001), https://www.washingtonpost.com/archive/politics/2001/11/09/us-to-stop-issuing-detention-tallies/b7b0867d-db0d-4c87-8ebb-bdba286a417f/?noredirect=on&utm_term=.6eb91797d4f0 (last visited Apr 4, 2019)

Arab American Institute Foundation. "Demographics." 2014. https://d3n8a8pro7vhmx.cloudfront.net/aai/pages/9843/attachments/original/1460668240/National_Demographic_Profile_2014.pdf?1460668240. Accessed: April 4, 2019.

Arab American National Museum. *Arab Americans An Integral Part of American Society.* Page 33. Accessed April 4, 2019. http://arabamericanmuseum.org/umages/Arab-Americans.pdf

Dow v. United States, 226 F. 145-147 (4th Cir. 1915)

Gallup, Inc, The Impact of the Attacks on America Gallup.com (2001), https://news.gallup.com/poll/4894/impact-attacks-america.aspx (last visited Apr 4, 2019).

Georgetownpoverty.org. (n.d.). Will You Count? Middle Eastern and North African Americans (MENA) in the 2020 Census. [online] Available at: http://www.georgetownpoverty.org/wp-content/uploads/2018/06/Fact-Sheet-MENA-HTC.pdf. Accessed April 4, 2019. Page 1. The information sheet was last updated on April 17, 2018.

Lapp, Kevin, Pressing Public Necessity: The Unconstitutionality of the Absconder Apprehension Initiative (August 17, 2011). 29 N.Y.U. Rev. L. & Soc. Change 573 (2005). Available at SSRN: https://ssrn.com/abstract=1911210

Latif v. Holder 28 F. Supp. 3d 1134 (D. Ore 2014)

National Center for Education Statistics; Collecting Race and Ethnicity Data from students and Staff Using the New Categories. https://nces.ed.gov/ipeds/report-your-data/race-ethnicity-collecting-data-for-reporting-purposes

North Atlantic Treaty art. 5, Apr. 4, 1949

OFFICE OF INSPECTOR GEN., U.S. DEP'T OF JUSTICE, The September 11 Detainees: A review of the treatment of aliens held on immigration charges in connection with the investigation of the September 11 attacks.

Omar Baddar, Hate Crimes Continue to Surge in America Arab American Institute (2018), http://www.aaiusa.org/hate_crimes_continue_to_surge_in_america (last visited Apr 4, 2019).

Prewitt, Kenneth. What Is Your Race? The Census and Our Flawed Efforts to Classify Americans. Princeton: Princeton University Press, 2013. Page 20

Tehranian, John. White Washed America's Invisible Middle Eastern Minority (2009). Page 38.

Tehranian, John (2007) "Compulsory Whiteness: Towards a Middle Eastern Legal Scholarship," *Indiana Law Journal:* Vol. 82: Iss. 1, Article 1. Page 2. Available at: http://www.repository.law.indiana.edu/ilj/vol82/iss1/1

Timothy M. Ravich, Aviation Law After September 11th: Cases and Materials (2016). Pages 778-793

US Census Bureau. "Race and Ethnicity." U.S. Census Bureau. Accessed April 4, 2019. https://www.census.gov/mso/www/training/pdf/race-ethnicity-onepager.pdf.

US Census Bureau. "About Race." U.S. Census Bureau. Accessed April 4, 2019. https://www.census.gov/topics/population/race/about.html.

U.S. Const. Art. I, § 2

U.S. Federal Bureau of Investigation. Uniform Crime Reporting program. *2001 Hate Crime Statistics*. Washington, D.C. Page: Foreward. https://ucr.fbi.gov/hate-crime/2001

U.S. Federal Bureau of Investigation. Uniform Crime Reporting program. *2015 Hate Crime Statistics*. Washington, D.C. Table 4. Table 5. https://ucr.fbi.gov/hate-crime/2015

U.S. Federal Bureau of Investigation. Uniform Crime Reporting program. *2016 Hate Crime Statistics*. Washington, D.C. Table 4. Table 5. https://ucr.fbi.gov/hate-crime/2016

U.S. Federal Bureau of Investigation. Uniform Crime Reporting program. *2017 Hate Crime Statistics*. Washington, D.C. Table 4. Table 5. https://ucr.fbi.gov/hate-crime/2017

United States v. Bhagat Singh Thind, 261 U.S. 204 (1923)

Wang, Hansi Lo. "No Middle Eastern Or North African Category On 2020 Census, Bureau Says." NPR. January 29, 2018. Accessed February 22, 2019. https://www.npr.org/2018/01/29/581541111/no-middle-eastern-or-north-african-category-on-2020-census-bureau-says.
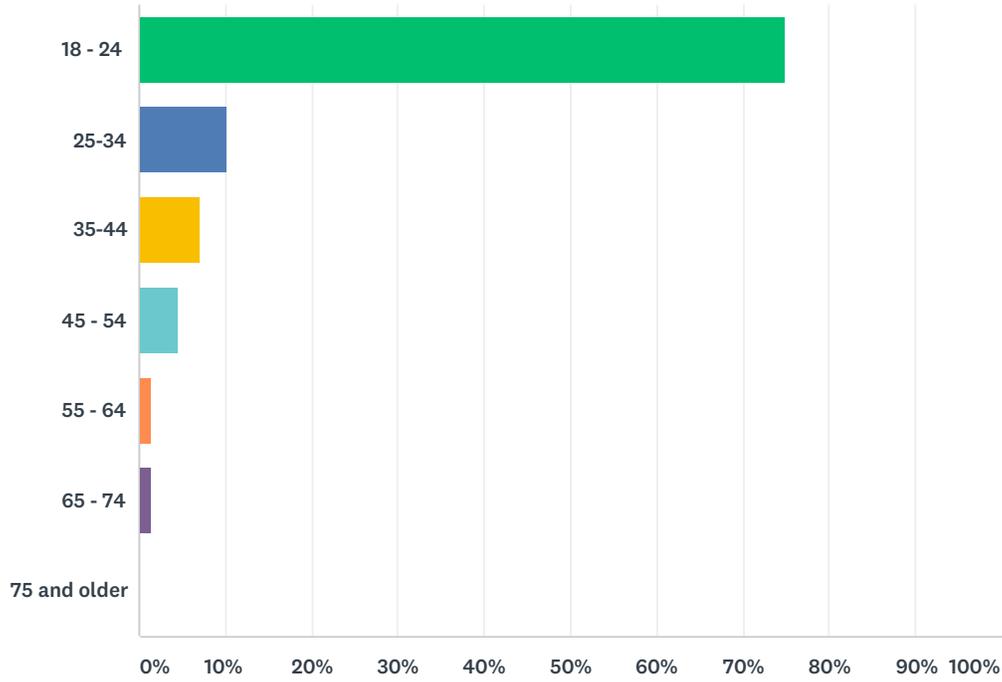
13 CFR §124.103

2010 Census Race and Hispanic Origin Alternative Questionnaire Experiment

2015 National Content Test

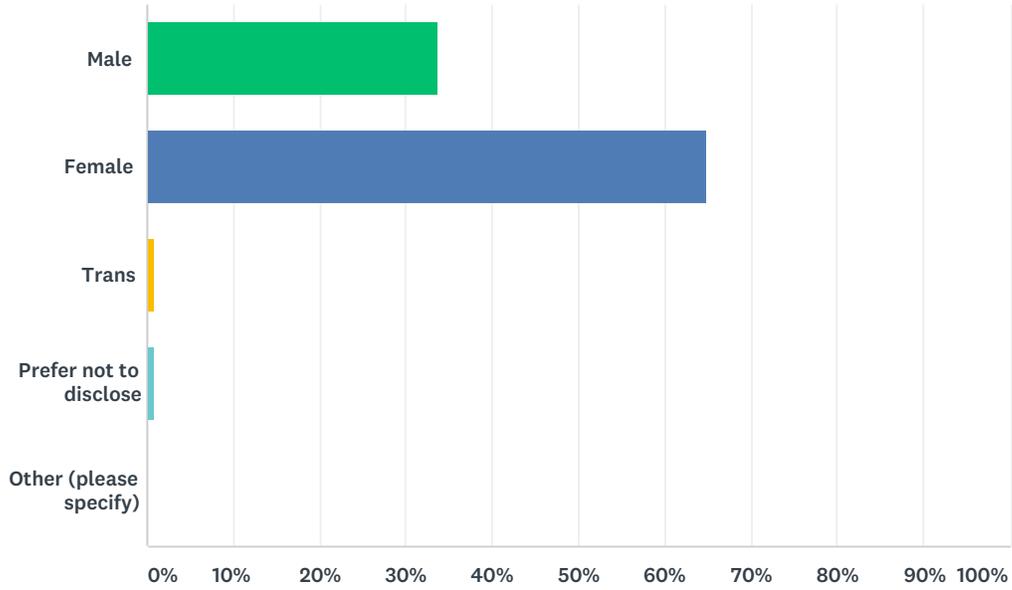# Appendix A

Q1 What is your age?

Answered: 128   Skipped: 0

ANSWER CHOICES	RESPONSES	
18 - 24	75.00%	96
25-34	10.16%	13
35-44	7.03%	9
45 - 54	4.69%	6
55 - 64	1.56%	2
65 - 74	1.56%	2
75 and older	0.00%	0
TOTAL		128

Q2 I identify my gender as

Answered: 128   Skipped: 0

ANSWER CHOICES	RESPONSES	
Male	33.59%	43
Female	64.84%	83
Trans	0.78%	1
Prefer not to disclose	0.78%	1
Other (please specify)	0.00%	0
TOTAL		128

Q3 What is your citizenship?

Answered: 128   Skipped: 0
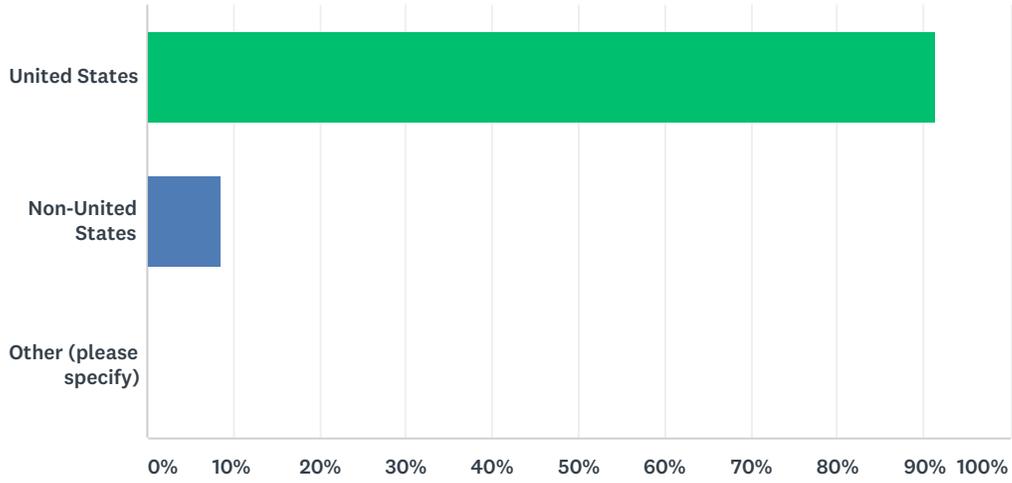
ANSWER CHOICES	RESPONSES	
United States	91.41%	117
Non-United States	8.59%	11
Other (please specify)	0.00%	0
TOTAL		128

Q4 How have you historically classified yourself on government documents (e.g., Census)?

Answered: 128   Skipped: 0
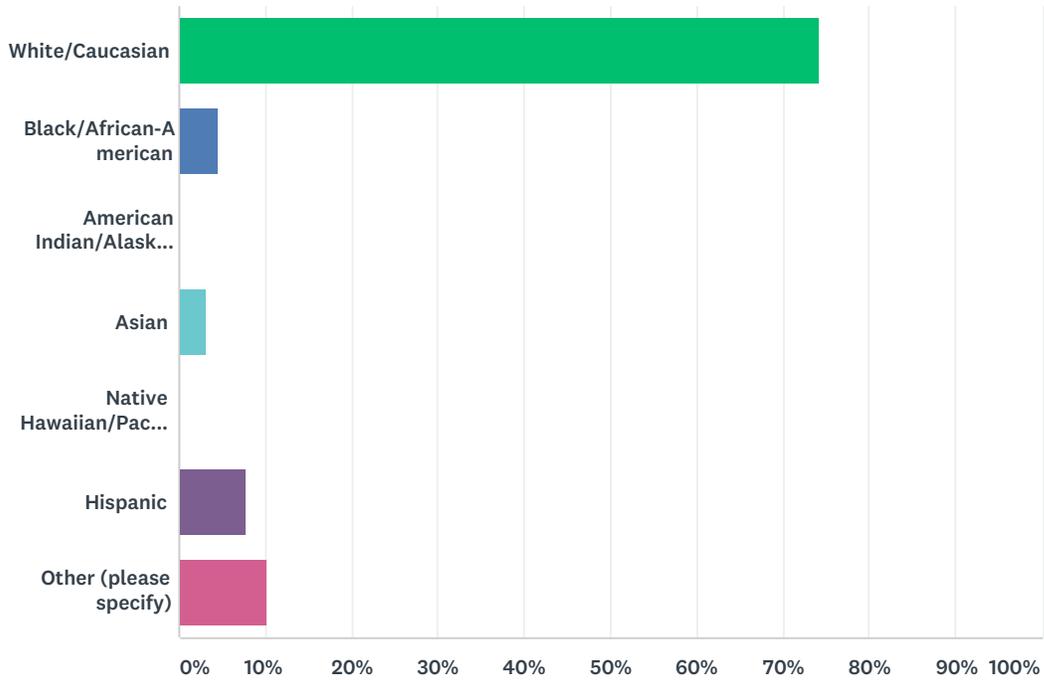
ANSWER CHOICES	RESPONSES	
White/Caucasian	74.22%	95
Black/African-American	4.69%	6
American Indian/Alaskan Native	0.00%	0
Asian	3.13%	4
Native Hawaiian/Pacific Islander	0.00%	0
Hispanic	7.81%	10
Other (please specify)	10.16%	13
TOTAL		128

Q5 How do you identify yourself to friends and colleagues?

Answered: 128   Skipped: 0
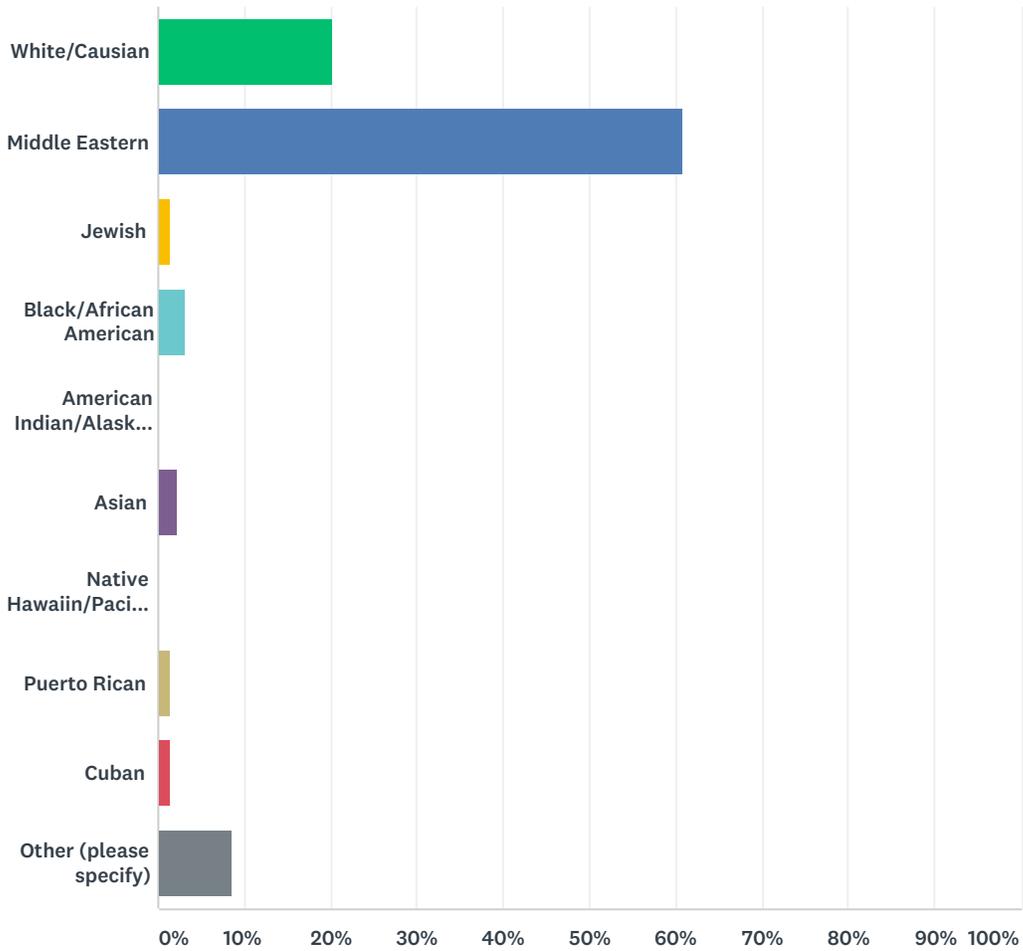
ANSWER CHOICES	RESPONSES	
White/Causian	20.31%	26
Middle Eastern	60.94%	78
Jewish	1.56%	2
Black/African American	3.13%	4
American Indian/Alaskan Native	0.00%	0
Asian	2.34%	3
Native Hawaiin/Pacific Islander	0.00%	0
Puerto Rican	1.56%	2
Cuban	1.56%	2
Other (please specify)	8.59%	11
TOTAL		128

Q6 If you are Arab American or of Middle Eastern descent, how do you classify on government documents?

Answered: 128   Skipped: 0
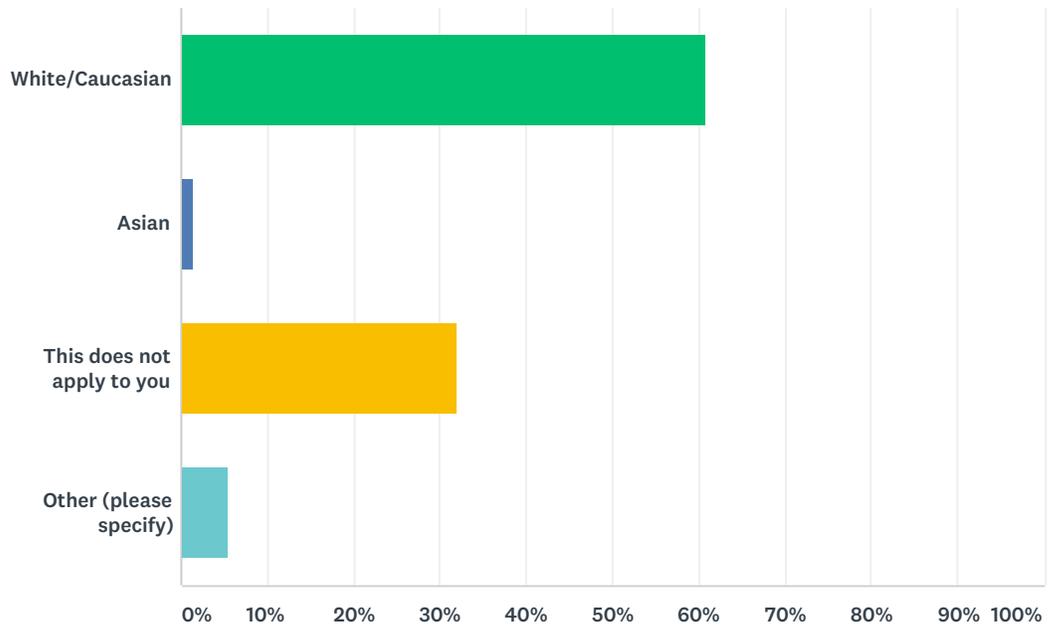
ANSWER CHOICES	RESPONSES	
White/Caucasian	60.94%	78
Asian	1.56%	2
This does not apply to you	32.03%	41
Other (please specify)	5.47%	7
TOTAL		128

Q7 Are you in support of including Middle Eastern in government documents?

Answered: 128   Skipped: 0
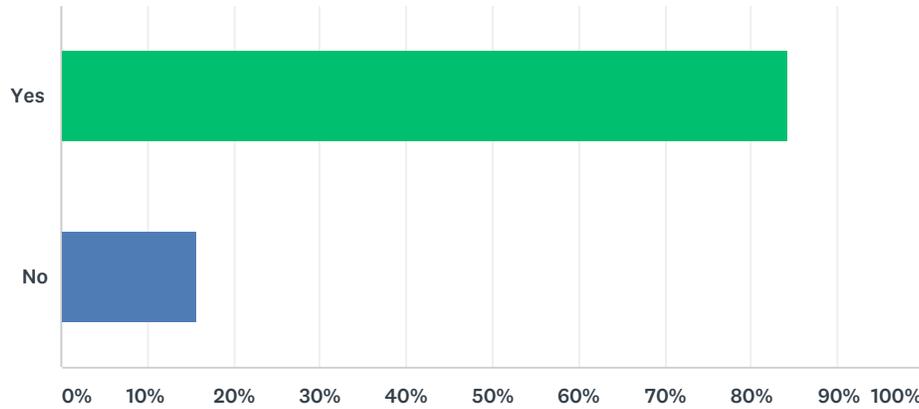
ANSWER CHOICES	RESPONSES	
Yes	84.38%	108
No	15.63%	20
TOTAL		128

Q8 Are you in support of including Middle Eastern as an option on surveys?

Answered: 128   Skipped: 0
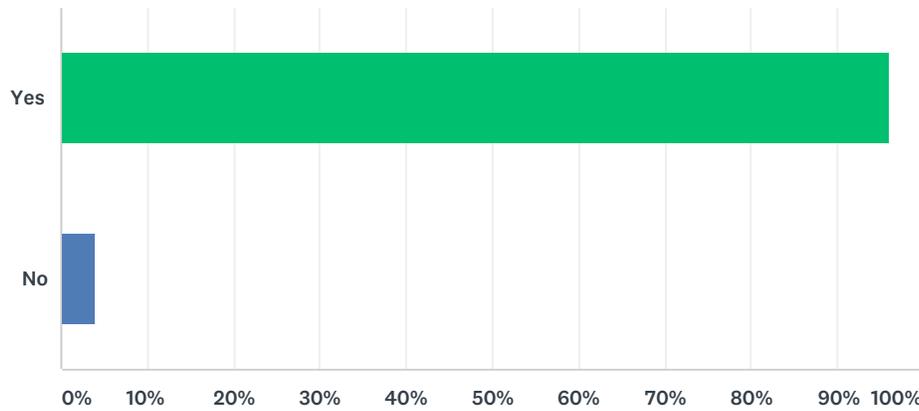
ANSWER CHOICES	RESPONSES	
Yes	96.09%	123
No	3.91%	5
TOTAL		128

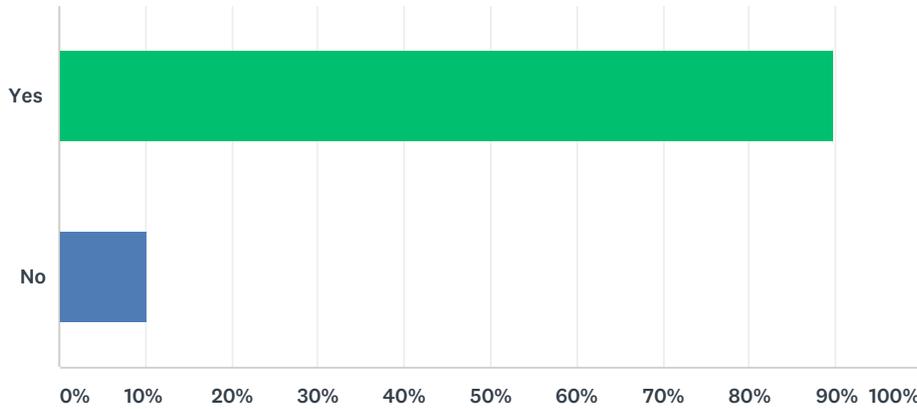# Q9 Would you support including "Middle Eastern" or "Arab American" as a classification in the next census?

Answered: 128   Skipped: 0
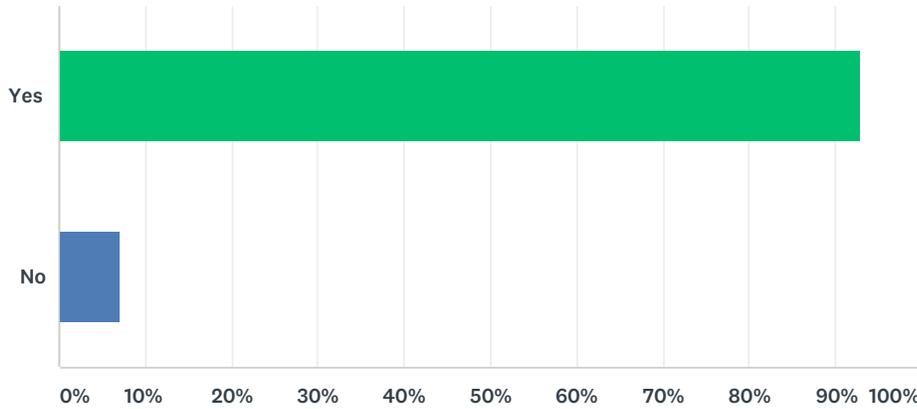
ANSWER CHOICES	RESPONSES	
Yes	92.97%	119
No	7.03%	9
TOTAL		128

Q10 Would you support including "Middle Eastern" or "Arab American" as a classification for non-Census, government documents?
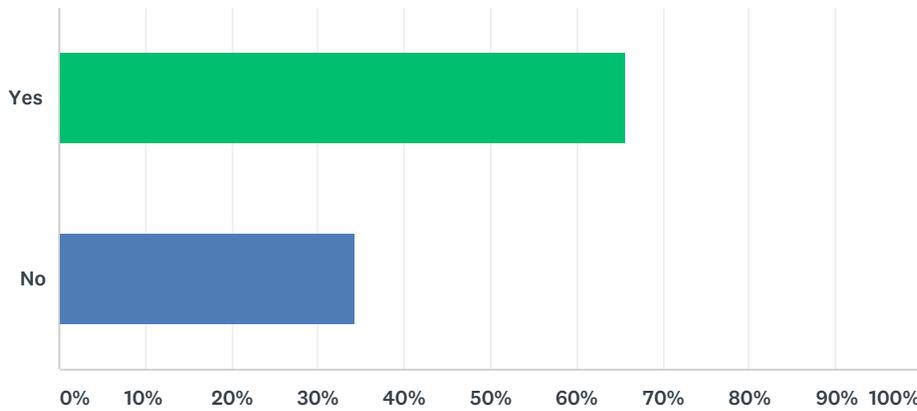
Answered: 128   Skipped: 0

ANSWER CHOICES	RESPONSES	
Yes	89.84%	115
No	10.16%	13
TOTAL		128

# Q11 Do you support the U.S. Census asking individuals to report whether they are American citizens?

Answered: 128   Skipped: 0

ANSWER CHOICES	RESPONSES	
Yes	65.63%	84
No	34.38%	44
TOTAL		128

Q12 Affirmative action supports policies that improve employment and educational opportunities to those who are otherwise not able to access such opportuinities. Given that definition, do you support affirmative action?
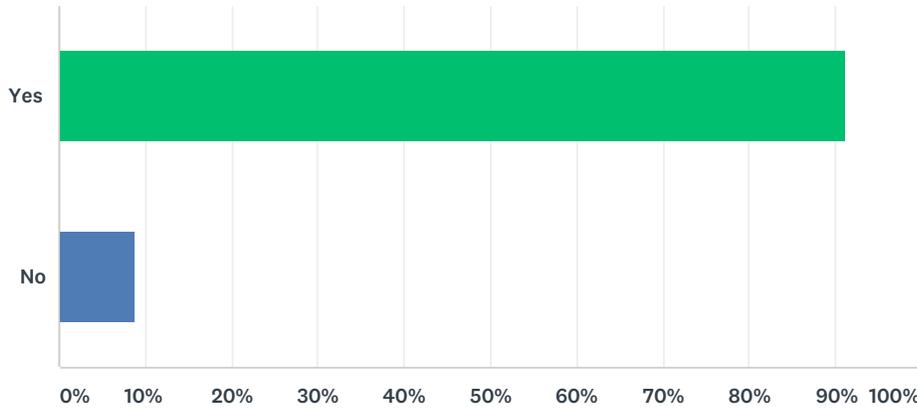
Answered: 126   Skipped: 2
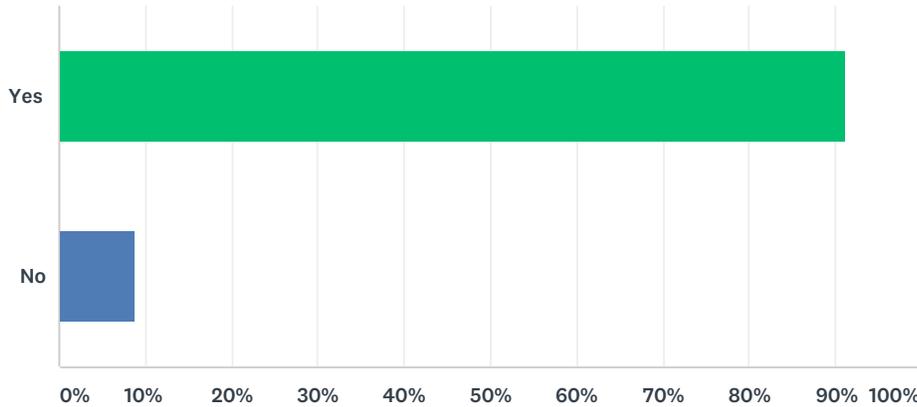
ANSWER CHOICES	RESPONSES	
Yes	91.27%	115
No	8.73%	11
TOTAL		126

Q13 Given the definition of affirmative action in question 12, do you support affirmative action policies for Arab Americans?
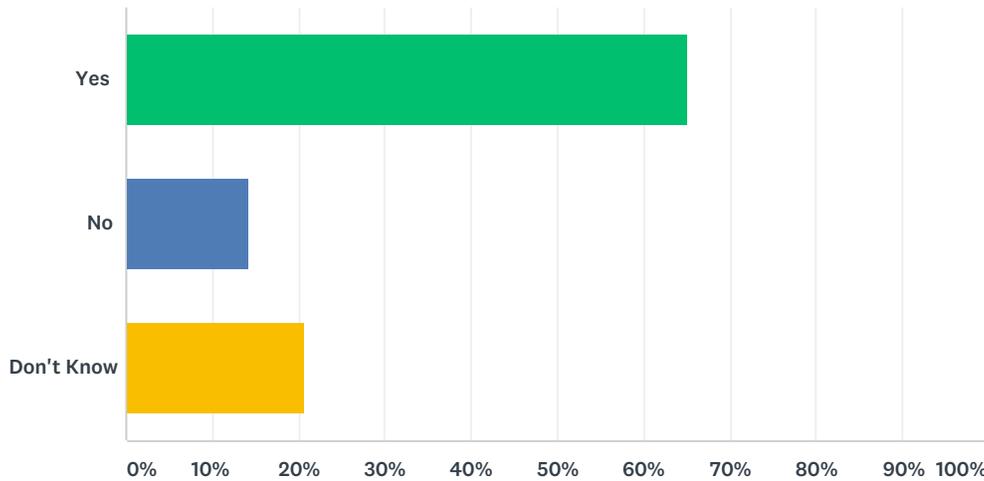
Answered: 126   Skipped: 2

ANSWER CHOICES	RESPONSES	
Yes	91.27%	115
No	8.73%	11
TOTAL		126

Q14 If you learned that the Trump administration wanted to include "Middle-Eastern" or Arab-American as a classification on the next Census or in future government documents, would you support this inclusion?

Answered: 126   Skipped: 2

ANSWER CHOICES	RESPONSES	
Yes	65.08%	82
No	14.29%	18
Don't Know	20.63%	26
TOTAL		126