

# CRS Report for Congress

Received through the CRS Web

## Crime Control Assistance Through the Byrne Programs

Garrine P. Laney  
Analyst in American National Government  
Government Division<sup>1</sup>

### Summary

The Edward Byrne Memorial State and Local Law Enforcement Assistance Programs are sources of federal financial assistance for state and local drug law enforcement efforts. Representative Bill McCollum introduced H.R. 2181 (Witness Protection and Interstate Relocation Act of 1997) on July 17, 1997, to ensure the safety of witnesses and to promote notification of the interstate relocation of witnesses by states and localities engaging in that relocation. Among other provisions, H.R. 2181 would authorize the Attorney General to use Byrne grant discretionary funds to promote interstate coordination and cooperation in this effort. On February 25, 1998, the House passed H.R. 2181 by a vote of 366-49.

### Overview

The Omnibus Crime Control and Safe Streets Act of 1968 (P.L. 90-351) is the base authority for federal assistance to state and local governments in reducing crime. Since passage, the Act has been significantly amended.<sup>2</sup> Congress passed the Anti-Drug Abuse Act of 1986 (P.L. 99-570) to provide financial assistance to state and local governments and to coordinate, at all government levels, efforts to fight crime and drug abuse problems.<sup>3</sup> In 1988, the Act was amended (P.L. 100-690) and programs were renamed the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs.<sup>4</sup> It

---

<sup>1</sup> This report is a revision of U.S. Library of Congress, Congressional Research Service, *Crime Control Assistance Through the Byrne Programs*, by Keith Bea, CRS Report 95-81 GOV (Washington: Jan. 5, 1995). It has been prepared with the assistance of David Teasley.

<sup>2</sup> Hereafter cited as Safe Streets Act. Provisions are codified in 42 U.S.C. 46, §3750; 108 Stat. 1796.

<sup>3</sup> 100 Stat. 3207.

<sup>4</sup> Anti-Drug Abuse Act of 1988, 102 Stat. 4328, 42 U.S.C. Chapter 46, §3750. See Byrne Program web site: <http://www.ojp.usdoj.gov/BJA/html/byrnef.htm>.

was amended again with passage of the Crime Control Act of 1990 (P.L. 101-647).<sup>5</sup> The Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322)<sup>6</sup> authorized the programs through FY2000 with steadily decreasing funding, but congressional support remains, and appropriations in recent years have continued to increase.

The statute provides that states receive and distribute block grant funds and that the Bureau of Justice Assistance (BJA) of the U.S. Department of Justice awards discretionary grants for specified activities. Allocated largely on the basis of population, block grant funds are used for personnel, equipment, training, technical assistance, and information systems to improve criminal justice systems.

Discretionary funds are awarded on a competitive basis in accordance with priorities established by the BJA and by Congress through “earmarks” in regular appropriations bills. In general, discretionary program funds are distributed to non-federal public and private organizations undertaking projects that educate criminal justice personnel, provide technical assistance to state and local governments, and can be successfully copied in other jurisdictions. For an example of congressional earmarks, note the provision of \$28.5 million for the Weed and Seed Program for FY1996 and FY1997 from Byrne discretionary grants for those years.<sup>7</sup>

## Funding Levels

Funding information for the Byrne programs since 1987 is shown in Table 1, below. No President requested authorized funds for any fiscal year until 1990, but Congress appropriated funds anyway. Although the funding process has been contentious over the years, the programs have continued to be funded. During the 104th Congress, the Administration sought and Congress provided funding for the Byrne programs beyond that authorized for FY1996 and FY1997. With the creation of the Violent Crime Reduction Trust Fund<sup>8</sup> in the Violent Crime Control and Law Enforcement Act of 1994, Congress has been able to fund the Byrne programs through the Trust Fund as well as through direct appropriations. For example, in FY1997 the Byrne Program received \$199 million (formula grants) from the Trust Fund, and \$361 million from direct appropriations (\$301 million for formula grants plus \$60 million for discretionary grants).

The 105th Congress provided FY1998 funding of \$551.5 million for the Byrne programs, of which \$42.5 million (formula grants) was to come from the Trust Fund. Byrne programs received \$509 million from direct appropriations (\$462.5 million for formula grants and \$46.5 million for discretionary grants). Legislation has been introduced

---

<sup>5</sup> 104 Stat. 4789-4968.

<sup>6</sup> 108 Stat. 2061.

<sup>7</sup> For additional information, see: U.S. Library of Congress, Congressional Research Service, *Community Anti-Crime Weed and Seed Program: Current Developments*, by Suzanne Cavanagh and David Teasley, CRS Report 96-497 GOV (Washington: 1996).

<sup>8</sup> For a discussion of the Trust Fund, see: U.S. Library of Congress, Congressional Research Service, *Violent Crime Reduction Trust Fund: An Overview*, by David Teasley, CRS Report 95-1158 GOV (Washington: 1996). Fund monies are to be comprised of projected savings realized by planned reductions in the federal payroll and from the general fund.

to extend authorization to FY2002. In FY1999, the Clinton Administration has requested \$553 million for Byrne programs (\$505 million for formula grants and \$47.75 million for discretionary grants).

**Table 1. Authorizations, Requests and Appropriations for the Byrne Memorial Programs, FY1987-2000**  
(in thousands)

Fiscal Year	Authorization	Request	Appropriation
1987	\$230,000	0	\$225,000
1988	\$230,000	0	\$99,923
1989	\$275,000	0	\$150,000
1990	\$350,000	\$350,000	\$450,000
1991	\$900,000	\$490,000	\$475,000
1992	as needed	\$490,000	\$475,000
1993	\$1,000,000	\$496,000	\$475,000
1994	\$1,000,000	\$481,000	\$474,500
1995	\$580,000	\$125,000	\$512,000
1996	\$130,000	\$500,000	\$535,000
1997	\$100,000	\$535,000	\$560,000
1998	\$75,000	\$580,000	\$551,500
1999	\$70,000	\$553,000	NA
2000	\$45,000	NA	NA

**Sources:** *Authorizations*-P.L. 99-570, P.L. 100-690, P.L. 101-647, P.L. 102-534, P.L. 103-322, P.L. 104-134. *Requests*-U.S. OMB Budget Appendices and conference reports for the relevant years. *Appropriations*-Justice Department appropriation bills, reports and conference reports for FY1987-1997.

## Eligible Activities

A number of broad activities may be undertaken with Byrne program funds, such as those listed below.<sup>9</sup>

**Reducing Drug Demand.** Educational programs in which law enforcement officers participate that reduce the demand for illegal drugs and identify and treat adult and juvenile drug-dependent and alcohol-dependent offenders.

**Law Enforcement.** Programs that integrate federal, state, and local drug law enforcement efforts; improve the operational effectiveness of law enforcement; address drug trafficking in public housing; improve financial investigation efforts; improve the

<sup>9</sup> Section 501(b) of the Safe Streets Act, as amended; 108 Stat. 2035; 42 U.S.C. 3751.

capability of forensic laboratories to identify components of drugs; and develop and implement antiterrorism training programs.

**Court and Prosecutorial Systems.** Programs that improve the investigation and prosecution of white-collar crime, organized crime, public corruption crimes and fraud against the government with emphasis on cases involving drug-related official corruption; improve the operational effectiveness of the court process; improve prosecution of career criminals, including the development of proposed drug supply and reduction legislation; assist jurors and witnesses, as well as victims of crimes; and address effective prosecution of violent 16- and 17-year-old juveniles as adults for crimes of murder.

**Crime Prevention.** Programs that assist citizens in communities and neighborhoods in preventing and controlling crime, especially crime directed against the elderly and in rural jurisdictions; improve the response of the criminal and juvenile justice system to domestic violence; and relate to law enforcement and the prevention of gangs or to youths at risk of joining gangs.

**Corrections.** Programs that provide additional public correctional resources and improve the corrections system by addressing treatment in prisons, supervision programs, and long-range corrections and sentencing strategies; place prison inmates in a realistic working and training environment to enable them to make financial restitution to their victims, to support inmates's families, and to support themselves while institutionalized; and provide alternatives to prison for eligible inmates.

**Multi-Purpose Objectives.** Programs that improve drug control technology; provide for the identification, assessment, referral to treatment, case management and monitoring of drug dependent offenders; enhance state and local forensic laboratories and criminal justice information systems; and allow evaluation of projects directed at state drug control activities.

## **H.R. 2181 (Witness Protection and Interstate Relocation Act of 1997)**

H.R. 2181 would amend Section 501 of the Omnibus Crime Control and Safe Streets Act of 1968 to authorize the Attorney General to use up to 10% of the total amount appropriated for Byrne program grants for jurisdictions to develop and maintain witness security and relocation programs. Jurisdictions would be required to substantially follow a model Memorandum of Understanding to be established by the Attorney General. If approved by Congress, this bill would add witness protection to the list of eligible activities under the Byrne programs. On February 25, 1998, the House passed H.R. 2181 by a vote of 366-49.

## **Discretionary Programs**

The discretionary grant authority consists of two parts: grants for demonstration projects and grants for projects that stimulate the establishment of sanctions other than prisons for offenders. Eligible grantees include non-federal public or private agencies, institutions, organizations, or individuals. Discretionary funds may not be used for the acquisition of land or for construction projects. Discretionary grants may be used for the following four purposes: undertaking educational and training programs for criminal

justice personnel; providing technical assistance to states and local units of government; undertaking projects that are national or multijurisdictional in scope; and providing financial assistance to public agencies and private nonprofit organizations for demonstration programs which, in view of previous research or experience, are likely to be a success in more than one jurisdiction.<sup>10</sup> Grants may be awarded to individual programs or projects for up to four years with possible renewal.<sup>11</sup>

Applications requirements call for a description of the program eligible for assistance; a description of services to be provided, performance goals, and how the program is to be carried out; an agreement to conduct evaluations as set forth by the BJA; a summary of how the program is to be evaluated; and certifications that all statutory provisions have been met.<sup>12</sup>

The Crime Control Act of 1990 revised the discretionary program element of the Byrne program by authorizing the Director of the BJA to make grants for projects that serve as alternatives to prison or offender release programs (also referred to as the correctional options program). This Act has not been funded since FY1995.<sup>13</sup>

## Block Grants

The Drug Control and System Improvement Grant Program (the block grant element of the Byrne programs) provides funds to help state and local governments improve their criminal justice systems with emphasis on a national and multilevel drug control strategy.<sup>14</sup> To ensure that projects funded under this program coordinate federal and state efforts, state and local criminal codes must include offenses similar to those set forth in the Controlled Substances Act (21 U.S.C. 801 *et seq.*).

Applications for federal grants are made only by states and must contain the following information: discussion of the major drug and violent crime problems in the state and counties within the state; assessment of resources devoted to crime and drug control programs; coordination requirements and resource needs; statewide priorities; analysis of the relationship of state efforts to the national strategy; and a plan for coordinating programs funded with block grant money with other federally funded programs, including state and local programs.<sup>15</sup>

The statute requires improved federal and state coordination and consultation between state and local officials as they prepare their strategies. States must provide certifications regarding commitment of non-federal resources, the review of the application by the state legislature as well as by the general public, and compliance with auditing procedures. States must address the demand side of drug abuse by designing law

---

<sup>10</sup> Safe Streets Act, 108 Stat. 2121, 42 U.S.C. 3760(b)-3762.

<sup>11</sup> *Ibid.*, 102 Stat. 4336-4337, 42 U.S.C. 3764.

<sup>12</sup> *Ibid.*, 102 Stat. 4336, 42 U.S.C. 3763.

<sup>13</sup> P.L. 101-647, 104 Stat. 4847, 42 U.S.C. 3762a and 3762b.

<sup>14</sup> Safe Streets Act, 102 Stat. 4329, 42 U.S.C. 3751(a).

<sup>15</sup> *Ibid.*, 102 Stat. 4331-4332, 42 U.S.C. 3753.

enforcement procedures that hold accountable those persons who unlawfully possess or use drugs.<sup>16</sup>

At least 5% of block grant funds must be dedicated to improving criminal justice records that are linked to the firearm purchase system to be established under the Brady Handgun Violence Prevention Act and the National Child Protection Act of 1993. This requirement, however, may be waived by the Director of BJA depending on the quality of each state's recordkeeping system.<sup>17</sup> There are also requirements, established under provisions of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, governing the testing and the registration of persons convicted of sex offenses, with penalties for noncompliance.<sup>18</sup>

## Allocation Formula

The statute requires that funds be distributed among the states as follows: of the amount available for the block grant program, 0.25% (or \$500,000, whichever is greater) is allocated to each state and the remaining funds are allocated among the states based upon population.<sup>19</sup> The federal government provides three dollars for each dollar contributed by the state, a 75/25 match.<sup>20</sup> Unused or reallocated funds returned to the BJA are distributed through the discretionary program. If the Director of the BJA rules that funds cannot or will not be used by a state, those funds are distributed within that state to localities with the greatest need.<sup>21</sup>

States must distribute to local governments a percentage of the funds received (the "pass-through" requirement). The amount to be distributed is derived by comparing the combined criminal justice expenditures of all of the units of local government in the state to the total criminal justice budgets of the state and the local governments.<sup>22</sup> Individual localities must apply to the state for funds from the local government share. Funds not passed through to local governments may be used by the state.

---

<sup>16</sup> *Ibid.*, 102 Stat. 4331-4333, 42 U.S.C. 3753(a)(1-10).

<sup>17</sup> 107 Stat. 1536-46 and 107 Stat. 2490-95, respectively.

<sup>18</sup> Safe Streets Act, as amended, 104 Stat. 4851, 42 U.S.C. 3756(f); P.L. 103-322, 108 Stat. 2038. Also, U.S. Department of Justice, Office of the Attorney General, "Final Guidelines for the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act," *Federal Register*, vol. 61, Apr. 4, 1996, pp. 15110-15117.

<sup>19</sup> Safe Streets Act and the Department of Justice Appropriations Act, 1990, P.L. 100-690, 103 Stat. 1006, 42 U.S.C. 3756, 3791(a)(2). American Samoa and the Northern Mariana Islands are considered to be one State, with allocations of 67% and 33%, respectively.

<sup>20</sup> 42 U.S.C. 3754(a).

<sup>21</sup> Safe Streets Act, 42 U.S.C. 3756.

<sup>22</sup> Safe Streets Act, 102 Stat. 4334, 42 U.S.C. 3756(b). For information on the calculation of each State's required pass through share and on trends in State and local government criminal justice expenditures, see: Sue A. Lindgren, U.S. Department of Justice, Bureau of Justice Statistics, *Justice Variable Passthrough Data, 1990* (Washington, GPO, 1992).