

## Department of Justice

## § 90.61

(2) Plans should be developed by consulting with tribal law enforcement, prosecutors, courts, and victim services, to the extent that they exist, and women in the community to be served. Applicants are also encouraged to integrate into their plans tribal methods of addressing violent crimes against women. Additionally, tribes may want to develop a domestic violence code, if one is not already in place, to facilitate the implementation of strategies which have reduced violence against women in other court systems.

(c) *Requirements.* Applicants in their applications shall at the minimum:

(1) Describe the project or projects to be funded.

(2) Agree to cooperate with the National Institute of Justice in a Federally-sponsored evaluation of their projects.

(d) *Certifications.* (1) As required by section 2002(c) each Indian tribal government must certify in its application that it has met the requirements of this subpart regarding the use of funds for eligible purposes (§90.52); and non-supplantation (§90.56).

(2) A certification that all the information contained in the application is correct, that all submissions will be treated as a material representation of fact upon which reliance will be placed, that any false or incomplete representation may result in suspension or termination of funding, recovery of funds provided, and civil and/or criminal sanctions.

### § 90.58 Evaluation.

The National Institute of Justice will conduct an evaluation of these programs.

### § 90.59 Grantee reporting.

(a) Upon completion of the grant period under this part, an Indian tribal grantee shall file a performance report with the Assistant Attorney General for the Office of Justice Programs explaining the activities carried out, including an assessment of the effectiveness of those activities in achieving the purposes of this subpart. Section 2002(h)(1).

(b) The Assistant Attorney General shall suspend funding for an approved application if:

(1) An applicant fails to submit an annual performance report;

(2) Funds are expended for purposes other than those described in this subchapter; or

(3) A report under this section or accompanying assessments demonstrate to the Assistant Attorney General that the program is ineffective or financially unsound.

## Subpart D—Arrest Policies in Domestic Violence Cases

SOURCE: 61 FR 40733, Aug. 6, 1996, unless otherwise noted.

### § 90.60 Scope.

This subpart sets forth the statutory framework of the Violence Against Women Act's sections seeking to encourage States, Indian tribal governments, and units of local government to treat domestic violence as a serious violation of criminal law.

### § 90.61 Definitions.

For purposes of this subpart, the following definitions apply.

(a) *Domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabiting with or has cohabited with the victim as a spouse, a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other adult person against a victim who is protected from that person's acts under the domestic or family violence laws of the eligible State, Indian tribal government, or unit of local government that receives a grant under this subchapter.

(b) *Protection order* includes any injunction issued for the purpose of preventing violent or threatening acts of domestic violence, including temporary and final orders issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding.

(c) *Unit of local government* means any city, county, township, town, borough,

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parish, village, or other general-purpose political subdivision of a State; an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior; or, for the purpose of assistance eligibility, any agency of the District of Columbia government or the United States Government performing law enforcement functions in and for the District of Columbia, and the Trust Territory of the Pacific Islands.

**§ 90.62 Purposes.**

- (a) The purposes of this program are:
- (1) To implement mandatory arrest or pro-arrest programs and policies in police departments, including mandatory arrest programs or pro-arrest programs and policies for protection order violations;
  - (2) To develop policies and training programs in police departments and other criminal justice agencies to improve tracking of cases involving domestic violence;
  - (3) To centralize and coordinate police enforcement, prosecution, probation, parole or judicial responsibility for domestic violence cases in groups or units of police officers, prosecutors, probation and parole officers or judges;
  - (4) To coordinate computer tracking systems to ensure communication between police, prosecutors, and both criminal and family courts;
  - (5) To strengthen legal advocacy service programs for victims of domestic violence; and
  - (6) To educate judges, and others responsible for judicial handling of domestic violence cases, in criminal, tribal, and other courts about domestic violence and improve judicial handling of such cases.
- (b) Grants awarded for these purposes must demonstrate meaningful attention to victim safety and offender accountability.

**§ 90.63 Eligibility.**

- (a) Eligible grantees are States, Indian tribal governments, or units of local government that:
- (1) Certify that their laws or official policies—
    - (i) Encourage or mandate the arrest of domestic violence offenders based on

probable cause that an offense has been committed; and

- (ii) Encourage or mandate the arrest of domestic violence offenders who violate the terms of a valid and outstanding protection order;
  - (2) Demonstrate that their laws, policies, or practices and their training programs discourage dual arrests of offender and victim;
  - (3) Certify that their laws, policies, or practices prohibit issuance of mutual restraining orders of protection except in cases where both spouses file a claim and the court makes detailed findings of fact indicating that both spouses acted primarily as aggressors and that neither spouse acted primarily in self-defense; and
  - (4) Certify that their laws, policies, or practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the abused bear the costs associated with filing criminal charges or the service of such charges on an abuser, or that the abused bear the costs associated with the issuance or service of a warrant, protection order, or witness subpoena (arising from the incident that is the subject of arrest or criminal prosecution).
- (b) If these laws, policies, or practices are not currently in place, States, Indian tribal governments, and units of local government must provide assurances that they will be in compliance with the requirements of this section by the date on which the next session of the State or Indian Tribal legislature ends, or September 13, 1996, whichever is later. Omnibus Act 2102(a)(1) 42 U.S.C. 3796hh-1(a)(1).
- (c) For the purposes of this Program, a jurisdiction need not have pre-existing policies encouraging or mandating arrest to meet the eligibility requirements listed in this section. However, in its application for funding through this Program, a State, Indian tribal government, or unit of local government must identify the type of policy that it intends to develop, and specify the process by which the policy will be developed and enacted. The policy development process must involve a coordinated effort by criminal justice