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**United States Senate**

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

September 5, 2014

**VIA ELECTRONIC TRANSMISSION**

Robert L. Listenbee  
Administrator  
Office of Juvenile Justice and Delinquency Prevention  
Office of Justice Programs  
U.S. Department of Justice  
810 Seventh Street, N.W.  
Washington, D.C. 20531

Dear Administrator Listenbee:

On June 9, 2014, you testified before this Committee that the Department of Justice “strongly supports” the reauthorization of the Juvenile Justice and Delinquency Prevention Act (JJDP Act).<sup>1</sup> Specifically, you testified that “Reauthorization ensures . . . youth at risk for involvement or who are already involved in juvenile and criminal justice systems are . . . protected from harmful conditions of correctional confinement.”<sup>2</sup>

However, I have been contacted by multiple whistleblowers who allege that grants have been fraudulently obtained from the Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention (OJJDP), in the amount of at least \$7 million since 2000.

The whistleblowers report that, in order to qualify for JJDP Act grants, the number of runaway youth and other vulnerable minors that had been incarcerated were underreported, in violation of the JJDP Act.<sup>3</sup> In addition, the whistleblowers allege that it is common knowledge among the states that OJJDP does not annually verify the information reported by states in their applications for JJDP Act grants.

If true, the amount of taxpayer funds that OJJDP is unlawfully granting may far exceed the \$7 million in question. Alarming, the whistleblowers also allege that they suffered retaliation when they attempted to raise this issue internally and were actively discouraged from investigating these alleged abuses.

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<sup>1</sup> U.S. Senate Committee on the Judiciary, *The Juvenile Justice and Delinquency Prevention Act: Preserving Potential, Protecting Communities*, (June 9, 2014);

<http://www.judiciary.senate.gov/imo/media/doc/06-09-14ListenbeeTestimony.pdf>, at 2.

<sup>2</sup> *Id.*

<sup>3</sup> Pub. L. No. 93-415 (1974), as amended.

The whistleblowers allege that there was underreporting of the number of youth who were incarcerated in violation of the Deinstitutionalization of Status Offenders (DSO) requirement.<sup>4</sup> This requirement prohibits the incarceration of youth who commit non-violent “status offenses,” such as running away from home or truancy. These offenses are considered unlawful only because of the offender’s status as a minor.<sup>5</sup> In order to qualify for full funding under the JJDP Act in a given year, a state must document that the number of status offender youth detained in violation of the DSO requirement was less than 5.8 per 100,000 in the previous fiscal year.<sup>6</sup> Otherwise, “OJJDP will reduce [the state’s] formula grant for the subsequent fiscal year by 20 percent . . . .”<sup>7</sup>

However, the whistleblowers allege that full funding has been provided for years despite indications of fraud in the DSO Violation Rates reported since 2002. The whistleblowers allege that these rates varied widely depending on which state official was reporting from that state in a given year. For example:

Year	DSO Violation Rate	Reported to OJJDP By
2002	1.53	Not Available
2003	2.17	Not Available
2004	96.22	State Official A
2005	69.54	State Official A
2006	16.90 <sup>8</sup>	State Official A
2006	4.43	State Official B
2007	3.10	State Official B

According to the whistleblowers, only the rates submitted for 2004 through 2006 were truthfully reported, and each of these figures exceeds the 5.8 limit set by OJJDP. Further, the whistleblowers claim that when senior officials at OJJDP were informed of the 16.90 disqualifying rate that was initially reported for 2006, OJJDP allowed the state to revise the figure so that the state would qualify for full funding in 2008.<sup>9</sup>

In addition, the whistleblowers claim that OJJDP employees in charge of monitoring all states’ compliance were instructed to accept these reports “on their face” – suggestion that indications causing reasonable suspicions about inaccuracies should be ignored. Allegedly, OJJDP employees were explicitly instructed to refrain from

<sup>4</sup> U.S. Department of Justice, *State Compliance With JJDP Act Core Requirements*, available at <http://www.ojjdp.gov/compliance/compliancedata.html>; see also 42 U.S.C. § 5633(a)(11).

<sup>5</sup> David J. Steinhart, *Status Offenses, The Future of Children*, THE JUVENILE COURT, Vol. 6 No. 3, [http://futureofchildren.org/futureofchildren/publications/docs/06\\_03\\_06.pdf](http://futureofchildren.org/futureofchildren/publications/docs/06_03_06.pdf), at 86 and at 97, n.7.

<sup>6</sup> See U.S. Department of Justice, *supra* note 4; see also 42 U.S.C. § 5633(a)(11)-(13), (15).

<sup>7</sup> *Id.*

<sup>8</sup> This figure was allegedly revised to 4.43.

<sup>9</sup> According to the whistleblowers, it actually takes states 12 months to collect the data and an additional 6 months for OJJDP to verify that data. Hence, DSO Violation Rates reported for 2006 would affect the amount of funding a state receives in 2008, not 2007.

independently corroborating the information that was reported by states in their application for JJDP Act grants. If true, this is unacceptable.

Please contact my staff to arrange a briefing on this matter by September 26, 2014. In addition, please respond to the following by September 26, 2014:

1. What policies and procedures does OJJDP have in place to ensure that federal taxpayer funds authorized under the JJDP Act are disbursed to only those states that actually comply with the Act's requirements?
2. Why are those policies and procedures apparently insufficient to prevent grant money from being disbursed to states that are not in compliance with the Act's requirements?
3. Since 2002, has OJJDP annually verified the information that is reported by states seeking funding under the JJDP Act? If yes, please provide documentation. If not, why not?
4. Did OJJDP allow the revision of the DSO Violation Rate cited in the table above? If so, why? If not, then please provide an explanation for the extreme discrepancy in the DSO Violation Rates cited in that table.
5. Will OJJDP review the grants that it disbursed to states since 2002 to ensure that no state received any funds to which it was not entitled under the JJDP Act? If not, please explain why not.
6. If any state received funds from OJJDP to which it was not entitled under the JJDP Act, will OJJDP require these funds to be returned? If so, please explain how. If not, why not?

Should you have any questions, please contact Jay Lim of my staff at (202) 224-5225. Thank you for your cooperation in this important matter.

Sincerely,



Charles E. Grassley  
Ranking Member

cc: Michael E. Horowitz  
Inspector General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530