

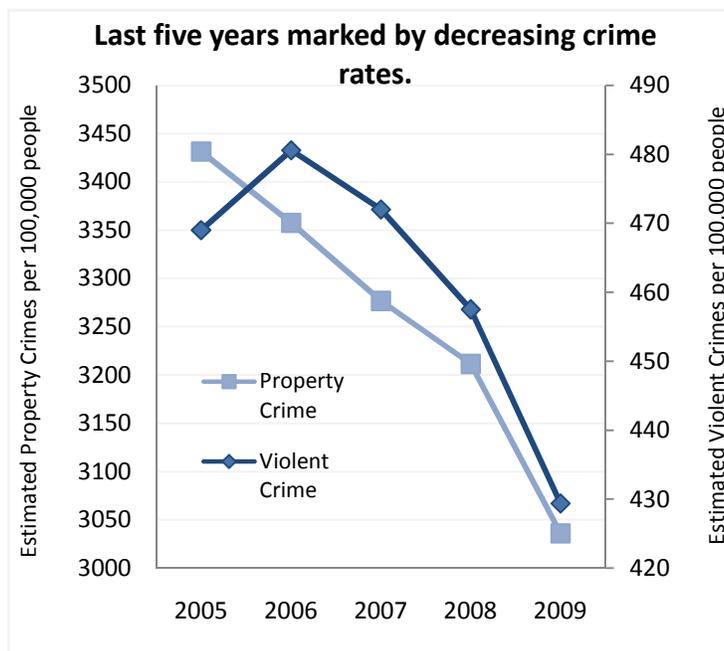
Recovery Money for Byrne JAG Won't Stimulate Greater Public Safety

New reports show ARRA spending on Byrne program can't show outcomes and funds strategies that are likely to increase state costs without improving public safety.

The Justice Policy Institute (JPI), a research and policy organization in Washington, D.C. that studies law enforcement issues, recently reviewed two documents related to the \$2 billion in American Recovery and Reinvestment Act (ARRA) funds spent on the Byrne Justice Assistance Grant (JAG) Program: a new U.S. Government Accountability Office (GAO) report released October 15, 2010 and a National Criminal Justice Association release on self-reported spending on the program by states in 2009.¹ JPI found that both reports reinforce the need for lawmakers to re-examine funding for the Byrne JAG program.

Outcomes and impact of the funding are not being adequately assessed.

In its report, the GAO reviewed ARRA funding of Byrne Justice Assistance Grants (JAG) in 14 states. These states collectively received a little over half of the ARRA Byrne JAG funds, and as of June 30, 2010 had spent about \$270 million.



Source: FBI Uniform Crime Report, *Crime in the United States, 2009*

According to the GAO report, “The DOJ’s performance measures do not consistently exhibit key attributes of successful performance measurement systems, such as clarity, reliability, linkage, objectivity, and measurable targets.” As a result of a lack of clear evaluation measures the impact of increased funding through these grants is unclear and benchmarks for assessment are absent. This information is consistent with past reports that showed the Byrne JAG Program did not produce significant public safety outcomes. With taxpayers spending more than \$2 billion in funding for these activities, measurable public safety outcomes are a necessity. That state and local grantees have not produced measurable outcomes calls into question the wisdom of such large outlays of federal dollars.

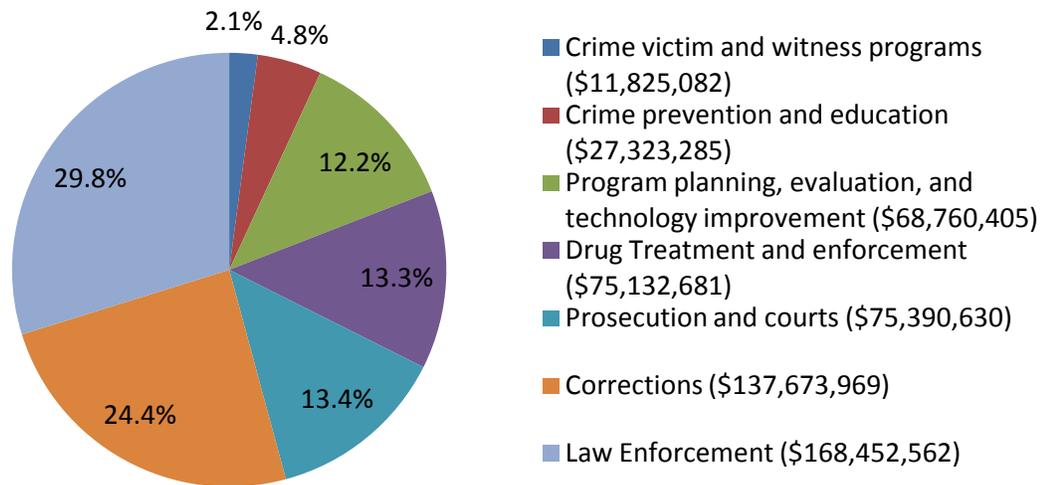
Funding continues to be focused on law enforcement despite decreases in crime.

Byrne JAG grants can be used to fund a variety of justice-related activities, including treatment and prevention. As the graph shows, violent crime has steadily declined for the past five years. Given the decline in both violent

¹ U.S. Government Accountability Office, *Report to Congressional Requesters: Recovery Act, Department of Justice Could Better Assess Justice Assistance Grant Program Impact* (Washington, D.C.: October 2010); National Criminal Justice Association, *Byrne JAG Spending By States across the Criminal Justice System* (Washington, D.C.: 2010), www.ncja.org/CMDownload.aspx?ContentKey=177fafce-7bee-4618-92e2-3acd552a2e33&ContentItemKey=c39b43ba-61c3-430d-b972-cc444289ae2f.

and nonviolent crime,² ARRA funds should have been appropriated with greater emphasis on important social services. However, according to both the GAO and NCJA reports, Byrne JAG grants are most frequently used to fund law enforcement, corrections and prosecution. Research shows spending on law enforcement frequently results in increased arrests and incarceration of people for low-level, often nonviolent, offenses and has a disparate impact on people and communities of color.

Byrne JAG grants are primarily spent on law enforcement and corrections.



Note: Figure does not include the approximately \$64 million (10%) of the total amount awarded across the 14 states in state-retained funds for administration, funds yet to be awarded, or funds designated for other purposes. Source: U.S. Government Accountability Office, *Report to Congressional Requesters: Recovery Act, Department of Justice Could Better Assess Justice Assistance Grant Program Impact* (Washington, D.C.: October 2010).

In addition, the NCJA report highlights spending by project type. As the chart on the following page shows, the greatest single use of Byrne JAG funds by project type is multijurisdictional task forces. Localities that spend more on law enforcement have higher drug imprisonment rates than localities that spend less.³ The increase in funding for law enforcement is likely to increase the number of people in prison or jail, leading to increased federal, state, and local incarceration costs.

The NCJA figures also show that prosecution received seven times as much Byrne JAG funding as public defense. This disproportionate allocation of funds between prosecution and public defense will likely have a negative impact on low-income communities. Increased arrests resulting from the hundreds of millions spent on law enforcement will likely be for low-level, often nonviolent offenses impacting low-income communities and communities of color. Greater number of arrests will contribute to further strain on diminishing public defender budgets and resources for indigent clients.

² FBI Uniform Crime Report, *Crime in the United States, 2009*.

³ Phil Beatty, Amanda Petteruti, and Jason Ziedenberg, *The Vortex: The Concentrated Racial Impact of Drug Imprisonment and the Characteristics of Punitive Counties* (Washington, D.C.: Justice Policy Institute, 2007)

Substance abuse and mental health treatment and prevention funding is inappropriately funded through the criminal justice system.

The Substance Abuse and Mental Health Service Administration (SAMSHA) received no money through the ARRA. As both the GAO and NCJA figures show, the justice system has significant funding dedicated to mental health and substance abuse services. The increasing funds for mental health and substance abuse services indicate that people increasingly may need to be justice-involved in order to receive treatment. Drug courts in particular can result in “net widening,” as localities use them to compensate for a lack of diminishing services in the community. While California used much of their ARRA Byrne JAG funds for substance abuse treatment, those

services are reserved for people who are involved in the justice system. Although there is no available data for cuts by states to substance abuse treatment, the National Association of State Mental Health Program Directors (NASMHPD) reported at the end of 2009 that the combined 32 states reporting saw \$733 million cut from their FY 2010 mental health budgets.⁴

Juvenile justice programs are being inappropriately funded through the adult justice system.

With the exception of mentoring grants and internet crimes against children, no ARRA funding was provided for juvenile justice programs. The GAO report shows that there is no clear way to measure whether the activities that are Byrne grant funded are in line with best practices. Research shows that the most effective way to improve outcomes for youth is to invest in programs that increase opportunities for youth. These programs are best provided outside of law enforcement, and directed toward educational and community based youth programming.

| Selected 2009 Byrne Jag Spending by Project Type - NCJA | |
|---|------------------------|
| Drug or gang task forces | \$170,889,650 |
| Law enforcement equipment and tech purchases | 117,441,037 |
| Drug and substance abuse treatment | 88,641,143 |
| Law enforcement personnel - hiring and retention | 86,880,269 |
| Specialty "problem solving" courts | 60,003,228 |
| Probation & parole | 57,494,576 |
| Other equipment or technology purchases - info sharing | 56,195,157 |
| Law enforcement operations | 48,456,005 |
| Community corrections/alternatives to incarceration | 44,952,042 |
| Corrections, general | 44,066,871 |
| Re-entry | 44,000,443 |
| Other hiring and retention | 38,356,865 |
| Juvenile delinquency prevention | 29,681,185 |
| Juvenile delinquency - gang prevention or suppression | 22,738,116 |
| Prosecution | 22,619,421 |
| Mental health services | 16,272,651 |
| Drug and substance abuse prevention | 8,825,330 |
| Pre-trial services | 3,634,558 |
| Public defense | 3,208,686 |
| Identity theft | 826,715 |
| All other spending | 238,354,266 |
| TOTAL REPORTED SPENT | \$1,203,538,214 |
| Note: Figure includes FY 09 Recovery Act grant award plus other spending in 2009 which could be drawn from the state's FY09, FY08 or FY07 Byrne JAG grant awards. Source: National Criminal Justice Association, <i>Byrne JAG Spending By States across the Criminal Justice System</i> (Washington, D.C.: 2010). | |

⁴ National Association of State Mental Health Program Directors, “SMHA Budget Reductions Update, Fall/Winter 2009.” Presented at the 2009 NASMHPD Winter Commissioners’ Meeting

DOJ is not using appropriate outcome measures for economic impact or public safety.

A stated purpose of all ARRA funding was to stimulate the economy. While hiring law enforcement personnel with the funds does provide a short term economic benefit, it is likely to create an overall increase in costs to states as a result of increased court processes and incarceration. Funding provided through SAMSHA for mental health and treatment provision in the community could have had a multiplier economic benefit in that not only could treatment professionals have been hired, but those receiving treatment would be less likely to end up in the justice system and more likely to increase their own productivity.

The Department of Justice uses the change in the numbers of people arrested and the change in reported crime rates as measures of success. By using arrests as an outcome measure, law enforcement is incentivized to arrest more people; this in turn will likely lead to more people being arrested for low-level violations. Given that police often return to the same communities, which are often low-income and communities of color, increases in arrests will likely increase disproportionality in the justice system. Having success measures partially linked to arrests, police will be less likely to seek alternate resolutions to problems, such as referrals to treatment. Also, with policing incentivized, it is possible that crime rates may become inflated. For instance, grantees being able to say they expected that either crime would increase *or* crime would decrease as a means to gather funding shows the meaninglessness of this measure.

Recommendations

1. *“Right-size” law enforcement.* Just as schools must reduce the number of teachers on staff when enrollment drops, law enforcement should shrink when crime is low.
2. *Fund substance abuse and mental health prevention and treatment through public health systems.* By reaching people before they come in contact with the justice system, we can reduce future justice involvement and related costs, and reduce the chances that someone will have to deal with the collateral consequences of having a criminal record.
3. *Develop more accurate measures for public safety.* As long as we see the only way to improve public safety as being to hire more police, our country will continue to face staggering rates of incarceration. Public safety investments and measures should include all those systems that reduce the likelihood of justice involvement such as mental health/substance abuse treatment, housing, education and job training.
4. *End the Byrne JAG formula grants, and instead directly and competitively fund programs that have been shown to improve public safety.* The DOJ should identify programs that are effective in the areas of criminal and juvenile justice for future grant funding awards. In order to attract more quality applications, the DOJ could provide training and technical assistance to states and localities to help them develop the best possible applications.