



**U.S. Department of Justice**

Office of Justice Programs

*Office for Civil Rights*

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*Washington, D.C. 20531*

**Via Certified Mail**

February 5, 2009

Karhlton F. Moore  
Executive Director  
Ohio Office of Criminal Justice Services  
1970 West Broad Street  
Columbus, Ohio 43223

Re: Ohio Office of Criminal Justice Services (08-OCR-0392)

Dear Director Moore:

On June 18, 2007, the Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) initiated a compliance review of all State Administering Agencies, including the Ohio Office of Criminal Justice Services (OCJS), in accordance with federal regulation 28 C.F.R. ' 42.206. The focus of the review was on the OCJS' compliance with applicable federal civil rights laws along with the OCJS' monitoring procedures for ensuring the compliance of subrecipients with these laws. Of particular interest to the OCR was the OCJS' implementation and monitoring of the DOJ's regulations, Equal Treatment for Faith-Based Organizations, 28 C.F.R. pt. 38 [hereinafter Equal Treatment Regulations].

On September 24, 2008, the OCR conducted an onsite visit to the OCJS' offices in Columbus, Ohio, to interview OCJS administrators and to conduct a training program for OCJS administrators and program staff on the federal civil rights laws that the OCR enforces. The OCR would like to thank OCJS staff, especially Assistant Grants Chief Rickeya Franklin, for assisting OCR attorney Shelley Langguth during her onsite visit. On the same day, the OCR made an onsite visit to a faith-based subrecipient of OCJS in Dayton, Ohio: the Dayton Chapter Southern Christian Leadership Conference.

Based on the OCJS' responses to our data request and the information that the OCR gathered during our onsite visit, the OCR sent the OCJS a draft Compliance Review Report on December 29, 2008. In a letter dated January 29, 2009, the OCJS provided the OCR with a correction regarding the OCR's discussion of the OCJS' EEO Compliance Form. In accordance with the OCJS' comment, the OCR slightly revised our discussion of this issue on pages 4 and 5 of this Compliance Review Report.

In regard to the limited scope of this compliance review, the OCR concludes that the OCJS appears to be in substantial compliance with the federal civil rights laws that the OCR enforces. Nonetheless, we have reservations about whether the OCJS has adequate complaint procedures in place to respond to discrimination complaints from its beneficiaries and from beneficiaries and employees of subrecipients, and whether it is sufficiently training and educating its subrecipients on applicable federal civil rights laws. The following Compliance Review Report includes recommendations for improving the OCJS' methods for monitoring the civil rights compliance of subrecipients.

## **Compliance Review Report: Overview and Recommendations**

### **I. Overview**

This Compliance Review Report first examines the OCJS' procedures for monitoring whether subrecipients are meeting their obligations to comply with the federal civil rights laws that are a condition for receiving federal financial assistance. The Report then focuses on the OCJS' implementation of the DOJ's Equal Treatment Regulations.

#### **A. General Monitoring Procedures to Ensure Subrecipient Compliance with Applicable Federal Civil Rights Laws**

Recipients of federal financial assistance from the OJP are responsible for certifying that contractors and subrecipients under DOJ grant programs comply with applicable federal civil rights laws. In reviewing the OCJS' general efforts to ensure subrecipients' compliance with their civil rights obligations, the OCR examined how the OCJS used the following four tools: (1) standard assurances, (2) onsite visits and other monitoring methods, (3) training programs and technical assistance, and (4) procedures for receiving, investigating, and resolving complaints alleging discrimination in the delivery of services.

##### **1. Standard Assurances**

The OCJS' Grants Administration Section (GAS) is responsible for administering OCJS grants, including DOJ subawards. Before the GAS releases DOJ funds, subrecipients must sign the OCJS Subgrant Award Agreement, whereby they agree to abide by the Standard Federal Subgrant Conditions. Chapter 4 of these Standard Federal Subgrant Conditions, "Certifications and Assurances," contains a section entitled "Non-Discrimination Requirements." This section states in part that "[b]y accepting the subgrant, the subgrantee certifies that they comply, and will ensure the compliance with all applicable civil rights non-discrimination requirements as set forth on the OJP Assurances Form 4000/3 (Attachment to SF 424)." During the OCR's onsite visit, a GAS grants manager said that "OJP Assurances Form 4000/3" refers to the OJP's Standard Assurances, in which paragraph 6 discusses the civil rights laws that the OCR enforces.

Karhlton F. Moore, Executive Director  
Ohio Office of Criminal Justice Services  
February 5, 2009  
Page 3

However, the GAS grants manager said that subrecipients do not receive a copy of the OJP's Standard Assurances, and that the OCJS does not post this document on its website. The non-discrimination section of the Standard Federal Subgrant Conditions also states that in the event a federal or state court or federal or state administrative agency makes a finding of discrimination against a subrecipient after a due process hearing on the grounds of race, color, national origin, sex, or disability, the subrecipient must forward a copy of the findings to the OCJS and the OCR. Additionally, the section states that the subrecipient must provide the OCR with an Equal Opportunity Plan, if required, where the award is \$500,000.00 or more.

Chapter 4 of the Standard Federal Subgrant Conditions also contains a section entitled "Equal Employment Opportunity," which states that the subrecipient shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, national origin, disability, age, or Vietnam-era status. This section further requires the subrecipient to provide notice that it will not discriminate in employment by posting such notice in all solicitations for employment, in all contracts, and in conspicuous places available to employees and applicants.

During the onsite visit, the GAS grants manager explained to the OCR that in addition to the Standard Federal Subgrant Conditions, a particular grant program may have some special conditions that are binding on subrecipients. The GAS grants manager provided the OCR with the Special Conditions for the DOJ-funded Residential Substance Abuse Treatment Grant Program, the Fiscal Year (FY) 2006 Project Safe Neighborhood Program, the FY 2007 Edward Byrne Memorial Justice Assistance Grant (JAG) Program, and the FY 2007 Violence Against Women Formula Grant Program; these special conditions all contain a paragraph stating that the subrecipient must comply with Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and that this Order requires all recipients of federal funding to provide meaningful access to their services to persons who are limited English proficient (LEP). The relevant paragraphs also contain a link to the DOJ LEP guidance document. In addition, the special conditions for the FY 2007 Violence Against Women Formula Grant Program contains a paragraph stating that subrecipients must comply with the applicable provisions of the DOJ's Equal Treatment Regulations. This paragraph (paragraph 5) states that DOJ grant awards of direct<sup>1</sup> funding may not be used for any inherently religious activities and that any religious activities must involve voluntary participation and must be separate in time and place from the DOJ-funded program, and that organizations directly funded by the DOJ are not permitted to discriminate on the basis of religion in the provision of services.

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<sup>1</sup> Please be aware that the requirements contained in the Equal Treatment Regulations, along with all requirements contained in the laws that the OCR enforces, are binding on both direct recipients of DOJ funding and all subrecipients.

Additionally, upon reviewing the OCJS' website in November 2008, the OCR found an EEO Compliance Form that was part of the posted application packet for the JAG program and which applicants must complete. This EEO Compliance Form explains that a subrecipient must formulate, implement, and maintain an Equal Employment Opportunity Program (EEOP) if the subrecipient has 50 or more employees, has received \$25,000.00 in federal funding since 1968, and has a service population with a minority representation of three percent.<sup>2</sup> The form further states that if a subrecipient has a single award of \$500,000 or more, or one million dollars in funding in an eighteen-month period, the subrecipient must file an EEOP.<sup>3</sup> All applicants must either complete Part A of the form, certifying that the applicant has formulated an EEOP, or Part B, certifying that the applicant is not required to prepare an EEOP under 28 C.F.R. part 42, Subpart E. The OCJS subsequently told the OCR that all of the OCJS' federally-funded subrecipients are required to submit an EEO Compliance Form to the OCJS.

## 2. Onsite Visits and Other Monitoring Methods

During and subsequent to the OCR's onsite visit, the GAS grants manager explained that depending on the nature of the grant, the OCJS' Policy Research Section and the Law Enforcement Service Section conduct onsite programmatic monitoring of DOJ subrecipients, and the GAS conducts desktop financial monitoring of all subrecipients. According to the grants manager, staff from the Policy Research Section or the Law Enforcement Services Section conduct one onsite monitoring visit of each subrecipient during a four-year period. The GAS grants manager provided the OCR with a copy of the monitoring form that both of these sections utilize during onsite visits; currently, the form does not include questions on civil rights compliance. However, subsequent to the OCR's onsite visit, the grants manager provided the OCR with draft questions on civil rights compliance that the OCJS intends to include during its onsite and desktop monitoring. These questions relate to whether the subrecipient has received any civil rights complaints or violations.

Also, in its data response, the OCJS provided the OCR with a copy of the Quarterly Subgrant Report that each subrecipient is required to submit; this report does not contain any questions regarding the subrecipient's compliance with civil rights laws.

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<sup>2</sup> Please note that whether an agency is subject to EEOP requirements also depends on the source of the federal funding and the type of organization. In regard to DOJ recipients or subrecipients, only those entities receiving funding authorized by the Omnibus Crime Control and Safe Streets Act of 1968 are subject to the DOJ's EEOP requirements at 28 C.F.R. §§ 42.301-308. Furthermore, non-profit organizations, medical institutions, educational institutions, and Indian tribes are exempt from the EEOP requirements.

<sup>3</sup> Only recipients or subrecipients who receive a single award of \$500,000.00 or more are required to submit an EEOP to the OCR. Agencies that do not meet this requirement but receive one million dollars or more in funding are no longer required to submit an EEOP to the OCR.

As discussed in Section I.A.1 of this Compliance Review Report, the OCJS' Standard Federal Subgrant Conditions require subrecipients to forward to the OCJS and the OCR any findings of discrimination against the subrecipient issued by a federal or state court or federal or state administrative agency. This assists the OCJS in ensuring that its subrecipients are meeting the obligation to submit findings of discrimination to the OCR. The Standard Subgrant Agreement also requires subrecipients to provide the OCR with an EEOP, if required; however, it does not appear that subrecipients are also required to submit the EEOP to the OCJS. Also as discussed in Section I.A.1, all subrecipients are required to provide the OCJS with an EEO Compliance Form, certifying whether they have prepared an EEOP.

### 3. Training and Technical Assistance

In its data response, the OCJS said that it relies on the Ohio Attorney General's Office to speak with subrecipients regarding their civil rights obligations. During the OCR's onsite visit, the GAS grants manager said that all new subrecipients attend a mandatory orientation session and that a representative from the Ohio Attorney General's Office participates in this training session and provides information on federal civil rights requirements. Subsequent to the OCR's onsite visit, the GAS grants manager clarified that when the OCJS recently became part of the Ohio Department of Public Safety (DPS), the DPS Legal Department assumed the responsibility for training new subrecipients on civil rights requirements.

The GAS grants manager provided the OCR with materials on federal civil rights laws that the DPS Legal Department relies upon when training new subrecipients. One of these documents demonstrates that the Legal Department discusses civil rights requirements under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, Title IX of the Education Amendments of 1972, and the Age Discrimination Act of 1975, along with the DOJ implementing regulations. This document also references grants authorized by the Omnibus Crime Control and Safe Streets Act of 1968 (Safe Streets Act); however, based on the document, it does not appear that the Legal Department discusses the civil rights requirements contained in the Safe Streets Act.

### 4. Complaint Procedures

The OCJS does not have any formal procedures in place to handle discrimination complaints from employees or beneficiaries of subrecipients. During the onsite visit, OCJS staff told OCR that the OCJS does not instruct subrecipients on what they should do in the event they receive a discrimination complaint, and that the OCJS is not aware of an employee or beneficiary of a subrecipient ever filing a discrimination complaint against a subrecipient. In its response to the OCR's data request, the OCJS said that if it becomes aware of an allegation of discrimination against a subrecipient, the OCJS would notify its Legal Department, Human Resources Department, and Administrative Investigations Section.

The OCJS does have several internal policies in place to address discrimination complaints filed by employees of the OCJS. During the OCR's onsite visit, the OCJS provided the OCR with DPS<sup>4</sup> Policy Number DPS-501.29, Discrimination and Unlawful Harassment, which prohibits harassment and discrimination based on race, color, religion, sex, national origin, disability, age, ancestry, or veteran status in hiring and employment practices. The OCJS also provided the OCR with the DPS Policy Number DPS-501.36, Grievance Policy, which establishes a process for employees to grieve perceived violations of employee rights, including the improper application of policies and procedures and state and federal laws.

The State of Ohio has several administrative agencies that handle discrimination complaints from employees of the OCJS, and one of these agencies has jurisdiction over complaints from employees and perhaps beneficiaries of OCJS subrecipients as well. Based on the OCR's research, we understand that the Ohio Department of Administrative Services, Equal Opportunity Division (EOD), has jurisdiction over discrimination complaints from employees or applicants of employment of state agencies, including the DPS. The Ohio Civil Rights Commission (OCRC) investigates allegations of discrimination brought by individuals living or working in the State of Ohio concerning employment, public accommodations, housing, credit, and higher education on the basis of race, color, religion, sex, national origin, disability, age, ancestry, or familial status. Accordingly, it appears that employees of OCJS subrecipients may file discrimination complaints with the OCRC. It further appears that beneficiaries of subrecipients may be able to file discrimination complaints with the OCRC, depending on whether the program or activity of the subrecipient qualifies as a place of public accommodation.

## B. Monitoring Compliance with Faith-Based Regulations

The purpose of the Equal Treatment Regulations is to ensure that A[r]eligious organizations are eligible, on the same basis as any other organization, to participate in any [Justice] Department program for which they are otherwise eligible.@ 28 C.F.R. ' 38.1(a). The Regulations prohibit the DOJ and DOJ funding recipients from discriminating either for or against an organization on the basis of the organization's religious character or affiliation. Id. In evaluating the OCJS' treatment of faith-based organizations, the Compliance Review focuses on two issues: (1) the review process for making awards to applicant faith-based organizations, and (2) procedures for ensuring that funded faith-based organizations comply with applicable federal civil rights laws.

### 1. The Process for Making Awards to Applicant Faith-Based Organizations

In its data response, when asked if the OCJS has undertaken any action to ensure that faith-based organizations are neither being favored nor discriminated against in the funding process, the

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<sup>4</sup> As discussed in Section I.A.3 of this Compliance Review Report, while the OCJS was once a stand-alone agency, it is now a component of the DPS.

OCJS said that it would not discriminate or show favoritism to any program. During the OCR's onsite visit, a GAS grants manager said that the GAS posts funding solicitations for DOJ grant programs on the OCJS website, and that the GAS also includes funding notices in the OCJS publication Criminal Justice Weekly. Once the GAS receives the grant applications, it convenes several grant reviewers, who are subject matter experts, to review the applications. Staff from the GAS, the Law Enforcement Section, and/or the Policy and Research Section then meet with the grant reviewers to discuss the applications and make the funding decisions. In its data response, the OCJS said that it does not provide staff and grant reviewers with training on the Equal Treatment Regulations.

In responding to the OCR's data request for information on the OCJS' funding of faith-based organizations in FY 2006, the OCJS reported that one faith-based organization, Dayton Chapter Southern Christian Leadership Conference (SCLC), applied for and received DOJ funding, with an award period of January 1 to December 31, 2007. The OCJS explained that this was a JAG subaward, and that the Dayton Chapter SCLC applied for \$23,858.00 and received \$14,000. According to the OCJS' data response, the Dayton Chapter SCLC applied for funding in FY 2007 but the OCJS had not yet made its funding decisions; during the OCR's onsite visit, the OCR learned that the Dayton Chapter SCLC received a continuation grant in FY 2007 for \$18,843.00, due to expire on December 31, 2008. During the OCR's onsite visit, OCJS staff stated that no other faith-based organizations applied for or received funding over the past few years.

## 2. Procedures for Ensuring that Faith-Based Organizations Comply with Applicable Federal Civil Rights Laws

The OCJS does not appear to have any specific procedures in place for ensuring that faith-based organizations comply with the Equal Treatment Regulations and other federal civil rights laws. As discussed in Section I.A.2 of this Compliance Review Report, while the OCJS conducts periodic onsite monitoring visits of DOJ subrecipients, it does not appear that OCJS staff specifically monitor for compliance with applicable civil rights laws, including faith-based organizations' compliance with the Equal Treatment Regulations. As discussed in Section I.A.1 of this Compliance Review Report, the Special Conditions for the FY 2007 Violence Against Women Formula Grant Program do contain a paragraph on the Equal Treatment Regulations, whereby the OCJS notifies these recipients of the prohibition against using federal funding for inherently religious activities and against discriminating against beneficiaries in the provision of services.

In its data response, the OCJS said that all nonprofit applicants are required to obtain federal tax exempt status under 26 U.S.C. § 501(c)(3) once they are selected for funding. During the OCR's onsite visit, OCJS staff said that the OCJS has historically required this of its nonprofit

subrecipients, and that the OCJS does not believe that state law requires tax exempt standing in order to demonstrate nonprofit status.

As part of the OCR's onsite visit of the OCJS, we conducted an onsite visit of the Dayton Chapter SCLC in Dayton, Ohio. According to the materials that representatives of the Dayton Chapter SCLC provided to the OCR, the Dayton Chapter SCLC is a nonprofit, non-sectarian, inter-faith, predominately African American advocacy organization that is committed to non-violence action to achieve social, economic, and political justice. The focus of this organization is to promote spiritual principals within local communities; to educate youth and adults in personal responsibility, leadership potential, and community service; to ensure economic justice and civil rights; and to eradicate classism and racism. During the OCR's onsite visit, program administrators told the OCR that the Dayton Chapter SCLC uses JAG funds for its Teen Relationship Abuse Project (TRAP), which is a school-based violence prevention program targeting urban youth. According to written materials on the TRAP, it is designed to teach young men and women how to develop healthy relationships with each other and to address dating violence and sexual assault. The program administrators said that Dayton Chapter SCLC staff teach violence prevention courses in six or seven urban high schools, and that the program also has an after-school mentoring component at the Dayton Chapter SCLC facility.

The program administrators told OCR that the Dayton Chapter SCLC does not take religion into account when determining who to serve and does not inquire as to a potential beneficiary's religious background. The program administrators further told OCR that the Dayton Chapter SCLC does not require its staff to have a particular religious affiliation. The OCR found no evidence that the Dayton Chapter SCLC was using DOJ resources for inherently religious purposes or that it was discriminating against beneficiaries on the basis of religion or religious belief in violation of the Equal Treatment Regulations.

## I. Recommendations

The OCJS already has some procedures in place for monitoring the civil rights compliance of its subrecipients. To strengthen the OCJS' monitoring efforts, the OCR offers the following seven recommendations: (1) develop a comprehensive policy, including the establishment of written procedures, for addressing discrimination complaints; (2) add a citation referring to DOJ's Equal Treatment Regulations to the Standard Federal Subgrant Conditions; (3) include information on all of the applicable federal civil rights laws in its Standard Federal Subgrant Conditions; (4) monitor for compliance with federal civil rights laws during onsite monitoring visits; (5) ensure that the training provided to DOJ subrecipients covers all of the civil rights laws that the OCR enforces; (6) provide all subrecipients with a more detailed EEOP Certification Form to complete; and (7) allow subrecipients to demonstrate nonprofit status by any of the means identified in the DOJ's Equal Treatment Regulations.

A. Develop a Comprehensive Policy for Addressing Discrimination Complaints

While the OCJS, through DPS, has written policies in place for receiving and investigating discrimination complaints from employees, the OCJS does not have any procedures in place for addressing discrimination complaints from beneficiaries of OCJS or from beneficiaries or employees of subrecipients. Accordingly, the OCJS, through the DPS<sup>5</sup>, should adopt a policy for addressing discrimination complaints that includes at a minimum the following elements:

- 1) designating a coordinator who is responsible for overseeing the complaint process;
- 2) notifying employees, beneficiaries, and subrecipients of prohibited discrimination in funded programs and activities and the DPS' policy and procedures for handling discrimination complaints;
- 3) establishing written procedures for receiving discrimination complaints from the DPS' beneficiaries, and from subrecipient employees and beneficiaries;
- 4) referring each complaint to the appropriate agency for investigation and resolution, such as the U.S. Equal Employment Opportunity Commission, the EOD, or the OCRC; or referring the complaint to the OCR, which will review the complaint and work with the DPS to resolve the complaint;
- 5) notifying the OCR in writing when the DPS refers a discrimination complaint to another agency or when the DPS investigates the complaint internally; and
- 6) training DPS program staff on their responsibility to refer discrimination complaints, or potential discrimination issues, to the DPS' complaint coordinator for processing as soon as the alleged discrimination comes to their attention.

Information about the applicable laws, complaint forms, and the investigative process is available at the OCR's website at [www.ojp.usdoj.gov/ocr/crc](http://www.ojp.usdoj.gov/ocr/crc). Developing a comprehensive policy for addressing discrimination complaints should be a top priority for the OCJS and DPS.

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<sup>5</sup> As the OCR explained to the OCJS during and subsequent to our onsite visit, the civil rights laws that the OCR enforces prohibit discrimination in a recipient's "program or activity;" this term refers to the entire state agency that receives funding. Since the OCJS is now a component of the DPS, the laws that the OCR enforces prohibit discrimination by the DPS, and not just the OCJS. Accordingly, complaint procedures should cover discrimination complaints against employees and beneficiaries of the DPS.

B. Add a Citation Referring to the Faith-Based Regulations to the OCJS' Standard Subgrant Conditions

The OCJS should be sure to include reference to the DOJ's Equal Treatment Regulations, 28 C.F.R. pt. 38, in its Standard Federal Subgrant Conditions. The OCJS may also wish to include reference to the Equal Treatment Regulations in all of the special conditions that it has developed for particular grant programs, similar to the paragraph that is contained in the FY 2007 Violence Against Women Formula Grant Program Special Conditions. Subrecipients that receive funding from DOJ components need to be aware of the obligation to comply with these regulations.

C. Include the Relevant Civil Rights/Nondiscrimination Provisions in the OCJS' Standard Federal Subgrant Conditions

The OCJS should include a citation to all of the federal civil rights laws that the OCR enforces and that subrecipients are required to comply with in its Standard Federal Subgrant Conditions. While the OCJS currently references the OJP Standard Assurances in the Standard Federal Subgrant Conditions, the OCJS should explicitly list all of the federal civil rights laws that are discussed in paragraph 6 of OJP's Standard Assurances. For your reference, we are enclosing a copy of OJP's Standard Assurances. Additionally, the OCJS should include reference to the DOJ's Equal Treatment Regulations at 28 C.F.R. pt. 38, as discussed above. The OCJS may also wish to add a sentence stating that in accordance with federal civil rights laws, the subrecipient shall not retaliate against individuals for taking action or participating in action to secure rights protected by these laws. The OCJS may also wish to include all of this information in the special conditions for particular DOJ grant programs.

D. Monitor for Compliance with Federal Civil Rights Laws During Onsite Monitoring Visits

The OCJS is taking steps to ensure that DOJ subrecipients are complying with grant requirements by conducting periodic onsite monitoring visits. However, these onsite monitoring visits do not currently address federal civil rights laws. Pursuant to the OCJS' responsibility to monitor the compliance of subrecipients with applicable federal civil rights laws, the OCJS should incorporate a section on civil rights laws in its monitoring forms. The OCJS should build upon the civil rights questions that it drafted following the OCR's onsite visit, and should evaluate a number of civil rights requirements that are binding on recipients of federal funding (e.g., whether the subrecipient has an EEO on file or has sent one to the OCR for review, whether the subrecipient has findings of discrimination to report to the OCJS or the OCR, whether the subrecipient has posted nondiscrimination notices as required by section 504 of the Rehabilitation Act, whether the subrecipient has a grievance procedure and a designated coordinator as required by section 504 of the Rehabilitation Act and Title IX of the Education Amendments of 1972, or whether the subrecipient is taking steps to provide meaningful access to

its services to LEP individuals). Additionally, the OCJS should be sure to ask questions on whether the subrecipient is complying with DOJ's Equal Treatment Regulations, including the prohibitions against using federal funds to engage in inherently religious activities and discriminating against program beneficiaries on the basis of religion.

E. Provide Comprehensive Training on Federal Civil Rights Laws

The OCJS is currently taking steps to ensure that its subrecipients are trained on federal civil rights laws by having representatives from the DPS Legal Department provide information on this issue during mandatory orientation training for new subrecipients. However, it does not appear that this training covers all of the laws and the civil rights requirements that the OCR enforces, such as the nondiscrimination provision under the Safe Streets Act, the EEOP requirements under 28 C.F.R. §§ 42.301-308, the Equal Treatment Regulations, and the requirement to provide meaningful access to services to LEP individuals. The OCJS should ensure that all of this information is covered by the Legal Department or by the OCJS during the mandatory orientation training. Additionally, the OCJS may wish to require refresher civil rights training for existing subrecipients. The OCR is available to provide the OCJS with technical assistance in developing civil rights training programs.

F. Provide Subrecipients with a More Detailed EEOP Certification Form to Complete

As discussed in Section I.A.1 of this Compliance Review Report, the OCJS includes an EEO Compliance Form in some of its grant applications for applicant subrecipients to complete. However, this form does not contain sufficient information for an applicant to determine whether it is required to prepare and/or submit an EEOP to the OCR. The OCR is enclosing a copy of the OCR's EEOP Certification Form that we require funding recipients to complete; this form contains detailed information on which funding recipients are required to prepare and keep on file an EEOP, are required to submit an EEOP to the OCR, or are exempt from the EEOP requirement. The OCJS should utilize this form or should prepare a similar form containing all of the relevant information that all applicant subrecipients must complete and submit to the OCR and the OCJS if they are not required to submit an EEOP.

G. Allow Subrecipients to Demonstrate Nonprofit Status by Any of the Means Identified in DOJ's Equal Treatment Regulations

As discussed in Section I.B.2 of this Compliance Review Report, the OCJS requires nonprofit organizations to obtain federal tax exempt status under 26 U.S.C. § 501(c)(3) to be eligible for DOJ funding, although OCJS staff told the OCR that they do not believe that this is required under state law. Unless 501(c)(3) status is required under the particular grant program (e.g., programs funded under the federal Juvenile Justice and Delinquency Prevention Act), the OCJS

Karhlton F. Moore, Executive Director  
Ohio Office of Criminal Justice Services  
February 5, 2009  
Page 12

should be mindful that applicants can also demonstrate nonprofit status by any of the following means identified in the DOJ's Equal Treatment Regulations: (1) proof that the Internal Revenue Service recognizes the organization as being tax exempt under 501(c)(3) of the Internal Revenue Code; (2) a statement from a state taxing body or state secretary of state certifying that the organization is a nonprofit organization and that no part of the organization's net earnings may benefit any private shareholder or individual; (3) a certified copy of a certificate of incorporation or similar document establishing nonprofit status; and (4) any of the above, if it applies to a state or national parent organization, with a statement by the state or national parent organization that the applicant is a local nonprofit affiliate. 28 C.F.R. § 38.1(g).

#### Conclusion

Except for the concerns we have raised in Section II of this Compliance Review Report, we find that the OCJS is in substantial compliance with the federal civil rights laws that the OCR enforces. On request, the OCR is available to provide technical assistance to the OCJS in addressing the concerns raised in this Report. **Immediately upon receipt of this letter, we ask that a responsible OCJS official contact Attorney Advisor Shelley Langguth to develop a timeline and goals for implementing the OCR's recommendations.**

Thank you for your cooperation and the assistance of your staff throughout the compliance review process. If you have any questions, please contact Ms. Langguth at (202) 305-2353.

Sincerely,

/s/

Michael L. Alston  
Director

#### Enclosures

cc: Henry Guzman, Director  
Ohio Department of Public Safety