



## U.S. Department of Justice

### Office of Justice Programs

#### Office of Juvenile Justice and Delinquency Prevention

Washington, D.C. 20531

## OJJDP Policy: Monitoring of State Compliance with the Juvenile Justice and Delinquency Prevention Act

### FREQUENTLY ASKED QUESTIONS

The United States Department of Justice, Office of Justice Program's Office of Juvenile Justice and Delinquency Prevention (OJJDP) thanks the states for their review and feedback concerning OJJDP's draft policy: *State Compliance with the Core Requirements of the Formula Grant Program Under Title II, Part B, of the Juvenile Justice and Delinquency Prevention Act* (JJDP Act) (dated 8/21/15).<sup>1</sup> OJJDP continues to value the input it receives from states. We have carefully reviewed each of the comments and provide this Frequently Asked Questions document to synthesize and address the recurring themes.

#### 1. *What is the effective date of the new policy?*

The policy, entitled [\*Monitoring of State Compliance with the Juvenile Justice and Delinquency Prevention Act\*](#), will be fully effective beginning with the Fiscal Year 2017 funding compliance determinations based on data that states are currently collecting (for the period covering 10/1/15 – 9/30/16), which is due to OJJDP January 31, 2017.

#### 2. *Is OJJDP now adopting a punitive approach to the JJDP Act?*

OJJDP is committed to ensuring that the nation's children and youth are protected from harmful conditions of correctional confinement. In fulfilling this charge, OJJDP awards formula grants to states authorized pursuant to Title II, Part B of the JJDP Act. In the past 40 years, OJJDP has disbursed more than \$2 billion in Formula Grant Program funds to support state and local efforts to comply with the JJDP Act's core requirements, protect youth who come into contact with the justice system and improve the outcomes of those who enter the system. States' participation in the Formula Grant Program under the JJDP Act is voluntary. The funding is essentially incentive-based in that states are eligible to receive Formula Grant Program funding conditioned upon their election to participate and their compliance with the Formula Grant Program requirements, including the core requirements.

OJP is committed to institutionalizing the needed reform to ensure consistent, objective review by OJJDP of states' compliance with the requirements of the Formula Grant Program. This does not mean OJJDP has adopted a punitive approach. To the contrary, OJJDP will continue to work with states to ensure the safety and well-being of youth and will do so while ensuring fidelity to the requirements of the Formula Grant Program. While a reduction in funding is required by

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<sup>1</sup> The draft policy was renamed *Monitoring of State Compliance with the Juvenile Justice and Delinquency Prevention Act*.

section 223(c) of the JJDP Act for states not in compliance with the core requirements, OJJDP provides technical assistance to aid states in achieving compliance.

**3. *Why are states subject to an immediate reduction in funding for non-compliance with the core requirements? What are the states' appeal rights if funding is reduced?***

Section 223(c) of the JJDP Act requires that OJJDP reduce states' Formula Grant Program funding by 20% for each of the core requirements with which they are determined to be out of compliance. When a state is determined to be out of compliance, OJJDP does not have discretion not to reduce the state's funding. States may appeal a reduction in funding based on non-compliance with one or more of the core requirements, pursuant to 28 C.F.R. Part 18.

**4. *The policy indicates that OJJDP may take action to withhold a state's formula grant funding if OJJDP has concerns regarding a state's compliance with the JJDP Act. What circumstances might lead OJJDP to take action to withhold a state's formula grant funding and what is the process for doing so?***

If OJJDP finds after a formula grant award has been made that a state has not met one or more of the 28 program requirements, OJJDP may withhold (freeze) the funding, pending correction of the issue for which the funds were frozen. (See Section 299A of the JJDP Act, 2 C.F.R. § 200.305, and 2 C.F.R. § 200.338) A grant adjustment notice (GAN) will be initiated prohibiting the state from drawing down funding on the grant. Once the state has taken appropriate action to correct the issue, OJJDP will issue a GAN releasing the funds.

**5. *Why is OJJDP moving to a federal fiscal year reporting period?***

Section 223(c) of the JJDP Act states that "if a State fails to comply with [the core requirements] in any fiscal year... the amount allocated to such State...for the subsequent fiscal year beginning after September 30, 2001 ...shall be reduced..." This provision contemplates that the relevant period for determining compliance is the federal fiscal year. The fact that the statute specifically references the "fiscal year beginning after September 30, 2001..." indicates that states were required to be in compliance for the federal fiscal year beginning on October 1, 2001.

We recognize that an impact of this change is that states will have four months instead of six months to prepare their annual compliance monitoring reports due to OJJDP on January 31 of each year.

**6. *Why are states required to report 100% of data? How should states address those instances when local entities refuse to provide data?***

OJJDP has long expected that states strive for 100% reporting from facilities that are required to report data. Full reporting from these facility types is critical to ensuring the reliability of data used to determine each state's funding eligibility. OJJDP will issue more detailed guidance on this provision, to include information on available training and technical assistance, in the near future.

**7. *How frequently will OJJDP conduct compliance audits? Does OJJDP anticipate any significant changes to the compliance audit process?***

The JJDP Act requires the OJJDP Administrator to audit state compliance monitoring systems (204(b)(6)). The compliance audit process provides a standardized method for OJJDP to review

states' compliance monitoring system. OJJDP is updating its audit guidelines to ensure that it conducts objective and thorough compliance audits utilizing a more efficient process. As stated in the draft policy, OJJDP anticipates, with available funding and resources, that every state will receive a field audit every three years in addition to audits based on OJJDP desk reviews or other information received.

8. ***The policy indicates that OJJDP will request a sample of logs, which may contain personally-identifiable or confidential information about youth, as part of the compliance determination process. Will OJJDP issue guidance to states on how this issue should be addressed if releasing such information conflicts with state confidentiality laws?***

OJJDP does not require states to provide personally-identifiable (PII) or confidential information about youth, and such information is not necessary to demonstrate compliance with the core requirements. Any PII or confidential information about youth must be redacted before submission to OJJDP.

9. ***When does OJJDP anticipate issuing more detailed guidance related to the Disproportionate Minority Contact core requirement?***

OJJDP is in the process of developing an objective tool to guide its assessment of states' compliance data. We anticipate sharing a draft of the tool for feedback and comment soon. During this period of transition, OJJDP strongly encourages each state to closely examine its delinquency prevention and intervention efforts and systems improvement strategies to determine how they impact your state's DMC reduction efforts. DMC reduction strategies and objectives should have a demonstrable and measurable impact pursuant to Section 223(a)(22) of the JJDP. OJJDP encourages states to submit a training and technical assistance request to assist the state with fully implementing the full OJJDP DMC Reduction Model with specific focus on assessment, intervention, evaluation, and monitoring.

10. ***There are new provisions that will be implemented through this policy that are not described in detail. How can the states find out more information about these new provisions?***

The new policy is not intended to serve as a detailed guide. OJJDP will issue comprehensive guidance, to include sampling processes, timeframes for submission and other operational details, with the release of an updated Guidance Manual.