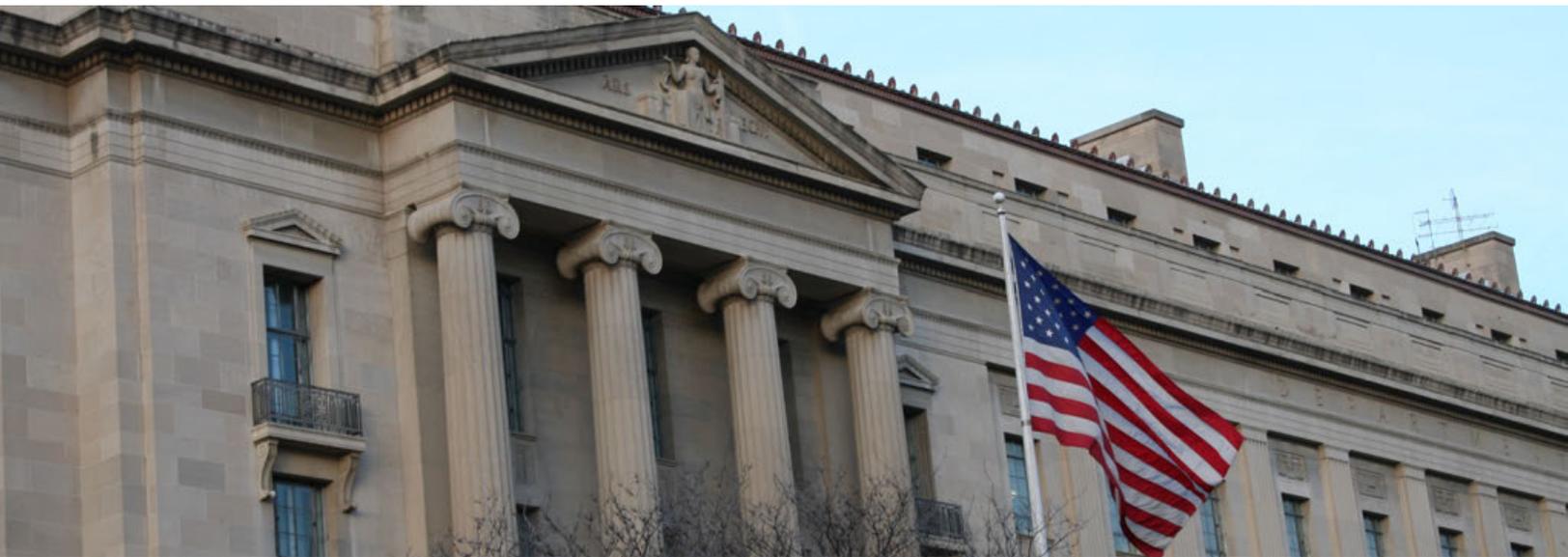




Office of the Inspector General U.S. Department of Justice

OVERSIGHT ★ INTEGRITY ★ GUIDANCE



Audit of Efforts to Safeguard Minors in Department of Justice Youth- Centered Programs



Executive Summary

Audit of Efforts to Safeguard Minors in Department of Justice Youth Centered Programs

Objectives

The Department of Justice (DOJ) Office of the Inspector General (OIG) completed an audit of the efforts to safeguard minors participating in DOJ youth-centered programs.

The objectives of this audit were to: (1) determine whether entities receiving DOJ funds have implemented appropriate controls, such as screening and background checks, for individuals in programs involving minors; and (2) assess DOJ efforts to ensure that grantees adequately mitigate the risk of victimization of minors who participate in its youth-centered programs. The scope of our audit included DOJ's grant-making components, the Office of Justice Programs, Office on Violence Against Women, and Office of Community Oriented Policing Services. Our audit generally covered DOJ grant programs active during fiscal year 2017.

Results in Brief

We identified a number of significant issues pertaining to DOJ's lack of consistent policies and procedures to best ensure the safeguarding of minors involved in DOJ grant-funded projects. We found a lack of specific guidance and formal award requirements for grantees regarding background screening of individuals participating in DOJ grant programs who are in direct contact with minors, as well as an absence of a consistent monitoring regime to determine what steps, if any, grantees and subgrantees have taken to screen individuals working closely with children.

Recommendations

Our report contains six recommendations to ensure that DOJ grantees have adequate controls in place to safeguard minors participating in DOJ-funded programs, and to ensure that DOJ takes appropriate steps to monitor this issue and mitigate the risk of victimization of minors in its programs.

Audit Results

DOJ awards grants to support law enforcement and public safety, assist victims of crime, and improve the criminal, civil, and juvenile justice systems across the United States. Certain DOJ grant-funded projects involve or serve at-risk youth participants, which are supported by staff and volunteers. Therefore, DOJ must ensure that there are safeguards in place to adequately mitigate the risk of harm to minors participating in these programs. This audit examined efforts to screen individuals in DOJ grant programs involving minors and assessed DOJ efforts to ensure that grantees adequately mitigate the risk of victimization of minors.

Policies and Procedures to Safeguard Minors –

While certain DOJ grant-making components have provided some guidance to grantees on best practices for screening individuals having direct, programmatic contact with minors, we found that policies and procedures specifically related to safeguarding minors have not been established across all DOJ grant programs involving youth. Additionally, for the majority of DOJ youth-centered grant programs, DOJ does not provide any special requirements or specific guidance to grantees related to background checks on individuals who will have direct contact with minors.

Importance of Layered Approach – There are multiple tools and strategies to assess an individual's suitability to interact with minors, and DOJ officials and available guidance stated that the most effective background checks involve a layered approach that utilizes multiple sources of information. However, we found that DOJ does not uniformly provide guidance to grantees regarding sources of background check information and specific strategies to safeguard youth.

Monitoring of Screening Requirements – We found that DOJ grant-making components generally do not formally monitor grantee background screening procedures for individuals in direct contact with minors. Without such monitoring, DOJ cannot ensure that grantees conduct an adequate level of due diligence with respect to individuals in contact with minors.

**AUDIT OF EFFORTS TO SAFEGUARD MINORS IN
DEPARTMENT OF JUSTICE YOUTH-CENTERED PROGRAMS**

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AUDIT OF EFFORTS TO SAFEGUARD MINORS IN DEPARTMENT OF JUSTICE YOUTH-CENTERED PROGRAMS

INTRODUCTION

The Department of Justice (DOJ or Department) awards grants to non-profit organizations, institutions of higher education, courts, states, and units of local and tribal government to support law enforcement and public safety, assist victims of crime, and improve the criminal, civil, and juvenile justice systems across the United States.¹ Included in these awards are a number of youth-centered grants to organizations that fund direct services to minors—the majority of which are intended to assist youth victims of crime and youth involved with, or at risk of involvement with, the juvenile justice system.

DOJ's youth-centered grant programs support services for vulnerable youth populations, including victims of neglect and survivors of violence and other crime. The grant funds support activity such as mentoring, counseling, legal assistance, specialized treatment, and advocacy. DOJ grantees rely on staff and volunteers to implement their grant programs, which may include anyone from law enforcement personnel to licensed counselors to volunteers, depending on the type of program. Depending on the specifics of the grant program, these individuals can provide one-on-one treatment or services to youth, or facilitate group activities such as after-school programs, visits to see incarcerated parents, and camping trips. Through its grant programs, DOJ funds grantees' direct contact with thousands of at-risk minors each year.

Given the vulnerable youth populations potentially involved in DOJ grant programs, as well as the variety of individuals who may come in direct contact with youth as a part of these programs, there is an inherent risk to minors that must be mitigated through proper oversight and monitoring. Yet, recent OIG audits have identified concerns that individuals working with youth in DOJ-funded grant programs may not have been adequately screened before coming into direct contact with minors.² DOJ officials have acknowledged that the Department has a responsibility to safeguard youth participating in its grant programs and to ensure that its efforts to safeguard minors adequately mitigate the risk of abuse and victimization.

Background

Three DOJ components—the Office of Justice Programs (OJP), the Office on Violence Against Women (OVW), and the Office of Community Oriented Policing Services (COPS Office)—award and administer grants that support programs that involve, or have the potential to involve, youth. As part of its responsibility to advise and assist the Attorney General on DOJ policies and programs, the Office of

¹ We refer to grants and awards interchangeably throughout the report, to include cooperative agreements.

² See Appendix 2 for a listing of prior OIG audits related to this topic.

the Associate Attorney General supervises the work of these DOJ grant-making components.

OJP administers its grant programs through six bureaus and program offices. At least two of these OJP offices fund numerous programs that involve direct contact with minors. OJP's Office of Juvenile Justice and Delinquency Prevention (OJJDP) funds grants that support direct services for juveniles ranging from mentoring to legal advocacy to specialized treatment and therapy. In fiscal year (FY) 2017, OJJDP awarded over \$60 million to 20 organizations through its Mentoring Opportunities for Youth Initiative to mentor underserved and at-risk youth. According to approved application narratives, each of these awards anticipated serving anywhere from hundreds to thousands of at-risk youth through one-on-one, peer, or group mentoring. Additionally, OJP's Office for Victims of Crime (OVC) funds programs that seek to assist victims in the immediate aftermath of crime and as they continue to rebuild their lives—to include supporting youth survivors of human trafficking, child abuse and neglect, and violence. To a lesser extent, OJP's other bureaus and offices also administer initiatives that can, on an award-by-award basis, involve minors. For example, OJP's National Institute of Justice (NIJ) awarded a research grant that involved volunteers chaperoning children to and from school.

OVW administers grant programs in an effort to reduce domestic violence, dating violence, sexual assault, and stalking by strengthening services to victims and holding offenders accountable. Some OVW programs inherently involve direct contact with minors. For example, OVW's Consolidated Youth Program administers awards to improve responses to children and youth exposed to domestic and sexual violence and to promote the role of boys and men in combating such violence.³ Awards under this program include funding for youth mentoring and other direct services to minors. Additionally, OVW administers a number of programs around the country that fund support services, legal assistance, and accompaniment services for youth victims of sexual assault, domestic violence, dating violence, and stalking. Other OVW grant programs are geared toward serving adults, although in some instances adult victims seeking services arrive with dependent children.

Finally, the COPS Office awards grants intended to support community policing efforts, develop and test innovative policing strategies, and provide training and technical assistance to state and local law enforcement agencies. While the COPS Office awards the majority of its grant funding directly to police departments, the COPS Office occasionally funds non-law enforcement to support programs that can involve youth participation under its Community Policing Development Program. For example, a grant project may involve retired law enforcement personnel working in schools with youth to promote understanding between the community and law enforcement.

³ The full name of the OVW program is the Consolidated Grant Program to Address Children and Youth Experiencing Domestic and Sexual Assault and Engage Men and Boys as Allies.

OIG Audit Approach

The objectives of our audit were to: (1) determine whether entities receiving DOJ funds have implemented appropriate controls, such as screening and background checks, for individuals in programs involving minors; and (2) assess DOJ efforts to ensure that grantees adequately mitigate the risk of victimization of minors who participate in its youth-centered programs. The scope of our audit included DOJ's grant-making components with grant programs involving persons who work directly with minors. We focused our review on grant programs administered by OJJDP, OVC, and OVW, as these offices fund the majority of awards that involve direct contact with youth.⁴ Our audit focused on grants active during FY 2017. To accomplish our objectives, we interviewed officials from DOJ's grant-making components who were involved in the administration of youth-centered grant programs, as well as officials both within DOJ and outside the Department who were familiar with background screening processes and resources. We also reviewed DOJ funding announcements and descriptions of the wide-ranging grant programs supported by the Department.

In order to identify an estimated universe of DOJ grant programs that potentially involve direct contact with youth, we focused on the components and offices with the most direct nexus to youth programming. We reviewed and analyzed each OJJDP, OVC, and OVW award solicitation funded in FY 2017 and requested a listing of any relevant programs from the COPS Office. We then worked with officials involved with relevant grant programs to establish a universe of FY 2017 DOJ grant programs that potentially involve direct contact with minors.⁵

As shown in Table 1, we found that DOJ funded hundreds of awards in FY 2017 with the potential for direct contact with youth. In total, these awards included thousands of individuals who had direct contact with minors.⁶

⁴ We determined that the COPS Office did not have a large nexus to youth-centered programs.

⁵ Within the programs we identified, not all of the awards made under each program will necessarily involve direct contact with minors. Rather, we concluded that awards within these programs—many of which are broad in scope—have the potential to support specific activities that involve direct contact with minors.

⁶ For example, the grantee for just 1 OJJDP mentoring program award reported planning to serve 20,000 youth with 5,000 active mentors over the course of the program's multi-year period of performance, utilizing hundreds of subgrantee sites. This example demonstrates the extent to which a single award listed in Table 1 could involve contact with minors.

Table 1

**DOJ Grant Programs Estimated to Involve Direct Contact with Minors
Fiscal Year 2017**

Component	Office	Number of Programs	Number of Individual Awards	Total Award Amount (\$)
OJP	OJJDP	13	163	131,140,286
	OVC	15	134	1,919,247,009
OVW		15	505	369,835,187
COPS Office ^a		1	2	263,679
Total:		44	804	\$2,420,486,161

^a COPS Office personnel explained that the COPS Office administers one grant program with a potential nexus to youth, the Community Policing Development Program. At the time of our fieldwork, there were 143 active awards under this program. COPS Office officials determined that only 2 involved direct contact with youth by non-law enforcement personnel.

Source: OIG Analysis

We subsequently reviewed and evaluated the policies and procedures each component had in place to safeguard minors participating in these programs. To assess grantee-level safeguards, we conducted site visits at three OJJDP grantees that administer mentoring programs for youth. During these site visits, we interviewed grantee officials about their screening policies and procedures for youth mentor volunteers and reviewed a judgmental selection of mentor screening files. See Appendix 1 for further discussion of our audit objectives, scope, and methodology.

AUDIT RESULTS

Policies and Procedures to Safeguard Minors

It is imperative that the DOJ grant-making components take steps to prevent the victimization of young and vulnerable individuals participating in DOJ-sponsored programs, particularly given that the majority of DOJ youth-centered programs seek to assist already at-risk youth, including victims of child abuse and neglect as well as survivors of violence and crime. DOJ must implement consistent policies and procedures to safeguard minors at both the component and grantee levels. We found the majority of DOJ youth-centered grant programs that we identified lacked specific guidance and formal award requirements regarding background checks on individuals who come in direct contact with minors on program-supported activities. Although DOJ grant-making components have implemented some guidelines and controls for certain specific programs or awards, we found—and DOJ officials confirmed—that policies and procedures related to safeguarding minors have not been consistently established across all DOJ grant programs. As a result, there are few existing safeguards currently in place to ensure that individuals who may come into direct contact with minors are suitable to work with youth.

Extent of Current Component Solicitation Requirements

DOJ grant-making components use solicitations to announce opportunities to apply for and receive funding needed to support initiatives. While DOJ grant-making components have included language referencing background screening in some solicitations, the majority of solicitations have not required that grantees screen individuals who may come into contact with minors.

We identified a handful of OJP and OVW grant programs that include in their solicitations language referring to background screening of individuals in contact with minors.⁷ For example, OVW's solicitation for its Consolidated Youth Program states that new grantees must secure background checks for adults working with minors. In addition, OVC's solicitation for its Enhanced Collaborative Model to Combat Human Trafficking program states that victim service applicants must describe a plan for how those coming in contact with minors will be screened, as well as a plan for supervising the case managers and other direct service staff under the project. For its youth mentoring grant programs, OJJDP's solicitations refer to the OJJDP-funded National Mentoring Resource Center, which outlines the core standards for mentoring programs contained in the guide *Elements of Effective Practice for Mentoring*.⁸ This guide recommends best practices for the screening of prospective mentors, including reference checks, face-to-face interviews, and comprehensive criminal background checks. OJJDP's solicitation for the Mentoring

⁷ We identified references to required background screening/certification for individuals working with youth in one OVW solicitation, two OVC solicitations, and four OJJDP solicitations (three of which were mentoring programs).

⁸ The National Mentoring Resource Center is an OJJDP-funded program that provides training, technical assistance, and resources focusing on best practices for implementing mentoring programs.

Opportunities for Youth Initiative also requires prospective mentoring program grantees to detail their approach to mentor screening in their grant applications, including how they will meet the core standards outlined in the *Elements of Effective Practice for Mentoring* guide.

While these instances represent important component-level efforts to ensure that suitable individuals interact with youth under DOJ-funded programs, neither OVW nor OVC proactively provides further guidance to its grantees on screening requirements. For instance, although OVC has a guide for victim service practitioners that suggests establishing policies and procedures for the screening, training, and supervision of staff and volunteers who provide direct service, this guide is not referenced in the program solicitations, and an OVC official explained that OVC grant managers only suggest this resource to grantees on a case-by-case basis.⁹ While OJJDP's mentoring program guidance is referenced in the solicitations issued by OJJDP for its mentoring programs, compliance with this core standard is not an explicit requirement of the OJJDP awards. An OJJDP official told us that a prospective grantee's failure to demonstrate how it will meet these standards would not necessarily disqualify it from funding.

Current Award Requirement - OJJDP Special Condition Applied to Some But Not All Youth-Centered Awards

Awarding agencies may impose special conditions when awarding a grant in order to require specific programmatic and financial reporting, prohibit certain uses of federal funds, limit consultant fees, restrict personnel changes, or direct the use of program income. Some special conditions may be based on specific program needs or the nature of the award itself.

We found that OJJDP is the only grant-making office we identified in our scope that applied a special condition to some but not all of its youth-centered awards. This special condition required that grantees certify having "appropriate background screening procedures in place" for any employee, contractor, or volunteer expected to have direct substantial contact with minor children under the funded program. Specifically, the special condition provides:

As a condition of receiving grant funds, the grantee certifies that it has appropriate criminal background screening procedures in place, to the extent permitted by state, local, and federal law, to evaluate any employee, contractor, or volunteer working under this grant who is expected to have direct substantial contact with minor children. Direct substantial contact is defined as contact that is regular, continuous, and personal in nature.

Although this special condition only applies to a subset of awards in our identified universe, given that OJJDP's special condition is the most explicit

⁹ OVC's *Achieving Excellence: Model Standards for Serving Victims & Survivors of Crime* lists types of background checks that can be used for screening, including criminal history checks, sex offender registry checks, child and adult protective services record checks, and credit history checks.

requirement we identified across DOJ grants related to background screening of individuals in contact with minors, we closely reviewed the application and language of the special condition to determine the specific requirements it imposes on grantees. We identified multiple areas in which this condition may be strengthened.

First, the special condition does not specifically require that any background checks be conducted, nor does it set any minimum standard for background checks, because it positions grantees to determine what screening is “appropriate.” The special condition does not explicitly require a specific check or type of screening. Although OJP makes available *Elements of Effective Practice for Mentoring* guidance designed for OJJDP mentoring program grantees, OJP does not require adherence to the practices outlined in this guidance. In addition, while this guidance recommends a comprehensive criminal background check on prospective mentors through national criminal records databases, sex offender registries, child abuse registries, and FBI fingerprint-based criminal background checks “whenever possible,” it does not provide further information or requirements on specific databases or repositories of background information that grantees should use.

When we asked OJP officials to define for us what constitutes “appropriate criminal background screening procedures” as required in the special condition, we were told that they defer to a grantee’s state and local requirements to define appropriate screening procedures. Officials explained that they do not want to be overly prescriptive when it comes to requiring background checks, as every organization and state has its own requirements and rules. However, these officials were not able to articulate what state and local requirements might look like, what types of entities they would govern, or whether differences between specific state and local requirements would uniformly ensure that an individual in a DOJ-funded program was suitable to interact with minors. Moreover, we find it problematic that the existing language allows grantees to base their screening procedures on a potentially erroneous interpretation of limitations imposed by state and local laws regarding privacy concerns or background checks as a condition for employment. We are concerned that individual grantees are allowed to curtail background checks based on their respective understandings of state and local laws. For example, a grantee may be unaware of exceptions in its state laws for when it works with vulnerable populations such as children.

Second, this special condition does not provide any indication as to how criminal background screening results could impact a grant applicant’s participation in the DOJ-funded program. Grantees could benefit from guidance regarding how to address sexual misconduct and a variety of other offenses which could also indicate a threat to minors. For instance, grantees may benefit from further guidance on how to handle individuals charged with or convicted of different types of physical assaults or threats; misdemeanors involving child abuse or child endangerment; recent drug related offenses; or offenses involving dishonesty such as fraud, false statements, or theft. For example, in an audit of a National Institute of Justice (NIJ) award, we found that multiple individuals serving as youth chaperones had prior criminal charges related to drugs, firearms, theft, domestic violence, and even child endangerment.

Third, the special condition does not formally stipulate any required frequency for screening. An OIG audit of OJJDP mentoring awards to Communities in Schools, Inc. found that the grantee did not have a clear standard for how often youth mentors should be screened, while a March 2016 audit of OJJDP awards to College Mentors for Kids, Inc. found that a grantee staff member had not had a criminal background check conducted in over 10 years.

Fourth, the special condition does not impose an affirmative reporting requirement on grantees, which leaves OJJDP with little or no information upon which to base a decision that the grantee's screening process is adequate. It does not require grantees to inform OJJDP about the specific screening they employed, the basis for this choice, or the results they obtained. Further, it does not impose any requirement for the disclosure of the rationale for screening decisions. Grantees are not required to inform the grant-making component about the criteria they use in conducting background checks, including the types of arrests or convictions considered disqualifying or any instances in which the grantee may have accepted an individual despite such convictions. We are concerned that this leaves the grant-making component with little basis to assess the screening that has been performed, the results, and the reasonableness of the screening decisions. In fact, OJJDP may not necessarily be aware if grantees elect not to conduct any screening at all. For example, the OIG audit of OJJDP awards to Amachi, Inc. in December 2016 found that, despite being subject to this special condition, the primary grantee did not implement policies and procedures to ensure that subgrantees conducted background checks of individuals in contact with minors.

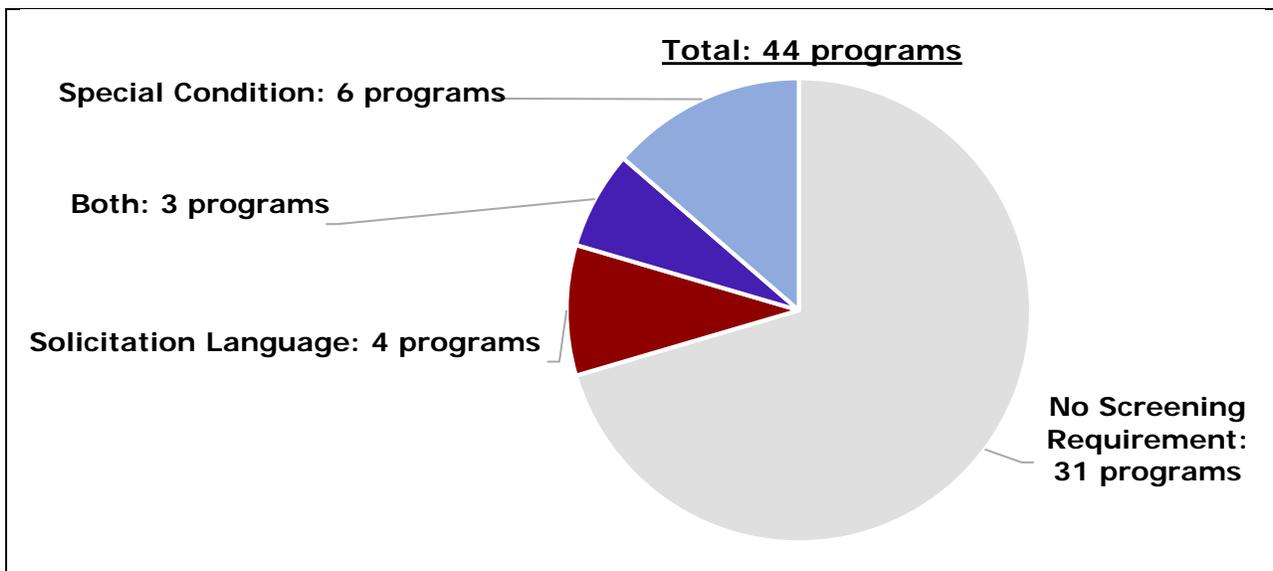
Difficulty Identifying Awards Requiring Screening of Individuals

Although the OJJDP special condition discussed above promotes some level of safeguards to protect minors, it is applied only to a subset of awards made by OJJDP, and we found that OJJDP inconsistently applies it. OJJDP grant managers manually add the special condition if either they or OJP leadership believe it is relevant to a particular grant program or award. For example, all awards made under OJJDP's Mentoring Opportunities for Youth Initiative include the special condition; however, many other OJJDP youth-centered awards do not include this special condition, as we learned through our interviews with OJJDP officials and our review of the FY 2017 awards. We found that the special condition was either not included or not consistently included in the award package for 7 of the 13 OJJDP programs we identified as involving direct contact with minors.¹⁰ Further, the OJJDP special condition is the only explicit requirement we were able to identify for DOJ grants in our scope. Accordingly, we found this current screening requirement is not consistently applied across all DOJ youth-centered programs.

¹⁰ We found that, of the 13 OJJDP grant programs relevant to our scope: 6 had the special condition consistently applied to their awards, 4 did not have the special condition applied to any awards, and 3 applied the condition on an ad hoc basis, resulting in some awards with the special condition and some without it.

The result of the limited application of this special condition is that many OJP programs and awards that potentially involve youth, both within OJJDP and other OJP grant offices such as OVC, impose no explicit screening requirements. We reviewed the practices of other DOJ grant-making components aside from OJP and found that OVW does not apply any sort of similar special condition that grantees screen individuals who may come in direct contact with minors in any of their awards. The COPS Office also does not impose any sort of similar requirement in its one program active during our scope that involved youth. Further, as discussed above, language in DOJ program solicitations referencing background screening for individuals in contact with minors is program-specific and can only be found in the solicitations for a handful of OJP and OVW grant programs. The inconsistent application of solicitation language or a special condition referencing background screening leaves a majority of DOJ grant programs without any formal screening requirements for grantees.

Figure 1
Screening Requirements among OIG-Identified DOJ Grant Programs Involving Minors



Source: OIG Analysis

As Figure 1 demonstrates, the majority of the 44 DOJ grant programs we identified as involving direct contact with minors did not include any reference to background screening in either the solicitation or award package.

DOJ program solicitations offer funding opportunities for an expansive range of activities and services that vary in type, objectives, and location. Our analysis of OJP and OVW program solicitations found it challenging—at least on the basis of reviewing these solicitations alone—to determine whether a grant program, let alone a particular award, will involve direct contact with minors. For example, an OVC grant program may fund direct services to human trafficking victims, which may or may not include child victims. Additionally, while OVW's Transitional

Housing Assistance Grants program does not provide direct services to youth, some awards under the program provide ancillary childcare services to housing assistance recipients. We also identified one NIJ research program that did not appear to involve youth but actually funded an award that entailed direct contact with minors. Thus for many DOJ programs, the award solicitation does not provide sufficient information to enable identifying possible instances of youth contact.

Further, DOJ officials stated to us that they cannot readily identify whether particular awards involve direct services to minors without carefully reviewing individual award narratives or budget documents submitted as part of the grant application. Although we identified instances when grant management personnel added a screening requirement on the basis of a specific project description, not all DOJ grant managers implemented this practice consistently. As a result, DOJ lacks complete knowledge of which grant programs or specific awards may involve direct contact with minors, and therefore which specific grant recipients need to implement screening requirements.

Recognizing that the absence of screening requirements increases the risk of the victimization of youth being served or otherwise participating in DOJ-funded programs, both OJP and OVW officials stated that they are discussing how best to incorporate screening requirements across all applicable programs involving youth. Given the challenges in identifying potential youth contact among the many broadly defined DOJ award programs, we recommend that DOJ work with its grant-making components to develop a framework to proactively and uniformly identify the grants—both by program and by individual award—that may involve direct contact with minors. Such a framework may entail having grant managers, as part of the award finalization process, review program narratives to confirm whether the supported program will involve minors.¹¹

Use of Background Checks

There are various existing tools and approaches to obtaining background records that would be relevant to determine whether an individual worker or volunteer is suitable to participate in a federally-funded youth program. Definitions and types of background screening vary widely, and we found that there are strengths and drawbacks with each. DOJ officials also agreed that there are certain gaps inherent in the different sources used for background checks.

Sex offender registries are a relevant resource for screening inappropriate individuals out of DOJ-funded youth programming; however, for the purposes of obtaining complete information for background checks, these registries have certain limitations. Officials from OJP's Office of Sex Offender Sentencing, Monitoring,

¹¹ If the grant manager determines that the award will not involve minors or that the nature of contact with minors will be minimal, the grant manager could have the ability to have the award recipient affirmatively "opt-out" of receiving a special condition requiring a screening requirement. We believe that such a control would both mitigate the risk of overlooking a relevant project and minimize the burden on DOJ personnel.

Apprehending, Registering, and Tracking (SMART) advised that public state sex offender registries, along with the National Sex Offender Public Website (NSOPW) which receives its information from state registries, should not be considered a comprehensive source for background checks.¹² SMART officials stated that this is because individual state registries may only capture a fraction of convicted sex offenders with offenses deemed by their respective jurisdictions both to: (1) require registry, and (2) result in public sharing of this offense record. This threshold varies from state to state, and thus the NSOPW is only as comprehensive as the least inclusive state public sex offender website. For example, SMART officials estimated that one state captures less than 5 percent of its convicted sex offenders on its public registry. In addition to these limitations, these registries do not necessarily include individuals convicted of other relevant crimes such as assault or other types of abuse, and the NSOPW can provide incomplete results if any of the states' systems are inaccessible at the time of a search.¹³

Use of the FBI's Next Generation Identification system (FBI fingerprint-based system), according to multiple DOJ officials, is considered the "gold standard" of background checks. This FBI fingerprint-based system contains federal, state, local, and tribal criminal history records, and is especially useful for retrieving criminal history information of individuals who have moved between states and who may have a criminal record in a state other than their current state of residency or prospective employment. This nationwide fingerprint-based check provides criminal history information of individuals such as sex offenders or other prohibited individuals attempting to gain access to children by moving across state lines. The FBI fingerprint-based system may also contain sex offense convictions that might not meet a state's threshold for inclusion in the public sex offender registry. Unlike a name-based check, the FBI fingerprint-based system check also provides positive identification that the resulting criminal history records are those of the subject of the record. The advantages of this type of check were demonstrated in a 2003 Child Safety Pilot Program facilitated by The National Center for Missing and Exploited Children (NCMEC), in which NCMEC reviewed the FBI fingerprint-based system background check results for volunteer applicants at youth-serving organizations.¹⁴ The pilot program found that out of 104,000 volunteer criminal history records NCMEC reviewed for suitability, 6 percent of the applicants had potentially disqualifying criminal records. Of this subset, 42 percent of applicants had a criminal history in a different state than the one in which they applied to volunteer and 23 percent applied under a name that was different than the name on their criminal history record. While there are challenges in implementing the FBI

¹² The NSOPW is a search engine maintained by OJP's SMART office that aggregates information from the various public state, territory, and tribal sex offender websites.

¹³ Another factor affecting the completeness of these registries is that certain offenders may evade the law and not register as required.

¹⁴ The purpose of the Child Safety Pilot Program was to determine the feasibility of volunteer organizations using FBI records for background screening of their prospective volunteers. From 2003 to 2011, the pilot program provided select youth-serving organizations with access to the FBI's fingerprint-based system for background checks to determine volunteer suitability to work with youth. Pub. L. No. 108-21 (2003).

fingerprint-based system check more universally, these results highlight the risks of relying solely on name-based checks, state-specific records, and publicly available records repositories. The results demonstrate the benefits of a national-level, biometric background check, which would help address some of these gaps.

Despite its comprehensiveness, there are several limitations to the FBI fingerprint-based system checks, especially relating to who can access the information and how. In general, the FBI fingerprint-based system can be accessed by federal, state, local, and tribal criminal justice and law enforcement agencies, or other entities authorized by federal statutory authority. We found that, currently, not all grantees can easily obtain results through the FBI fingerprint-based system.¹⁵ DOJ grantees we spoke with also noted that they experienced other challenges related to the FBI fingerprint-based system, such as the amount of time it took to obtain results, which they said makes relying on these checks difficult for grant programs with short-term volunteers. In addition, each fingerprint-based check through the FBI entails a fee, and thus requires grant recipients to anticipate and budget for these costs.¹⁶ OJP and OVW officials confirmed that the use of grant funds for these costs can be included and approved in grantee budgets and paid for with grant funds.

We also note that FBI databases are dependent on what information criminal justice and law enforcement agencies share with the FBI, and when these agencies share this information. For these reasons, a state criminal history check may provide additional relevant information to supplement the FBI fingerprint-based system check. For example, because there may be a lag in the information reported from the states or a breakdown in information sharing, a state criminal history check may contain, at a particular time, a criminal history that is more complete and up-to-date than an FBI check for that specific state.

We found that grantees funded by other federal grant-making agencies are required to use a variety of sources to achieve greater coverage of relevant background records. These agencies demonstrate the feasibility of implementing overarching, national-level background check requirements for programs involving

¹⁵ The FBI can only provide criminal history record information (CHRI) to an entity authorized by law to receive it, although it may provide this information for noncriminal justice purposes—including employment and licensing—to authorized users.

An individual may also obtain copy of his or her own Identity History Summary—often referred to as a criminal history record or a “rap sheet,” which lists certain information taken from fingerprint submissions kept by the FBI and related to arrests and, in some instances, federal employment, naturalization, or military service—pursuant to Department Order 556-73. According to the FBI’s website, individuals would typically make a request for their Identity History Summary for the purpose of personal review, to challenge information on record, to meet a requirement for adopting a child, or to meet a requirement to live, work, or travel in a foreign country. FBI officials noted that this mechanism was for personal review or challenge, not intended to be used when determining suitability for licensing or employment purposes. However, we learned that some grantees used this avenue to have prospective participants obtain criminal history information available from the FBI and provide it as part of a suitability determination.

¹⁶ Depending on the type of check, these fees range between \$11 and \$18.

contact with vulnerable populations, including children, the elderly, and individuals with disabilities.

- The Department of Health and Human Services (HHS), the largest grant-making agency in the federal government, has screening requirements in place for youth-centered grant programs. HHS's Child Care and Development Block Grant program requires searches of: (1) criminal history records, (2) sex offender registries, and (3) child abuse registries in all states in which the applicant resided in the past 5 years, as well as searches of (4) the National Crime Information Center's National Sex Offender Registry and (5) the FBI fingerprint database.¹⁷
- The Corporation for National and Community Service (CNCS), the federal grant-making agency that administers national service programs such as AmeriCorps and Senior Corps, requires its grantees to conduct criminal history checks on all participants and program personnel that receive CNCS funds. These screening requirements are laid out in both the authorizing legislation and the corresponding federal regulation.¹⁸ The regulation requires criminal history checks for all individuals who receive funds under the award, via salary, education awards, living allowances, or stipends, regardless of whether their activities involve direct contact with vulnerable populations. Individuals who have recurring access to vulnerable populations must undergo searches of: (1) the NSOPW, (2) state criminal history registries in the individual's state of residence and the state in which the program takes place, and (3) the FBI fingerprint-based system.¹⁹ The regulation additionally sets minimum disqualifiers for participation in the program, and specifies when the checks should take place.²⁰

Ultimately, a survey of the environment of existing tools and approaches to obtaining background records is a critical step in ascertaining a standard suitable for the broad array of DOJ-funded grant programs. While the tools required by

¹⁷ 42 U.S.C. § 9858(f) and 45 C.F.R. § 98.43. The background check requirements established under the *Child Care and Development Block Grant Act* are still being implemented by state recipients, and the HHS Office of Inspector General (HHS OIG) is conducting reviews of states' implementation of these requirements which have identified some implementation challenges that may further delay states' full compliance. The HHS OIG has also reviewed compliance with background check requirements for other HHS youth-centered grant programs such as the Head Start Program, the Federal Foster Care Program, and the Unaccompanied Alien Children Program. These reports can be found on the HHS OIG's website, <https://oig.hhs.gov/reports-and-publications/oas/acf.asp>.

¹⁸ 42 U.S.C. § 12645g (2009) and 45 C.F.R. § 2540.200 – 2540.230 (2012).

¹⁹ CNCS provides a listing of approved state criminal history repositories to its grantees to assist them in adhering to the state criminal history check requirement.

²⁰ An individual is ineligible for participation in CNCS programs if he or she: (1) does not consent to the background check, (2) makes a false statement on the background check, (3) is required to register as a sex offender, or (4) has been convicted of murder.

other federal agencies do not constitute an exhaustive list of the resources available, they can serve as a starting point for such a determination. We note that both DOJ officials and available DOJ guidance indicate that the most effective background checks involve a layered approach, which includes consulting multiple sources of information regarding an individual's suitability to interact with minors. Thus, such a survey should take into account that each of these resources carries different strengths and limitations. For example, the FBI fingerprint-based system check is advantageous in that it is a national-level, biometric-based system that also captures sex offense convictions which have been forwarded to the FBI that might not be in the public sex offender registry. However, access to the FBI fingerprint database for noncriminal justice purposes is only available when authorized by a federal statute or an approved state statute.

Grantees and other subject matter experts noted that some organizations may face obstacles in accessing FBI fingerprint-based system checks given the laws in their state.²¹ We note that DOJ is uniquely positioned to have DOJ grant-making components work with the FBI to identify the methods that may be available for acquiring appropriate criminal history background checks of individuals seeking to serve in programs that provide them access to vulnerable populations. We recommend that DOJ survey, leverage, and coordinate existing law enforcement tools, to the extent permissible by law, to facilitate screening that effectively mitigates the risk of improper individuals interacting with youth through DOJ programs.

Other Types of Individual Screening Strategies

While background checks are important tools to use to safeguard minors served by or participating in grant programs, DOJ officials and subject matter experts also noted that even the most thorough background check only identifies individuals who have already been caught. Grantees and subgrantees mentioned supplemental methods to screen individuals before placing them in contact with minors—many of which are listed in the *Elements of Effective Practice for Mentoring*. These include written applications, reference checks, and lengthy in-person interviews. Additionally, to the extent possible, having controls in place such as chaperones to observe the direct contact with minors may reduce the risk of abuse. One grantee we visited required all engagement with youth to be conducted in an environment that is observable and interruptible, and prohibited situations in which one child and one adult are alone together. Finally, officials stated that training individuals on the warning signs of child abuse, how to prevent abuse, and how to report suspected abuse—including the legal requirements for

²¹ We note legislation enacted on March 23, 2018 that seeks to provide enhanced access to criminal background checks for entities that work with vulnerable populations. The Child Protection Improvements Act amended the National Child Protection Act/Volunteers for Children Act and provides a method for covered individuals that work with children, the elderly, or individuals with disabilities to submit fingerprints to the Attorney General's designated entity or entities if the state does not have a statute or regulation to utilize the National Child Protection Act/Volunteers for Children Act, the state does not prohibit the use of the CPIA Program, or a federal background check is required under another federal authority. (Pub. L. 115-141)

mandatory reporters—is a very important additional strategy in safeguarding minors from victimization.

HHS’s Head Start Program, a grant program to promote school readiness of children from low-income families, is another example of a program that uses supplemental screening requirements. A federal regulation specifically states that, for all program personnel, the program must not only (1) conduct a sex offender registry check and (2) obtain either state/tribal or FBI criminal history records, including fingerprint checks, but also (3) conduct an interview, and (4) verify references.²² The regulation states that these checks must be conducted at least once every 5 years. While the above screening requirements do not explicitly apply to volunteers, the regulation further states that the program must ensure that children are never left alone with volunteers.²³

Though our review of DOJ component policies and procedures, as well as our review of monitoring efforts discussed below, focused mainly on criminal background screening as a means to safeguard minors, we believe that DOJ and its grantees should leverage multiple strategies to minimize the risk of abuse of minors. While the effectiveness of such methods may be difficult to measure, these methods reportedly help fill important gaps that are not covered by criminal background checks.

Considering the varying comprehensiveness of different types of background checks, the ability of other federal agencies to implement screening requirements, and the important role that supplemental screening procedures can have in identifying individuals who should not be in direct contact with minors, we recommend that DOJ provide the grant recipients it has identified as involving direct contact with minors information on child abuse prevention training as well as effective tools and techniques to screen individuals.

Suitable Safeguards Commensurate with Type and Level of Contact

As discussed above, the formal screening special condition applied to some OJJDP grant programs does not require that grantees screen applicants through a specific database or process, nor does it identify the types of offenses that are disqualifying, or impose a requirement on how often such checks should occur. While we note that other federal agencies have specific screening requirements in place for all grantees to safeguard vulnerable individuals, we acknowledge that the levels of risk to minors vary based on the nature and parameters of a specific grant program, such as the type and level of contact any employee or volunteer would have with regard to children. Both DOJ and grantee officials stressed that it often is, and should be, a case-by-case decision on who is eligible to work with minors in any given setting. Thus, attempts to set policies and procedures for grantee

²² 45 C.F.R. § 1302.90.

²³ 45 C.F.R. § 1302.94.

screening should consider the varying levels of risk presented to a child in a particular DOJ-funded grant program.

Despite the need for flexibility, we believe there are a number of areas for improved rigor in assessing the backgrounds of employees and volunteers who will be working closely with children under DOJ-funded programs. Given the differing definitions and requirements for background checks, we believe that DOJ could better define its expectations of appropriate background screening procedures for grantees to ensure that grantees conduct an adequate level of due diligence with their employees and volunteers in contact with minors—especially in programs that involve higher-risk scenarios and activities involving youth.

We find this risk would be mitigated if DOJ defined the minimum type of background check that relevant grantees must conduct. We note that many states affirmatively require strict background checks for individuals who will be working with children, such as teachers or social workers. In addition, the courts have recognized that employers who work with vulnerable populations have the right to restrict or prohibit the employment of individuals with specific serious convictions.²⁴

Even so, reliance on state requirements for background checks is not a sufficient guarantee that all necessary individuals will be subject to screening, as requirements vary widely from state to state. We believe that, given one of DOJ's core mission tenets is to protect the public, it is incumbent upon DOJ to exercise due diligence to guard against harm to youth participating in programs supported by its grant funding. Further, DOJ provides federal leadership in preventing and controlling crime and is uniquely positioned among other federal agencies and law enforcement entities to coordinate and navigate the various criminal history repositories. We recommend that DOJ evaluate setting minimum standards of screening of individuals who will interact with minors on grant programs, as appropriate for the varying levels of risk to minors in DOJ grant programs.

Short of requiring a minimum baseline of screening protocols, grant-making components would obtain greater assurance on whether youth are adequately safeguarded by requiring grantees to certify the specific type of background check each has administered for individuals in contact with children. Moreover, an affirmative reporting requirement detailing the types of screening a grantee conducts should help enable DOJ to identify if any of its grantees conduct no formal checks at all. Further, to the extent that any grantees limit background screening based on their interpretation of restrictions within state or local laws or regulations, the grantee's identification of such laws or regulations would provide a framework for DOJ to assess this analysis and provide relevant feedback, as appropriate. In the event that a grantee cannot comply with a minimum standard of screening and an exception or waiver is given, we believe it important that DOJ ensure that the grantee still reports on the specific screening procedures it applied and any limitations that it interpreted as restricting its ability to conduct screening. This

²⁴ As long as the prohibition: (1) is job related; and (2) is consistent with the "business necessity" of protecting vulnerable populations served by the business. See, e.g., El v. Southeastern Pennsylvania Transportation Authority, 479 F.3d 232 (3d Cir. 2007).

would allow DOJ to determine whether the practices and understandings its grantees are applying in the area of background screening are reasonable and sufficient.

In addition, we found grantees would benefit from guidance in areas where DOJ expectations are currently undefined. For example, we found that there are no requirements for DOJ grantees stipulating a minimum frequency of background checks, nor does DOJ appear to require employees and volunteers to report any arrests subsequent to initial approval of participation. Further, DOJ officials acknowledged it is not always clear whether certain background check results should be acceptable and allowable.

We acknowledge a one-size-fits-all approach may be impractical, especially when attempting to define the type of screening results that would disqualify an applicant from participating in a DOJ-supported grant involving youth. Because the nature of participation varies, and some youth-centered programs may deliberately utilize individuals with a criminal history to connect effectively with at-risk youth who may have similar experiences, any steps in this area must allow for some discretion due to variations in the type of contact, as well as the fact that some effective grant programming is specifically designed to incorporate the participation of individuals who may have a criminal history. However, DOJ could determine that certain types of criminal history or convictions should be disqualifying and provide additional guidance or justification requirements in instances of lesser offenses or ambiguous background check results. We recommend that DOJ develop additional screening guidance for grantees across its grant-making components, particularly in areas that are less defined and subject to interpretation, such as a minimum frequency of background checks and criminal offenses that would disqualify an individual from working with minors.

Monitoring of Screening Requirements

As part of its efforts to prevent the victimization of young and vulnerable individuals participating in DOJ-sponsored programs, DOJ must not only establish clear guidance on its expectations for screening, but also implement an effective monitoring process to determine the adequacy of steps that grantees and subgrantees take to screen individuals working closely with children. We found DOJ places an overreliance on informal communication with grantees and deference to state and local requirements. Without imposing clear recordkeeping or reporting standards for its grantees, DOJ lacks a reliable basis to determine the adequacy of screening practices. Moreover, existing DOJ grant monitoring procedures for some grants that may involve contact with youth do not specifically focus on compliance in this area. We found that DOJ needs to strengthen its monitoring processes in order to ensure that grantees conduct a minimum level of due diligence with respect to individuals in direct contact with minors, and thereby mitigate the risk of potential harm to minors participating in DOJ grant programs.

Status of Monitoring Efforts

OJP and OVW officials told us that currently there is no formalized regime to monitor grantee background screening processes for individuals in direct contact with minors. While OJJDP's mentoring program grantees are required to detail their mentor screening approaches in their grant applications, OJJDP does not verify that the award recipient has the appropriate screening procedures in place, that such procedures are adequate, or that the grantee is reviewing and acting on the results of these screening procedures. Beginning in the third quarter of FY 2018, OJJDP began checking grantees for background check policies and procedures as part of its annual desk review process. However, in general, other than the OJJDP desk review questions, grant managers from both OJP and OVW also stated that grantee site visits and desk reviews do not otherwise include steps that focus specifically on grantee background screening efforts or records.

Instead, OJP and OVW officials stated that they defer to grant recipients to perform background checks in accordance with the standards and protocols at the individual state or local level. An OJJDP official stated that grant managers may discuss screening protocols with the grantee during the planning phase of their project, but that this communication varies depending on the grant manager and the grantee. Additionally, grant managers may discuss screening procedures during their orientation calls with key grantee staff, though these calls primarily focus on the grant's goals and objectives, reporting requirements, and timelines—not on specific screening protocols or documentation. Further, grant managers may receive updates from grantees about screening and other award compliance issues during their ongoing conversations with grantees throughout the award. However, an OJJDP grant manager stated that grantees only tend to share what they are doing in the area of screening rather than proactively seeking guidance from OJJDP.

At least one other federal agency requires that its grantees retain specific records to support agency monitoring efforts. CNCS grantees must: (1) document in writing that they verified the individual's identity using government-issued photo identification and conducted the required checks, (2) maintain the results of the NSOPW and criminal history checks, and (3) document that an authorized grantee representative considered the results of the checks in selecting the individual. We found that this language—unlike the OJJDP special condition language—explicitly requires grantees to maintain evidence of their adherence to the program's background check requirements.²⁵

Survey of Grantee-level Screening Protocols

To determine whether certain entities receiving DOJ funds have implemented appropriate controls for individuals in programs involving minors, we surveyed the background screening protocols for youth mentors at three OJJDP mentoring program grantees.²⁶ As OJJDP mentoring program grant recipients, all three grantees are subject to OJJDP's criminal background screening special condition and indicated that they were familiar with OJJDP's mentoring program guidance on screening. Additionally, these three grantees are well-established organizations that OJJDP grant managers believed to have appropriate controls in place—and in some cases recommended as organizations implementing best practices for mentor screening.

We interviewed officials from each of the three grantees about their monitoring protocols for ensuring that their subgrantees adequately screen prospective mentors. All three grantees indicated that they have policies and procedures in place to govern subgrantees' screening and background check processes. The first grantee conducts screening of all subgrantee mentors at the primary grantee level using a vendor, and gives subgrantees the option to conduct additional screening based on their own organizational procedures. The second grantee requires subgrantees submit their screening procedures up-front in their applications for subrecipient funding. However, we found that this grantee does not conduct further monitoring of its subgrantees' compliance with the stated screening protocols and does not request or review background check results from its subgrantees. Finally, the third grantee has established minimum screening policies and procedures for its subgrantees, including an internal checklist to document the dates and results of searches, as well as the date of clearance and date of first contact with youth. This grantee additionally indicated that during site visits its

²⁵ CNCS Office of Inspector General (CNCS OIG) has identified through its audits and investigations findings related to grantee noncompliance with background check requirements that involve grantees' failure to either conduct the required checks or complete the checks on time. As an example, see [CNCS OIG Report 17-07](#) (June 2017). Additional reports can be found on CNCS OIG's website, <https://www.cncsoig.gov/news/audit-reports>.

²⁶ Our sample was limited to one type of award program by one grant-making component. All three grantees are large, national organizations that rely on subgrantees across the country to implement their respective mentoring programs.

personnel review subgrantee mentor files, including background check results, for completeness and accuracy.

While we found that each organization had established policies and procedures for screening, we noted that screening procedures varied widely, even among the three grantees and six subgrantees that we reviewed. Further, the types of background checks conducted by grantees varied from the use of a background check vendor, to in-house searches of state criminal history and sex offender registries, to use of fingerprint-based checks. Our review further highlighted that a defined minimum standard of appropriate screening from DOJ could benefit grantees, given the varying interpretations of background screening. Additionally, while each grantee we reviewed had specific strengths in its screening policies and procedures, we noted areas that could be improved with further guidance and monitoring from DOJ.

In our review of 15 mentor screening files from each grantee, we identified concerns with the screening of prospective mentors under these programs—despite established subgrantee monitoring protocols. We noted that grantees' screening policies and procedures did not always ensure that subgrantees reviewed the criminal history information for the correct individual.²⁷ We also identified a number of instances in which mentors were cleared to work with youth based on incomplete records. We found that multiple subgrantees lacked adequate documentation to account for a mentor's start date, and occasionally lacked evidence of completed criminal background or sex offender registry checks. Thus, we were unable to confirm that all mentors in our sample were cleared prior to direct contact with minors. We identified several instances in which NSOPW search results reported that a state sex offender registry site was down at the time of the search, meaning that sex offender records could not be accessed for that state.²⁸ Additionally, our review of one subgrantee's mentor files revealed that mentors in three separate instances were granted final approval to work with minors based on incomplete background checks.²⁹ While all three of these mentors later underwent follow-up criminal background checks and sex offender registry screening and were subsequently cleared, the subgrantee and, by extension, the grantee failed to recognize the gaps in these mentors' clearance processes and initially cleared these individuals to work with minors based on incomplete information. We believe that this practice opened the subgrantee, grantee, and DOJ up to potential risk and

²⁷ We found that one grantee allowed prospective volunteers to self-report their own personal information via application, and did not independently verify the individual's identity before initiating the background check. We also identified one instance in which a mentor's name matched three records in NSOPW which did not contain further identifying information. Without documentation as to how this individual was ultimately cleared by the subgrantee, we remain concerned that this individual was not properly cleared through the sex offender registry.

²⁸ Another federal agency we spoke with that requires NSOPW searches of its grantees considered such results to be incomplete and, as a result, its grantees to be non-compliant with the award requirements.

²⁹ We found that one background check failed to capture the applicant's prior convictions; one did not include felony, misdemeanor, and state sex offender search results; and one was never completed due to missing information from the applicant.

significant liability if the mentors had been found to have criminal records with offenses deemed unsuitable for participation in the program.

Despite grantee assurances that they have protocols in place to monitor subgrantee efforts to safeguard minors through the appropriate background screening, we are concerned that many of the mentor files we reviewed were incomplete—thus increasing the risk of the victimization of minors participating in these OJJDP-funded programs. Additionally, we are concerned by one subgrantee's assertion that it could not share mentor background check results with the primary grantee due to privacy issues. While we acknowledge the various federal and state privacy laws that may affect access to individuals' criminal history records, we believe that DOJ should take steps to ensure that its grantees and subgrantees provide evidence of compliance with the conditions of the award. Without access to the criminal background check results of individuals participating in DOJ-funded programs, DOJ grant managers cannot adequately assess whether grantees have implemented appropriate controls for individuals in programs involving minors.

The issues we identified in our review of a limited number of mentor files demonstrate that an award special condition and guidance alone are not a sufficient safeguard for minors participating in DOJ programs; DOJ must also strengthen its monitoring efforts of grantees to ensure that they are taking appropriate steps to properly screen individuals in contact with minors. While all three grantees we reviewed had screening procedures in place, we also note that our review was limited to large, well-established mentoring organizations that are more likely to have established screening procedures than smaller, newer grantee organizations. In order to ensure that all DOJ grantees working with minors have adequate controls in place, DOJ component agencies may consider requiring relevant grantees to identify their screening policies and procedures up front, maintain evidence of their screening efforts, and then incorporate regular monitoring of grantees' adherence to these policies.

Considering the different screening approaches used by grantees, along with grant managers' reliance on informal conversations with grantees regarding screening protocols, we believe that the currently limited monitoring regime at the DOJ component level increases the risk of relevant individuals not being subjected to appropriate and timely background screening. Additionally, given that direct program implementation often occurs at the subgrantee level, there is an additional risk that primary grant recipients may not be adequately communicating and effectively monitoring the implementation of safeguarding policies and procedures at the subgrantee level. Without an explicit requirement for grantees to maintain evidence of their screening efforts, DOJ grant managers lack a basis to conclude that grantees and subgrantees have implemented the appropriate controls to protect minors. We recommend that DOJ implement policies and procedures to enhance its monitoring of grantee background screening processes for all DOJ awards that may involve direct contact with minors in order to ensure that grantees and subgrantees conduct a minimum level of due diligence for individuals in direct contact with minors under funded programs.

CONCLUSION AND RECOMMENDATIONS

Given that DOJ's core mission includes protecting the public and providing federal leadership in preventing and controlling crime, DOJ needs to ensure that youth participating in its grant programs are safeguarded from abuse. However, we found that the DOJ grant-making components did not have consistent policies and procedures in place to ensure that grantees conducted a minimum level of due diligence with regard to individuals who work with minors under DOJ programs. Specifically, we found that the DOJ grant-making components did not have a complete understanding of which of their grant programs and awards could involve youth, nor did they provide guidance to all relevant grantees on child abuse prevention and techniques to screen individuals. Further, DOJ grant-making components did not establish a clear and specific standard for a minimum level of screening or consistently apply screening requirements across all relevant programs. We also found shortcomings in DOJ's process to monitor steps grantees take to screen their participants.

We found DOJ can improve in several areas to obtain greater assurance that grantees have implemented the proper controls to ensure that individuals in contact with youth through DOJ-funded programs are suitable to work with minors. Though we acknowledge that a one-size-fits-all screening requirement for DOJ awards may not be feasible, DOJ must obtain a more complete understanding of the scope of programs with potential youth involvement, share additional guidance to the relevant population of grantees, and evaluate how it can best leverage the tools available to adequately mitigate the risk of abuse to minors. We found DOJ would help mitigate risk to minors by establishing more specific guidance on what would constitute sufficient minimum screening, especially given that other federal agencies have demonstrated the feasibility of implementing overarching, national-level background check requirements for programs involving contact with vulnerable populations. We also note that, while our scope focused on DOJ grant programs involving minors, the same concerns hold for programs that involve other vulnerable populations, including the elderly or disabled—and DOJ may want to consider how additional safeguards could help protect other vulnerable individuals participating in its programs.

We recommend that DOJ, through the Office of the Associate Attorney General:

1. Work with its grant-making components to develop a framework to proactively and uniformly identify the grants—both by program and by individual award—that may involve direct contact with minors.
2. Leverage and coordinate existing law enforcement tools, to the extent permissible by law, to facilitate screening that effectively mitigates the risk of improper individuals interacting with youth through DOJ programs.
3. Provide the grant recipients it has identified as involving direct contact with minors information on child abuse prevention training as well as effective tools and techniques to screen individuals.

4. Evaluate setting minimum standards of screening of individuals who will interact with minors on grant programs, as appropriate for the varying levels of risk to minors in DOJ grant programs.
5. Develop additional screening guidance for grantees across its grant-making components, particularly in areas that are less defined and subject to interpretation, such as a minimum frequency of background checks and criminal offenses that would disqualify an individual from working with minors.
6. Implement policies and procedures to enhance its monitoring of grantee background screening processes for all DOJ awards that may involve direct contact with minors in order to ensure that grantees and subgrantees conduct a minimum level of due diligence for individuals in direct contact with minors under funded programs.

STATEMENT ON INTERNAL CONTROLS

As required by the Government Auditing Standards, we tested, as appropriate, internal controls significant within the context of our 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. Our evaluation of the Office of Justice Programs (OJP), the Office on Violence Against Women (OVW), and the Office of Community Oriented Policing Services (COPS Office) was not made for the purpose of providing assurance on its internal control structure as a whole. Management at the aforementioned components 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 internal controls that are significant within the context of the audit objectives. Specifically, we found that DOJ needs to identify grant programs, as well as specific grants, that involve direct contact with minors and ensure that individuals serving on these grants are appropriately screened. These weaknesses in internal controls are detailed within our report and we believe the weaknesses should be addressed.

Because we are not expressing an opinion on the internal control structure of these components, this statement is intended solely for the information and use of the auditee. 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, selected transactions, records, procedures, and practices, to obtain reasonable assurance that the management of DOJ award-making components complied with federal laws and regulations for which noncompliance, in our judgment, could have a material effect on the results of our audit. The management of the Office of Justice Programs, Office on Violence Against Women, and the Office of Community Oriented Policing Services are respectively responsible for ensuring compliance with applicable federal laws and regulations. In planning our audit, we did not identify any applicable laws and regulations that specifically concerned the operations of these entities that were significant within the context of the audit objectives.

OBJECTIVES, SCOPE, AND METHODOLOGY

Objectives

The objectives of our audit were to: (1) determine whether entities receiving Department of Justice (DOJ) funds have implemented appropriate controls, such as screening and background checks, for individuals in programs involving minors; and (2) assess DOJ efforts to ensure that grantees adequately mitigate the risk of victimization of minors who participate in its youth-centered programs.

Scope and Methodology

We conducted this performance audit in accordance with 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 objectives. Our audit generally covered, but was not limited to, DOJ grant programs active during fiscal year (FY) 2017 that involve persons who work directly with minors and administered by DOJ's three main grant-making components: the Office of Justice Programs (OJP), the Office on Violence Against Women (OVW), and the Office of Community Oriented Policing Services (COPS Office).

To determine a universe of applicable grant programs, we focused our review on the components and offices with the most direct nexus to youth programming, which we determined to be OVW and two specific offices within OJP: the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and the Office for Victims of Crime (OVC). We interviewed component officials involved in the administration of grant programs involving youth, including associate directors, deputy administrators, and program managers. We reviewed and analyzed each OVW, OJJDP, and OVC award solicitation funded in FY 2017. We also reviewed the FY 2017 grant programs administered by the COPS Office and requested a listing of any relevant programs from COPS Office officials. We confirmed our listing of the relevant grant programs with DOJ program officials and established a universe of FY 2017 DOJ grant programs that potentially involve direct contact with minors. Though we focused on FY 2017 grant programs, our universe does include some programs from prior years, as DOJ often funds new awards each year based on a prior year's solicitation. For example, in FY 2017, OJJDP awarded 18 new grants under the FY 2016 Second Chance Act Strengthening Relationships Between Young Fathers, Young Mothers, and Their Children solicitation. As these awards were funded in FY 2017, we included this grant program in our universe. Our analysis of the relevant grant programs was based on the information available to the audit team; however, determining a definitive listing of which specific awards involve direct contact with youth would entail an exhaustive review of individual award documents and work with grant managers or grantee officials.

To determine whether entities receiving DOJ funds have implemented appropriate controls for individuals in programs involving minors, we judgmentally selected three active grants under OJJDP's FY 2016 Mentoring Opportunities for Youth Initiative grant program. We reviewed payment history reports for FY 2016 and FY 2017 OJJDP local grantees and selected three grantees that had expended funds to stand up their program as of September 30, 2017. All three grantees received awards of \$3 million or more and utilized subgrantees to carry out their respective mentoring programs. Additionally, all three awards contained the OJJDP special condition requiring grantees to certify that they have appropriate background screening procedures in place for individuals in direct contact with youth. We interviewed grantee officials regarding their policies and procedures to safeguard minors participating in their DOJ-funded programs, to include their policies and procedures for background screening of youth mentors. We also spoke with two subgrantees under each award about their screening procedures for youth mentors. We judgmentally selected a sample of mentors from each award and reviewed the mentor files for evidence of completed background checks, noting whether they were consistent with the grantees' stated policies and procedures.

To assess DOJ efforts to ensure that grantees adequately mitigate the risk of victimization of minors who participate in its youth-centered programs, we interviewed granting component officials regarding the policies and procedures in place at the Department and component levels to safeguard minors. We reviewed any award requirements and guidance in place for DOJ grantees related to safeguarding minors participating in DOJ-funded programs. We analyzed and evaluated the current guidance and award requirements that require the screening of individuals in direct contact with minors. We then reviewed each program solicitation and corresponding award packages to determine how often these requirements were applied to DOJ awards. Finally, we reviewed granting component policies and interviewed both DOJ officials and grantees to evaluate DOJ's monitoring efforts of grantees' compliance with background check requirements.

To obtain additional background information, we spoke with DOJ officials and other subject matter experts regarding best practices for safeguarding minors and the tools available for screening. Although they were not the subject of our audit, we interviewed officials from DOJ components including OJP's Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) and the Federal Bureau of Investigation's Criminal Justice Information Services Division (FBI CJIS). We note that we did not test the FBI fingerprint-based check or any other checking process as part of this audit because this was not necessary to meet our objectives and support our findings and recommendations. We also spoke with representatives from The National Center for Missing and Exploited Children (NCMEC) to obtain information on various strategies used to conduct background checks. In addition, we spoke with officials from other federal agencies that administer grant programs regarding their policies and procedures for safeguarding vulnerable populations, in order to obtain additional context on these issues.

APPENDIX 2

RELEVANT PRIOR AUDIT FINDINGS³⁰

- The March 2012 audit report of the Office of Community Oriented Policing Services (COPS Office) grants awarded to the Crow Tribe of Indians Crow Agency in Montana noted a finding from a FY 2010 Single Audit report that addressed a failure to perform background checks for employees at the Crow Nation Wellness Center. This finding pertained to funding provided by another federal agency.
- The January 2014 audit of grants awarded by the Office of Justice Program's (OJP) Bureau of Justice Assistance (BJA) to the Father's Day Rally Committee (FDRC) noted that in 2007, the OIG reviewed FDRC's internal controls over grant funds and identified background checks for employees working with children as an area of concern.
- The April 2015 audit of an Office of Juvenile Justice and Delinquency Prevention (OJJDP) award to Communities in Schools, Inc., found the grantee did not ensure that subgrantees cleared mentor volunteers through a criminal background check before mentors interacted with at-risk youth. The audit found that the grantee did not have a clear standard for when and how often mentors should be screened. Furthermore, in several instances, subgrantees could not provide evidence that mentors had passed a background check before working with minors.
- The March 2016 audit of an OJJDP award to College Mentors for Kids, Inc. found that the grantee did not perform periodic background checks on its employees. In one instance, the audit found that a staff member had not had a criminal background check conducted in over 10 years.
- The December 2016 audit of OJJDP mentoring program awards to Amachi, Inc. found that the primary grantee did not implement procedures to verify that subgrantees completed the required background checks for youth mentors. Furthermore, grantee officials indicated they were not aware that Amachi had to implement controls to ensure background checks were in place at the subgrantee level.
- The September 2017 audit of OJJDP mentoring program awards to the National Council of Young Men's Christian Associations of the USA identified concerns that some subgrantees had not reported expending any grant funds to conduct mentor background checks.

³⁰ [Audit Report GR-60-12-007](#) (March 2012); [Audit Report GR-70-14-002](#) (January 2014); [Audit Report GR-30-15-001](#) (April 2015); [Audit Report GR-50-16-004](#) (March 2016); [Audit Report GR-70-17-001](#) (December 2016); [Audit Report GR-50-17-005](#) (September 2017); [Audit Report GR-70-18-005](#) (February 2018); [Audit Report GR-60-19-003](#) (March 2019); [Audit Report GR-50-19-002](#) (March 2019).

- The February 2018 audit of an OJJDP community-based violence program award to Syracuse, New York, found that the grantee did not have policies and procedures to ensure that subgrantees had background check policies in place for individuals working with minors.
- The March 2019 audit of OJP and Office on Violence Against Women (OVW) grants to Wiconi Wawokiya, Inc. found that this grantee must improve its processes to retain qualified individuals participating in its DOJ award programs, through mechanisms such as resumes, background checks, or letters of reference. Further, the grantee did not maintain adequate support to demonstrate that qualified individuals were working on any of their programs, including programs related to children.
- The March 2019 audit of the OJP grant awarded to the Cincinnati City School District found that the grantee could not produce all background check records required by the school district. Further, of those individuals with background check results available, over a quarter had at least one prior criminal charge noted in either the federal or state background investigation results and still participated in the program. Among these results were records involving trafficking drugs near a school and endangering children.

DEPARTMENT'S RESPONSE TO THE DRAFT AUDIT REPORT



U.S. Department of Justice

Office of the Deputy Attorney General

Associate Deputy Attorney General

Washington, D.C. 20530

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

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

FROM: Bradley Weinsheimer
Associate Deputy Attorney General

DATE: March 5, 2019

SUBJECT: Response to the Office of the Inspector General's Draft Audit Report, *Audit of Efforts to Safeguard Minors in Department of Justice Youth-Centered Programs*

This memorandum provides a response to the Office of the Inspector General's (OIG) February 14, 2019, draft audit report entitled, *Audit of Efforts to Safeguard Minors in Department of Justice Youth-Centered Programs*.

The Department of Justice's (Department or DOJ) grant-making components – the Office of Justice Programs (OJP), Office on Violence Against Women (OVW), and Office of Community Oriented Policing Services (COPS Office) – agree that adequate safeguards to mitigate the risk of harm to minors participating in DOJ youth-centered programs are important. As the draft report notes, certain DOJ grant-making components already provide information to grant recipients on best practices for screening individuals having direct, programmatic contact with minors. To ensure that all DOJ grant-making components provide consistent management of grant recipients administering DOJ youth-centered programs, the DOJ grant-making components will work together to leverage existing efforts, as well as develop and implement additional policies and procedures, as needed.

The draft audit report contains six recommendations. For ease of review, the recommendations are summarized below and followed by the Department's response.

1. **We recommend that DOJ, through the Office of the Associate Attorney General, work with its grant-making components to develop a framework to proactively and uniformly identify the grants – both by program and by individual award – that may involve direct contact with minors.**

The Department agrees with this recommendation. The Department's grant-making components, in consultation with the Office of the Associate Attorney General, will develop a framework to proactively and uniformly identify grants – both by program and by individual award – that may involve direct contact with minors.

2. **We recommend that DOJ, through the Office of the Associate Attorney General, leverage and coordinate existing law enforcement tools, to the extent permissible by law, to facilitate screening that effectively mitigates the risk of improper individuals interacting with youth through DOJ programs.**

The Department agrees with this recommendation. The Department's grant-making components, in consultation with the Office of the Associate Attorney General, will determine how existing law enforcement tools can be leveraged to facilitate screening to effectively mitigate the risk of improper individuals interacting with youth through DOJ grant recipients.

3. **We recommend that DOJ, through the Office of the Associate Attorney General, provide the grant recipients it has identified as involving direct contact with minors information on child abuse prevention training as well as effective tools and techniques to screen individuals.**

The Department agrees with this recommendation. The Department's grant-making components, in consultation with the Office of the Associate Attorney General, will identify available resources that can be used for training on child abuse prevention and for identifying effective screening tools.

4. **We recommend that DOJ, through the Office of the Associate Attorney General, evaluate setting minimum standards of screening of individuals who will interact with minors on grant programs, as appropriate for the varying levels of risk to minors in DOJ grant programs.**

The Department agrees with this recommendation. The Department's grant-making components, in consultation with the Office of the Associate Attorney General, will evaluate whether or how to set minimum standards of screening of individuals who will interact with minors on grant programs, as appropriate for the varying levels of risk to minors in DOJ grant programs.

5. **We recommend that DOJ, through the Office of the Associate Attorney General, develop additional screening guidance for grantees across its grant-making components, particularly in areas that are less defined and subject to interpretation, such as a minimum frequency of background checks and criminal offenses that would disqualify an individual from working with minors.**

The Department agrees with this recommendation. The Department's grant-making components, in consultation with the Office of the Associate Attorney General, will develop grant conditions, regulations, or alternatively non-binding voluntary guidance (consistent with the Department's policy on guidance), for grant recipients to screen individuals who will interact with minors on grant programs.

6. **We recommend that DOJ, through the Office of the Associate Attorney General, implement policies and procedures to enhance its monitoring of grantee background screening processes for all DOJ awards that may involve direct contact with minors in order to ensure that grantees and subgrantees conduct a minimum level of due diligence for individuals in direct contact with minors under funded programs.**

The Department agrees with this recommendation. The Department's grant-making components, in consultation with the Office of the Associate Attorney General, will implement policies and procedures to enhance monitoring of grantee background screening processes for all DOJ awards that require grant recipients and sub-recipients to conduct a minimum level of due diligence for individuals in direct contact with minors.

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

cc: Paul Perkins
Counsel to the Deputy Attorney General

Stephen Cox
Deputy Associate Attorney General and Chief of Staff
Office of the Associate Attorney General

Katharine Sullivan
Acting Director
Office on Violence Against Women

Phillip Keith
Director
Office of Community Oriented Policing Services

cc: Matt M. Dummermuth
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Office of Justice Programs

Maureen A. Henneberg
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Office of Justice Programs

Ralph E. Martin
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Office of Audit, Assessment, and Management
Office of Justice Programs

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

The OIG provided a draft of this audit report to the Department. We incorporated the Department's response in Appendix 3 of this final report. In response to our audit report, the Department concurred with our recommendations and discussed the actions it will implement in response to our findings. As a result, the status of the audit report is resolved. The following provides the OIG analysis of the response and summary of the actions necessary to close the report.

Recommendations for the Department:

- 1. Work with its grant-making components to develop a framework to proactively and uniformly identify the grants—both by program and by individual award—that may involve direct contact with minors.**

Resolved. The Department agreed with our recommendation. The Department stated in its response that the Department's grant-making components, in consultation with the Office of the Associate Attorney General, will develop a framework to proactively and uniformly identify grants—both by program and by individual award—that may involve direct contact with minors.

This recommendation can be closed when we receive evidence that the Department, in consultation with its grant-making components, has developed a framework to proactively and uniformly identify grants—both by program and by individual award—that may involve direct contact with minors.

- 2. Leverage and coordinate existing law enforcement tools, to the extent permissible by law, to facilitate screening that effectively mitigates the risk of improper individuals interacting with youth through DOJ programs.**

Resolved. The Department agreed with our recommendation. The Department stated in its response that the Department's grant-making components, in consultation with the Office of the Associate Attorney General, will determine how existing law enforcement tools can be leveraged to facilitate screening to effectively mitigate the risk of improper individuals interacting with youth through DOJ grant recipients.

This recommendation can be closed when we receive evidence that the Department, in consultation with its grant-making components, has leveraged existing law enforcement tools to facilitate screening that effectively mitigates the risk of improper individuals interacting with youth through DOJ grant programs. Such efforts must recognize the role of the FBI and its background check capabilities. Accordingly, the Department should

obtain additional guidance from the FBI on the authorities governing background information and the various options that may be available to produce background check results relevant for grantees.

- 3. Provide the grant recipients it has identified as involving direct contact with minors information on child abuse prevention training as well as effective tools and techniques to screen individuals.**

Resolved. The Department agreed with our recommendation. The Department stated in its response that the Department's grant-making components, in consultation with the Office of the Associate Attorney General, will identify available resources that can be used for child abuse prevention training and for identifying effective screening tools.

This recommendation can be closed when we receive evidence that the Department, in consultation with its grant-making components, has identified available resources that can be used for training on child abuse prevention, as well as effective screening tools, and provided those resources and tools to grant recipients they have identified as involving direct contact with minors.

- 4. Evaluate setting minimum standards of screening of individuals who will interact with minors on grant programs, as appropriate for the varying levels of risk to minors in DOJ grant programs.**

Resolved. The Department agreed with our recommendation. The Department stated in its response that the Department's grant-making components, in consultation with the Office of the Associate Attorney General, will evaluate whether or how to set minimum standards of screening of individuals who will interact with minors on grant programs, as appropriate for the varying levels of risk to minors in DOJ grant programs.

This recommendation can be closed when we receive evidence that the Department, in consultation with its grant-making components, has evaluated setting minimum standards of screening of individuals who will interact with minors on grant programs, as appropriate for the varying levels of risk to minors in DOJ grant programs.

- 5. Develop additional screening guidance for grantees across its grant-making components, particularly in areas that are less defined and subject to interpretation, such as a minimum frequency of background checks and criminal offenses that would disqualify an individual from working with minors.**

Resolved. The Department agreed with our recommendation. The Department stated in its response that the Department's grant-making components, in consultation with the Office of the Associate Attorney General, will develop grant conditions, regulations, or alternatively non-binding voluntary guidance for grant recipients to screen individuals who will interact with minors on grant programs.

This recommendation can be closed when we receive evidence that the Department, in consultation with its grant-making components, has developed additional screening guidance for grantees, particularly in areas that are less defined and subject to interpretation, such as a minimum frequency of background checks and criminal offenses that would disqualify an individual from working with minors. To be effective, such guidance needs to articulate clear requirements to all applicable Department grantees.

- 6. Implement policies and procedures to enhance its monitoring of grantee background screening processes for all DOJ awards that may involve direct contact with minors in order to ensure that grantees and subgrantees conduct a minimum level of due diligence for individuals in direct contact with minors under funded programs.**

Resolved. The Department agreed with our recommendation. The Department stated in its response that the Department's grant-making components, in consultation with the Office of the Associate Attorney General, will implement policies and procedures to enhance monitoring of grantee background screening processes for all DOJ awards that require grantees and subgrantees to conduct a minimum level of due diligence for individuals in direct contact with minors.

This recommendation can be closed when we receive evidence that the Department, in consultation with its grant-making components, has implemented policies and procedures to enhance its monitoring of grantee background screening processes for all DOJ awards that may involve direct contact with minors. To address this recommendation, such a monitoring approach should ensure that grantees and subgrantees conduct a minimum level of due diligence for individuals in direct contact with minors under funded programs.



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