



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

June 23, 2009

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Please find enclosed a response to questions arising from the appearance of Thomas J. Perrelli before the Committee on May 12, 2009, at a hearing titled, "Helping State and Local Law Enforcement".

We hope that this information is of assistance to the Committee. Please do not hesitate to call upon us if we may be of additional assistance. The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to submission of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald Weich".

Ronald Weich
Assistant Attorney General

cc: The Honorable Jeff Sessions
Ranking Member

“Helping State and Local Law Enforcement”

May 12, 2009

**Questions for the Hearing Record
for
Thomas J. Perrelli
Associate Attorney General
United States Department of Justice**

QUESTIONS FOR THE RECORD FROM SENATOR COBURN

- 1. You indicated in your testimony that \$537 million of the Byrne JAG funds have already been awarded.**
 - a. Were any of these funds distributed competitively? Why or why not?**

RESPONSE:

The \$537 million of Byrne/JAG funds I referenced in my testimony was not distributed competitively because it was part of the \$2 billion of “formula” money distributed to state and local governments according to a statutorily formula-based program involving population and crime statistics (See, 42 U.S.C. § 3755). The Office of Justice Programs (OJP) is also administering a \$225 million Byrne Competitive Grant Program. Byrne Competitive Grants are similar to Byrne JAG in that they are focused on ensuring job growth and job retention. However, instead of providing grants based on a formula, the Department of Justice (the Department) administers these funds based on a competitive application process. These grants help state, local and tribal communities improve the capacity of local justice systems and may be used for national efforts such as training and technical assistance.

- b. When will the remaining Byrne funds be distributed? Will any of the funds be awarded competitively?**

RESPONSE:

OJP expects to have all Byrne JAG formula awards announced by August 2009. OJP expects to have all Edward Byrne Competitive Grant awards announced by September 2009.

- c. What is the status of the COPS funds that were authorized under the American Recovery and Reinvestment Act?**

RESPONSE:

Applications for the Community Oriented Policing Services (COPS) Hiring Recovery Program (CHRP) are now under active review at the COPS Office. During the CHRP solicitation period, the COPS Office received 7,272 applications. These applications total \$8.3

billion in requested funds and request more than 39,000 sworn law enforcement positions. These requests far exceed the \$1 billion in funding available under CHRP, and with no cap on officer salary or local match requirement, COPS will only be able to fund a small portion of the officer and deputy positions requested.

Since the April 14, 2009 application deadline, the COPS Office has been actively reviewing the data submitted in each application. In some cases, COPS has reached out to applicant agencies to verify information provided in their applications. COPS has contacted more than 1,700 agencies to validate their data, and in total the COPS Office reviewed over 275,000 individual data points. If an agency was not contacted by COPS during this phase of the work, that simply means that upon initial review by COPS staff, no further probing was required for the application. This data verification process, though time consuming, is very important because it ensures that all applicants will be evaluated based on each agency's economic, crime, and community policing data, reported on a consistent basis.

Now that the work described above is complete, the COPS Office is moving quickly to the next phase of the process, which includes in-depth budget request reviews and evaluating the retention requirement information and other aspects of the application. In preparing a final CHRP award list, COPS will look at the total number of sworn positions being requested by each agency and determine how best to allocate the funds available. The COPS Office will complete all this work and make awards no later than September 30, 2009, and likely sooner.

d. Will these grants be awarded competitively?

RESPONSE:

Yes, CHRP is a competitive grant program that provides funding directly to law enforcement agencies having primary law enforcement authority to create and preserve jobs and to increase their community policing capacity and crime-prevention efforts. All applicants will be evaluated based on economic, crime, and community policing data.

2. What type of reporting or accountability mechanisms does the Justice Department have in place to ensure that funds distributed via Byrne and COPS grants are not misused by grantees?

RESPONSE:

Both OJP and COPS conduct extensive programmatic and financial monitoring of their grants and grant programs and are committed to monitoring a substantial portion of the American Recovery and Reinvestment Act (Recovery Act) grant funds during the life of Recovery Act programs.

Further, the Office of the Inspector General (OIG) conducts independent investigations, audits, inspections, and special reviews of Department personnel and programs to detect and deter waste, fraud, abuse, and misconduct, and to promote integrity, economy, efficiency, and effectiveness in Department operations.

In ways never done before, both OJP and COPS have worked closely with the OIG throughout the Recovery Act grant pre-award phase and have taken affirmative measures to reduce the risk of waste, fraud, and abuse with Recovery Act funds. For example, a representative from the OIG Fraud Detection Office has trained over 570 OJP grant management staff on grant fraud detection techniques in April and May of 2009. In addition, OJP has incorporated OIG-suggested best practices for grant management into its Recovery Act Performance and Risk Management Plan and has posted a link to the OIG and OIG documents on its Recovery Act web page.

- a. Will the DOJ provide reports to Congress on how and to whom the Department awards funds? Why or why not?**

RESPONSE:

Yes, the Department will provide reports relating to both programs. OJP provides an annual report to Congress on all OJP programs. OJP will prepare the Fiscal Year (FY) 2009 report at the conclusion of the fiscal year, which will include all OJP funding awarded under the Recovery Act.

Pursuant to the 21st Century Department of Justice Appropriations Authorization Act, P.L. 107-273, the COPS Office provides an annual report to Congress on all COPS grants. COPS will prepare the FY 2009 report at the conclusion of the fiscal year, which will include all funding awarded under CHRP. Each annual report includes information on every grant, cooperative agreement or programmatic services contract awarded during each fiscal year by the COPS Office. The COPS Annual Report to Congress includes the term of the award, the dollar amount, a description of the grant, the name of the grantee, a list of every unsuccessful applicant, the description of the grant for which they applied, and the reason the applicants were unsuccessful. In addition, the report requires any grants over \$5 million that were closed out in the prior fiscal year provide more detailed reports. In addition, the COPS Office also adds a glossary of grant programs administered in that fiscal year.

- b. In awarding grants via either of these programs, if the Department makes an award to a prior grant recipient, does the Justice Department take into consideration whether the grantee used the funds appropriately in the past? If not, why not?**

RESPONSE:

Yes, both OJP and COPS monitor whether prior recipients continue to qualify to receive grants.

OJP takes into consideration whether grantees have appropriately managed past grant award funding prior to making new grant awards. Pursuant to the requirements of 28 C.F.R. § 66.12 or 28 C.F.R. § 70.14, OJP maintains a high-risk grantee list. Prior to making new grant awards to high-risk grantees, OJP determines whether additional special conditions and oversight

may be needed based on the grantees' designated level of risk, including whether the grantee used the funds appropriately in the past.

In addition to audits by the OIG, COPS has a comprehensive grant monitoring process which provides serious consequences for misuse of grant funds. This is particularly important regarding Recovery Act funds. There are 26 agencies across the country that are currently barred from receiving CHRP funding because of previous violations. OIG audited 18 of these agencies. Each agency went through an audit resolution process, all had various compliance violations, and most were found to owe money to the government. When these agencies demonstrated that they could not pay back the funds, COPS and the OIG resolved these audits by barring these agencies from receiving future COPS funding for a set period of time based on the amount of funding owed or the type of violation. The bar period is a maximum of three years.

In addition to the oversight OIG provides, agencies found to be in violation of the COPS retention requirement may be barred from receiving future grant awards. Those agencies that did not qualify for a retention exemption based on severe fiscal distress were barred for three years in accordance with the COPS retention policy. Eight of the agencies had violations that were identified after going through COPS comprehensive grant monitoring processes.

c. Are there any other factors the Department will consider before awarding these grants?

RESPONSE:

Yes. OJP may take into consideration any number of factors aside from the results of the competitive process. These factors may include past grantee performance, geographic diversity of the awards, the strategic goals and needs of the awarding agency, underserved populations, and other factors. Whenever these factors are applied, they are discussed and documented in the award justifications.

COPS will conduct a thorough internal review process where CHRP applications will be scored based on local economic indicators, crime rates and the applicant's local community policing plan. The COPS Office has an external vetting process as well, including all United States Attorney's Offices and the Department's Civil Rights Division, Criminal Division, OJP's Office for Civil Rights, and OIG's Investigations Division. These components are asked to identify any ongoing investigations or other matters that could make it inappropriate or inadvisable for the COPS Office to make a grant award to a particular agency.

The COPS Office is also comparing the list of CHRP applicants to OJP's tiered list of "high" risk grantees and working with OJP to obtain further information on those applicants that appear on OJP's top two risk tiers.

d. Does the Department have standards in place by which it will monitor whether these grants have stimulated or otherwise had a positive effect on the economy?

RESPONSE:

Yes. OJP is awaiting final guidance from the Office of Management and Budget on specific requirements for collecting and tracking grantee performance data for Recovery Act-funded projects and programs. However, OJP has notified all applicants that performance data specific to the number of jobs created and retained with Recovery Act funding must be collected and submitted as a condition of the grant award. In addition, OJP posted guidance for grantees on JAG performance measures and is prepared to collect Recovery Act specific performance measurement data on a quarterly basis.

OJP is also in the process of updating its grant monitoring guidelines to include an enhanced emphasis on reviewing the validity of grantees' performance measurement collection and aggregation processes.

Finally, OJP will conduct program assessments of Recovery Act grants and grant programs. Through the program assessment function, OJP will verify, report on, and analyze grantee and grant program performance data specific to the effect of grant funding on job creation and retention.

Grant monitoring and evaluation are also critical aspects of all COPS grant programs. The COPS Office has a progress reporting system that will be used to document grantees' use of funds. Recipients of CHRP grant awards are required to use grant funds for the specific hiring categories awarded and maintain documentation pertinent to the officers hired/rehired with CHRP grant funding.

The Recovery Act requires grantees to report their financial and programmatic progress within 10 days after the end of each calendar quarter. The COPS Office plans to request information from grantees consistent with Section 1512 of the Recovery Act, including collecting information on the number of new jobs created and the number of jobs preserved using CHRP funding.

The COPS Office is currently updating its grant monitoring strategy for CHRP, and is also working with the OJP's Office of Assessment, Audit, and Management to ensure implementation of a consistent grants monitoring approach across the Department.

In addition, the COPS Office will use the following measures to track the program's progress against achievement of Recovery Act and program-specific objectives. The COPS Director will be accountable for each of these measures.

- *Number of new jobs created (number of newly hired sworn officer positions).*
A newly hired sworn officer is an additional career law enforcement officer hired using Recovery Act funds. This officer is over and above the number of officer positions that a grantee would otherwise fund or redeploy in the absence of the CHRP grant award. This outcome will be measured quarterly.
- *Number of jobs preserved (number of rehired sworn officer positions).*

A rehired sworn officer is either an already laid-off career law enforcement officer that is being rehired with Recovery Act funds or an officer that is scheduled to be laid off, but will not be, due to a CHRP grant award. This outcome will be measured quarterly.

- *Average community policing capacity implementation rating (0 to 100) of CHRP grantees.*

One of the key measures COPS Office management will use to evaluate the program is the average community policing capacity implementation rating of CHRP grantees. COPS management has asked an independent research firm to conduct a survey to determine how COPS grants have increased grantee agencies' capacity to implement community policing strategies. Each survey will produce a rating, which will be on a scale of 0 to 100 points, with 100 being the most favorable rating. Grantees will be asked to answer questions related to how CHRP grants have increased their agency's capacity to implement community policing strategies with regard to the three primary elements of community policing: (1) developing community/law enforcement partnerships, (2) problem-solving, and (3) organizational change. This outcome will be measured on an annual basis.

In addition to preserving and/or creating jobs, CHRP will increase the community policing capacity and crime-prevention efforts of the law enforcement agencies funded. CHRP funded officers and deputies will use the principles of community policing to enhance public safety and increase the quality of life in the communities they serve. Specifically, they will partner with neighborhood, civic and business organizations, schools, and other government agencies to build trust with community members, solve crimes, and prevent victimization. COPS funding and community policing principles have proven effective in achieving these goals.

In its final report on the effectiveness of COPS Office grants, the GAO found that COPS funding resulted in significant increases in the number of sworn officers and produced significant declines in the rates of total index crimes, violent crimes and property crimes. The declines in crimes attributable to COPS expenditures accounted for 10% of the total drop in crime from 1993 to 1998 and approximately 5% from 1993 to 2000. Further, for every dollar in COPS hiring grant expenditures per capita there was a reduction of almost 30 index crimes per 100,000 persons.