

**§ 90.65 Evaluation.**

(a) The National Institute of Justice will conduct evaluations and studies of programs funded through this Program. The Office of Justice Programs will set aside a small portion of the overall funds authorized for the Program for this purpose. Recipients of funds must agree to cooperate with such federally-sponsored research and evaluation studies of their projects. In addition, grant recipients are required to report to the Attorney General on the effectiveness of their project(s). Section 2103, codified at 42 U.S.C. 3796hh-2.

(b) Recipients of program funds are strongly encouraged to develop a local evaluation strategy to assess the impact and effectiveness of their programs. Applicants should consider entering into partnerships with research organizations that are submitting simultaneous grant applications to the National Institute of Justice for this purpose.

**§ 90.66 Review of applications.**

(a) *Review criteria.* (1) The provisions of part U of the Omnibus Act and of the regulations in this subpart provide the basis for review and approval or disapproval of applications and amendments in whole or in part. Priority will be given to applicants that

(i) Do not currently provide for centralized handling of cases involving domestic violence by police, probation and parole officers, prosecutors, and courts; and

(ii) Demonstrate a commitment to strong enforcement of laws, and prosecution of cases, involving domestic violence. Omnibus Act § 2102(b)(1)-(2), 42 U.S.C. 3796hh-1(b)(1)-(2) (1994).

(2) Commitment may be demonstrated in a number of ways including: Clear communication from top departmental management that domestic violence prevention is a priority; strict enforcement of arrest policies; innovative approaches to officer supervision in domestic violence matters; acknowledgment of officers who consistently enforce domestic violence arrest policies and sanctions for those who do not; education and training for all officers and supervisors on enforcement of domestic violence arrest policies and

the phenomenon of domestic violence; and the creation of special units to investigate and monitor spousal and partner abuse cases.

(3) Priority also will be given to applicants who provide evidence of meaningful attention to victims' safety and those who demonstrate a strong commitment to provide victims with information on the status of their cases from the time the complaint is filed through sentencing.

(b) *Intergovernmental review.* This program is covered by Executive Order 12372 (Intergovernmental Review of Federal Programs) and implementing regulations at 28 CFR part 30. A copy of the application submitted to the Office of Justice Programs should also be submitted at the same time to the State's Single Point of Contact, if there is a Single Point of Contact.

**§ 90.67 Grantee reporting.**

Each grantee receiving funds under this subpart shall submit a report to the Attorney General evaluating the effectiveness of projects developed with funds provided under this subpart and containing such additional material as the Assistant Attorney General of the Office of Justice Programs may prescribe.

## PART 91—GRANTS FOR CORRECTIONAL FACILITIES

### Subpart A—General

Sec.

- 91.1 Purpose.
- 91.2 Definitions.
- 91.3 General eligibility requirements.
- 91.4 Truth in Sentencing Incentive Grants.
- 91.5 Violent Offender Incarceration Grants.
- 91.6 Matching requirement.

### Subpart B—FY 95 Correctional Boot Camp Initiative

- 91.10 General.

### Subpart C—Violent Offender Incarceration and Truth-in-Sentencing Grant Programs for Indian Tribes

- 91.21 Purpose.
- 91.22 Definitions.
- 91.23 Grant authority.
- 91.24 Grant distribution.

AUTHORITY: Sec. 20105 of subtitle A, title II of the Violent Crime Control and Law Enforcement Act of 1994, unless otherwise noted.

SOURCE: 59 FR 63019, Dec. 7, 1994, unless otherwise noted.

### Subpart A—General

#### § 91.1 Purpose.

The Attorney General, through the Assistant Attorney General for the Office of Justice Programs, will make grants to states and to states organized as multi-state compacts to construct, develop, expand, operate or improve correctional facilities, including boot camp facilities and other alternative correctional facilities that can free conventional space for the confinement of violent offenders, to:

- (a) Ensure that prison space is available for the confinement of violent offenders; and
- (b) Implement truth in sentencing laws for sentencing violent offenders.

#### § 91.2 Definitions.

- (a) *Violent offender* [Reserved]
- (b) *Serious drug offense* means an offense involving manufacturing, distributing, or possessing with intent to manufacture or distribute, a controlled substance (as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802)), for which a maximum term of imprisonment of 10 years or more is prescribed by state law.
- (c) *Part 1 violent crimes* means murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports. If such data is unavailable, Bureau of Justice Statistics (BJS) publications may be utilized. See, e.g., "Census of State and Federal Correctional Facilities, 1990." ("Part 1 violent crimes" are defined here solely as the statutorily prescribed basis for the formula allocation of funding.)
- (d) *Recipient* means individual states or multi-state compacts awarded funds under this part.
- (e) *State* means a State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam and the Northern Mariana Islands.

(f) *Comprehensive correctional plan* means a plan which represents an integrated approach to the management and operation of adult and juvenile correctional facilities and programs and which includes diversion programs, particularly drug diversion programs, community corrections programs, a prisoner screening and security classification system, appropriate professional training for corrections officers in dealing with violent offenders, prisoner rehabilitation and treatment programs, prisoner work activities (including to the extent practicable, activities relating to the development, expansion, modification, or improvement of correctional facilities) and job skills programs, educational programs, a pre-release prisoner assessment to provide risk reduction management, post-release assistance and an assessment of recidivism rates.

(g) *Correctional facilities* includes boot camps and other alternative correctional facilities for adults or juveniles that can free conventional bed space for the confinement of violent offenders.

(h) *Boot camp* means a corrections program for adult or juvenile offenders of not more than six-months confinement (not including time in confinement prior to assignment to the boot camp) involving:

(1) Assignment for participation in the program, in conformity with state law, by prisoners other than prisoners who have been convicted at any time for a violent felony;

(2) Adherence by inmates to a highly regimented schedule that involves strict discipline, physical training, and work;

(3) Participation by inmates in appropriate education, job training, and substance abuse counseling or treatment; and

(4) Post-incarceration aftercare services for participants that are coordinated with the program carried out during the period of imprisonment.

(i) *Truth in sentencing laws* means laws that:

(1) Ensure that violent offenders serve a substantial portion of sentences imposed;

(2) Are designed to provide sufficiently severe punishment for violent

offenders, including violent juvenile offenders; and

(3) The prison time served is appropriately related to the determination that the inmate is a violent offender and for a period of time deemed necessary to protect the public.

**§ 91.3 General eligibility requirements.**

(a) Recipients must be individual states, or states organized as multi-state compacts.

(b) *Application requirements.* To be eligible to receive either a formula or a discretionary grant under subtitle A, an applicant must submit an application which includes:

(1) Assurances that the state(s) have implemented, or will implement, correctional policies and programs, including truth in sentencing laws. No specific requirements for complying with this condition are prescribed by this interim rule for fiscal 1995 funding because of the need for further review of the status of truth in sentencing laws and the impact and needs requirements relating to reform in state systems.

(2) Assurances that the state(s) have implemented or will implement policies that provide for the recognition of the rights and needs of crime victims. States are not required to adopt any specific set of victims rights measures for compliance, but the adoption by a state of measures which are comparable to or exceed those applied in federal proceedings will be deemed sufficient compliance for eligibility for funding. If the state has not adopted victims rights measures which are comparable to or exceed federal law, the adequacy of compliance will be determined on a case-by-case basis. States will be afforded a reasonable amount of time to achieve compliance. States may comply with this condition by providing recognition of the rights and needs of crime victims in the following areas:

(i) Providing notice to victims concerning case and offender status;

(ii) Providing an opportunity for victims to be present at public court proceedings in their cases;

(iii) Providing victims the opportunity to be heard at sentencing and parole hearings;

(iv) Providing for restitution to victims; and

(v) Establishing administrative or other mechanisms to effectuate these rights.

(3) Assurances that funds received under this section will be used to construct, develop, expand, operate or improve correctional facilities to ensure that secure space is available for the confinement of violent offenders.

(4) Assurances that the state(s) has a comprehensive correctional plan in accordance with the definition elements in § 91.2. If the state(s) does not have an adequate comprehensive correctional plan, technical assistance will be available for compliance. States will be afforded a reasonable amount of time to develop their plans.

(5) Assurances that the state(s) has involved counties and other units of local government, when appropriate, in the construction, development, expansion, modification, operation or improvement of correctional facilities designed to ensure the incarceration of violent offenders and that the state(s) will share funds received with counties and other units of local government, taking into account the burden placed on these units of government when they are required to confine sentenced prisoners because of overcrowding in state prison facilities.

(6) Assurances that funds received under this section will be used to supplement, not supplant, other federal, state, and local funds.

(7) Assurances that the state(s) has implemented, or will implement within 18 months after the date of the enactment of the Violent Crime Control and Law Enforcement Act of 1994 (September 13, 1994), policies to determine the veteran status of inmates and to ensure that incarcerated veterans receive the veterans benefits to which they are entitled.

(8) Assurances that correctional facilities will be made accessible to persons conducting investigations under the Civil Rights of Institutionalized Persons Act (CRIPA), 42 U.S.C. 1997.

(9) If applicable, documentation of the multi-state compact agreement

that specifies the construction, development, expansion, modification, operation, or improvement of correctional facilities.

(10) If applicable, a description of the eligibility criteria for participation in any boot camp that is to be funded.

(c) States, and states organized as multi-state compacts, which can demonstrate affirmative responses to the assurances outlined above will be eligible to receive funds.

(d) Each state application for such funds must be accompanied by a comprehensive correctional plan. The plan shall be developed in consultation with representatives of appropriate state and local units of government, shall include both the adult and juvenile correctional systems, and shall provide an assessment of the state and local correctional needs, and a long-range implementation strategy for addressing those needs.

(e) Local units of government, i.e., any city, county, town, township, borough, parish, village or other general purpose subdivision of a state, or Indian tribe which performs law enforcement functions as determined by the secretary of the Interior, are in turn eligible to receive subgrants from a participating state(s). Such subgrants shall be made for the purpose(s) of carrying out the implementation strategy, consistent with state(s) comprehensive correctional plan.

(f) In awarding grants, consideration shall be given to the special burden placed on states which incarcerate a substantial number of inmates who are in the United States illegally. States will not be required to submit additional information on numbers of criminal aliens. The Bureau of Justice Assistance (BJA) and the Immigration and Naturalization Service (INS) are currently working together to implement the State Criminal Alien Assistance Program (SCAAP) to assist the states with the costs of incarcerating criminal aliens. The Office of Justice Programs will coordinate with the SCAAP program to obtain the relevant information.

#### § 91.4 Truth in Sentencing Incentive Grants.

(a) Half of the total amount of funds appropriated to carry out subtitle A for each of the fiscal years 1996, 1997, 1998, 1999 and 2000 will be made available for Truth in Sentencing Incentive Grants.

(b) *Eligibility.* To be eligible to receive such a grant, a state, or states organized as multi-state compacts, must meet the requirements of § 91.3 and must demonstrate that the state(s)—

(1) Has in effect laws which require that persons convicted of violent crimes serve not less than 85% of the sentence imposed; or

(2) Since 1993—

(i) Has increased the percentage of convicted violent offenders sentenced to prison;

(ii) Has increased the average prison time which will be served in prison by convicted violent offenders sentenced to prison;

(iii) Has increased the percentage of sentence which will be served in prison by violent offenders sentenced to prison; and

(iv) Has in effect at the time of application laws requiring that a person who is convicted of a violent crime shall serve not less than 85% of the sentence imposed if—

(A) The person has been convicted on 1 or more prior occasions in a court of the United States or of a state of a violent crime or a serious drug offense; and

(B) Each violent crime or serious drug offense was committed after the defendant's conviction of the preceding violent crime or serious drug offense.

(c) *Formula allocation.* The amount available to carry out this section for any fiscal year will be allocated to each eligible state in the ratio that the number of Part 1 violent crimes reported by such state to the Federal Bureau of Investigation for 1993 bears to the number of Part 1 violent crimes reported by all states to the Federal Bureau of Investigation for 1993.

(d) *Transfer of unused funds.* On September 30 of each fiscal years 1996, 1998, 1999 and 2000, the Attorney General will transfer to the funds to be allocated

under the Violent Offender Incarceration Grant formula allocation (section 91.5) any funds made available to carry out this section that are not allocated to an eligible state under paragraph (b) of this section.

**§91.5 Violent Offender Incarceration Grants.**

(a) Half of the total amount of funds appropriated to carry out this subtitle for each of fiscal years 1996, 1997, 1998, 1999 and 2000 will be made available for Violent Offender Incarceration Grants.

(b) *Eligibility.* To be eligible to receive such a grant, a state, or states organized as multi-state compacts, must meet the requirements of section 91.3(b).

(c) *Allocation of violent offender incarceration funds—(1) Formula allocation.* 85% of the sum of the amount available for grants under this section for any fiscal year and any amount transferred as described in §91.4(c) for that fiscal year will be allocated as follows:

(i) 0.25% will be allocated to each eligible state except that the United States Virgin Islands, American Samoa, Guam and the Northern Mariana Islands shall each be allocated 0.05%.

(ii) The amount remaining after application of paragraph (c)(1)(i) of this section will be allocated to each eligible state in the ratio that the number of Part 1 violent crimes reported by such state to the Federal Bureau of Investigation for 1993 bears to the number of Part 1 violent crimes reported by all states to the Federal Bureau of Investigation for 1993.

(2) *Discretionary allocation.* Fifteen percent of the sum of the amount available for Violent Offender Incarceration Grants for any fiscal year under this subsection and any amount transferred as described in §91.4(c) for that fiscal year will be allocated at the discretion of the Assistant Attorney General for OJP to states that have demonstrated:

(i) The greatest need for such grants, and

(ii) The ability to best utilize the funds to meet the objectives of the grant program and ensure that secure cell space is available for the confinement of violent offenders.

(d) *Transfer of unused funds.* On September 30 of each fiscal years 1996, 1997, 1998, 1999 and 2000, the Assistant Attorney General will transfer to the discretionary program under paragraph (c)(2) of this section any funds made available under paragraph (c)(1) of this section that are not allocated to an eligible state under paragraph (c)(1) of this section.

**§91.6 Matching requirement.**

(a) The federal share of a grant received under this subtitle may not exceed 75 percent of the costs of a proposal described in an application approved under this subtitle. The matching requirement can only be met through a hard cash match, and must be satisfied by the end of the project period. A certification to that effect will be required of each recipient of grant funds and must be submitted to the Office of Justice Programs with the application.

(b) [Reserved]

**Subpart B—FY 95 Correctional Boot Camp Initiative**

**§91.10 General.**

(a) *Scope of boot camp program.* Funding is appropriated in fiscal year 1995 to provide grants to states and multi-state compacts to plan, develop, construct and expand correctional boot camps for adults and juveniles.

(b) Adult and juvenile boot camps, referred to as “correctional boot camps,” are programs that “provide a structured environment for delivering non-traditional corrections programs to criminal offenders.”

(c) With respect to this program, the mandates of the Juvenile Justice and Delinquency Prevention Act (42 U.S.C. 5601 *et seq.*) shall apply.

(d) *Eligibility.* (1) Funding is available for both adult and juvenile boot camps. To be eligible for the funding of boot camps, states must comply with the general assurances in §91.3(b) or demonstrate steps taken toward compliance. While the majority of assurances are applicable to the adult correctional system, those states applying for grants for juvenile boot camps must include the juvenile system in the state comprehensive correctional plan and

§ 91.21

demonstrate how construction of the boot camp will make secure space available to house violent juvenile offenders.

(2) For purposes of the FY '95 boot camp program, a "violent felony" means any crime punishable by imprisonment for a term exceeding one year, or an act of juvenile delinquency that would be punishable by imprisonment for such term if committed by an adult, that:

(i) Involves the use or attempted use of a firearm or other dangerous weapon against another person, or

(ii) Results in death or serious bodily injury to another person.

(3) States must document that the boot camp program does not involve more than six-months confinement (not including confinement prior to assignment to the boot camp) and includes:

(i) Assignment for participation in the program, in conformity with state law, by prisoners other than prisoners who have been convicted at any time of a violent felony;

(ii) Adherence by inmates to a highly regimented schedule that involves strict discipline, physical training and work;

(iii) Participation by inmates in appropriate education, job training, and substance abuse counseling or treatment; and

(iv) Post-incarceration aftercare services for participants that are coordinated with the program carried out during the period of imprisonment.

(4) States must provide assurances that boot camp construction will free up secure institutional bed space for violent offenders.

(e) *Evaluation.* (1) Recipients will be required to cooperate with a national evaluation team throughout the planning and implementation process. Recipients are also strongly encouraged to provide for an independent evaluation of the impact and effectiveness of the funded program.

(2) Jurisdictions are strongly encouraged to engage in systematic planning activities and to develop and evaluate boot camps as part of a comprehensive and integrated correctional plan.

(f) *Limitation on funds.* Grant funds cannot be used for operating costs.

28 CFR Ch. I (7-1-99 Edition)

States will be required to show how operating expenses will be provided.

(g) *Matching requirement.* The federal share of a grant received may not exceed 75 percent of the costs of the proposed boot camp program described in the approved application. The matching requirement can only be met through a hard cash match, and must be satisfied by the end of the project period; facility operating expenses may not be used to meet the match requirement for the construction project supported. Match may be made through grantee contribution of construction-related costs. A certification to that effect will be required of each recipient of grant funds.

(h) *Innovative boot camp programs.* Jurisdictions are encouraged to explore the development of "innovative" boot camp programs which incorporate principles based on the accumulation of research and practical experience, and reflect sound and effective correctional practice.

**Subpart C—Violent Offender Incarceration and Truth-in-Sentencing Grant Programs for Indian Tribes**

AUTHORITY: 42 U.S.C. 13701 *et seq.*, as amended by Pub. L. 104-134.

SOURCE: 61 FR 49970, Sept. 24, 1996, unless otherwise noted.

**§ 91.21 Purpose.**

This part sets forth requirements and procedures to award grants to Indian Tribes for purposes of constructing jails on tribal lands for the incarceration of offenders subject to tribal jurisdiction.

**§ 91.22 Definitions.**

(a) *The Act* means the Violent Crime Control and Law Enforcement Act of 1994, Subtitle A of Title II, Public Law 103-322, 108 Stat. 1796 (September 13, 1994) as amended by the Fiscal Year 1996 Omnibus Consolidated Rescissions and Appropriations Act, Public Law 104-134 (April 26, 1996), codified at 42 U.S.C. 13701 *et seq.*

(b) *Assistant Attorney General* means the Assistant Attorney General for the Office of Justice Programs.

(c) *Tribal lands* means:

(1) All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

(2) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State; and

(3) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of way running through the same.

(d) *Indian Tribe* means any Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to Public Law 103-454, 108 Stat. 4791, and which performs law enforcement functions as determined by the Secretary of the Interior.

(e) *Construct jails* means constructing, developing, expanding, modifying, or renovating jails and other correctional facilities.

**§91.23 Grant authority.**

(a) The Assistant Attorney General may make grants to Indian tribes for programs that involve constructing jails on tribal lands for the incarceration of offenders subject to tribal jurisdiction.

(b) Applications for grants under this program shall be made at such times and in such form as may be specified by the Assistant Attorney General. Applications will be evaluated according to the statutory requirements of the Act and programmatic goals.

(c) Grantees must comply with all statutory and program requirements applicable to grants under this program.

**§91.24 Grant distribution.**

(a) From the amounts appropriated under section 20108 of the Act to carry out sections 20103 and 20104 of the Act, the Assistant Attorney General shall reserve, to carry out this program—

(1) 0.3 percent in each fiscal years 1996 and 1997; and

(2) 0.2 percent in each of fiscal years 1998, 1999 and 2000.

(b) From the amounts reserved under paragraph (a) of this section, the Assistant Attorney General may exercise discretion to award or supplement grants to such Indian Tribes and in such amounts as would best accomplish the purposes of the Act.

**PART 92—OFFICE OF COMMUNITY ORIENTED POLICING SERVICES (COPS)**

**Subpart A—Police Corps Eligibility and Selection Criteria**

Sec.

92.1 Scope.

92.2 Am I eligible to apply to participate in the Police Corps?

92.3 How and when should I apply to participate in the Police Corps?

92.4 How will participants be selected from applicants?

92.5 What educational expenses does the Police Corps cover, and how will they be paid?

92.6 What colleges or universities can I attend under the Police Corps?

**Subpart B—Police Recruitment Program Guidelines**

92.7 Scope.

92.8 Providing recruitment services.

92.9 Publicizing the Police Recruitment Program.

92.10 Providing tutorials and other academic assistance programs.

92.11 Content of the recruitment and retention programs.

92.12 Program funding length.

92.13 Program eligibility.

AUTHORITY: 42 U.S.C. 13811-13812; 42 U.S.C. 14091-14102.

SOURCE: 61 FR 49972, Sept. 24, 1996, unless otherwise noted.

**Subpart A—Police Corps Eligibility and Selection Criteria**

**§92.1 Scope.**

This subpart sets forth guidance on the eligibility for and selection to participate in the Police Corps. The Police Corps offers scholarships and educational expense reimbursements to individuals who agree to serve as a State or local police officer or sheriff's deputy for four years. In addition, Police Corps participants receive sixteen