

## The Byrne Justice Assistance Grant Program Formula Explained

### History of the Byrne JAG Program

- The Edward Byrne Memorial State and Local Law Enforcement Grant Program (Byrne) of 1988 grew out of the Law Enforcement Assistance Administration (LEAA). LEAA was created in 1968 to assist states and local governments in reducing crime, particularly drug trafficking, and in improving the functioning of the criminal justice system. Byrne grants were allocated to the states by population, and the states were then required to pass through a certain percentage to local law enforcement agencies.
- In 1995, Congress appropriated (though never authorized) a new Local Law Enforcement Block Grant (LLEBG) program to provide additional, direct support to local law enforcement agencies. The LLEBG funds were awarded by the Department of Justice (DOJ) Office of Justice Programs (OJP) Bureau of Justice Assistance (BJA) directly to larger urban jurisdictions. States awarded grants on a competitive basis to smaller jurisdictions.
- In 2005, Congress merged the two programs into the Byrne Justice Assistance Grant (Byrne JAG) program but kept the state and local funding streams separate.

### How the Formula is Calculated

- By statute, every state and territory is allocated a base amount of 0.25 percent of the total amount provided by Congress in the annual Commerce, Justice, Science and Related Agencies (CJS) appropriations bill.<sup>i</sup> This is known as the minimum allocation. For several smaller states and territories this is their full allocation.
- The minimum base allocation is then enhanced by: (1) the state's share of the national population and (2) the state's share of the country's UCR Part 1 violent crime statistics.<sup>ii</sup>

### How the Formula is Distributed: The State Formula and Local Direct Awards

- Each state's allocation is then divided into two portions:
  - Sixty percent is awarded to the state. These state formula grants are awarded to the State Administering Agency (SAA), which is designated by the governor to administer and oversee the funds.<sup>iii</sup> Additionally, the state award is increased by the "under \$10,000" allocations described below.
  - Forty percent is awarded directly by BJA to units of local government. These local direct awards are based on the locality's proportion of reported crime<sup>iv</sup> in the state. In a typical year, between 1,000-1,200 localities are eligible for a BJA direct formula award.<sup>v</sup>

### State Partnership with Local Governments: Statutorily Required Pass-Through Requirements

#### *The Variable Pass Through*

- By law, states must pass-through a certain percentage of the state's award to units of local government.
- This secondary formula, known as the variable pass-through (VPT), is based on the proportion of total criminal justice expenditures by the state and its units of local government.<sup>vi</sup>
- For instance, states with a unified court system carry a larger share of overall justice services so they are authorized to keep a higher percentage of the state's award for state justice system functions. Conversely, states with strong local control must pass a higher percentage of the state's awards to the localities.<sup>vii</sup>
- The average VPT amount is 57 percent, though many states pass through more than their formula requires.
- The sub-award process is at the discretion of the state and can be competitive, based on a formula, and may require a peer-review process.

### ***The Under \$10,000 Awards***

- When BJA's award to a local government is calculated to be less than \$10,000,<sup>viii</sup> the funds are added to the state's award. The SAA is authorized by statute to distribute those funds to jurisdictions that fall below the \$10,000 threshold or to state police agencies that support local governments.<sup>ix</sup> Some SAAs use these funds, by the permission of the localities, for regional initiatives that benefit the under \$10,000 communities.

### **Addressing Disparities Among Cities and Counties<sup>x</sup>**

- In the 2005 bill, Congress added a requirement to make the distribution of the local awards more equitable.
- The "disparate allocation" provision creates a mechanism by which counties and cities which are part of the same geographic area may more equitably share their Byrne JAG funds.
  - In calculating the local awards, the Office of Justice Programs identifies jurisdictions for which the statutory formula, based on crime rate, may not accurately reflect their relative contribution to the area's justice system.<sup>xi</sup>
  - For instance, a county may have a lower rate of crime than the city within its borders, which will cause its formula award to be lower than the city's. Yet the county may provide court and jail services to the city, meriting a greater share of the combined jurisdictions' award.
- These disparate jurisdictions are identified by BJA and must submit a joint application specifying how the funds will be used by each.

### **Allowable Administrative Set-Aside**

- State and local grantees are authorized to use up to 10 percent of their awards for administrative expenses, including staffing, strategic planning, technology investments, grants monitoring, oversight and other needs.<sup>xii</sup>

<sup>i</sup> Congress made one exception to this rule: American Samoa and the Northern Mariana Islands are required to split one minimum award, with American Samoa receiving 67% and the Northern Mariana Islands receiving 33%.

<sup>ii</sup> Beginning January 1, 2021, the FBI Unified Crime Reporting (UCR) program is transitioning to the National Incident-Based Reporting System (NIBRS). After that date, formula calculations will be based on NIBRS reporting.

<sup>iii</sup> The SAA is located differently in each state, typically in the Department of Public Safety, as an independent state agency or in the governor's office.

<sup>iv</sup> Jurisdictions that do not report UCR program data are ineligible for a direct formula award from BJA.

<sup>v</sup> BJA notifies every jurisdiction that is determined by the formula to be eligible for an award and invites them to submit an application.

<sup>vi</sup> The VPT percentage for all recipient state awards is found [here](#).

<sup>vii</sup> For instance, Delaware and Vermont, which have unified court systems, and are required to pass-through less than 30 percent to localities. Conversely, Nevada, Illinois, Ohio and Florida, where there is stronger local control, are each required to pass through over 70 percent.

<sup>viii</sup> By statute, the minimum award a local jurisdiction may receive is \$10,000.

<sup>ix</sup> BJA provides the SAA with a list of localities that fell below the \$10,000 threshold. A majority of SAAs fund the under \$10,000 jurisdictions, but they have the option to fund state police departments that provide criminal justice services to units of local government.

<sup>x</sup> For a detailed description of the disparate allocation process and the formula award process overall, refer to the [Justice Assistance Grant Program Technical Report, 2016](#).

<sup>xi</sup> The statute defines three disparate county types. First, when the city is eligible for an award but the county is not, yet the county may provide criminal justice services for the city. These are known as "zero county disparity" and are the most common. Second, when both the city and county are eligible, but the city's eligible allocation exceeds the county's eligible allocation by 150 percent. Third, when multiple cities the county are eligible, but the sum of the eligible allocations for the cities exceeds 400 percent of the county's award amount.

<sup>xii</sup> The disparate jurisdictions must share the 10 percent administrative allocation.