Strengthening Indigent Defense: Understanding State and Federal Resources

January 22 3-4:30 PM EST

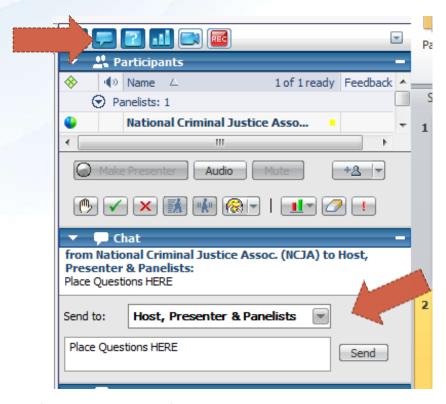
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Moderator

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STRENGTHENING INDIGENT DEFENSE: UNDERSTANDING STATE AND FEDERAL RESOURCES

Access to Justice Initiative – U.S. Department of Justice

U.S. Department of Justice/ National Criminal Justice Association Webinar January 22, 2013



Attorney General Eric Holder

"Let me assure you ... that this is not a passing issue for the Justice Department. I have asked the entire Department to focus on indigent defense issues with a sense of urgency and a commitment to developing and implementing the solutions we need. As many of you know, we recently took an historic step to make access to justice a permanent part of the Department's work, with a focused effort by our leadership offices to ensure that this issue gets the attention it deserves."

- June 19, 2010, Wilmington, North Carolina





http://www.justice.gov/atj/

Byrne Justice Assistance Grants and State Administering Agencies

Jack Cutrone

Executive Director
Illinois Criminal Justice Information Authority

President
National Criminal Justice Association





Edward Byrne Justice Assistance Grant (JAG) Program

Brief History

- 1988: The Edward Byrne Memorial State and Local Law Enforcement Assistance (Byrne Grant) program established and made funding available to states for 29 program purpose areas.
- 1996: The Local Law Enforcement Block Grant (LLEBG) program was created to provide funding to state and local governments for 6 program areas.
- 2005: Congress combined these into the Edward Byrne Memorial Justice Assistance Grant (Byrne JAG) program. In addition to combining funding streams, Congress broadened the mission of the grant by expanding the types of initiatives that could be funded. The 2005 legislation reconciled the previous program areas into 7 overarching purpose areas for which Byrne JAG funds can be used.



Byrne JAG Purpose Areas

7 Purpose Areas

- Law enforcement
- Prosecution and courts
- Prevention and education
- Corrections and community corrections
- Drug treatment and enforcement
- Planning, evaluation, and technology improvement
- Crime victim and witness (other than compensation)

Byrne JAG Funding



- Authorized at \$1.1 billion annually
 - Actual appropriation averages around \$500 million
 - FY2011: \$431 million (\$425 after carve-outs and \$368 after set-asides)
 - FY2012 \$470 million (\$352 after carve-outs and \$295 after set-asides)
- 60 percent formula (State)/40 percent direct awards (Feds)
 - State allocation of formula based on population and UCR Data
 - Formula side administered by State Administering Agencies
 - Direct awards provided to local governments by BJA
 - Some local units receive more than states
 - New York City (\$5.1 million)
 - Chicago (\$3.8 million)
 - Los Angeles (\$2.4 million)
 - Philadelphia (\$2.4 million)
 - Houston (\$2.3 million)
- -Considered the cornerstone of federal support for state and local criminal justice systems
- To learn more check out the **Byrne JAG Technical Report**



State Administering Agencies

State Administering Agencies (SAAs) are entities within state and territorial governments responsible for criminal justice planning, policy development and resource allocation.

- Designated by the Executive Branch of Government
- 56 total SAAs: 50 States, 5 Territories and the District of Columbia
- -To find your Byrne JAG SAA feel free to visit
 - http://www.ncjp.org/state-agencies
 - http://www.ojp.gov/saa/



SAAs: Common Locations and Responsibilities

- -Location in State or Territorial Government
 - -Free Standing Planning Agency
 - -Department of Public Safety/Division of
 - -Governors/Executive Level Office
 - -Attorney General's Office/State Department of Justice
- Responsibilities
 - -Strategic Planning
 - -Resource Allocation
 - -Byrne JAG, RSAT, VAWA, VOCA, OJJDP: Title II/Title VI, PSN
 - 75 percent of SAAs administered at least four DOJ state formula grant programs
 - Policy Development and Analysis
 - Program Monitoring and Evaluation
 - -Staffing/Managing Criminal Justice Coordinating Bodies
 - 57% have public defense representation



SAAs and Byrne JAG Funding

Although the majority of Byrne JAG funding goes to local law enforcement:

- 75 percent of SAAs support at least three of the seven purpose areas
- 50 percent of SAAs support efforts in at least five of the seven purpose areas

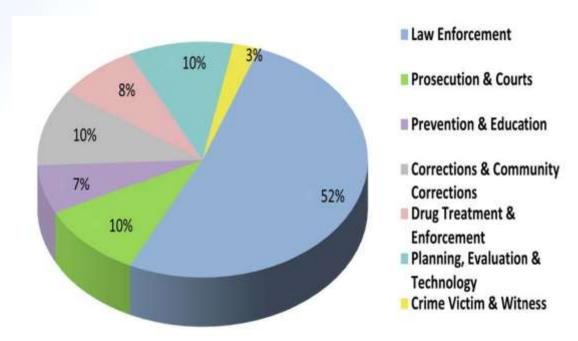
Byrne JAG Support for Public Defense

According to NCJA's yearly survey of how states invested their Byrne JAG funds, SAAs invested:

- \$1.9 Million in Public Defense in 2011
- \$2.9 Million In Public Defense in 2012 *

States using Byrne JAG funds for Public Defense in 2011/2012: AR, GA, IL, IN, KY, MD, MI, MT, NY, PA, RI

SAA Byrne JAG Spending: 2011



^{*} Note all states have yet to respond



THANK YOU

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STRENGTHENING INDIGENT DEFENSE: UNDERSTANDING STATE AND FEDERAL RESOURCES

Jeanie M.Vela

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Denver Regional Office - Colorado State Public Defender

U.S. Department of Justice/ National Criminal Justice Association Webinar

January 22, 2013



Office of the Colorado Public Defender

- 21 regional trial offices
- Centralized appellate office
- Centralized state administrative office
- FY12 410 attorneys
- 134,000 cases
- Budget \$61 million

A Snapshot of Colorado's Federally Funded Projects

Project	Overall Goal
Jefferson County Pre-Sentence Alternatives Project 25-DJ-04-32-3	Divert non-violent individuals with a mental health/drug issue from (I) receiving a costly jail or prison sentence; and (2) reduce the number of days a client is detained in jail pending case disposition.
Boulder County Minority Family Advocate Program 28-JD-07-26	Bridge existing language and cultural barriers between families of color with youth in the justice system and justice agencies to conduct thorough needs assessments and put services in place pre-plea. Further, help families develop strategies to ensure compliance with the child's court sentence.

Strategic Planning: Tools for Securing Funding

- Plan Ahead.
- Identify your project's stakeholders and actively collaborate with them to design the final look of your project.
- Find "local" statistics that support your project.
- Framing your Project:
 - How does it help the justice system as a whole?
 - Put a human face on your target population.
 - Will any SAA members identify with your issue?

SAAs: Colorado Department of Public Safety Division of Criminal Justice

- Composition:
 - 17 Board Members Appointed by Governor
- Non-traditional Representation on Board:
 - Department of Corrections
 - Department of Human Services/Behavioral Health
 - Juvenile and Adult Treatment Providers
 - State Division of Probation Services
 - Retired County Commissioner
 - Public Defender

SAAs: Colorado Department of Public Safety, Division of Criminal Justice

- Key Decision Drivers
 - Partnerships and Collaboration
 - Evidence-Based or Promising Practices
 - Does this project bridge a gap in the system?
 - Connection to an emerging issue within your state?
 - Sustainability

Lessons Learned

- Avoid trying to fit a "square peg" in a "round hole."
- Collaborate, collaborate!
- Become familiar with local resources that can help you evaluate your project.
- Project sustainability:
 - DO NOT wait until the last minute.
 - Think outside of the box.

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Strengthening indigent defense: Understanding state and federal resources

U.S. Department of Justice/ National Criminal Justice Association Webinar January 22, 2013



Ed Monahan

KY Public Advocate

Department of Public Advocacy

KY's statewide public defender program

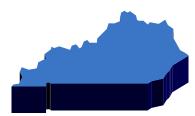
Immediate past chair, American Council of Chief Defenders

Kentucky Department of Public Advocacy

Kentucky's statewide public defender program

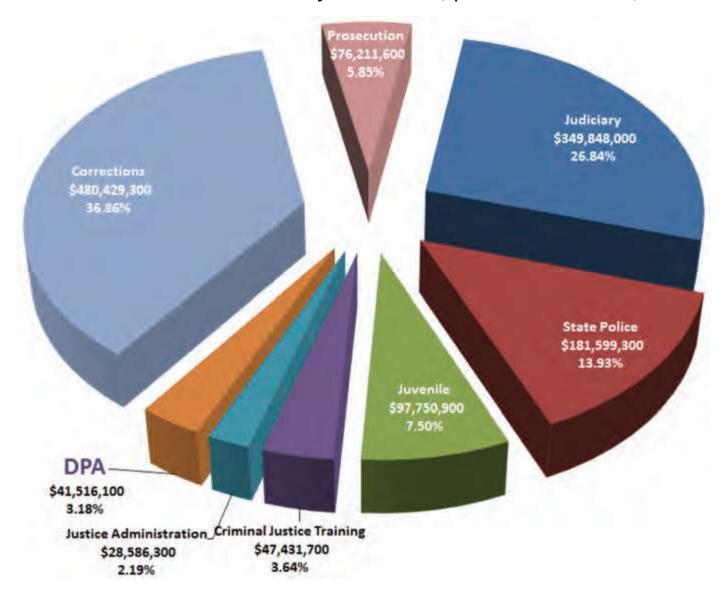
Responsibility for misdemeanor, felony, capital trial cases and all appeals and post-conviction cases

- 605 full-time defender staff
- 365 trial and post-trial staff attorneys
- 161,287 trial and post-trial cases statewide
- Four Divisions
 - Trial
 - Post-Trial
 - Law Operations
 - Protection & Advocacy
- 31 trial offices statewide
- Governing Board: Kentucky Public Advocacy Commission
- Administratively attached to KY Justice and Public Safety Cabinet
- SAA: Kentucky Justice and Public Safety Cabinet



KY Criminal Justice System FY12 Actual Expenditures

KY's criminal justice system is 5.2% of the total state budget DPA receives 3.18% of the criminal justice funds, prosecutors 5.85%, corrections 36.9%



Total DPA Caseloads



The above chart includes all cases in the Trial and Post-Trial Divisions. DPA's overall public defender caseload rose 3.9% in FY12 and has risen 10% in the past 4 years.

What we are learning

- ✓ Awareness
- **✓** Relationship
 - **✓** Discovery
 - ✓ Reframing
- **✓** Collaborating

Reframing



- Public value of public defense
- Efficiency
- Sentencing options that reduce corrections costs
- PDs at first appearance to reduce county jail cost by increasing pretrial release and increase proportionate sentencing
- Reduce costly mistakes

DPA has received funds from the following federal sources

- Byrne/ Justice Assistance Grant
- Juvenile Accountability Block Grant
- American Reinvestment and Recovery Act (ARRA) Justice Assistance Grant (JAG) - Stimulus
- Capital Case Litigation Initiative
- Wrongful Conviction Review

Federal Funds Received by DPA: 24 grants since 1991; 10 since 2008; 12 Byrne from 1991-2003

Grant Name	Grant Number	Start Date	End Date	Final Federal Amount
Juvenile Accountability Block Grant	DJJ-JAB	11/5/2012	Present	\$35,506.00
2012 Capital Case Litigation Initiative	DG-2012-DPA-00009	10/1/2012	8/1/2014	\$103,753.00
Juvenile Accountability Block Grant	DJJ-JAB	11//1/2010	1/31/2012	\$44,569.00
2010 Capital Case Litigation Initiative	DG-2010-DPA-00006	10/1/2010	09/31/13	\$100,000
Capital Case Litigation Initiative	2007-CP-BX-0008	1/1/2009	12/31/2009	\$50,000.00
2009 Capital Case Litigation Initiative	DG-2009-DPA-00004	9/1/2009	8/21/2011	\$100,000.00
Wrongful Conviction Review	2009-FA-BX-0006	10/1/2009	09/31/2012	\$182,906.00
Stimulus Grant: Social Worker Funding	2009-JAG-ARRA-DPA-00483	1/5/2009	5/15/2012	\$464,183.00
Stimulus Grant: Social Worker Training	2009-JAG-ARRA-DPA-00523	7/1/2009	5/1/2011	\$24,681.00
Wrongful Conviction Review		11/1/2008	Present	\$1,164,441.00
Juvenile Accountability Block Grant	2005-JB-FX-0012 (302)	11/1/2005	10/31/2006	\$50,000.00
Juvenile Accountability Block Grant	2003-JB-BX-033 (302)	11/1/2003	10/31/2004	\$50,000.00
Byrne/ Justice Assistance Grant: CTS Upgrade	7025-N10-1/03 CL	10/1/2003	9/1/2004	\$28,061.12
Byrne/ Justice Assistance Grant: CTS Upgrade	7027-N10-2/03 CL	7/1/2003	06/31/2004	\$17,120.32
Byrne/ Justice Assistance Grant: CTS Upgrade	6486-N10-1/00 CL	7/1/2002	06/31/2003	\$8,423.56
Byrne/ Justice Assistance Grant: IT Upgrade	6493-N10-1/02 CL	7/1/2002	06/31/2003	\$107,788.91
Byrne/ Justice Assistance Grant: Cross Training	6487-N10-1/00	7/1/2002	3/31/2004	\$2,466.37
Byrne/ Justice Assistance Grant				
Wide Area Network	6168-N15B-3/00 CL	7/1/2000	06/31/2001	\$8,001.00
Byrne/ Justice Assistance Grant	5965-N15B-1/99	7/1/1998	06/31/2000	\$22,072.16
Field Office Communication/ Connection	5700 NAED 4 /00	7/4/4000	05/24/4000	470.550.00
Byrne/ Justice Assistance Grant Field Office Communication/ Connection	5790-N15B-1/98	7/1/1998	06/31/1999	\$78,668.00
Byrne/ Justice Assistance Grant : Post-Trial IT	5791-N15B-1/98	7/1/1998	06/31/1999	\$7,440.00
Byrne/ Justice Assistance Grant	5793-N15B-1/98	7/1/1998	06/31/1999	\$12,703.50
Litigation Management Info System	3793-N136-1798	//1/1990	00/31/1999	\$12,705.30
Byrne/ Justice Assistance Grant	5586-N15B-1/97	8/1/1997	06/31/1998	\$69,858.00
Management & Case Worker Upgrade	,,,			
Byrne/ Justice Assistance Grant	4670-N15A-1/90	7/1/1991	6/30/1992	\$68,379.00
Alternative Drug Punishment/Treatment				
			Grand Total	\$2,801,020.94

The Public Value of Public Defense

- ✓ There are substantial financial benefits to society when public defense systems are properly funded.
- ✓ Public defenders who are competent, who have manageable workloads, and who have professional independence insure that the rights guaranteed by our Constitution are protected and insure that no one's liberty is taken unless and until they are proven guilty.
- ✓ Public defenders lower costly incarceration rates for counties and states by advocating for pretrial release and alternate or reduced sentences. When staffed adequately, public defenders increase efficiencies and prevent overcharging and expensive wrongful convictions.
- ✓ In addition to protecting the freedoms of the accused, public defense is central to our public safety.
- ✓ Prosecution, public defense, courts, and law enforcement all serve vital roles ensuring the justice system works reliably and efficiently.
- ✓ This diagram shows how costs for counties increase when persons spend more time incarcerated pretrial than necessary for public safety.

Time (behind bars) = \$\$\$\$\$

How taking advantage of pretrial release options saves serious money.

Keeping low risk defendants out of jail keeps people contributing to the tax base rather than being housed at Jail costs (\$36.59 per person per day average) add up when defendant is incarcerated during legal process taxpayer expense. The Administrative Office of the Courts has released statistics that show that recent increases in pretrial release of low risk defendants has been done with no harm to public safety or rise in crime. The increases in release have been estimated to have saved \$25 million in county jail expenses during the first year of HB463. Public safety rates statewide remain constant regardless of rate of release. More savings possible: 79 counties are below the statewide average release rate of 70%. Jail or Prison Jail Investigation and First Appearance **Trial Preparation** Trial or Plea Sentencing Acquittal or Released on Released on Released on Released on Punishment through Bond with Bond with Bond with Bond with Alternative Sentence Conditions Conditions Conditions Conditions

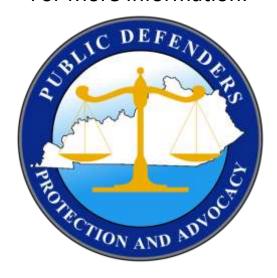
Jail costs stop when defendant is released.

77 days at a cost of \$2,817.43 - Average length of time spent on pretrial release, according to the AOC



United States Attorney General Eric Holder on Indigent Defense

"Putting politics aside, we must address the fact that, simply put, there is a crisis in indigent defense in this country. Resources for public defender programs lag far behind other justice system programs, constituting only about 3 percent of all criminal justice expenditures in our nation's largest counties. In many cases, contract attorneys and assigned lawyers receive compensation that does not even cover their overhead. We know that defenders in many jurisdictions carry huge caseloads that make it difficult for them to fulfill their legal and ethical responsibilities to their clients. We hear of lawyers who cannot interview their clients properly, file appropriate motions, conduct fact investigations, or do many of the other things an attorney should be able to do as a matter of course. This growing crisis is troubling not just because of the government's constitutional duty to ensure the right to counsel. When defendants fail to receive competent legal representation, their cases are vulnerable to costly mistakes that can take a long time to correct. Lawyers on both sides can spend years dealing with appeals arising from technical infractions and procedural errors. When that happens, no one wins."



Ed MonahanKentucky Public Advocate

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DPA Website with its Annual Report: http://dpa.ky.gov/

In all criminal prosecutions, the accused shall enjoy the right ... to have the assistance of counsel for his defense. -Sixth Amendment, US Constitution (1791)

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Additional Federal Resources

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DOJ Grants that Require Funds to be Used for Indigent Defense Related Activities

Grant /Program	Amount
Capital Case Litigation Initiative https://www.bja.gov/Funding/13CCLIsol.pdf (due date 3/28/12)	Over \$450k awarded to 2 organizations in 2012
John R. Justice Student Loan Repayment Program https://www.bja.gov/ProgramDetails.aspx?Program_ID=65	Formula grant allocations to states
Wrongful Conviction Review https://www.bja.gov/Funding/13WrongfulConvictionSol.pdf (due date 2/6/12)	Over \$2.2 million awarded to 11 organizations in 2012
Answering Gideon's Call https://www.bja.gov/Funding/12ImpIndigentDefenseSol.pdf	Over \$1.2 million awarded to 4 organizations in 2012
Social Science Research on Indigent Defense https://www.ncjrs.gov/pdffiles1/nij/sl001006.pdf	Over \$1.6 million awarded to 6 organizations in 2012
PJI/BJA Prosecutor and Defense Attorney Fellows Program http://www.pretrial.org/Employment%20Documents/PJI%202013% 20Fellow%20Announcement.pdf (due date 2/28/13)	

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DOJ Grants for which Allocating Funds for Indigent Defense is a Priority or Stated Purpose

Grant

Byrne/ Justice Assistance Grant

https://www.bja.gov/ProgramDetails.aspx?Program_ID=59

Juvenile Accountability Block Grant

http://www.ojjdp.gov/grants/solicitations/FY2013/JABG.pdf (due date 2/28/13)

Juvenile Title II Formula Grant Program

http://www.ojjdp.gov/grants/solicitations/FY2013/Titlell.pdf (due date 4/1/13)

Coordinated Tribal Assistance Solicitation

http://www.justice.gov/tribal/ctas2013/solicitation-document.pdf (due date 3/19/13)

Resources

•DOJ Courts and Indigent Defense Resource Guide http://www.justice.gov/atj/resource-publication-4-17-12-rev.pdf

Office of Justice Programs Indigent Defense

- Fact Sheet
 http://www.ojp.usdoj.gov/newsroom/factsheets/ojpfs_indigentdefense.html
- Grant Information from the Access to Justice Initiative http://www.justice.gov/atj/grant-info.html
- DOJ Funded Indigent Defense Publications http://www.justice.gov/atj/idp/
- •Bureau of Justice Statistics: Indigent Defense Systems

 http://bis.oip.usdoi.gov/indox.cfm?tv=tp&tid=?

http://bjs.ojp.usdoj.gov/index.cfm?ty=tp&tid=28

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Additional Resources

- •Bronx Defenders' Center for Holistic Defense http://www.bronxdefenders.org/our-work/center-holistic-defense
- •NIJ/ATJ Expert Working Group Report: International Perspectives on Indigent Defense https://ncjrs.gov/pdffiles1/nij/236022.pdf
- •GAO Survey of Public Defender Offices and Agencies on Indigent Defense Funding http://www.gao.gov/special.pubs/gao-12-661sp/pdo/index.htm
- •OJJDP Newsletter Innovative Approaches to Juvenile Indigent Defense https://www.ncjrs.gov/pdffiles/171151.pdf
- •Federal Interagency Reentry Council http://www.nationalreentryresourcecenter.org/reentry-council

ATJ Selected Blogs

- •Bringing All Criminal Justice Stakeholders to the Table http://blogs.justice.gov/main/archives/2055
- •Addressing Juvenile Justice Concerns in Response to Shelby County http://blogs.justice.gov/main/archives/2423
- •Department of Justice Prioritizes Improving Legal Representation for Indigent Defense http://blogs.justice.gov/main/archives/1822
- •Public Service Careers & Student Loan Debt:What You Should Know http://blogs.justice.gov/main/archives/2189
- •Adoption of First International Principles and Guidelines on Indigent Defense http://blogs.justice.gov/main/archives/2236
- •Constructive Alternatives to Criminalization http://blogs.justice.gov/main/archives/1822



Thank You

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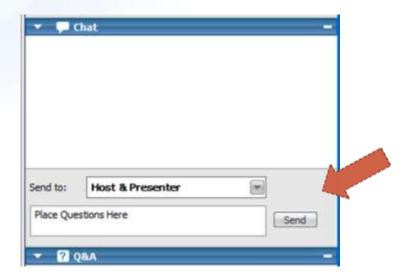
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Q&A



Moderator

<u>David Marimon</u>

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THANK YOU FOR JOINING US

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www.ncja.org/webinars

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