

Accessing Federal Funds for State and Local Criminal Justice Activities: The Edward Byrne Memorial Justice Assistance Grant (JAG) Program

Public Defender Organizations Can Seek Federal Support for Innovative Programming Through the Byrne JAG Program

Background

The Byrne JAG program, specifically authorized under [34 U.S.C. §§ 10151 - 10158](#), is the leading source of federal criminal justice assistance for state and local jurisdictions.¹ In general, JAG funds may be used to hire additional personnel and/or purchase equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice. The funding is a key supplement to state and local appropriations. There are both State and Local Byrne JAG programs, and BJA offers funding for the two programs through annual solicitations.² In FY 2019, BJA distributed \$175,151,783 in state formula grants and \$77,665,900 in local grants. Defenders should know about both mechanisms.

The March 2020 CARES Act Infuses \$850 Million to Support Efforts to Respond to COVID-19

In addition, as part of the federal CARES Act, in March 2020 the Byrne JAG program was designated as the mechanism to distribute \$850,000,000 in emergency funds to states, localities, and tribes to help in preventing, preparing for, and responding to the coronavirus (COVID-19). Public defenders can follow the same channels to access these resources as they would for annual Byrne JAG funding, with one exception. The CARES Act supplemental funds are intended to be awarded quickly, on a first come, first served basis. Please see the accompanying [information sheet](#) about that special appropriation. The following information is provided to help defenders access Byrne JAG funds in general.

Who Applies: State and Local Byrne JAG Programs

JAG State awards: Only States may apply under this solicitation, and states must designate a single state administering agency (SAA) that has authority to apply on its behalf. By law, for purposes of the JAG Program, the term “States” includes the 50 states plus the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the U.S. Virgin Islands, Guam, and American Samoa. In FY 2019, BJA distributed \$175,151,783 in State formula grants.³

¹ The JAG Program statute is Subpart I of Part E of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, (codified at 34 U.S.C. 10151 - 10158); Title I of Pub. L. No. 90-351 (generally codified at 34 U.S.C. 10151-10726); see also 28 U.S.C. 530C(a).

² See, for example, the Edward Byrne Memorial Justice Assistance Grant (JAG) Program Fiscal Year 2020 State Formula Solicitation, <https://bj.a.ojp.gov/sites/g/files/xyckuh186/files/media/document/bja-2020-17277.pdf>

³ See <https://bj.a.ojp.gov/funding/opportunities/bja-2019-15142>

JAG Local awards: Only units of local government appearing on the “JAG Allocations List” may apply under this solicitation.⁴ Those units of local government deemed eligible for the current fiscal year, once available, will be posted on the JAG webpage.⁵ In FY 2019, BJA distributed \$77,665,900 in 874 local grants.⁶

Can Defenders Receive Byrne JAG Funds?

YES. Confirmation that indigent defense is indeed an eligible area is shared in BJA’s *Edward Byrne Memorial Justice Assistance Grant (JAG) Program Frequently Asked Questions (FAQs)* – Updated March 2019.*⁷

From p. 14 of the FAQs:

What can JAG funds be used for?

In general, JAG funds may be used to provide additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice, including for any one or more of the following:

- Law enforcement programs
- Prosecution and court programs
- Prevention and education programs
- Corrections and community corrections programs
- Drug treatment and enforcement programs
- Planning, evaluation, and technology improvement programs
- Crime victim and witness programs (other than compensation)
- Mental health programs and related law enforcement and corrections programs, including behavioral programs and crisis intervention team.

In connection with the all of the above purposes, it should be noted that the statute defines “criminal justice” as “activities pertaining to crime prevention, control, or reduction, or the enforcement of the criminal law, including, but not limited to, police efforts to prevent, control, or reduce crime or to apprehend criminals, including juveniles, activities of courts having criminal jurisdiction, and related agencies (including but not limited to prosecutorial and **defender services**, juvenile delinquency agencies and pretrial service or release agencies), activities of corrections, probation, or parole authorities and related agencies assisting in the rehabilitation, supervision, and care of criminal offenders, and programs relating to the

⁴ Those units of local governments deemed eligible and receiving awards in FY 2019 are available at: <https://bja.ojp.gov/program/jag/justice-assistance-grant-jag-program-fy-2019-allocations-and-disparate-information>

⁵ Go to <https://bja.ojp.gov/program/jag/overview>

⁶ See <https://bja.ojp.gov/funding/opportunities/bja-2019-15141>

⁷ See <https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/JAGFAQ.pdf>

prevention, control, or reduction of narcotic addiction and juvenile delinquency.” (*Emphasis added*)

From page 25 of the FAQs:

Would the costs for Indigent Defense under the Prosecution and Court Programs be considered allowable expenses under JAG funds?

Yes, grantees may utilize JAG funds for a wide range of state, local, and/or tribal prosecution and court programs; including indigent defense.

How Do Defenders Access these Resources?

Byrne JAG funds are distributed by SAAs and units of local government. **It is incumbent on defender organizations to locate the respective state and local agencies in their jurisdiction, and to learn their individual cycles and processes for including defender programing in their award funds.** The National Criminal Justice Association (NCJA) maintains a directory of the 56 SAAs: <https://www.ncja.org/agency-directory>. There is no central list of all eligible local governmental units, but you can look up past local Byrne JAG awards at the Byrne JAG webpage. <https://bj.a.ojp.gov/funding/awards/list>

Defenders’ Odds of Receiving Funds Improve If They Are Involved in Strategic Planning

SAAs are required to develop strategic plans for their use of Byrne JAG funds, and must update those plans every five years. Applications submitted in response to BJA’s solicitations for awards must include these strategic plans; they set out the general purpose areas to which the SAAs will apply awarded funds. The plans are expressly to be developed in consultation with local governments and representatives of all segments of the criminal justice system, including **providers of indigent defense services**.⁸ Reach out to your SAA to find out who brings the indigent defense services perspective to this consultative body in your state. Find out what types of public defense needs are getting incorporated into the strategic plan.

Consider Partnering on a Byrne JAG Funded Project

Collaborative projects are encouraged under the Byrne JAG Program. Defender organizations can be included in the state or local proposal for Byrne JAG funds submitted by other organizations. For example, the Atlanta Public Defender Office approached another city office that was receiving Byrne JAG funding with a proposal to partner on a project to link homeless clients to housing. The defender offered to provide needed data about how many homeless clients were being represented on a daily basis and what services the clients were being linked to. This joint project led to Byrne JAG funding of a full-time

⁸ See “What an Application Should Include” in BJA’s Fiscal Year (FY) 2020 State JAG Information webpage, <https://bj.a.ojp.gov/program/jag/fy-2020-state-jag-information#py56nm>



defender staff member and four laptops for staff to track the data and link clients to housing. The partnership led to the ability of the public defender's office to expand its community resources so that more homeless clients could access housing. It also enhanced awareness in the city of the value of the public defense in working toward common goals.

Other Resources

Byrne JAG funds are often used to support innovative projects that can be evaluated and, ideally, can produce an evidence base of their success or promise. For additional suggestions on accessing Byrne JAG funds, see the following resources.

- The [National Criminal Justice Agency](#) is a membership organization for criminal justice administrative agencies. Its staff have a wealth of knowledge about the Byrne JAG Program.
- Many resources about Byrne JAG are available online from the Office of Justice Programs. See <https://bja.ojp.gov/program/jag/overview>
- NLADA has a publication to help defender organizations navigate the process of securing federal and non-federal grant funds. See [Accessing Federal Grants, Foundation Funds and Other Supplemental Resources: A Toolkit for Public Defenders](#) (March 2020)
- NLADA has a [factsheet](#) for defender organizations on accessing federal Coronavirus Emergency Supplemental Funding (CESF) Program resources (updated May 8, 2020)
- NLADA aired a webinar on April 2, 2020 on *Accessing Resources for Public Defenders*. It contains helpful advice from NCJA Senior Policy Advisor Jack Cutrone on navigating the Byrne JAG process. See archive at: <https://nlada.webex.com/nlada/lsr.php?RCID=d89a4e05c0f9e33e23cafd8703c19597>

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