



National Criminal
Justice Association

**Comparison of Mandates on State and Local Governments and Penalties on the Byrne JAG and COPS Grant Programs
House Justice in Policing Act and Senate JUSTICE Act**

(Prepared by the National Criminal Justice Association – updated June 29, 2020)

JUSTICE IN POLICING ACT, H.R. 7120	JUSTICE ACT, S. 3985
Use of Force Standards	
<ul style="list-style-type: none"> ○ Requires AG to develop standards and issue guidance on use of force ○ Requires states to adopt comparable standards in law ○ States – 100% penalty on Byrne JAG formula if fail to pass law ○ If subsequently enact law and make substantial effort to comply, could receive up to 5 years of withheld funds <p><i>Sec. 1123(c)</i></p>	<ul style="list-style-type: none"> ○ No comparable provision, though the AG must develop use of force curriculum for required training
Use of Force Incident Reporting	
<ul style="list-style-type: none"> ○ Requires states (and tribes that receive Byrne JAG) to: <ul style="list-style-type: none"> ○ report quarterly any incident involving use of force by or against a local law enforcement officer ○ establish a system and policies to ensure incidents are reported ○ submit a plan to the AG for the collection of required data ○ States – 10% penalty on Byrne JAG for failure to report ○ Tribes – 10% penalty on Byrne JAG for failure to report ○ Penalized funds reallocated to jurisdictions in compliance ○ Not required to include data reported separately under DCRA ○ Training grants available for agencies with fewer than 100 officers <p><i>Sec. 223</i></p>	<ul style="list-style-type: none"> ○ Requires states or local governments to report annually all state and local law enforcement agency use of force data ○ Locals – 20% penalty on JAG direct award for failure to report ○ States – 20% penalty on state formula for state agency’s failure to report <u>and</u> for every local non-Byrne JAG failure to report in proportion to non-compliant localities’ share of population, up to 20% ○ Following and subsequent years penalty is increased to 25% ○ Penalized funds reallocated to jurisdictions in compliance <p><i>Sec. 101</i></p>
No-Knock Warrants and Reporting	
<ul style="list-style-type: none"> ○ Requires states and local governments to pass a law prohibiting issuance of no-knock warrants in drug cases ○ Locals – 100% on COPS Hiring for failure to pass law ○ States – 100% on COPS Hiring for failure to pass law <p><i>Sec. 362</i></p>	<ul style="list-style-type: none"> ○ Requires states and local governments to report annually all state and local law enforcement agency no-knock warrant data ○ Locals – 20% penalty on JAG direct award for failure to adopt policy ○ States – 20% penalty on state formula for state’s failure to adopt policy <u>and</u> for every local non-Byrne JAG jurisdiction’s failure to adopt policy in proportion to non-compliant localities’ share of population, up to 20%

	<ul style="list-style-type: none"> ○ Following and subsequent years penalty is increased to 25% ○ Penalized funds reallocated to jurisdictions in compliance ○ State required to ensure local agencies report data. <p><i>Sec. 102</i></p>
DOJ harmonization of reporting requirements and databases	
<ul style="list-style-type: none"> ○ DOJ to issue guidance on best practices and establishing standard data collection systems <p><i>Sec. 223(d)</i></p>	<ul style="list-style-type: none"> ○ DOJ to issue guidance on best practices and establishing standard data collection systems <p><i>Sec. 103</i></p>
Training and Technical Assistance Grants	
<ul style="list-style-type: none"> ○ Authorizes DOJ to provide training and technical assistance grants to local law enforcement agencies with no more than 100 officers ○ Authorizes “such sums” for the grants <p><i>Sec. 224</i></p>	<ul style="list-style-type: none"> ○ Authorizes DOJ to award Compliance Assistance Grants for states and local governments to be able to achieve compliance ○ Each grant not more than \$1 million, for a total of \$112 million authorized <p><i>Sec. 104</i></p>
Racial Profiling	
<ul style="list-style-type: none"> ○ Requires states and local agencies to adopt policies/procedures designed to eliminate racial profiling and to have eliminated existing profiling practices ○ Adds purpose area to Byrne JAG for training to prevent racial profiling and for using technology for accurate data collection and analysis ○ Authorizes \$5 million for technical assistance, for up to 5 grants awarded to communities with significant concentrations of racial or ethnic minorities ○ States – up to 100% penalty on Byrne JAG and COPS Hiring at the discretion of the Attorney General for not adopting the standards ○ Locals – must spend not less than 10 percent of Byrne JAG for best practices to eliminate racial profiling and specifies use of funds ○ States – must spend not less than 10 percent of Byrne JAG for best practices to eliminate racial profiling and specifies use of funds <p><i>Sec. 331 and 332</i></p>	<ul style="list-style-type: none"> ○ No comparable provision
Use of Chokeholds	
<ul style="list-style-type: none"> ○ Requires states and locals to pass laws prohibiting law enforcement officers from using chokehold or carotid holds ○ Locals – may not receive Byrne JAG for failure to pass law ○ States – may not receive Byrne JAG for failure to pass law ○ If subsequently comply, eligible to receive withheld funds <p><i>Sec. 335</i></p>	<ul style="list-style-type: none"> ○ Require states and local agencies to have policy banning use of chokeholds ○ Locals – may not receive Byrne JAG or COPS Hiring funds for failure to adopt policy ○ States – may not receive Byrne JAG or COPS Hiring funds for failure to adopt policy <p><i>Sec. 105</i></p>

Body-Worn Cameras	
<ul style="list-style-type: none"> ○ Requires DOJ to establish body-worn camera toolkits and training ○ Requires states and locals to establish policies and procedures with local input for use of cameras, storage, data retention, etc. ○ Locals – must spend not less than 5 percent of Byrne JAG to purchase/lease cameras and for implementation of camera program ○ States – must spend not less than 5 percent of Byrne JAG to purchase/lease cameras and for implementation of camera program <p><i>Sec. 3051</i></p>	<ul style="list-style-type: none"> ○ Appropriates \$100 million competitive grant program for the purchase of body-worn cameras, technology infrastructure, development of policies/procedures, storage, data retention, etc. and requires 50% local match ○ Requires states and locals to establish policies and procedures for the use of body-worn cameras and to provide training on use of cameras and data ○ Locals – 20% penalty on Byrne JAG for failure to adopt policy on disciplining officers who intentionally violate policy and procedures ○ States – 20% penalty on Byrne JAG for failure of the state to adopt policy on disciplining officers <u>and</u> for failure of any local agency to which the state gives a Byrne JAG subaward <p><i>Sec. 201 and 202</i></p>
Officer Disciplinary Records/National Registry	
<ul style="list-style-type: none"> ○ Creates national registry of misconduct complaints and discipline, termination and certification records ○ States and localities must have a certification/de-certification program for employment of law enforcement officers ○ States must submit compliant and disciplinary records for state and every locality every 180 days ○ Locals – may not receive Byrne JAG funds for failure to have certification program ○ States – may not receive Byrne JAG funds for failure to have certification program <p><i>Sec. 201 and 202</i></p>	<ul style="list-style-type: none"> ○ Requires states and local governments to maintain a system for the sharing of disciplinary records, allow law enforcement access, and require agencies search the system before hiring an officer ○ Locals – may not receive Byrne JAG funds for failure to retain, provide access to, and require use of records ○ States – may not receive Byrne JAG funds for state agency failure to retain, provide access to, and require use of records ○ New one-time only formula grant (as determined by DOJ) to every state not less than \$1 million, for a total of \$100 million authorized and appropriated ○ Penalty funds reallocated to jurisdictions in compliance <p><i>Sec. 301/531</i></p>
Training on De-escalation, Duty to Intervene, Implicit Bias, Procedural Justice, Responses to Behavioral Health Crises	
<ul style="list-style-type: none"> ○ Requires DOJ to establish training programs/curricula on racial profiling, implicit bias and procedural justice ○ States and localities must require every officer complete the training programs, including on use of force and a duty to intervene ○ Adds purpose area in Byrne JAG for law enforcement officer training ○ Locals – may not receive Byrne JAG funds for failure to require every officer to complete trainings ○ States – may not receive Byrne JAG funds for failure to require every officer to complete trainings <p><i>Sec. 361</i></p>	<ul style="list-style-type: none"> ○ Requires DOJ to establish training programs on de-escalation, duty to intervene, alternatives to use of force, and behavioral health responses ○ Appropriates a total of \$170 million: <ul style="list-style-type: none"> ○ \$50 million formula grant for de-escalation and behavioral health training, through new fund established in Byrne JAG (formula by proportion of law enforcement officers in each state) ○ \$100 million competitive grant through Byrne JAG on duty to intervene training ○ \$20 million competitive grant through COPS on de-escalation and behavioral health training

	<ul style="list-style-type: none"> ○ Requires DOJ to create/certify curricula and certify trainers ○ Through FY23, DOJ to conduct regional train-the-trainer trainings ○ Subsequently, de-escalation training funds available to every state and locality by formula ○ State may award funds to locality to procure/administer own training or arrange trainings on behalf of localities, at locality's request <p><i>Sec. 601 and 602</i></p>
Grant Program Reauthorizations	
<ul style="list-style-type: none"> ○ No comparable provision 	<ul style="list-style-type: none"> ○ Reauthorizes the Byrne JAG program at \$800 million annually ○ Reauthorizes the COPS Hiring program at \$400 million annually <p><i>Sec. 802</i></p>
Law Enforcement Consent Loophole	
<ul style="list-style-type: none"> ○ No comparable provision 	<ul style="list-style-type: none"> ○ Authorizes and appropriates \$5 million grant program in VAWA STOP and SASP to comply <p><i>Sec. 1001</i></p>
Pattern and Practice and Independent Investigative Authority and Funding	
<ul style="list-style-type: none"> ○ Authorizes \$100 million grant program for state attorneys general to conduct pattern and practice investigation ○ Authorizes \$750 million grant program for state attorneys general to investigate law enforcement misconduct or excessive use of force ○ Grants available only to states that enact independent prosecution statute <p><i>Sec. 103 and 104</i></p>	<ul style="list-style-type: none"> ○ No comparable provision
Civilian Review Boards	
<ul style="list-style-type: none"> ○ Adds purpose area to COPS Hiring for creation of civilian review boards with investigatory authority and staff subpoena power <p><i>Sec. 104(2)</i></p>	<ul style="list-style-type: none"> ○ No comparable provision
Police Accreditation	
<ul style="list-style-type: none"> ○ Requires DOJ to analyze existing accreditation standards and recommend uniform and additional standards ○ Requires states and localities to help agencies meet the standards ○ Locals – must use not less than 5 percent of Byrne JAG to assist agencies in gaining or maintaining accreditation ○ States – must use not less than 5 percent of Byrne JAG to assist agencies in gaining or maintaining accreditation <p><i>Sec. 113(b)</i></p>	<ul style="list-style-type: none"> ○ No comparable provision

Grants for Improving Policing Standards	
<ul style="list-style-type: none"> ○ Authorizes DOJ to make grants to community organizations to study and implement strategies for improving policing ○ Authorizes \$25 million grant program, including for pilot programs and evaluation ○ Adds purpose area to Byrne JAG for studying and implementing effective policing strategies ○ Locals – must use not less than 5 percent of the Byrne JAG to study and implement effective standards and programs for law enforcement agencies ○ States – must use not less than 5 percent of the Byrne JAG to study and implement effective standards and programs for law enforcement agencies <p><i>Sec. 114</i></p>	<ul style="list-style-type: none"> ○ No comparable provision
Transfer of Surplus Military Equipment	
<ul style="list-style-type: none"> ○ Limits transfer of surplus military equipment to the Department of Defense to state and local law enforcement agencies <p><i>Sec. 365</i></p>	<ul style="list-style-type: none"> ○ No comparable provision
National Task Force on Law Enforcement Oversight	
<ul style="list-style-type: none"> ○ Requires every federal, state, tribal and local law enforcement agency to report certain types of incident data by race, ethnicity, age and gender ○ Locals – may not receive Byrne JAG funds or any other DOJ “law enforcement assistance program” unless in substantial compliance ○ States – may not receive Byrne JAG funds or any other DOJ “law enforcement assistance program” unless in substantial compliance ○ Tribes - may not receive Byrne JAG funds or any other DOJ “law enforcement assistance program” unless in substantial compliance ○ Penalty funds reallocated to jurisdictions in compliance <p><i>Sec. 117 and 118</i></p>	<ul style="list-style-type: none"> ○ No comparable provision
Grant Program Accountability	
<ul style="list-style-type: none"> ○ No comparable provision 	<ul style="list-style-type: none"> ○ Requires the AG to study and recommend a proposal for improving accountability for law enforcement agencies that receive Byrne JAG and/or COPS Hiring funds, including development of performance metrics, benchmarks and annual accounting ○ Local – failure to achieve a benchmark will require grantee to return funds and be ineligible to apply for one year ○ State – failure to achieve a benchmark will require grantee to return funds and be ineligible to apply for one year

	<i>Sec. 904</i>
National Criminal Justice Commission	
<ul style="list-style-type: none"> ○ No comparable provision 	<ul style="list-style-type: none"> ○ Establishes a national commission to study and report on best practices and system-wide reforms in criminal justice policy and practice. ○ Authorizes and appropriates \$7 million for two years. <i>Sec. 708</i>
National Museum of African American History and Culture	
<ul style="list-style-type: none"> ○ No comparable provision 	<ul style="list-style-type: none"> ○ Establishes training programs under the auspices of the museum. ○ Authorizes and appropriates \$2 million annually for four years. <i>Sec. 812</i>