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Research Report

National Assessment of the Byrne Formula Grant Program:

A Policy Maker's Overview

Report 4

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PREFACE

This document is the fourth in a series of five reports emanating from the National Assessment of the Edward Byrne Formula Grant Program. The five reports are as follows:

1. *Where the Money Went: An Analysis of State Subgrant Funding Decisions Under the Byrne Formula Grant Program*
2. *The Anti-Drug Abuse Act of 1988: A Comparative Analysis of Legislation*
3. *State and Local Responses to the Byrne Formula Grant Program: A Seven State Study*
4. *The National Assessment of the Byrne Formula Grant Program: A Policy-Maker's Overview*
5. *The National Assessment of the Byrne Formula Grant Program: Executive Summary*

The purpose of the National Assessment has been to conduct a nation-wide examination of the federal assistance to state and local criminal justice agencies that was authorized by the 1988 Anti-Drug Abuse Act. It's objectives are summarized by the following questions:

- How has federal funding disbursed via the formula grants of the Anti-Drug Abuse Act formula been distributed across various types of drug and crime control programs and across jurisdictions?
- What have been the consequences of the conceptual framework that the Anti-Drug Abuse legislation imposes – i.e., its use of formula and discretionary grants, its emphasis on state planning, and so on? How do these features compare to those contained in earlier legislation, to what extent might they be open to change, and with what possible effects?
- How has the complex of federal efforts undertaken as a result of the Anti-Drug Abuse Act – formula and discretionary grants, training, technical assistance, research, evaluation, and so on – affected state and local activities in criminal justice and drug control?

Our observations in these three areas are the subject of the reports subtitled *Where the Money Went, Comparative Legislative Review,* and *A Seven State Study.*

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ACKNOWLEDGEMENTS

A national-scale, long-lasting project such as this National Assessment accumulates a lot of debts during its life, and we would like to express our appreciation to a variety of sources of assistance.

In general, staff at the Bureau of Justice Assistance (BJA) within the U.S. Department of Justice have consistently provided us with high levels of cooperation. Bob Kirchner, Chief of Evaluation and Technical Assistance, has been particularly unstinting in the provision of his time, expertise, and support. We have also been grateful for the help provided by the BJA's State and Local Assistance Division — especially Bill Adams, Linda McKay, Andy Mitchell, Mary Santonastasso and Butch Straub — as we have persistently made our inquiries into their activities. A number of other BJA and Office of Justice Programs staff members, too numerous to name, have also been gracious with their time and understanding.

We are further indebted to the directors and staff of the Byrne State Administrative Agencies who participated in various surveys and interviews. At one time or another, all 56 agencies who receive Byrne funding through the BJA have given us information and opinions about their own operations and about the Byrne program in general. We have benefited substantially from their insights. We are particularly appreciative of the support given us by the seven "high-intensity" states in the study: Arizona, California, Delaware, Iowa, New York, South Carolina, and Washington state. Staff in these states gave us unlimited access to their records, and smoothed our contact with subgrant recipients of federal support when we visited local level projects. There, too, the local level staff on Byrne projects opened their doors to us without hesitation.

Advice and commentary on earlier drafts of this report has been provided to us in various ways. Anonymous peer reviews arranged by the NIJ drew our attention to aspects of the report that warranted expansion or modification. Other reviews were solicited from NIJ and BJA staff, and from officials and members of the National Criminal Justice Association (NCJA). These all generated thought-provoking observations, and have enabled us to improve the report significantly.

Throughout the life of the project, NIJ program monitors, Dave Hayeslip and Winnie Reed in particular, have been supportive and helpful. We thank them for the assistance they have provided.

Finally, we want to acknowledge the contribution made by three other members of the National Assessment team, who have worked with us throughout the life of the project and who have participated in the authorship of other reports that the study has generated. Our thanks go to Scott Green, Jerry Hatfield, and Peter Jacobson for the outstanding work they performed.

In the end, of course, the views we express and the interpretations we make are ours alone, and we are responsible for any flaws or errors that exist in the report.

Endorsement of the content of the report by any of the individuals or organizations who have provided assistance should not be inferred.

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1 OVERVIEW OF THE NATIONAL ASSESSMENT

1.1 Introduction

This section contains an overview of the motivation for and objectives of The National Assessment of the Edward Byrne Memorial State and Local Law Enforcement Assistance Program (the Byrne program, hereafter). This program is one of several elements of federal support authorized by the Anti-Drug Abuse Act of 1988 (ADAA-88, hereafter) and subsequent modifications. The main research questions that shaped the Assessment, the approach that was taken, and the research products that have resulted are identified. Finally, a discussion is presented of the issues that the Assessment team judge to be critical to the operation of federal aid programs to state and local criminal justice.[1]

1.2 Derivation

Federal aid to state and local governments to assist in combating drug abuse and drug related crime began with the Anti-Drug Abuse Act of 1986 (ADAA-86 hereafter). In 1988, new anti-drug abuse legislation (the ADAA-88) expanded the 1986 provisions by creating new agencies and assigning responsibilities to existing agencies that had not previously been involved. In addition, new programs were established and the overall level of federal funding was increased.

The grants-in-aid programs authorized by the ADAA-88 Act span criminal justice, health, education, and public housing. Except in the public housing area, the primary vehicle for distributing funds is the formula grant. Under this approach, an executive branch agency (the BJA in the criminal justice area) distributes federal funds to states on a

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[1] It should be noted, however, that this document is not meant to be a complete statement of research design. A separate document, *The Anti-Drug Abuse Act of 1988: Program Assessment Research Design,* available in mimeograph upon request, provides a more comprehensive description of the structure of the Assessment and describes in more detail the research tasks and objectives associated with each of its major components.

combined basis of a fixed base amount and population, with the latter being by far the most significant of the two factors. States then redistribute the money through a process of subgrants to state and local agencies. Supported projects within the Byrne program must be consistent with the congressional priorities stated in the legislation, and with state-specific objectives that are formally documented in a state-wide strategic plan.

The formula approach is supplemented by categorical funding. In the criminal justice area, a separate discretionary grant program — authorized at 20 per cent of total funds but supported in most years by 10-15 per cent of actual congressional appropriations for the Act — is established by the legislation. This is also managed by the BJA and, during the early years of the Byrne program, tended to completely bypass the state agencies that receive and redistribute the formula grant money. More recently, BJA has instituted a systematic program of informing state agencies of the categorical awards made in their states.

In both the 1986 and 1988 legislation, the BJA was designated as the federal agency responsible for implementation and management of the formula[2] and discretionary criminal justice components of the federal aid program. One of the innovations of ADAA-88 gave the NIJ joint responsibility with BJA for developing a program of evaluation that was to focus on the impact and effectiveness of the activities generated by or through federal supported programs. This resulted in a partnership between the NIJ and the BJA. Working cooperatively, the NIJ and BJA staffs developed a statement of evaluation priorities and a level of financial support for execution of the research that the priorities entailed. Funds were transferred to NIJ from the BJA discretionary fund to support these activities. This process was repeated annually for the first four years after the 1988 Act was passed. A gap in funding occurred in FY 1993 and FY 1994 as a result of other spending priorities and the high level of Congressional earmkarking.. More recently, a resuscitation of the partnership is underway.

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[2] The formula component of federal aid to state and local criminal justice is variously referred to as the formula grant program, the Byrne program, or, simply, the block grant program. These designations are essentially interchangeable and should be interpreted as such in this report.

Under the NIJ/BJA agreement, the BJA provided a substantial portion of the funds that have been allocated to the evaluations, and the NIJ has managed the solicitation process, the awarding of grants, and the monitoring of the results. Both have provided evaluation technical assistance to states, though the BJA's role in this regard has been much more extensive and systematic. The two agencies have collaborated in the area of dissemination, holding joint national conferences to promulgate results of the evaluations that have been funded.

The National Assessment of the Byrne formula grant program derived from this collaboration. During FY89, the first operational year of the agreement, the NIJ and the BJA agreed that a general assessment of the Act and its implementation was needed. The idea was that the assessment would cover the formula grant component of the legislation, its implementation at the federal level, federal-state interaction, and state management of the formula grant process. Because of the magnitude of this undertaking, and because of uncertainties about the way in which it should be done and whether it could be successfully completed, a staged series of projects was envisaged. First would be an examination of state responses to the strategic planning mandate of the Act. Second, would be an examination of the way states managed and monitored the subgrants they awarded. And third would be an overall evaluation of the formula grant program and its effects. These three projects, though conceptually and substantively related, could each be conducted on a stand-alone basis with no one of them being required simply because an earlier one was done.

The result was three separate studies, correspondingly roughly to the three concepts just outlined. Results from the first two projects — focusing on state strategic planning and state monitoring of subgrants respectively-- were published by the NIJ in 1992.[3] Results from the third — the overall assessment of the Act — are the subject of this document and the companion reports that it summarizes.

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[3] See Terence Dunworth and Aaron J. Saiger, *State Strategic Planning Under the Drug Control Formula Grant Program*, National Institute of Justice, 1992; _____, *Monitoring Guidelines For the Drug Control Formula Grant Program*, National Institute of Justice, 1992;

The period of time covered by the assessment spans the federal fiscal years from 1989 to 1994 (abbreviated as FY89, FY94, etc.).

1.3 Objectives

The central questions about the ADAA-88 that everyone would like to have answered can be simply stated: What impact has it had on the drug problem? Has it materially affected the supply and consumption of illicit drugs? What has the street effect been? It is our view, albeit reluctantly adopted, that, in a comprehensive national sense, these questions are unanswerable at present and may not be answerable at any time in the future. There are three main reasons why this is so.

First, the formula grant program that the Act creates is large and complex. Many thousands of initiatives are supported; they run the gamut of criminal justice activities; and they are widely distributed geographically. The evaluation effort needed to comprehensively encompass a program of such scope is hard to imagine, but we can confidently assert that it is greater than any that could conceivably be funded from the federal, state, or local resources that have been or are likely to be allocated to the task.

Second, despite their scope, the formula and discretionary programs comprise only a small proportion — hardly reaching 1 per cent — of the expenditures and activities of state and local agencies on drug and crime control and criminal justice. Picking out the effect of this level of funding from among all other types of funding would be like trying to measure the ripples in a pond caused by throwing in a bucket of pebbles when 99 other buckets are emptied in at the same time.

Third, even if it were possible to examine every aspect of the ADAA-88's programs, and fit them into a comprehensive mosaic of all the other activities that the criminal justice system engages in, any definitive evaluation of their impact would have to account as well for myriad other influences on drug abuse and drug crime, totally outside the criminal justice system, some of which are governmental in origin, some societal, and some personal. The general effect of these factors probably cannot be measured either, but it seems reasonable to presume that they are at least as powerful in their impact as the

projects that state and local agencies design and implement under the formula and discretionary grant programs.

For these reasons, we do not assert in this research that the most general questions can be answered. Rather, the goals of the national assessment have been defined as assessing the way that federal, state, and local activities have been shaped by the legislation, and the effectiveness with which those activities have been undertaken. To address these topics, three major areas of research were identified early in the life of the project:

- How has federal funding disbursed via the ADAA-88 formula grants been distributed across various types of drug and crime control programs and across jurisdictions?
- What have been the consequences of the conceptual framework that the Anti-Drug Abuse legislation imposes — i.e., its use of formula and discretionary grants, its emphasis on state planning, and so on? How do these features compare to those contained in earlier legislation, to what extent might they be open to change, and with what possible effects?
- How has the complex of federal efforts undertaken as a result of the ADAA-88 — formula and discretionary grants, training, technical assistance, research, evaluation, and so on — affected state and local activities in criminal justice and drug control?

Our observations in each of these areas are the subject of separate stand-alone reports, which, for ease of representation, we identify respectively as: *Where the Money Went; Comparative Legislative Review;* and *State and Local Responses*[4]. The contents of those reports are synthesized in the present document, which brings together, in summary form, all work done to date, and adds to that a set of policy observations and recommendations about the primary areas of concern. A brief summary of the other three reports is now presented.

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[4] The *National Assessment of the Byrne Formula Grant Program* reports are as follows: Terence Dunworth and Aaron J. Saiger,: *Where the Money Went* (forthcoming); Terence Dunworth, Scott Green, Peter Haynes, Peter Jacobson, and Aaron J. Saiger, *A Comparative Review of Legislation* (forthcoming); Terence Dunworth, Peter Haynes, and Aaron J. Saiger, *A Seven State Study* (forthcoming);.

Where the Money Went is an analysis of state funding decisions that is geographically and longitudinally comprehensive. It utilizes the Bureau of Justice Assistance in-house data base on individual subgrants, known as the Individual Project Reporting System. This data set, though not without limitations (discussed in the first report), is the best available national-level documentation of the projects that the formula grant program has supported since its inception. Through its use, it is possible to look at state decision-making primarily from the viewpoint of the state/subgrantee relationship, rather than the federal/state relationship. The report describes the state-by-state allocation of funds across different legislatively authorized purpose areas, and considers the relationship between funding allocation patterns and type of recipient – by, for example, calculating how much federal aid has gone to state, county and city governments. It also looks at changes over time in the proportion of annual appropriations that are directed by states to different kinds of activities – enforcement, prevention, treatment, and so on.

The *Comparative Legislative Review* focuses entirely on the federal level, and examines the criminal justice component of the 1988 legislation. Other block grant programs within the U.S. Departments of Health and Human Services (HHS) and Education (HHS) are introduced for illustrative purposes. A longitudinal analysis of criminal justice grants-in-aid is provided, with particular emphasis on the Safe Streets Act of 1968, and the resulting activities conducted by the Law Enforcement Assistance Administration. This helps to establish a framework for documenting some of the strengths and weaknesses of the anti-drug abuse legislation, and for assessing the extent to which successful elements of other legislative models might be incorporated into future anti-drug crime programs.

The third component of the research – focusing on state and local responses to the program – is reported in *A Seven State Study*. There we look at the way in which states and local governments have reacted to the 1988 Act and consider the influence on state and local anti-drug abuse efforts of federal evaluation, training and technical assistance, and the discretionary and formula grant programs. We stress that the work should not be considered in any sense an evaluation of the performance or activities of the seven states that were generous enough to open their doors to us. The objective is to use the

experiences of the seven states and information they reported to us as illustrative material with respect to the Byrne program as a whole and to identify the main themes pertaining to the state and local level implementation of the program.

Each of these three reports can be considered preparatory for the current document, which is the general policy document of the study. This report – *A Policy Maker's Overview* – focuses on what we believe to be the most salient aspects of the assessment, and brings together, in summary form, a synopsis of the research that was performed. It also adds a set of policy observations and recommendations about the primary areas of concern in federal criminal justice assistance. A separate *Executive Summary* of the *Policy Overview* highlights the main findings of the research. For more detailed information, it is recommended that the reader refer to the three background reports.

The view of the Byrne program that we adhere to throughout this report is that federal assistance funds are too few to bring about a materially significant change in the number or scope of state and local drug control programs. Because of this, both formula and discretionary funds are best conceived as stimulants of innovation; providers of "seed money" for programs that will eventually be sustained by state and local dollars; and opportunities to test new approaches that are too expensive or risky for states and local agencies to contemplate on their own.

The point of the legislation is to generate change; to get state and local governments to do things differently and hopefully better. The question being asked in the *State and Local Responses* part of the assessment is whether or not these things have happened, and, if so, to what extent. To implement this aspect of the research, seven states cooperated with the research team by permitting a more intensive examination of their procedures, records, and decisions. The participating states were: Arizona, California, Delaware, Iowa, New York, South Carolina, and Washington.

1.3 Critical Issues

As noted, the fundamental objective of this report is to synthesize the findings of the National Assessment in a policy relevant way. The intent is not to exhaustively document the work that was done, the observations that were made, and the results that were developed. This is done in the other reports. Rather, the idea is to focus upon the most critical subset of issues and to provide a commentary upon them.

The selection of such a subset is, of course, a somewhat arbitrary process. And, since what is critical to one observer may seem unimportant to another, there is a risk that any selection will appear deficient to some readers. Nevertheless, we have identified what we believe to be the most important issues, and these are the areas on which this report focuses. They are as follows:

- The management of the Byrne program and the relative roles of the congress, the federal executive branch, and state and local governments in that process.
- The level of cooperation, coordination, and collaboration that the Byrne program has engendered, and the extent to which these are becoming institutionalized.
- The degree to which criminal justice system resources have been more rationally used during and as a consequence of the Byrne program.
- The extent to which frequently expressed concerns about the equity of the formula grant distribution process, and its suitability for the criminal justice environment are or are not well founded.
- The potential for permanent adoption by the criminal justice system of successful innovations and strategies that the Byrne program has stimulated.
- The extent to which the monitoring, reporting, and evaluation systems set up by federal, state, and local actors in the Byrne program constitute a satisfactory means of assessing the program and the projects it has supported.

We begin in Section 2 by considering the thirty year history of federal assistance to state and local criminal justice agencies. We then move in Section 3 to the legislative context within which the ADAA-88 came into being, and provide an overview of its structure and operation.

National-level funding patterns are considered next in Section 4. There we review what the available data are able to tell us about the extent of participants' regulatory compliance, distribution of funds among different purpose areas, and awards to state, county and local levels of government.

Section 5 presents a state-based analysis of expenditure decisions in three critical areas — multi-jurisdictional task forces, educational and prevention programs, and treatment activities. Sections 6, 7 and 8 focus on issues of coordination, rationality and equity, and the potential for permanent adoption by the criminal justice system of the changes that were initiated under the Byrne program. In section 9, we look at monitoring, evaluation, and reporting.

A concluding section summarizes our findings, and relates them to the general goals and objectives of criminal justice assistance and the extent to which they have been met by the implementation of this legislation.

2 FEDERAL CRIMINAL JUSTICE ASSISTANCE: 1966-1995

2.1 Introduction

2.1 Five Phases of Federal Support

Federal aid to state and local criminal justice agencies began in 1965 with the passage of the Law Enforcement Assistance Act[5] and the appointment by President Johnson of the Presidential Commission on Law Enforcement and the Administration of Justice. Prior to that time, criminal justice had been considered strictly a state and local affair except for those matters that could be defined as falling within the constitutional purview of the federal government. Then, and since, the problem of crime in America's cities and how to prevent and control it has consistently been at the forefront of public concern. Nevertheless, the congress has not had a consistent approach to the state and local support question, and federal assistance has been characterized by significant fluctuations in strategy, objectives, and funding levels. In fact, when relevant legislation from 1965 to 1994 is examined, five distinct phases of federal orientation to the question of state and local support are evident. Chronologically, these are as follows:

1. **1965-1967: Preparation.** Small congressional appropriations of about $7 million per year funded the 1965 Law Enforcement Assistance Act. The money was primarily devoted to crime control programs in the Washington, D.C. area. Simultaneously, the Presidential Commission worked toward operationalizing President Johnson's 1965 pledge to the nation ". .not only to reduce crime but to banish it."[6]

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[5]See generally, Justice Assistance Act of 1981, H. Rept. 97-293, 97th Cong., 1st Sess., pp. 2-3.

[6]Public Papers of the President, Lyndon Johnson 1965, U.S. Government Printing Office (1966).

2. **1968-1980: The Law Enforcement Assistance Administration (LEAA).** The Ombibus Crime Control and Safe Streets Act, passed in 1968 after the assassinations of Robert F. Kennedy and Martin Luther King, Jr., created the LEAA to distribute and manage direct federal aid to state and local criminal justice programs. A block grant approach to distribution was adopted; states were made the custodians of the funds, with congressionally defined responsibilities for redistribution of the assistance to local agencies. Appropriations increased rapidly during the first seven years of the program, reaching nearly $900 million in 1975. Then, confronted by increasing crime rates and rising dissatisfaction with the LEAA in particular and federal involvement in state and local criminal justice issues in general, funding declined precipitously, falling to zero by the start of the next decade.

3. **1981-1985: Regrouping.** Federal aid was essentially non-existent during this period. Nevertheless, despite the jaundiced view that many legislators and the executive branch had of the LEAA experience, the persistence of public concerns about crime led to a gradual resurrection in the congress of the conviction that the federal government would have to provide state and local criminal justice assistance in some form. The consequence was the periodic introduction and, in 1984, passage of legislation authorizing a new 4-year round of federal aid (the Comprehensive Crime Control Act). Levels of appropriation were to be determined later. However, the combination of a Republican presidency and a Democratic congress led to a funding stalemate, and 1985 aid appropriations totaled only $25 million.

4. **1986-????[7]: Anti-Drug Abuse.** Political differences centering on the 1984 Act were eclipsed in 1986 by the cocaine-related death of Maryland basketball star Len Bias. This occurred at a time when drug problems in the United States had leaped to the forefront of public consciousness and, together, the two things swept aside legislators' hesitancy about federal assistance. The congress quickly replaced the 1984 Crime Control Act with the ADAA-86, authorizing $230 million of block grant assistance, spread over two years. In 1988, further expansion took place when the 1988 Act was passed. A formula grant model was adopted, with characteristics very similar to the LEAA format. Aid appropriations climbed again, in a pattern reminiscent of LEAA trends, though at far lower levels. In 1995, program funding reached its highest ever level ($500 million).

5. **1994-????. Community Policing.** Following up on a campaign promise to put 100,000 new police officers on the street, **President**

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[7] The question marks here and in the following paragraph indicate that the phase is not yet over. congressional appropriations are still being made and no final termination of the program is in sight.

> Clinton and a democratically controlled congress **combined** to push the Violent Crime Control and Law Enforcement Act past significant opposition. Dramatic increases in federal funding for local law enforcement accompanied its passage ($1.3 billion appropriated in 1995, $1.8 billion authorized for 1996, and further authorizations through the year 2000), but, in a radical switch from the state-centered block grant approach of all prior criminal justice assistance, distribution of the money bypassed states altogether and went directly to police departments who agreed to adopt or expand community policing.

2.2 Federal Appropriations and Local Expenditures

The rhythmic, on-again/off-again nature of federal aid that these phases produced is clearly depicted in Figure 2.1, which maps annual levels of state and local expenditures of federal assistance from 1966 until 1995 in two forms – actual dollar figures, and 1994 dollars after adjustment for cost of living increases. For illustrative purposes, combined FY 1995 appropriations for the Crime Bill and the Byrne program are included in the chart.

The figure demonstrates that, despite persistent expressions of concern about crime by both Republicans and Democrats, commitment to the concept of federal aid is weak. Prior to appropriations for the 1994 Crime Bill for instance, actual annual dollar expenditures for assistance were at their highest in the mid-1970s. Since then, the highest annual funding provided by the congress – roughly $500 million, not counting Community Policing appropriations under Title I of the Crime Act — never even reached two thirds of the LEAA peak. And, when commitments are adjusted for inflation, not even the combination of the Byrne program and the Community Policing appropriation matches the LEAA high.

The limits of the federal contribution to state and local crime control are further revealed by the data in Figure 2.2, which compares federal law enforcement assistance to total state and local criminal justice expenditures over the past three decades. The federal assistance plot in this chart is derived from the same data as presented in Figure 2.1, but is displayed on a different scale. What this figure illustrates is that, in real terms, while federal commitments have been fluctuating or falling, state and local expenditures have

FIGURE 2.1
Federal Criminal Justice Assistance: 1966-1995

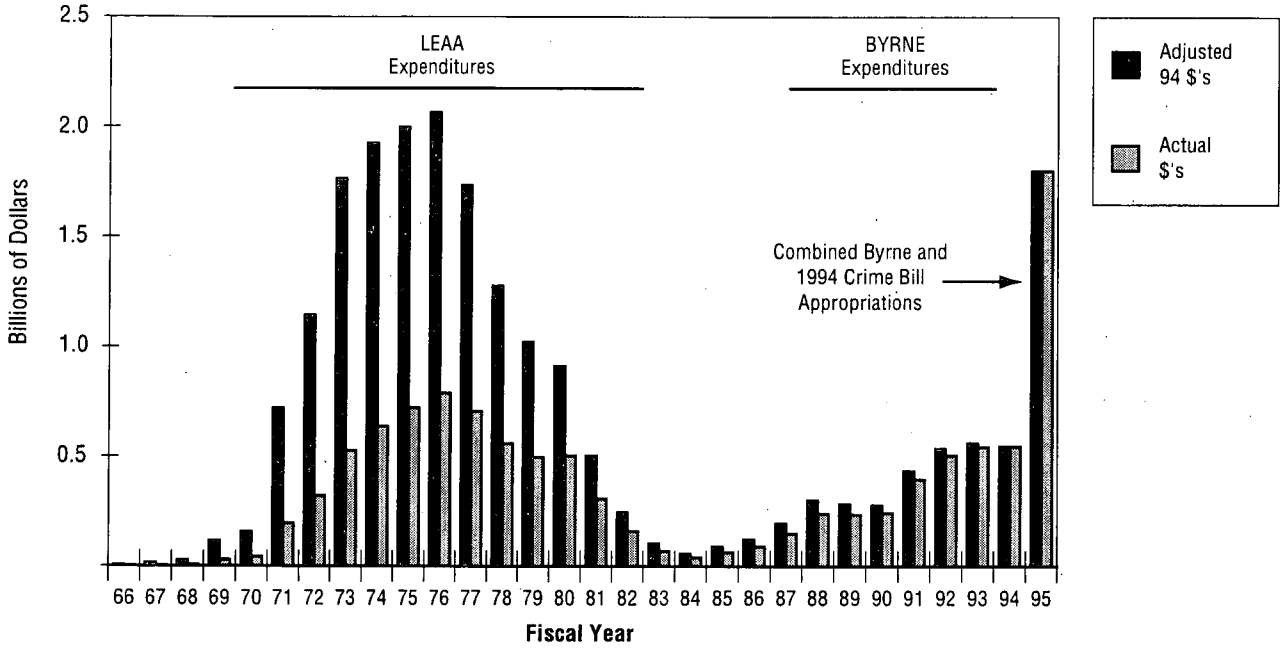
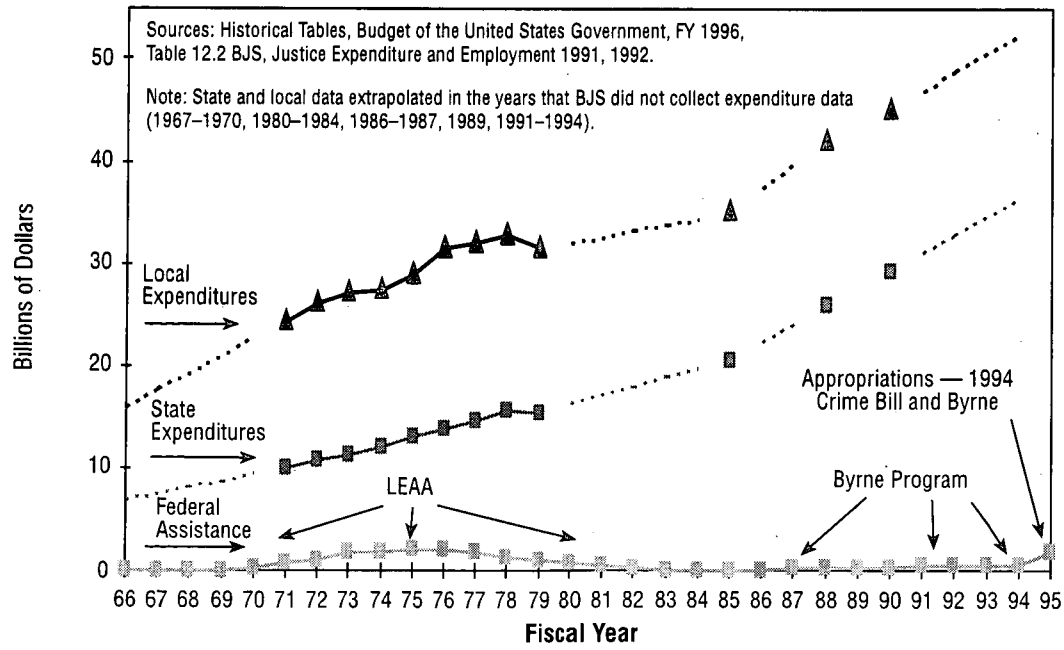


FIGURE 2.2
Federal Assistance Compared to State and Local Criminal Justice Expenditures: 1966-1995 (In 1994 Dollars)



been steadily rising. Consequently, federal aid has been a persistently declining proportion of the nation's effort to manage crime. Even the 1994 Crime Bill does not reverse that trend.

To illustrate further, the chart shows that in the mid-1970's, federal assistance to state and local law enforcement was $2.1 billion when expressed in FY94 dollars. At that time, total state and local criminal justice expenditures were about $45 billion, also expressed in FY94 dollars. So, federal aid was a little less than 5 per cent of all expenditures.

In 1990, the last year for which aggregate data are available, state and local criminal justice expenditures were roughly $74 billion. Even if we assume no increase in state and local expenditures after that time, the $1.8 billion combination of Byrne and community policing appropriations in FY 1994is less than 2.5 per cent of the state and local figure. And, of course, it is virtually certain than state and local expenditures have increased, probably along the same path that is estimated in Figure 2.2. If so, then the correct percentage for federal assistance will be closer to 2 per cent, *even including the law enforcement component of the 1994 Crime Bill.* And, if we do not include the Crime Bill, but instead think only of the Byrne program, then it's contribution does not even reach 3/4 per cent of state and local expenditures in recent years.

2.4 Implications

These observations have profound implications for the view we should take of federal assistance programs and the interpretation we can make of them.

First, even the most generous federal funding levels only comprise a small percentage of the nation's anti-crime effort. We should not expect such support to have much of an effect on crime or to hardly even be noticeable in aggregated local crime and enforcement statistics. We should, therefore, look elsewhere for its effect — for instance, in the area of influence on the system's operation.

Second, we should expect continued fluctuations in the congressional attitude towards support as political considerations first warm and then chill policy makers' views

of the federal role. This will likely lead to state and local programmatic instability in the future, as it has in the past. For instance, when the LEAA terminated in the early 1980's, many of the state administrative agencies that had been given planning and oversight responsibility for the federal assistance program simply went out of existence, and the skills and abilities that had been developed were lost to the criminal justice community. In many states this will happen again if the Byrne program is terminated.

These issues will be explored in more detail later in this report, after further evidence on the operation of the Byrne program has been presented. At this point, we move to a consideration of the content and structure of the Byrne authorizing legislation.

3 THE ANTI-DRUG ABUSE LEGISLATION

3.1 The Anti-Drug Abuse Act of 1986

After five years of minimal support for state and local governments, the summer of 1986 marked a dramatic change in the federal attitude to violent crime and drug trafficking. Two significant events triggered this change: the death of Maryland basketball star Len Bias from a cocaine overdose and the widespread appearance of a new and highly addictive drug — "crack" cocaine. The drug crisis was consistently ranked as the number one problem confronting the nation in public opinion polls.

The federal Executive branch and members in both Houses of congress responded rapidly. Bypassing the normal hearing process, with the result that there is no formal legislative history to examine, the House and Senate passed H.R.5484, the ADAA-86; on October 17, 1986 and President Reagan signed the legislation ten days later. Title I of the bill contained a new $230,000,000 block grant program to assist state and local law enforcement agencies in anti-drug efforts.

Goals and Objectives

The primary congressional goal was to help law enforcement agencies to address offenses under federal and state controlled substances statutes. The legislation therefore required the BJA to concentrate on drug law enforcement programs. Though the more general crime control block grants established by the Comprehensive Crime Control Act of 1984 remained on the books, no new appropriations were made for them after 1985.

Administrative Process

However, many of the administrative changes and accountability measures introduced in 1984 were specifically retained in the 1986 act, such as yearly performance reports and periodic impact assessments. Similarly, the 1986 act split federal funds between block grant and discretionary activities: 80 percent of appropriations were devoted to block grants to the states on a population basis; the remaining 20 percent was

reserved for national discretionary grants. The act contained a 75-25 federal-state matching requirement and authorized the states to use up to 10 percent of their block grants for administrative purposes.

Programmatic Structure

The 1986 act basically continued the structure of block and discretionary grant programs established in 1979[8] and 1984. It did, however, revive the requirement that states produce a strategic plan — in this case for drug control — in order to be eligible for funding. This strategy was to be approved by the BJA.[9] This marked a departure from the provisions of the 1984 Act, which did not require a statewide plan, and a return to requirements set up initially by the 1968 Safe Streets Act.

TABLE 3.1
Authorized Program Areas
Anti-Drug Abuse Act of 1986

1.	Personnel, equipment, etc., to enhance apprehension of drug offenders
2.	Personnel, equipment, etc., to enhance prosecution of drug offenders
3.	Personnel, equipment, etc., to enhance adjudication of drug offenders
4.	Corrections/treatment/rehabilitation of drug dependent offenders
5.	Drug eradication programs
6.	Programs to meet the needs of drug offenders
7.	Demonstration programs to expedite the prosecution of major drug offenders

The most important programmatic difference between the 1984 and 1986 acts was that in the latter, program grants were to be used to deal directly with controlled substances, as seen in Table 3.1, rather than with crime in general. Grants were limited to seven specific categories of funding, but the wording was sufficiently broad to authorize funding for virtually any program related to the apprehension, prosecution, trial and incarceration of drug offenders, including eradication programs and treatment. However, drug prevention programs were excluded from the scope of the Act.

Appropriations

$178 million were appropriated for the newly created anti-drug formula grants in FY 87. An additional $46 million was appropriated for discretionary grants. The late

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[8] Justice System Improvement Act of 1979, H. Conf. Rept. 96-655, 96th Cong;, 1st Session, p. 77.

[9] The act incorporates language that permits federal funds to go directly to local entities if the state plan is not submitted or is not approved by BJA.

disbursal of these funds led to an abbreviated funding cycle in FY 88 and the grant appropriations were reduced correspondingly, to $56 million for formula grants and $14 million for discretionary awards.

3.2 The 1988 Act: Expanding the Federal Role

Not surprisingly, the ADAA-86 did not solve the drug problem overnight. Drug trafficking and abuse continued to be top priority concerns of the public and, therefore, of national policy-makers, in early 1987. In addition, the state and local assistance provisions in the 1984 crime bill (including the authorizations of the OJJDP, the NIJ, the BJS and the anti-crime grants administered by the BJA) were scheduled to expire at the end of fiscal year 1988. This gave congressional leaders an opportunity to reassess the federal government's commitment to state and local criminal justice and drug control assistance.[10]

Public pressure soon convinced members of the congress that the sweeping reforms enacted in the 1986 act were not enough. As a result, the congress passed another major anti-drug bill — the ADAA-88. Again, as in 1986, this Act did not follow the normal legislative route. Although many of the provisions in the 1988 act were modeled on legislation that was previously introduced, and on which hearings had been held,[11] the 1988 law was ultimately developed in the final days of the 101st congress by informal "working groups" composed of members representing the relevant authorization and oversight committees in both Houses.

Goals and Objectives

The title of the ADAA-88 that creates the Edward Byrne Drug Control and Systems Improvement Program retains the drug-related focus of its' 1986 predecessor. At

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[10] Senator Biden, for example, introduced S.1250, the Criminal and Juvenile Justice Partnership Act of 1987. This legislation proposed a four-year reauthorization of virtually every state and local assistance programs in the Department of Justice. See The Criminal and Juvenile Justice Partnership Act of 1987: Hearings Before the Committee on the Judiciary and its Subcommittee on Courts and Administrative Practice, Committee on the Judiciary, United States Senate, 100th Cong., 2nd Sess. (Mar. 10 , Apr. 25, and May 13, 1988).

the same time, it incorporated a strong emphasis on violent crime, presaging a gradual movement over the next seven or eight years away from concerns about drugs and towards concerns about violence. It also incorporated language stressing the goals of improving the criminal justice system and enhancing coordination and cooperation between its various elements. Finally, the title also addressed the importance of coordination between federal and state authorities, between state and local criminal justice systems, and between state and local officials responsible for criminal justice, substance abuse treatment, and substance abuse prevention.

Other goals of the legislation include:

- Developing multijurisdictional drug control strategies;
- Using strategic plans to target resources in the areas of greatest need
- Securing state support for national drug control priorities
- Developing state input into the national recommendations to be produced by a newly created "Drug Czar" in the Executive Office of the President.

The ADAA-88 was a large and complex piece of legislation, and dealt with a large number of drug-related issues in addition to creating the Byrne criminal justice assistance program. In particular, it also reauthorized two other block grants — the Alcohol, Mental Health, and Drug Services block grant (since renamed) for treatment services, and the Drug-Free Schools block grant for school-based prevention — and created the Public Housing Drug Elimination Program, which awards categorical grants to public housing authorities attempting to control drug-related problems. The inclusion of all of these programs in a single legislative package marked the extent to which criminal justice had begun to be viewed as but one component of the drug control system.

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[11] For example, the state and local assistance provisions in the Anti-Drug Abuse Act of 1988 reflected the consideration of, and hearings on, S.1250.

Administrative Process

The 1988 law retained several administrative provisions of the ADAA-86, including the 80-20 split between block and discretionary grant funding and the 75-25 federal-state matching requirement. At the same time, the 1988 act also included important administrative changes to the block grant programs. First, the NIJ — an agency independent of the BJA — was required to conduct evaluations of subgrants selected by states to receive federal aid. The purpose of this amendment was to create an evaluation process that closely examines federally funded programs to ensure that successes are replicated while failures are not.

In addition, the 1988 act continued the evolving emphasis on greater recipient accountability. Each funded program was required to include an evaluation component, and states were required to evaluate, audit, assess, and account for subgrant programs on a yearly basis, maintaining and submitting reports as required by the BJA.

Programs were also limited in duration to 4 years.[12] This reflected the idea that federal aid should serve as a stimulant to the initiation of new and innovative programs, but that state and local governments should move expeditiously towards independent operation of those that proved to be effective.

States were also required to use the annual comprehensive state strategy to document how all federal funds for drug control, including non-criminal justice funds, were being coordinated. However, this emphasis on coordination was limited to the state level. Although the ADAA-88 authorizes treatment, school-based prevention, and public housing grant programs in addition to the Byrne program, each program is completely autonomous at both federal and state levels. The act created no formal administrative or other links between the programs, nor does it require any coordination among the federal agencies that administer them.

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[12]Some programs could be extended for an additional 2 years upon a demonstration through evaluation of program effectiveness (meeting program goals) and upon the state's assuming 50 percent of the funding. In 1991, an exception to the 4 year provision was also created for multijurisdictional task forces.

The 1988 law also imposed tight time limits on both the federal and state governments in the review and approval of applications and the award of state funds. Though the BJA was, in principle at least, given a great deal of power to review and, if necessary, reject state plans (thus denying the state – though not the local governments – the funds that the Act authorized), it was itself subjected to a strict timetable for the review and approval of those plans. Failure to meet the timetable resulted in automatic approval. States faced similar regulations. A local application for funding was to be considered approved after 45 days if not specifically disapproved by the state.

These provisions were introduced in response to repeated criticisms, particularly from the U.S. Conference of Mayors, that the federal and state governments were slow in distributing federal funds to the streets, and that the nation would be better served by direct federal-local aid. Significantly, however, the congress rejected the efforts of the Mayors' Conference and others to abolish the state-administered block grant structure in favor of direct federal aid to local units of government. Many members of congress believed that the federal government could not efficiently administer thousands of direct grants to local units of government and that allocating funds directly to local governments would lead to uncoordinated and fragmented local efforts. Instead, the congress retained the structure in which states play a central role in developing statewide anti-drug strategies.

At the same time, the congress was concerned that local governments — particularly smaller cities — were not adequately included in the statewide strategy planning process. Accordingly, the congress mandated a larger role for local governments in the development of the statewide strategies.

Programmatic Structure

One of the most important structural changes of the ADAA-88 is that it consolidated the BJA's separate anti-crime block grant, created by the Comprehensive Crime Control Act of 1984 and unfunded after 1985, with the anti-drug block grant program established by the ADAA-86. Also important was that it considerably toughened the state strategic planning requirements introduced in 1986. State Administrative

Agencies (SAAs), similar to the State Planning Agencies (SPAs) that the LEAA oversaw under Safe Streets Act mandates, were to develop an annual statewide strategy for controlling drug trafficking and violent crime. The strategy was subject to BJA approval. Specific language in the Act required the state strategies to assess drug and crime control needs, catalog current drug and crime control activities and resources, identify geographic areas of greatest need, discuss coordination among agencies, and identify a strategy to address these issues. Input from local governments, state legislatures, and the general public were also required.[13]

Further, the criminal justice SAA was required to coordinate its plan with other federally funded drug control activities in the area of substance abuse treatment and prevention, and to incorporate the results of such coordination into the strategy. However, no reciprocal coordinating requirement appears in the language for the Alcohol, Drug Abuse, and Mental Health (ADMS) block grant for drug treatment[14] or the Drug-Free Schools and Community block grant for school-based drug prevention, both of which are authorized by the same Act. The consequence was that most criminal justice practitioners quickly came to view this requirement was unworkable, and, in practice, it was rarely if ever operationalized as prescribed in the legislation.

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[13]Unlike the Safe Streets Act of 1968, the 1988 does not make explicit provision for strategic planning at the regional level within states.

[14] ADMS has since been renamed as the Substance Abuse Services block grant.

TABLE 3.2
Authorized Program Areas
Anti-Drug Abuse Act of 1988

1. Drug demand reduction education (law enforcement officials included)
2. Multijurisdictional drug task forces to enhance coordination
3. Target domestic controlled substances sources (i.e., labs)
4. Community/neighborhood programs
5. Disrupt illicit commerce in stolen goods
6. Control white collar/organized crime
7. [a] Crime analysis techniques; [b] Anti-terrorism
8. Career criminal programs; model drug control legislation
9. Target money laundering from drug trafficking
10. Improve court processes
11. Improve corrections (i.e., Intensive Supervised Probation)
12. Prison industry projects for inmates
13. Treatment needs of juvenile and adult drug/alcohol offenders
14. Assistance to jurors/witnesses/victims
15. [a] Develop drug control technologies (i.e., testing); [b]-Develop information systems
16. Develop innovative approaches to drug and serious offenders
17. Address problems of illegal drug dealing and manufacture in public housing
18. Programs for domestic and family violence
19. Drug control evaluation
20. Alternatives to detention where the inmate is not dangerous
21. State drug enforcement programs

Second, the congress established the Byrne Drug Control and System Improvement Grants as the primary criminal justice grant program. The list of authorized purposes for which grant funds could be used (shown in Table 3.2) is consistent with the consolidation of the crime control and drug control block grants[15]. A relatively open-ended list of 21 purpose areas, it includes the use of federal funds for personnel/training/technical assistance, information systems for prosecutors, and community programs to prevent crime. This program is conceptually similar to the block grants of the Safe Streets Act of 1968, providing states with considerable flexibility in the range of programs they can undertake. But consistent with the legislative goals, the list clearly emphasizes drug-related programs. Among others, these include: establishing multijurisdictional task forces that integrate federal/state/local anti-drug efforts; developing drug control technologies; and targeting money laundering from drug trafficking activities.

The act also pushes states towards funding programs of proven effectiveness through the use of

[15] In the FY95 appropriation, the list of approved areas was expanded to include DUI programs, adult-court prosecution of violent 16-17 year old juvenile offenders, gang enforcement and control programs, forensic laboratory enhancements for DNA analysis, and programs relating to the death penalty and Federal habeas corpus petitions.

program briefs, which describe the key elements, organization, and outcome measures of proven interventions.[16] Initially, the BJA took responsibility for the development of program briefs and gave automatic approval to projects that were based on them. Since 1993, however, BJA Guidance has shifted the emphasis towards increased state involvement in this activity.

States may fund projects which have no such brief only if they develop a statement of their own describing key elements, outcome measures, and the like. In this sense, the 1988 act intends to transfer programs that are known to have worked — that is, programs that have been evaluated and shown to be effective — from jurisdictions that have used them to those that have not yet tried them.

The 1988 legislation continued the Discretionary Grant Program authorized by the 1986 Act, and specified that discretionary grants are to provide additional assistance to public, private, or nonprofit entities for education/training for criminal justice personnel, technical assistance to states/local agencies, national/multijurisdictional activities for the above block grant purposes, and demonstration projects. This program is designed to be more innovative than the block grant program. The Director of the BJA has final authority and considerable flexibility in how to allocate these funds. The applicant must include a statement of program goals, program implementation, and methods to evaluate program impact. Grants are for a maximum of 4 years plus a 2 year extension based on an evaluation showing a positive program impact or if the recipient pays 50 percent of the program's cost.

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[16]The current regulations, in effect since the Comprehensive Crime Control Act of 1984 and not updated, set forth certain certified programs ("program briefs") that are eligible for block grant funding. For additional information, see the annual BJA Guidance to States on program applications, and the program regulations at 28 CFR Part 33.

Appropriations and Extensions of Funding

TABLE 3.3
Appropriations Based on the 1988 Act
(Millions of Dollars)

FY	FORMULA	DISCRETIONARY
89	119	31
90	395	50
91	423	50
92	423	50
93	423	50
94	358	50
95	450	50

The ADAA-88 increased the authorization level for the new, consolidated state and local assistance program and gave it a four-year life, due to expire at the end of fiscal year 1992. Although numerous bills to amend these programs were introduced prior to the expiration date, partisan gridlock between the White House and the congress on a comprehensive violent crime control package blocked passage of any significant changes to the state and local assistance programs . Instead, the congress passed — and the President signed — a "clean" two-year reauthorization bill. The legislation, H.R.5716, simply extended the authorizations for each of these programs through the end of fiscal year 1994 without any substantive changes. Actual program appropriations are shown in Table 3.3. Distribution of the appropriations by state are shown in Table 3.4.

Several relatively minor amendments to the program have been made since 1988, though the broad structure of the program has remained intact. Several set-asides have been created for the formula program, requiring states to, for example, use 5 per cent of their formula allocation for the development of criminal history databases. A much greater percentage of the discretionary grant fund has been earmarked, including several set-asides that require discretionary grants to be awarded to federal operational agencies. And, bowing to political pressure from state and local governments alike, the scheduled increase of the match requirement in the formula grant program from a 25 per cent state share to a 50 per cent share was postponed, and the rule limiting programs to 48 months was waived for multijurisdictional task forces (1991).

Despite the extension, the congress reduced funding by 15 per cent in FY 1994, and, for a time, it appeared as if the future of the Byrne program was in doubt. Then, in the 1994 congressional session that passed the Violent Crime Control and Law

Enforcement Act, appropriations for the Byrne program were set at the highest level ever – $450 million – and the Discretionary Program was continued at $50 million.

TABLE 3.4

Byrne Formula Grants By State and Fiscal Year: 1989-1995 ($s)

RECIPIENT	Seven Year Total	Fiscal Year 1989	1990	1991	1992	1993	1994	1995
Alabama	42,664,808	2,018,000	6,593,000	7,023,000	6,884,000	6,884,000	5,930,808	7,332,000
Alaska	11,671,809	695,000	1,704,000	1,821,000	1,870,000	1,870,000	1,698,809	2,013,000
American Samoa	4,850,831	188,000	718,000	771,170	794,620	794,620	740,891	843,530
Arizona	39,053,808	1,759,000	5,755,000	6,209,000	6,401,000	6,401,000	5,568,808	6,960,000
Arkansas	27,645,809	1,388,000	4,260,000	4,543,000	4,438,000	4,438,000	3,859,809	4,719,000
California	267,518,808	10,782,000	39,676,000	43,161,000	44,349,000	44,349,000	37,807,808	47,394,000
Colorado	36,374,809	1,725,000	5,498,000	5,863,000	5,870,000	5,870,000	5,136,809	6,412,000
Connecticut	35,236,808	1,693,000	5,405,000	5,750,000	5,747,000	5,747,000	4,911,808	5,983,000
Delaware	12,698,808	739,000	1,890,000	2,032,000	2,027,000	2,027,000	1,820,808	2,163,000
District of Columbia	11,734,300	731,000	1,831,000	1,933,000	1,910,000	1,910,000	1,437,300	1,982,000
Florida	120,666,809	4,969,000	17,842,000	19,414,000	19,977,000	19,977,000	17,083,809	21,404,000
Georgia	64,265,808	2,813,000	9,653,000	10,381,000	10,495,000	10,495,000	9,049,808	11,379,000
Guam	7,480,600	285,000	1,169,000	1,262,000	1,247,000	1,247,000	948,600	1,322,000
Hawaii	16,321,200	903,000	2,488,000	2,668,000	2,675,000	2,675,000	2,050,200	2,862,000
Idaho	15,855,809	871,000	2,358,000	2,526,000	2,538,000	2,538,000	2,270,809	2,754,000
Illinois	107,954,809	4,805,000	16,857,000	17,946,000	17,506,000	17,506,000	14,868,809	18,466,000
Indiana	55,744,809	2,556,000	8,580,000	9,160,000	9,052,000	9,052,000	7,750,809	9,594,000
Iowa	31,313,809	1,553,000	4,860,000	5,172,000	5,040,000	5,040,000	4,351,809	5,297,000
Kansas	28,625,809	1,420,000	4,397,000	4,698,000	4,613,000	4,613,000	4,007,809	4,877,000
Kentucky	39,338,809	1,885,000	6,080,000	6,457,000	6,349,000	6,349,000	5,476,809	6,742,000
Louisiana	44,411,809	2,158,000	7,011,000	7,406,000	7,117,000	7,117,000	6,110,809	7,492,000
Maine	17,130,200	941,000	2,634,000	2,828,000	2,817,000	2,817,000	2,131,200	2,962,000
Maryland	48,650,809	2,186,000	7,303,000	7,858,000	7,983,000	7,983,000	6,851,809	8,486,000
Massachusetts	57,820,200	2,676,000	9,035,000	9,624,000	9,602,000	9,602,000	7,243,200	10,038,000
Michigan	88,265,809	3,919,000	13,613,000	14,491,000	14,407,000	14,407,000	12,252,809	15,176,000
Minnesota	44,495,300	2,078,000	6,873,000	7,364,000	7,373,000	7,373,000	5,613,300	7,821,000
Mississippi	29,559,808	1,476,000	4,568,000	4,855,000	4,751,000	4,751,000	4,115,808	5,043,000
Missouri	51,831,809	2,397,000	8,012,000	8,531,000	8,408,000	8,408,000	7,191,809	8,884,000
Montana	13,882,809	801,000	2,088,000	2,225,000	2,209,000	2,209,000	1,981,809	2,369,000
Nebraska	20,736,808	1,092,000	3,177,000	3,391,000	3,328,000	3,328,000	2,913,808	3,507,000
Nevada	17,507,809	874,000	2,428,000	2,667,000	2,887,000	2,887,000	2,580,809	3,184,000
New Hampshire	16,404,809	893,000	2,470,000	2,661,000	2,632,000	2,632,000	2,323,809	2,793,000
New Jersey	74,477,809	3,352,000	11,538,000	12,265,000	12,115,000	12,115,000	10,287,809	12,805,000
New Mexico	20,306,809	1,058,000	3,047,000	3,271,000	3,263,000	3,263,000	2,883,809	3,521,000
New York	161,579,800	7,125,000	25,459,000	27,062,000	26,790,000	26,790,000	20,251,800	28,102,000
North Carolina	65,210,809	2,884,000	9,854,000	10,577,000	10,658,000	10,658,000	9,158,809	11,421,000
North Dakota	12,409,809	750,000	1,899,000	2,014,000	1,962,000	1,962,000	1,756,809	2,066,000
Northern Mariana Islands	2,392,977	97,000	353,000	379,830	391,380	391,380	364,917	415,470
Ohio	102,178,809	4,508,000	15,820,000	16,858,000	16,645,000	16,645,000	14,135,809	17,567,000
Oklahoma	34,769,809	1,716,000	5,418,000	5,728,000	5,582,000	5,582,000	4,828,809	5,915,000
Oregon	32,034,809	1,512,000	4,769,000	5,143,000	5,221,000	5,221,000	4,548,809	5,620,000
Pennsylvania	111,331,808	4,936,000	17,386,000	18,500,000	18,102,000	18,102,000	15,319,808	18,986,000
Puerto Rico	36,816,808	1,724,000	5,485,000	5,825,000	6,076,000	6,076,000	5,198,808	6,432,000
Rhode Island	15,180,700	866,000	2,345,000	2,503,000	2,488,000	2,488,000	1,883,700	2,607,000
South Carolina	37,728,808	1,773,000	5,729,000	6,145,000	6,130,000	6,130,000	5,295,808	6,526,000
South Dakota	12,968,809	764,000	1,962,000	2,093,000	2,059,000	2,059,000	1,846,809	2,185,000
Tennessee	50,097,809	2,304,000	7,676,000	8,214,000	8,115,000	8,115,000	6,989,809	8,684,000
Texas	157,879,809	6,740,000	23,999,000	25,672,000	25,780,000	25,780,000	22,053,809	27,855,000
Utah	22,153,809	1,124,000	3,297,000	3,530,000	3,580,000	3,580,000	3,160,809	3,882,000
Vermont	11,458,500	704,000	1,749,000	1,879,000	1,865,000	1,865,000	1,417,500	1,979,000
Virgin Islands	7,670,808	539,000	1,129,000	1,201,000	1,203,000	1,203,000	1,119,808	1,276,000
Virginia	61,174,809	2,694,000	9,207,000	9,892,000	10,015,000	10,015,000	8,603,809	10,748,000
Washington	49,935,809	2,187,000	7,339,000	7,955,000	8,208,000	8,208,000	7,123,809	8,915,000
West Virginia	22,779,809	1,250,000	3,551,000	3,748,000	3,624,000	3,624,000	3,159,809	3,823,000
Wisconsin	49,816,808	2,287,000	7,622,000	8,108,000	8,118,000	8,118,000	6,969,808	8,594,000
Wyoming	10,872,809	682,000	1,642,000	1,746,000	1,713,000	1,713,000	1,554,809	1,822,000
NATIONAL TOTAL	2,590,946,000	118,845,000	395,101,000	423,000,000	423,000,000	423,000,000	358,000,000	450,000,000

4 NATIONAL EXPENDITURE PATTERNS

In this section a summary of state subgrant funding decisions made from FY 1989-FY 1994 is presented.[17] Three topics are covered. First we briefly review the structure and content of the BJA's Individual Project Reporting System (IPRS), which is the source of the information presented in this section. We then consider what the database discloses about state compliance with federal regulations and guidelines on administrative expenditures, local match requirements, and pass-through levels. We then examine funding decisions in a more strategic sense, documenting the national-level distribution of federal aid across purpose areas. Finally, the distribution of funds to state, county, and local levels of government is analyzed.[18]

4.1 the BJA's Individual Project Reporting System

Information reported here about subgrants is based on an analysis of project data reported to the BJA and compiled in its IPRS.[19] The strength of the IPRS lies in its comprehensive coverage of the nation's Byrne program activities. From the inception of the Byrne program in 1987 to the present, the BJA has requested states to submit a report on each subgrant award that is made. By early 1995, this had resulted in a system containing more than 20,000 individual records, 17,538 of which derived from awards

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[17] For greater detail, the reader is referred to Terence Dunworth and Aaron J. Saiger, *Where the Money Went: State Funding Decisions Under the Byrne Formula Grant Program, 1989-1994.* (1995, forthcoming). An analysis of formula grant funding during 1987 and 1988 is available in: Bureau of Justice Assistance, *The Anti-Drug Abuse Acts of 1986 and 1988: A Preliminary Analysis of State and Local Implementation, FY87-FY90*, Washington, D.C.: February, 1992)

[18] The presentation is not meant to document state expenditure decisions under all circumstances. The objective is to provide a summary statement about subgrant funding and to illustrate those areas of funding that are pertinent to one or more of the critical issues that we discuss in subsequent sections of this report. Later, in Section 5, state-by-state breakdowns are provided for multi-jurisdictional task forces, prevention, education, and treatment.

[19] Fiscal records on state and subgrantee expenditures also exist, and are reportedly also comprehensive. However, these were not available for analysis in this project.

made under the provisions of the 1988 Act.[20] This makes the IPR system the most comprehensive official record of programmatic Byrne activity, at least at the federal level.[21].

However, as a tool for analyzing the operation of the Byrne formula grant program, the system has significant constraints. It contains only a limited amount of programmatic data about each project (recipient and project identification, purpose area, award amount, project start and end dates, and a few other variables). In particular, since the system is only intended to track basic subgrant fiscal and administrative data, it has no information about the actual conduct of projects or their results.[22] And, finally, at any given point in time, the system is an incomplete statement of subgrant awards actually made.[23] Two factors account for this: state reporting tends to lag behind awards; and the BJA's data processing tends to lag behind reports.[24]

These factors place obvious restrictions on the scope of analysis and interpretation that can be made from the IPRS. Nevertheless, as noted, it is the only programmatically

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[20] The BJA has consistently provided IPRS records to National Evaluation staff over the life of the research. The information presented in this report is based upon data provided in March of 1995.

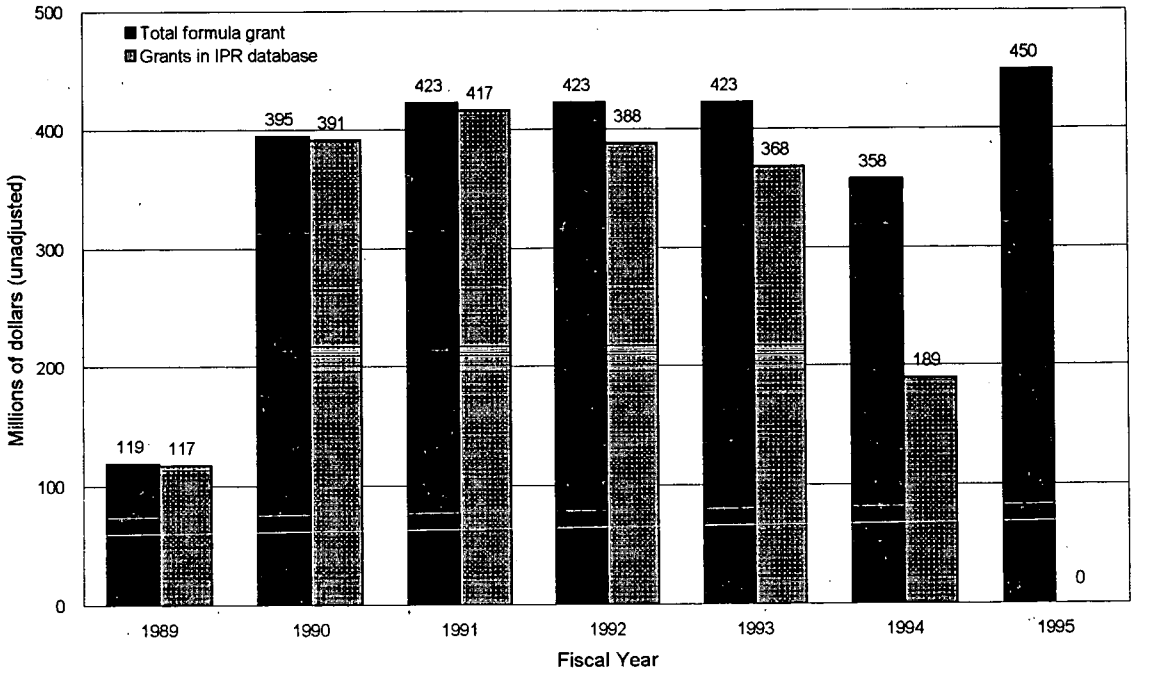
[21] Most states have other subgrant records that are more accurate and more detailed than those contained in the IPRS, but these have varying formats as well as content, and they have not been compiled into any kind of standardized data base. Thus, though each state has the ability to define precisely what its subgrant award history looks like, this information is not accessible in an analytic form to the federal government, nor can it be presented in a summary national report in the way that we are doing here with the IPRS data.

[22] Efforts to create a reporting system that does cover project activities and outcomes have been underway almost since the beginning of the Byrne program. However, as of the middle of 1995, these had not yet resulted in a working system.

[23] Note that this is not the same as saying that the IPRS does not contain complete documentation of the way appropriations have been awarded. This condition is entailed by the fact that states are given three years to commit funds appropriated by congress in any fiscal year. Thus, at any given point in time, it is not to be expected that the IPRS will account for the full amount of appropriations made previously. Over time, however, the sum of the subgrant awards from any given fiscal year's appropriation will approximate the amount of that appropriation.

[24] Some delay is obviously normal in any data processing system that depends on paper submission of information by one group (states) and data entry of that information by another (BJA). During 1994-1995, automation of the IPR reporting procedure has been implemented by BJA, and this may result in more rapid assimilation of state reports. However, a number of states have been reporting difficulties with the system, and it is not clear that it is working as conceived.

based information system on individual subgrants that is available and, as such, it is the source from which empirically grounded statements about the Byrne program must be made.[25]



Source: Bureau of Justice Assistance Individual Project Report (IPR) database

Figure 4.1. Total Formula Grants and IPR Database Coverage: FY89-FY95

Figure 4.1 plots the $2.141 billion that was awarded to states under the Byrne program from FY89 to FY94 and identifies the dollar volume of the awards that have been compiled into the IPRS. The latter – $1.871 million dollars in all – comprises the basis of the analysis that is conducted in this section.[26]

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[25] Below , in Section 7 of this report, issues of monitoring, reporting and evaluation are discussed in some detail. At that time, further analysis of the IPR system, and other information sources focusing on the Byrne program are undertaken.

[26] The figure indicates that, as is to be expected, the more recent the year, the lower the reporting level when expressed as a percent of the Byrne program appropriations level. There are three main reasons for this. First, under statutory provisions, states have three years to make awards from any given year's appropriation; second, even when subgrant awards are made in the next available state funding cycle after federal appropriation, this does not normally occur before the spring or summer of the

4.2 Regulatory Compliance

The statute establishes a number of regulations with which states must comply. Three of the most critical — upper limits on administrative expenditures, subgrant match requirements, and local pass-through requirements — are examined here in the context of the IPR data base. We conclude that, in general, states have been consistently in compliance with the Act's regulations and with the BJA's guidelines in all three areas. A fourth important requirement — the rule that no subgrant project can be supported with federal funds for more than four years — is not assessed empirically due to the fact that the structure of the IPR data base does not support such an inquiry.

Administrative Expenditures. The first statutory requirement imposed on the state agency administering the Byrne program is that no more than 10 per cent of the total state grant be used for administrative expenditures, including those associated with the preparation of the state strategy. Moreover, after appropriations more than tripled in FY90, the BJA began to request in its annual *Program Guidance* that states restrict administrative expenditures to 5 per cent of the total award.

Analysis of state administrative expenditures is complicated by underreporting. Even by January of 1995, the tally of administrative grants was incomplete for FY92 (only 28 states reporting) and FY93 (only 22 states reporting), as well as FY94 (only 12 states reporting). This effectively limits any nationwide analysis to the period FY89-FY91, although Figure 4.2 shows administrative expenses for all years in the study period, including those for which data are partial.

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following year, either because the state legislature cannot formally appropriate federal aid into the state budget before that time, or because the state administrative agency cannot move any faster on the implementation of its strategy; third, there has historically been significant delay in reporting by some states and, at the federal level, significant difficulty in reconciling missing or inaccurate state reports. These issues do not, in our view, nullify the utility of the IPRS in this kind of analysis, particularly since there is no satisfactory alternative.

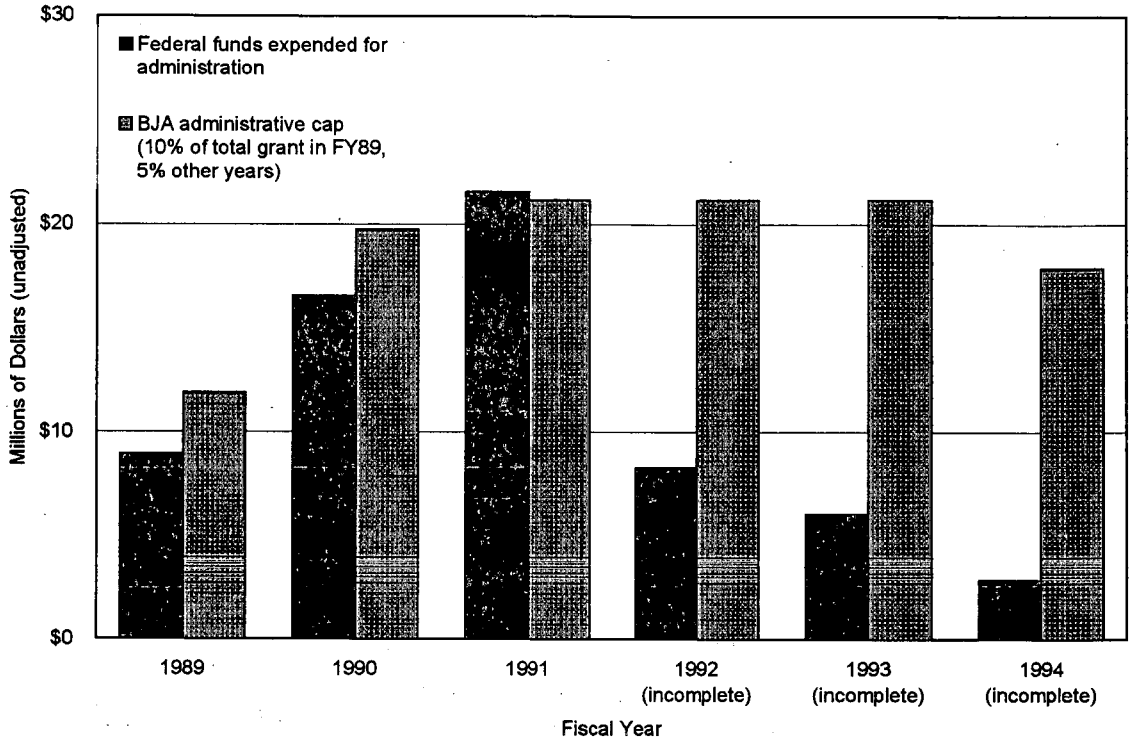
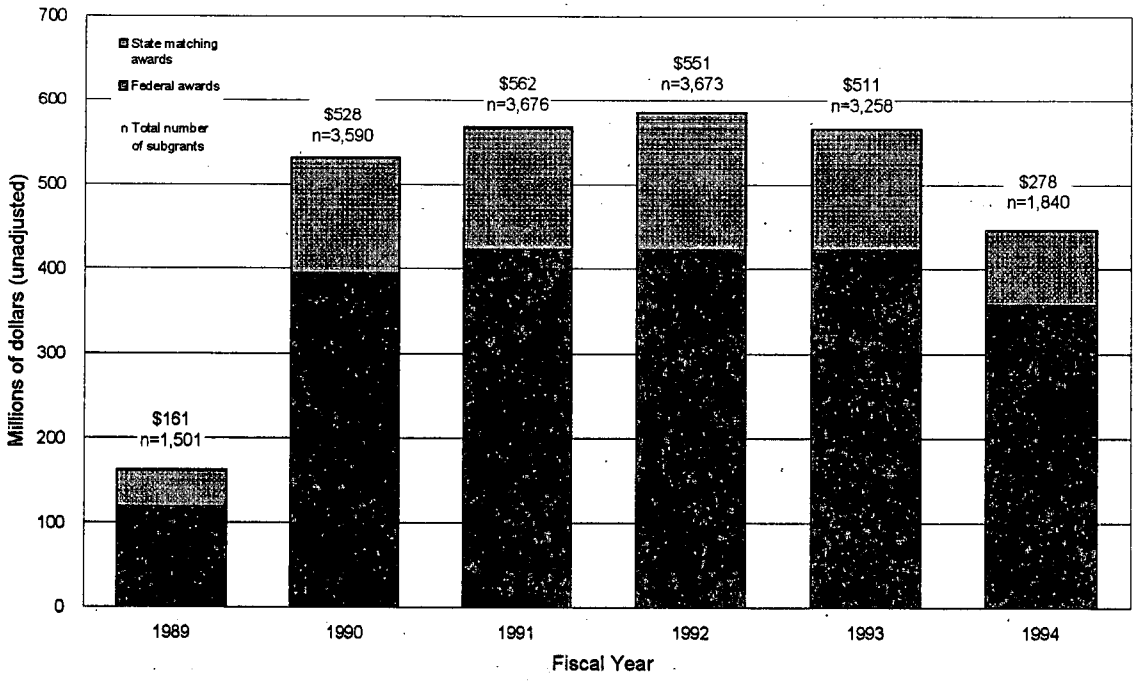


Figure 4.2. Actual and Recommended State Expenditures for Program Administration: FY89-FY94

Figure 4.2 shows that in the aggregate, states consistently used less than the statutory 10 per cent cap on administrative expenses in every year from FY89-FY91. In FY90, administrative expenditures were significantly lower than even the 5 per cent voluntary limit suggested by the BJA and, in FY91, states exceeded the 5 per cent mark only by a very small amount. Though future reporting to the BJA will undoubtedly increase the amounts of funds reported as administrative in 1992-1994, we do not expect states to deviate much, if at all, from the 5 per cent guideline level achieved in the early 1990's. On-site work we have conducted in a number of states supports this view.

State and Local Match. The 1988 Act requires that a state or local match must be provided for every subgrant award, such that 25 per cent of project costs are met by non-federal funds. Thus, total funding for the Byrne program should be greater than the federal appropriation by at least that amount. When state/local match amounts reported in

the IPR are added to the federal Byrne grant, we find that the total approaches $2.59 billion for the 1989-1994 period. Annual Byrne funding levels and the match amounts reported in the IPR are documented in Figure 4.3. Thus, the data indicate that, in the aggregate, the 25 per cent match requirement has been slightly exceeded, notwithstanding the fact that some states (e.g. California) supply the entire match in aggregate form at the state level, and report no match in the single award IPR documents.



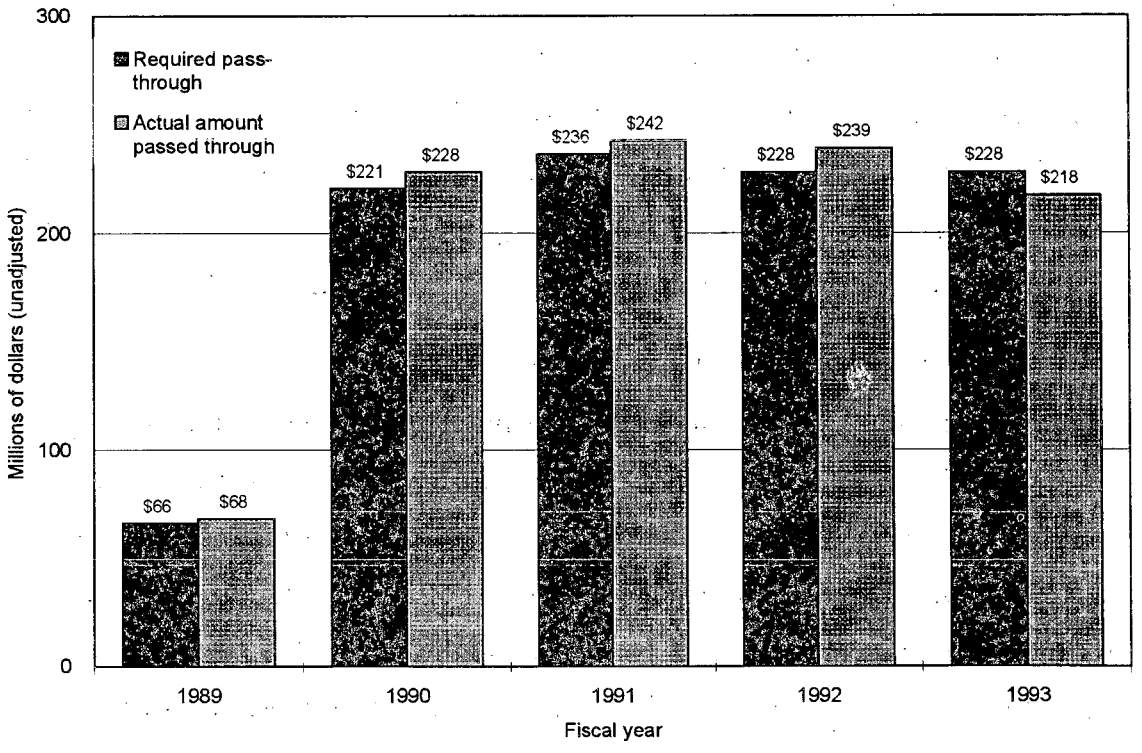
Source: Bureau of Justice Assistance Individual Project Report (IPR) database

Figure 4.3. Subgrant Federal and Matching Funds: FY89-FY94

Pass-Through. The local pass-through requirement is designed to ensure that states include localities in activities funded by the formula grant by "passing through" a minimum percentage of grant funds to local governments. The District of Columbia and the five territories that participate in the program are exempt from the pass-through requirement; they are therefore omitted from the balance of the analysis in this section. Pass-through rates are based on expenditure calculations made by the U.S. Department of

Justice's Bureau of Justice Statistics each year for each state, and are defined as the ratio of all local criminal justice expenditures in a state to the total of all (state plus local) criminal justice spending in that state.

During the period FY89-FY93 (FY94 is omitted due to incomplete reporting), the fifty states were required to pass through a minimum of $979 million to local governments, or approximately 45 per cent of all grant funds. Figure 4.4 shows that from FY89-FY92, the states in aggregate slightly exceeded the minimum pass-through requirement. For FY93, states have reported slightly fewer pass-through dollars than required, but the amount left to be reported is sufficiently large (approximately $50 million) that it should, when all reporting is complete, include enough pass-through grants to meet the requirement.



Source: Bureau of Justice Assistance Individual Project Report (IPR) database

Figure 4.4. Actual and Required Pass-Through Grants to Local Agencies: FY89-FY93

However, when individual state reporting is examined, the IPR database shows that only 25 states have fulfilled the pass-through requirement in every year from FY89-

FY92 (omitting FY93 and FY94 due to incomplete reporting). It thus appears that in the aggregate figures, the excess pass-through dollars reported by 50 per cent of the states compensate for the apparent deficiency in pass-through by the other 50 per cent. Our view, however, based on spot checks of the data base and conversations with individual states, is that this seeming deficiency is almost certainly a product of reporting anomalies, rather than of actual under-allocations to local governments. Such anomalies can easily occur in the IPR data base due to the fact that it is consists of records self-reported by states, and is difficult to check at the federal level.

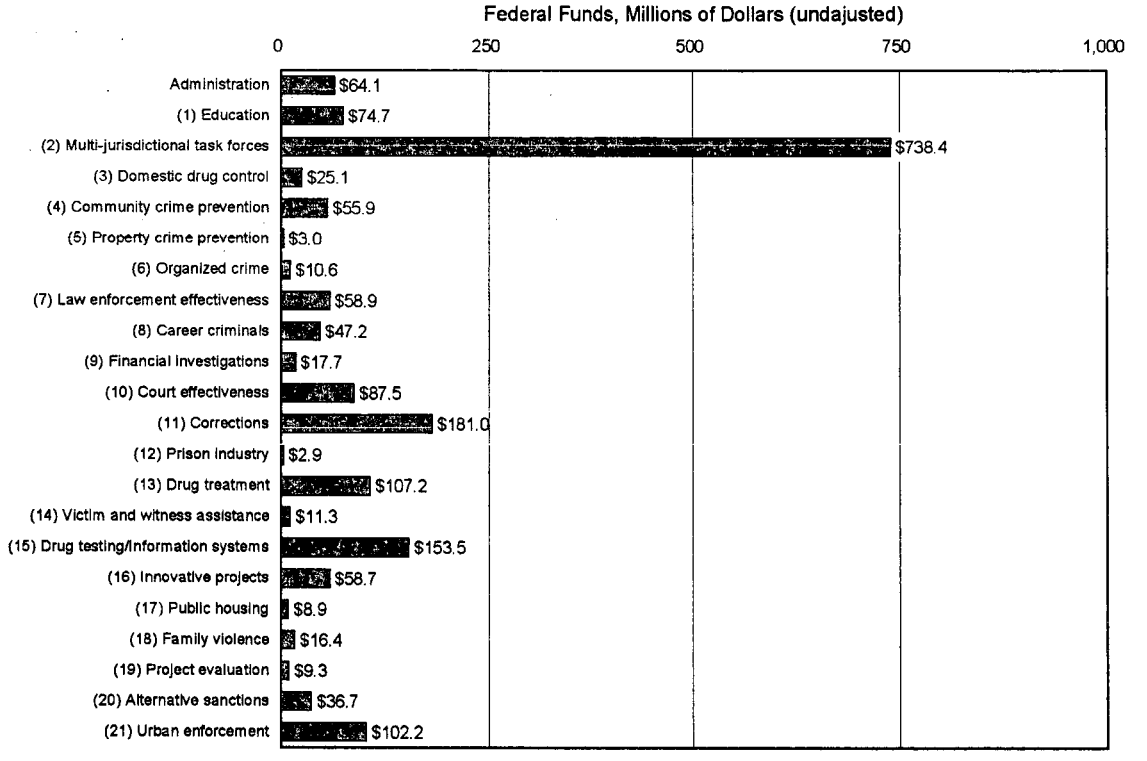
4.3 Strategic Decision-Making and Purpose Areas

Though the ADAA-88 designates purpose areas with which state funding decisions must comport, selection among them is left to the State Administrative Agency. Such decisions are the operationalization of state strategic objectives, as defined in the required annual required strategic plans, and an examination of them reveals the kind of priorities that states have established. In principle, changes in strategic thinking are then reflected in the way states modify earlier decisions by adjusting the distribution of funding from one mix of purpose areas to another. Both of these issues are considered in this section.

Purpose Area Funding in the Aggregate.

The purpose area classification scheme imposes significant limitations on any analysis of the Byrne program. The areas are both broad in scope and vaguely worded, and some area designations, such as "innovative projects" (area 16), give no hint about the nature of the subgrants they contain. Others, such as "law enforcement effectiveness" (area 7), embrace such a broad range of activities that very little of substance can be said about them. Second, there is substantial overlap among areas; for instance, a project in which prosecutors divert drug offenders in three counties to treatment could be categorized as a multijurisdictional effort (area 2), court effectiveness improvement (area 10), drug treatment (area 13), alternative sanctions (area 20), or an innovative project (area 16).

Because of these difficulties, purpose area designations provide no more than a coarse and arbitrary way of analyzing the use of block grant funds. However, since they are, at present, the only common denominator across states and the only way in which Byrne subgrant funding can be nationally categorized, they must be used. As it turns out, several striking patterns become apparent when the IPR data are organized along purpose area dimensions, as in Figure 4.5.



Source: Bureau of Justice Assistance Individual Project Report (IPR) database

Figure 4.5. Allocation of Federal Funds Among Substantive Purpose Areas: FY89-FY94

The figure summarizes the aggregate national level of Byrne funding that has been devoted to each purpose area since FY89[27]. Most evident from this chart is the overwhelming commitment that has been made to multijurisdictional task forces (area 2).

[27] In these and subsequent tables, state and local match funds are excluded.

These have received approximately 40 per cent of all subgrant funds awarded under the program to date. No other purpose area has received more than 10 per cent of the total.[28]

Figure 4.5 also shows considerable variation in allocations among the remaining purpose areas. Two areas — corrections programs (area 11), and drug testing and information systems (area 15) — have received, respectively, 10 per cent and 8 per cent of all program grants. Several other areas, by contrast, are rarely used; property crime prevention (area 5), prison industry programs (area 12), public housing programs (area 17), and program evaluation (area 19) all received less than one-half of one percent of the total grant.

However, state strategies for allocating Byrne grant money have evolved over time, as indicated in the following chart.

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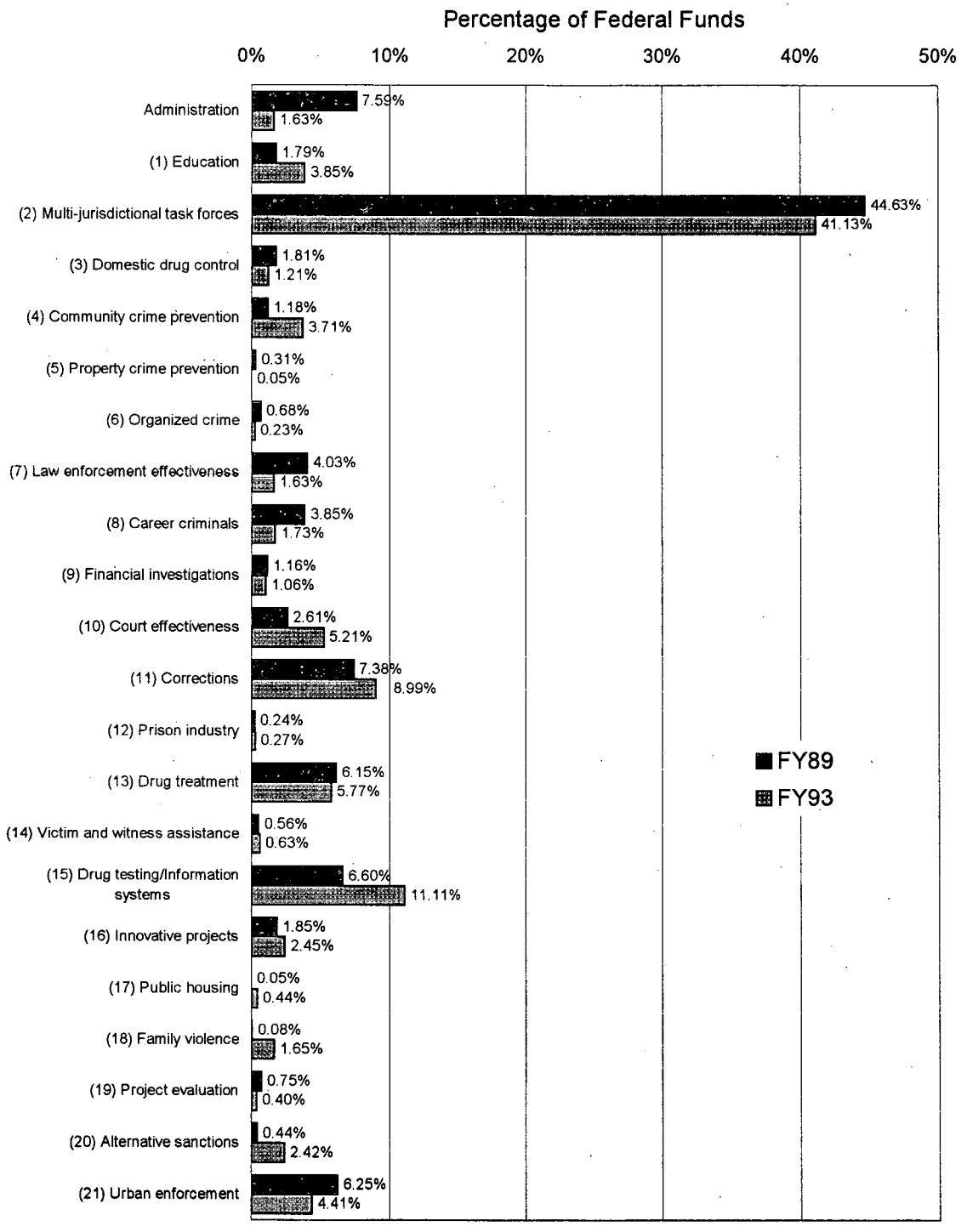
[28] It is worth noting that, in fact, this kind of distribution is not at odds with the distribution of criminal justice funds generally. Law enforcement, for instance, receives more than 50% of state and local criminal justice expenditures. BJS, *Sourcebook of Criminal Justice Statistics.*



Source: Bureau of Justice Assistance Individual Project Report (IPR) database

Figure 4.6. Allocation of Federal Funds Among Substantive Purpose Areas: FY89 and FY93

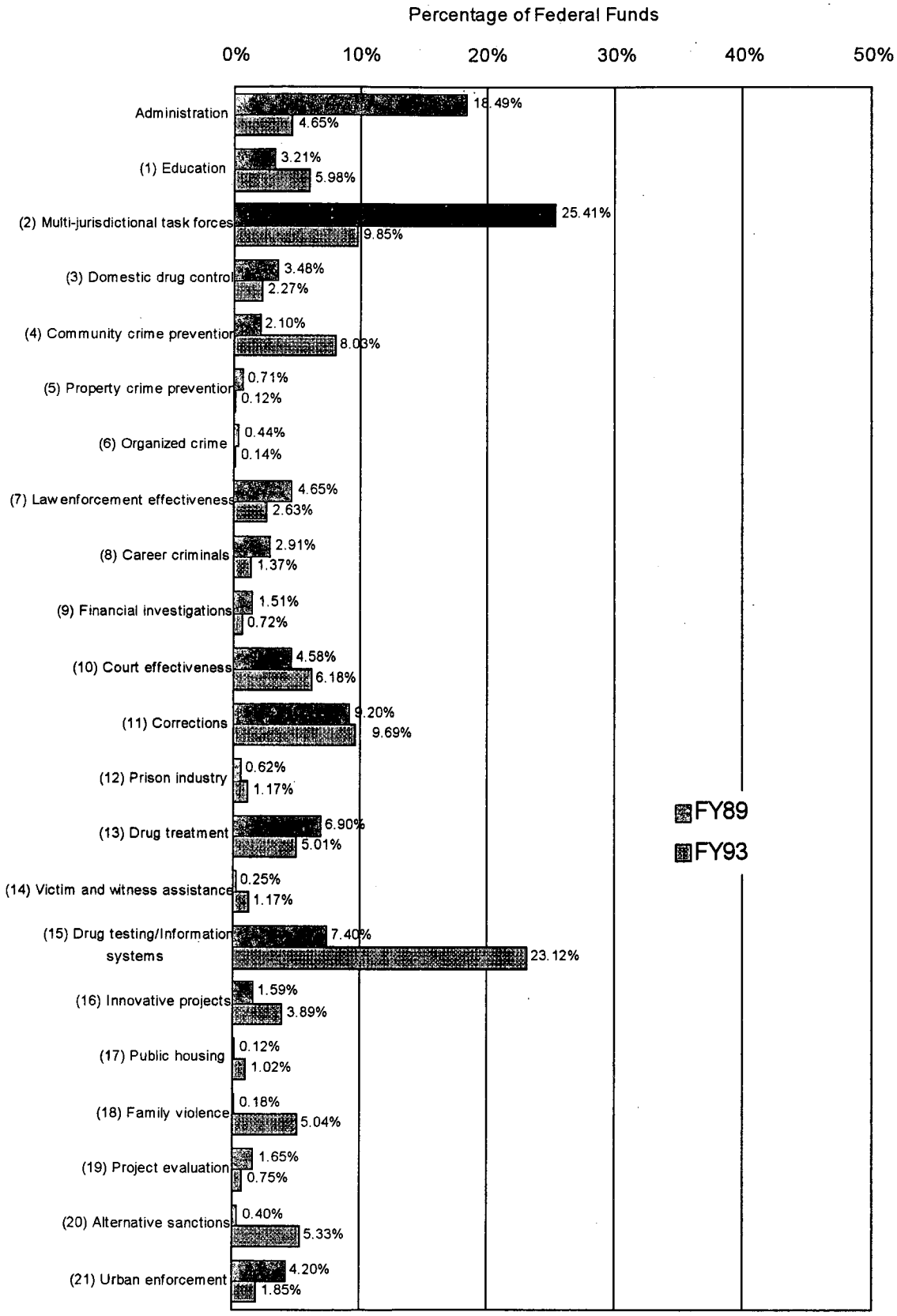
Figure 4.6 addresses this issue by comparing national allocation patterns in FY89 to those in FY93, the latest year for which the IPR database is reasonably complete. Allocations for each year are expressed in percentage terms in order to allow direct comparison. The figure suggests several conclusions regarding the nature of change in states' strategic approach to the program.

The central conclusion suggested by the data is that state strategies were relatively conservative over the FY89-FY93 period. The rough shape of the distribution for the two years is the same. In both years, multijurisdictional task forces dominated the allocation. The next best-funded group of purpose areas also shares many of the same members across the two years, as does the group of least-funded areas.

Within this overall conservatism, however, some interesting trends can be observed. Proportional funding for two areas — corrections and testing/information systems — increased substantially during the period. While states did not allocate large amounts to a number of smaller, more specialized purpose areas in either year, there appears to have been a significant reshuffling of priorities among some of those purpose areas over time. Several specialized areas related to policing — property crime control, organized crime targeting, career criminal investigations, law enforcement effectiveness, and urban enforcement programs (areas 4, 6, 7, 8, and 21) — saw substantial declines in their proportional funding between FY89 and FY93 (though, with the exception of property crime prevention, their actual dollar allocation remained stable or grew). By contrast, there were strong proportional gains for initiatives related to community policing (area 3). Expansion also occurred in several areas that involve law enforcement innovation — such as drug education, public housing programs, and family violence initiatives (areas 1, 17, and 18) — and in several areas involving adjudication and corrections (areas 9, 10, and 20).

Another way of looking at changes over time in state strategic decisions is to examine the allocation of new, noncontinuation grants among purpose areas. One reason that state strategies appear conservative is that states use the bulk of their funds to finance multi-year projects already underway. Of course, states retain the discretion not to

continue any project, and the decision not to do so is an important component of a state's strategic approach. Nevertheless, if states' strategic interests change, one would expect decisions about new grants, which do not involve existing investment, to reflect those changes most vividly.


Percentage of Federal Funds
0%
10%
20%
30%
40%
50%
Administration
18.49%
4.65%
(1) Education
3.21%
5.98%
(2) Multi-jurisdictional task forces
25.41%
9.85%
(3) Domestic drug control
3.48%
2.27%
(4) Community crime prevention
2.10%
8.03%
(5) Property crime prevention
0.71%
0.12%
(6) Organized crime
0.44%
0.14%
(7) Law enforcement effectiveness
4.65%
2.63%
(8) Career criminals
2.91%
1.37%
(9) Financial investigations
1.51%
0.72%
(10) Court effectiveness
4.58%
6.18%
(11) Corrections
9.20%
9.69%
(12) Prison industry
0.62%
1.17%
(13) Drug treatment
6.90%
5.01%
(14) Victim and witness assistance
0.25%
1.17%
(15) Drug testing/Information systems
7.40%
23.12%
(16) Innovative projects
1.59%
3.89%
(17) Public housing
0.12%
1.02%
(18) Family violence
0.18%
5.04%
(19) Project evaluation
1.65%
0.75%
(20) Alternative sanctions
0.40%
5.33%
(21) Urban enforcement
4.20%
1.85%
FY89
FY93

Source: Bureau of Justice Assistance Individual Project Report (IPR) database

Figure 4.7 Allocation of Federal Funds for Start-Up Projects Only, By Purpose Area: FY89 and FY93

Figure 4.7 recaps Figure 4.6, and presents some findings that relate to this issue by documenting expenditure patterns for new, noncontinuation grants only. Several aspects of state strategic innovation come into sharp focus. In FY89, new money was primarily being directed into multijurisdictional task forces, which were not, at the time, fully established. By FY93, however, the primary focus of innovation had shifted from task forces to drug testing and information systems development (area 15), which received 23 per cent of all new, noncontinuation grants. New task forces were not entirely neglected, receiving 10 per cent of new funds, but this percentage is far lower than the 40+ per cent figure for overall task force commitments. Figure 4.7 also suggests a general mood of innovation surrounding the expenditure of new money in FY93, as states awarded subgrants in a number of purpose areas which had garnered almost no attention in FY89 (community crime prevention, family violence, alternative sanctions).

4.4 Distribution of Funds Among Levels of Government

The pass-through requirement does not constrain states regarding how to distribute funds among various types of local governments. Just as states are given wide discretion in determining the purposes for which grant funds should be used, they also are permitted to choose what types of agencies should use them. This section explores these choices.

States assign recipient jurisdictions on the IPR to one of four categories: state, county, city/town, and other types of local jurisdictions. In this analysis, we separate funds used by the SAA for program administration purposes from subgrants for actual programs made to state operating agencies. We also combine grants to "other local" agencies with grants to cities and towns.

Analyzing the use of funds by type of recipient government is complicated by the prevalence of multijurisdictional efforts in the program. States are asked to indicate on the

IPR whether a program spans more than one type of jurisdiction; however, no data are available regarding all participant agencies. Instead, states simply describe the "lead agency" for the task force. The "lead agency" need not be the primary participant; it is simply the contact agency for the state and may be selected for administrative convenience. Consequently, there is no information in the IPR that can be used to determine at what level of government subgrants designated as multijurisdictional take place. We therefore report "multijurisdictional" as a separate category.[29]

Complicating the issue further, not all programs designated as multijurisdictional task forces span more than one level of government. A task force that consists of three counties, for example, can be categorized as an award to counties. At the same time, some projects that use other purpose area designations involve multiple jurisdictions of different types. These programs are categorized as multijurisdictional in analyzing recipient agencies. Therefore, the set of programs considered multijurisdictional in this analysis differs from the set of multijurisdictional task forces; either might be larger or smaller, depending on specific circumstances.

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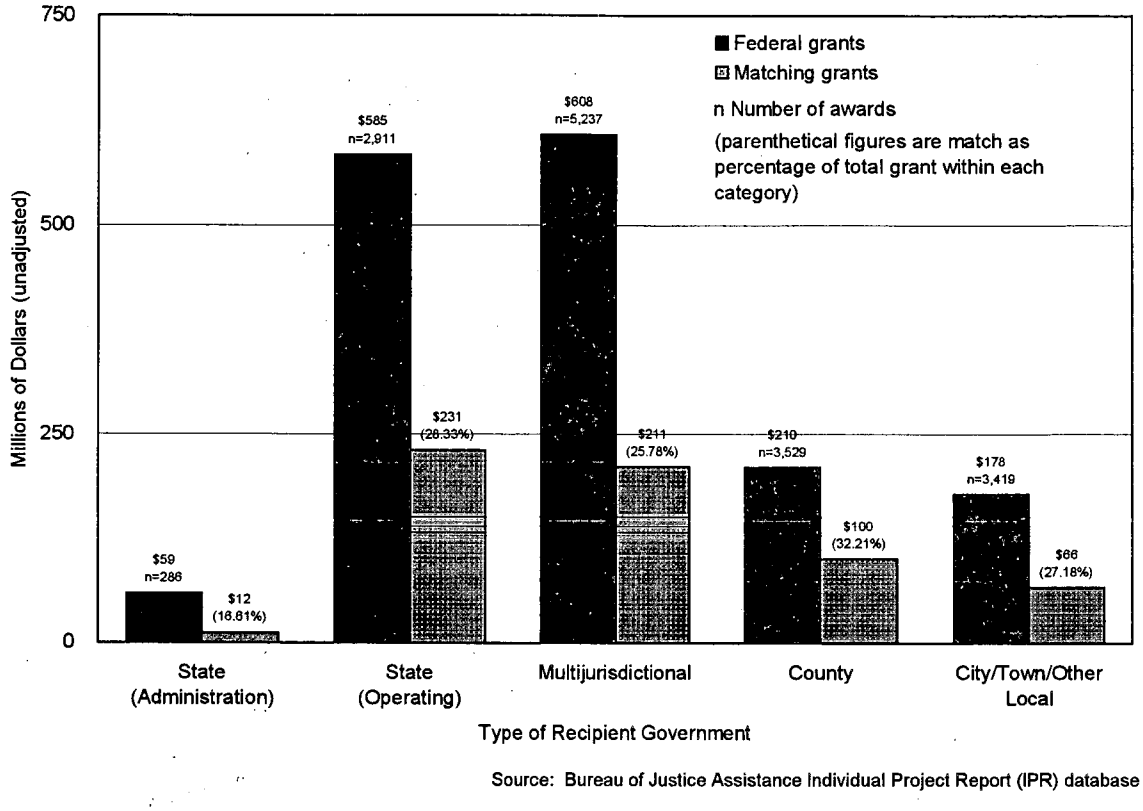
[29] For the purposes of calculating pass-through, we have assumed that multijurisdictional grants are made to local governments of some kind, and therefore qualify for pass-through categorization.



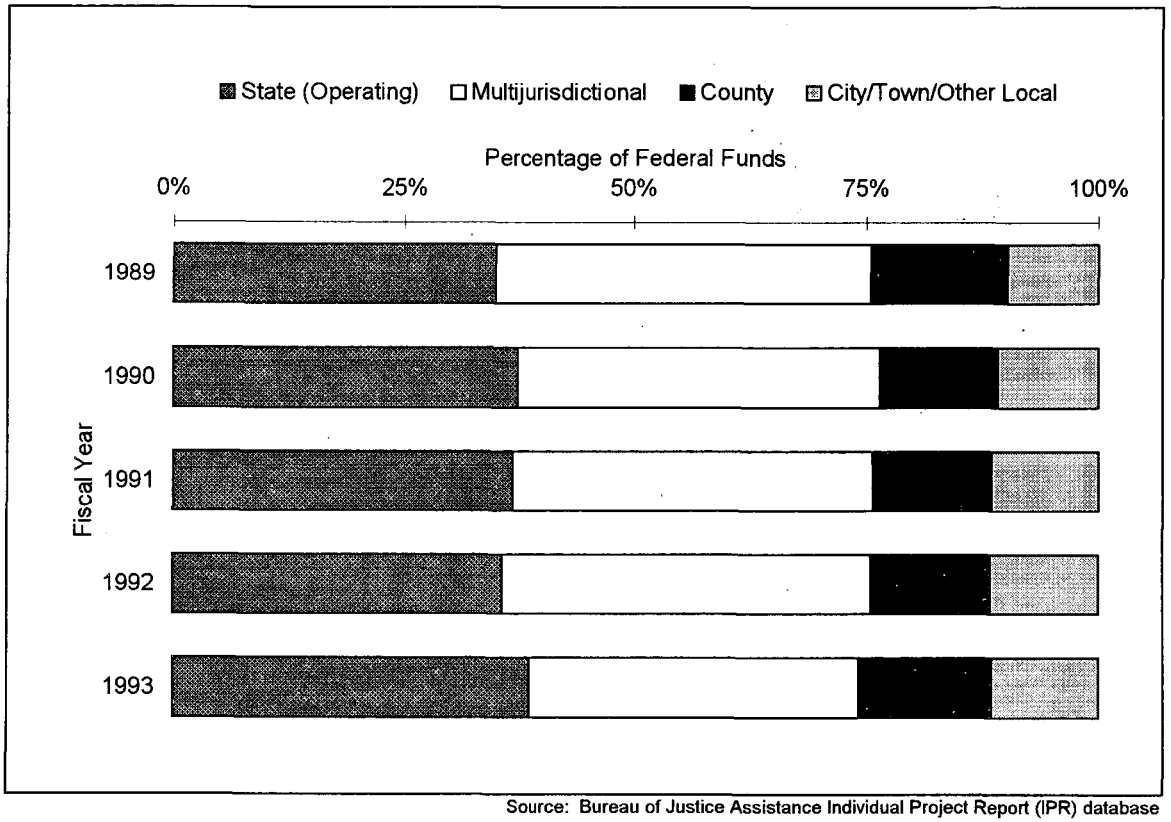
Source: Bureau of Justice Assistance Individual Project Report (IPR) database

Figure 4.10 Distribution of Subgrant Funds by Type of Recipient Government, 50 States Only, FY89-FY93

Several patterns emerge from the data. Fig4.10 shows the distribution of funds across levels of government for the period FY89-FY93. The figure omits both the District of Columbia and the five territories, as well as all funds reported for FY94, due to partial reporting. As expected, given the substantial number of subgrants made under purpose area # 2, the figure shows that the bulk of pass-through grants are for multijurisdictional awards. A close second are awards made to state operating agencies. Far fewer funds are granted to programs that operate exclusively at the county and city levels. Federal dollars subgranted to counties outnumber dollars subgranted to cities by approximately 18 per cent.

The average subgrant to a state operating agency is considerably larger than the average multijurisdictional subgrant, which is in turn larger than the average county or city subgrant.

Figure 4.10 also shows the allocation of matching funds across levels of government. States and localities are required to provide matching funds in the amount of 25 per cent of total project expenses. The figure shows that in the aggregate, there appears to be no tendency to require grants at one level of government to provide additional match in order to compensate for deficiencies in other levels. The only type of grant for which aggregate match is deficient are the grants made for program administration. If state administrative and operating grants are aggregated, however, state agency programs are matched with state funds at a rate of 27.39 per cent.



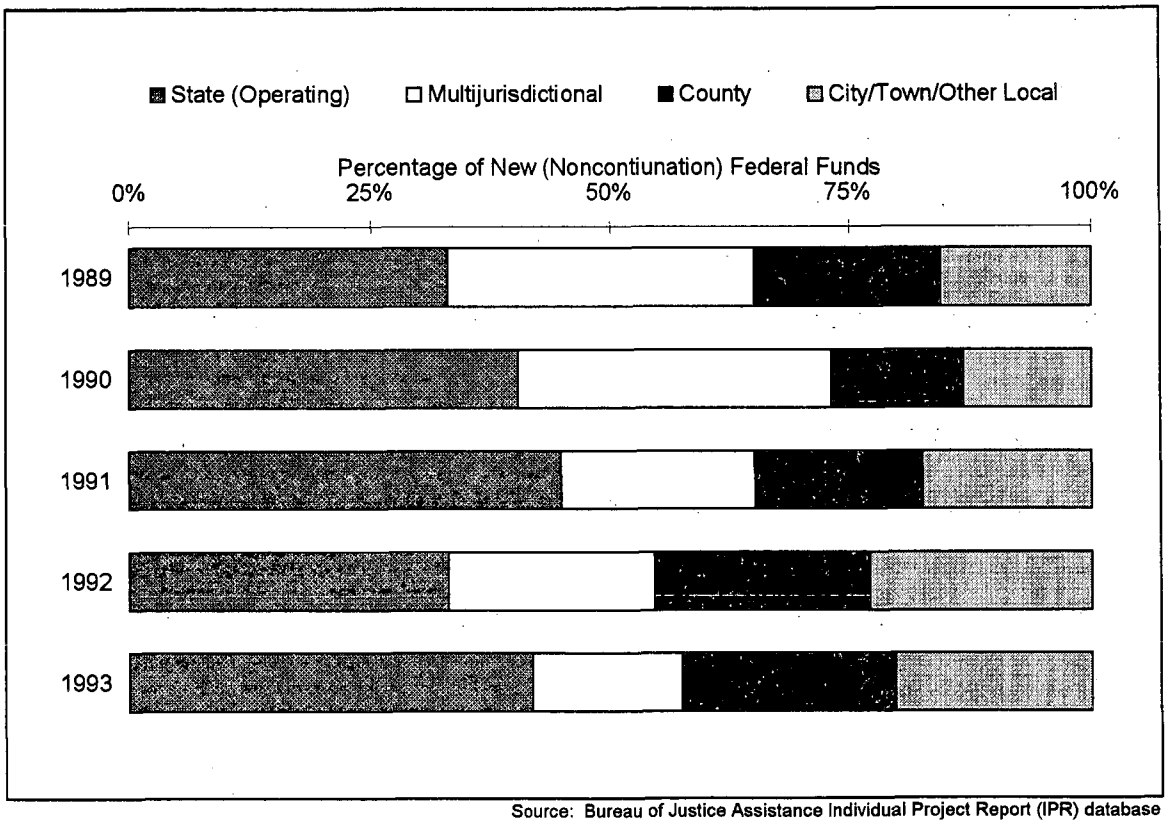
Source: Bureau of Justice Assistance Individual Project Report (IPR) database

Figure 4.11 Distribution of Nonadministrative Subgrant Funds by Type of Recipient Government, 50 States Only, by Year, FY89-FY93

Figure 4.11 shows that the proportional allocation of subgrants across levels of government fluctuated little between 1989 and 1994. State agencies have received 37 per

cent of operating grants, multijurisdictional programs 38 per cent, and county- and city-based efforts 13 per cent and 11 per cent respectively.[30]

This is consistent with the generally stable nature of state strategies that was discussed above. However, the distribution of operating grants for new (non-continuation) awards has varied from year to year. The patterns are shown in Figure 4.12, again with each year's grant normalized to facilitate percentage comparisons. This chart shows that state have been progressively funding fewer new multijurisdictional efforts over time. Neither state nor individual local agencies have been the beneficiaries of the decline in new multijurisdictional awards. Rather the proportion of new grants going to either type of agency varies from year to year.



Source: Bureau of Justice Assistance Individual Project Report (IPR) database

Figure 4.12 Distribution of Non-administrative Subgrant Funds by Type of Recipient Government, Grants for New (Non-continuation) Funds Only, 50 States Only, by Year, FY89-FY93

[30] State administrative expenses are excluded due to underreporting; the District of Columbia and the

5 STATE FOCUS – SUPPLY OR DEMAND?

5.1 Multi-Jurisdictional Task Forces

Within law enforcement there has traditionally been a good deal of fragmentation, characterized by low levels of inter-jurisdictional cooperation, limited information-sharing and infrequent joint operations. This has been particularly prevalent at the local level and has probably had its greatest effects on small agencies, many of which are hard pressed to cover even basic services. The net effect of fragmentation generally has been to deny to law enforcement the potential benefits that might result from more coordinated and integrated operations. This consequence became a particularly salient concern when drug distribution and sale grew so rapidly during the 1970's and 1980's.

The vehicle chosen by the Byrne program to address these kinds of problems was the Multi-Jurisdictional Task Force (MJTF).[31] This approach brought different enforcement agencies together under one organizational rubric and created the possibility of synergistically devoting their combined efforts to combating the problems that arose from the geographically widespread character of drug distribution.

There is no doubt that the funds provided through the anti-drug abuse acts dramatically increased the number of MJTFs dedicated to the problems of drugs. As noted above in Section 4 of this report, MJFT funding overall has represented the nation's largest financial expenditure of Byrne funds — more than 40 per cent of all grants

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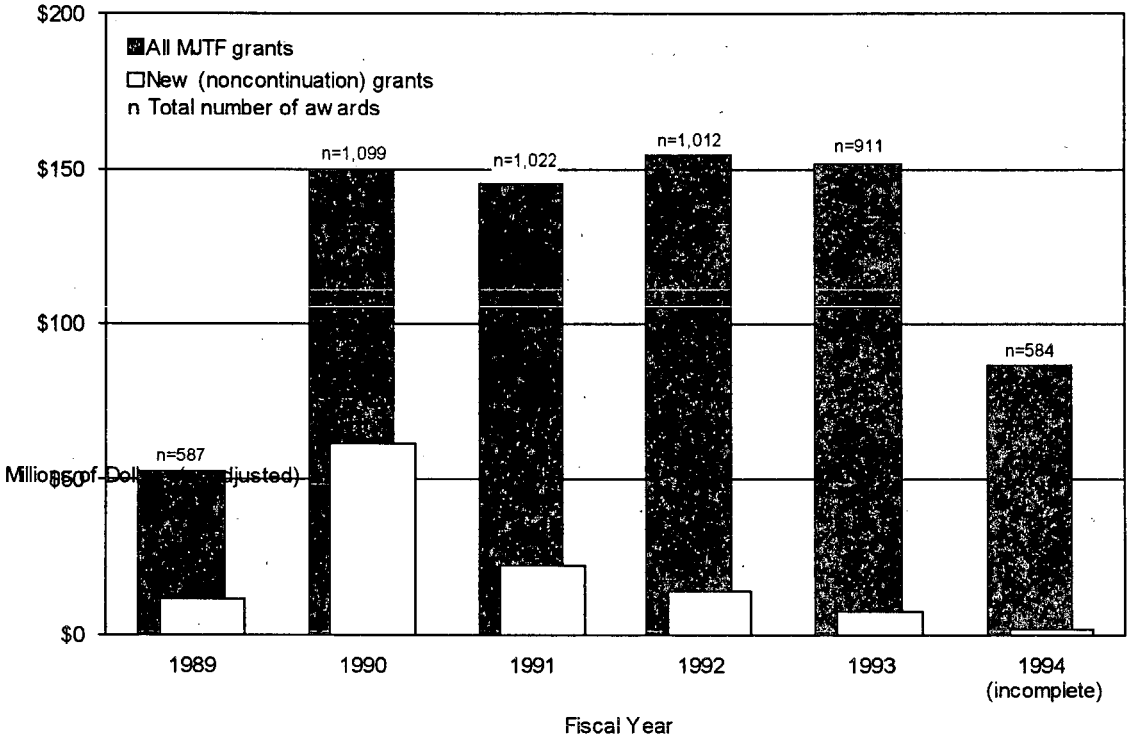
five territories are excluded as well. The total grant for each year is normalized so that changes in percentage allocations can be easily compared. The total does not add to 100% due to rounding.

[31] In general, Byrne program participants use the term "task force" to describe cooperative efforts among law enforcement agencies, sometimes with the participation of police departments, prosecutors' offices, and probation departments. These are usually allocated to purpose area 2 in the IPR data base. However, the term is somewhat amorphous and may be used to identify different kinds of activities – e.g. those in which any kind of inter-jurisdictional cooperation is taking place. Also, virtually every task force is involved in activities which could be encompassed by another purpose area designation. Therefore, it is possible that we omit some multijurisdictional task forces that are funded by the Byrne program, but

nationwide. Since FY89, 5,215 original and continuation awards have been made to multijurisdictional task forces, with federal funds of $738 million and additional state and local matching funds of $291 million, for a total of more than $1 billion. The distribution of these funds by year, and between new and existing task force initiatives, is described in Figure 4.7. The figure suggests that between FY90 and FY93, there were between 900 and 1,100 separate task force initiatives running nationwide that were using Byrne program funds[32]. Both the number and the aggregate program funding level for task forces have been relatively stable during this period.



Source: Bureau of Justice Assistance Individual Project Report (IPR) database

Figure 5.1. Byrne Program Awards to Multijurisdictional Task Forces: FY89-FY94

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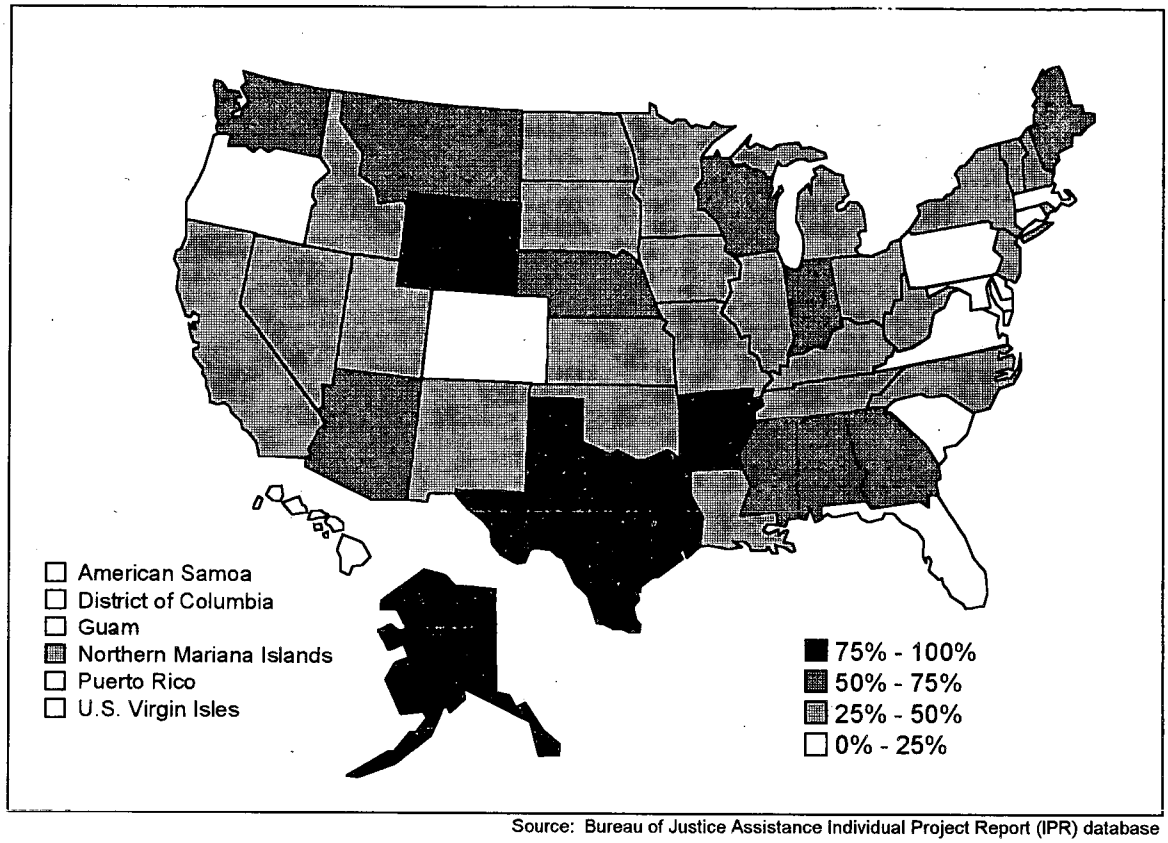
categorized in other purpose areas, or that we classify some activities as task forces that are not. As far as we are able to determine, however, both kinds of errors are likely to be very small.

[32] Because of the difficulty of unequivocally identifying first-time awards in the IPR data base, this number should be treated with some caution. It may be artificially low. It is, however, unlikely to be artificially high since this would require the existence of a significant number of duplicate entries in the data base.

Most multijurisdictional task force awards are used to support existing operations; since multijurisdictional task forces are exempt from the federal "four-year rule," there is no federally-imposed limit on the length of time that a task force can receive continuation grants. Moreover, the proportion of the total multi-jurisdictional funding used to create new task forces has been declining steadily since FY90. Even in that year, when the large increase in total Byrne funding led to an unusually large number of startup task forces, the bulk of funding went to existing efforts. By FY93, 95 per cent of multijurisdictional grants were for continuations. This suggests that, nationally, a saturation point may have been reached, and that few new multi-jurisdictional task forces will emerge in the future.

As Figure 5.2 illustrates, individual states' reliance on task forces to execute their drug and crime control strategies varies considerably. During the 1989-1993 period, 26 states allocated between 25 per cent and 50 per cent of their Byrne funds to task force initiatives. Several states, however, spend significantly more or less. Wyoming leads the nation in allocating 90 per cent of its FY89-FY93 grant to task force programs; Texas and Arkansas spent more than 80 per cent of the funds they report on these initiatives. By contrast, Connecticut and Maryland spend less than 10 per cent of their total funds on task forces. In addition, most of the participating territories spend relatively little on task forces, no doubt because few have jurisdictional divisions. However, among participating states and territories, only the District of Columbia allocated no funds to task forces between FY89 and FY93.



Source: Bureau of Justice Assistance Individual Project Report (IPR) database

Figure 5.2 Percent of Byrne Funds Going to Task Forces, by State: FY89-FY93

A wide variety of different groupings of law enforcement agencies are supported under the MJTF rubric. The core arrangement generally brings together the sheriff (s), city police departments, and occasionally special police agencies, in one or more counties. The number of counties involved depends primarily on the sizes of the populations involved. A Board of Directors generally directs the operation. Approximately 60 per cent of all MJTFs are of this type, and it is reported that coordination at this level is generally excellent. State after state spoke of cooperative successes and pleasant surprise in the rapidity of achieving real cooperation. This often took place in contexts where historical traditions of separation of functions and programs were strongly entrenched. It was believed to be a particularly beneficial development for smaller agencies. MJTFs were universally believed to be making a difference in this area.

Most of the other MJTFs consist of the same basic arrangement supplemented by participation by other enforcement agencies at the state or federal levels. The few MJTFs

that consist only of state personnel are generally devoted to supplying supplemental assistance to the local MJTFs &/or pursued specialized enforcement actions in which they have special expertise.

The state level contributions to the MJTF enterprise provide an important, even critical, element of success. In some instances they provide the critical glue that holds the entire enterprise together. Such assistance goes well beyond the provisions of agents to MJTFs who would not be recognized locally. Specialized services that are not locally available are often provided. Among these are financial investigative and seizure techniques, drug and clandestine laboratory seizure methods, and use of specialized equipment.

Other state contributions work to upgrade practices in the MJTFs through training manual development and the transfer of skills from one jurisdiction to another. There is also evidence that the benefits of this coordination are yet more broadly spread as officers are rotated through the MJTF experience. Sometimes complicated statewide committees are devoted to many different aspects of MJTF operations. In addition, these efforts help deal with the problem of inter task force coordination. Hot lines have been created to receive and direct information to the appropriate MJTF. Other hot lines have been provided to allow inquiries to be made by MJTFs before beginning undercover operations to help prevent disastrous conflicts.

Federal involvement outside the Byrne program can also occur in support of state and local efforts. The traditional federal-level drug enforcement agencies such DEA, Customs, and Border Patrol, are frequent MJTF participants, and other agencies — e.g. ATF, Forest Service, or National Park Service — may also become involved when appropriate to local circumstances. These arrangements coexist with independently maintained federal task forces that also can involve state and local agencies, but which differ in being under federal direction. Provision is often made for coordination between these different types of task forces through overlapping membership.

Much has been learned about maintaining effective coordination and cooperation in MJTFs and many of them appear to have minimized the difficulties that tend to arise in

such arrangements by paying careful attention to two of the most common difficulties — distribution of credit and the sharing of forfeited resources.

Improvement was also reported in the intelligence area. Enhanced coordination between MJTF staff and operators of the various state and federal intelligence systems was a collateral consequence of the MJTF effort that many participants have cited as one of its greatest benefits.

In summary, we note that the MJTF approach has primarily focused on drug supply within a state. Many task forces have emphasized broad geographic coverage in an attempt to deny refuge to drug traffickers in any part of the target area for which the task force has responsibility. However, illicit drug use and local pushers and distributors have not been ignored, and examples of task forces that have emphasized the lower levels of distribution networks are easy to find. In conclusion, it is evident that the MJTFs are considered both by the SAA funding agency and task force members to have proven potent vehicles for attacking the drug problem. In addition, there is strong evidence that broadly distributed and effective coordination between all levels of law enforcement has taken place in, and between, MJTFs. This coordination has produced synergistic benefits that go beyond the sum of individual task force efforts. And, though such task forces did exist in some locations prior to Byrne, and though others have been created outside Byrne, the fact that Byrne funding has supported so many is an impressive testimonial to what is probably the program's most profound and lasting impact.

5.2 Drug Education and Treatment.

In addition to the program of criminal justice assistance, the ADAA-88 also authorized (or reauthorized) block grant programs in the areas of drug education and treatment that were larger than the Byrne grant itself. At the same time, it included in the Byrne list of authorized purpose areas two that, at least potentially, overlapped with activities of these other grants: educational activities in which law enforcement officers participate (area 1), and programs to identify or meet the treatment needs of adult and juvenile offenders (area 13). It also required state level criminal justice planners to

attempt to coordinate and integrate criminal justice strategies with the activities in these other areas.

In the first years of the program, the belief was common among Byrne program planners that the criminal justice community should be focusing upon the supply side of the drug problem, rather than the demand side. In addition, there was a widespread feeling that the existence of parallel block grant programs for education and treatment made funding such activities with Byrne money a questionable priority.[33]

Several factors, however, contributed to expressions of increasing interest by Byrne state planners in education and treatment programs.

One was that, over time, the drug problem in the U.S. did not seem to be vulnerable to law enforcement efforts. Interdiction did not have much apparent effect on availability and price, and domestic enforcement did not appear to do much either. This led to an increasing acknowledgment on the part of law enforcement officials that supply side efforts alone were not enough. This view also came to be much more frequently expressed among planners.

Converting such views to an operational reality was, in principle at least, simple under the Byrne program because of the fact that such activities were congressionally authorized. The restrictions in the criminal justice formula grant area were in fact a good deal less than those that existed in drug prevention or treatment block grants. Thus, while the distribution of funds under the latter two programs was governed by relatively rigid federal guidelines, the Byrne structure gave states wide latitude, both in defining programmatic activities and in selecting recipient jurisdictions for support. This meant that Byrne funding could offer opportunities for education and treatment initiatives that could not be funded by the other block grants. This was particularly true in the case of

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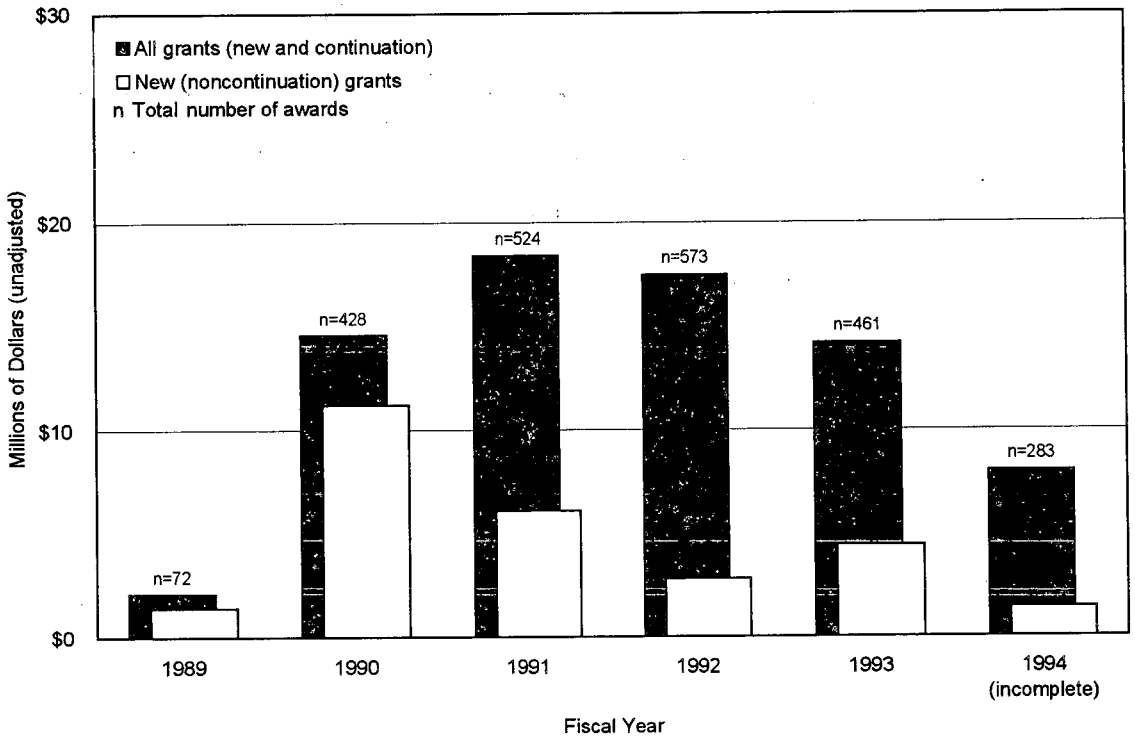
[33]See Terence Dunworth and Aaron Saiger, *State Strategic Planning Under the Drug Formula Grant Program*, National Institute of Justice Research Report, NCJ-136610 (Washington: National Institute of Justice, 1992).

treatment, since the offender population is not often a focus of efforts under federal treatment grant programs.[34]

Also influential was the federal requirement that states receiving Byrne funds submit a "comprehensive" state strategy for drug control. As noted above, Federal regulations explicitly required this strategy to account for efforts to coordinate among the criminal justice, treatment, and prevention communities. While such coordination efforts were embraced with varying intensity and enthusiasm by the states, the requirement did have the effect of raising issues of treatment and prevention in the minds of criminal justice planners.



Source: Bureau of Justice Assistance Individual Project Report (IPR) database

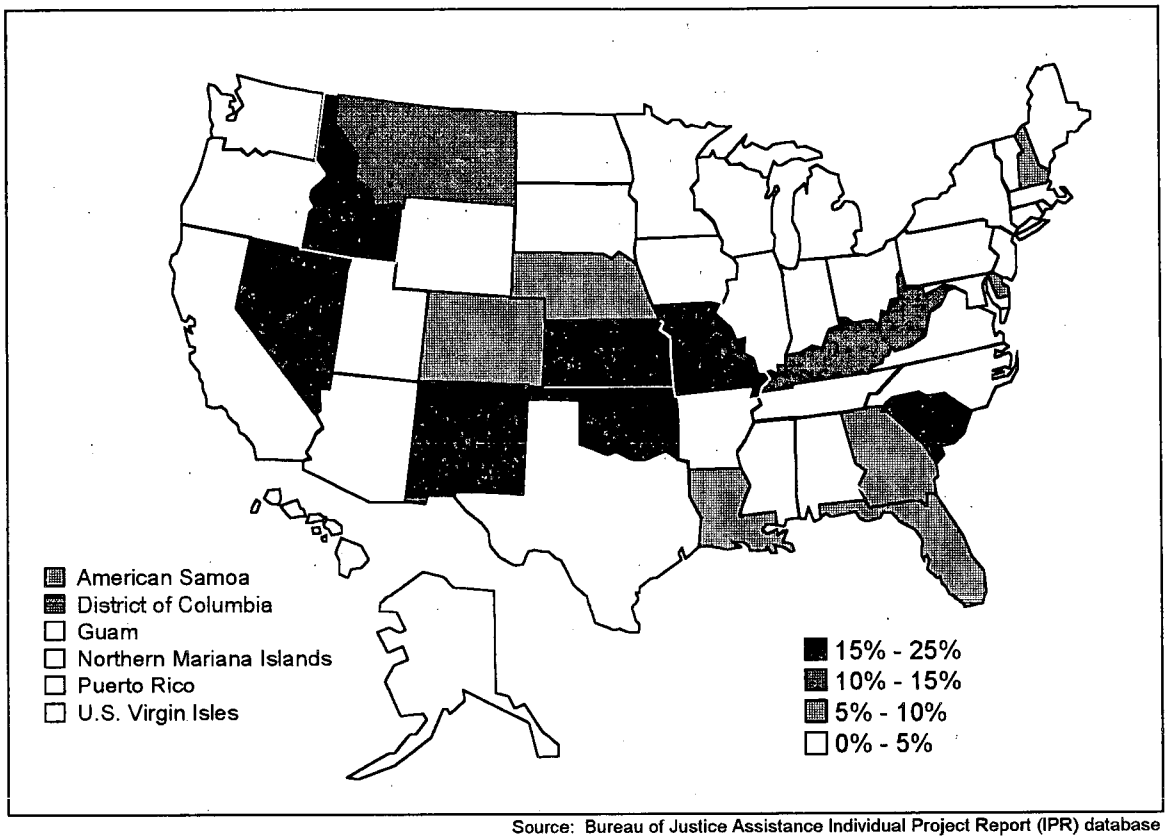
Figure 5.3 Awards to Drug Education Initiatives: FY89-FY94

[34] Both federal regulations governing the disbursal of treatment funds and the professional culture of those involved in administering those funds contribute to a preference for other client populations.

Education.

Figure 5.3 reports on subgrants in purpose area 1 (educational programs in which law enforcement officers participate). The most common, though not the only, type of program funded in this area are Drug Awareness and Resistance Education (DARE) programs, in which law enforcement officers work with students in a classroom setting. During the six-year study period, including the partial reports for FY94, $75 million and 2,341 separate awards (not separate programs) have been made for education. As Figure 5.3 shows, there were between 135 and 150 drug education programs being funded by Byrne funds each year. The number of programs increased significantly in FY90. Moreover, a large proportion of the programs begun in FY89 and FY90 were new initiatives, suggesting emerging strategic interest on the part of the states at that time. Since then, however, new programs have received a declining fraction of Byrne funds.

Drug education programs are unusual for their small size; the average funding of such programs over the study period was $43,600 (federal plus match), only one-third the size of the average subgrant budget across all purpose areas.



Source: Bureau of Justice Assistance Individual Project Report (IPR) database

Figure 5.4 Percentage of Byrne Funds Awarded to Drug Education Initiatives, by State:FY89-FY93

Unlike multijurisdictional task forces, drug education initiatives are far from being a universal component of state strategies. Figure 5.4 shows that in thirty-eight states, drug education accounts for less than 5 per cent of Byrne grant expenditures. (Partial FY94 reports are not included in Figure 5.4.) Eight of these states have made no subgrants in this area since FY89, and another five have awarded subgrants that amount to less than one-half of one percent of their total allocation. By contrast, a few states have made a very strong commitment to drug education programs. Nevada and Oklahoma, for example, have used 22 per cent of their total grant to fund drug education programs, the highest fraction in the nation. Nine other states spend more than 10 per cent.

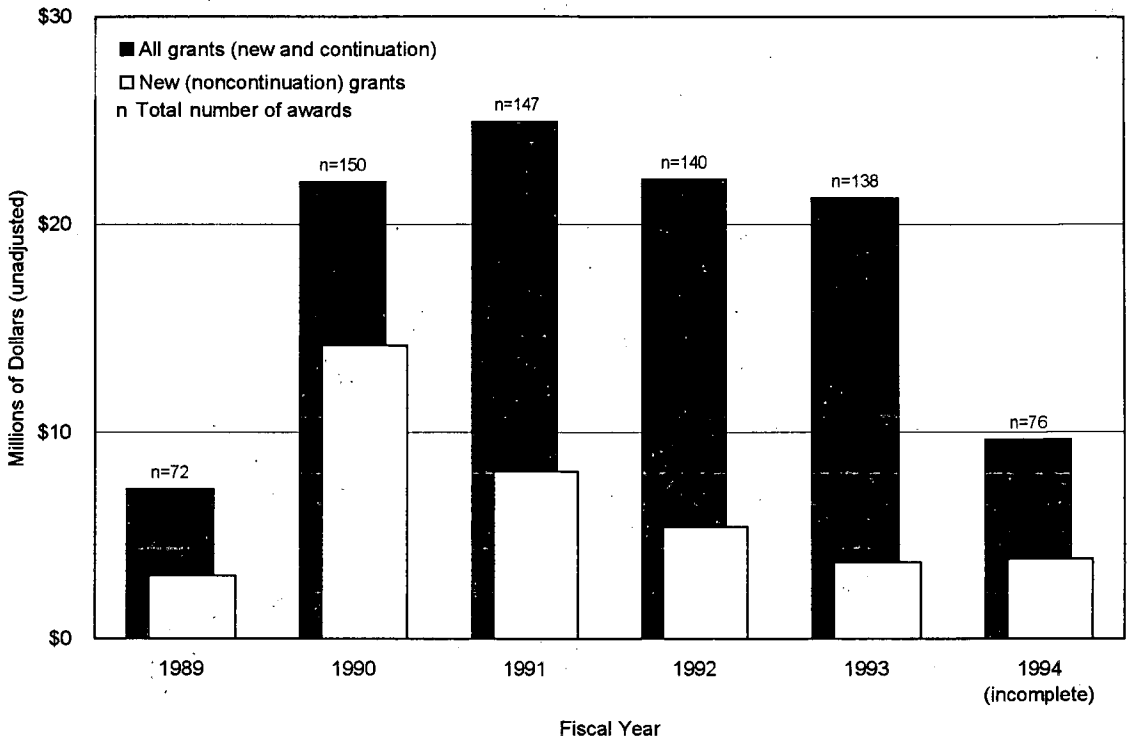
In many respects, the education area is one of the Byrne programs best examples of cooperation between criminal justice and non-criminal justice areas. Although some schools preferred other prevention programs, and resources often did not allow complete

school coverage, there is no doubt that DARE efforts have been a real success in achieving cross system coordination.

The DARE programs are not the only instance of criminal justice-education links. Other specific activities involved justice assistance in developing instructional material for schools on drug laws and associated penalties, and devising policies and procedures governing disciplinary and referral matters in schools. Another specific area involved the establishment of drug-free school zones designed to preclude drug sales around schools, bus stops, and even parks, by imposing heavier penalties for drug offenses committed therein, and through the devotion of increased levels of police surveillance. Although this has been a commonly pursued effort it appears not to require significant funding and is therefore often not supported with Byrne program funds.

Treatment.

As shown in Figure 5.5, aggregate data on grants for initiatives in offender drug and alcohol treatment (area 13) show a pattern roughly similar to that of drug education subgrants, although there is more money involved: $107 million, divided among 723 different subgrants. Since FY90, there have been approximately 140 programs receiving Byrne funds in this area in any given year. Total funding levels peaked in FY91. New initiatives form an important but declining fraction of total awards. The average subgrant budget (federal plus match) is $204 thousand, larger than the national average and considerably larger than the average education subgrant.



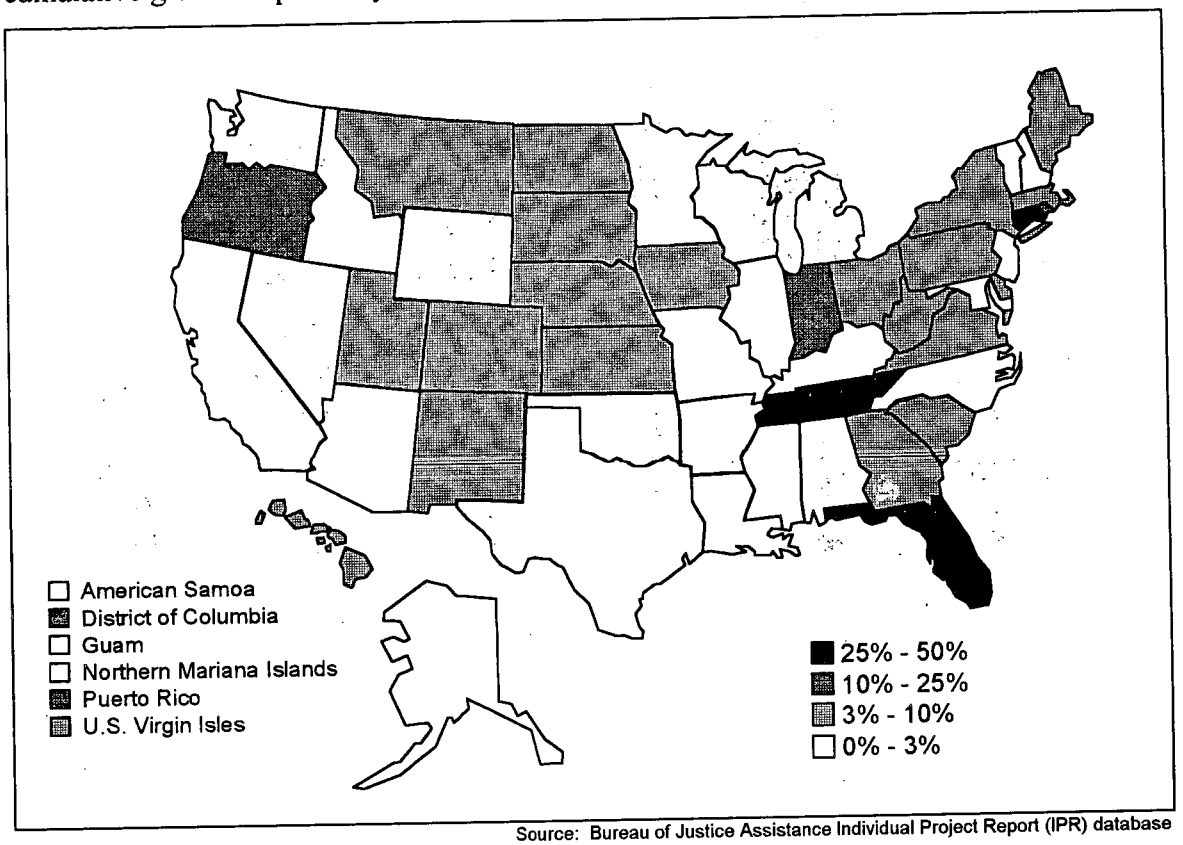
Source: Bureau of Justice Assistance Individual Project Report (IPR) database

Figure 5.5 Federal Funds Subgranted to Offender Treatment Initiatives, by Year, FY89-FY94

Although aggregate total subgrants are higher for offender treatment than for drug education (respectively, $107 million from 1989-1994 compared to $75 million), this result is largely produced by the fact that a small number of states give very significant emphasis to treatment activities. As Figure 5.6 shows, 27 states spend less than 3 per cent of their total grants on offender treatment programs (thirteen of these spend nothing at all)[35]. By contrast, a handful of states have made offender treatment the centerpiece of their strategies. Connecticut alone has spent 45 per cent of all its grant funds since FY89 on offender treatment, itself providing more Byrne dollars in this area than the combined total for all 27 states who de-emphasize the strategy. Florida and Tennessee are the other

[35] Note that incomplete reporting for FY94 led to the exclusion of this year from Figure 5.6.

big spenders on offender treatment, allocating 30 per cent and 26 per cent of their cumulative grants respectively.



Source: Bureau of Justice Assistance Individual Project Report (IPR) database

Figure 5.6 Percentage of Byrne Formula Grant Awarded to Offender Treatment Initiatives, by State, FY89-FY93

Joint treatment justice efforts were another logical area for cooperation. In this instance the most likely connections were between treatment programs and institutional corrections, community corrections, or the courts. There was evidence that treatment was supported by justice agencies in a variety of circumstances but it was also clear that this type of coordination was more difficult to achieve than prevention coordination.

It is posited that this difficulty is traced to the fact that justice and treatment efforts are often based on competing philosophies that make it difficult for each potential partner to join with the other. Some strategies, such as Treatment Alternatives to Street Crime (TASC), have been able to find ways reconciling these different philosophies and of joining the two perspectives. More recently movement towards coordination has resulted

from the recognition, in some jurisdictions, that both public and correctional goals might be advanced by properly treating those incarcerated, especially those believed to be addicted. This has taken place where those responsible for treatment programs recognize that the element of coercion, present in the institutional setting, can be a positive, rather than a negative, factor in treatment success. In turn, some correctional officers have recognized that treatment can have positive effects on correctional life and also can reduce recidivism when the proper targets and programs are used.

Some of the states visited had been able to make the transition to such joint policies and programs, using such non-traditional devices as business agreements, under which private organizations, under contract to a public agency, deliver treatment services in institutions or in diversion or post-commitment settings. Iowa and Texas are two states where this approach has been used. In other jurisdictions operational staff appear convinced of the merit of such an approach but have been unable to persuade policy makers of its merits. It appears that more effort is needed to maximize appropriate joint justice treatment action. Although there is evidence that justice personnel can give high priority to specific projects, such as treatment in jails, barriers are likely to persist for some time. There is some evidence that deliberately targeting this area, through special programs such as those supported in the health area by agencies within the U.S. Department of Health and Human Services, may be productive. There is also some evidence within the Byrne program that an increasing emphasis on treatment is gradually emerging.

In summary, despite the seeming change in philosophical orientation towards these demand-side activities, drug education and treatment remain relatively minor aspects of the Byrne formula grant program for a majority of states. Most spend relatively little in both areas, and a significant minority do not invest in these areas at all. However, a small number of states have elevated education or treatment into primary components of their strategic approach to the Byrne program.

6 COORDINATION IN GENERAL

A long-standing concern about the operation of the criminal justice system is that it exhibits a high degree of fragmentation. Jurisdictional and functional boundaries have historically combined to produce a system of independent law enforcement entities that have cooperated weakly, if at all.[36] Though arguments can be made to rationalize this situation[37], most observers and practitioners will say that the effectiveness of the criminal justice system has consequently been impaired. This is particularly true in the area of law enforcement pertaining to illicit drug distribution and crime, where enforcement agencies' adherence to jurisdictional boundaries tends to hamper operations against criminal organizations that pay no attention to boundaries or use them to personal advantage.

The ADAA-88 went further than earlier legislation in attempting to preserve and strengthen the accomplishments of the past and to stimulate new cooperative approaches among criminal justice agencies. First, law enforcement agencies were encouraged in their efforts to share information and engage in cooperative enforcement operations. Second, criminal justice agencies with different functional responsibilities – police, prosecutors, probation, courts — were urged towards cooperation. And third, the criminal justice

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[36] The existence of the fragmentation problem has been acknowledged for some time. In fact, a specific objective of the LEAA was to attempt to reduce fragmentation and increase inter-agency cooperation. Most commentators express the view that progress was made during the 12 years that the LEAA operated. Nevertheless, the rapid growth of illicit drug distribution in the 1980's, and the attendant crime that it spawned, exacerbated the difficulties that fragmentation imposed on the criminal justice system. Though enforcement agencies generally observed jurisdictional boundaries, drug distributors and dealers did not. The handicap that this imposed on enforcement was glaringly apparent by the time Anti-Drug Abuse legislation was first enacted in 1986, and the stimulation of cooperation and coordination was specifically incorporated into the goals of the statute.

[37] There are a number of seemingly legitimate reasons why firm lines of demarcation between different organizations, and even professionals in the same organization, should exist. These include factors such as: avoidance of concentrations of power and the possible tyranny that can result; the preservation of autonomy at appropriate levels; separation of functions and activities to allow the adversary system to operate with appropriate checks and balances, and the logical administrative grouping of similar functional activities within different organizational structures.

community was asked to work with other agencies such as health services and education departments to develop cooperative and coordinated approaches to the problem of drugs.

Operationally, these concepts were translated in a number of ways. The Act gave specific encouragement to states to sponsor multi-jurisdictional law enforcement efforts through the Byrne program, and exempted such efforts from the rule that federal funding could only be used for four years of support. In addition, the state agencies with responsibility for the criminal justice block grants were mandated by the legislation to develop a strategy for the use of Byrne funds that: (a) integrated, state-wide, the functions and responsibilities of different elements of the criminal justice system, using federal support to stimulate cooperative arrangements that had not previously existed; and (b) put together a plan for coordinating anti-drug abuse efforts in the criminal justice, health, and education areas.

The consequence has been some advances in coordination and cooperation that seem to be clearly attributable to the operation of the Byrne program. As noted earlier, pronounced success has been achieved in establishing multi-jurisdictional task forces, and in coordinating between and within law enforcement, prosecution, and forensics.

6.1 Law Enforcement, Prosecution, and Forensics

For example, most states recognized early in the Byrne program that multi-jurisdictional law enforcement operations against drug distribution and sale would require prosecutorial support for maximum effectiveness. A consequence is that dedicated drug prosecutors have become available in many jurisdictions, and have reportedly had a significant impact on the number of drug cases accepted and prosecuted. Enhanced statewide coordination of prosecutorial agencies occurred primarily through the forfeiture efforts that involved local prosecutors and state Attorneys General.

The full advantage of these new prosecutorial units could not be obtained without providing for close coordination between the prosecutors and the MJTFs attacking the drug problem. This is particularly true when more serious offenders have been targeted. Prosecutorial involvement is essential to take advantage of such things as the pre-charging

subpoena power of an investigative Grand Jury and in requesting court orders for non-consensual recording of telephonic communications. Similar close coordination is also essential to take full advantage of the asset seizure and forfeiture tools available to attack the profits of drug trafficking.

Coordination was often achieved by assigning a prosecutor to be a full participating member of the MJTF, and it is not uncommon for the prosecutor's office to be the lead agency for MJTF operations. Although this approach appears to have worked well in the jurisdictions that adopted it, it is not the only arrangement that produces meaningful coordination. Several jurisdictions established drug prosecution units separate from the MJTF but required that the two groups broadly cooperate. This arrangement recognizes that there may be situations where a case needs to be taken to another prosecutorial agency, such as the State Attorney General, the U.S. Attorney or even a City Attorney.

Both investigators and prosecutors are dependent on the services of forensic laboratories to identify drug buys and to produce evidentiary level analyses. If this is done slowly or poorly, both investigations and prosecution can be jeopardized. Because crime laboratories do not supply direct services to the public, however, they tend to be a low priority in the budgetary competition that all agencies go through. Consequently a number of states used the Byrne program to promote the coordination of forensic services with the activities of MJTFs and prosecutors. Reported decreases in turn-around times for analyses were common in states that took this approach, and it was frequently asserted to Assessment researchers that the effect of a commitment to forensics has been noteworthy and has strengthened both the coordination between the units involved and the legal outcomes that the criminal justice system produces.

Courts and Corrections.

The picture is less encouraging when courts and corrections are considered. Establishing cooperation between courts and enforcement agencies faces structural and constitutional difficulties that, to some extent, derive from the fact that courts are a

separate branch of government that can only cooperate to a limited extent with enforcement agencies without compromising their constitutional role.[38]

The ADAA program made no special provision for courts and, although there was evidence, from the sites visited, that courts could participate in the program while preserving their independence, and could effectively coordinate their efforts with those of executive agencies, the overall level of participation has not been high.

Coordination of law enforcement activities with corrections departments has also been limited. Obstacles have not generally derived from constitutional considerations, except when probation services are located within the judicial branch. In a few instances, states have been able to coordinate probation and MJTFs by having probation officers as MJTF members. Other states have worked to coordinate community corrections with the courts in the provision and management of appropriate sentencing alternatives.

Institutional corrections generally participate fully in the policy boards that states have established, but it is rare for this to translate into support for the new beds that are in demand due to increased conviction rates for drug offenders. The costs that institutions face in establishing treatment services for offenders play a very significant role in this situation. For example, in 1994-5 Texas began an in-prison Therapeutic Community approach for drug users that, at full implementation, would have an annual cost several million dollars greater than the entire Byrne award for the state. Under these circumstances, it is difficult to get corrections agencies interested in applying for the small proportion of Byrne funds that is left over after enforcement activities have been awarded their portion. Another way of saying the same thing is that the funding of beds is generally not easily done on a small programmatic basis. This means that more peripheral activities,

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[38] During the 1970's, these concerns caused many courts to attempt to separate from the LEAA program. They sought to receive funding directly, or to have dedicated funds provided under the Act. These proposals did not materialize but the LEAA act was changed in 1976 to modify conditions of courts participation. These changes preserved, and strengthened, court participation, but did provide an element of independence by providing for presumptive acceptance of their plans. The success of these efforts was never tested as the LEAA was abolished shortly thereafter. Subsequently a modest direct funding program for courts, the State Justice Institute (SJI), was initiated.

such as prison industries or prison gang enforcement, are usually the only really practical options for Byrne grant support.

6.2 Coordination Beyond The Criminal Justice System

Legislative Structure

The congress signaled its interest in broadly based coordination and cooperation by using the 1988 ADAA Act to create or re-authorized three other grant programs in addition to Byrne. Each of these focused on the response to the problems surrounding the use of illicit drugs, but were outside the criminal justice area. The Alcohol, Mental Health, and Drug Services Program (since renamed) provided block grants to states for drug treatment. The Drug Free Schools block grant funded school-based prevention activities, awarding funds to states on a formula basis and splitting them, within each state, between local educational authorities (LEAs) and the Governor' Office. The Public Housing Drug Elimination Program sponsored drug control projects undertaken by public housing authorities making awards on a competitive basis. In most years since the Act was passed, congressional priorities might well be gleaned from the fact that the treatment and education areas received appropriations well in excess of Byrne funding levels.

In addition to combining these programs in one legislative package, the congress also required that the state criminal justice agency responsible for Byrne awards coordinate their activities with those undertaken in these other components of the drug control system. This seemed to require the development and implementation of a comprehensive state-wide approach that would not only cover the criminal justice area but would also enfold other state departments receiving ADAA funds. However, the integrated planning requirement only applied to the state criminal justice agency. It was not imposed on the state agencies in health, education and housing that were the custodians of funds appropriated through the other three federal aid programs in the Act.

This legislative structure established an unachievable objective for criminal justice administrators at the state level. In virtually every state, the different agencies that are the usual administrators of the criminal justice, health, education, and public housing support

are virtually always completely independent of each other, and no one of them can impose requirements on any other. In short, criminal justice planners had been assigned responsibilities which they had no authority to carry out.

Another barrier confronting the achievement of interagency cooperation and coordination was the fact that each of the four major grant programs was administered at the federal level by different departments --the U.S. Departments of Health and Human Services (HHS), Housing and Urban Development (HUD), Education (DOE), and the BJA — each of which created its own rules, timetables, and expectations and was under no mandate of any kind to cooperate or coordinate with the others. In this sense, the legislation sought to require states to establish cooperative modes of behavior that had no federal counterpart.

What followed from the continued demarcation between the administering federal agencies and the lack of a "coordination" requirement for state agencies outside criminal justice was predictable. In most states, the flow of money followed traditional bureaucratic lines, going from the four federal agencies to their state equivalents. These then redistributed funds on the basis of programmatic objectives that were essentially independent and uncoordinated.

State Policy Boards and Drug Control Executives.

Cooperation and consultation between different types of agencies was attempted at the state level by the creation of policy boards. These were established by executive order in most states, subsequent to the BJA's recommendations to do so early in the life of the Byrne program. Though it took several years for policy boards to be established in all states, by the time the 1988 Act was five years old, they were essentially universal.

The state agency that implemented and managed the Byrne program — more often than not a traditional criminal justice planning agency — was always a member (or at least was represented) on this board. Other criminal justice agencies, such as state police, state corrections, and the attorney general's office, were also represented. In addition, many states included non-criminal justice agencies — such as health, education, alcohol and drug abuse. Sometimes one comprehensive group was formed and other times both

justice and non-justice groups were formed with communication channels established between them.

Some states also appointed Drug Policy Coordinators, often dubbed "Czars" or "Czarinas", to coordinate state wide drug control policies, and, potentially, to stimulate and arrange for cooperation between justice, treatment, prevention and schools, and other agencies. Generally, these positions existed independent of the Byrne program, and did not depend on the Byrne program for their existence. However, the drug control executive often led the state policy board on which the Byrne program was represented.

Such bodies often seem to have performed a primarily political purpose. Though a number of them reported some positive policy coordination activities, the process did not easily translate into action at the operational level, and few seem to have produced actual programmatic coordination.[39] Furthermore the institutional arrangements appeared unstable and were often heavily dependent on individual personalities. As time has passed, some states have discontinued the drug control executive position, and in others the policy board does little but meet.

Community Programs and activities

Coordination between justice and community activities does exist. From the justice side, community policing, including special enforcement in public housing, and "weed and seed" programs, have been activated and graffiti abatement and gang intervention efforts have been supported. Justice participation is primarily restricted to law enforcement and juvenile courts although some prosecutors have allocated forfeiture funds to this area. Community mobilization, or similar efforts, have been instituted in several states sometimes using Byrne money in partial support of activities. However, communities have more frequently been able to draw on a variety of non-Byrne funding

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[39] As far as we were able to determine, few states made any attempt to combine federal ADAA grant funds under the control of a single state agency. Rhode Island and Michigan were two exceptions. In both states, the state drug control coordinator, appointed by the Governor, played a significant role in the determination of ADAA expenditures in the health, criminal justice and education areas.

sources, including public housing funds, and so Byrne supported participants must be described as satellite members rather than prime movers.

6.3 Summary

Coordination has clearly been advanced between the different agencies concerned with illicit drug abuse and associated crimes, and a proportion of this is attributable to the Byrne program. This coordination has gone beyond what was achieved under the LEAA and has consequently been more far reaching in its effects.

Within justice, Multi-Jurisdictional Task Forces represent a noteworthy success, and the coordination between MJTFs, prosecution, and forensics is also remarkable. In contrast, enforcement coordination with the judicial branch appears not to have improved and coordination with corrections is still limited.

Outside justice, coordination has developed in certain specific areas involving prevention and treatment but barriers to cooperation have not been completely removed and the legislation itself creates or reflects structural problems that are an impediment to a more integrated effort. For example, the federal programs that make up the full ADAA effort are all created by different congressional committees and reflect different political traditions. Programmatic requirements differ from area to area, and, although there are few barriers within the Byrne program that necessarily prevent support of treatment &/or prevention efforts the same cannot be said in the other areas. For instance, treatment programs funded under the health block grant have specific language precluding the spending of federal funds for those incarcerated if a program exceeds the funding level existing in a prior year. It is also not clear that law enforcement can be supported in their DARE efforts through funds provided to law enforcement agencies from the Education block grant, although they can clearly receive Drug-Free Schools funds distributed by the Governor.

Program requirements also differ between areas and, when support can be obtained from either Byrne or other sources, it is evident that the justice requirements are more onerous. Match and project terms all differ without evident justification. States have

often found ways of accommodating these differences, through joint application and review processes, but the disparity in planning, reporting and evaluation requirements between criminal justice, health, and education is difficult to explain rationally. All of these factors are impediments to the achievement of the levels of inter-area coordination that at least some parts of the legislation clearly desire.

It is worth noting that the evident limitations in coordination are not necessarily cause for concern. Although the principle of coordination is attractive, it can be argued that many activities within justice, and within the other components, have no need to be coordinated. Coordination at the program level is only logically required when there are joint roles for two or more cooperating entities that can enable each to achieve their objectives in a better way — more effectively, cheaper, and so on. But, such arrangements are not always needed.

7 RATIONALITY AND EQUITY

In this section, we consider the extent to which the Byrne program has been associated with the improved rationality of resource use. Primarily, this involves an assessment of the impact of strategic planning on the system, but we also look at the role that earmarking and other mandates have played. In addition, we look at questions of equity that have consistently been raised over the life of the program – questions about the appropriateness of the state-based approach and its consequences for the criminal justice system and the nations state and local governments.

7.1 Rational Use of Resources

State Level Planning

Under the Anti-Drug Abuse legislation, states' receipt of the Byrne grant is contingent upon the annual submission of a plan for drug and violent crime control, and its approval by the BJA. Plans must be comprehensive geographically and substantively. They must describe states' drug and crime problems, current efforts to deal with them, and the resource needs that the effort will require. They must also document the participation of criminal justice practitioners, treatment and education officials, elected local officials, the state legislature, and the public.[40]

As a result of this requirement, all 56 state and territorial recipients of formula grant support have, since 1987, submitted an annual planning document to the BJA. All such plans have eventually been approved, although the BJA has on occasion demanded revision before final approval.

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[40] The BJA appears to be given the statutory authority to withhold funds from the state administrative agency if it judges a plan to be inadequate, and to then distribute the allocation for that state directly to local recipients in that state. BJA staff, in commenting upon this report, pointed out that the issue of BJA's authority or discretion to actually turn down a state application had ever been directly interpreted and had certainly not been invoked.

The planning requirement has a number of justifications. As we noted in Section 2 above, formula grant assistance represents less than 1 per cent of the nation's criminal justice and drug control resources. Thus, it is too small to materially affect the totality of a state's criminal justice activities. This suggests that the funds must be carefully targeted, in a discriminating fashion, if they are to achieve much effect, and this in turn suggests that the optimal use of Byrne funds may very well not be proportionate to population. Otherwise, their impact will likely be dissolved amidst the variegated activities of dozens of agencies and will vanish without a trace.

At the same time, the planning requirement has a more explicitly political justification: it balances the discretion given to states in making subgrant awards. Having ceded its right to determine how funds are spent, Washington asks in return that states document that they are spending funds wisely. Moreover, by approving strategy submissions, the BJA retains some (albeit attenuated) control over states' funding decisions.

In addition, planning is seen as a rational undertaking that is worth doing in its own right. There can therefore be collateral benefits from developing a strategy, that are independent of the Byrne program per se.

However, the relatively clear lines of these justifications for state planning tend to blur when one examines planning as it is actually performed. The nation has now had several experiences with criminal justice and drug related planning, of which the planning under the Byrne grant is only one. Under the Safe Streets Act of 1968, states distributing LEAA grants were required to produce comprehensive statewide and regional criminal justice plans. The same 1988 act that imposed statewide planning on Byrne grant recipients, also chartered the Office of National Drug Control Policy (ONDCP), and required it to submit a national drug control strategy to the congress, that would serve to coordinate the criminal justice, treatment, education, prevention, military, and community-based anti-drug activities being undertaken by various federal Departments. When drug problems became endemic in the early 1980's, some states (e.g. California and Iowa)

enacted legislation requiring statewide planning that was completely separate from the federal requirements.

All these activities — the LEAA plans, the Byrne plans, the ONDCP strategies, and the voluntary state-based plans — provide a basis for identifying several of the conflicts that complicate criminal justice planning.

One of these conflicts derives from the tension that exists between comprehensiveness and manageability. Under the Safe Streets Act, the plans that were to be submitted to LEAA were to be comprehensive plans for the entire criminal justice system. Presumably, the congress believed that a comprehensive understanding of the system was a necessary prerequisite for rational planning. But the comprehensiveness requirement resulted in enormous expenditures of resources and the submission of documents that ran for thousands of pages. Despite their length, however, these documents still did not approach a truly comprehensive view of the full complexity of the criminal justice system and its activities. Moreover, the level of detail that the plans did achieve rarely seemed to contribute to the strategic focus or impact of the LEAA grants. In a partial modification of the LEAA approach, planning requirements under Byrne, though defined as comprehensive, were much more narrowly construed.

Another basic conflict that underlies criminal justice planning is the difference between the authority that "strategic, comprehensive" planning would seem to require, and the authority that planners actually possess. On the one hand, strategic planning for criminal justice or drug control requires a broad scope. Effective planning must take into account the interconnectedness of widely diverse agencies and programs. At the same time, planners usually lack the authority to make decisions about such agencies and their efforts. This deficiency was widely remarked upon in the case of the ONDCP, which was authorized to review but not alter the drug control budgets of other national agencies.

The chasm between the scope of planning and planners' authority gapes even wider for the Byrne strategies. While the Act demands that state agencies submit plans that embrace the entire state criminal justice system and coordinate the activities of health and education agencies with criminal justice, agency staff often has clear authority only over

the limited portion of that system that is funded by Byrne program dollars. Sometimes, this is supplemented by control of special state funds delegated to the SAA by state legislatures. In no case that we have observed do they have authority over the non-criminal justice portions of state drug control systems.

The extent of the expectation/authority gap differs depending on states' organizational arrangements. In many states, the Byrne strategy is produced independently of other state drug control and criminal justice policy making. In some others, such as California and New York, the Byrne program is housed in the state criminal justice planning agency; but the office preparing the strategy for the BJA is but a sub-agency in a larger structure. In a few states, such as Iowa, the BJA planning process is subsumed in a larger state drug control planning effort, but a separate state criminal justice plan is also prepared. In all states, the planners directly responsible for the Byrne strategy lack the authority to plan comprehensively for the criminal justice and drug control systems.

This has several consequences. One is a lack of clarity about what comprehensive planning entails. The most common response to this issue is for strategies to provide descriptive overviews of the entire system, but to confine prescriptive activity to Byrne program funds and any special state funds that are under SAA control.

Another consequence — though not necessarily a negative one — is that Byrne plans tend to de-emphasize quantitative outcome goals, such as reduction in crime rates, in favor of goals relating to implementation and system improvement. This is in contrast to the LEAA strategies, which often associated overly optimistic crime-reduction goals with individual projects. Since most of the factors that determined outcomes were not under the control of LEAA programs and are not under the control of Byrne programs, such outcome-oriented goals often serve no purpose but to guarantee a conclusion of failure with respect to individual projects. In this sense, Byrne program planning may well be more realistic than LEAA planning.

It also contrasts with the early ONDCP national drug control strategies that set national targets for reduction in drug use and other indicators of drug crime. Both of

these experiments with outcome-oriented goals suggest their chief weakness; since relatively few of the factors that affect the outcome can be influenced by the planners, it is unreasonable to judge strategies by their success, or lack thereof, in meeting the targets set forth. The Byrne strategies, by contrast, tend to focus on goals that can be controlled by funded projects.

Problems of authority are exacerbated by the Byrne program's focus on drugs. Theoretically, the idea of comprehensive drug control implies that planning should embrace activities outside of the criminal justice system. As noted, the legislation formalizes this view. But Byrne planners rarely if ever have even a semblance of influence, let alone jurisdiction, over these activities.

Even absent the issues of comprehensiveness and authority, planners would also have to confront the basic issue of what it means to plan in a criminal justice context. In their study of plans produced under the LEAA grants, Feely and Sarat document seven different definitions of planning that were used by one or more states. At one end of Feely and Sarat's spectrum were states that viewed planning as a comprehensive system-wide activity and at the other end of the spectrum were states that viewed planning as a compliance exercise. In the middle were states who viewed planning as a process that led to a definition of priorities, while yet others viewed the plan as a descriptive list of desirable programs.

This confusion persists for the Byrne planners as well. The BJA guidance provided to state planners and the language of the Act itself reflect this difficulty when they speak of comprehensiveness in one paragraph and provide detailed rules for how to specify Byrne-funded programs in another. The confusion becomes deeper as it is filtered through states' own institutional circumstances, organizational cultures, and goals for the program. These kinds of difficulties illustrate the need for ongoing technical assistance and workshops at the BJA national and regional conferences that are devoted to the planning issue.

These problems do not mean that planning under the aegis of the program is fruitless. In particular, the planning requirement does seem to have fulfilled its political

goal, i.e., providing some federal control and supervision over states' use of funds. In this context, the strategy submission functions as a grant application. The requirements that the strategies be prepared, and that permit the BJA to review and even amend them, do function as important checks on state activity and guarantees of their responsibility.

In addition, many states have come to acknowledge that the Act of planning imposes a rational imprimatur on their state's activities that that would not have been voluntarily developed, and so would not have come into being without the Byrne program.

Insofar as the strategy requirement is identified with the more sweeping goals of enhancing the rationality, comprehensiveness, and strategic nature of states' criminal justice activities, its success is heavily dependent upon particular state circumstances. Most of these circumstances, and in particular, the goals and attitudes of people both inside and outside the Byrne program responsible for policy development, cannot be regulated externally by the federal government. The strategy requirement can thus be seen as providing a valuable opportunity for states to introduce strategic considerations into their criminal justice systems. This is an opportunity that many, though not all, have taken.

Regional Planning

The development of regional planning approaches in a few states, without any urging from the federal government, may be one of the most striking results of state discretion under the program. This development perhaps illustrates the potential for innovation in criminal justice systems to occur without federal mandates.

Regional planning is not new. The Safe Streets Act of 1968, in fact, mandated the creation, within states, of regional planning units (RPUs) in addition to requiring statewide strategic plans. The RPUs were intended to bridge the gap between the state planning agency and operational agencies by providing a locus for planning and administration that could be simultaneously comprehensive and sensitive to regional peculiarities and needs.

The LEAA RPUs added a level of bureaucratic complexity to criminal justice planning that led to conflicts with state planners, and caused a lack of clarity regarding goals and activities. This prevented the RPUs from making much contribution, and views

about them, especially in the congress, became jaded. When the structure of LEAA was reviewed to create the Byrne program, the consequence was that no requirement for regional planning was incorporated into the legislation.

Nevertheless, regional planning became an important part of the program in a small number of the larger states. California and Florida, for instance, have respectively instituted county and regional planning for the Byrne program. New York has retained the practice from its approach under the LEAA. In a sense, such states have a relationship with their regions and counties that echoes the relationship of BJA with the states, and those regions and counties have a relationship with local jurisdictions that resembles the role played by SAA's in states that have no regional or county planning component.

In California, county awards are based on a crime/population formula. Roughly speaking this means that federal aid tracks population levels, a fact that seems to be at odds with the concept of discriminatory decision-making that the fundamental idea of strategic planning embraces. In return, counties are required to submit county-wide plans that conform to state programmatic guidelines (general enough to give a good deal of flexibility) and that the state must approve. Counties then disburse funds to operational agencies in accordance with their own, local strategies. They have the responsibility, in principle, of monitoring and evaluating their projects in accordance with state guidance; and the state provides monitoring oversight, on-site technical assistance, and guidance on strategy preparation.

There are obvious political benefits from a county-based or region-based planning approach. A good deal of the criticism that local governments direct at the state when the state appears to discriminate against cities is deflected. It is not clear, however, that dropping the planning function down one governmental level produces any better results vis-a-vis the Byrne program. What does seem apparent, however, is that if regional planning had been imposed at the federal level, it is unlikely to have worked any better than did the LEAA RPUs. Though regionalization may well be appropriate for large states, it is clearly not appropriate for every state.

Earmarking

Earmarking involves federal direction of some level of funding, usually determined on a percentage basis, to particular types of programs. During the LEAA and during Byrne, earmarking was small in the early life of the legislation, but tended to grow with the passage of time. [41]

As passed in 1988, for example, the ADAA-88 imposed a single earmark: local "pass-through" provisions requiring states to provide a set percentage of funds to local rather than state subgrantees. In 1990, the congress introduced the first substantive earmark – effective in FY92 – requiring that each state use 5 per cent of formula funds to improve its criminal history record keeping. the congress has also required states to commit to various kinds of activities in order to maintain good standing in the Byrne program and avoid penalties. In 1990, an amendment to the Safe Streets Act imposed record keeping requirements pertaining to aliens. And beginning in FY 1994, a penalty equal to 10 per cent of a state's Byrne award was imposed on states that failed to comply with the federal HIV statute. In general, state officials involved in the Byrne program strenuously oppose further set-asides, earmarks, or mandates. They oppose the alien reporting requirements on practical grounds. They are particularly opposed to the HIV requirement as this imposes severe penalties on funding of the state strategy when others (Legislature and Courts) take actions over which the SAA has no control.

There has also been discussion about requiring minimum awards to non-criminal justice projects or to large urban areas. Urban earmarks might require that cities, as a group, receive a particular portion of funds, or they might set a minimum grant for each city in a state that was in proportion to its population.

Despite this tendency for congressional earmarking to expand over time, there is no question that it conflicts conceptually with several other congressionally stated goals of the Byrne program, particularly those of state planning and coordination. The central

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[41] Over time, earmarking has also grown in the discretionary program. In FY 1990, discretionary earmarks were nearly $12 million of the $50 million appropriation. In FY 1994, they were $23 million of $50 million.

arguments for state planning are as follows: first, since drug problems and responses to them differ from state to state, state as well as federal resources must be taken into account when deciding how best to utilize federal funding; and, second, since federal funds provided through Byrne subgrants are meant to be replaced by state and local resources at the end of the federal support period (presuming programmatic success), the early involvement of those most likely to assist financially (the state) is highly desirable. States are therefore seen as best equipped to determine the use of scarce resources, as long as they make that determination in a strategic fashion and incorporate the views and opinions of local agencies.

Earmarking seems contradictory to this view. It is in conflict with state discretion; it does involve micro management by federal agencies; and it does impose a single approach on diverse states. Stringent earmarks, that require grants to particular types of agencies or to all cities, would likely also reduce the incentive power created by state control over funding. If a city or agency knew that it was assured funding, its willingness to coordinate its activities with other groups or to buy into other aspects of the strategic plan would likely decline.

Nevertheless, a rationalization for earmarking can be propounded under some circumstances. For instance, if states viewed increasing prison capacity as crucial, but were politically constrained from funding such programs by public perceptions, demands for commitment of limited funds to enforcement, and so on, a prison earmark might enhance a state's capability for implementing what it conceived to be its best strategy. Similarly, in the area of information collection and management, federal needs have not been well met during the Byrne program. A federally imposed earmark might have avoided this problem. If states had been required to commit a certain proportion of funds to information development and management, in compliance with federally imposed structures and procedures, the need for knowledge and understanding about the Byrne

program might well have been enhanced. A comparable argument can be made in the area of evaluation, which is called for by the legislation, but which is not specifically funded. [42]

These arguments do not necessarily imply that earmarking or federal-local grants are a poor idea. They do suggest that such approaches require a fundamental reconsideration of the goals and purposes of federal aid. Earmarking and direct funding not only change the identity of winners and losers under the system; they also change the ways in which the program might effect criminal justice planning, coordination, and innovation.

7.2 Equity Issues

One of the most controversial issues surrounding the Byrne program concerns what might be termed the equity of the Byrne process and the funding decisions it produces. Concerns are generally framed in one or more of the following ways:

- Funds move too slowly from the federal government to the point at which they can do most good — the local environment in which crime occurs — and too many of the program's resources are consumed by management and administration.
- State bureaucrats are too far removed from the local scene to be able to determine how Byrne funds should be used. Spending decisions should be made locally.
- Big cities are particularly short-changed by the Byrne process. Given their crime and population levels, they receive a share of federal aid that is disproportionately small.
- Law enforcement is too heavily represented in Byrne funding decisions. Other components of the criminal justice system – courts and corrections in particular — are seriously under-supported.

What these objections come down to is the assertion that federal aid programs that build states into the decision-making process are cumbersome and expensive , and that they also lead to the wrong decisions. At least in part, this is a direct challenge to the

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[42] These issues are discussed in more detail below, in Section 9: Monitoring, Evaluation and Reporting.

suitability of the block grant concept in criminal justice, not just to the Byrne program. That is, the controversy is as much about the goals, objectives, and modes of federal aid as it is about the federal and state administration that has actually resulted from the Anti Drug Abuse Act of 1988. Each of the claims is considered in this section.

Distribution of Aid – Too Slow and Too Costly?

The authorizing legislation sets up a deliberate and well-defined process for the management and administration of the Byrne program, and the BJA guidelines for operation of the program provide further codification of this structure. Together, these steps create a formal timetable for the major steps of the federal assistance process:

- submission of state strategies (60 days after the President signs the congressional appropriation);
- review of strategies by the BJA (45 days after submission by states);
- a period for acceptance of the award, or a grace period for amendment of rejected strategies (30 days after the BJA decision);
- announcement of funding availability – e.g. by release of state RFPs (45 days after acceptance of the federal award);
- decisions on subgrantee applications by states (45 days after submission by subgrantees);
- subgrantee start-up (subgrants must be awarded and work must start within three years of the federal appropriation).

There are two separate questions that can be asked about this process. First, has the statutorily specified timetable been met? Second, is the timetable appropriate?

The first question essential calls for a factual response, and, based on our examination of nation-wide records, can be set aside easily. With very minor exceptions, the timetable has been met, by the federal government and by the 56 formula grant recipients, in each year of the program. For example, a national survey on this issue that was conducted for the *State Strategic Planning* report published by the NIJ in 1992 (Dunworth and Saiger, 1992a), combined with a review of the BJA records, clearly showed virtually universal compliance with the time constraints established for the Byrne

program. Furthermore, it is difficult to see how the timetable itself could be significantly accelerated. Each of the steps in the process needs to be performed and it is surely in the public interest for them to be performed well. Time must be allowed for this to happen, and, in fact, the time provided already seems short.

Flexibility in applying the fund distribution formula is also essential. Funds must be distributed, especially to continuation projects, at such times as they are required, not at some fixed arbitrary time. Further coordination is needed to comply with state and local budget cycles that often deviate from the federal fiscal year. This timing is critical whenever matching funds are needed and not just when formal state appropriation of the federal awards is required.

What we conclude therefore is that the complaint about how quickly federal aid reaches the street is not really about the timely administration of the Byrne program by BJA and the SAAs. Rather, it is about the appropriateness of the Byrne program's statutorily defined approach to federal assistance.

This is a more difficult question to answer, and really depends upon expectations concerning the way in which federal aid should work. If the position taken calls for the use of federal aid to be carefully thought out, for strategic planning to take place, for the application of funds to be targeted in a discriminating rather than entitlement fashion, then it is clear that the kind of steps laid out in the 1988 Act (or something equivalent to them) must be followed. The objectives embodied in the formulation of the Act could not, for instance, be accomplished by revenue sharing, even though revenue sharing is probably the procedure that would produce the fastest conveyance of federal appropriations to the street. It is also difficult to see how the goals of the Act could be accomplished through direct federal-local funding, because this would of necessity have to be made on a formula basis (population plus crime index perhaps) and would make strategic planning moot. The underlying principle of strategic planning is precisely the opposite of rote formula distribution – it presumes that optimal use of federal aid requires a distribution of funding that does not parallel the distribution of population and crime. This kind of distributional decision cannot be made at the local level.

The second element of this issue – the cost of administration that the Byrne structure imposes – is also difficult to address empirically. Obviously, there are costs associated with federal and state management of the program. The BJA and the State Administrative Agencies consume federal funds as they conduct normal operations. These can be specified (e.g. states have used about 5 per cent of Byrne appropriations for administration over the last several years). But, this doesn't indicate whether such costs are too high. To answer this question, a way of comparing those costs with the cost of some alternate distribution system (e.g. direct federal-local aid).

There is little or no evidence to tell us what that would be, but there is no reason to assume it would be nothing. Obviously, unless local jurisdictions were to simply absorb federal aid into their local budgets, as a form of supplanting or supplementary funding, they would also have to make judgments about where and how to spend the money and they would have to figure out what happened to it (i.e. conduct some form of monitoring). With direct federal-local distribution of aid, there would be thousands of such activities taking place around the county, rather than 56. Given this, it is not at all clear that the cost of local decision-making would in fact be less than the cost of state decision-making. In fact, given the proliferation and duplication of activities that would occur in multiple local jurisdictions in each state, but that are now largely concentrated at the state level, a good argument could be made that it would in fact be a great deal more expensive.

State Level Control of Byrne Allocations – Inappropriate?

One of the justifications for a block grant approach to federal assistance is that federal officials are too far removed from the local scene to be able to make determinations, on a national basis, about how and where federal aid should be spent. This idea is extended to the state level by those who believe that it is also a mistake to give states control over federal aid. An accompanying complaint is that the state imposes its own procedures for monitoring and accounting on subgrantees and that this is a further burden that dilutes the value of federal aid.

There are some obvious ways in which, at first glance, these observation seems sound. It is the States, not cities, that determine the strategic plan, and subgrant

applications are generally invited only for programs that fit into strategic objectives. After award, subgrantees are subject to state imposed monitoring and reporting requirements that may well be at odds with their own procedures and practices, and that at the least impose a layer of overhead that probably doesn't exist for other activities not supported with federal funds.

Sometimes strategies are very specifically construed by the state, such that the state program essentially becomes categorical, rather than block. The consequence is clear — cities must conform to the state plan or do without federal aid. If, for example, a state's strategy makes law enforcement its preeminent focus, a city that wanted to emphasize treatment would have to look elsewhere for support. This could be cast as an assertion that the state knows better than the city what is good for it.

The intent of the formula grant program is to address this problem by requiring states to incorporate wide-ranging input to the state strategy. Local governments and the public are meant to participate in review of the strategy, and states are presumably meant to take such input into account. In some states this appears to happen; in some, it does not. One potentially useful mechanism is to require representation from different regions on the policy board. In Arizona, for instance, the two major urban counties individually and all other counties combined send a County Attorney, a Sheriff, and a Chief of Police to the state policy board.

An interesting development in this area lies in the approach that a few states have taken towards decentralizing the strategic planning process. California, for instance, establishes general guidelines and principles for the focus of the federal aid program, but leaves the detailed planning process to County-level steering committees. Funds are distributed to counties on a formula basis, while monitoring of subgrants is retained by the state agency. Reporting requirements call for subgrant information to go to the state in much the same way as is done in other states that conduct planning at the state level in the traditional way.

It is obvious that concerns about state roles are actually a part of the tension that exists in general with respect to the various modes of distribution of federal aid. Those

who believe strongly in planning tend to favor the state-based model. Those who do not tend to favor direct local funding. But, neither side seems to be arguing that administration of the Byrne program has been deficient.

Big Cities – Short-changed?

Perhaps the constituency most dissatisfied with the Byrne program consists of large cities. There are fewer than 200 cities in the U.S. with populations of more than 100,000, but in the aggregate they comprise about 25 per cent of the total population. They have a considerably larger percentage of the total U.S. crime. But, they argue that, under the Byrne program, they have received a lot less than 25 per cent of the money.

Moreover, despite the requirement that states consult with local officials during the preparation of the state strategy, big cities seem to feel that they are often frozen out of decision making. They also complain that various aspects of the constraints states impose on subgrants — e.g., limitations of the types of activities to be funded, ceilings on the size of awards, and particularistic requirements for application and monitoring — are poorly suited to the needs of large jurisdictions.

These concerns need first to be place in the context of the statutory requirements that have a bearing on them. These are primarily the pass-through requirements built into the legislation. Each state recipient of Byrne funds must pass-through to local governments a percentage of those funds that is equal or greater to the percentage of aggregated statewide criminal justice expenditures provided by local governments. This percentage obviously varies from state to state, and in the case of the District of Columbia and the territories that participate in the Byrne program it has no relevance at all. For FY 1995, the lowest state pass-through requirement was 22 per cent (Alaska) and the highest was Minnesota (70 per cent).

Despite some uncertainties about the validity of the available data (see above in Section 2), it is our view that states have met the requirements of the pass-through provisions, and are in compliance with the letter of the statute. Consequently, the complaint that cities in general and big cities in particular are underrepresented in the funding picture is not supported by an argument that states are in some sense violating the

provisions of the Act. But, this isn't really what the complaint means. The significant argument is that the nature of the program allows states to under-represent cities.

Because of limitations in the only data base that might be used to address this question (the BJA's IPRS), it is difficult to draw definitive conclusions about the topic. At a gross level, however, there is some evidence that initially appears to support the "under-representation" assertion.

Putting aside state administrative expenditures, in each year since 1989, state criminal justice agencies have received more than 30 per cent of all Byrne funds and multi-jurisdictional task forces have received more than 40 per cent. Of the remainder about 13 per cent has gone to counties, and about 12 per cent has gone to cities. All cities, not just big cities, are included in this last group.

For several reasons, however, this accounting is too simplified to provide an accurate picture of cities' involvement in obtaining Byrne grants. First, we need to note that the federal government maintains only limited data on agencies participating in multi-jurisdictional task forces, and records expenditures only in the name of whatever particular task force participant is responsible for program accounting and monitoring. No central record exists that documents the funding agreements entered into between task forces, cities, counties and states. Thus, there is no way to determine how much of the sizable multi-jurisdictional share of funds does in fact flow to cities. However, it seems reasonable to argue that, in states where task forces are predominant (e.g. Texas, California, and others), *all* cities within the scope of task force operations are beneficiaries of Byrne support, even if federal dollars do not directly flow into city treasuries.

Determining the percentage of Byrne grants reaching cities is further complicated by the problem of overlapping jurisdictions. An award to a county or to a state agency that operates services in counties, though not in a city's name, generally provides direct benefits to cities. Awards for prosecution for instance characteristically go to counties, but are for functions that pertain directly to cities.

Summary

Despite the difficulty in obtaining a clear empirical statement about this issue, some general observations are in order. States that seek to provide geographically dispersed coverage with Byrne funds naturally end up with higher *per capita* awards in sparsely populated areas. Even when geographic coverage is not desired, strategic considerations may lead many states to fund similar programs in a number of localities. The bigger the city, the harder it is to do this, because existing operating procedures and mechanisms in big cities tend to be less flexible. Finally, strategy development is everywhere a political process — though it is more political in some places than in others — and rural areas often have disproportionate influence in state senates and other bodies where representation is allocated by county.

Law Enforcement – Over-represented?

There have been long-standing complaints from certain sectors of the criminal justice system – courts and corrections in particular — that states favor law enforcement agencies and activities at their expense. This complaint was particularly common regarding the LEAA grants, and the 1968 Safe Streets Act was eventually amended to guarantee a minimum share of the LEAA funds to corrections and other constituencies. The complaint has been less often heard regarding the Byrne program, though it has not been silenced. What has also happened during the Byrne program is that areas such as education, prevention and treatment have also seemed to be under-funded.

In the case of preferences for law enforcement, we have already noted that roughly $1 billion of the $1.8 billion appropriated between 1989 and 1994 has been used for law enforcement purposes. Naturally there is considerable inter-state variation in funding distribution patterns and not all states have allocated similar proportions of their award to enforcement. Nevertheless, it is obvious that the Byrne program has a strong law enforcement emphasis. A probable cause of this tendency is a desire at state legislative and administrative levels to focus federal criminal justice aid on the supply side of the illicit drug world. Other observers have also cited the political pressure that can be brought to

bear by well organized police unions and highly visible police chiefs and sheriffs anxious to receive Byrne funds.

When considering these issues, it is important to note first that the overall proportion of Byrne funds received by law enforcement is not significantly greater than that already allocated in existing state and local budgets (which also devote more than 50 per cent of all expenditures to law enforcement). From that point of view then, the Byrne allocations do not seem so out of place. However, this is not really the issue. The real question is tied up with the supply/demand controversy. Should the approach taken to dealing with drug abuse and drug related crime focus on reaction to the problem — i.e. enforcement — or should a more proactive approach be taken to by emphasizing prevention, education, and treatment.

The actual distribution of Byrne money suggests that, in the aggregate, states have opted for the former approach rather than the latter. Again, however, we stress that not all states have done so to the same extent. In addition, it should be noted that modest trends towards increasing emphasis of non-enforcement activities have been appearing recently. Proportional dollar distributions to prevention and treatment are up, and the BJA has noted that in FY 1995 an increasing number of states are incorporating pro-active approaches into their strategies.

Despite all the uncertainties surrounding the assessment of the equity concerns about the Byrne program, it does seem clear that there are some systematic preferences reflected in state awards. Non-law enforcement justice agencies receive grants relatively less substantial than those given to police, although generally not disproportionate to existing state and local support patterns. Big cities apparently receive less than their *per capita* share of funds and have relatively little direct control over the funds that they do receive. The magnitude of the shortfall cannot be determined. It does seem reasonable to assume that both of these factors have discouraged participation by some cities and non-law enforcement justice agencies in the Byrne program.

If an imbalance exists, could it and should it be addressed? One possibility might be for the BJA to require states to aggressively consider the needs of underfunded agencies,

such as courts and possibly cities, when developing the strategic plans. Although the ADAA-88 already requires states to solicit local input and conduct system-wide planning, this requirement appears to have little substantive effect; at least in the case of the cities. If regulating the planning process is to rectify imbalances, it would require at a minimum some type of compliance mechanism, under which the BJA might refuse to accept state strategies that did not demonstrate serious attention to system-wide and urban concerns. However, this approach would then seem to run the risk of the program becoming increasingly categorized, with progressively larger proportions of the funds being earmarked for federally determined purpose — precisely the opposite of the general justification for a block grant approach.

8 MAKING CHANGES PERMANENT

The ADAA justice program was constructed around a basic assumption that state and local governments would pick up the cost of successful programs when federal funding ceased. The four-year life rule and the match rule were both intended to help accomplish this goal. This idea derived from the acknowledgment that federal funds could never increase the level of existing funding to such an extent that the problems it focuses on could be solved simply through the provision of federal aid. Formula funds in the Byrne program never exceeded 1 per cent of the total of state and local funds spent on the relevant agencies and sometimes were less.

States also recognize these realities. One of the seven states to which site visits were made during the study calculated, for instance that the use of formula funds, supplemented by other dedicated state funds, ($10 million for a population approaching 4 million), would allow an overall increase of one sixth in the level of effort devoted exclusively to drug cases (excluding other law enforcement areas),by all agencies, except institutional corrections. It should be noted that different patterns exist in the health, and even drug education, areas where it is not uncommon for more than half of the funds used to be from federal sources.

The financial realities imply that federal support of state and local justice must be viewed as temporary for most purposes, although different conclusions appear to have been reached in the other functional areas. If sustaining federal support is not to be expected, except under exceptional circumstances, the role of the federal program has to be to support the creation of new "innovative" programs, institutions and practices. After testing for an appropriate time, and discarding or modifying the unsuccessful experiments, it is expected that the responsibility for the successful institutions, programs and practices will be assumed by the appropriate state or local entity. This process is generally referred to as seeding.

Assumption of responsibility does not always imply continued financial obligations at the same level as the project costs. Training of individuals, equipment purchases, and development of improved institutional structures, practices and procedures, laws, and curricula often produce continued benefits with only limited continuation costs. Many projects in education appear to fall in this category but most justice projects do not. They require substantial and continuing direct expenditures to sustain the effort. These are in addition to the hidden costs of the project that are generated by the fact that project efforts have real costs in other functional areas and for other units of government. For instance, costs of public defense and institutional beds and supervision are usually not covered even though they can be considerable.

Assumption of costs requires that units of government are both willing and able to assume financial responsibility. A number of mechanisms exist that are designed to maximize the likelihood of cost assumption. These include; matching fund requirements, time limitations on ADAA support of programs, and the possibility that the projects themselves might be able to generate sustaining funds through forfeitures, private sector support, and so on. Ultimately funds have to be available to continue most efforts and recently the financial environment has made this problematic. This has limited the ability to assume new financial responsibilities, unless one is willing to reduce ongoing operations in other areas. As such, the basic assumptions of the Byrne program are brought into question, at least under certain circumstances, and some variance from the basic assumptions has developed.

8.1 Seeding New Programs

The Byrne program grants have successfully "seeded" many new programs that would not have been initiated without this resource. Funding of initial start-up and operation has allowed the value of many new efforts to be demonstrated and structures have been provided that induce assumption of responsibility at the state and local levels, after relatively short times. Although a good record of assumption is the norm (over 50 per cent was reported by state informants), the ability to do this is being eroded by

financial hardship in the states, raising basic questions about the appropriateness of the model, at least under recent conditions

Historically the seeding approach, under LEAA, resulted in very high percentages of the projects initiated being continued by state and local government. Although no quantitative results were available from this assessment there are many examples of success adoption in the states visited. The basic assumption appears to be sound, projects continue to be assumed and this is expected to continue, but there is increasing evidence that the favorable outcomes of the past may not be replicated under the economic and budgetary constraints that local jurisdictions are increasingly facing.

An environment, where "doing more with less rather than better with more" predominated, was not believed conducive to achieving the levels of program assumption of the past. There was already evidence from some states that severe financial difficulties had caused good programs to be discontinued or cut back. Projections of the consequences of ADAA discontinuation, made by state and local officials, vary in their optimism regarding the likelihood of project continuation but there is a distinctively negative bias. Although there was hope that some of the projects would continue, perhaps at a lower level, for at least some time, it was clear that many worthwhile efforts would not survive and in some jurisdictions the demise was expected as soon as federal funding was removed. This has already taken place in states experiencing severe financial crises.

The matching requirement, that 25 per cent of the total project costs be provided by the recipient as new cash, i.e. hard match, was generally accepted as being an appropriate method of facilitating commitment to project continuation. However, no equivalent requirement is generally imposed on recipients of health, education, or housing funds, presumably because the seeding concept does not apply in those areas and, until recently, there has been a general faith in the idea that the federal government would continue to accept responsibility.

Although the 25 per cent match requirement was not frequently cited as a general problem, there were specific courts and prosecutor's offices that reported difficulty in procuring matching funds, especially in the first year of operation. Some small, rural

jurisdictions whose subgrants provide for one or two additional part-time officers also reported unusual difficulty in finding matching funds at the local level. In response to these problems some states have found ways of providing support from state funds – for example, sometimes providing statewide matching that allows the start-up of projects that would otherwise never be able to commence operations. One can argue that this subverts the purpose of the match, which is to obtain a partial commitment to continuation "up front", but many feel that the arrangement makes it possible to establish a track record, that might even include fund generation, and is therefore justified. The alternative, some states argue is to altogether lose the jurisdiction to the program.

Although the match requirement applies to the formula grant funds, including administrative and earmarked components, it does not apply to some other special justice projects. The HIDTA[43] funds do not require matching. Neither do the BJS funds that support state statistical analysis and reporting operations, nor the discretionary projects funded directly from the national level. It is evident that not all justice efforts are subject to match and implicitly appear not to be governed by the seeding concept. Further, a number of states have been able to institute progressively declining levels of grant support in a way that corresponds to the original federal intent to move from 75% support in the first year to zero in the fourth.

A closely related issue is the four year rule that imposes a 48 month time limitation on federal support of most projects. This requirement is logically supportive of the seeding concept as it compels a decision on local support after a specific time period. Some states have reduced this time period on their own initiative to two or three years;[44] others fund projects for more limited time periods than that, on a case by case basis.

An additional consequence of the four year rule is that, when fully implemented, it allows for federal funds to be made available for new projects, which in turn can allow for shifts in strategic emphasis as new issues develop. Generally speaking, a state that

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[43] High Intensity Drug Trafficking Area.

essentially commits to four years of support to projects tends to lose flexibility during that time period. But, when the four year period is over, large scale transition becomes possible. That some states are making a transition is reflected in recent moves towards control of violence and the interface between education, treatment and community.

The fact that MJTFs are exempt from the four year constraint potentially imposes a limit on how much change can take place. Task forces are generally viewed favorably and since they get more than 40 per cent of all Byrne funds, the amount that is available from other areas for transfer to new strategic objectives is obviously limited. Also, a number of states appear to feel that the immunization of task forces from the four year limit represents a subversion of the fundamental "seed money" concept of the legislation and makes it look more and more like ongoing operational support. It is argued that MJTFs are in the strongest position to garner political and financial support and if they cannot be assumed after four years of demonstrated performance then others are even less likely to be assumed. This has led some states to establish their own time limits on MJTF support (e.g. six years). Others argue that MJTFs are particularly vulnerable, in spite of the valuable services they provide, and therefore deserve special consideration. On this theory MJTFs lack the visibility and political priority needed to resist parochial pressures to revert to separate actions, especially in smaller jurisdictions. As they are valuable, yet vulnerable, special accommodation is needed. The latter argument appears to be prevailing.

The arrangement creates two classes of projects that are treated differently, and there is some evidence that other related efforts are seeking ways of coming under the same "funding-in-perpetuity" rubric. Prosecutorial efforts presently not included within the MJTF, but nonetheless coordinating with it, are under pressure to change their organizational arrangements and become full MJTF members. Questions were also raised during interviews with state officials as to the extent to which other activities, such as forensics or DARE, might not also be made part of the task force for funding purposes.

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[44] Three years was the funding limitation under the LEAA, and some of the states that retained a planning function after the LEAA terminated may be continuing procedures established then.

There is additional sentiment for waiving the four year rule for DARE projects and TASC projects that can be funded under other components of ADAA, that do not have such constraints.

Obviously, should such projects be able to escape the four year limitation, they, like task forces, are likely to increasingly dominate the Byrne program. It is possible that this policy is in fact an admission that there is a sustaining role for the federal government in preserving valuable local institutions.

Another arrangement exists in some states that appears to facilitate assumption of project costs. This is the requirement that the strategy, and associated resource allocations, be approved by the legislature and that required federal and state funds be appropriated. Two of the states visited employ this model and there is evidence that state assumption of projects is facilitated. Unfortunately this is sometimes at the expense of other important values. Examples of actual, or attempted, diversion of funds to areas politically favored, but not priorities in the strategic plan, were available. One can pay an unacceptable price in irrational resource use for the enhanced likelihood of continuation. This arrangement also fails to accommodate the need to obtain continuation support for local projects that may make up the bulk of the state expenditures although it does not appear to make the situation worse than it would be otherwise.

8.2 Self-Sustaining Funding

The expectation that some projects can generate funds as a by product of their operation and then use the funds to sustain their own existence, sounds good in principle but has fallen short in practice. Certain enforcement agencies, in states with substantial drug trafficking, have been able to have been able to achieve this goal. But, generally states fall short, difficult policy issues arise, and many agencies needing support cannot access the funds.

The difficulties of providing continuation funding may be mitigated, perhaps even overcome, when the activities supported under the Byrne program are able to generate funds that can be devoted to support of the effort. A number of different alternative

options have been explored in the states as ways of making this a reality. There is evidence that some of these sources can be particularly productive under some circumstances, but only rarely have they produced funds equivalent to, or greater than, the costs of the activities needed to generate them. In addition, use of these approaches raises other issues that can threaten other important values, including the viability of MJTFs. Counter pressures can, and have been, brought to bear that can remove the use of some of these tools. As the tools are primarily designed to impact offenders and are only secondarily used for financial support one runs the risk that effective prosecutorial tools are lost or constrained because of questions concerning money use. In addition, of course, recent U.S. Supreme Court decisions have had the effect of curtailing the seizure abilities of local and federal agencies by declaring certain aspects of U.S. forfeiture laws unconstitutional.

One of the prime enforcement tools emphasized under the Byrne program was forfeiture of seized assets (using civil and criminal forfeiture). Those states that had developed strong RICO laws were well positioned to incorporate seizure and forfeiture in the armory of tools available to MJTFs and related prosecutors. In states without such legal tools there can be access to federal forfeiture laws and associated asset sharing. All the states visited had some forfeiture efforts supported under the ADAA program.

Forfeiture is designed primarily to attack the financial profits generated by drug trafficking and other racketeering. It is designed to return the economic system to an appropriate balance and to make an impact on the perpetrator that cannot be achieved by imprisonment. Proceedings are often civil in nature and are brought "in rem" separate from any criminal proceeding. They require expertise in financial investigations and specialized prosecutorial techniques.

Arizona had strongly emphasized this area and had been able to generate large amounts of money through this mechanism. The annual revenues obtained in some recent years have amounted to twice the total annual expenditures on the ADAA strategy from both federal and state sources. This suggests that it is possible to generate the level of funds needed to sustain a substantial effort, in spite of counter measures by targets. It is

not clear that this experience is general. Most other states visited did not report the same level of success., and many believed that the opportunities did not exist to the same extent in their jurisdictions. None of the other states had generated funds that came close to the level of ADAA support, but nonetheless the amounts generated were not inconsequential.

Even though great success is possible other difficulties exist that make dependence on forfeiture funds for continuation of a total drug strategy difficult. First, as discussed in the MJTF section, inappropriate use of forfeiture can seriously inhibit the effectiveness of MJTFs. Provisions have to be made to prevent targets being selected primarily on their financial potential rather than the severity of the criminal acts. This can be achieved by a two stage process that first decides on the targets and only secondarily considers forfeiture. Another issue concerns distribution of the proceeds in a manner that prevents jealousies. It is believed that sharing, based on proportion of officers assigned to the MJTF, is superior to case by case sharing,

Funds generated as the result of forfeiture are usually distributed to the participating agencies in some manner. Those states that send funds outside of justice, e.g. to libraries or general funds, generally have few funds to distribute. Whether this is because project participants lack the incentive to pursue forfeitures under these conditions is not clear. Funds often do stay with the units that generated them and are not available for use by other MJTFs or by the other justice agencies supported under the drug strategy. Even the agencies that receive such funds cannot depend upon an uninterrupted flow of support, and so tend to be reluctant to embark on courses of action that may be thwarted because of the potential fluctuations in awards.

Some agencies have been able to use civil forfeiture as an effective enforcement tool against street level offenders. In one local jurisdiction one prosecutor generated more than $750,000 mostly through forfeiture of vehicles. Although this was believed to be a valuable enforcement tool that deterred offenders, opponents argued that the tactic was unjust and eventually changed the law to limiting such use.

Another approach, with potential, has been used to good effect in some jurisdictions. This is the imposition of stamp taxes on the sale of the commodities (drugs)

that are due and payable when the substances are seized without stamps attached. The amounts can be significant but have not risen to the level needed to cover enforcement costs. It is advisable to confine use to those cases not susceptible to RICO prosecutions and to have enforcement in the hands of individuals who value enforcement as well as revenue.

Yet another way of generating matching funds is to draw upon special funds provided to the SAA that can be distributed together with the Byrne award. These funds can be derived from appropriations, from the general fund or from special "sin" tax accounts. Another mechanism is to collect mandatory fines from drug offenders and deposit them in a special account available to support projects. Yet another method involves surcharges on fines. Finally, fees can be imposed on offenders in certain circumstances e.g. for probation supervision.

These alternate money generating methods are not as widely utilized as they might be. They have generated substantial sums of money in a few jurisdictions that have taken this approach seriously. They do not appear to be limited in the same way as forfeiture and should be applicable to any state. One state had been able to generate sufficient funds, from fines alone, to support nearly one quarter of the total expenses of the state effort. These funds had been used to supply match for federal projects in the early days and had later been used to continue funding of projects once the federal eligibility expired. Using such dedicated funds has allowed essentially all the federal projects to be maintained to date. However, this is almost certainly a short term solution that only delays difficult decisions. In the longer run, it seems inevitable that general fund support will be needed to sustain the projects that the Byrne program has launched.

9 EVALUATION ISSUES

9.1 Background

All of the activities surrounding the implementation and operation of a program such as Byrne are obviously important. But, perhaps the most critical issue is how to figure out the effects of the program on its primary target --the illicit drug trade and violent crime — and its secondary target — the operation of the criminal justice system itself. Knowing these effects would seem in many respects to be a prerequisite to sensible decision-making at every level - congressional, federal, state, and local. Federal policy makers would like to know whether the program is achieving its objectives. This would help to decide whether the program should be continued, and, if so, at what level. State level planners would like to understand the effects of the strategy they have implemented. This would enable them to make adjustments from year to year. And project level managers need to know what approaches work and how to design and implement them.

These questions are at the core of evaluation — a complex and difficult matter under any circumstance. For the Byrne formula grant program, complexities and difficulties abound. They are multiplied and magnified by the fact that the program has three different levels of government participating in the program, a nation-wide domain, and thousands of individual projects to account for.

Under the Byrne legislation, specifics of the monitoring and evaluation techniques to be followed are largely left to the federal executive branch as long as an evaluation component is — at least in principle — built in to any program that is supported by federal funds, and as long as the federal agencies are able to report back to the congress with evaluative information. In response to these legislative requirements, the following distinct approaches relating to evaluation, assessment, monitoring and reporting have been developed by the BJA and the NIJ:

- Relatively large scale, scientifically rigorous evaluations conducted by professional researchers and university faculty under National Institute of Justice or BJA auspices;
- Efforts by the BJA and the NIJ to help state planning agencies develop in-house evaluation capabilities either to conduct state-wide impact assessments or to conduct project evaluations that conform to textbook methodological principles;
- Showcasing of projects that are believed to work and techniques that states can apply, by the BJA or the NIJ in National and Regional conferences;
- Development by the BJA and the NIJ of publications and Program Briefs that: (a) document the evaluations that have been conducted and present their results; (b) describe how to establish and implement specific programs of anti-drug abuse activity; and (c) focus on evaluation design and techniques. These are then disseminated to wide audiences, including the state agencies participating in the Byrne program;
- Conduct of evaluations by state and local agencies;
- Monitoring of subgrantee activities by state planning agency staff; and
- Accumulation by subgrantees of programmatic statistics that are then reported to state agencies for aggregation into the annual reports required by the BJA.

Roughly speaking, the above list conforms to a sliding scale of evaluation, assessment, and reporting, moving from most sophisticated at the top to least sophisticated at the bottom. The NIJ awards for evaluations for example are made after careful peer review of competing proposals and the extent to which they follow established scientific practice. In this context, methodological frailty of design is usually a fatal flaw. At the other end of the scale, accumulation of statistics by subgrantees are often little more than counts of events (e.g. arrests) or users of a service (e.g. citizen calls to hotlines).

In what follows, we consider how the two primary evaluation efforts have worked under the Byrne program: full-fledged evaluations sponsored by the NIJ or the BJA; and the attempt to promote evaluation capabilities at the state level.[45]

9.2 Federally Sponsored Evaluations

The greatest strength of the traditional approach to evaluation is of course the methodological rigor that it demands. Emphasis is placed upon obtaining scientifically valid findings through the imposition of research standards that are as high as possible. Peer review panels are used to carefully assesses proposals and reject those that are considered unsound. Analytic processes are subject to public scrutiny at national conferences. And reports are submitted to critical assessment before they are distributed. These are the elements of the evaluation strategy that the NIJ and the BJA have followed when full-scale evaluations have been performed. Through this process, they seek to create a dependable body of knowledge about the operation and effects of interventions and programs that focus upon crime and the criminal justice system.

Clearly, this is a valuable and necessary function for the field of criminal justice. In fact, a good many of the most salient questions about the long term merits of the projects supported through the Byrne program may not yield to any other kind of approach. However, it is important to recognize that full-fledged evaluations have limitations as well as strengths, and that for any program that needs ongoing information the limitations may be critical.

First and perhaps foremost is the fact that rigorous evaluations take a lot of time. A program that has a lifespan of one year, for instance, is difficult to evaluate in less than two. The process of designing an evaluation, accumulating data, analyzing it, writing it up, having a report reviewed, reacting to the reviews and then publishing the final work consumes months, at least. So, by the time an evaluation of a project sees the light of day,

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[45] As noted, previous publications have reported on other aspects of state activities vis-a-vis monitoring and reporting. See Dunworth and Saiger, *State Strategic Planning* and *Monitoring Guidelines.*

the project itself may well be long over. This means that any mid-course corrections to project activities, adjustments in goals, strategies, techniques, and the like, will be largely uninfluenced by full-fledged evaluations even when they are being simultaneously conducted and even when they are well done. Consequently, program or project managers needing information to help decision-making during the life of a project usually reported that they have to look for guidance outside any evaluation that is going on.

A second consideration is that full-fledged evaluations are expensive. It is not unusual for instance for the cost of an evaluation to approach the cost of the project being evaluated. This may be justified on the grounds that the results of the evaluation should have applicability to other similar projects, but a consequence is that not many evaluations can be conducted in a given area. This is what has happened in the Anti-Drug Abuse block grant context. Federal funds have supported thousands of drug related projects since 1989. But, by the end of FY94, there had been less than 150 NIJ evaluations that have focused on them. Even if every one of these evaluations had resulted in unequivocal and dependable findings (which they didn't), it is not possible to draw many useful conclusions about the block grant program as a whole from this body of work.

A third factor to take into account is that methodologically rigorous evaluations in criminal justice settings often produce equivocal findings and so do not really answer the question "What works and what doesn't?". The reason lies in the elusiveness of the methodological integrity that is the prerequisite to definitive findings and in the frustrating tendency of the environment to change without warning. For example, the phenomena being studied may well be more influenced by factors that cannot be manipulated and/or that fluctuate over the study period (e.g. political pressures, social conditions, population migration, agency budgets, staff turnover, the weather) than they are by the intervention being studied (e.g. community policing versus traditional car patrol). And the customary research approach to dealing with the problem of an uncontrollable environment (setting up a quasi-experimental design with control groups) is often unacceptable to participating agencies for ideological or practical reasons, and even when acceptable may require more subjects than are available or may subsequently fall prey itself to the vagaries of real world conditions.

The effect of these unpleasant realities is to severely limit the contribution that the traditional evaluation approach can make to national-level programmatic understanding in a Byrne-like environment. This is a particularly serious consequence at the policy-making level.

9.3 Evaluation Capacity At The State Level

One possible way of compensating for the limited number of evaluations that the NIJ and the BJA can sponsor might be to increase the involvement of state agencies in evaluation. If states themselves sponsored and/or conducted evaluations, then a significant increase in the quantity of research might take place.

The BJA and the NIJ have both actively promoted this idea. In the 1990 funding cycle, for example, states were invited and urged to submit evaluation proposals to the NIJ under solicitations based on the $3 million Special Initiative Funding that the BJA provided to the NIJ for evaluation purposes. The response was disappointing. Few proposals came from state or local agencies and most that did were methodologically weak. This highlighted a fundamental flaw in the concept of state participation in evaluation — state planning agency staffs are not, generally speaking, trained in research methodology or experienced in conducting evaluations. And, since the standards of review being applied to proposals coming from the states were the same as those being applied to proposals coming from professional researchers, the former were bound to appear deficient when compared to the latter.[46]

This led to a compensatory strategy that focused upon the idea of expanding state capabilities in the evaluation area. Two general approaches were adopted. The BJA began conducting seminars on evaluation, monitoring, and reporting at National and

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[46] There are some exceptions to this observation. For example, Colorado, Illinois, Pennsylvania, and Virginia are examples of states that do have in-house evaluation capability either within the State Administrative Agency or in the state's Statistical Analysis Center. Each of them has conducted a number of research and evaluation projects over the years. Also, each of them enjoys a significant level of state commitment to the idea of research and evaluation that is accompanied by a willingness by state policy makers to use a portion of federal assistance funds for that purpose. There are no doubt some other states that have a similar capacity. But, in general, these kinds of situations are exceptions.

Regional Conferences, and also offered individual states technical assistance in these areas through site visits by BJA staff and consultants. The NIJ, at a later point in time, offered technical assistance (i.e. professional research consultants) to a limited number of states who submitted formal evaluation proposals in response to the NIJ solicitations. The technical assistance offered by the BJA was wider-ranging and less methodologically oriented than the NIJ assistance but both had the same general objective — to enhance state evaluation capabilities and to thereby expand the number and the type of evaluations being performed.

It is important to note that neither the BJA nor the NIJ expected the technical assistance and seminars to convert participating states into research organizations with the capability of independently conducting evaluations that would hold up under rigorous scientific scrutiny. A better way of conceptualizing both programs is to think of them as moving states in the right direction, as increasing states' awareness of and sensitivity to methodological issues, and helping them to do an improved job of figuring out what effects their activities were having. This was particularly true of the BJA's efforts, which, even when focused upon an individual state, did not involve more than two or three on-site days. Of course, a positive aspect of this circumstance was that the BJA had the possibility of reaching more states, and helping a larger number to improve their approach to evaluation, even if only incrementally. This contrasted sharply with the NIJ approach, which was to offer a substantial amount of technical assistance (in the form of professional research consultants), to a very limited number of states (three to six each year), for the evaluation of a specific project being supported by that state. The intent was to produce a small number of evaluations that approached normal NIJ standards.

The results of both programs are uncertain. Though the BJA efforts produced a good deal of state interest, and resulted in a series of on-site workshops for a number of states (as well as other workshops at regional or national conferences), it was not clear that any significant change in state evaluation capacity or activity resulted. The NIJ program encountered a good deal of difficulty in stimulating state interest in commencing specific evaluations that would get technical assistance. And, though some participants in

the NIJ program expressed affirmative views of it, the results of these evaluations are just beginning to appear and have yet to be fully assessed.

As noted, part of the problem is undoubtedly due to the fact that evaluation is not what most State Administrative Agencies are set up to do and that a research capability cannot normally be introduced into an agency by short-term technical assistance. Another part, however, is that, during the development of these approaches in 1991 and 1992, cooperation between the NIJ and the BJA was very limited. There was little or no coordination between the two agencies in the approach being taken even though the objectives of both programs were essentially the same.

The end result has been that both programs have been discontinued, at least in the form that they had up until FY94. The NIJ and the BJA are now in the process of developing new strategies to effectively approach the evaluation problem. These are discussed in the "Update: the Byrne Program Today" portion of the "Research-in-Brief" based on this document.

10 CONCLUSIONS

PROGRAM MANAGEMENT AND OPERATION

In the companion reports from the National Assessment[47], an examination was made of state compliance with the regulatory provisions of the ADAA-88. On the basis of that work, we conclude that federal, state and local activities substantially or completely complied with the statutory requirements of the 1988 Act. These observations hold for:

- state strategic planning;
- review and approval of plans by the BJA; and,
- regulatory constraints such as pass-through requirements, the four year rule, limits on administrative expenditures, restriction of funded activities to statutory purpose areas and so on.

In addition, it is clear that interaction and cooperation between the BJA and the NIJ on the one hand and state recipients of Byrne funding on the other have been effectively developed and have resulted in excellent working relationships between the federal agencies, state administrative agencies, and project level personnel. These relationships have been characterized by well-received national and regional meetings, at which the BJA and the NIJ have provided states with programmatic guidance and, to a lesser extent, technical assistance on program definition, implementation, and evaluation. On a limited basis, individual states have also been given on-site technical assistance by both agencies.

We also conclude, on the basis of a nation-wide survey conducted during an earlier phase of the research, intensive on-site work in seven states, and numerous meetings and discussions with state and project level personnel at national and regional meetings, that the Byrne program has been well-implemented at state level and local levels.

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[47] See Note 1 above for references.

STRATEGIC PLANNING

Improved efficiency and rationality in the use of resources has, in our view, been achieved by pursuing an incremental planning approach that is much more appropriate to the realities of the criminal justice system than, for instance, the heavily centralized planning model attempted during the LEAA period. The new approach of strategic planning, modified incrementally over time, has proven flexible and adaptable to many different environments. Although the areas and extent of success vary considerably, there is evidence that many states have come to see planning as much more than a mere compliance with federal rules. More than 80 per cent of all states, for instance, were confident that strategic planning would be likely to continue even if federal funding ceased.

The strategies have helped the criminal justice system to take a new approach to dealing with problems stemming from the fragmentation of criminal justice agencies. MJTFs, for example, have done much to unify law enforcement efforts, and, in conjunction with prosecutors and forensics departments, have made a great deal of progress in establishing inter-agency cooperation and coordination.

There are some indications that the frequency of submission of state strategic plans could be reduced without loss of effectiveness. Annual planning requirements in a program that allows states to establish four year funding cycles for subgrants has the potential for turning into little more than a compliance exercise after the first year in a cycle. Certainly, this seems to be true with respect to that portion of Byrne program expenditures that is committed to continuation funding. When asked about this issue, most SAA officials suggested a three-year planning cycle, coupled with annual reports on activities and accomplishments. The effort that is expended on annual strategic planning could then be redirected to assessing achievements. Doing this would not reduce the flow of useful information to the federal government – in fact, it might be increased.

THE FUTURE FOR BYRNE SUBGRANTS

There appears to be little likelihood, in most states, that state governments will, in any general sense, pick up the cost of projects when federal funds for them run out. Financial constraints at the state level, accompanied by political considerations, led most SAA officials to the view that extreme difficulty would be encountered in channeling state funds to local governments in order to pay for expiring Byrne programs. Thus, the basic assumption that any improvements stimulated by the Byrne program would have to be both implemented and subsequently sustained at the local level is probably well-founded.

The match requirement and the 4 year rule attempt to pave the way for this to take place, though there are obvious signs that transfer of financial responsibility will be difficult at this level also, since local governments are generally facing the same kind of budgetary shortfalls as the state in which they are located. However, to a significant extent this question is still unanswered. Because many projects were still in their four year life when observation by the Assessment team concluded, it was not possible to be precise about the proportion of projects and the type of project that have been or will be picked up by local funding. Of course, the projects that are the primary focus of the Byrne program – multi-jurisdictional task forces – are exempt from the four year rule. In most states, therefore, they have not yet been subject to the strain brought on by termination of federal support.

EVALUATION OF THE BYRNE PROGRAM

We conclude that the federal government has not yet developed effective procedures for accumulating, analyzing, and disseminating information on the Byrne program, except in an ad hoc sense. In addition, it is our view that neither this National Assessment nor the participating federal and state agencies have been able to generate fully satisfactory evaluations of the Byrne program as a whole. Thus, in the view of the authors, the statutory requirements pertaining to evaluation have not been met in any general sense.

This has repercussions throughout the entire Byrne program. At the local level, individual project successes and failures have not been thoroughly documented. At the state level, it is at best difficult and at worst impossible for states to figure out the effectiveness of their strategic plans and to then make adjustments based on such findings. At the federal level, the NIJ and BJA reports to the congress tend to lack the empirically grounded guidance that would allow program review, policy generation, and adjustment of funding levels from year to year to take the strengths of the Byrne program into account.

It is our view that most of these problems are a consequence of structural factors built into the Byrne program. We consider four of these to be particularly relevant.

Funding of Evaluation is Authorized, Not Required

First, even though the ADAA-88 mandates the inclusion of an evaluation component in all programs supported with Byrne funds, it *authorizes* rather than *requires* the use of the state award and subgrant funds for evaluation purposes. This thrusts the responsibility for directing Byrne funds to evaluation on state level decision-makers. Though many SAA officials express a commitment to the concept of evaluation, and affirm that they would commit funds to that purpose if they were free to do so, a number of state level pressures inhibit their ability to do so.

In states where the adoption and allocation of Byrne funds is subject to close scrutiny by the state legislature – California being a good example – the SAA may find it impossible to devote anything more than minimal amounts of the Byrne award to research and evaluation purposes. This is because political considerations drive legislators to the view that federal funds should be used for programmatic purposes above all else.

Even in states where decision-making on this issue is more under the control of the SAA, the "*authorization* rather than *requirement*" principle gives states and subgrantees the opportunity to ignore or at least short-change the evaluation function. Though some do not do so, enough do that overall evaluation activities at the state and local level are too limited to offer a basis for making judgments about the Byrne program as a whole.

Insufficient Federal Funding Is Provided By Congress

Second, the legislation provides no funding for the NIJ and the BJA that is specifically designated for Byrne program evaluation. The NIJ must provide Byrne evaluation funds from its regular research budget, and the BJA must take them from its discretionary program resources. Though NIJ/BJA cooperation in this regard was high during 1989-1990, it subsequently became minimal, and in subsequent years, for a variety of reasons, the BJA has made little or no financial contribution to the NIJ evaluation program for Byrne projects.

From 1989-1994, these approaches resulted in an average annual evaluation budget for research focusing on the Byrne program of less than 1 per cent of formula grant funding. Less than 150 evaluations have been funded by the NIJ and an additional handful have been separately funded by the BJA. These are not sufficient in number to comprise an assessment of a program that, during the same time frame, was used to support more than 8,000 individual projects around the nation.

Problems of Methodology

Third, the type of evaluation that is typically conducted under the NIJ evaluation program contributes little insight into the overall workings and effects of the Byrne program in individual states or nationally. The classical research model, though perhaps well suited to a focus on individual Byrne projects, tends to be very expensive (sometimes costing as much as the project being evaluated), takes too long (with reports often being delivered long after the project is over), and frequently produces results that are equivocal (making it unclear whether the evaluated project worked or not and so compromising the potential for program transfer to other sites).[48]

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[48] When this research concluded in 1994, NIJ and BJA were involved in a review of the evaluation approaches of the past with the intention of developing more effective approaches to problems of the kind that we have identified here. See "Update: the Byrne Program Today" in the "Research-in-Brief" based on this document.

Information Shortfalls

Finally, it is our view that, within the OJP and the BJA, procedures for the collection, verification and analysis of subgrant data have been too fragmented to be effective. There are two main aspects to this issue.

First, early policy decisions adopted the view that there should be a federal/state partnership in the development of information systems rather than a centrally imposed approach. This well-intentioned decision nevertheless led to several years of back and forth discussion, debate and design, with results that were still uncertain when this research concluded. A consequence is that the only federal level data base containing information on Byrne program subgrants is the Individual Project Reporting system. Since the function of this data system is limited to recording subgrant awards at the time they are made, it contributes nothing to the understanding of programmatic activities beyond the funding decisions that states have made.

Second, within the BJA and the OJP, procedures for processing the data that were supplied by the states were not systematic and, as a consequence, the uses to which the data could be put were extremely limited.

In combination, these two factors have seriously limited the BJA's ability to state with confidence what has been taking place in the Byrne program.

Next Steps

Our concluding recommendations on the question of Byrne program evaluation are that both the NIJ and the BJA should be involved in a cooperative and collaborative fashion in the evaluation area and that three steps should be taken as quickly as possible.

First, the two agencies should rethink the issue of evaluation of programs such as Byrne. This will require a review of goals and objectives as well as techniques, in circumstances where available resources are severely limited. It is not clear what the best approach will look like, but the activity should result in a generalized and more effective approach to the evaluation question, a development that should have a payoff that extends

beyond the Byrne program. This seems likely to become increasingly important given recent modifications in the structure of federal aid for state and local criminal justice.

Second, the BJA should systematize its data collection and processing systems so as to assure the integrity of the data that states report, standardize across states the information that is reported about subgrants, and generate dependable, distributable reports. These systems should apply not only to the funding decisions that states make but also to activities undertaken by subgrantees over the lives of awards.

Third, the federal government should investigate ways in which it might increase the funding that is devoted to both evaluation and information collection, processing and dissemination. This would need to be done within the existing legislative framework and would probably require a set-aside of some proportion of the Byrne program appropriation. The legislation contains no bar to doing this, as far as we can see, and it does not appear to us to be a more arbitrary step than other federal interpretations of the Act.

For instance, BJA's program guidance asks states to hold administrative expenditures to five per cent of the award, even though the legislation allows ten per cent, and virtually all have done so. In addition, states have to submit annual strategic plans and reports that contain specific types of information that BJA requires them to collect, not that is specified in the Act. Again most have done so.

Such requirements are normal and appropriate federal interpretations of legislation. They operationalize in practical terms the principles that the legislation contains, and, as noted above, the operationalization has, in many respects, worked well. Making a similar requirement for evaluation and research, accompanied by a federally-imposed set-aside to fund it, does not seem to be a much greater step than those enumerated.

In combination, these actions would create the best potential for quick movement towards the production of a national, policy relevant review of the Byrne program.

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