

March 4, 2014

The Honorable Patrick Leahy  
Chair, Senate Judiciary Committee  
433 Russell Senate Office Building  
Washington, DC 20510

The Honorable Charles Grassley  
Ranking Member, Senate Judiciary Committee  
135 Hart Senate Office Building  
Washington, DC 20510

The Honorable Robert Goodlatte  
Chair, House Judiciary Committee  
2309 Rayburn House Office Building  
Washington, DC 20515

The Honorable John Conyers  
Ranking Member, House Judiciary Committee  
2426 Rayburn House Office Building  
Washington, DC 20515

Dear Sirs:

We, the undersigned groups, representing a broad cross section of the criminal justice system, are concerned when the Byrne Justice Assistance Grant (Byrne JAG) program is used as a penalty for noncompliance with new federal legislation. We respectfully ask that Congress instead create incentives or supports to encourage state and local compliance with any new statutory requirements. These need not be financial incentives, but could be training and technical assistance or off-the-shelf software to help jurisdictions implement new laws.

We know first-hand the enormous impact Byrne JAG-funded programs have had in improving the functioning of the criminal justice system across our nation. As the cornerstone federal crime prevention and crime-fighting program, Byrne JAG allows practitioners to test and refine evidence-based approaches to some of the most vexing criminal justice problems. Many Byrne JAG-funded programs have gone on to become successful national programs, such as offender reentry programs and drug courts. Byrne JAG supports all segments of the justice system, from prevention and pre-trial services, to diversion and community corrections, courts, law enforcement, reentry programming, and crime victim services.

States already are subject to substantial penalties under three statutes. First, the Sex Offender Registration and Notification Act (SORNA), which became law in 2006, penalizes states 10 percent of their Byrne JAG funds for failure to meet a wide range of costly requirements for sex offender management. To date, only 17 states and three territories are in compliance with the Act and it appears unlikely that many more will choose to adopt the federal standards.

Second, the Prison Rape Elimination Act (PREA), which became law in 2003, penalizes states 5 percent, not only of their Byrne JAG, but also their juvenile justice and violence against women grants. Although the law was passed 10 years ago, the standards and guidance were finalized only this year. Audits, performed at state and local expense, by DOJ-trained and certified auditors have only just begun. States will suffer the penalty, for at least the first three-year audit cycle, before they are able to assess and confirm compliance with the requirements of the law. The monetary penalty means successful crime reduction strategies will be forced to cease operations in every state.

Third, the NICS Improvements Amendments Act of 2007 sets a schedule for states to digitize and upload their criminal history records into the national criminal background check system. To date, no states are out of compliance with the Act. However, complex policy considerations

may prevent states from meeting the next threshold because of the difficulty of entering mental health and criminal justice system records and adopting “relief from disability” policies.

In recent years, other bills have been introduced that include a Byrne JAG penalty. The Juvenile Justice Accountability and Improvement Act of 2009 would have required states to establish an opportunity for parole for child offenders sentenced to life in prison, and the Managing Arson Through Criminal History Act of 2009 would have required states and territories to manage the criminal arsonists and criminal bomber registry. This Congress, the Death in Custody Reporting Act requires states to report information regarding deaths of individuals in custody or risk 10 percent of their Byrne JAG funds.

Perhaps most troubling, penalty-driven decision-making distorts the strategic planning and policy prioritization process in states and localities, in effect pushing the penalty-bearing programs to positions of importance above all other needs. Strategic planning and data-driven analysis is a key feature of the Byrne JAG program. Requiring spending on the penalty-based programs means the states and territories are investing a significant share of their grant awards outside their strategic plan and often on tasks that are better supported by state or local funds.

We understand that Byrne JAG is a tempting target as a penalty for noncompliance with other mandates because the program is so broad in scope. However, it is also true that its utility as a penalty diminishes as funding drops. Since FY10, funding for the Byrne JAG formula program has dropped by about one-third. Worthy programs have been withdrawn from the field for lack of funding. These programs and the individuals they serve should not be diminished further because of penalties unrelated to the purposes and goals of the Byrne JAG program.

Byrne JAG is one of the most successful justice assistance programs in history. It supports a broad range of prevention and crime fighting programs. Withholding its funding as penalty for noncompliance penalizes these efforts and the people they serve. Therefore, we respectfully request that Byrne JAG is not used as a penalty for other federal mandates in bills now pending or in the future.

Thank you for listening to our concerns.

Sincerely,



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National Criminal Justice Association (NCJA)



Donny Youngblood  
President  
Major County Sheriffs' Association (MCSA)



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Executive Director  
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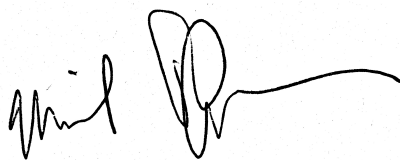
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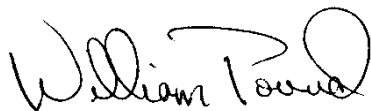
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Copies to:

The Honorable Sheldon Whitehouse

Chair, Senate Judiciary Subcommittee on Crime and Terrorism

The Honorable Lindsey Graham

Ranking member, Senate Judiciary Subcommittee on Crime and Terrorism

The Honorable James Sensenbrenner

Chair, House Judiciary Subcommittee on Crime, Terrorism, Homeland Security and Investigations

The Honorable Robert C. Scott

Ranking member, House Judiciary Subcommittee on Crime, Terrorism, Homeland Security and Investigations