Final Rule. The Office of Justice Programs thanks all those who commented on this program.

Commentators unanimously voiced their support for the Department's efforts to implement the Program and offered positive suggestions for the essential element of the regulation, the exclusion of violent offenders definition. Commentators also noted concerns in other areas, including the design and type of services provided in programs for Drug Court participants, judicial supervision, participation with local agencies, defendants' rights, and available funding.

The majority of comments focused on the definition of the term "violent offender." While all agreed that such individuals should be excluded and that the definition worked toward achieving that result, some were concerned with its potential breadth. The Department gave much consideration to this particular definitional issue in drafting the Proposed Rule and the subsequent guidelines. Indeed, a careful survey of the comments made in preparation for publication of the Final Rule provided an opportunity for the Department to revisit many of these concerns. Our reexamination, however, suggested that our original approach is appropriate in that it tracks the language of the Act.

We appreciate those comments received regarding program design, treatment availability, and services provided. We emphasized in the preamble of the Proposed Rule, as we do now, that the Department will accept a variety of approaches. Indeed, rather than prescribing one model, the Program Guidelines appropriately encourage flexibility in developing local Drug Court programs. Localities are encouraged to tailor intervention approaches best suited to address local circumstances. Within the boundaries set by the statute, the Department is committed to maintaining flexibility to avoid any restrictions on localities that would tend to limit development to one particular design. The design flexibility provided for local Drug Court programs, similarly, allows grantees to develop an array of services appropriate to the local constituent population served, thereby avoiding the need to specify a list of particular services as a prerequisite for participation.

We received comments concerning the potential impact of Drug Court programming on the rights of individual defendants. Guidelines require participation by the entire criminal justice system including courts, prosecutors and public defenders, to ensure effective programming and that the rights of individual defendants are protected.

The issue of judicial supervision raised by some commentators is a central feature of the program. According to the terms of the statute, judicial supervision must be ongoing. Therefore, it has been retained as a seminal program requirement for all Drug Court programming.

Some commentators focused on the issue of the overall effectiveness of the Program nationally and the role of evaluations in that effort. Assessments and evaluations of Drug Court programs will be carried out by individual grantees in consultation with the National Institute of Justice (NIJ) and other appropriate agencies. It is the Department's intention to review data provided by individual program grantees nationwide to help evaluate the overall effectiveness of the Drug Court Program. NIJ-sponsored impact and process evaluations will focus in more depth on selected Drug Courts funded under this Program.

## **Administrative Requirements**

This regulation has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation. This rule is not a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and, accordingly, this rule has not been reviewed by the Office of Management and Budget.

The Assistant Attorney General for the Office of Justice Programs, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

## List of Subjects in 28 CFR Part 93

Grant programs, Judicial administration.

For the reasons set out in the preamble, Title 28, Chapter 1, of the Code of Federal Regulations is amended by adding a new Part 93, consisting of Subpart A as set forth below.

# PART 93—PROVISIONS IMPLEMENTING THE VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994

## Subpart A—Drug Courts

Sec.

93.1 Purpose

93.2 Statutory Authority

93.3 Definitions

93.4 Grant Authority

93.5 Exclusion of Violent Offenders

#### Subpart B—[Reserved]

Authority: 42 U.S.C. 3796ii-3796ii-8.

## Subpart A—Drug Courts

### § 93.1 Purpose.

This part sets forth requirements and procedures to ensure that grants to States, State courts, local courts, units of local government, and Indian tribal governments, acting directly or through agreements with other public or private entities, exclude violent offenders from participation in programs authorized and funded under this part.

### § 93.2 Statutory authority.

This program is authorized under the Violent Crime Control and Law Enforcement Act of 1994, Title V, Public Law 103–322, 108 Stat. 1796, (September 13, 1994), 42 U.S.C. 3796ii–3796ii–8.

## § 93.3 Definitions.

- (a) *State* has the same meaning as set forth in section 901(a)(2) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended.
- (b) *Unit of Local Government* has the same meaning as set forth in section 901(a)(3) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended.
- (c) Assistant Attorney General means the Assistant Attorney General for the Office of Justice Programs.
- (d) Violent offender means a person who either—
- (1) Is currently charged with or convicted of an offense during the course of which:
- (i) The person carried, possessed, or used a firearm or other dangerous weapon: or
- (ii) There occurred the use of force against the person of another; or
- (iii) There occurred the death of, or serious bodily injury to, any person; without regard to whether proof of any of the elements described herein is required to convict; or
- (2) Has previously been convicted of a felony crime of violence involving the use or attempted use of force against a person with the intent to cause death or serious bodily harm.

### § 93.4 Grant authority.

(a) The Assistant Attorney General may make grants to States, State courts, local courts, units of local government, and Indian tribal governments, acting directly or through agreements with other public or private entities, for programs that involve:

(I) Continuing judicial supervision over offenders with substance abuse problems who are not violent offenders, and