



Office of the Inspector General  
U.S. Department of Justice



**Audit of the Office of Juvenile Justice and  
Delinquency Prevention Title II Part B Formula  
Grant Program Related to Allegations of the  
OJJDP's Inappropriate Conduct**

# AUDIT OF THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION TITLE II PART B FORMULA GRANT PROGRAM RELATED TO ALLEGATIONS OF THE OJJDP'S INAPPROPRIATE CONDUCT

## EXECUTIVE SUMMARY

In September 2014, the Department of Justice Office of the Inspector General (OIG) Investigations Division issued a report of investigation into allegations that the state of Wisconsin's Office of Justice Assistance (Wisconsin) submitted fraudulent compliance data to the Office of Juvenile Justice and Delinquency Prevention (OJJDP) in order to receive grant funds from the OJJDP's Title II Part B Formula Grant Program (grant program). The investigation concluded that Wisconsin submitted inaccurate compliance reports to the OJJDP, failed to perform required physical inspections of secure detention facilities housing juveniles, did not have an adequate monitoring system to ensure compliance with grant requirements, and did not accurately define its monitoring universe as required by the *Juvenile Justice and Delinquency Prevention Act of 2002* (JJDPA).<sup>1</sup>

Subsequent to the conclusion of that investigation, the OIG received seven allegations that OJJDP officials engaged in inappropriate conduct related to the underlying program, as referred to then-Attorney General Eric Holder by the U.S. Office of Special Counsel by letters dated September 16, 2014, and January 13, 2015. These allegations were referred by former Attorney General Holder to the OIG, which initiated this audit as well as a review that was conducted by the OIG's Oversight and Review Division. This OIG audit examined two of these allegations, which were:

1. Employees at the OJJDP failed to assure compliance with JJDPA core protections; and
2. Employees at the OJJDP failed to investigate allegations that Wisconsin was falsifying detention data in order to receive federal funding.

The audit substantiated the first allegation listed above and identified concerns related to the second allegation. We concluded that the OJJDP could strengthen its grant program compliance monitoring procedures and periodically redistribute an Office of Justice Programs (OJP) policy that requires staff to immediately report suspected programmatic non-compliance to the OJJDP Administrator.

We found that the OJJDP did not engage in actions necessary to ensure states' compliance with the four JJDPA core requirements states must meet to

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<sup>1</sup> The OIG Investigations Division worked on the investigation with the U.S. Attorney's Office for the Northern District of Iowa, which ultimately declined to bring criminal or civil charges in the matter. OIG, *Report of Investigation*, Case Number 2008-005167 (January 2014).

receive full funding through the grant program. Specifically, states receiving these OJJDP grants are required to: (1) deinstitutionalize status offenders; (2) separate juveniles from adult inmates; (3) remove juveniles from adult jails; and (4) reduce the disproportionate contact of minority youth with the juvenile justice system, commonly referred to as disproportionate minority contact. The OJJDP did not routinely perform compliance monitoring audits required by the JJDPA to help ensure compliance with those requirements. According to OJJDP's former policy, as communicated to us during our OJJDP interviews, each participating state or territory should have received a JJDPA compliance audit at least once every 5 years. However, we found that 20 states or territories received only one audit during a 13-year time period from 2002 through 2014. In October 2015, the OJJDP changed its policy to require a compliance audit every 3 years.

We also found that the OJJDP had not developed written policies governing its audit selections. An OJJDP official told us that the agency tried to keep track of when states were due for an audit, but those selection procedures and criteria were not in writing, and the agency did not record the reasons why audit selections were made. We believe that written policies and procedures would provide assurance that audits were selected uniformly, consistent with OJP and Department of Justice policies, and based on factors such as risk or previously identified compliance deficiencies. In April 2015, then-Assistant Attorney General for OJP Karol Mason acknowledged during testimony before the Senate Judiciary Committee long-standing problems with the OJJDP's compliance monitoring program intended to ensure grantees' compliance with the JJDPA. During the hearing, the then-Assistant Attorney General proposed certain corrective actions to address these problems. We determined that these actions were mostly complete as of January 2017, though we were not able to test their effectiveness within the scope of this audit.

While we found no evidence that the OJJDP had examined allegations that Wisconsin submitted fraudulent compliance data, we also found no conclusive evidence that OJJDP managers or supervisors were aware of these allegations prior to the OIG launching its investigation in May 2008. Although a member of the OJJDP's compliance monitoring staff suspected that Wisconsin had submitted fraudulent data as early as October 2007, the staff member did not formally report these allegations to the OIG until March 2008, and never reported the allegations to OJJDP managers or supervisors. We determined that the same OJJDP staff member who initially suspected Wisconsin of committing fraud told at least one of her co-workers not to share the information with anyone. Although OJP has a policy that requires staff to immediately report allegations of grant misuse or non-compliance, we found that managers or supervisors were not informed because of perceived problems between some OJJDP staff and their managers.

We make four recommendations to OJP to improve the management and administration of its grant program.

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# AUDIT OF THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION TITLE II PART B FORMULA GRANT PROGRAM RELATED TO ALLEGATIONS OF THE OJJDP'S INAPPROPRIATE CONDUCT

## INTRODUCTION

By letters dated September 16, 2014, and January 13, 2015, the U.S. Office of Special Counsel (OSC) referred seven allegations to then-Attorney General Eric Holder that indicated employees from Department of Justice (Department) components and offices may have violated federal law, rules or regulations; or engaged in gross mismanagement, waste of funds, or other wrongdoing.<sup>2</sup> The allegations originated from Jill Semmerling, a former Special Agent within the Department's Office of the Inspector General (OIG), and Elissa Rumsey, an employee of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) within the Department's Office of Justice Programs (OJP). The two allegations addressed in this audit report were that:

1. Employees at the OJJDP failed to assure compliance with the *Juvenile Justice and Delinquency Prevention Act's* (JJDPA) core protections; and
2. Employees at the OJJDP failed to investigate allegations that Wisconsin's Office of Justice Assistance (Wisconsin) was falsifying detention data in order to receive federal funding.

The OIG's Audit and Oversight and Review Divisions conducted the review jointly. The Oversight and Review Division has issued a report on allegations 3, 4, and 5, and both Divisions will issue a forthcoming report on allegations 6 and 7. Under federal law, an agency must investigate an OSC referral and submit a report of findings to the OSC.<sup>3</sup> In January 2015, then-Attorney General Holder delegated to the OIG the responsibility to investigate, report, and take necessary actions as warranted on the OSC disclosures.

We assessed the allegations by interviewing Elissa Rumsey, an OJJDP Compliance Monitoring Coordinator and a whistleblower in this matter.<sup>4</sup> We also interviewed then-OJJDP Administrator Robert Listenbee, the OJJDP Deputy Administrators for Policy and Programs, the OJJDP Chief of Staff and Counsel, Associate Administrators, Deputy Associate Administrators, Compliance Monitors and Program Specialists, the OJP General Counsel, Deputy General Counsel, General Counsel Staff Attorneys, and other Department employees.<sup>5</sup>

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<sup>2</sup> Eric Holder served as Attorney General from February 2009 until April 2015.

<sup>3</sup> 5 U.S.C. § 1213.

<sup>4</sup> We also reviewed transcripts of interviews conducted by the OIG Oversight and Review Division of a second whistleblower, former OIG Special Agent Jill Semmerling.

<sup>5</sup> Robert Listenbee served as the OJJDP Administrator from March 2013 until January 2017.

## OIG Investigation of Wisconsin

In September 2014, the OIG Investigations Division issued a report of investigation regarding allegations that the State of Wisconsin had submitted fraudulent compliance data to the OJJDP in order to receive grant funds from the Title II Part B Formula Grant Program (grant program).<sup>6</sup> The investigation found that a Wisconsin Compliance Monitor (Compliance Monitor 1) who was responsible for compiling the data that had been reported to the OJJDP admitted to making up the information that indicated the state was in compliance with JJDP requirements. Compliance Monitor 1 also admitted that he did not verify reported juvenile arrest data because he did not know how to interpret the data. The employee denied that anyone in the state agency instructed him to falsify the reports.

The report also reflected that Wisconsin failed to perform physical inspections of secure detention facilities required under the JJDP. Both Compliance Monitor 1 who admitted to falsifying data and that employee's successor (Compliance Monitor 2) told the OIG that they represented to the OJJDP that state facilities had been physically inspected as required for 2001 to 2003, 2005, and 2006. However, both compliance monitors admitted that they did not perform the required inspections.<sup>7</sup>

The OIG investigation also found that Wisconsin did not have an adequate monitoring system and did not accurately define its monitoring universe as required by the JJDP. From 2001 to 2008, Wisconsin reported to the OJJDP that it had between 155-170 secure detention and correctional facilities. According to Wisconsin's Justice Programs Director (JP Director), the state had more than 600 police departments, although the JP Director did not believe that all of these facilities were required to be included in Wisconsin's monitoring universe. During the investigation, the OIG visited several Wisconsin police departments that were not inspected by Wisconsin's Department of Corrections or included in Wisconsin's monitoring universe. The OIG found that these facilities had many of the conditions (secure booking areas, handcuff benches, and rooms with locks to detain individuals for questioning) that would have required the facility to be included in the state's monitoring universe and reported to the OJJDP.

The investigation was conducted under the direction of the U.S. Attorney's Office for the Northern District of Iowa, to which it had been referred after the

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<sup>6</sup> U.S. Department of Justice Office of the Inspector General, *Report of Investigation*, Case Number 2008-005167 (January 2014), a summary of which was provided in response to a congressional inquiry and publicly released by the OIG in September 2014, and is available on the OIG's website at <https://oig.justice.gov/reports/2014/s1409a.pdf>.

<sup>7</sup> Both compliance monitors explained that they based their facility inspection numbers on inspections performed by the Wisconsin Department of Corrections, which performed inspections of state detention facilities to comply with Wisconsin state law. A Wisconsin Corrections official told the OIG that Corrections inspections were not performed to determine compliance with the requirements of the JJDP.

U.S. Attorney's Office for the Eastern District of Wisconsin was recused. After a lengthy investigation and review, the U.S. Attorney's Office ultimately declined to bring criminal or civil charges in the matter. The Department's Civil Division also declined prosecution.

## **Background**

The OJJDP is an office within OJP that supports local and state efforts to prevent juvenile delinquency and improve the juvenile justice system. Central to this effort is the JJDPA, as amended, which authorizes the grant program through which the OJJDP awards funds to states and territories (herein collectively referred to as "states") for the development of programs in juvenile delinquency prevention and programs intended to improve the juvenile justice system. A state's participation in the grant program is voluntary.

### *The OJJDP Organization and Structure*

OJJDP has undergone multiple reorganizations from 2006 to 2015. The latest reorganization occurred in April 2015 and involved the creation of the Core Protections Division, which is responsible for monitoring state compliance with JJDPA and grant program requirements. The Core Protections Division is staffed with Compliance Monitors and Coordinators, who review and assess state plans and data submissions and provide technical assistance to states on compliance matters.

### *The OJJDP's Administration of the Grant Program*

To receive grant funds, states must submit an application that includes a compliance monitoring plan covering a 3-year period. States must also submit annual compliance monitoring reports. FY 2015 was the first year of the current 3-year reporting period. The JJDPA requires that funding determinations be based on data collected by the states from the prior fiscal year. For example, in FY 2016, the OJJDP may have used calendar year 2015, or earlier year data, to make a compliance determination and an award decision for FY 2017. However, as expressed to us by OJJDP officials during our interviews, in practice, there is often a more extended time period between a state's submission of compliance data and the OJJDP's determination based on that data, as discussed later in this report.

After state officials submit their reports to the OJJDP, OJJDP's compliance monitoring staff review the reports to determine the extent of states' compliance with the four core requirements of the JJDPA. The reports are the basis for compliance monitoring staff recommendations of compliance or non-compliance and the eventual compliance determination made by the OJJDP Administrator.



## FINDINGS AND RECOMMENDATIONS

### Allegation 1 - Employees at the OJJDP failed to assure compliance with JJDP core requirements

We found that the OJJDP did not engage in actions necessary to assure compliance with JJDP core requirements. The OJJDP did not routinely perform audits of state compliance systems as required by the JJDP, which contributed to the agency's lack of assurance. Some states received only one audit between 2002 and 2014, which fell well short of the OJJDP's policy at that time, which was to perform an audit of every state system at least once in 5 years. The OJJDP had no written policies and procedures to govern the selection of audits, and the agency could not provide documentation of the basis for audit selections. In April 2015, then-Assistant Attorney General for OJP Karol Mason testified about long-standing problems with the OJJDP's compliance monitoring program. The then-Assistant Attorney General proposed corrective actions, which we determined were mostly complete as of January 2017, though we were not able to test their effectiveness within the scope of this audit. We concluded that OJJDP's compliance monitoring procedures did not ensure that states were in compliance with the JJDP during the period of this review.

#### *Background*

At the centerpiece of the JJDP are four "core requirements" considered essential to the mission and purpose of the statute. To comply with these core requirements, states must provide a plan to the OJJDP that:

- **Deinstitutionalizes status offenders** by requiring status offenders (juveniles who have been charged with an offense or committed an offense that would not be a crime if committed by an adult) or non-offenders, to not be placed in a secure detention or secure correctional facility, with exceptions;<sup>8</sup>
- **Separates juveniles from adult inmates** by requiring that juveniles not be detained or confined in an institution where they have contact with adult inmates;

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<sup>8</sup> A status offender is a juvenile who has been charged with or adjudicated for conduct that would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult. Examples of status offenses include truancy, violating curfew, and running away. Under the Deinstitutionalization of Status Offenders requirement, a non-offender is a juvenile who has not been charged with any offense and who is an alien or is alleged to be dependent, neglected, or abused.

- **Removes juveniles from adult jails** and lockups by requiring that juveniles not be detained or confined in any jail or lockup for adults, with exceptions; <sup>9</sup> and
- **Reduces the disproportionate contact** of minority youth within the justice system.

A state's level of compliance with the core requirements determines its allocation of grant funding. Under the JJDPA and its implementing regulations, failure to achieve or maintain compliance will result in a state having its grant funding reduced by 20 percent for each core requirement not met.<sup>10</sup> Additionally, noncompliant states are required to expend 50 percent of their funding to achieve compliance with the core requirements not met unless the OJJDP determines the state has achieved substantial compliance and is unequivocally committed to achieving full compliance within a reasonable time.

#### Compliance Monitoring<sup>11</sup>

The JJDPA also requires participating states to provide an adequate system for monitoring jails, lockups, and detention and correctional facilities. State plans must:

- **Identify the monitoring universe** by identifying all facilities in the state that might hold youth pursuant to public authority;
- **Classify the monitoring universe** by classifying all jails, lockups, and other facilities that meet JJDPA requirements;
- **Ensure inspection of facilities** by providing for facility site visits to provide an accurate assessment of each facility's classification and record keeping; and
- **Collect and verify data** by providing for the collection and reporting of data establishing whether facilities in the state comply with the core requirements of the JJDPA.

In addition to the requirements above, JJDPA and applicable regulations allow the OJJDP to reduce or temporarily prevent a state from accessing its award funds for non-compliance with compliance monitoring or other JJDPA requirements.

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<sup>9</sup> A lockup is a locked facility used by a state, a unit of local government, or any law enforcement authority to detain or confine adults pending the filing of a charge of violating a criminal law; awaiting trial on a criminal charge; or convicted of violating a criminal law.

<sup>10</sup> Compliance with the four core requirements make up 80 percent of a state's award allocation. A state receives the remaining 20 percent for participating in the grant program.

<sup>11</sup> Unless otherwise noted, the term "compliance monitoring" in this report refers specifically to compliance monitoring under the JJDPA formula grant program.

Because the OSC referrals alleged control weaknesses within the OJJDP's management and administration of the grant program, we reviewed the OJJDP's grant management controls. We found that OJJDP officials did not comply with OJJDP compliance monitoring requirements, as described below. We also discuss disclosures provided by then-Assistant Attorney General for OJP Karol Mason during testimony before the Senate Judiciary Committee about long-standing problems within the OJJDP's grant program.<sup>12</sup>

### *Infrequent Compliance Monitoring Audits and Unwritten Compliance Monitoring Procedures*

The JJDPA requires the OJJDP Administrator to provide for audits of state compliance monitoring systems to ensure that the systems are adequate.<sup>13</sup> OJP's Grant Manager's Manual provides "policies and procedures for the administration and management of all OJP grant programs."<sup>14</sup> The manual also describes other monitoring activities, which include substantive, intensive work with recipients by mail, e-mail, or telephone, and states that grant managers can use these activities to identify concerns with grant compliance or performance, or to answer recipient questions.<sup>15</sup>

Because of the potential for periodic grant monitoring to identify fraud, waste, abuse, or mismanagement, we asked OJJDP officials about the audits it performed of Wisconsin from 2001 to 2010, which was the scope of the November 2014 OSC referral. From a review of the OJJDP's records, we determined that the agency performed audits at Wisconsin in 2005 and 2010.<sup>16</sup> We also noted that audits of other states were performed infrequently, and 20 states received only 1 audit during the 13-year period of 2002 through 2014, while remaining states received 2, and no compliance audits were performed in 2012.

We asked OJJDP officials about their policies and procedures for performing compliance monitoring audits. Gregory Thompson, a former Associate Administrator of the OJJDP division responsible for compliance monitoring and other grant management responsibilities, told us about the OJJDP's compliance monitoring policy. The policy required a compliance monitoring audit of each state at least once every 5 years. Chyrl Jones, a former OJJDP Deputy Associate

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<sup>12</sup> Karol Mason served as the Assistant Attorney General for OJP from April 2013 until January 2017.

<sup>13</sup> 42 U.S.C. 5614(b)(6).

<sup>14</sup> Department of Justice Office of Justice Programs, Grant Manager's Manual, Phase 1 (January 2015).

<sup>15</sup> OJP and OJJDP officials told us they did not believe the Grant Manager's Manual applied to core requirements compliance monitoring. OJP stated that the manual only covers grant program management and does not address the requirements for OJJDP's core compliance monitoring, which OJP said is a separate and distinct function outside of grant management.

<sup>16</sup> Additionally, the OJJDP performed a compliance monitoring audit at Wisconsin in June 2015, which was outside the scope of the OSC allegations we reviewed, and a technical assistance visit at Wisconsin in April 2008.

Administrator for the same OJJDP division, added that the policy was not feasible because the OJJDP's staffing and resources never allowed for that timeframe. Thompson also told us that past travel freezes prevented staff from performing audits.<sup>17</sup> He indicated that the OJJDP began to fall behind in its audits and, in 2012, he decided to stop initiating new audits to allow the office to complete audits started in prior years.

A Deputy Associate Administrator in the OJJDP, told us that when he arrived in the office in 2013, the OJJDP had problems completing audits. He said that the OJJDP had some audits that had not been closed in 6-7 years, adding that he worked to get these outstanding audits closed.

During interviews of OJJDP officials, we asked how audits were selected. We were given the OJJDP's manual for completing compliance monitoring audits, and we confirmed that the procedures and criteria for selecting audit locations were not in writing. OJJDP's Compliance Monitoring Liaison told us that the office kept a list of audits selected and tried to prioritize when states were due for an audit. The Compliance Monitoring Liaison told us that these procedures were not in writing and that she could not recall where the office recorded the reasons audit selections were made. In October 2015, the OJJDP issued a compliance policy, which notified states that beginning in FY 2017, the OJJDP would perform audits every 3 years instead of every 5 years.<sup>18</sup> As of May 2017, the guidance manual that contains this policy change was still under development within the OJJDP.<sup>19</sup>

*Grant Management Problems Acknowledged by then-Assistant Attorney General for OJP Karol Mason*

On April 21, 2015, the U.S. Senate Judiciary Committee held a hearing on the OJJDP's administration and management of the grant program.<sup>20</sup> During the hearing, the then-Assistant Attorney General acknowledged "long-standing problems in the way the OJJDP monitors states' compliance" with the JJDPA.<sup>21</sup> The following summarizes her statements regarding key OJJDP processes.

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<sup>17</sup> OJP officials told us that in FY 2012, OJP was operating under sequestration and there was a restriction on travel spending.

<sup>18</sup> The OJJDP issued a revision to this policy, which was signed by then-OJJDP Administrator Listenbee on December 5, 2016. The revision did not amend the frequency of required audits.

<sup>19</sup> OJJDP Guidance Manual-Audit of Compliance Monitoring Systems

<sup>20</sup> U.S. Senate Committee on the Judiciary, Improving Accountability and Oversight of Juvenile Justice Grants, 114<sup>th</sup> Cong., 1<sup>st</sup> sess., April 21, 2015.

<sup>21</sup> Karol V. Mason, then-Assistant Attorney General of Office of Justice Programs, before the Committee on the Judiciary, U.S. Senate, concerning "Improving Accountability and Oversight of Juvenile Justice Grants" (April 21, 2015), <http://www.judiciary.senate.gov/meetings/improving-accountability-and-oversight-of-juvenile-justice-grants> (accessed February 5, 2016).

### Use of Outdated and Inconsistent Federal Compliance Regulations

The then-Assistant Attorney General said that it had taken the OJJDP too long to develop new regulations. She acknowledged that OJJDP's compliance monitoring program relied on regulations that were old, outdated, and inconsistent with the version of the JJDPA that was reauthorized in 2002. In January 2017, a partial final rule, which amended portions of the grant program regulations, was published in the Federal Register. As of May 2017, the partial rule was under the Department's review for approval.

### Use of Vague Standards to Determine JJDPA Compliance

The then-Assistant Attorney General said that the OJJDP used vague standards to make compliance determinations. She said that a number of key terms in the OJJDP regulations and policies were unclear or ill-defined, which resulted in individual reviewers making their own subjective decisions about the meaning of the terms and thus injecting substantial subjectivity into the monitoring process. She added that the vague standards contributed to a "failure of process" that OJP had discovered within the OJJDP, and that the OJJDP and OJP were revising its policies and guidance documents to bring greater clarity to the process and provide reviewers with a set of objective standards for evaluating compliance. We asked an OJJDP Acting Associate Administrator about the policy and guidance documents under revision. The official told us about a guidance manual and a separate audit compliance manual under development within the OJJDP. As of May 2017, the guidance manual had been completed but not disseminated to the states and the OJJDP Guidance Manual-Audit of Compliance Monitoring Systems was still under development.<sup>22</sup>

### Having an Extended Timeline Between a State's Filing of Required Reports and the Review and Subsequent Funding Decisions

The then-Assistant Attorney General said that the timeline between a state's filing of a compliance report and the OJJDP's compliance determination based on that filing had been extended. She recited the JJDPA requirement that state grant funding determinations be based on data submitted for the prior year, and said that in practice, there was a 2- or 3-year lag between state data and the compliance determination. She also said that in some cases, the OJJDP permitted states to submit additional or supplemental data from later periods as a way of avoiding funding reductions. She recognized that this practice had the effect of excusing a state's prior non-compliance. She said that these practices did not reflect the intent of the JJDPA statute, the OJJDP would no longer accept supplemental data,

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<sup>22</sup> According to OJP's records, the guidance manual will take effect on the date following the effective date of the JJDPA regulations published on January 17, 2017.

After the conclusion of our audit work, OJP officials told us that other compliance and policy documents related to core requirement compliance monitoring had been either completed or were under development.

and the OJJDP would work on shortening the gap between the submission of state data and the OJJDP's compliance determination based on that data.

We discussed this corrective action with an Acting Associate Administrator who told us that states were notified, via issuance of the October 2015 compliance policy, that the OJJDP would no longer accept supplemental data. We reviewed the compliance policy, which stated that the "OJJDP will only accept and review data to demonstrate compliance from the states from the applicable reporting period."<sup>23</sup> According to the then-Assistant Attorney General's April 2015 congressional testimony, this will effectively shorten the gap between the state's submission of data and the OJJDP's review and determination based on that data.

### *Findings and Analysis*

In our judgment, the OJJDP's infrequent compliance monitoring audits do not assure full compliance with JJDPA compliance audit requirements. Without regular audits, the OJJDP has no opportunity to physically observe a state's facilities and compliance monitoring systems and, therefore, cannot ensure that states are in compliance with JJDPA and agency requirements. Regular audits would provide the OJJDP more opportunities to identify high-risk grant recipients. Even in times of budget restrictions and when the ability to travel is limited, the OJJDP could have performed other monitoring activities that would not have incurred travel costs, such as intensive use of e-mail and telephone contacts, as discussed in OJP's Grant Manager's Manual. As noted above, OJP and OJJDP officials expressed to us that they do not believe that the manual applies to core requirements compliance monitoring. However, we believe the manual's guidance for performing other monitoring activities should be considered for documenting compliance monitoring audit activities when an onsite audit is not possible.

We asked OJJDP officials if they attempted to perform these other monitoring activities and for any records of these activities. The OJJDP provided a written statement to us, which stated that its staff continuously provides monitoring, training, and technical assistance through e-mail and telephone calls during the life of each grant. The OJJDP further stated that its staff does not have any documentation of these activities.

Absent documentation, we cannot determine whether these training and technical assistance activities addressed the compliance monitoring areas typically covered during an onsite monitoring audit. Without written audit selection procedures and criteria, the OJJDP cannot ensure that it has provided adequate coverage of all participating states and that states not visited recently or presenting particular problems are inspected more frequently. Written policies and criteria are necessary to ensure state audit sites are chosen uniformly, and audit selections are consistent with OJP and Department policies. We recommend that the OJJDP

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<sup>23</sup> U.S. Department of Justice Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, OJJDP Policy: Monitoring of State Compliance with the Juvenile Justice and Delinquency Prevention Act.

develop written procedures that describe the process for selecting compliance monitoring audits. We also recommend that the OJJDP implement procedures that require documenting audit activities when an onsite monitoring audit is not possible.

Further, in April 2015, the then-Assistant Attorney General acknowledged significant vulnerabilities within the program, which OJJDP officials also expressed to us during interviews for this review. These vulnerabilities contributed to the OJJDP's inability to assure compliance with the JJDPA core requirements. The OJJDP developed policies and procedures for the purpose of addressing these vulnerabilities, which included publishing a partial final rule to amend the JJDPA regulations, completing a guidance manual on compliance monitoring, and implementing a policy change on the acceptance of supplemental data. However, despite these efforts, we cannot conclude whether these policies and procedures will improve the management of the grant program without testing the implementation of these policies and procedures, which was not possible at the time of our audit.

As of May 2017, an OJJDP Guidance Manual-Audit of Compliance Monitoring Systems, as discussed previously, was still under development. We recommend that the OJJDP finalize this guidance manual.

## **Allegation 2 - Employees at the OJJDP failed to investigate allegations that Wisconsin was falsifying detention data in order to receive federal funding**

We found no evidence that the OJJDP examined allegations that Wisconsin had submitted fraudulent compliance data or conclusive evidence that OJJDP managers or supervisors were aware of these allegations until after the OIG initiated its investigation in May 2008. We found that the fraud allegations were not fully or timely communicated to OJJDP managers or supervisors due to perceived problems between some OJJDP staff and management. We also found that while OJP has a policy that requires OJJDP staff to report allegations of grant program non-compliance to OJJDP management, it does not appear that this policy was followed.

### *Background*

In March 2008, Elissa Rumsey, an OJJDP Compliance Monitoring Coordinator reported to the OIG her suspicions that Wisconsin had submitted fraudulent compliance data to obtain grant program funds.<sup>24</sup> The matter was assigned to Jill Semmerling, an OIG Special Agent who initially investigated the allegations before retiring from the OIG. Later, Semmerling filed a whistleblower disclosure with OSC that was subsequently referred to the Department and then the OIG for review, which is the subject of a separate report.<sup>25</sup> Ultimately, the U.S. Attorney's Office for the Northern District of Iowa declined to bring criminal or civil charges in the matter. The Department's Civil Division also declined prosecution.

In Semmerling's OSC complaint, she alleged that from 2001 through 2009, Wisconsin was awarded \$7 million in grant program funds for which the state was not entitled. Specifically, Semmerling claimed that from 2002 through 2004 and 2006, Wisconsin submitted flawed compliance data, and from 2007 through 2009, Wisconsin received or was scheduled to receive funds based on the OJJDP's improper oversight. Table 1 shows the total grant program awards to Wisconsin from FY 2001 through 2014 and those awards Semmerling alleged were based on the submission of fraudulent compliance data or improper oversight.

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<sup>24</sup> On February 3, 2008, Rumsey made an informal complaint regarding the OJJDP to George Dorsett, the OIG's then-Deputy Assistant Inspector General for Investigations at his home. On March 19, 2008, OIG investigators interviewed Rumsey about her complaint.

<sup>25</sup> In Semmerling's OSC disclosure, she alleged illegality and misconduct by employees in the OJJDP, OJP Office of General Counsel, and the OIG.



**Table 1**  
**Grant Program Funds Awarded to**  
**Wisconsin from FY 2001 through 2014**

Fiscal Year	Award Allocation	Awards that were Alleged to be Based on Fraudulent Compliance Data or Improper Program Oversight
FY 2001	\$1,264,000	\$0
FY 2002	\$1,247,000	\$1,247,000
FY 2003	\$1,096,000	\$1,096,000
FY 2004	\$1,174,000	\$1,174,000
FY 2005	\$1,145,000	\$0
FY 2006	\$982,834	\$982,834
FY 2007	\$811,200	\$811,200
FY 2008	\$933,000	\$933,000
FY 2009	\$1,024,000	\$1,024,000
FY 2010	\$978,000	\$0
FY 2011 <sup>a</sup>	\$816,070	\$0
FY 2012 <sup>a</sup>	\$467,914	\$0
FY 2013 <sup>a</sup>	\$472,566	\$0
FY 2014 <sup>a</sup>	\$639,292	\$0
<b>Total</b>	<b>\$13,050,876</b>	<b>\$7,268,034</b>

<sup>a</sup> Grant program funds put on hold or frozen by OJP as a result of the OIG's 2014 investigation report of Wisconsin

Source: OJP and OSC Referral dated November 16, 2014

In Semmerling's OSC complaint, she also alleged that Wisconsin intentionally limited the number of facilities it was required to monitor, inspect, and obtain compliance data from under program requirements in order to ensure that it could report fewer violations. Semmerling alleged that during the course of her investigation, she collected evidence in the form of documents and admissions from Wisconsin state officials that demonstrated Wisconsin reported false data to the OJJDP from FY 2002 through 2004, and for 2006. She claimed that had the compliance data been accurate, Wisconsin would not have been entitled to receive any grant funding for those years.<sup>26</sup>

Moreover, Semmerling alleged that Wisconsin officials had established an inadequate system of compliance monitoring, were aware of its compliance monitoring system deficiencies, and had prevailed upon OJP and the OJJDP to

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<sup>26</sup> In response to Semmerling's allegations, OJP stated that if Wisconsin did not monitor, inspect, and obtain compliance data from the appropriate number of facilities as Semmerling alleged, then it could not have had an adequate system of monitoring, which would have made the state ineligible for any formula funding.

ensure that Wisconsin continued to receive grant funding despite its non-compliance with the JJDP. She further claimed that OJJDP employees facilitated Wisconsin's ability to receive annual grant funding despite evidence of the state's non-compliance by failing to enforce JJDP provisions and by failing to respond to allegations that Wisconsin had improperly received federal funding.

OJP Instruction I 7140.2B provides guidance to all OJP agencies for examining allegations of program non-compliance by grant recipients.<sup>27</sup> When staff uncover indications of program non-compliance as a result of their review of reports submitted by grant recipients, they are instructed to immediately report these allegations to the head of the office that made the award.<sup>28</sup> The guidance further states that once an allegation is reported, the awarding office should initiate a review; and if the allegation is substantiated, OJP management must attempt to bring the recipient into compliance. The guidance states that the allegation should be referred to the OIG for audit or investigation when compliance cannot be achieved.

To assess whether the OJJDP failed to examine allegations, as directed by OJP Instruction I 7140.2B, we sought to determine whether, or the extent to which, OJJDP managers were aware that Wisconsin potentially submitted fraudulent compliance reports from approximately 2006 until 2008. To accomplish this, we interviewed Rumsey, and OJP and OJJDP current and former employees.<sup>29</sup> We also reviewed grant program records and reports related to Wisconsin; OJP and OJJDP grant management policies, procedures, and manuals, e-mail communications of OJP and OJJDP employees; and records collected from the previous OIG investigation of Wisconsin.

### *The OJJDP's Organization and Structure Related to Grant Program Compliance Monitoring*

During the period of 2007 to 2009, the OJJDP division and office responsible for monitoring state compliance with JJDP and federal regulations were called the State Relations and Assistance Division (SRAD) and the Policy Office. During this time period, Rumsey was organizationally positioned in the Policy Office under the direct supervision of the Deputy Administrator for Policy, which at that time was Nancy Ayers. Although Rumsey was organizationally outside of SRAD, SRAD's supervisors (Gregory Thompson, Associate Administrator, and Chyrl Jones, Deputy Associate Administrator) had oversight responsibilities over some of Rumsey's

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<sup>27</sup> OJP Instruction I 7140.2B on Examination and/or referral to the OIG of allegations of: (1) misuse of funds; (2) program or financial non-compliance by a recipient of a grant or cooperative agreement; or (3) conflicts of interest. Instruction I 7140.2B was issued under the tenure of Deborah J. Daniels who served as the Assistant Attorney General for OJP from September 2001 until January 2005.

<sup>28</sup> The instruction states that these indications of program non-compliance can be determined during telephone contact, on-site monitoring of recipients, or by an analysis of official grant files.

<sup>29</sup> Additionally, we reviewed transcripts of interviews of Semmerling by the Oversight and Review Division.

work. These duties included reviewing and approving or reversing her recommendations of compliance. This relationship required frequent communication between Rumsey and her managers, as we noted from dozens of e-mails between these parties about JJDP compliance matters.

*JJDP and Grant Program Compliance Requirements*

Under the Deinstitutionalization of Status Offenders (DSO) requirement of the JJDP, states are prohibited from placing certain status or non-offender juveniles in a secure detention or correctional facility, with exceptions. Status offenders are those juveniles who have been charged with an offense or committed an offense that would not be a crime if committed by an adult. To demonstrate DSO compliance, states must periodically submit data to the OJJDP that shows the total number of accused or adjudicated status offenders and non-offenders placed in secure correction or secure detention facilities in the state. Full compliance is not necessary for a state to receive funding. JJDP regulations permit a certain number of instances of non-compliance during a reporting period if the ratio of infractions compared to the overall juvenile population falls within an acceptable range. Table 2 below shows the threshold categories used by the OJJDP to determine compliance with the DSO requirement.

**Table 2**

**OJJDP Enforced Deinstitutionalization of Status Offenders Thresholds**

Rate per 100,000 Juveniles	Criteria for Determination
0.0	The state has demonstrated full compliance
0.1 to 5.7	The state had demonstrated full compliance with <i>de minimis</i> exceptions
5.8 to 17.6	The state is eligible for a finding of compliance with <i>de minimis</i> exceptions if it adequately meets two criteria: (a) noncompliant incidents violated state law, and (b) an acceptable plan has been developed that is designed to eliminate the noncompliant incidents.
17.7 and 29.4	The state is eligible for a finding of compliance with <i>de minimis</i> exceptions if it fully satisfies two criteria: (a) noncompliant incidents violated state law, and (b) an acceptable plan has been developed that is designed to eliminate the noncompliant incidents.
29.5 and greater	The state is presumptively ineligible for a finding of full compliance with <i>de minimis</i> exceptions because any rate above this level is considered to represent an excessive and significant level of status offenders and non-offenders held in juvenile detention or correctional facilities.

Source: OJJDP

## *Wisconsin Found to be Out of Deinstitutionalization of Status Offenders Compliance*

Rumsey told us that her suspicions of Wisconsin's compliance monitoring reporting first began in 2006 upon reviewing the state's compliance data submitted for calendar year 2005. In September 2006, as a result of its annual review of state plans, the OJJDP informed Wisconsin by letter that it had been found out of DSO compliance. Based on the grant program cycle, the OJJDP reviews prior year or earlier compliance data to make compliance determination and award decisions for the next fiscal year.<sup>30</sup> In 2006, the OJJDP reviewed Wisconsin's 2005 compliance data to determine eligibility for FY 2007 grant funding. The data showed that Wisconsin had a rate of 69.54 per 100,000 juveniles, more than twice the threshold the OJJDP established for being presumptively ineligible for a finding of full compliance with *de minimis* exceptions as shown in Table 2.

Consequently, per JJDP requirements, Wisconsin's FY 2007 grant award was reduced by 20 percent, or \$202,800 of the \$1,014,000 award amount, and Wisconsin was also subject to the requirement that 50 percent of its remaining formula grant funds be allocated to address its DSO deficiencies. Additionally, the OJJDP added a special condition to Wisconsin's FY 2007 award that required the state to submit a more comprehensive DSO plan to replace its previous plan. The revised plan had to include a detailed, data-driven analysis of the state's DSO violations. The special condition prohibited Wisconsin from obligating, expending, or drawing down its grant award until the OJJDP approved the revised plan. The special condition also froze, or temporarily prevented, Wisconsin's ability to access all but \$30,000 of its grant award until it complied with the special condition.<sup>31</sup> Additionally, the OJJDP decided to conduct a technical assistance visit to assist Wisconsin in identifying weaknesses in its compliance monitoring processes. The technical assistance visit was performed in April 2008.

### *Rumsey's Concerns about Wisconsin's Compliance Monitoring Reporting*

Rumsey told us that Wisconsin reported a very low number of lockups (certain correctional facilities states are required to report) to the OJJDP. In its

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<sup>30</sup> OJJDP officials told us that per JJDP requirements, §223(c)(1), it is supposed to use prior year data to make compliance determinations for the next funding year. However, several OJJDP officials acknowledged to us that in practice the agency often uses 2 to 3-year-old data to make its compliance determinations. The then-Assistant Attorney General for OJP testified before the Senate Judiciary Committee on April 21, 2015, that the agency would no longer accept supplemental data. Mason, "Improving Accountability and Oversight of Juvenile Justice Grants."

<sup>31</sup> OJJDP permitted Wisconsin to access the \$30,000 for Wisconsin officials to attend pertinent training during the budget year. The special condition was removed in January 2008. According to an e-mail from an OJJDP State Representative, who at that time was responsible for reviewing Wisconsin's compliance materials, Wisconsin did not satisfy the special condition. However, despite this non-compliance, the State Representative stated to her OJJDP managers that the only option was to waive the special condition, and as a result, the special condition was removed. During her interview for this review, the State Representative suggested that it was not an option for the OJJDP to permanently prohibit Wisconsin from accessing the remainder of its funds on the basis of non-compliance with the special condition because of pressure from Congress.

2005 compliance monitoring report, Wisconsin reported it had a total of 66 adult lockups within the state.<sup>32</sup> Based on her own research performed at the time with an Internet website called USACOPS.com, Rumsey believed Wisconsin's actual number of lockups was much higher, possibly in the hundreds.<sup>33</sup>

In the months that followed Wisconsin's non-compliance determination, OJJDP officials, including Rumsey, assisted Wisconsin officials in addressing the state's DSO compliance deficiencies by providing technical assistance and guidance. Rumsey said that during a conference call for the purpose of assisting the state, Wisconsin officials disclosed to the OJJDP that the state's compliance issues were partially caused by the detainment of African-American girls who had run away from court-ordered placement in Milwaukee.<sup>34</sup> Wisconsin's Compliance Monitor (Compliance Monitor 2), whose subsequent conversation with Rumsey regarding Wisconsin's compliance data is discussed below, participated in this call. During the call and within a compliance report sent to the OJJDP, Wisconsin officials also disclosed that they had experienced errors with their state's computer system called the Juvenile Secure Detention Register (JSDR), which was used to collect and analyze compliance monitoring data. We reviewed Wisconsin's compliance report submitted for 2005 in which the state reported that the JSDR had been upgraded and improved to allow for direct internet reporting regarding juvenile detention facilities. Wisconsin also disclosed in the same report that these improvements had unexpected side-effects, which made the JSDR unable to accept data from the old system. During her interview with us, Rumsey recalled that these comments from Wisconsin officials contributed to her suspicions about Wisconsin's compliance data. Additionally, Rumsey told us about two separate conversations she had with Wisconsin officials that she believed indicated the existence of fraud.

#### Rumsey's Conversation with Wisconsin's Justice Programs Director

In September 2007, Rumsey, on behalf of the OJJDP, invited Wisconsin officials to the OJJDP's offices in Washington D.C. for individualized one-on-one training regarding JJDPA regulations. The invitation was accepted by Wisconsin's Justice Programs Director (JP Director). In October 2007, the JP Director met with Rumsey and presented Wisconsin's new compliance data, which replaced data Wisconsin had previously submitted. During the OIG's interview in the course of reviewing these allegations, Rumsey said that the new data contained no compliance violations, which at that time, she considered odd. Rumsey told us that the JP Director told her, in reference to the new compliance data, "I wouldn't

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<sup>32</sup> As noted above, a lockup is a locked facility used by a state, a unit of local government, or any law enforcement authority to detain or confine adults pending the filing of a charge of violating a criminal law, awaiting trial on a criminal charge, or convicted of violating a criminal law.

<sup>33</sup> According to its website, USACOPS.com links together law enforcement agencies in the U.S. and is designed to assist law enforcement in their communications with each other and their relations with the public they serve. USACOPS.com is a commercial website and is not affiliated with a law enforcement agency. See <http://usacops.com/>.

<sup>34</sup> During this review, Ms. Rumsey recalled having one such conference call during the summer of 2007.

believe it either." Rumsey told us that she considered the JP Director's comment outrageous.

### Rumsey's Conversation with Wisconsin's Compliance Monitor 2

In September 2007, Rumsey received an e-mail from Compliance Monitor 2 stating that he was departing his employment with the Wisconsin agency. After exchanging more e-mails with Compliance Monitor 2, Rumsey asked him to call her at home, which he did in December 2007. Rumsey said that Compliance Monitor 2 told her that Wisconsin was "faking the data" regarding Wisconsin's compliance monitoring reports and that the JS DR system was "bogus." Rumsey also said that Compliance Monitor 2 told her that "everybody is in on it" and "they all know it," referring to other Wisconsin officials. Rumsey also said Compliance Monitor 2 told her he was pressured to lie on the compliance monitoring reports he submitted on behalf of Wisconsin. Rumsey told us that she considered the Compliance Monitor's statements further evidence of Wisconsin's fraudulent reporting.

### *Rumsey's Verbal Communications with her Supervisors and Co-workers regarding the Justice Programs Director and Compliance Monitor 2 Comments*

We asked Rumsey if she communicated her concerns about Wisconsin, or the JP Director or Compliance Monitor 2 conversations, to her supervisor, Nancy Ayers, or SRAD managers Thompson and Jones. Rumsey told us that she remembered telling Ayers and Thompson what she recalled the JP Director had said about the new data. Rumsey told us that both officials took no action on the information although she could not remember how each official specifically responded.<sup>35</sup> Rumsey told us she was not certain that she told Ayers or Thompson about her conversation with Compliance Monitor 2. However, later Rumsey said she did not tell Thompson about her suspicions of fraud because "of problems she had with her managers."<sup>36</sup>

We interviewed Ayers, Thompson, and Jones. Each official denied that Rumsey told them that Wisconsin had submitted fraudulent compliance reports. Also, each official told us they did not know about the specific issues regarding Wisconsin until the OIG began its investigation.

Rumsey said she told two of her OJJDP co-workers about her conversation with Compliance Monitor 2. These employees were the Compliance Monitoring Liaison and the Research Coordinator, who both worked closely with Rumsey during that time.<sup>37</sup> Rumsey also explained to us why she told both co-workers about the conversation. She said she trusted the Compliance Monitoring Liaison with the

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<sup>35</sup> We were unable to determine from Rumsey's comments the basis for her belief that Ayers and Thompson took no action on the information that she indicated she provided to them.

<sup>36</sup> During the relevant time period, Ms. Rumsey's supervisor was Nancy Ayers.

<sup>37</sup> The Research Coordinator was organizationally positioned in the OJJDP's Policy Office with Rumsey while the Compliance Monitoring Liaison was positioned in SRAD.

information, and that she relied on the Research Coordinator's technical expertise about compliance monitoring data. Rumsey said that the Research Coordinator told her to tell the OIG about the Compliance Monitor 2 conversation immediately.<sup>38</sup> Rumsey told us she did not know if the Research Coordinator or the Compliance Monitoring Liaison reported what she told them to their OJJDP supervisors or managers or the OIG. When we asked Rumsey if she reported her concerns to the OJP Office of General Counsel, she said that she did not do so.

We interviewed the Compliance Monitoring Liaison and the Research Coordinator. The Compliance Monitoring Liaison said that Rumsey told her about the JP Director and Compliance Monitor 2 conversations, and that Rumsey explicitly told her not to tell anyone about the Compliance Monitor 2 conversation. The Compliance Monitoring Liaison told us she never shared the information with anyone. The Research Coordinator told us she recalled having a conversation with Rumsey in December 2007 regarding Wisconsin's data. During that conversation Rumsey told the Research Coordinator she believed the data was fraudulent. The Research Coordinator told us she told neither her direct supervisor, Ayers, nor the OJJDP Administrator at that time, J. Robert Flores, because the work environment in the OJJDP at that time was hostile.<sup>39</sup> The Research Coordinator told us she may have told Rumsey to report the matter to the OIG.

#### *Rumsey's E-mail Communications to her OJJDP Managers about Wisconsin*

To determine if Rumsey communicated her suspicions about Wisconsin to her supervisor and managers at any time from October 2007, the time of Rumsey's conversation with the JP Director, to March 2008, when Rumsey formally reported to the OIG, we reviewed the e-mails of SRAD staff including Rumsey, Thompson, Jones, and others, collected during the prior OIG investigation of Wisconsin. We found three particularly noteworthy e-mails from this time period where Wisconsin's compliance issues were discussed.

- On November 8, 2007, Rumsey e-mailed Thompson and Jones regarding the status of the OJJDP's review of documentation Wisconsin had submitted to satisfy the 2007 special condition and noted an earlier decision by the OJJDP to allow the state to submit more recent data demonstrating compliance. Additionally, Rumsey wrote that she wanted an opportunity to brief Thompson regarding the one-on-one training offered to the JP Director as discussed above. Rumsey wrote that there were a number of issues raised during that meeting of which Thompson should be aware. For example, Rumsey wrote that Wisconsin law allowed for delinquent youth to be sentenced to adult jails and for status offenders to be sentenced to juvenile

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<sup>38</sup> According to the Research Coordinator's recollection of these events, this conversation occurred in December 2007. Rumsey would later formally report her suspicions about Wisconsin to the OIG in March 2008.

<sup>39</sup> J. Robert Flores served as OJJDP's Administrator from 2002 to 2009.

detention centers, but she did not reference that the JP Director had told her he would not believe the new data that Wisconsin had submitted.

- On January 9, 2008, at 12:44 p.m., Rumsey e-mailed Thompson stating that she and an OJJDP State Representative needed to meet regarding documentation Wisconsin had submitted to satisfy the 2007 special condition. Rumsey also stated that they needed to reach agreement about the adequacy of the documentation. Additionally, Rumsey stated that they needed to meet for a similar discussion on the adequacy of documentation Wisconsin submitted to demonstrate DSO compliance for 2008. Rumsey added that she had a fair amount of questions about the documents “because the State did not use the OJJDP data reporting form and instead re-created it and created some new fields in the process,” but she did not reference any specific concerns about the believability or falsity of the new data from discussions with the JP Director or Compliance Monitor 2.
- On the evening of January 9, 2008, at 9:17 p.m., Rumsey e-mailed Thompson and Jones stating that she needed to consult with the State Representative, who at the time was assigned to review Wisconsin’s compliance materials, to fully understand the documentation Wisconsin had submitted. Rumsey said she did not “necessarily have concerns or want additional information” regarding the data Wisconsin had submitted.

Additionally, we identified the following e-mails Rumsey sent to her OJJDP managers before her conversation with the JP Director where Wisconsin’s JJDA compliance was discussed.

- On July 15, 2007, Rumsey e-mailed Jones conveying Wisconsin officials’ explanation for that state’s compliance violations. Additionally, Rumsey expressed doubt that Wisconsin had inspected all of its juvenile centers, that it had only 55 lockups in the state, and that assistance provided by the state’s Department of Corrections in monitoring juvenile facilities was allowable under federal regulations. Lastly, Rumsey stated that OJJDP needed to obtain responses from Wisconsin that addressed these identified issues.
- On August 21, 2007, Rumsey e-mailed Thompson and Jones repeating most of the Wisconsin compliance issues raised in her July 15, 2007 e-mail to Jones.
- On September 4, 2007, Rumsey e-mailed Jones discussing the purpose and intent of the special condition included in Wisconsin’s 2007 grant award and how the state could satisfy the condition.

During our interviews of Thompson and Jones during which these e-mails were discussed, both officials made comments indicating that the e-mails did not cause them to suspect fraud. Thompson told us that during this period, he recalled Rumsey questioning whether the data Wisconsin submitted was completely



accurate, but he said he did not recall Rumsey using the words “fraudulent” or “lying.” Thompson also told us that he was not aware of the Wisconsin fraud allegations until after the OIG began its investigation in 2008. When we asked Jones if she was aware of any specific reports of fraud from Wisconsin before the OIG investigation, she told us she was not. These e-mails demonstrate that on several occasions, Thompson and Jones were notified of Wisconsin’s compliance issues before Rumsey formally reported Wisconsin to the OIG in March 2008. However, they do not reflect Rumsey directly reporting her concerns regarding the believability of the data that Wisconsin had submitted or allegations of fraud regarding the same data to her managers.

### *Findings and Analysis*

We found no conclusive corroborating evidence that Rumsey told her direct supervisor, Ayers, or SRAD managers, Thompson and Jones, that she had been told or suspected that Wisconsin had submitted fraudulent compliance data.<sup>40</sup> While Rumsey told two of her co-workers about conversations she had with Wisconsin state officials that led to her suspicions, Rumsey told one of them not to tell anyone about it, and we found no evidence that these co-workers shared the information with their OJJDP supervisors or managers or anyone else.<sup>41</sup>

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<sup>40</sup> In March 2011, Rumsey filed a complaint with the U.S. Merit Systems Protection Board (MSPB) alleging that her OJJDP supervisors and managers had taken prohibited personnel actions against her. During the proceedings that followed, the court heard testimony from Rumsey that pertained to her conversations with the JP Director and Compliance Monitor 2. The court also heard testimony from Ayers, Thompson, and others. We reviewed the transcripts of Rumsey’s MSPB hearing, the October 2011 MSPB “Initial Decision” denying Rumsey’s request for corrective action (2011 MSPB Decision), and the October 2013 MSPB “Opinion and Order” affirming in part and reversing in part the 2011 MSPB Decision (2013 MSPB Opinion). See *Rumsey v. Dept. of Justice*, 2013 MSPB 82. Neither Rumsey nor any other witness testified before the MSPB that Rumsey told her managers about the allegations of fraudulent conduct, and Rumsey’s managers denied knowing about such allegations until after the OIG investigation commenced in early 2008. Based on this testimony, the 2011 MSPB Decision did not find that Rumsey had disclosed fraud to OJJDP management. Despite this, the 2013 MSPB Opinion concluded, without citing to the record, that Rumsey had disclosed the fraud to Ayers when it determined that Rumsey had “shown by preponderant evidence that her disclosures to Ayers concerning the state of Wisconsin’s alleged submission of fraudulent data were a contributing factor to Ayers’s decision to cancel her telework agreement.” 2013 MSPB 82 at 11. Consistent with the 2011 MSPB Decision, and based on witness testimony in the OIG’s review, we found no evidence that OJJDP managers or supervisors were aware of allegations of fraudulent conduct by Wisconsin officials until after the OIG initiated its investigation in May 2008.

<sup>41</sup> During our interview with the OJJDP State Representative assigned to Wisconsin, she told us she recalled a conversation with Rumsey, and Melodee Hanes, former Acting OJJDP Administrator, where issues with Wisconsin were discussed, but the State Representative did not recall when the conversation occurred. We interviewed Hanes and asked her when she learned about the Wisconsin allegations. She told us she first learned about the Wisconsin allegations in June 2009, which was after the OIG initiated its investigation into Wisconsin. Neither mentioned falsification of data as a subject of the conversations.

## The JP Director and Compliance Monitor 2 Comments

Rumsey told the OIG that she informed Thompson about the October 2007 conversation with the JP Director in which the JP Director expressed doubt about the believability of the new data submitted by Wisconsin; however, Thompson told us that he did not have such a discussion with Rumsey. Even if Rumsey told Thompson about her JP Director conversation, we cannot conclude that the information would necessarily be sufficient to alert an official of possible falsification of data. In our judgment, the JP Director's alleged "I wouldn't believe it either" comment about his state's new data could be interpreted a number of ways that do not involve fraud or wrongdoing, including as reflecting the possibility of inaccurate data without intentional misconduct. Without additional evidence, we cannot conclude that the comment was sufficient to warrant an inquiry or investigation. In reaching this conclusion, we note that in the months before and after Rumsey's conversation with the JP Director, the subject of Wisconsin's JJDP compliance had been discussed on several occasions as represented by the emails discussed earlier. Also, Thompson, Jones, and Ayers remembered having verbal conversations with Rumsey about Wisconsin's compliance. Nonetheless, these OJJDP officials did not recall a discussion involving suspicion that Wisconsin was submitting fraudulent reporting.

The alleged comments from Compliance Monitor 2 about Wisconsin "faking the data" and having a "bogus system," if communicated to management, clearly would have been specific enough to alert them to potential fraud and warrant additional inquiry. Additionally, the reported comment that "they're all in on it" would highlight the seriousness and scope of the potential fraud as it indicates that perhaps more than one Wisconsin official was involved. However, we found no evidence to indicate that this information was communicated to management.

We noted that neither the subject matter of the Compliance Monitor 2 comments nor the comments alone were discussed by Rumsey in her January 9, 2008 e-mail to Thompson and Jones, which was sent about a month after her conversation with Compliance Monitor 2. We found this noteworthy because in the January 9 e-mail, Rumsey was responding to an inquiry from Thompson on the status of removing the special condition that prevented Wisconsin from accessing most of its FY 2007 grant award. Thompson wrote to Rumsey that he thought Wisconsin had satisfied the special condition and requested input. In her response, Rumsey did not mention her conversations with the JP Director or Compliance Monitor 2 or explicitly raise any concerns about possible falsification of the Wisconsin data.

It further appears that OJJDP managers had taken corrective measures typically used by the OJJDP to address Wisconsin's compliance deficiencies identified in 2006. The agency reduced Wisconsin's FY 2007 grant award by 20 percent; froze the state's access to most of its FY 2007 grant award until the state addressed its deficiencies, although it does not appear these deficiencies were fully addressed; and scheduled a technical assistance site visit to assist the state in correcting its deficiencies. We cannot conclude that these measures were

insufficient based on what we determined OJJDP managers were aware of at that time.

### OJP's Procedure for Freezing Funds

The OJP Grant Manager's Manual outlines procedures for freezing funds for non-compliance with award requirements. To safeguard the public's funds, OJP offices can request a freeze of grant funds to OJP's Chief Financial Officer for a grant recipient's failure to comply with award conditions or for a non-frivolous allegation of fraud by the grant recipient.

The use of a grant freeze in response to allegations of programmatic non-compliance is also discussed in OJP Instruction I 7140.2B. The freeze is temporary to allow the component to review and resolve the issue. However, a grant recipient's funding can be suspended or terminated if the component finds that the recipient has failed to substantially comply with the terms and conditions of the award.

During interviews for this review, OJJDP officials told us that the OJJDP routinely freezes award funds for JJDP compliance issues identified from its annual review of state plans. The OJP General Counsel told us that the OJJDP did not report any fraud allegations concerning Wisconsin to his office, and that he was not told about Wisconsin until the OIG contacted his office during its prior investigation in July 2008.<sup>42</sup>

We reviewed OJP's and the OJJDP's policies related to the management and administration of grant awards, and we interviewed the Acting Associate Administrator for the Core Protections Division about procedures staff should follow when fraud is suspected. She told us that she had not discussed specific protocols with her staff, but that if her staff became aware of something they would look into the matter.<sup>43</sup> Had OJJDP management been aware of the Wisconsin fraud allegations, it could have requested a temporary freeze of funds to allow for a review of the allegations. If the OJJDP's review substantiated the allegations or found other substantial non-compliance issues, it could have requested the suspension or termination of Wisconsin's award funds. Therefore, we recommend

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<sup>42</sup> In July 2008, Semmerling contacted Charlie Moses, OJP's Deputy General Counsel, by telephone to inform him of the OIG's investigation of Wisconsin. During this or subsequent communications, she requested that the OJJDP not inform Wisconsin of the investigation. Rafael Madan, OJP's General Counsel, told us that had his office been informed about Wisconsin, OJP could have frozen Wisconsin's funds, placed the state on a high-risk list, or took other actions to delay funding.

<sup>43</sup> At the conclusion of our audit, OJP officials told us that prior to 2016, the U.S. Office of Government Ethics and the Departmental Ethics Office required ethics training to be provided at a minimum every 3 years, and that the OJP Ethics Office also provided training specifically to OJJDP staff on December 9, 2014, and November 18, 2015. The officials also said that among the topics routinely discussed in the latter training was the requirement to report to a manager or supervisor, or the ethics office, when a federal employee observes (in the routine course of their employment) conduct that is either illegal or unethical, though we did not independently confirm this or evaluate the training as part of this review.

that the OJJDP periodically redistribute OJP Instruction I 7140.2B, which provides guidance for reporting allegations of programmatic non-compliance to all staff.

## **Conclusion**

We determined that the OJJDP's management of its Title II Part B Formula Grant Program could be improved, in particular with regard to its compliance monitoring, and documentation retention procedures. This audit substantiated one allegation, and identified concerns related to the second allegation.

Specifically, we found that the OJJDP failed to assure compliance with the JJDPA by not routinely performing compliance monitoring audits required under the JJDPA. The then-Assistant Attorney General for OJP acknowledged long-standing problems with the OJJDP's management of the grant program and proposed corrective actions, which we determined were mostly complete as of January 2017, though we were not able to test their effectiveness within the scope of this audit.

We found that the OJJDP did not examine allegations that Wisconsin had submitted fraudulent compliance data and that there was insufficient evidence to establish that OJJDP managers or supervisors were aware of these allegations prior to the initiation of the prior OIG investigation regarding them.<sup>44</sup> We also believe that OJJDP managers or supervisors were not fully and timely informed because of perceived problems between some OJJDP staff and management. While OJP has a policy that requires OJJDP staff to report allegations of grant program non-compliance to OJJDP management, it does not appear that this policy was followed. We believe this policy provides assurance that credible fraud-related concerns are timely communicated to OJJDP management, and we recommend the policy be periodically redistributed to all staff.

## **Recommendations**

We recommend that OJP:

1. Develop written policies and procedures that describe the process for selecting compliance monitoring audits.
2. Implement procedures that require documenting audit activities when an onsite monitoring audit is not possible.

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<sup>44</sup> Although we did not substantiate the allegation that the OJJDP failed to investigate the Wisconsin fraud allegations, Rumsey and Semmerling raised important concerns about the way the OJJDP administers the grant program. For that reason and our findings in this audit, the OIG intends to conduct an audit to determine whether the OJJDP is properly managing its grant programs. However, as of May 2017, the OJJDP was still in the process of developing policies and procedures intended to address grant program vulnerabilities. The completion of these policies and procedures, their eventual dissemination to the states, and the time needed for the states to implement the policies and procedures will be factors considered by the OIG in determining when to initiate such an audit.

3. Finalize its OJJDP Guidance Manual-Audit of Compliance Monitoring Systems that was under development as of May 2017.
4. Periodically redistribute the OJP policy and procedures for examining allegations of programmatic non-compliance by grant recipients to remind OJJDP staff of their obligation to timely report credible suspicions of fraud to OJJDP supervisors, managers, and the OIG, as appropriate.

## STATEMENT ON INTERNAL CONTROLS

As required by the *Government Auditing Standards*, we tested, as appropriate, internal controls significant within the context of the audit objectives. A deficiency in an internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to timely prevent or detect: (1) impairments to the effectiveness and efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations. The evaluation of the OJJDP's internal controls was not made for the purpose of providing assurance on its internal control structure as a whole. The OJJDP's management is responsible for the establishment and maintenance of internal controls.

As noted in the Findings and Recommendations section of this report, we identified deficiencies in the OJJDP's internal controls that are significant within the context of the audit objectives, and we believe these noted deficiencies adversely affected the OJJDP's ability to manage its grant program.

Because we are not expressing an opinion on the OJJDP's internal control structure as a whole, this statement is intended solely for the information and use of the OJJDP. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

## STATEMENT ON COMPLIANCE WITH LAWS AND REGULATIONS

As required by the *Government Auditing Standards*, we tested, as appropriate given our audit scope and objectives, witness statements, and OJJDP records, procedures, and practices, to obtain reasonable assurance that the OJJDP's management complied with federal laws and regulations, for which non-compliance, in our judgment, could have a material effect on the results of our audit. The OJJDP's management is responsible for ensuring compliance with applicable federal laws and regulations. In planning our audit, we identified the following laws and regulations that concerned the operations of the auditee and were significant within the context of the audit objectives:

- The Juvenile Justice and Delinquency Prevention Act of 2002 (JJDPA) (42 U.S.C. §§ 5601-5681)
- Title 28 C.F.R. Part 31 – OJJDP Grant Programs
- Title 8 C.F.R. Part 18 – OJP Hearing and Appeal Procedures

Our audit included examining, on a test basis, the OJJDP's compliance with the aforementioned laws and regulations that could have a material effect on the OJJDP's operations. We interviewed OJP and OJJDP personnel, reviewed and analyzed grant records and data, assessed internal control procedures, and reviewed pertinent e-mail communications and documentation.

As noted in the Findings and Recommendations section of this report, the then-Assistant Attorney General for OJP made certain disclosures to the Senate Judiciary Committee, which indicated that the OJJDP was operating on regulations that were old, outdated, and inconsistent with the version of the JJDPA that was reauthorized in 2002. The then-Assistant Attorney General also stated that OJJDP awarded grants with a 2- or 3-year lag between state data and the compliance determination, and that the OJJDP sometimes permitted states to submit additional or supplemental data from later periods as a way of avoiding funding reductions. The then-Assistant Attorney General indicated that these practices were not consistent with the JJDPA statute.

At the time of our audit, we confirmed that the OJJDP took steps to address these problems, which we determined were mostly complete as of January 2017. We did not test the adequacy of these draft policies and procedures to ensure compliance with the JJDPA.

## AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

### Objectives

The objectives of this audit were to assess allegations referred to the Department of Justice by the U.S. Office of Special Counsel (OSC) and subsequently delegated to the OIG for review. Specifically, our audit assessed whether employees at the Office of Juvenile Justice and Delinquency Prevention (OJJDP) failed to assure compliance with the JJDPA's core protections, and whether employees at the OJJDP failed to investigate allegations that Wisconsin's Office of Justice Assistance (Wisconsin) was falsifying detention data in order to receive federal funding. To accomplish these audit objectives, we evaluated the effectiveness of the OJJDP's grant program management through examining the processes and procedures adopted by the agency during the years of our audit scope.

### Scope and Methodology

We conducted this performance audit in accordance with the *generally accepted government auditing standards*. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. We performed fieldwork at the following locations from March 2015 to August 2015.

OJP and OJJDP offices	Washington, D.C.
Illinois Department of Human Services	Chicago, Illinois
River Valley Juvenile Detention Center	Joliet, Illinois
Matteson Police Department	Matteson, Illinois
Kendall County Jail	Yorkville, Illinois

To assess the OSC allegations, we interviewed Department, OJP, and OJJDP officials that included the OJJDP Administrator, OJJDP Deputy Administrators for Policy and Programs, OJJDP Chief of Staff and Counsel, Associate Administrators, Deputy Associate Administrators, Compliance Monitors and Program Specialists, OJP General Counsel, OJP Deputy General Counsel, General Counsel Staff Attorneys, and former OIG employees. We reviewed Department, OJP, and OJJDP grant management policies and procedures. We also reviewed e-mail communications and other records. The audit mainly focused on events that occurred from FY 2001 to 2014.



**OFFICE OF JUSTICE PROGRAMS  
RESPONSE TO THE DRAFT AUDIT REPORT<sup>45</sup>**




U.S. Department of Justice  
Office of Justice Programs  
*Office of the Assistant Attorney General*

MAY - 2 2017.

Washington, D.C. 20531

MEMORANDUM TO: Michael E. Horowitz  
Inspector General  
United States Department of Justice

THROUGH: Jason R. Malmstrom  
Assistant Inspector General, Audit Division  
Office of the Inspector General  
United States Department of Justice

FROM: Alan R. Hanson   
Acting Assistant Attorney General

SUBJECT: Response to the Office of the Inspector General's Draft Audit Report, *Audit of the Office of Juvenile Justice and Delinquency Prevention Title II B Formula Grant Program Related to Allegations of the OJJDP's Inappropriate Conduct*

This memorandum responds to the Office of the Inspector General's (OIG's) March 30, 2017, draft audit report entitled, *Audit of the Office of Juvenile Justice and Delinquency Prevention Title II Part B Formula Grant Program Related to Allegations of the OJJDP's Inappropriate Conduct*. The Office of Justice Programs (OJP) appreciates the opportunity to review and comment on the draft report.

From the mid-1980s until 2012, the State Relations and Assistance Division (SRAD) within the Office of Juvenile Justice and Delinquency Prevention (OJJDP) was responsible for compliance monitoring oversight, as well as their grant management workload. Recognizing the need for dedicated staffing resources to ensure adequate oversight of the compliance monitoring responsibilities, as part of a reorganization of OJJDP in 2015, OJJDP established the Core Protections Division (CPD) to oversee and monitor each State's compliance with the Juvenile Justice and Delinquency Prevention Act (JJDPA).

Over the past two years, OJJDP has worked diligently to ensure that states<sup>1</sup> that receive funds under the Title II Part B Formula Grant Program comply with the four core requirements outlined in the JJDPA by revising outdated guidance, developing sound controls to ensure

<sup>1</sup> "States" includes U.S. Territories and the District of Columbia.

<sup>45</sup> Attachments referenced in OJP's response were not included in this final report.

consistent application of compliance policies, and improving communication and transparency with the states. Key improvements include:

- Ensuring that OJJDP uses consistent and objective standards for compliance determinations - In September 2015, OJJDP issued guidance entitled, *Interim Compliance Determination Protocol for FY 2016 Title II Part B Formula Awards*. This guidance included templates to document OJJDP's compliance determination decisions, which were reviewed and approved by OJJDP management to support the compliance determinations issued to the states.
- Immediately addressing changes to longstanding OJJDP policies that were inconsistent with the JJDPA - In October 2015, OJJDP issued its policy entitled *Monitoring of State Compliance with Juvenile Justice and Delinquency Prevention Act*. Key changes in this policy required that: 1) states report compliance data based on the Federal fiscal year; 2) Title II funding decisions be based on data covering the preceding Federal fiscal year only; 3) states report data for all facilities required to report data; 4) states certify that compliance monitoring information is valid and accurate; and 5) states submit sample records to enable OJJDP to verify information reported.
- Implementing a web-based compliance reporting system for states to submit compliance monitoring data and reports for three of the four requirements of the JJDPA - For Fiscal Year (FY) 2016 compliance reporting, states submitted the required compliance monitoring data and reports in a newly-developed system to consistently track submissions for all states in a centralized system.
- Completing revisions to key compliance regulations and guidance - In August 2016, OJJDP completed its revisions to the Formula Grant Program regulation at 28 CFR part 31 and published a notice of proposed rulemaking in the Federal Register. In addition, in September 2016, OJJDP released a revised draft version of the *OJJDP Guidance Manual for Monitoring Facilities Under the Juvenile Justice and Delinquency Prevention Act*.

The draft audit report contains four recommendations. As discussed with your staff during the audit, OJJDP had several efforts in process to address the weaknesses identified and the draft report recommendations. For ease of review, the draft report recommendations are restated in bold and are followed by OJP's response.

**1. We recommend that the OJJDP develop written policies and procedures that describe the process for selecting compliance monitoring audits.**

The Office of Justice Programs agrees with this recommendation. In October 2015, OJJDP issued the guidance, *Monitoring of State Compliance with the Juvenile Justice and Delinquency Prevention Act*, which adopted the policy that OJJDP would conduct compliance audits at least once every three years (see Attachment 1). As specified in the guidance, additional field audits (more frequently than every three years) may be conducted, based on the following circumstances:

- a state is unable to provide adequate documentation upon request to allow OJJDP to verify the accuracy of submitted compliance data;
- a desk review uncovers issues which must be addressed on-site;
- other information is received by OJJDP indicating potential or actual issues or concerns related to compliance with any of the core requirements; or
- the assessment of the state's monitoring system reveals inadequacies.

In the *Compliance Monitoring Risk Assessment Policy Guidance* issued by OJJDP in April 2017 (see Attachment 2), OJJDP further details its process for continuously monitoring states to assess when more frequent on-site monitoring is warranted. Through this risk-based process, OJJDP will document its annual review of the states' compliance monitoring systems against a standardized set of key criteria and determine the level of monitoring activity.

Specifically, using compliance information submitted by participating states as part of the Title II applications in Fiscal Years 2014 and 2015, OJJDP documented baseline information regarding key areas of each state's compliance monitoring systems and created a Core Requirements Compliance Profile template (see Attachment 3). OJJDP will annually update each state's Core Requirements Compliance Profile. As part of the annual effort to continuously monitor each state's compliance monitoring system, OJJDP will assign a compliance risk score, based on an analysis of a standardized set of key criteria, and determine the level of monitoring activity.

This risk assessment process will be used when scheduling the Fiscal Year 2018 field audits. The Office of Justice Programs requests closure of this recommendation.

**2. We recommend that the OJJDP implement procedures that require documenting audit activities when an onsite monitoring audit is not possible.**

The Office of Justice Programs agrees with this recommendation. Subject to available funding and staff resources, OJJDP will monitor every state at least once every three years. Also, annually through the risk assessment process described in Recommendation 1 above, OJJDP conducts a comprehensive desk review of each state's compliance monitoring system to determine the state's compliance risk score and the level of monitoring activity for the state.

Supporting documentation of the risk assessment process will be maintained in OJJDP's Core Requirements Tracker, a SharePoint-based system used to document OJJDP's annual compliance determination process and review of state compliance monitoring submissions (see Attachment 4). The Office of Justice Programs requests closure of this recommendation.

3. **We recommend that the OJJDP finalize its guidance manual that was under development as of January 2017.**

The Office of Justice Programs agrees with this recommendation. The draft Formula Regulations are currently under Departmental review for approval. Once the draft Formula Regulations are approved, OJJDP will publish and disseminate the updated Guidance Manual. OJP considers this recommendation resolved and requests written acceptance of this action from your office.

4. **We recommend that the OJJDP periodically redistribute the OJP policy and procedures for examining allegations of programmatic non-compliance by grant recipients to remind OJJDP staff of their obligations to timely report credible suspicions of fraud to OJJDP supervisors, managers, and the OIG, as appropriate.**

The Office of Justice Programs agrees with this recommendation. As part of the ongoing commitment to ensure that all OJP personnel are aware of their responsibilities for reporting credible suspicions of fraud, approximately every two years, OJP's Office of Audit, Assessment, and Management (OAAM) coordinates with the OIG's Fraud Detection Office (FDO) to deliver OJP-wide mandatory grant fraud awareness training. As part of the grant fraud awareness training, OAAM discusses the OJP staff's responsibilities as outlined in OJP Instruction I-7140.2B, *Examination and/or Referral to the OIG of Allegations of: 1) Misuse of Funds; 2) Program or Financial Non-Compliance by a Recipient of a Grant or Cooperative Agreement; or 3) Conflicts of Interest*. The most recent series of OJP-wide grant fraud awareness training concluded on April 25, 2017 (see Attachment 5).

As a reminder to OJJDP personnel of their obligations to timely report credible suspicions of fraud to supervisors, managers, and the OIG, on April 19, 2017, OJJDP leadership redistributed OJP Instruction I-7140.2B, to all OJJDP staff (Attachment 6). The Office of Justice Programs requests closure of this recommendation.

Thank you for the opportunity to respond to this draft audit report, and also for your continued collaboration in improving the administration of OJP's grant programs. If you have any questions regarding this response, please contact Ralph E. Martin, Director, Office of Audit, Assessment, and Management, at (202) 305-1802.

#### Attachments

cc: Maureen A. Henneberg  
Deputy Assistant Attorney General

Eileen Garry  
Acting Administrator  
Office of Juvenile Justice and Delinquency Prevention

**OFFICE OF THE INSPECTOR GENERAL  
ANALYSIS AND SUMMARY OF ACTIONS  
NECESSARY TO CLOSE THE REPORT**

The Department of Justice (Department) Office of the Inspector General (OIG) provided a draft of this audit report to the Office of Justice Programs (OJP). OJP's response is incorporated in Appendix 2 of this final report. We also provided a draft of this report to Elissa Rumsey and Jill Semmerling, the two whistleblowers associated with this matter, who both provided comments that we considered in finalizing the report. The following provides the OIG analysis of the response and summary of actions necessary to close the report.

**Recommendations for OJP:**

**1. Develop written policies and procedures that describe the process for selecting compliance monitoring audits.**

Closed. OJP agreed with our recommendation and provided copies of guidance pertaining to compliance monitoring guidance that the Office of Juvenile Justice and Delinquency Prevention (OJJDP) issued to states. We previously reviewed the initial guidance, titled Monitoring of State Compliance with Juvenile Justice and Delinquency Prevention Act (Monitoring Guidance), as part of our audit and that guidance is discussed on page 7 of the report. OJP stated that it issued additional guidance, titled Compliance Monitoring Risk Assessment Policy Guidance (Risk Assessment Guidance), to states in April 2017.

As we discussed in our report, the Monitoring Guidance notified states of the frequency with which the OJJDP would perform compliance monitoring audits, which is at least once every 3 years. OJJDP's Risk Assessment Guidance states that it used state Title II application information from fiscal years (FY) 2014 and 2015 to document baseline information regarding key areas of each state's compliance monitoring systems. The Risk Assessment Guidance further provides that this information was used to create a compliance profile to identify areas where states needed technical assistance to strengthen or enhance compliance monitoring. The OJJDP intends to update these compliance profiles with FY 2017 state Title II application information. Further, the Risk Assessment Guidance states that as part of the OJJDP's annual review of each state's compliance monitoring system, the OJJDP will assign a compliance risk score based on an analysis of a standardized set of key criteria as defined in a risk scoring template. This recommendation is closed based on our review of the OJJDP's guidance.

**2. Implement procedures that require documenting audit activities when an onsite monitoring audit is not possible.**

Closed. OJP agreed with the recommendation and stated that the Monitoring Guidance provides for the OJJDP to annually conduct a comprehensive desk review of each state's compliance monitoring system to determine the state's compliance risk score and the level of monitoring activity, with supporting documentation maintained by OJJDP. This recommendation is closed based on our review of the OJJDP's guidance.

**3. Finalize its OJJDP Guidance Manual-Audit of Compliance Monitoring Systems that was under development as of May 2017.**

Resolved. OJP agreed with the recommendation and stated that the draft formula regulations are currently under the Department's review for approval. OJP also stated that once the draft regulations are approved, the OJJDP will published and disseminate the updated guidance manual. This recommendation can be closed when the OJJDP finalizes its guidance manual under development.

**4. Periodically redistribute the OJP policy and procedures for examining allegations of programmatic non-compliance by grant recipients to remind OJJDP staff of their obligation to timely report credible suspicions of fraud to OJJDP supervisors, managers, and the OIG, as appropriate.**

Closed. OJP agreed with the recommendation and stated that its Office of Audit, Assessment, and Management (OAAM) coordinates with the OIG to deliver OJP-wide mandatory grant fraud awareness training. OJP stated that as part of the grant fraud training, OAAM discusses OJP staff responsibilities outlined in the OJP Policy.<sup>46</sup> OJP also provided an e-mail that distributed the OJP Policy to all OJJDP staff. This recommendation is closed based on our review of OJP's materials.

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<sup>46</sup> OJP Instruction I 7140.2B on Examination and/or referral to the OIG of allegations pertaining to: (1) misuse of funds; (2) program or financial non-compliance by a recipient of a grant or cooperative agreement; or (3) conflicts of interest.

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