



**AUDIT OF THE OFFICE OF JUVENILE JUSTICE AND  
DELINQUENCY PREVENTION'S RESEARCH AWARD  
TO THE NATIONAL COUNCIL ON CRIME AND  
DELINQUENCY**

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

Audit Report 12-41  
September 2012



# **AUDIT OF THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION'S RESEARCH AWARD TO THE NATIONAL COUNCIL ON CRIME AND DELINQUENCY**

## **EXECUTIVE SUMMARY**

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) awards various research grants to public and private organizations. In February 2011, Crime Victims United (CVU), a crime victim advocacy group, alleged a conflict of interest existed in the OJJDP's award of a 2009 research grant to the National Council on Crime and Delinquency (NCCD). The purpose of NCCD's award was to evaluate the effectiveness of the Juvenile Detention Alternatives Initiative (JDAI) program developed by the Annie E. Casey Foundation (Casey Foundation). The complainant alleged NCCD had a conflict of interest because NCCD had listed the Casey Foundation as a supporter and given its president an award in 2006. The objectives of this audit were to determine whether: (1) the OJJDP award to NCCD was made fairly and appropriately; and (2) NCCD had any actual or potential conflicts of interest that may adversely affect its performance.

Our audit found no evidence that the OJJDP inappropriately awarded the 2009 research grant to NCCD. We assessed the peer review process that the OJJDP used to rank applicants for the 2009 award. NCCD had the highest score and the selection complied with relevant guidance from the Associate Attorney General.

However, we identified some prior transactions between NCCD and the Casey Foundation. Over 5 years, NCCD received \$139,500 of its approximately \$43 million revenue from the Casey Foundation. Although not required to do so by the OJJDP, NCCD disclosed its prior financial relationship with the Casey Foundation in its grant application. While a prior relationship between NCCD, the assessing entity, and the Casey Foundation, the entity whose program NCCD would be assessing under the grant, could constitute a conflict of interest, neither OJP nor the OJJDP has criteria regarding such prospective conflicts. Accordingly, we had no standard to apply to determine whether a conflict existed with respect to the awarding of a grant to NCCD to assess the performance of a program developed by a minor funding source of the grantee. NCCD has not yet completed its report, so we were unable to state whether its final product was objective in assessing the Casey Foundation's JDAI program. However, during our audit we did not find evidence that the prior relationship between NCCD and the Casey Foundation biased NCCD's methodology for evaluating the JDAI

program in favor of its developer. Nevertheless, we make two recommendations to address the lack of a conflict of interest standard.

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## INTRODUCTION

The Office of Juvenile Justice and Delinquency Prevention (OJJDP), part of the Office of Justice Programs (OJP) within the Department of Justice (DOJ), coordinates federal efforts to combat juvenile delinquency in part by awarding grants to public and private organizations. In February 2011, Crime Victims United (CVU), a crime victim advocacy group, wrote a letter to the Office of the Inspector General (OIG) alleging a conflict of interest in the OJJDP's award of Grant No. 2009-JF-FX-0072 to the National Council on Crime and Delinquency (NCCD).<sup>1</sup> NCCD is a nonprofit research organization specializing in child welfare and juvenile justice issues that finances its operations through grants and contracts from federal, state, and local governments, supplemented by contracts and donations from charitable foundations.

The purpose of the 2009 grant award was to evaluate the effectiveness of the Juvenile Detention Alternatives Initiative (JDAI) program developed by the Annie E. Casey Foundation (Casey Foundation).<sup>2</sup> The complainant alleged that NCCD had a conflict of interest with the Casey Foundation, because NCCD listed the foundation as one of its supporters and had awarded the Casey Foundation and its president with NCCD's Katie Nichols Award in 2006. Additionally, the complaint alleged that the Acting OJJDP Administrator either knew or should have known that NCCD was not an appropriate agency to review the JDAI program.

We discussed the allegations with the complainant, who believed that the OJJDP had already chosen to endorse JDAI and that the results of the research evaluation would be used to support the OJJDP's endorsement of the program. Other individuals associated with the complainant also believed that results of a previous NCCD study in 1999, which was a study of the five original JDAI sites, would bias its 2009 evaluation and that the OJJDP should not have used federal tax dollars for this project. The

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<sup>1</sup> The complaint letter can be found in Appendix II. According to federal regulations and DOJ ethics policy pertaining to federal employees, conflicts of interest exist where an employee participates in particular matters that directly affect or appear to affect the private interest, financial or non-financial, of the employee or any member of his or her household, or where a reasonable person with knowledge of the relevant facts would question the employee's impartiality in the matter. 5 C.F.R. § 2635.402 and 2635.501 *et seq.* and U.S. Department of Justice Ethics Handbook, January 2010, 2.

<sup>2</sup> The Casey Foundation is a private charitable organization that works on issues affecting disadvantaged children. JDAI is a framework for juvenile justice reform that aims to reduce reliance on secure detention of juveniles.

complainant asked the OIG to examine the appropriateness of this grant award and evaluate adherence to relevant policies governing the award.

## **OIG Audit Approach**

The OIG initiated this audit to determine (1) whether the award to NCCD was made fairly, appropriately, and in accordance with applicable laws and regulations; and (2) whether NCCD has any actual or potential conflicts of interest that may adversely affect its performance under the award.

To assess the allegation that the OJJDP made an inappropriate award to NCCD and whether NCCD's performance under the grant may be impaired, we interviewed the Juvenile Justice Policy Advisor for CVU and two juvenile probation officials that CVU referred to us. We also interviewed officials responsible for the OJJDP's fiscal year (FY) 2009 Field Initiated Research and Evaluation (FIRE) solicitation, peer review, and award decision.<sup>3</sup> We verified the scoring documents and also examined the résumé material of the peer reviewers who scored NCCD's application and the NCCD employees working on this grant project. We met with OJJDP grant managers to discuss NCCD's performance under the award and reviewed the grant application, project methodology, past research, and progress reports. To assess NCCD's relationship with the Casey Foundation, we examined NCCD's financial records. Additionally, we interviewed NCCD personnel conducting the evaluation and met with representatives from the Casey Foundation who are collaborating with NCCD on the project. Appendix I contains a more detailed description of our audit objectives, scope and methodology.

## **Background**

In 1974, Congress enacted the Juvenile Justice and Delinquency Prevention Act (JJDP Act), which established the OJJDP to support local and state efforts to prevent delinquency and improve the juvenile justice system. The JJDP Act contains four core requirements: (1) deinstitutionalization of "status" offenders; (2) separation of juveniles from adult offenders; (3) removal of juveniles from adult jails and lockups; and (4) reduction of disproportionate minority contact, which is a term characterizing the disparity between minority youth and non-minority youth in the justice

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<sup>3</sup> A solicitation is a publicly available document by which a federal agency declares its intentions to award discretionary grants or cooperative agreements, usually as a result of competition for funds. The NCCD award was made through the FY 2009 FIRE solicitation.

system.<sup>4</sup> The OJJDP is charged with monitoring and providing training and technical assistance to identify best practices and methods that states can use to achieve and maintain compliance with the JJDP Act.

In FY 2009, the OJJDP issued a solicitation through its FIRE program to support evaluations testing the effectiveness of programs and strategies that assist states in achieving and maintaining compliance with one or more of the four core requirements of the JJDP Act. The OJJDP invited public agencies and private organizations to apply for grants and planned to make multiple awards, depending on the availability of funding.<sup>5</sup>

According to the solicitation, the OJJDP sought to enhance the general understanding of “what works” to help states and local communities achieve compliance with core requirements of the JJDP Act. The solicitation also encouraged collaboration between researchers and practitioners and required applicants to provide written commitments of any planned collaboration. The OJJDP made three awards under the solicitation, including an award of \$500,000 to NCCD for a process and outcome evaluation of communities that adopted JDAI and any associated reductions in unnecessary detention of status offenders or decreases in disproportionate minority contact.<sup>6</sup>

#### *Juvenile Detention Alternatives Initiative (JDAI)*

JDAI is a framework for state and local juvenile detention reform organized around eight strategies: (1) collaboration, (2) use of accurate data, (3) development of objective admissions criteria and risk assessment instruments, (4) implementation of alternatives to detention, (5) reform of case processing, (6) reexamination of special detention cases that may result in automatic detention, (7) reduction of racial disparities, and (8) the monitoring of conditions of confinement. The Casey Foundation provides grants to communities implementing JDAI, as well as training and technical assistance to help sites to build their data collection capacities and employ

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<sup>4</sup> Status offenses are acts such as truancy, running away, or curfew violations, that are considered illegal only when juveniles commit them. 42 U.S.C. § 5601 *et seq.* (2002).

<sup>5</sup> An OJJDP official said the office sends notification of its funding opportunities to a list of approximately 23,000 – 25,000 email contacts and also posts a link to the solicitations on its public website.

<sup>6</sup> The award period for this project is 10/01/2009 - 9/30/2012.

objective screening instruments for detention decisions.<sup>7</sup> The Casey Foundation also provides JDAI sites with consultants who function as Technical Assistance Team Leaders and work with multiple sites on JDAI implementation.

According to data from the Casey Foundation, there are JDAI sites in 33 states as well as the District of Columbia. Officials from the Casey Foundation told us there are approximately 140 localities implementing JDAI. A JDAI site can be either an individual county or state; a state can be designated as a "JDAI state" even if not all of the counties in the state participate.

### *NCCD's Grant Application*

In its 2009 FIRE grant application, NCCD proposed partnering with the Casey Foundation to perform a process and outcome evaluation of 10 of the more than 100 localities which had implemented JDAI at that time. NCCD disclosed in its application that it had a previous working relationship with the Casey Foundation and that NCCD had performed an evaluation of the initial JDAI sites in 1999. In addressing the collaboration element of the FIRE solicitation, NCCD also stated in its project narrative that it had "a long history of successful collaboration" and "ongoing open lines of communication and mutual respect" with the Casey Foundation. In accordance with the solicitation requirements, NCCD submitted a letter of commitment from the Casey Foundation expressing the foundation's willingness to "partner with NCCD in an examination of JDAI to identify and document effective programs and strategies." The Casey Foundation agreed to provide NCCD with information, contacts, and data from the JDAI sites and offered to respond to questions, clarify issues that may arise, and otherwise support NCCD's research.

NCCD proposed a project methodology in its application that would make detailed case studies of successful JDAI locations to determine which program elements worked best to reduce detention of status offenders and to lessen racial and ethnic disparities in detention and other stages of the juvenile justice system. Based on the results of this analysis, NCCD planned to compile replication guidelines to assist states in achieving compliance with the JJDP Act's core requirements.

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<sup>7</sup> The Casey Foundation's JDAI grants may be used to pay for a JDAI coordinator position employed by each site and fund travel to trainings, conferences, meetings, or other sites. The grants are renewed annually.

## **Appropriateness of the OJJDP Award Process**

To determine whether the OJJDP's 2009 award to NCCD was made fairly, appropriately, and in accordance with applicable laws and regulations, we examined the OJJDP's 2009 FIRE solicitation, NCCD application materials, the OJP process used to review and select the awards under the FIRE solicitation, and the résumés of the peer reviewers who scored the NCCD application. We also verified the peer review scores for all 2009 FIRE applications.

### *2009 FIRE Solicitation*

We found that the 2009 FIRE solicitation was broadly written to include the study of any strategies to help meet the JJDP Act's requirements. OJJDP personnel stated that the 2009 FIRE solicitation was designed to obtain research on successful approaches to help sites comply with the core JJDP Act requirements. OJJDP officials also told us that they had received feedback from states seeking strategies for compliance with the JJDP Act, and the OJJDP planned to use the deliverables of the 2009 grants for state training and technical assistance. OJJDP officials explained that while the FIRE research may produce negative results, the focus of the 2009 FIRE solicitation was on identifying and understanding "what worked" to meet one or more of the four core objectives of the JJDP Act, and that most of the applications for the 2009 solicitation aimed to address the detention of status offenders or disproportionate minority contact in the juvenile justice system.

We also found that the OJJDP made the 2009 FIRE solicitation publicly available to a wide audience of prospective applicants, and the solicitation encouraged multi-disciplinary research collaborations, including collaborations between researchers and practitioners.<sup>8</sup> Further, we found no specific reference to JDAI in the solicitation. Therefore, we conclude that the OJJDP did not specifically design the 2009 FIRE solicitation to obtain favorable research regarding JDAI in particular and did not bias the solicitation toward any particular applicant.

### *Peer Review and Award Decision*

The OJJDP received 17 applications in response to the 2009 FIRE solicitation. The OJJDP then used OJP's external peer review process,

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<sup>8</sup> The solicitation directed applicants to include in their applications letters of commitment or cooperation from the relevant program or agency that would be involved with the evaluation.

managed by Lockheed Martin under a 2-year consolidated contract, to review the applications for basic minimum requirements and obtain subject matter experts.<sup>9</sup> The process for the 2009 FIRE awards involved two peer review scoring panels of three peer reviewers per panel. One panel reviewed nine applications; the other panel reviewed eight applications. The peer reviewers scored the applications according to set criteria outlined in the solicitation. The applications were ranked according to peer review score and these rankings were reported to the OJJDP Acting Administrator and the Acting Assistant Attorney General for OJP through a recommendation memorandum.

### Peer Reviewer Qualifications and Eligibility

According to the OJP Peer Review Procedure Manual, the peer reviewers were instructed to access their assigned applications and review them carefully for any possible conflicts of interest before beginning the scoring process. The peer reviewers were also asked to sign a conflict of interest form after reviewing the list of applications assigned, attesting that they did not have a conflict of interest with any of the applications and that if a conflict of interest became apparent as the peer reviewer read the application, the peer reviewer would disclose this conflict of interest to OJP.<sup>10</sup> If the peer reviewers did not identify any conflicts of interest, they were permitted to begin reading the grant applications.

We reviewed the signed conflict of interest forms for each of the three peer reviewers assigned to score the NCCD application. The peer reviewers were instructed to confirm their access to the applications and complete a conflict of interest form within 2 business days of receipt of an introductory email from the project lead along with the required forms. We compared the dates the peer reviewers signed the forms to the dates when peer reviewers received and scored the applications.

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<sup>9</sup> An external peer review is conducted by subject matter experts who are not employees of the U.S. Department of Justice. A review for basic minimum requirements checks for compliance with application requirements such as page length, required components, and funding requests. According to OJJDP personnel, all 17 applications met the basic minimum requirements and these applications all advanced to the peer review panels.

<sup>10</sup> Examples of peer reviewer conflicts of interest from this form include current employment or collaborative efforts with an applicant, close personal or familial relationship with staff members listed on the application, former employment with OJP within the past year, or receipt of gifts or gratuities from applicant staff within the past year.

We found that these three peer reviewers appropriately completed their conflict of interest forms within 2 business days after gaining access to the applications, as directed in the peer review procedure manual. We also found that the reviewers completed the conflict of interest forms between 6 and 9 days prior to the consensus call.<sup>11</sup> Because the peer reviewers must have completed preliminary scores by the time of the consensus call, the date of the consensus call represents the earliest conclusive date we could obtain indicating scoring efforts. Therefore, we conclude that the three reviewers submitted conflict of interest forms after receiving the forms, but prior to scoring the applications, which was in accordance with the steps outlined in the peer review procedure manual.

Additionally, we reviewed the résumés of each of the peer reviewers assigned to score the NCCD application for any indication of a conflict of interest.<sup>12</sup> We examined the prior employment and research history details in the résumé material from these three peer reviewers and did not find evidence of a prior working relationship with NCCD or the Casey Foundation. Thus, based on these documents, we did not find any evidence that the peer reviewers had conflicts of interest that might have influenced their review of NCCD's application.

### Scoring Process

According to the peer review procedure manual, OJP holds an orientation call with the peer reviewers so that the solicitation manager can explain the background of the solicitation, provide logistical information, explain the variance threshold guidelines for application scoring, and allow peer reviewers to ask questions.<sup>13</sup> The reviewers then review and score the applications.

After scoring the applications under the FY 2009 FIRE solicitation, the peer reviewers from each panel participated in a consensus call with a

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<sup>11</sup> The consensus call is an opportunity to discuss variances among the peer reviewers' scores and explain the rankings; however, OJJDP staff said reviewers are not obligated to adjust their scores to align with those of the other panelists.

<sup>12</sup> Potential peer reviewers submit their résumés prior to being selected.

<sup>13</sup> Variance refers to the deviation between peer reviewers' scores for a particular application. The variance guidelines are used to determine which scoring sections will be discussed during consensus calls. For example, if the variance guideline is 20 percent, the peer reviewers will discuss any of their scores that diverge by 20 percent or more. The guidelines also include the score cutoff point for applications to be discussed. For the FY 2009 FIRE solicitation, the score cutoff was 70.

Lockheed Martin facilitator and the OJJDP staff member responsible for the peer review. After the scores were finalized, the panel's scores were averaged on a final score sheet and applicants were ranked from highest to lowest scores for OJJDP review.

Using the rankings, the OJJDP program office prepared a recommendation memorandum for the OJJDP Acting Administrator's approval. The recommendation memorandum included background information, peer review process information, a summary of the recommended applications, and a list of all applications with a peer review score of 70 or above. The OJJDP Acting Administrator recommended funding for the three highest scoring applications, including NCCD. According to the Acting Administrator, awards were made based strictly on the peer review rankings and any deviation from this selection would have required a written justification for a decision not to fund an application with a higher peer review score. The Acting Assistant Attorney General for OJP approved funding for the three top-scoring applications, totaling \$1.1 million.

We analyzed the peer review scores to determine if the scores were accurately calculated and reported to the OJJDP Acting Administrator, but did not re-score the content of the applications. We assessed both the initial, pre-consensus call peer review scores and the final, post-consensus call scores for accuracy by verifying the peer reviewer sub-scores, the calculations for the weighted scores, and the averages of the reviewers' scores for each application. We did not identify any errors in these calculations. Exhibit 1 below depicts the final peer review scores, not including seven applications with scores under the minimum threshold score of 70.

**Exhibit 1: Final Peer Review Scores**

<b>Applicant Name</b>	<b>Peer Review Scores</b>
National Council on Crime and Delinquency	91.50
Arizona State University	89.17
Development Services Group, Inc. (II)*	86.67
Development Services Group, Inc.	80.17
Trustees of Indiana University	79.33
Iowa Division of Criminal and Justice Planning Agency	77.50
University of Cincinnati	77.00
The Partnership for Families and Children	77.00
Louisiana State University and A and M College	75.50
National Council of Juvenile and Family Court Judges	70.33

Source: The OJJDP peer review score sheets

Note: Scores from the recommendation memo have been rounded to two decimal places. \*Development Services Group, Inc. submitted two applications. We have used the numeral designation "(II)" to distinguish between the two applications.

We also compared the peer reviewer final scores to the ranking list in the recommendation memo signed by the Acting Administrator and found no errors. Therefore, we did not identify errors that would have undermined the final FIRE award outcome.

Because the 2009 FIRE solicitation stated that the OJJDP may use internal or external peer reviewers to review the applications, the OJJDP's use of external peer reviewers to score and rank the applications is appropriate and reduced the risk of any potential claim of bias on the part of the OJJDP. In addition, the OJJDP's decision to fund only the highest-scoring applications complied with the Associate Attorney General's guidance at the time on discretionary spending. This guidance directed that any recommendations for awards to applicants other than those with the highest scores from the peer reviewers required an adequate justification. In the case of the 2009 FIRE awards, the recipients were the top three consecutive scorers from the peer review. Therefore, after analyzing the peer review and the scoring process, we found no evidence that the OJJDP had unfairly or inappropriately awarded the 2009 FIRE grant to NCCD or had violated applicable laws and regulations.

## Conflict of Interest Analysis

To ascertain whether NCCD has any actual or potential conflicts of interest that may adversely affect its performance under the award, we reviewed NCCD's application materials, analyzed both the original and revised project methodologies, reviewed progress reports, and met with OJJDP grant managers to discuss NCCD's performance under the award. To evaluate the relationship between the two organizations further, we interviewed NCCD personnel conducting the evaluation along with representatives from the Casey Foundation who are collaborating with NCCD on the project. We also met with NCCD's financial controller and reviewed NCCD's accounting records for the OJJDP grant as well as payments from the Casey Foundation from FYs 2007 - 2011.

### *OJP Conflict of Interest Guidelines*

To identify conflict of interest policies applicable to grantees during the grant award process and post-award performance periods, we met with the OJJDP Acting Administrator and the OJP staff responsible for overseeing the 2009 FIRE award process. OJP officials indicated that they were not aware of any conflict of interest policies or guidelines that would pertain specifically to a grantee organization performing evaluations.<sup>14</sup>

To identify any conflict of interest policies governing the award selection process, we reviewed the Peer Review Procedure Manual, instructions for the peer reviewers, and the solicitation itself. We found that peer reviewer conflict of interest policies and procedures did exist regarding reviewer eligibility and scoring to prevent bias against applications during the scoring process. However, we did not find any guidelines regarding conflicts of interest pertaining to the applicant organizations in these documents.

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<sup>14</sup> The 2009 OJP Financial Guide prohibits only individual officers or employees of an award recipient from participating in any proceeding, application, determination, contract, award, or other particular matter in which award funds are used where he or she has knowledge that his or her immediate family, partners, or another organization with which the officer or employee has a current or prospective employment relationship, has a financial interest in the matter, or otherwise has a less than arm's-length relationship in the proceeding. OJP told us it provides conflict of interest and ethics policies and resources for its staff, including: (1) providing employees with Standards of Ethical Conduct for Executive Branch Employees upon entrance of duty and at periodic training sessions thereafter; (2) requiring employees to complete annual financial disclosure forms; and (3) providing OJP staff access to ethics officials within the Office of General Counsel who have the responsibility to provide ethics information, guidance, and training.

To assess post-award performance conflict of interest rules, we reviewed the award special conditions, the OJP Grant Manager's Manual, and the OJP Financial Guide. We found that, as part of the award special conditions, NCCD had agreed to refer to the DOJ OIG any credible evidence that a principal, employee, agent, contractor, subgrantee, subcontractor, or other person committed a criminal or civil violation of law pertaining to a "fraud, conflict of interest, bribery, gratuity or similar misconduct involving grant funds." However, the special conditions do not define what would constitute a conflict of interest for individuals not employed by the government, nor do they discuss organizational conflicts of interest.<sup>15</sup>

The Grant Manager's Manual states that the grant manager should contact the Office of the Chief Financial Officer (OCFO) monitoring division if he or she "discovers any significant financial irregularities." The manual also states that a grant manager should contact the OIG if he or she suspects: (1) misuse of funds, (2) program or financial non-compliance by a recipient of a grant or cooperative agreement, or (3) "conflicts of interest." However, the Grant Manager's Manual also does not define what would constitute a conflict of interest.

The 2009 OJP Financial Guide also provides guidance on the appearance of a conflict of interest as it relates to individuals working for an award recipient. The 2009 OJP Financial Guide states that in the use of agency project funds, "the officials or employees" of both government and nongovernment recipients and subrecipients shall "avoid any action, which might result in, or create the appearance of:

- Using his or her official position for private gain;
- Giving preferential treatment to any person;
- Losing complete independence or impartiality;
- Making an official decision outside official channels; or
- Affecting adversely the confidence of the public in the integrity of the Government or the program."

We did not identify specific guidance in the 2009 OJP Financial Guide on post-award conflict of interest matters pertaining to a grantee

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<sup>15</sup> Criminal and civil conflict of interest statutes prohibit federal employees from participating in an official capacity in any particular matter in which, to their knowledge, they, or any person whose interests are imputed to him, have a financial interest if the particular matter will have a direct and predictable effect on that interest. 18 U.S.C. 208(a), 5 U.S.C. app. 4 § 402, and 5. C.F.R. § 2635.402.

organization as an entity, as opposed to individuals within the organization.<sup>16</sup> However, notwithstanding NCCD's prior relationship with the Casey Foundation, the OJJDP grant managers we interviewed told us that they did not have any concerns about NCCD's performance under the award.

We also reviewed guidance from other grant-making agencies that provide federal funding for research. In most instances these guidelines address conflicts involving individuals working on grants, as opposed to conflicts involving organizations.<sup>17</sup> For example, the National Institutes of Health (NIH) amended its financial conflict of interest regulations in 2011 to provide a reasonable expectation that the design, conduct, and reporting of research performed under NIH grants or cooperative agreements will be free from bias resulting from individual financial conflicts of interest that could directly and significantly affect the design, conduct, or reporting of the NIH-funded research. Under the regulation, however, "a Financial Conflict of Interest" exists when the organization reasonably determines that an individual investigator's significant financial interest is related to a NIH-funded research project and could directly and significantly affect the design, conduct or reporting of the NIH-funded research, as opposed to an interest of the organization as a whole.<sup>18</sup>

However, the National Institute of Justice (NIJ), which is the research, development, and evaluation agency of the DOJ, requires applicants for its Research, Evaluation and Development Grants Program to identify any potential organizational financial conflicts of interest and the safeguards the applicant has implemented to address those conflicts. If the applicant believes that there are no potential organizational financial conflicts of interest, the applicant must provide a brief narrative explanation of why it

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<sup>16</sup> As a part of the special conditions, NCCD agreed to adhere to the edition of the OJP Financial Guide then current, which at that time was the 2009 edition. OJP did revise the Financial Guide in 2011, requiring grantee decisions related to federal funds be "free of hidden personal or organizational conflicts of interest, both in advice and in appearance." Yet, this revision does not define organizational conflicts of interest and only provides additional guidance on conflict of interest issues related to individual – not organizational – actions, such as financial or familial interests in procurement and less than arm's-length transactions during post-award performance.

<sup>17</sup> We also did not identify any conflict of interest standards adopted by national social science academic or professional organizations that would govern the NCCD evaluation.

<sup>18</sup> 42 CFR § 50.601 – § 50.603. NIH defines a significant financial interest as \$5,000 for an individual. We also note that the National Science Foundation (NSF) requires grant-funded institutions with more than 50 employees to maintain a financial conflict of interest policy that requires individuals to disclose significant financial interests exceeding \$10,000 that could be influenced by funded research.

believes that to be the case. Nevertheless, NIJ's guidance does not further define organizational financial conflicts of interest or describe other types of organizational conflicts of interest. Additionally, while NIJ is an agency within the DOJ, this guidance is written specifically for NIJ applicants. Therefore, the only applicable criteria relevant to our audit is from the 2009 OJP Financial Guide, which addresses preferential treatment, the loss of complete impartiality, and actions adversely affecting the confidence of the public in the integrity of the program on the part of individuals.

### *Review of Individual Relationships*

In order to determine if the NCCD staff had any individual actual or potential conflicts of interest as described in the 2009 OJP Financial Guide, we reviewed employment histories and interviewed NCCD personnel conducting the evaluation for evidence of past research for the Casey Foundation and prior research performed on JDAI. We also interviewed representatives from the Casey Foundation who are collaborating with NCCD on the project.

#### Prior Employment

To determine if the NCCD staff involved in the JDAI evaluation might have a conflict of interest affecting their performance under the award, we reviewed the résumés that NCCD submitted with its application to the OJJDP. Among the NCCD staff résumés submitted, we found no evidence that any staff member assigned to the JDAI evaluation had been directly employed by the Casey Foundation.<sup>19</sup> However, the submitted résumés disclosed that two employees assigned to the JDAI evaluation had worked on research projects at NCCD funded by the Casey Foundation. One employee had worked on two other Casey Foundation-funded NCCD projects since 2002, but these projects were unrelated to JDAI. The other employee disclosed that the Casey Foundation had engaged this employee to assess the effectiveness of JDAI. After interviewing this employee, we concluded that this assessment was NCCD's 1999 JDAI study, which evaluated the five original JDAI sites. However, we found that NCCD's 2009 project is significantly broader in scope and differs substantially in design from its original 1999 study.<sup>20</sup> We also found that neither this employee nor any

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<sup>19</sup> Although the complainant did not raise concerns about the NCCD personnel assigned to the evaluation, we reviewed documentation for evidence of individual conflicts of interest as outlined in the 2009 OJP Financial Guide.

<sup>20</sup> For a further discussion of the 2009 project design, see Review for Methodological Bias section, beginning on page 15 below.

family member had any direct financial interest in the Casey Foundation resulting from the 1999 evaluation. Furthermore, we note that the OJJDP sought applicants for the FIRE award that had a working relationship with partner organizations. We found no evidence that NCCD's performance on the 2009 grant project was affected adversely by this prior relationship.

We also interviewed the NCCD staff working on the JDAI evaluation to determine if, at the time of our audit, the staff had any expectation of future Casey Foundation employment or had performed work for the foundation outside the projects performed through NCCD. No employee working on the project indicated receiving any inducement of future employment at the Casey Foundation should NCCD produce a favorable evaluation.

We also found that one NCCD employee has transitioned to a consultant position with NCCD.<sup>21</sup> Our review of the consultant's contract with NCCD determined that the consultant will perform work on multiple projects for NCCD and involvement in the JDAI evaluation is limited to 20 days of work. This former NCCD employee is now also employed at the University of California at Berkeley and is conducting a project evaluating JDAI and non-JDAI location outcomes, which is funded through a grant from the Casey Foundation to the university. While the Casey Foundation is funding this research, we concluded that the terms and conditions of this project lie outside of the scope of this audit because this research began after the 2009 FIRE grant award. We did not identify any other NCCD employees assigned to the JDAI evaluation with previous or ongoing employment with the Casey Foundation other than work involving the foundation that they had performed as part of their NCCD duties. Under the guidelines pertaining to individual conflicts of interest in the 2009 OJP Financial Guide, we found no evidence of an actual conflict of interest or the appearance thereof among any of the individuals assigned to the NCCD evaluation that would adversely affect NCCD's award performance.

### *Organizational Relationship Between NCCD and the Casey Foundation*

Although we found no guidelines that would directly apply to the complainant's concern regarding a potential bias deriving from the organizational relationship between NCCD and the Casey Foundation, we reviewed NCCD's past research for the Casey Foundation, NCCD's prior research on JDAI, and the current evaluation design. We also interviewed the NCCD personnel conducting the evaluation along with representatives from the Casey Foundation.

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<sup>21</sup> NCCD notified the OJJDP grant manager about this transition.

## Prior JDAI Research

During our review of past interactions between NCCD and the Casey Foundation, we found that the Casey Foundation has funded NCCD research and evaluations since at least 1999.<sup>22</sup> This research has included employment and workload studies on child welfare systems, studies of youth violence, and forecasts of bed space needs for youth detained in the adult criminal justice system.

In addition to the original NCCD study in 1999 of the five initial JDAI pilot sites, NCCD provided the Casey Foundation a JDAI handbook in 2003 and an update in 2004 to the data collected in the 1999 study. However, we found that NCCD has not conducted any JDAI-specific research from FYs 2007 – 2011.

## Review for Methodological Bias

To assess whether the prior work that NCCD has done on JDAI has compromised the design of NCCD's new JDAI research, we reviewed the new project's methodology as proposed in the 2009 FIRE application and in subsequent revisions. We also interviewed the primary researchers designing the methodology and reviewed the proposed survey instruments.

The approach described in the 2009 FIRE application relied on NCCD performing case study evaluations of 10 successful JDAI locations and was similar to the 1999 JDAI evaluation of the five original JDAI sites. Based on our analysis of the initial project methodology, we found that NCCD's approach raised a risk of preferentially selecting only the best performing sites, thereby potentially skewing results to show JDAI effects that may not be generally applicable. However, in its application materials, NCCD also recognized the problem with only obtaining data from successful locations, described this potential threat to the validity of its approach, and even discussed the possibility of revising its methodology to include less successful JDAI locations if requested by the OJJDP.

We note that subsequent to its award, but prior to the start of our audit, NCCD revised its methodology. The new methodology places significant reliance on a self-reported site survey distributed to all of the JDAI sites to examine a site's fidelity to JDAI, which can be used to draw

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<sup>22</sup> The Casey Foundation has provided funding for three projects unrelated to JDAI within our audit scope including one study in 2007 and two studies in 2011.

associations with any measurable changes in outcome data.<sup>23</sup> Although a survey was a component of its original proposal, NCCD decided to place a greater emphasis on the results of a more robust survey in its revised methodology. The survey will allow a comprehensive assessment of sites' adherence to the JDAI model in comparison to quantitative outcome data gathered from federal and state databases, the Casey Foundation, and directly from the sites in the sample.

Under the revised methodology, NCCD selected 57 JDAI sites in 9 states for the evaluation. NCCD grouped the potential study sites for its sample by state to ensure a geographically representative sample. Each state had to be diverse in terms of size and socioeconomics and have a proportion of youth represented in JDAI counties that was more than 20 percent of the total state youth population. Additionally, study sites within the sampled states must be 3 to 8 years old, actively pursuing JDAI efforts, and have a non-white youth population of 15 percent or more. In addition, NCCD planned to evaluate 19 JDAI sites in 3 states that had been shown in previous evaluations to be successful and also exhibited the strongest fidelity to the model. NCCD will compare the results of the JDAI fidelity survey of the sites with quantitative juvenile justice outcome data for each site to identify what combination of site characteristics is most associated with compliance with the JJDP Act core requirements.

Importantly, NCCD researchers told us they recognize that the evaluation cannot prove JDAI actually caused the positive outcomes. Rather, the product of the research may provide associations or correlations between implementing JDAI elements and desired outcomes, and it will include data from sites that may have poor outcomes despite JDAI implementation. NCCD researchers told us that they may still visit three or more locations to obtain anecdotal information that may add descriptive information to the findings of the fidelity tool.<sup>24</sup>

By examining data from many JDAI sites with the revised methodology, NCCD seeks to identify those aspects of JDAI most associated with better outcomes and thus identify the best practices associated with JDAI for localities seeking compliance with the JJDP Act requirements.

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<sup>23</sup> Outcome data is quantitative information about decision points in the juvenile justice system, such as number arrested, admitted to detention, or sent to an adult system. Although NCCD is distributing the survey to all JDAI sites, outcome data collection will be limited to approximately two-thirds of the sites.

<sup>24</sup> NCCD has not yet completed its report, so we were unable to state whether its final product was objective in assessing the Casey Foundation's JDAI program.

## Katie Nichols Award

In its complaint letter, CVU also points to NCCD's presentation of the Katie Nichols Award to the Casey Foundation's president in 2006 as further evidence of a conflict of interest. To evaluate the conditions of this award, we spoke with NCCD staff about the Katie Nichols Award and reviewed documents detailing the criteria for NCCD awards and the selection of the Casey Foundation as a recipient.

NCCD presents the Katie Nichols Award to recognize leaders in the private or nonprofit sector that show "a significant and sustained commitment to community service consistent with NCCD's values."<sup>25</sup> The award is one of several Prevention for a Safer Society Awards that NCCD presents each year to political officials, judicial figures, academics, and other institutions and entities working in the field of justice, based on NCCD staff nominations. According to the award letter, NCCD presented the Katie Nichols Award in 2006 to the Casey Foundation for its work "to advance the goals of enlightened reform of juvenile justice and child welfare."

Importantly, NCCD staff stated that the Katie Nichols Award did not have a financial value and instead described the award as a form of non-monetary recognition of achievements in the field of juvenile justice. NCCD's financial controller further noted that it would be unusual for NCCD to transfer money to private foundations. Consistent with this statement, our review did not identify any payments regarding the Katie Nichols award or any other payments from NCCD to the Casey Foundation that were relevant to our audit.

## Financial Relationship Between the NCCD and the Casey Foundation

The complainant also asserted that NCCD listed the Casey Foundation on its website as one of its supporters, that the Casey Foundation provided a significant amount of funding to NCCD, and that the financial relationship between the two organizations undermines NCCD's ability to perform a fair evaluation of JDAI through a federal grant. We therefore met with NCCD's financial controller and analyzed the financial relationship between the two organizations from FYs 2007 - 2011.<sup>26</sup>

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<sup>25</sup> NCCD staff told us that Katie Nichols was a former NCCD board member and the award was named in her honor to recognize "significant, sustained, and outstanding contributions to justice reform through community service."

<sup>26</sup> NCCD's fiscal year ends on June 30.

Our audit included a review of the general ledger for the grant and accounting records showing a list of payments that the Casey Foundation made to NCCD. Our review of these documents showed that the Annie E. Casey Foundation spent \$139,500 from FYs 2007 – 2011 to fund NCCD research, but that all of this research focused on topics other than JDAI, as shown in Exhibit 2.

**Exhibit 2: Casey Foundation Funded NCCD Research,  
FYs 2007 – 2011**

<b>Date Received</b>	<b>Project</b>	<b>Description</b>	<b>Amount</b>
1/29/2007	Youth Violence- A Tale of Three Cities	Study of media-reported increases in juvenile crime versus actual juvenile crime rates	\$75,000
1/28/2011	DC Department of Youth Rehabilitation Services	Study of youth rehabilitation in Washington, D.C.	\$42,000
1/28/2011	Baltimore Detention	Study of need for additional bed space in Baltimore, MD	\$22,500
	<b>Total</b>		<b>\$139,500</b>

Source: NCCD records

To determine the extent of the financial relationship between the two organizations, we obtained NCCD’s total budget figures, including NCCD’s total revenue from grants and contracts from FYs 2007 - 2011. We also requested from NCCD a list of any funding from the Annie E. Casey Foundation or any other Casey institution from FYs 2007 - 2011.<sup>27</sup>

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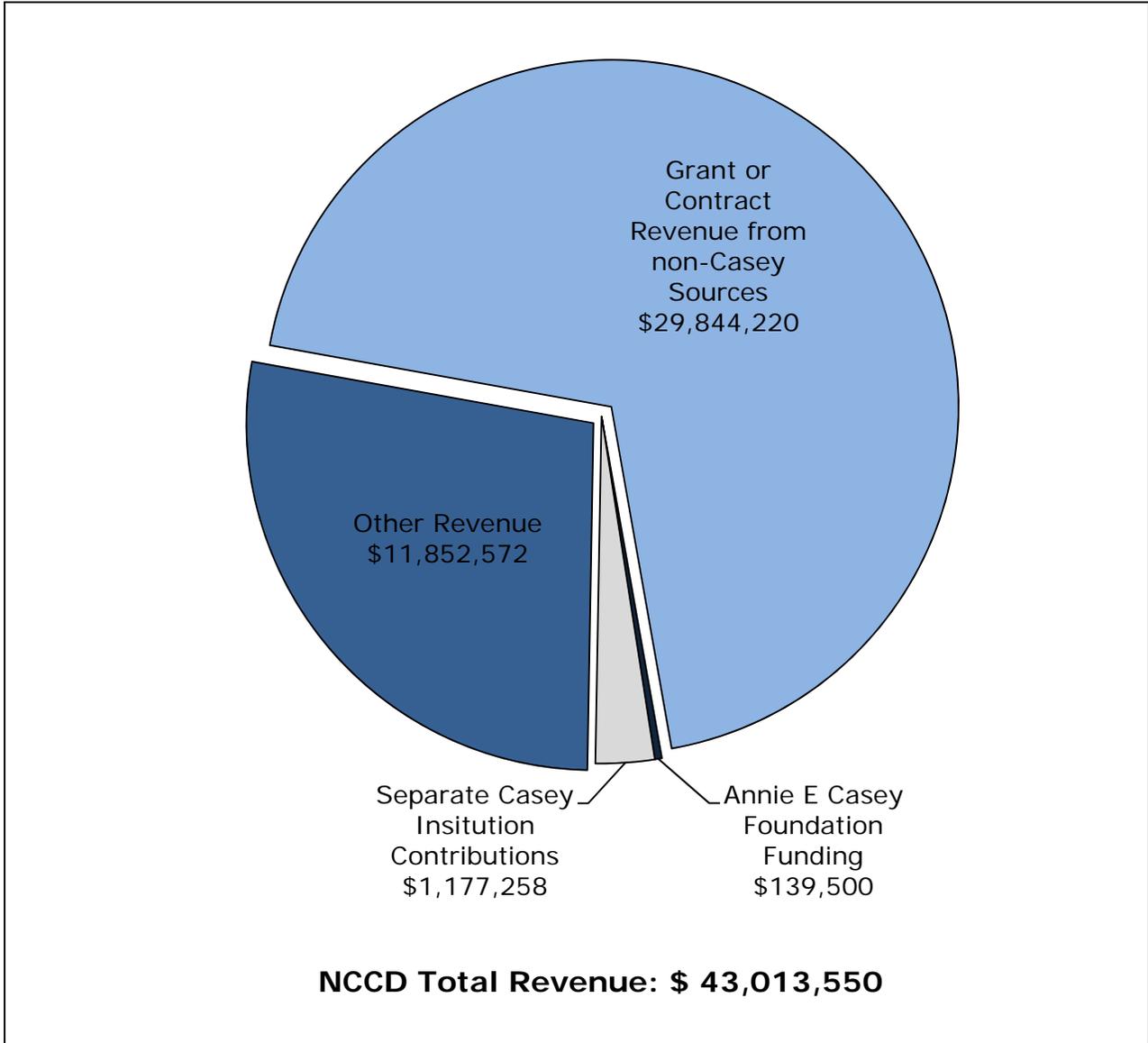
<sup>27</sup> There are several separate institutions with the Casey name but with different scopes of work, including: (1) the Annie E. Casey Foundation, which also includes Casey Family Services, a direct services agency; (2) Casey Family Programs, which focuses on foster care related issues; (3) the Marguerite Casey Foundation, which works with low income families; and (4) the Jim Casey Youth Opportunities Initiative, which focuses on helping youth in foster care make transitions to adulthood. Although we reviewed NCCD’s records for funding from any Casey institution, an official from the Annie E. Casey Foundation stated that all the Casey institutions are separate and independent non-profit organizations, with their own boards of directors, executive directors, and bylaws. Therefore, in our analysis, we separate funding from the Annie E. Casey Foundation from other institutions affiliated with the “Casey” name.

From FYs 2007 - 2011, NCCD's total revenue was approximately \$43 million. Of this total, approximately \$12 million consisted of revenue from fundraising, memberships, publications, dividends, and other sources; the remainder derived from grants and contracts. Of the approximately \$31 million in NCCD revenue from grants and contracts during this period, funding from the Annie E. Casey Foundation constituted \$139,500 and funding from all other Casey designated institutions constituted nearly an additional \$1.2 million. As shown in Exhibit 3, when compared with NCCD's total revenue, the funding from just the Annie E. Casey Foundation accounted for less than one half of 1 percent of NCCD's total revenue. All other Casey institutions' contributions accounted for about 3 percent of the approximately \$43 million.<sup>28</sup>

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<sup>28</sup> As previously discussed in this report, our analysis of the financial relationship between NCCD and the Casey Foundation included a review of accounting records for any payments that NCCD made to the Casey Foundation. We did not identify any such payments relevant to this audit.

**Exhibit 3: NCCD Revenue FYs 2007 – 2011**



Source: NCCD accounting and budget information

Note: The sum of "Separate Casey Institution Contributions" includes grant and contract revenue from any Casey institution we identified in NCCD's records, excluding the Annie E. Casey Foundation. "Other Revenue" includes revenue from fundraising, memberships, publications, and contributions to NCCD initiatives.

Although it appears NCCD's operations are not dependent on the Casey Foundation for funding, OJP has yet to provide guidance establishing a financial threshold that would aid decision-makers in identifying when a prospective grant recipient may have a conflict of interest because of a financial relationship with an entity being assessed or an entity that may benefit from the grantee's performance under the grant. Accordingly, we had no standard to apply to determine whether a conflict existed with respect to the awarding of a grant to NCCD to assess the performance of a program developed by a minor funding source of the grantee.

We did not find evidence that the prior relationship between NCCD and the Casey Foundation biased NCCD's assessment of the JDAI program in favor of its developer, the Casey Foundation. However, to help address conflict of interest risks, OJP must establish guidelines that will address questions such as whether the level of support and interaction between the Casey Foundation and NCCD is significant enough to constitute a conflict of interest.

#### *Appearance of Conflict of Interest Analysis*

The complainant also contended that NCCD is at risk of an appearance of a conflict of interest and suggested that the OJJDP's award-making process is insufficient. Although the prior relationship between NCCD and the Casey Foundation could constitute a conflict of interest, as noted above, we could not identify any guidance that would prevent research organizations from conducting evaluations involving third parties with a prior research relationship or history of funding. Rather, the OJP Financial Guide only proscribes actions of a non-government employee that might result in or create the appearance of giving preferential treatment to a person, losing complete impartiality, or adversely affecting the confidence of the public in the integrity of the program. Ultimately, any conflict of interest determination cannot be definitive until standards are in place and a process exists whereby the granting agency can assess any ramifications of prior organizational relationships on the goals, design, and outcomes of the funded research. We believe a set of clear criteria by which to evaluate grant applicants for organizational conflicts of interest would improve the OJJDP's ability to make awards transparently.

While NCCD did make known its prior history with the Casey Foundation in its application, the 2009 FIRE solicitation and OJP Financial Guide did not require applicants to disclose prior work history or financial relationships with research partners or entities subject to an evaluation. Although not currently specified in the Financial Guide, we believe that OJP should strengthen its ability to assess an applicant's suitability for funding

and detect false or misleading information by requiring applicants to disclose prior work history or financial relationships with research partners or entities subject to an evaluation.<sup>29</sup>

Furthermore, despite the fact that OJP is charged with ensuring that applicants possess the fiscal integrity to administer federal funds adequately and appropriately, OJP lacks a thorough process to screen research grant applicants for conflicts of interest, prior to making awards. Specifically, we found OJP does not have a process that allows it to collect and assess information from applicants that could indicate an actual or potential conflict of interest based on prior work history or financial relationships with research partners or entities subject to an evaluation.

Given the factors above, we conclude that the current award-making process for OJJDP research grants could be improved by requiring disclosure of prior work history and financial relationships. This would allow the OJJDP to assess the risk of an actual or potential conflict of interest prior to making its award decision, and take necessary steps to address potential concerns. In addition, such a process would increase the transparency of the award-making process, protect the integrity of post-award performance, and further the public's confidence in the FIRE program.

Therefore, we recommend that OJP (1) ensure that its program offices awarding research and evaluation grants develop and include written language for research and evaluation grant solicitations to require that applicants describe their relationship with the research subject or collaborating third parties, including their prior research history and financial relationship; and (2) develop procedures for its program offices to use to identify, evaluate, and perform a risk assessment of the evaluator-research subject relationship in order to assess research and evaluation grant applications for actual and potential conflicts of interest.

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<sup>29</sup> A revision to the OJP Financial Guide in 2011 states that grant applicants must represent their eligibility for funding accurately and cannot provide false or misleading information in their application. While such language reinforces the need for a thorough and accurate applicant disclosure and screening process, it does not provide clear and specific disclosure requirements and conflict of interest standards.

## Conclusion

Our analysis of the solicitation, peer review, and scoring process found no evidence that the OJJDP unfairly or inappropriately awarded the 2009 FIRE grant to NCCD, or that it violated applicable laws and regulations. The OJJDP solicitation was widely distributed and did not include any specific language to target a particular group. We also found the external panel of peer reviewers who scored NCCD's application completed required conflict of interest forms, and we did not find any evidence of a peer reviewer conflict of interest that would negatively affect the scoring process. Our review of the scoring calculations found that NCCD had the highest score of all the 2009 FIRE applicants and was also the first recipient listed in the recommendation memo for funding through the grant. Thus, we found that the OJJDP complied with directives from the Associate Attorney General at the time of the award decisions.

While we found that NCCD personnel had worked on past research projects with funding from the Casey Foundation, which NCCD disclosed in its grant application, we found no evidence that NCCD's performance on the 2009 grant project was affected adversely by any individual NCCD employee involvement with the Casey Foundation. We also reviewed the relationship between the two organizations and found that OJP does not have established policies, procedures, or definitions to identify and address organizational conflicts of interest, which limited our ability to determine whether an actual conflict existed with regard to NCCD's performance on the grant. We found that while NCCD did perform a study of JDAI in 1999, the OJJDP sought applicants for the FIRE award that had a working relationship with partner organizations, and NCCD's 2009 project differed substantially in both design and scope from its original 1999 study. Furthermore, less than one half of 1 percent of NCCD's total revenue from FYs 2007 - 2011 derived from the Annie E. Casey Foundation specifically, and just 3 percent of NCCD's total revenue during that period derived from all Casey institutions combined. We also found no evidence that the Katie Nichols honorary award, which NCCD presented to the Casey Foundation in 2006, had any monetary value.

However, we conclude the award process for research and evaluation grants could be improved by including requirements for applicants to disclose the extent and nature of prior research and financial relationships with collaborating third parties or potential research subjects. Such disclosures would permit the OJJDP and other program offices within OJP to assess conflict of interest risks prior to making awards, increase transparency, and enhance the public's confidence in the FIRE program.

## Recommendations

We recommend that OJP:

1. Ensure that its program offices awarding research and evaluation grants develop and include written language for research and evaluation grant solicitations to require that applicants describe their relationship with the research subject or collaborating third parties, including their prior research history and financial relationship.
2. Develop procedures for its program offices to use to identify, evaluate, and perform a risk assessment of the evaluator-research subject relationship in order to assess research and evaluation grant applications for actual and potential conflicts of interest.

## 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 prevent or detect in a timely manner: (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 internal controls of the Office of Justice Programs (OJP) and the Office of Juvenile Justice and Delinquency Prevention (OJJDP) was *not* made for the purpose of providing assurance on their internal control structures as a whole. OJP and the OJJDP management are responsible for the establishment and maintenance of internal controls.

Based on the audit work performed, we did not identify any deficiencies in OJP or the OJJDP's internal controls that were significant within the context of the audit objectives that we believe would affect their abilities to effectively and efficiently operate, to correctly state financial and performance information, or to ensure compliance with laws, regulations, and other applicable requirements. However, as noted in our report, the OJJDP does not require research and evaluation grant applicants to disclose their prior research history and financial relationship with collaborating partners, and consequently the OJJDP cannot effectively identify conflicts of interest among its research and evaluation grant applicants. The Appearance of a Conflict of Interest section of this report contains the specific details regarding this management improvement issue and our recommendations for corrective action.

Because we are not expressing an opinion on the internal control structure of either OJP or the OJJDP as a whole, 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 Office of Justice Programs' (OJP) management complied with federal laws and regulations for which noncompliance, in our judgment, could have a material effect on the results of our audit. OJP's management is responsible for ensuring compliance with federal laws and regulations applicable to the Department of Justice. In planning our audit, we identified the following laws and regulations that concerned the operations of the auditee and that were significant within the context of the audit objectives:

- 42 U.S.C. § 5601 *et seq.* (2002);
- 2 C.F.R. Part 215;
- 2 C.F.R. Part 230.

Our audit included examining, on a test basis, OJP's compliance with the aforementioned laws and regulations, and whether non-compliance could have a material effect on OJP's operations. We did so by interviewing auditee personnel, assessing internal control procedures, and examining procedural practices for scoring applications and awarding grants.

Nothing came to our attention that caused us to believe OJP was not in compliance with the aforementioned laws and regulations.

### OBJECTIVES, SCOPE, AND METHODOLOGY

#### Objectives

We audited the Office of Justice Programs (OJP) Office of Juvenile Justice and Delinquency Prevention (OJJDP) research award made to the National Council on Crime and Delinquency (NCCD) to evaluate the Juvenile Delinquency Alternatives Initiative (JDAI) program developed by the Annie E. Casey Foundation (Casey Foundation). The objectives of this audit were to: (1) determine whether the award was made fairly, appropriately, and in accordance with applicable laws, and regulations; and (2) ascertain whether NCCD has any actual or potential conflicts of interest that may adversely affect its performance under the award.

#### 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 focused specifically on the FY 2009 FIRE Program solicitation, peer review, award process, and the performance of NCCD under this grant award. The scope of our review encompassed FYs 2007 – 2011.

We conducted audit work at OJP offices in Washington, D.C.; NCCD offices in Oakland, California; the Casey Foundation headquarters in Baltimore, Maryland; and JDAI sites located in Santa Cruz and San Francisco, California. We also discussed the complaint with Crime Victims United and other individuals they referred to us.

To determine whether the OJJDP made the 2009 grant award to NCCD fairly, appropriately, and in accordance with applicable laws and regulations, we reviewed relevant portions of the OJP grant manager's manual, the peer review process manual, the instructions for the peer reviewers, as well as scoring materials. In conducting our audit, we examined the Juvenile Justice and Delinquency Prevention Act and reviewed the details of the 2009 FIRE

solicitation as well as the OJJDP's process for developing its solicitations. We also interviewed OJP personnel including the OJJDP Acting Administrator, the OJJDP Deputy Administrator for Programs, grant managers assigned to manage the NCCD grant, the disproportionate minority contact coordinator, and other staff who oversaw the 2009 FIRE solicitation, peer review, and award-making processes.

To analyze the peer review scoring and ranking process, we examined the résumés and conflict of interest forms of the peer reviewers who scored the NCCD application to identify any ties to either NCCD or the Casey Foundation. We also reviewed the score sheets for each of the 2009 FIRE solicitation applicants. Although we did not re-score the applications based on the applicants' merits, we reviewed the application score sheets for accuracy by verifying that the peer review scores were summed and averaged correctly, and we compared these rankings to the scores on the recommendation memo signed by the Acting Administrator of the OJJDP and the Acting Assistant Attorney General. We determined that the three funded grantees were the top-scoring applicants for this solicitation.

To assess whether NCCD had any actual or potential conflicts that would negatively affect its performance under the award, we reviewed the FY 2009 FIRE solicitation, the award special conditions, the OJP Grant Manager's Manual, and the OJP Financial Guide for guidelines on what factors or circumstances constitute a conflict of interest. As noted in our report, the OJJDP does not require research and evaluation grant applicants to disclose their prior research history and financial relationship with collaborating partners, and consequently the OJJDP cannot effectively identify conflicts of interest among its research and evaluation grant applicants.

We assessed the extent of the relationship between NCCD and the Casey Foundation by interviewing the NCCD financial controller, staff assigned to the JDAI evaluation, and the principal investigator of the evaluation who now works at the University of California at Berkeley and serves as a consultant to NCCD. We also interviewed the Director of the Juvenile Justice Strategy Group and a Senior Associate at the Casey Foundation, who are collaborating with NCCD on the JDAI evaluation. Additionally, we spoke with two other consultants from the Casey Foundation about their collaboration with NCCD. To learn how JDAI is implemented, we visited the JDAI sites in San Francisco and Santa Cruz, California, to interview the JDAI coordinators and obtain background information on the framework. Our audit also included reviewing the past work history of the NCCD personnel working on the JDAI evaluation for evidence of ties with the Casey Foundation outside the scope of their work at NCCD.

One of the complainant's concerns was that NCCD had listed the Casey Foundation as a supporter and given its president an award in 2006. To evaluate the financial relationship between NCCD and the Casey Foundation, we reviewed NCCD's records for FYs 2007 – 2011 to identify payments from any entities affiliated with the Casey Foundation, including, but not limited to the Annie E. Casey Foundation and compared the Casey Foundation's funding to NCCD's total revenue. We also reviewed records pertaining to the Katie Nichols Award – which NCCD presented to the Casey Foundation in 2006 – to determine whether the award was financial in nature.

Additionally, we reviewed NCCD's prior research regarding JDAI including NCCD's original study of the JDAI pilot sites. We compared the design of the original pilot study with the design of the JDAI evaluation under this audit. We also examined NCCD's research methodology outlined in its grant application materials and compared it with the revised methodology NCCD developed after receipt of the award.

CRIME VICTIMS UNITED COMPLAINT LETTER

**CRIME VICTIMS UNITED**

P.O. Box 1896, Lake Oswego, OR 97035 • www.crimevictimsunited.org • contact@crimevictimsunited.org

February 21, 2011

Cynthia A. Schnedar, Acting Inspector General  
U.S. Department of Justice  
950 Pennsylvania Ave.  
Washington, D.C. 20530-0001

RE: Contract policies, Office of Juvenile  
Juvenile and Delinquency Prevention

Dear Ms. Schnedar,

Please consider this to be a formal request to review the appropriateness and adherence to policy of a contract let by the OJJDP to the National Council on Crime and Delinquency to do a multi-year review of the Juvenile Detention Alternative Initiative, which is the creation of the Annie E. Casey Foundation. The JDAI is also the most heavily marketed program in juvenile justice. The results of the review will have far-reaching implications for juvenile justice. In a letter to Senator Wyden, dated August 5, 2010, Jeff Slowikowski, Acting Administrator of the OJJDP, stated:

"OJJDP is currently funding a multi-site evaluation of the Juvenile Detention Alternative (JDAI) in 10 sites, being conducted by the National Council on Crime and Delinquency."

The reason for our request is that the National Council on Crime and Delinquency lists the Annie E. Casey Foundation as one of their supporters. In fact the following was found on the NCCD search engine:

*The Annie E. Casey Foundation, the Jessie Ball DuPont Fund, and the Cowles Charitable Trust, among others, loyally support NCCD's publications and advocacy*

Further, in 2006, the NCCD honored the Annie E. Casey Foundation and its president with their Katie Nichols Award, which is given:

*"To a leader in the private or nonprofit sector who shows a significant and sustained commitment to community service **consistent with NCCD's values.**" (emphasis added)*

In its media advisory for the awards ceremony, the NCCD further lionized the Casey Foundation:

*"To promote a balanced criminal justice system through public awareness and legislative action"*

"The Annie E. Casey Foundation has pushed for bold and extraordinary reforms of the juvenile justice and foster care systems. They have shown intense commitment, at time (sic) acting almost single-handedly to change the face of those fields.

While the NCCD has every right to advocate its positions and endorse whatever programs or foundations they choose, it doesn't have the right to so with federal funds which have been designated for "evaluation."

We believe that Mr. Slowikowski either knew or should have known that the NCCD was not an appropriate agency to review the effectiveness of the Annie E. Casey's JDAI program.

At his address to the Vera Institute in 2010, Attorney General Holder made a clear declaration that he endorsed policies based on best evidence. We believe that even the most minimal definition of "best evidence," would not include an evaluation of a program by an agency which lists that program's sponsor as one who provides loyal support. At the very least, this shows a certain sloppiness and lack of vetting in the contract process. At another level, however, it shows a lack of institutional integrity.

We sent a letter to Mr. Slowikowski in mid-January expressing our concerns (see attachment), and an e-mail to the "evaluator" at the NCCD at the same time. To date, we have not received further communication from Mr. Slowikowski, or the NCCD evaluator.

We appreciate your attention to this matter.

Sincerely,



Ken Chapman, Juvenile Justice Policy Advisor  
Crime Victims United

cc. Senator Ron Wyden  
911 N.E. 11<sup>th</sup> Ave, Suite 630  
Portland, Or 97232

Congressman Greg Walden  
1051 Bond St., Suite 400  
Bend, Or. 97701

## **CRIME VICTIMS UNITED**

P.O. Box 1896, Lake Oswego, OR 97035 • [www.crimevictimsunited.org](http://www.crimevictimsunited.org) • [contact@crimevictimsunited.org](mailto:contact@crimevictimsunited.org)

January 19, 2011

Jeff Slowikowski  
Acting Administrator  
Office of Juvenile Justice and Delinquency Prevention  
Department of Justice  
Washington, D.C. 20531

Dear Mr. Slowikowski,

Your letter to Senator Wyden about the review of our reports on the effects of the Juvenile Detention Alternatives Initiative (JDAI) in Multnomah County, Oregon, was received by us in late October. We thank you for your response and the information contained in it. Given some of the information in the letter, especially the statement that our 4 reports about JDAI would be evaluated, we have waited to see whether we would receive any further communication. To date, we have not.

We do have several questions about the process of evaluating both JDAI and our reports. Your letter states that JDAI will be evaluated by the National Council on Crime and Delinquency. Even a cursory examination of the NCCD website, however, shows that it is an advocacy group, not a research group. Under publications, the NCCD's president, Barry Krisberg, is often cited as author or coauthor. In one brief summary of an article entitled "Hate the Player, Hate the Game," Dr. Krisberg article is summarized by the following:

"This article spells out the continuing 'war against the young' and the increased punitiveness and criminalization of youth behavior."

This phrase is consistent with the philosophy of the Casey Foundation, the prime mover behind JDAI. We have absolutely no problem with Dr. Krisberg expressing his philosophy on his website. We do have a problem with that organization being contracted to actually "review" the effects of JDAI in ten different cities.

Another article on the NCCD website is "Educate or Incarcerate?" which appears to offer yet another false choice, a tactic often used by the anti-incarceration foundations. Once again, the article represents a viewpoint the author has a right to express. It is, however, hardly reassuring, as with Dr. Krisberg's articles, of the possibilities for a candid review of a program which appears to fit the de facto philosophy of NCCD.

*"To promote a balanced criminal justice system through public awareness and legislative action"*

Making the bias even more apparent is the statement at the bottom of the NCCD website:

*The Annie E. Casey Foundation, the Jessie Ball DuPont Fund, and the Cowles Charitable Trust, among others, loyally support NCCD's publications and advocacy*

In reality a friend of the Annie E. Casey Foundation, and one devoted to advocacy, rather than research, is being given the task of evaluating the Casey Foundation's JDAI program.

Another factor regarding JDAI which makes an evaluation difficult is that its participants tend to be treated to paid travel to JDAI events out of their home state. This is an unusual occurrence for most local government employees. The head of a small department in our state said when asked about the attraction of JDAI stated that "Casey [foundation] is like the guy you dated in high school because he had a great car." These sorts of financial inducements make a candid assessment of JDAI difficult if only JDAI counties, participants, and supporters are questioned.

We have heard from some who went to the recent JDAI conference that the general impression given was that the OJJDP had already endorsed JDAI, at least unofficially. Please give some clarification on that issue. Perhaps this report is just a rumor, but if true it would certainly call into question the integrity of the current evaluation.

We are also concerned that we have received no communication about the Crime Victims United reports from your office, despite a comment in your letter that they will be "reviewed."

Our most general concern, however, is the echo chamber within the leadership of juvenile justice, and especially the well-funded foundations, which skews the discussion toward only one viewpoint – an antagonism toward the use of incarceration either to protect or to provide an incentive for the youth to cooperate with court-ordered mandates. In this age of evidence-based practices, it seems ironic that evidence for only one viewpoint is being substantively considered.

While our reports are hardly the definitive word on JDAI, they are the only reports which give the effects of JDAI from one county in relation to the rest of the same state which does not embrace JDAI.

Crime Victims United does not believe that incarceration is the answer. But neither do we believe that there is any one single answer to juvenile delinquency. We support research-based treatment, however juveniles in trouble with the law have little incentive to accept such treatment without credible and consistent enforcement of their court-ordered mandates.

We hope that your office will take a serious look at who is evaluating JDAI, and how it is being done. As currently proposed, that evaluation is something like getting a recommendation from

a family member, rather than a candid and dispassionate review of policies, procedures and results.

As an example of why we are concerned about the drive to implement JDAI nationwide, we have included a chart of robbery and homicide referrals from Multnomah County over the past 10 years, as compared to the county's share of state population. Multnomah County has been implementing JDAI over the past 15 years.

Sincerely,

Steve Doell, President  
Crime Victims United

A handwritten signature in cursive script, appearing to read "Ken Chapman".

Ken Chapman, Juvenile Justice Policy Advisor  
Crime Victims United

cc. Senator Ron Wyden  
attachment

## APPENDIX III

### OJP RESPONSE TO THE DRAFT REPORT



**U.S. Department of Justice**

*Office of Justice Programs*

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*Washington, D.C. 20531*

**September 18, 2012**

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

THROUGH: Raymond J. Beudet  
Assistant Inspector General for Audit  
Office of the Inspector General  
United States Department of Justice

FROM: Mary Lou Leary   
Acting Assistant Attorney General

SUBJECT: Response to the Office of the Inspector General's Draft Audit Report, *The Office of Juvenile Justice and Delinquency Prevention's Research Award to the National Council on Crime and Delinquency*

This memorandum provides a response to the Office of the Inspector General's (OIG's) September 7, 2012 draft audit report, entitled *The Office of Juvenile Justice and Delinquency Prevention's Research Award to the National Council on Crime and Delinquency*. The Office of Justice Programs (OJP) appreciates the opportunity to review and comment on the draft report. Overall, the Office of Justice Programs (OJP) agrees with the conclusions and the recommendations detailed in the draft audit report.

As detailed in the draft audit report, the OIG found no evidence that OJP's Office of Juvenile Justice and Delinquency Prevention (OJJDP) inappropriately awarded the 2009 research grant to

the National Council on Crime and Delinquency (NCCD). NCCD's application had the highest peer review score, and was selected in full compliance with award selection guidance issued by the U.S. Department of Justice (DOJ), Office of the Associate Attorney General to DOJ grant-making components on May 28, 2008. This guidance required that, beginning in fiscal year (FY) 2008, documentation must be maintained to support all discretionary funding recommendations and decisions, and must clearly explain the choices made, the reasons for the choices, and the policy consideration on which the decisions were based. Since that time, the OJP's bureaus and program offices have maintained records supporting their selection decision.

NCCD disclosed in its application that some of its personnel had worked on past research projects with funding from the Casey Foundation. OJJDP determined, in the course of the selection process, that this past relationship was of a de minimis nature and did not pose an actual or potential conflict of interest that would adversely affect NCCD's performance under the award. Indeed, NCCD's prior experience in working on research related to the Casey Foundation's Juvenile Detention Alternatives Initiative (JDAI) was identified as a strength in the peer review process. In addition to peer review scores, OJJDP's research solicitations stated that all research award recommendations and decisions were based on:

(1) appropriateness and strength of research design; (2) planned dissemination of findings; and (3) potential impact on the field. As scientific and financial independence is a significant contributor to the strength of a project's research design, NCCD's independence was taken into consideration in the final award decision.

The draft audit report contains two recommendations and no questioned costs directed to OJP. For ease of review, these recommendations are restated in bold and are followed by OJP's response.

- 1. We recommend that OJP ensure that its program offices awarding research and evaluation grants develop and include written language for research and evaluation grant solicitations to require that applicants describe their relationship with the research subject or collaborating third parties, including their prior research history and financial relationship.**

The Office of Justice Programs agrees with the recommendation. Beginning with FY 2013 solicitations, OJP will work with the bureaus/program offices awarding research and evaluation grants to develop and include language for research and evaluation grant solicitations to require that applicants describe their relationship with the research subject or collaborating third parties, including their prior research history and financial relationship.

- 2. We recommend that OJP develop procedures for its program offices to use to identify, evaluate, and perform a risk assessment of the evaluator-research subject relationship in order to assess research and evaluation grant applications for actual and potential conflicts of interest.**

The Office of Justice Programs agrees with the recommendation. Beginning in

FY 2013, OJP will work with the bureaus/program offices awarding research and evaluation grants to develop procedures to identify and assess research and evaluation grant applications for actual and potential conflicts of interest of the evaluator-research subject relationship.

Thank you for your continued support and assistance. If you have any questions regarding this response, please contact Maureen A. Henneberg, Director, Office of Audit, Assessment, and Management, on (202) 616-3282.

cc: James H. Burch, II  
Deputy Assistant Attorney General  
for Operations and Management

Melodee Hanes  
Acting Administrator  
Office of Juvenile Justice and Delinquency Prevention

Denise O'Donnell  
Director  
Bureau of Justice Assistance

James Lynch  
Director  
Bureau of Justice Statistics

John Laub  
Director  
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Linda M. Baldwin  
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Registering, and Tracking

Leigh Benda  
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Maureen A. Henneberg  
Director  
Office of Audit, Assessment, and Management

cc: Jeffery A. Haley  
Deputy Director, Audit and Review Division  
Office of Audit, Assessment, and Management

Louise M. Duhamel, Ph.D.  
Acting Assistant Director, Audit Liaison Group  
Justice Management Division

Anna Martinez  
Senior Advisor to the Associate Attorney General  
Office of the Associate Attorney General

OJP Executive Secretariat  
Control Number 20121492

## APPENDIX IV

### 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 OJP. OJP's response is incorporated in Appendix III of this final report. The following provides the summary of actions necessary to close each of the recommendations in the report.

1. **Resolved.** OJP concurred with our recommendation to ensure that its program offices awarding research and evaluation grants develop and include written language for research and evaluation grant solicitations to require that applicants describe their relationship with the research subject of collaborating third parties, including their prior research history and financial relationship. This recommendation can be closed when OJP provides us with evidence that it has included language in its research and evaluation grant solicitations to require that applicants describe their relationship with the research subject or collaborating third parties, including their prior research history and financial relationship.
2. **Resolved.** OJP concurred with our recommendation to develop procedures for its program offices to use to identify, evaluate, and perform a risk assessment of the evaluator-research subject relationship in order to assess research and evaluation grant applications for actual and potential conflicts of interest. This recommendation can be closed when OJP provides evidence that it has developed and implemented these procedures.