SPARC✳

November 27, 2024

Dr. Nancy La Vigne
Director
National Institute of Justice

Submitted via email to public.access.nij@usdoj.gov

Re: OJP (NIJ) Docket No. 1826

Dear Dr. La Vigne:

SPARC is a non-profit advocacy organization that supports open and equitable systems for research and education. Our membership includes over 240 academic and research libraries across the U.S., ranging from community colleges to large research universities. SPARC believes that sharing knowledge is a fundamental human right, and that everyone should be able to access, contribute to, and benefit from the knowledge that shapes our world.

We appreciate the opportunity to submit comments as the National Institute of Justice (NIJ) develops a Public Access Plan to increase access to publications and data resulting from NIJ-funded research. Our response follows the headings outlined in the Federal Register notice.

Equity

Providing public access to NIJ-funded research results is critical to achieving the agency's mission to provide evidence, data, and tools to inform criminal and juvenile justice communities, victims services providers, and the public. In furtherance of this mission, NIJ should ensure that all people can contribute to, access, and benefit from the results of its federally funded research.

SPARC fully supports NIJ's stated commitment to require that grantees "deposit their accepted manuscripts under Green Open Access at a public repository." This ensures that authors from all backgrounds and institutions—from rural areas to large cities—can contribute to research without facing financial barriers, like author-side publishing fees or article processing charges (APCs).

Additionally, authors should be able to easily understand the compliance options available to them. To this end, NIJ's public access policy, associated guidance, and communications to researchers should clearly state that authors can fully comply with its public access policy at **no cost** by depositing their author's accepted manuscripts into PubMed Central (as stated in the Federal Register notice) or any other agency-approved repository. Ensuring that authors understand depositing a manuscript under Green Open Access is *free* will be important to NIJ's implementation of the policy.

NIJ's policy should also clarify that any fee an author may be asked to pay is a publication fee and not a fee required by the agency for compliance. It is critical that authors do not conflate compliance with article processing charges (APCs), which create significant barriers for less-well-resourced authors and institutions to make their research available. NIJ should also highlight the variety of publication models available to authors that do not charge APCs—including [Subscribe to Open](#) (S2O) and Diamond Open Access.

NIJ should also consider engaging with the National Academies' [Roundtable on Aligning Incentives for Open Scholarship](#) to promote the growth of sustainable open scholarship policies and practices. We also recommend the agency engage with the [Higher Education Leadership Initiative for Open Scholarship](#) (HELIOS Open) to align its grant review process with efforts to recognize more open and transparent research sharing activities.

To ensure the public is getting the most in return for its investment in NIJ-funded research, the agency should ensure that the implementation of its plan centers productive reuse of publications (including both final articles and authors' accepted manuscripts) so that everyone can access, contribute to, and benefit from the agency's funded research. Full reuse enables others to further interrogate results, build on them, perform text and data mining, and deploy AI and other computational technology. This is discussed in more detail under the "Publications" section below.

Publications

Requiring that NIJ-funded peer-reviewed publications be made immediately and freely available in a designated repository will expand access to critical information about our nation's criminal justice system and ensure such information can be reused and built upon by researchers, practitioners, and policymakers. This will allow researchers to more quickly analyze research results, and to collaborate with one another on the most cutting-edge information thereby unlocking new discoveries that promote safety and advance justice. Researchers—and the public—will no longer have to wait a year to reap the benefits of their taxpayer investment in NIJ research.

Beyond making publications available in a designated repository, NIJ should also ensure that the publications carry full reuse rights, such as those provided by a [CC BY 4.0 International License](#) or its functional equivalent. Full public reuse allows for broad sharing of the publication so that others can analyze it, interrogate the results, perform text and data mining, and deploy

AI and other computational technology. If the public is to reap the full benefits of their taxpayer investment, researchers should be able to deploy the most innovative technologies to analyze the research results.

One way the agency can ensure full reuse is to rely on its existing "Federal Purpose License" (FPL) under [2 C.F.R. § 200.315(b)](). The FPL requires that as a condition of federal funding, grant recipients issue the granting agency a non-exclusive license to use all works subject to copyright and either developed or acquired under the grant. The License allows the agency to "reproduce, publish, or otherwise use the work for Federal purposes and to authorize others to do so."

For clarity, we also suggest that NIJ require that grantees provide an additional license to NIJ that specifically provides the right to grant the public reuse rights to agency publications covered by the public access policy. This is the most straightforward approach that minimizes complexity and burden in compliance by grantee institutions and authors.

Requiring that this additional license be granted as a term and condition of funding would ensure that the agency receives its additional license at the moment the scholarly publication is created, which is how the longstanding FPL operates. In this way, even if an author from the grantee's institution signs a publication agreement that conflicts with the agency's license, the agency's license remains intact, as is the case with the agency's FPL.

We also recommend the agency develop template language that can be attached to or included with the publication, either by the author or NIJ/PubMed Central (PMC) staff, to indicate the publication is available under an open license. For more information and legal background on the Federal Purpose License, we recommend that NIJ reference the newly released white paper "[Open Access and U.S. Federal Information Policy]()" from the Authors Alliance and SPARC.

Compliance

Making compliance easy for researchers will be critical to facilitate successful implementation of NIJ's policy. As discussed above, clear language in NIJ's policy, guidance, and associated communications that explains the *free* process of depositing the author's accepted manuscript into PubMed Central or another approved repository will be necessary to ensure authors understand this free compliance pathway.

Repositories

We understand that NIJ intends to require the deposit of NIJ-funded author's accepted manuscripts into PMC. We encourage the agency to consider institutional repositories as viable compliance options for the deposit of publications as well. Institutional repositories run by libraries and other research institutions generally do not charge authors to deposit articles or manuscripts. They can play an important role in easing compliance burdens on authors, improving discoverability of research outputs, and providing long-term preservation support. To this end, we recommend the NIJ engage with the [U.S. Repository Network (USRN)]() and its efforts to identify best practices and workflows for publication repositories. The USRN released

a document entitled [Desirable Characteristics of Digital Publications Repositories](). These desirable characteristics for publication repositories are important for the agency to consult and consider what repositories, beyond PMC, researchers can use for compliance.

Data

In line with the Office of Science and Technology Policy's [scientific integrity framework](), we believe the free flow of scientific information improves public trust in science in addition to driving innovation and new discoveries. Requiring that the underlying data be shared unlocks the scientific community's ability to reproduce the study and debate the findings and methods behind the publication. The re-analysis of findings allows other experts to root out false results, increasing public trust in science. Making this data public also enables broader engagement with the science and can catalyze collaboration and ideas for future research. Other researchers can not only ensure the integrity of the findings but build on them to generate new knowledge within and across disciplines.

Challenges in Data Costs

The cost of data sharing, preservation, and storage is a challenge for some institutions and researchers. Libraries play an important role in facilitating research data sharing, storage, and management as well as educating faculty and students about campus data resources. While complying with the data requirement will present challenges, particularly around costs and the implementation of new campus workflows and policies, NIJ can mitigate these challenges by investing in open data infrastructure and data repository coordination activities in partnership with libraries. NIH's [GREI initiative]() is one such example that aims to establish shared infrastructure and practices among generalist repositories in NIH's data ecosystem. Partnerships between NIJ and other agencies in supporting data repositories would be beneficial in removing barriers to compliance for researchers and their institutions.

Protecting Sensitive Information in Datasets

NIJ should ensure research datasets underlying its publications are made available in data repositories that meet the desirable characteristics outlined in the National Science & Technology Council's (NSTC) [recommendations for data repositories](), particularly regarding security and integrity and risk management.

Persistent Identifiers

NIJ should require the use of external persistent identifiers (PIDs) and specifically adopt Digital Object Identifiers (DOIs) for publications, datasets, and Data Management Plans, ORCIDs for researchers, and RORs for institutional affiliations, all of which are nonproprietary community standards for each identifier type.

NIJ's PIDs efforts should be coordinated with other participants in interagency working groups, including the NSTC's Subcommittee on Open Science, to identify best practices and potential standards. NIJ also should consider collaboration with standards bodies, such as the National

Information Standards Organization (NISO), to develop a framework and set of standards for a national PIDs strategy to facilitate smooth implementation.

Given the growing centrality of PIDs in research infrastructure, it is essential that the NIJ and other federal agencies only adopt nonproprietary identifier types that enable the broadest possible use and allow anyone to leverage this information in new and innovative ways.

PIDs for people, in particular, should align with the NSTC's and OSTP's [guidance](#) and [policy](#) implementing NSPM-33. To this end, NIJ's policy should require the use of PIDs that meet the NSPM-33 Implementation Guidance requirement that their provider be an "open, non-proprietary, researcher-driven platform."

Metadata should be submitted with publications and data to enable discovery, reuse, and citation, using schemas that are appropriate to, and ideally widely used across the research or discipline communities. Metadata should be provided and recorded in a standard, interoperable, nonproprietary format and a [CC0 public domain license](#) should be assigned to all metadata.

Software

We recommend the NIJ require that the software and code funded by the agency carry an open license such as those approved by the [Open Source Initiative](#) (OSI) to maximize reuse. OSI-approved licenses allow the software to be freely used, modified, and shared and meet the community-trusted definition of [Open Source](#).

General

As discussed in previous sections, placing a [CC BY license](#) or its functional equivalent on a research output provides an important foundation for better ensuring that all NIJ research can be accessed and fully reused. The reuse rights granted by such a license removes restrictions on adaptations to better enable the use of computer screen readers and other assistive technologies. NIJ should continue to follow guidance on digital accessibility outlined in Section 508 of the [Rehabilitation Act (29 U.S.C. 794d)](#), as well as the [Web Content Accessibility Guidelines (WCAG 2.1)](#) produced by the World Wide Web Consortium. Additionally, all NIJ research outputs should be made available in standardized and machine readable formats so that they can be more readily converted to a variety of other formats for use by assistive devices.

Best Practices for Public Access

We appreciate the agency's request in the RFI for best practices. As a library organization, we represent a wide range of experts in scholarly communication. These experts both contribute to and rely on best practices for managing public access, including:

- Maximizing reuse of outputs: Ensuring all articles carry full reuse rights so that taxpayer-funded research can be built upon and interrogated;
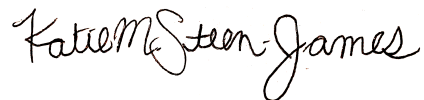
- Distributed network of repositories: Compliance pathways that allow for the deposit of publications and data in any number of repositories, including institutional repositories, as long as they meet desirable characteristics for openness and interoperability;
- Open and nonproprietary PIDs: PIDs should be open and aligned with nonproprietary community standards;
- No-cost compliance pathways for researchers: The default for implementing public access policies should be requiring the deposit of the author's accepted manuscript into an agency-designated repository which is free. A publication fee or article processing charge (APC) should not be required for compliance.

General Challenges

Coordination and harmonization across agency policies will be a challenge but one that agencies are equipped to manage. We recommend agencies work together through established interagency structures to agree on standards for compliance pathways, PIDs, metadata, and other aspects of public access policies. This will ease compliance for institutions and researchers who may have funding from multiple agencies.

SPARC appreciates the opportunity to provide these comments to NIJ as it develops its Public Access Plan. We look forward to working with the agency to leverage the full value and utility of the agency's research.

Sincerely,

Katie Steen-James
Manager of Public Policy & Advocacy