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The Edward Byrne Memorial Justice Assistance Grant (JAG) Program

The Edward Byrne Memorial Justice Assistance Grant (JAG) program is a Department of Justice (DOJ) formula grant program. The JAG program allocates funds to the 50 states, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands (collectively referred to as “states” hereinafter) for a variety of state and local criminal justice initiatives. The program is administered by the Bureau of Justice Assistance (BJA).

Calculating Allocations

Under the JAG formula, each state’s allocation is based on its population and the number of reported violent crimes in the state. Specifically, half of a state’s allocation is based on the state’s respective share of the U.S. population, using the most recent population figures published by the Census Bureau. The other half is based on the state’s respective share of the average number of violent crimes reported to the Federal Bureau of Investigation for the three most recent years for which data are available. Under current law, each state is guaranteed to receive no less than 0.25% of the amount appropriated for the JAG program in a given fiscal year (i.e., the minimum allocation). Therefore, after each state’s initial allocation is calculated using the JAG formula, states that would have received less than 0.25% of the total amount appropriated for the JAG program are funded at the minimum allocation. Non-minimum allocation states receive the minimum allocation plus a share of the funds remaining after all states receive the minimum allocation. The remaining funds are allocated among the non-minimum allocation states using the JAG formula, except that both population and violent crime data for the states that received the minimum allocation as their award are excluded when allocating the remaining funds.

After each state’s allocation is determined, 40% of it is directly awarded to units of local government in the state (this does not occur in the District of Columbia or the territories). Awards to units of local government, which includes Indian tribes that have law enforcement responsibilities, are based on the jurisdiction’s proportion of the three-year average number of violent crimes committed in its respective state. Only units of local government that would receive \$10,000 or more are eligible for a direct allocation. The balance of funds not awarded directly to units of local government is administered by the state and must be distributed to the state police department or to units of local government that were not eligible to receive a direct award from BJA. Also, each state is required to “pass through” to units of local government a certain percentage of the funds directly awarded to the state. The pass-through percentage is calculated using data on criminal justice expenditures collected by the Bureau of Justice Statistics. A

state is allowed to retain a portion of its funding equal to the ratio of the total amount of state expenditures on criminal justice to the total amount of expenditures on criminal justice by both the state and all units of local government.

Disparate Allocation

In some instances, a unit of local government or multiple units of local government are required to collaborate on a single joint award with the county. This happens when BJA certifies that there is a “disparate allocation,” meaning that one city qualifies for an amount that is one-and-a-half times more than the amount for the county with concurrent jurisdiction, or when the total amount for which cities in a single county qualify is four-times more than the amount for the county. The unit or units of local government and county representatives must sign and submit a memorandum of understanding stating that they all agree on how the joint award, which is the sum of all of the individual awards, will be allocated and used.

Program Purpose Areas

Grant recipients can use their JAG funds for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and criminal justice information systems for

- law enforcement;
- prosecution and courts;
- prevention and education;
- corrections and community corrections;
- drug treatment;
- planning, evaluation, and technology improvement;
- crime victim and witness assistance (other than compensation);
- mental health and related law enforcement and corrections programs, including behavioral programs and crisis intervention teams; and
- state crisis intervention court proceedings and related programs or initiatives, including mental health, drug, and veterans courts, and extreme risk protection order programs.

JAG’s nine program purpose areas are intended to give states and local units of government flexibility in creating programs to address local needs.

Appropriations

There are two numbers to consider when evaluating changes in appropriations for the JAG program: the total (or “top-line”) appropriation, and the amount available to be allocated through the JAG program after set-asides. Traditionally, Congress has dedicated some of the annual JAG appropriation for other purposes, as specified in the annual Commerce, Justice, Science, and Related Agencies (CJS) Appropriations Act. In many fiscal years, as a part of its annual budget submission, the Administration has also requested that Congress set aside a portion of the annual JAG funding for specific purposes.

Funding was first appropriated for the program in FY2005 (see **Table 1**). Top-line funding for JAG since its inception has averaged \$474 million per fiscal year (not including \$2 billion in funding appropriated pursuant to the American Recovery and Reinvestment Act of 2009 [ARRA, P.L. 111-5]).

Table 1. Appropriations for the JAG Program, FY2005-FY2023

Appropriations in millions of dollars

Fiscal Year	Top-Line Appropriation	Appropriation after Set-Asides	Percent Set Aside
2005	\$626	\$529	15%
2006	411	317	23%
2007	520	500	4%
2008	170	166	2%
2009	2,546	539	1%
2010	519	511	2%
2011	430	423	2%
2012	470	352	25%
2013	365	345	5%
2014	376	345	8%
2015	376	333	12%
2016	476	347	27%
2017	403	335	17%
2018	416	340	18%
2019	424	330	22%
2020	547	349	36%
2021	484	360	26%
2022	675	382	43%
2023	771	412	47%

Source: Appropriations were taken from the conference report or explanatory statement to accompany the annual Commerce, Justice,

Science, and Related Agencies (CJS) Appropriations Act for each fiscal year, with the exception of FY2013. The FY2013 appropriation was provided by DOJ.

Notes: Amounts shown in the table are in nominal, not inflation-adjusted, dollars. The FY2009 amounts include \$2 billion in emergency funding that was appropriated for JAG pursuant to the American Recovery and Reinvestment Act of 2009 (P.L. 111-5). The FY2013 appropriation is post-sequestration as implemented per the Budget Control Act of 2011 (P.L. 112-25).

In FY2005 and FY2006, Congress required 15% and 23%, respectively, of the appropriation for JAG to be set aside for other purposes. These set-asides are largely attributable to the approximately \$84 million that was dedicated to the Boys and Girls Club of America, a carryover from one of JAG’s predecessor programs, the Local Law Enforcement Block Grant. After Congress declined to dedicate JAG funding to the Boys and Girls Club in FY2007, set-asides accounted for 1%-4% of JAG’s total appropriation through FY2011 (for FY2009, the proportion dedicated to set-asides does not include ARRA funding). Since then, set-asides have generally accounted for an increasing share of JAG’s funding.

Since FY2017, Congress and the President have funded several DOJ grant programs (e.g., Project Safe Neighborhoods, the John R. Justice program, programs authorized under the Prison Rape Elimination Act, and the Capital Litigation Improvement and Wrongful Conviction Review program), which had traditionally received their own line item appropriation in the annual CJS appropriations act, through set-asides from JAG.

In FY2012 and FY2016, and from FY2020 to FY2023, at least one-quarter of the total JAG appropriation was dedicated for other purposes. Increases in set-asides in FY2012, FY2016, and FY2020 are partially attributable to Congress directing \$100 million in JAG funding toward reimbursing cities that hosted presidential nominating conventions for security-related costs they incurred. For FY2022 and FY2023, in addition to grant programs historically funded through set-asides from JAG, Congress included set-asides from JAG for Byrne Discretionary Community Project grants (i.e., congressional directed spending). Also, there has been a general increase in the number of set-asides from JAG since FY2013 as Congress has used these set-asides to fund more programs.

From FY2012 to FY2020, appropriations that are available to be allocated through the JAG program after set-asides were generally around \$340 million each fiscal year. Post-set-aside funding for JAG has increased in each of the last four fiscal years. This indicates that even though more JAG funding has been set aside for other purposes, Congress has increased the top-line appropriation to account for additional set-asides. However, funding available to be allocated to state and local governments since FY2012 was generally lower than what it was for FY2005 to FY2011.

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