



2023 Tribal Consultation/Listening Session Framing Paper

Through this consultation, the [Office of Juvenile Justice and Delinquency Prevention](#) (OJJDP) is seeking Tribal Leader, policymaker, practitioner and other interested party input on OJJDP priorities, proposed regulations, and how OJJDP funding can best support Tribes to enhance and expand efforts to prevent and reduce delinquency and improve juvenile justice systems. This consultation will be conducted virtually via webinar with multiple dates available. Tribal Leaders in the lower 48 are invited to attend the Tribal Consultation on September 27 from 1:00 to 5:00 p.m. ET. Tribal Leaders in Alaska are invited to attend the Tribal Consultation on October 11 from 1:00 to 5:00 p.m. ET. Tribal Leaders unable to attend either of their scheduled Tribal Consultations are invited to attend the final Tribal Consultation on October 27 from 1:00 to 5:00 p.m. ET. In addition, Tribal Leaders are encouraged to send written comments to OJJDP through November 27, 2023 via email to OJJDP Tribal Consultation@ojp.usdoj.gov or through the mail to OJJDP, Attention: Tribal Team, 810 Seventh Street NW, Washington, DC 20531.

Once all Tribal Leaders who are in each Consultation have spoken, the session will continue and OJJDP will then hear from any Tribal practitioners or interested parties who want to provide input. The registration process will provide Tribal leaders the opportunity to designate someone to speak on their behalf during the Consultation.

OJJDP plans for future consultations and listening sessions with Tribal Leaders of federally recognized Tribes and other interested parties.

About OJJDP

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) works to prevent and respond to youth delinquency and protect children.

Through its divisions, OJJDP sponsors research, program, and training initiatives; develops priorities and goals and sets policies to guide federal juvenile justice issues; disseminates information about juvenile justice issues; and awards funds to states, territories and Tribes to support local programming.

OJJDP is a component of the Office of Justice Programs, U.S. Department of Justice.

Learn more at ojjdp.ojp.gov.

Tribal Consultation Topics 2023

Section I: OJJDP Priorities

Listening to input from the field, OJJDP has set three priorities for its work: treating children as children; serving young people at home with their families and in their communities; and opening up opportunities for system-involved youth.

Priority One: Treating Children as Children

Treating children as children means that the juvenile justice field's decision-making must be informed by science and research related to adolescent brain development to ensure young people are fairly adjudicated and given opportunities to learn and recover from youthful mistakes. While it is critical to hold youth accountable for their actions, we must also take into account the fact that youths' developing brains are more malleable than those of adults, making young people more capable of change and rehabilitation than adults.

Question About Priority One: What factors impact Tribal juvenile justice systems in their ability to keep Tribal youth out of courts and correctional facilities?

Priority Two: Serving Young People at Home with Their Families and in Their Communities

Serving young people at home, in their communities, and with their families means that instead of incarceration, system-involved youth are served by community-based programs that involve families. These programs have been shown to enhance youth outcomes, increase public safety, and hold young people accountable for their actions while still giving them a chance at better outcomes.

Question About Priority Two: What factors impact Tribes' ability to serve their youth in community-based programs that involve families instead of incarceration? What role does mental health or substance use and availability of treatment play in Tribes' ability to serve youth at home and in their communities?

Priority Three: Opening Up Opportunities for System-Involved Youth

Opening up opportunities for system-involved youth means that in order to fulfill the mission of the juvenile justice system which is to truly rehabilitate young people and protect public safety, juvenile justice practitioners must recognize and address the barriers to success that involvement with the juvenile justice system creates for youth.

Question About Priority Three: What are the barriers to success that involvement with the juvenile justice system creates for Tribal youth, whether in Tribal court or in state courts?

Section II: OJJDP Regulations

OJJDP will be drafting regulations in support of the operation of state, territorial and Tribal juvenile justice systems under the law. As part of those regulations, a definition tied to the qualification of Tribes to receive pass-through funding from states is needed. That means states will have specific guidance on which Tribes must receive pass-through funding with some specific conditions and OJJDP will monitor that the funds are distributed.

OJJDP is governed by the Juvenile Justice and Delinquency Prevention Act of 1974 (JJDP), as amended by the Juvenile Justice Reform Act in 2018. Those laws are found in 34 U.S.C., sec. 11101, *et seq.* In addition, there are regulations which define and interpret the law, which are found in 28 CFR 31.

The JJDP is divided into sections, also known as “Titles”. Title II governs how OJJDP gives grants to states and units of local government to plan and carry out their juvenile justice systems. A very important part of Title II requires states to comply with the four core protections found within the JJDP:

1. Deinstitutionalize juveniles charged with status offenses, or those youth who are only charged with a crime due to their age (i.e., truancy, curfew, alcohol violations).
2. Separate juveniles from adults in secure facilities.
3. Remove juveniles from adult jails and lockups.
4. Address racial and ethnic disparities within the juvenile justice system.

As part of Title II, states are required to pass through to qualified Tribes some of the funding they receive for those purposes.

In order to receive that funding, the JJDP requires that qualified Tribes must be a federally recognized Tribe or an Alaska Native organization which has a law enforcement function, as determined by the Secretary of the Interior in consultation with the Attorney General. In addition, qualified Tribes must also agree to attempt to comply with the four core requirements noted above.

The term “which has a law enforcement function” is not currently defined within the regulations. Therefore, OJJDP plans to propose guidance to be included in the regulations so that Tribes and states are clear on which Tribes are eligible for pass-through funding, and how that determination will be made by OJJDP.

OJJDP will be drafting proposed regulations in this area. Given that the term “which has a law enforcement function” is used in conjunction with the requirement that the Tribe also attempt to comply with the four core requirements that all center around detention and confinement of youth, the definition must be consistent with that requirement.

OJJDP is considering proposing that the term “law enforcement function” be defined as a Tribe which: 1) has a Tribal juvenile code which contains penalties wherein juveniles can be detained or confined; 2) has law enforcement officers with arrest powers over juveniles; and 3) has a court which handles cases involving arrested juveniles and has the authority to detain or confine them.

With this definition, Tribes which have the three parts of a juvenile justice system noted above would thus be eligible for pass-through funding to assist in operating that system, if they agree to attempt to comply with the four core requirements as required by the statute.

Question About Regulations: Do Tribes have any concerns with the proposed definition which will determine which Tribes are eligible for the pass-through funding in Title II?