



Juvenile Justice and Delinquency Prevention Act of 1974: Applicability to Tribes

Author: Whitefishwoman

Law Clerk Tribal Judicial Institute, UND School of Law

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Background and Purpose of the Juvenile Justice and delinquency Prevention Act of 1974

The Juvenile Justice and Delinquency Prevention Act of 1974 (JJDPA), was a partnership that was created between the federal government and states, territories, and the District of Columbia.¹ Through the enactment of this federal law, the government implemented a set of standards to be applied to juvenile justice systems. The JJDPA's mission is to prevent delinquency of the youth, improve the juvenile justice system, address high-risk and delinquent behavior, and increase the safety of communities.² To date this has been the largest scope of federal legislation directly addressing justice for juveniles.³

Although the fifty states are not mandated to improve their juvenile justice systems, the government encourages them by providing federal funds. Contingency of funding is based on states meeting four core requirements of the JJDPA.⁴ The four "core protections" are:

1) *The Deinstitutionalization of Status Offenders*

Status offenses are acts that apply only to minors, and if committed by an adult, would not be considered a crime.⁵ Examples would include skipping school, running away, curfew violations, and possession or use of alcohol.⁶ The deinstitutionalization of status offenders strives to keep non-criminal youths from being held in juvenile facilities for prolonged periods of time, and attempts to circumvent minors from being held in adult facilities for any length of time.⁷ This requirement was implemented to act as a safeguard to prevent non-criminal

¹ Related Federal Appropriations, Act 4 Juvenile Justice (2009), http://act4jj.org/about_related_fed.html.

² Introduction, Act 4 Juvenile Justice (2007), <http://act4jj.org>.

³ Claire Shubik and Jessica Kendall, Special Issues: The American Bar Association's Youth at Risk Initiative: Rethinking Juvenile Status Offense Laws: Considerations for Congressional Review of the Juvenile Justice and Delinquency Prevention Act, 45 Fam. Ct. Rev. 384 (2007).

⁴ Juvenile Justice and Delinquency Prevention Act (JJDPA) Background Information, Campaign for Youth Justice, <http://www.campaignforyouthjustice.org/documents/WhatistheJJDPA.pdf>.

⁵ Id.

⁶ Id.

⁷ Id.

juveniles from experiencing isolation or being victims of psychological or sexual abuse at the hands of inmates.⁸

2) ***Jail Removal***

Under the JJDPA, a youth is prohibited from being held in an adult jail or lock-up facility except in very limited circumstances such as, prior or post court hearings (up to 6 hours), or for those who live in rural counties (up to 24 hours including weekends and holidays).⁹ The other limited exception for a youth being held in an adult facility is due to inclement of weather.¹⁰ These core requirements would not be applicable to a juvenile who has been waived into adult court and therefore is not prohibited from being detained.¹¹

3) ***Sight and Sound***

In the event a non-status offender is temporarily held in an adult jail or lock-up facility, the JJDPA requires the juvenile to be separated from the “sight and sound” of adult offenders.¹² By prohibiting the interaction between juveniles and the adult population reduces the likelihood of threats, intimidation, or abuse of any kind from the adult inmates.¹³ Therefore, children are restricted from being housed next to adult cells, or the sharing of any common areas such as dining halls or recreation areas.¹⁴

4) ***Disproportionate Minority Contact***

Research has revealed a disproportionate amount of minorities within the juvenile justice system compared to non-minority youth.¹⁵ The research also indicated that minority status offenders are more likely to receive a harsher sentence than non-minority youth.¹⁶ States who are receiving this federal grant are required to address the disproportionate numbers of minorities at specific points within the juvenile system.¹⁷ Specific points would start from the time they are initially arrested to their detention and continue up to their confinement.¹⁸

⁸ Id.

⁹ Id.

¹⁰ Id.

¹¹ Id.

¹² Id.

¹³ Id.

¹⁴ Id.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id.

Juvenile Justice Improvements and Reforms Funding

There are two sections or “titles”, which the federal government relies on for funding sources.¹⁹ The first is Title II or Formula Grant Programs.²⁰ The second is Title V or Incentive Grants for Local Delinquency Prevention Programs.²¹ Title V grants are also commonly referred to as the Community Prevention Grant Program.²²

Title II of the JJPDA

Title II gives funding directly to states in order to help them implement comprehensive state juvenile justice plans.²³ Money that is distributed to a particular state is based on research of the needs in their jurisdiction.²⁴ In order for a state to be eligible for Title II funding it also needs to be in compliance with the four “core” requirements listed above.²⁵ The mission of Title II grants is to expand the availability of grants and types of prevention as well as intervention programs offered.²⁶

Title V of the JJPDA

Title V is a competitive discretionary grant that states may also apply for.²⁷ This grant provides funding where there has been a collaborative effort with the community and its selected partners in order to prevent delinquent behavior.²⁸ The funding is also available to create protective factors for youths who are in high-risk situations by providing positive choices.²⁹ This grant also allows funding to local jurisdictions to help provide the resources that will be needed in order to ensure an effective comprehensive delinquency prevention strategy.³⁰

The JJPDA requires states that are chosen to be recipients of the Formula Grant Program to submit a three-year over view, detailing how the state will strive to meet the objectives outlined by the JJPDA.³¹ Thereafter, the plans must be updated annually, which needs to

¹⁹ Act 4 Juvenile Justice, supra note 1.

²⁰ Id.

²¹ Id.

²² Id.

²³ Campaign for Youth Justice, supra note 4.

²⁴ Id.

²⁵ Act 4 Juvenile Justice, supra note 1.

²⁶ Id.

²⁷ Id.

²⁸ Id.

²⁹ Id.

³⁰ Id.

³¹ Id.

include any new programs, projects, or activities that were not detailed in the original comprehensive plan.³² In addition, the state receiving the Formula Grant Program is responsible for providing performance reports that shows what type of progress has been made towards fulfilling its three-year objective plan.³³

Lastly, states that are given federal funds are required to pass through at least 67% to units to general local governments, local private agencies, and American Indian Tribes who perform law enforcement functions.³⁴

³² Id.

³³ Id.

³⁴ Office of Justice Programs, U.S. Department of Justice, www.ojp.usdoj.gov.

Timeline of the Juvenile Justice and Delinquency Prevention Act³⁵

1974

- Act signed into law.
- Created Formula Grants Program.
- Established the separation of juvenile's requirement.
- Established the deinstitutionalization of status offenders (DSO) requirement.

1977

- Increased and expanded (DSO) and separation requirements.
- Emphasized prevention and treatment.

1980

- Established jail removal requirements.

1984

- Enhanced and amended jail removal requirements.

1988

- Addressed disproportionate minority confinement (DMC) as a requirement.

1992

- Amended (DSO), jail removal and separation requirements.
- Elevated DMC to a core requirement.
- Established new programs to address gender bias.
- Emphasized prevention and treatment, family strengthening, graduated sanctions, and risk-need assessments.

2002

- Broadened the scope of the (DMC) core requirements from “disproportionate minority confinements” to “disproportionate minority contact.”
- Consolidated seven previously independent programs into a single Part C prevention block grant.
- Created a new Part D, authorizing research, training and technical assistance, and information dissemination.
- Added Part E, authorizing grants for new initiatives and programs.
- Reauthorized Title V.
- Required states to give funding priorities of their formula and block grant allocations to evidence-based programs.
- Reauthorized Title II Formula Grants Program.
- Revised the Juvenile Accountability Incentive Block Grants program, which is now called the Juvenile Accountability Block Grants program (as part of the Omnibus Crime Control and Safe Streets Act).

³⁵ Legislation, OJJDP, <http://www.ojjdp.gov/about/legislation.html>.