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## **CONGRESSIONAL TESTIMONY**

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**Statement of  
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**Before the Committee on the Judiciary of the United States Senate**

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### **“Byrne JAG and COPS Grant Funding Will Not Stimulate the Economy”**

#### **Introduction**

My name is David Muhlhausen. I am Senior Policy Analyst in the Center for Data Analysis at The Heritage Foundation. I thank Chairman Patrick J. Leahy, Ranking Member Jeff Sessions, and the rest of the committee for the opportunity to testify today. The views I express in this testimony are my own and should not be construed as representing any official position of The Heritage Foundation.

Instead of passing economic stimulus legislation designed to stimulate the economy, Congress treated the American Recovery and Reinvestment Act (ARRA) of 2009 (P.L. 111-5) as a political Christmas tree to be filled with goodies for special interest groups.<sup>1</sup> With \$500 billion in new spending up for grabs, special interest groups, including governors, big city mayors, and other local officials, lined up for their share of the new funding. For example, the U.S. Conference of Mayors published a wish list of over 1,500 pork barrel public safety projects that ordinarily should be funded by state and local governments and not the federal government.<sup>2</sup> In response, Congress allocated \$2 billion for the Edward Byrne Memorial Justice Assistance Grant (JAG) Program and \$1 billion for the hiring or rehiring of police officers under the Office of Community Oriented Policing Services (COPS). Both of these grant programs subsidize the routine operations of local law enforcement and rarely, if ever, fund law enforcement activities that are the responsibility of the federal government.

My testimony focuses on the following points:

- Byrne JAG and COPS grant funding will do little to stimulate the economy.
- The COPS program encourages state and local governments to be fiscally irresponsible.
- By rejecting “stimulus” funds, some police departments have recognized how COPS promotes fiscal irresponsibility.
- Byrne JAG grants do not fund vital drug enforcement activities.
- Byrne JAG grants place criminals on the street without posting bail.
- Claims of a forthcoming violent crime epidemic are overstated.
- The COPS program has an extensive track record of poor performance.
- The COPS Improvements Acts (H.R. 1139 and S. 167) will only exacerbate existing problems.
- COPS assigns functions to the federal government that fall within the expertise, jurisdiction, and constitutional responsibilities of state and local governments.

**Byrne JAG and COPS Grant Funding Will Not Stimulate the Economy.**

The addition of funding for Byrne JAG and COPS grants in the American Recovery and Reinvestment Act will do virtually nothing to stimulate the economy. The activities funded by these grant programs are not the types of activities that will provide a stimulus or “shock” to the economy. For example, the COPS grants funded by the American Recovery and Reinvestment Act subsidize the salaries of police officers. The funding is specifically intended to pay for the salaries of currently employed officers. Thus, the grants are unlikely to result in a net increase in spending. More importantly, the Byrne JAG and COPS grant funding has been either taxed or borrowed out of the private sector. These grants do not fund the type of investments that elevate economic productivity or promote technical advancement. Thus, this inefficient transfer of money out of the private sector is unlikely to stimulate the economy.

After passage, the American Recovery and Reinvestment Act requires the \$2 billion in Byrne JAG grants and the \$1 billion in COPS hiring grants to be rapidly spent in 30 days and 90 days, respectively.<sup>3</sup> This hasty timeframe greatly increases the likelihood that federal funds will be substituted for local financing, and thus, greatly diminishing any stimulus effects.

The Congressional Budget Office’s (CBO) analysis of the American Recovery and Reinvestment Act has foreseen some of the complications created by federal transfers to local governments. The CBO acknowledges that:

“[A]lthough some carefully chosen government investments might be as productive as private investment, other government projects would probably fall well short of that benchmark, particularly in an environment in which rapid spending is a significant goal. The response of state and local governments that received federal stimulus grants would also affect their long-run impact; those governments might apply some of that money

to investments they would have carried out anyway, thus lowering the long-run economic return of those grants.”<sup>4</sup>

Making matters worse, the additional spending on Byrne JAG and COPS grants may actually reduce economic growth. An analysis of the effect of intergovernmental revenues and combined transportation and public safety expenditures on economic growth in the 50 states and the District of Columbia from 1978 to 1992 found negative effects.<sup>5</sup> It found intergovernmental revenues and total expenditures for transportation and public safety to be negatively associated with economic growth on the state level.<sup>6</sup> While establishing legal institutions to protect property rights and enforce the rule of law and contracts are vital to supporting economic activity, our nation has already developed these institutions. Thus, massive increases in funding for federal law enforcement intergovernmental grant programs are unlikely to stimulate economic growth and may actually produce negative results. In addition, the study found that increases in overall government expenditures are associated with lower economic growth. This finding should not be startling because a voluminous set of economic literature supports this negative relationship.

*The Expansion of Government Reduces Economic Growth.* Increased government spending is unlikely to lift our nation’s economy out of the current recession.<sup>7</sup> There are two major reasons for this negative relationship. First, government spending crowds out private spending, especially private investment spending that would have elevated productivity and promoted technical advancement.<sup>8</sup> Second, the amount of government spending indirectly measures other government interferences into the operation of the private sector, such as regulations that pin down economic growth and efficiency.<sup>9</sup> Numerous studies demonstrate that the increased size of government reduces economic growth.<sup>10</sup> For example, an analysis of 50 states and the District of Columbia from 1967 to 1992 found that the size of government, measured as total government expenditures as a percentage of total state personal income, is negatively associated with economic growth.<sup>11</sup> A 10 percent increase in government size leads to a 0.2 to 3.7 percent decrease in economic growth.<sup>12</sup>

Instead of increasing the size of government, Congress should have considered how economic recoveries occur. The two major ways to respond to economic downturns are through changes in monetary and fiscal policies. Monetary policy has been vital for ending recessions since World War II.<sup>13</sup> Fiscal actions, especially tax cuts, are another way thought to encourage economic growth.

A study by President Barack Obama’s Chair of the Council of Economic Advisers, Professor Christina D. Romer and her coauthor, Professor David H. Romer, found that a tax increase of 1 percent of GDP decreases real GDP by about 3 percent.<sup>14</sup> Conversely, lowering taxes by 1 percent of GDP is associated with an increase in real GDP of 3 percent.

Instead of cutting taxes, Congress passed a massive spending bill that will likely do nothing but push our country deeper into debt and reduce future economic growth. In

fact, the CBO estimates that the long-run impact of the American Recovery and Reinvestment Act will be increased debt that will “crowd out” private investment.<sup>15</sup> After 2014, the American Recovery and Reinvestment Act is estimated to reduce the nation’s economic output.<sup>16</sup> The weak short-term gains from government spending shocks are unlikely to outweigh the long-term costs of spending shocks.<sup>17</sup> While spending shocks may affect economic activity temporarily, these new spending programs can create fiscal problems after these programs expire. For example, when COPS grants expire, grantees are left with large budget deficits that need to be filled.

As the research mentioned in this testimony suggests, new government spending is unlikely to make a substantial and long-term contribution to an economic recovery. In particular, the possibility of Byrne JAG and COPS grant funding providing an economic stimulus is improbable.

### **COPS Encourages Fiscally Irresponsible Behavior by Local Governments.**

During the Senate Committee on the Judiciary’s last hearing on the American Recovery and Reinvestment Act, we heard testimony that local governments did not have enough funding to adequately fund their police departments.<sup>18</sup> Given that public safety is the primary responsibility of state and local governments, these local governments need to seriously reconsider their budget priorities. If budget shortfalls exist, then funding should be cut from less important government services.

Byrne JAG and COPS grants encourage state and local governments to shirk their responsibility for funding public safety programs and become more dependent on funding from the federal government. The passage of the 1994 Crime Act and the creation of COPS marked an important shift in federal assistance for state and local law enforcement. Previously, federal assistance focused on helping state and local governments test innovative ideas, such as providing funding for demonstration programs. The 1994 Crime Act shifted federal assistance away from testing innovative ideas and towards subsidizing the routine operations of state and local law enforcement.<sup>19</sup> Unfortunately, COPS encourages state and local officials to shift accountability for local crime toward the federal government when they fail to devote adequate resources to fighting crime. This shift in responsibility is unfortunate because ordinary street crime is the primary responsibility of state and local government.

Boston illustrates how COPS encourages fiscal irresponsibility by local governments. Boston Mayor Thomas M. Menino has blamed his inability to properly staff the Boston Police Department on a lack of COPS funding. During the 1990s, Boston accepted millions of dollars in COPS grants to hire additional police officers. When accepting these grants, Boston promised to retain these officers and maintain the same staffing levels after the federal contributions expired. Instead of developing a plan to retain the officers, Mayor Menino decided to downsize officer staffing after the grants expired, in violation of the federal grant rules.<sup>20</sup> The number of Boston police officers declined from 2,252 in 1999 to 2,036 in 2004—a 9.6 percent decrease. Taking population growth into account, the number of police officers declined by 13.1 percent from 40.4 officers per 10,000 residents in 1999 to 35.1 officers per 10,000 residents in 2004.<sup>21</sup>

Commenting on Boston's failure to retain COPS-funded officers, a former official in the COPS office pointed out that Boston officials "knew they had to pick up the salaries after the three-year period" of federal funding.<sup>22</sup> Responding to criticism that Boston failed to plan adequately for the phase-out of federal assistance, Mayor Menino's spokeswoman Jacque Goddard said, "The mayor knew all along the money would run out. We would have expected the federal government to offer additional grants that we would have applied for and received."<sup>23</sup> Despite the fact that COPS requires recipients to "specify plans for obtaining necessary support and continuing the [funded] program...following the conclusion of Federal support,"<sup>24</sup> Mayor Menino appears to have viewed COPS grants as an entitlement to perpetual federal funding for the officers funded under the original grants.

Unfortunately, when local elected officials fail to adequately staff the police departments under their supervision, the federal government is now used as a scapegoat.

### **Exercising Fiscal Responsibility by Rejecting "Stimulus" Funds.**

Understanding that accepting Byrne JAG and COPS grants from the federal government can create fiscal problems down the road, some communities have exercised fiscal responsibility by rejecting funds from the American Recovery and Reinvestment Act.<sup>25</sup> In Scottsdale, Arizona, the city council turned down over \$225,000 in funding.<sup>26</sup> *The Arizona Republic* reported that Scottsdale council members "worried that accepting the money would create overhead that would burden future city budgets. They also were concerned that the city would be accepting the money just for the sake of spending it."<sup>27</sup> One of the "stimulus" projects before the city council was the purchase of a \$227,000 mobile police surveillance tower that Scottsdale Police Chief Alan Rodbell admitted was already set to be bought under the city's capital improvement budget."<sup>28</sup>

In Mount Desert, Maine, the town board rejected a request from Police Chief James Willis to seek \$175,000 in grant funding.<sup>29</sup> In North Carolina, the Lenoir County Sheriff's Office decided against applying for COPS grants due to concerns about paying for the funded positions after the grants expired.<sup>30</sup> Commenting on the COPS program, Sheriff W.E. "Billy" Smith said, "My only reservation with the COPS program is it gets you in there and then it forces the city or county to have to pick that up in a couple of years."<sup>31</sup> He further added, "When that time runs out and if local governments don't pick that up, then you are forced to cut those guys loose."<sup>32</sup>

### **Byrne JAG Grants Do Not Fund Vital Drug Enforcement Activities.**

The major argument for funding Byrne JAG grants is that multi-jurisdictional drug task forces operated by state and local governments will cease to exist without Byrne JAG grant funding. Last year, special interest groups seeking their share of federal taxpayer dollars sent a letter to the Chairs and Ranking Members of the appropriations committees in Congress stating that without an infusion of new Byrne JAG grant funding most multi-jurisdictional drug task forces "will be forced to close within the coming months."<sup>33</sup> In addition, the president of the National Narcotics Officers' Associations Coalition testified in 2006 that any reduction in funding for Byrne JAG grants "will effectively cripple

multi-jurisdictional drug enforcement at the local and regional levels.”<sup>34</sup> This argument begs the question: If these multi-jurisdictional drug task forces are so important to public safety, then why are state and local officials unwilling to fund these programs without the federal government footing the bill? If these task forces are so vital to public safety, then state and local officials would be willing to fund them without federal subsidies.

### **Byrne JAG Grants Place Criminals on the Street without Posting Bail.**

The \$2 billion in Byrne JAG grants can be used by state and local governments for 29 broad criminal justice purposes, including funding pretrial release agencies. Pretrial service agencies perform many important tasks that assist the criminal justice system, such as pretrial investigations to assist court officials in making release decisions. Prior to a defendant's initial court appearance, pretrial service agencies collect information about the defendant, including employment and criminal histories, to ascertain whether a defendant should be released back into society before trials.

*Unnecessary Expansion.* In addition to pretrial investigations, pretrial services agencies are also tasked with assisting in the release of indigents from jail who could not afford to post bail. However, the mission of too many pretrial services agencies has expanded beyond helping indigents to include operating release programs for defendants who would normally secure release through private bond agents. These individuals are released on their own recognizance without offering anything of value to ensure that they return on their court date. Government should not provide a public good when the private sector offers identical services with a similar—or as is often the case, greater—level of competence. In this case, Byrne JAG grants are being used to displace the services of private bond agents.

*The Private Sector Does it Better (Again).* Private bail bond insurers provide important services to defendants and society at no cost to taxpayers. In exchange for a fee, private bond agents secure the release of defendants from jails while the accused await trial. Compared to other types of pre-trial release, research indicates that private bond agents are more effective at ensuring defendants make their court appearances.<sup>35</sup> Individuals who obtain their release through private bond agents are 28 percent less likely to fail to appear before court than when freed on their own recognizance.<sup>36</sup> When defendants fail to appear before the courts and remain at large for more than a year, private bond agents seem to be more effective at catching these fugitives than public law enforcement. Those released through the assistance of private bond agents have a fugitive rate that is 53 percent lower than the fugitive rates of those released on their own recognizance.<sup>37</sup>

Instead of obtaining release through the assistance of private bond agents, an enormous infusion of Byrne JAG funding, as included in the American Recovery and Reinvestment Act, will likely lead to more criminals being released on their own recognizance. This, in turn, will most assuredly result in more criminals failing to appear before court and becoming fugitives from justice.

### **Claims of a Forthcoming Violent Crime Epidemic Are Overstated.**

According to some mayors, police chiefs, and criminologists, the United States is at the

beginning of an epidemic of violence that will worsen if Congress does not increase funding to subsidize state and local criminal justice programs.<sup>38</sup> Those who want to restore COPS funding bolster their argument with the selective use of crime statistics.<sup>39</sup> In 2006, the Police Executive Research Forum (PERF) warned the nation that the violent crime rate, as reported by the Uniform Crime Reports (UCR), increased in 2005 compared to 2004.<sup>40</sup> PERF concluded that this one-year increase represented “the front end of a tipping point of an epidemic of violence not seen for years.”<sup>41</sup> Then PERF called on Congress to increase funding for federal subsidies of the routine activities of local law enforcement. Fortunately, the epidemic of violence so eagerly predicted by PERF has yet to materialize. The UCR indicates that in 2007 the violent crime rate decreased and is slightly below the level reported in 2005.<sup>42</sup>

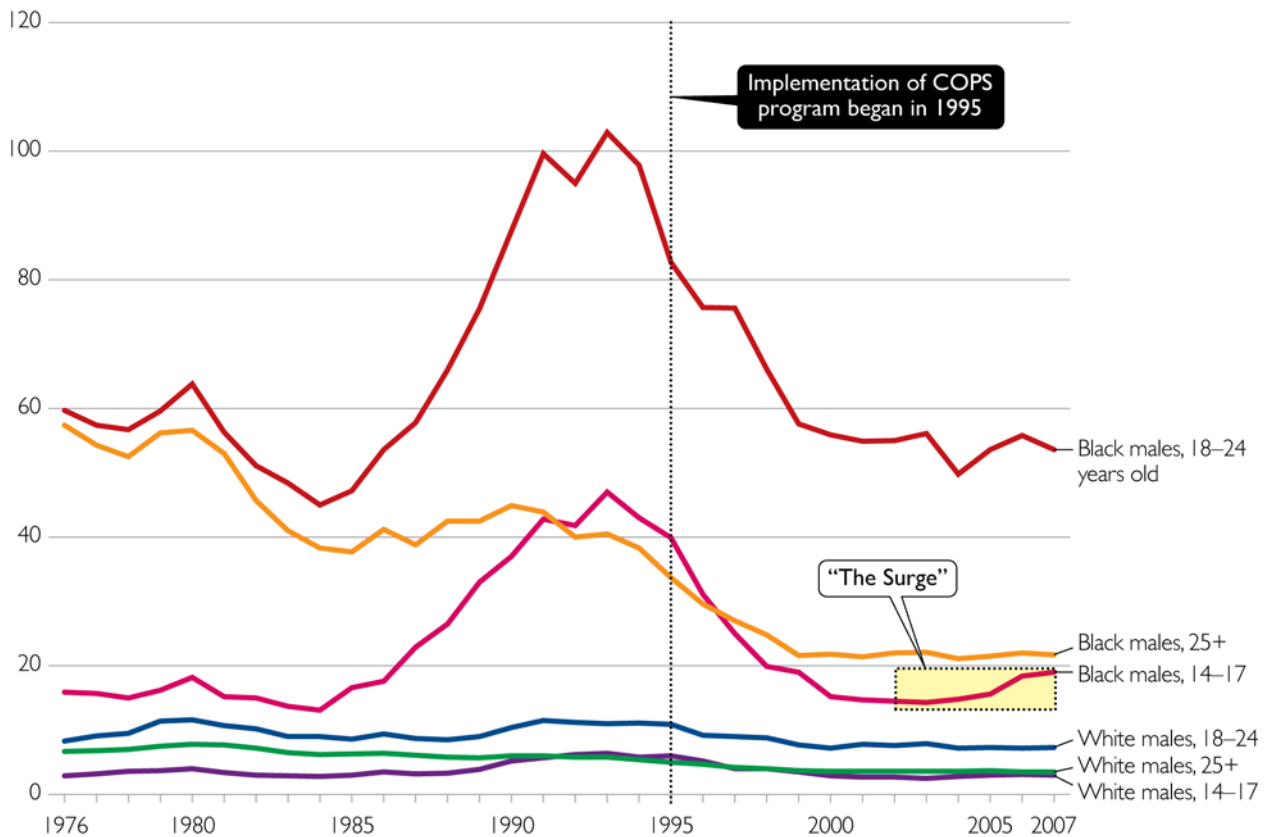
More recently, Professors James Alan Fox and Marc L. Swatt of Northwestern University assert that homicides involving young black males are “surging.”<sup>43</sup> For example, Fox and Swatt note that from 2002 to 2007 the homicide victimization rate for black males aged 14 to 17 increased by 31 percent.<sup>44</sup> To put this “surge” in proper perspective, policymakers need to understand that the years used in this comparison were selected for their dramatic effect. To obtain a balanced perspective on homicide rates of young males, we need to see the long-term trend. Chart 1 presents the trends in homicide victimization rates of white and black males by age group from 1976 to 2007.<sup>45</sup> The 2007 rate of black homicide victimizations is dramatically lower than the rate in 1993, while the trend for white males remained relatively flat. Further, the homicide victimization rate of 14- to 17-year-old black males spectacularly decreased by almost 60 percent from 1993 to 2007—a decrease from 47.0 homicides per 100,000 in 1993 to 19.0 homicides per 100,000 in 2007.

While the modest increase in 14- to 17-year-old black male homicide victimizations is tragic, the trend does not hold for older black males. From 2002 to 2007, the homicide victimization rates of black males aged 18 to 24 and 25 and older decreased by 2.5 percent and 1.4 percent, respectively.

Overall, America is a much safer place compared to fifteen years ago. A recent review of crime data reported by police departments by the *Associated Press* found that in 25 cities with populations of more than 350,000 residents experienced an overall drop of 2.7 percent in total slayings from 2007 to 2008.<sup>46</sup> In addition to crime statistics reported by police departments, another barometer of crime trends is the National Crime Victimization Survey (NCVS). For the latest year of data, the “rates for every major violent and property crime measured by the NCVS in 2007 were at or near the lowest levels recorded since 1973, the first year that such data were available.”<sup>47</sup> The overall victimization rate for violent crime in 2007 was 20.7 incidents per 1,000 persons compared to 21.1 incidents in 2005.<sup>48</sup>

# Homicide Victimization Rates Among White and Black Males

Homicides Per 100,000 Residents, 1976–2007



Source: James Alan Fox and Marc L. Swatt, "The Recent Surge in Homicides Involving Young Black Males and Guns: Time to Reinvest in Prevention and Crime Control," Northwestern University, December 2009, Table 8.

Chart 1 heritage.org

## COPS has an Extensive Track Record of Poor Performance.

Research by both The Heritage Foundation and the U.S. Department of Justice found that the COPS program is ineffective.<sup>49</sup> According to COPS, the program reached an important milestone on May 12, 1999, "funding the 100,000th officer ahead of schedule and under budget."<sup>50</sup> While measuring the goal of adding 100,000 additional officers is problematic, the best available evidence indicates that COPS fell short of this goal. Research indicates that COPS did not actually put 100,000 additional officers on the street.<sup>51</sup> A National Institute of Justice (NIJ) process evaluation of COPS concluded: "Whether the program will ever increase the number of officers on the street at a single point in time to 100,000 is not clear."<sup>52</sup>

Most hiring grantees faced officer retention issues with their COPS-funded officer positions. According to an NIJ national survey of COPS grantees, 52 percent of hiring grantees were uncertain about their long-term plans for officer retention, 37 percent



would achieve retention with funds cleared through the attrition of non-COPS-funded officers, 20 percent reported that retention would occur by cutting other positions, and 10 percent reported that the officers would not be retained. Of the medium and large police agencies that received hiring grants from 1994 to 1998, only 46 percent reported that all of their original COPS-funded officers were still employed in 1998.<sup>53</sup>

*Very Little Impact on Crime.* Heritage Foundation evaluations have uniformly found that COPS grants had little to no impact on crime rates.<sup>54</sup> In 2001, Heritage's Center for Data Analysis (CDA) conducted the first analysis of the COPS program's effectiveness.<sup>55</sup> The CDA evaluation accounted for yearly state and local law enforcement expenditures, and other socioeconomic factors, in counties from 1995 to 1998. It found that COPS grants for the hiring of additional police officers and for technology had no statistically significant effect on reducing the rates of violent crime.

In 2006, a second CDA evaluation of COPS grants using data from 1990 to 1999 for 58 large cities confirmed the earlier conclusion that the program has done little to reduce crime.<sup>56</sup> In addition, it found that the ineffectiveness of COPS grants awarded to large cities may be due to their misuse, with grants awarded to large cities used to supplant local police expenditures. Federal funds were substituted for local funding.

The 2006 CDA evaluation found COPS grants had a small effect on the crime rates in large cities, strongly indicating that increasing funding for the COPS program will do little to reduce crime.

Although the hiring grants were associated with a slight decrease in robberies, these grants failed to have a statistically measurable impact on murder, rape, assault, burglary, larceny, and auto theft rates. A 1 percent increase in hiring grants is associated with a 0.01 percent decrease in robbery rates, or a reduction of 0.06 robberies per 100,000 residents. The hiring grants' meager effect on robberies, and the lack of statistically significant findings for the six other crime categories, suggests that new funding for the hiring grants will do little to help large cities fight crime.

The Making Officer Redeployment Effective (MORE) grants provided funding for technology, officer overtime, and civilian staff salaries. The MORE grants were intended to redeploy veteran officers from administrative tasks to community policing.

The MORE grants appear to deter more crime than the hiring grants. Though MORE grants did not have a statistically significant relationship with murder, rape, larceny, and auto theft rates, the grants had a small deterrent effect on robbery, assault, and burglary rates. A 1 percent increase in MORE grants was associated with:

- A 0.007 percent decrease in robberies;
- A 0.005 percent decrease in assaults; and
- A 0.002 percent decrease in burglaries.

For the average large city, the deterrent effect of a 1 percent increase in MORE grant

funding per capita resulted in:

- 0.005 fewer robberies per 100,000 residents;
- 0.03 fewer assaults per 100,000 residents; and
- 0.017 fewer burglaries per 100,000 residents.

The MORE grants have changed since the 1990s. They were renamed “technology” grants, and they no longer require grantees to use the funding to redeploy officers from administrative tasks to community policing. Instead of the original competitive application process, the technology grants are awarded through congressional earmarks. Limiting the MORE grants to earmarks may negate the deterrent effect found in this evaluation.

The innovative grants provided funding for addressing specific problems, such as domestic violence, gangs, and youth firearms violence. The innovative grants have a statistically significant relationship with a reduction in the murder rate, but no statistically measurable effect on the other crime rates. A 1 percent increase in innovative grants per capita is associated with a 0.001 percent decrease in murders per capita, or 0.0002 fewer murders per 100,000 residents. By the end of the Clinton Administration, most of the innovative grants were discontinued.

Additional research concludes that COPS was ineffective at reducing crime. Professors John Worrall of the University of Texas at Dallas and Tomislav Kovandzic of the University of Alabama at Birmingham recently evaluated the impact of COPS grants in 189 large cities from 1990 to 2000.<sup>57</sup> The authors found that COPS hiring, MORE, and innovative grants had little to no effect on crime. Commenting on the significance of their finding for public policy, the authors concluded that “a strategy of throwing money at the crime problem, of simply *hiring* more police officers, does not seem to help reduce crime to a significant extent.”<sup>58</sup>

*Are COPS Grants Worth the Cost?* The value of the crimes prevented by COPS grants was estimated using prior research on the cost of crime to victims. Specifically, the dollar values of crimes prevented through COPS grants are estimated on a per capita basis. A 1996 National Institute of Justice (NIJ) study estimated the cost of crime to victims (victim-cost) based on personal expenses (for example, medical care and property losses), reduced productivity relating to work, home, and school, and quality of life losses.<sup>59</sup> For the analysis, the NIJ figures are converted into 1995 dollars. For example, each murder prevented results in an estimated victim-cost savings of \$3.1 million. The victim-cost savings for each crime prevented are \$8,400 for robbery, \$25,300 for assault, \$1,500 for burglary, and \$3,900 for auto theft.

From 1995 to 1999, large cities spent an average of \$3.05 per capita in hiring grants, \$1.36 per capita in MORE grants, and \$0.62 per capita in innovative grants. The cost-benefit estimates indicate that COPS grants did not pay for themselves.<sup>60</sup> (See Chart 2.)

- On average, large cities spent \$3.05 per capita in hiring grants, which led to a

- victim-cost savings of \$0.93 per capita—a net loss of \$2.12 per capita.
- On average, large cities spent \$1.36 per capita in MORE grants, which led to a victim-cost savings of \$1.70 per capita—a net gain of \$0.34 per capita.
- On average, large cities spent \$0.62 per capita in innovative grants, which led to a victim-cost savings of \$1.34 per capita—a net gain of \$0.72 per capita.

Thus, average total COPS grant spending of \$5.03 per capita in these cities produced \$3.97 in victim-cost savings for a net loss of \$1.06 per capita.


**The Negative Return of COPS Grants**

Figures are Averages for Large Cities

Grant Type	Per-Capita Expenditures	Per-Capita Victim-Cost Savings	Net Gain/Loss Per-Capita
Hiring	\$3.05	\$0.93	-\$2.12
MORE	\$1.36	\$1.70	+\$0.34
Innovative	\$0.62	\$1.34	+\$0.72
<b>Totals</b>	<b>\$5.03</b>	<b>\$3.97</b>	<b>-\$1.06</b>

**Note:** Dollar amounts are in 1995 dollars.

**Source:** Calculations based on David B. Muhlhausen, "Impact Evaluation of COPS Grants in Large Cities," Heritage Foundation Center for Data Analysis Report No. CDA06-03, May 26, 2004, and Ted Miller, Mark A. Cohen, and Brian Wiesema, "Victim Costs and Consequences: A New Look," U.S. Department of Justice, Office of Justice Programs, National Institute of Justice Research Report, January 1996.

Chart 2  heritage.org

Overall, the innovative grants were allocated the smallest share of COPS funding and appear to have produced the greatest monetary benefits. Though the benefits of the MORE grants are not as large as the innovative grant benefits, the MORE grants produce positive returns. The hiring grants, which were allocated the largest share of funding over the years and received the most public attention, appear to be the least effective of the grants.

*COPS Grants Used for Supplanting Local Funds.* The ineffectiveness of COPS grants awarded to large cities may be due to the misuse of the grants. The 2006 CDA evaluation found that COPS grants awarded to large cities were used to supplant local police expenditures. Supplanting occurs when federal funds are used to replace local funds, such as when federal funds intended for hiring additional police officers are instead used to pay the salaries of currently employed officers.

This finding is supported by multiple audits conducted by the Department of Justice. Its Office of the Inspector General (OIG) found that cities failed to hire the number of officers required, and did not comply with other grant conditions.<sup>61</sup> For example, instead of hiring 249 new officers, Newark, NJ, reduced its police force by 142 officers from fiscal years 1996 to 1997.<sup>62</sup> Other audits indicate that some police departments supplanted local funding by failing to hire the required number of additional officers. For

example, OIG audits indicated that Atlanta, GA, El Paso, TX, and Sacramento, CA, used COPS grants to supplant local funding.<sup>63</sup> Atlanta used over \$5.1 million in hiring grants to pay the salaries of officers who otherwise would have received funding from local sources. After receiving grants to hire 231 additional police officers, El Paso failed to hire the number of officers required by the grant. Sacramento used over \$3.9 million in hiring grants to retain officers funded through earlier grants.

In Washington, D.C., the police department was awarded almost \$11 million in MORE grants to hire 56 civilians and redeploy 521 officers through technology purchases.<sup>64</sup> When the OIG asked for a list of officers redeployed from administrative duties to community policing as required by the grants, the list included only 53 officers. Of the 53, one officer was deceased, ten were retired, and thirteen no longer worked for the police department.

COPS has a long history of doing little to resolve the misuse of the grants. According to congressional testimony by the Justice Department Inspector General Glenn A. Fine, “in many cases, the response to our findings was a paper exercise and...the COPS program did not take sufficient action to either bring the grantee in compliance, to offset the funds, to recoup the funds or to waive the funds.”<sup>65</sup> Fine testified that COPS did not pay enough attention to ensure adherence to the grant requirements, including the hiring of officers, retaining officers, and tracking the redeployment of officers.<sup>66</sup>

An OIG audit of COPS grant management, for example, found that the use of funds by grantees was not monitored properly. Specifically, the OIG audited the COPS program’s grant closeout process. Closeouts involve reviewing the grantee’s use of federal funding to determine whether or not the grant conditions were followed properly. According to the OIG, “Timely grant closeout is an essential program and financial management practice to identify grantees that have failed to comply with all grant requirements, as well as any excess and unallowable costs charged to the grant, and unused funds that should be deobligated.”<sup>67</sup> Without a timely closeout process, “non-compliant grantees may not be identified until years after the grant end date.”<sup>68</sup> Thus, timely closeouts are crucial to effective monitoring of how federal taxpayer dollars are used.

The OIG determined that of the 12,840 closed COPS grants totaling almost \$3 billion, only 135 grants (1 percent) were closed within six months after the grant end date. Eighty-three percent of the grants were not closed until more than two years after the grant end dates. On average, COPS took more than three years to close these grants properly.<sup>69</sup>

Of the 10,643 grants that expired but were not closed by COPS, 72 percent had been expired for more than two years. Twenty-four percent were expired for more than five years after the grant end date. On average, these grants had been expired without proper closure for more than 3.5 years.<sup>70</sup>

Review of a small sample of 30 expired but unclosed COPS grants found that 20 (67 percent) of the grantees did not comply with grant requirements. However, these

noncompliant grantees were subsequently awarded 39 additional grants totaling \$18.7 million.<sup>71</sup> If COPS had implemented a proper closeout process, these noncompliant grantees would not have been awarded additional grants without first meeting the conditions of their original grants.

Despite being created almost 15 years ago, COPS only began to hold grantees accountable for missing taxpayer dollars a few years ago. According to *USA Today*, 26 police departments in 16 states are barred from receiving COPS funding under the American Recovery and Reinvestment Act after abusing millions of dollars in prior grants.<sup>72</sup> In order to escape returning the misused taxpayer dollars to COPS, the grantees must agree to forgo receiving new grants for one- to three-years.

Instead of repaying almost \$242,000 in misused funding from a 1997 grant, the Amtrak Police Department agreed to a three-year ban on new funding.<sup>73</sup> In Connecticut, the Waterbury Police Department agreed to the ban after misusing almost \$1.9 million in grants awarded in 1998. In New Jersey, the Newark and Camden police departments also agreed to bans.<sup>74</sup> In order to evade repaying \$565,000 in misused grants, the Camden Police Department agreed to not apply for new grants until 2010.

#### **The COPS Improvements Acts of 2009 Exacerbate Existing Problems.<sup>75</sup>**

Unconcerned by the COPS program's poor performance and in response to substantial lobbying by state and local officials, the House of Representatives recently passed the "COPS Improvements Act of 2009" (H.R. 1139). Its companion bill in the Senate (S. 167) is awaiting consideration. Overall, H.R. 1139 and S. 167 appear to be designed to encourage state and local law enforcement to become increasingly dependent on federal funding. The bills have a number of specific shortcomings.

*Reauthorization of Hiring Grants.* Reauthorization of the COPS program's hiring grants, as intended by both bills, would continue the federal government's constitutionally questionable practice of subsidizing the routine operations of state and local law enforcement. These hiring grants do not undertake any responsibility that has been allocated to the federal government by the Constitution.

*Unlimited Renewal of Hiring Grants.* With all of its problems, the original COPS legislation enacted into law in 1994 at least limited the length of hiring grants to three years. However H.R. 1139 and S. 167 would allow COPS to renew previous awards of hiring or retention grants perpetually. Once a grantee receives an award, the grantee could expect permanent federal funding. This change would essentially establish a new federal entitlement for localities.

*Hiring Grants to Retain Non-COPS-Funded Officers.* Similar to the unlimited renewal of hiring grants, H.R. 1139 and S. 167 encourage COPS hiring grants to be used for officer retention, thus setting up a cycle in which COPS may permanently fund positions previously financed through earlier grants. COPS funding is fungible. After a grantee's COPS grant expires, the grantee could keep the former COPS-funded officers, but lay off non-COPS-funded positions. The grantee could then apply for new hiring grants to rehire

the laid-off officers. This change would make police departments even more dependent on the federal government.

*Ending Incentives for State and Local Governments To Contribute.* Originally, COPS hiring and technology grants normally required grantees to self-finance 25 percent of the costs of personnel and projects funded through federal assistance. However, COPS hiring and retention grants awarded under the American Recovery and Reinvestment Act no longer require local matching contributions. Under the Act, the federal government assumes 100 percent of police officers' salaries. Both H.R. 1139 and S. 167 would essentially abolish the 25 percent matching provision by permanently ending the requirement that the Attorney General give preferential treatment to applicants who agree to meet the 25 percent matching requirement. This change would likely end an important incentive for state and local governments to become self-sufficient after federal funding expires.

The original COPS hiring grants provided funding for three years. Before the passage of the American Recovery and Reinvestment Act, COPS used to require state and local governments to pay a larger share of the salaries over the course of the life of the grant. The goal was to prepare grantees to assume full responsibility for their COPS-funded officers after the grants expire. However, H.R. 1139 and S. 167 ends this requirement by making the change by the American Recovery and Reinvestment Act permanent. By discouraging grantees from preparing to self-finance COPS-funded positions after their grants expire, both bills appear to be designed to steer grantees towards applying for "renewal" or retention grants in the future. Further, H.R. 1139 will raise the dependence of local law enforcement on federal funding by increasing the grant funding period from three years to five years. These changes would entice grantees to perpetually seek federal funding.

*Elimination of the \$75,000-per-Officer Cap.* Current law caps the COPS grant at \$75,000 per officer. H.R. 1139 and S. 167 would eliminate this cap, meaning that the federal contribution per officer would be unlimited. This sets the stage for escalating federal contributions per position funded and would provide yet one more incentive for local governments to become progressively more dependent of the federal government.

*A New COPS Program for State and Local Prosecutors.* No longer content with only increasing federal-funding dependency for police departments, the sponsors of H.R. 1139 and S. 167 want to create a new program to fund the salaries of "community prosecutors," which would impose all of the fiscal problems created by COPS onto prosecutors.

*Elimination of Oversight Measures.* Nothing may be more emblematic of the intent underlying S. 167 than the removal of COPS from the jurisdiction of the Department of Justice's Office of Audit, Assessment, and Management (OAAM). In 2006, OAAM was created to ensure that Department of Justice grantees comply with financial grant conditions.

Given that conflicting objectives and constituent politics can interfere with the successful implementation and monitoring of COPS grants, an agency outside of the COPS office should have the authority to audit grants and ensure compliance with grant conditions.<sup>76</sup> With the documented history of waste, fraud, and abuse by COPS grantees, removing COPS from OAAM's jurisdiction would send a clear signal to COPS grantees that they are not expected to comply with grant conditions.

### **Outside the Federal Government's Scope, Expertise, and Responsibility**

Grants that subsidize the routine activities of local law enforcement assign to the federal government functions that fall within the expertise, jurisdiction, and constitutional responsibilities of state and local governments.<sup>77</sup> Combating ordinary crime is the principal responsibility of the state and local governments. If Congress wants to aid in the fight against crime, it should limit itself to unique roles that only the federal government can play. The federal government should not become a crutch on which local law enforcement becomes dependent.

### **Conclusion**

The Byrne JAG and COPS grant funding in the American Recovery and Reinvestment Act is exceedingly unlikely to produce any stimulus for an economic recovery. Not only does the COPS program have an extensive track record of poor performance, but it encourages local government to be fiscally irresponsible.

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<sup>1</sup>To review the contents of H.R. 1, see <http://www.readthestimulus.org/> (May 11, 2009).

<sup>2</sup>Manuel A Diaz and Tom Cochran, *Mainstreet Economic Recovery: "Ready to Go" Jobs and Infrastructure Projects*, Release 4, U.S. Conference of Mayors, January 17, 2009, at <http://www.usmayors.org/mainstreeteconomicrecovery/documents/mser-report-200901.pdf> (January 26, 2009).

<sup>3</sup>Kate Davidson and Alan Ahlrich, "HR1 - Economic Recovery Package," Congressional Quarterly *CQ BillAnalysis*, March 30, 2009.

<sup>4</sup>Douglas W. Elmendorf, "Estimated Macroeconomic Impacts of H.R. 1 as Passed by the House and by the Senate," Letter to the Honorable Judd Gregg, Congressional Budget Office, February 11, 2009, p. 2, at [http://www.cbo.gov/ftpdocs/99xx/doc9987/Gregg\\_Year-by-Year\\_Stimulus.pdf](http://www.cbo.gov/ftpdocs/99xx/doc9987/Gregg_Year-by-Year_Stimulus.pdf) (May 7, 2009).

<sup>5</sup>Stephen M. Miller and Frank S. Russek, "Fiscal Structures and Economic Growth at the State and Local Level," *Public Finance Review*, Vol. 25, No. 2 (1997), pp. 213–237.

<sup>6</sup>*Ibid.*

<sup>7</sup>Brian M. Riedl, "Why Government Spending Does Not Stimulate Economic Growth," Heritage Foundation *Background* No. 2208, November 12, 2008, at <http://www.heritage.org/Research/Budget/bg2208.cfm>, and J. D. Foster, and William W. Beach, "Economic Recovery: How Best to End the Recession," Heritage Foundation *WebMemo* No. 2191, January 26, 2009, at <http://www.heritage.org/Research/Economy/wm2191.cfm>.

<sup>8</sup>Burton A. Abrams, "The Effect of Government Size on the Unemployment Rate," *Public Choice*, Vol. 99 (1999), pp. 395–401. Abrams notes that "In theory, it is possible for government spending to be allocated into growth enhancing infrastructure and education but in practice most outlays go for redistribution or government-mandated consumption which does not improve productivity" (p. 395).

<sup>9</sup>Abrams, "The Effect of Government Size on the Unemployment Rate."

<sup>10</sup>Karl Aiginger and Martin Falk, "Explaining Differences in Economic Growth Among OECD Countries," *Empirica*, Vol. 32 (2005), pp. 19–43; Konstantinos Angelopoulos and Apostolis Philippopoulos, "Does Public Sector Efficiency Matter? Revisiting the Relation Between Fiscal Size and Economic Growth in a World Sample," *Public Choice*, Vol. 137 (2008), pp. 245–278; Robert J. Barro, "Economic Growth in a Cross Section of Countries," *The Quarterly Journal of Economics*, Vol. 106, No. 2 (1991), pp. 407–443; Robert J. Barro, "A Cross-Country Study of Growth, Saving, and Government," National Bureau of Economic Research *Working Paper* No. 2855, February 1989; Robert J. Barro, "Government Spending in a Simple Model of Endogenous Growth," *Journal of Political Economy*, Vol. 98 (1990), pp. S103–125; James S. Guseh, "Government Size and Economic Growth in Developing Countries: A Political-Economy Framework," *Journal of Macroeconomics*, Vol. 19, No. 1 (1997), pp. 175–192; Daniel Landau, "Government Expenditure and Economic Growth: A Cross-Country Study," *Southern Economic Journal*, Vol. 49, No. 3 (1983), pp. 783–792; Daniel Landau, "Government and Economic Growth in Less Developed Countries: An Empirical Study for 1960–1980," *Economic Development and Cultural Change*, Vol. 35, No. 1 (1986), pp. 35–73; and Laura Razzolini and William F. Shughart, "On the (Relative) Unimportance of a Balanced Budget," *Public Choice*, Vol. 90 (March 1997), pp. 215–233.

<sup>11</sup>Razzolini, and Shughart, "On the (Relative) Unimportance of a Balanced Budget."

<sup>12</sup>*Ibid.*, p. 226.

<sup>13</sup>Christina D. Romer and David H. Romer, "What Ends Recessions?" National Bureau of Economic Research *Working Paper* No. 4765, June 1994.

<sup>14</sup>Christina D. Romer and David H. Romer, "The Macroeconomic Effects of Tax Changes: Estimates Based on a New Measure of Fiscal Shocks," National Bureau of Economic Research *Working Paper* No. 13264, July 2007.

<sup>15</sup>Elmendorf, "Estimated Macroeconomic Impacts of H.R. 1 as Passed by the House and by the Senate," p. 2.

<sup>16</sup>*Ibid.*, p. 3.

<sup>17</sup>Andrew Mountford and Harald Uhlig, "What are the Effects of Fiscal Policy Shocks?" SFB 649 Discussion Paper 2005-039, July 2005.

<sup>18</sup>Charles H. Ramsey, "Helping State and Local Law Enforcement During an Economic Downturn," testimony before the Committee on the Judiciary, U.S. Senate, January 8, 2009, at [http://judiciary.senate.gov/hearings/testimony.cfm?id=3611&wit\\_id=7558](http://judiciary.senate.gov/hearings/testimony.cfm?id=3611&wit_id=7558) (May 11, 2009), and John



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<sup>19</sup>Laurie Robinson, "Gazing into the Legislative Crystal Ball," *Corrections Today*, Vol. 64, No. 7 (December 2002).

<sup>20</sup>Kevin Rothstein, "Menino Defense Cracks; Ex-Grant Officials Fault Mayor over Cop Funding," *Boston Herald*, November 5, 2005, p. A11.

<sup>21</sup>Calculations based on Federal Bureau of Investigation, *Crime in the United States, 1999*, pp. 300–367, Table 78, at [http://www.fbi.gov/ucr/Cius\\_99/99crime/99cius6.pdf](http://www.fbi.gov/ucr/Cius_99/99crime/99cius6.pdf) (March 7, 2007), and *Crime in the United States, 2000*, pp. 300–367, Table 78, at [http://www.fbi.gov/ucr/cius\\_00/contents.pdf](http://www.fbi.gov/ucr/cius_00/contents.pdf) (March 7, 2007).

<sup>22</sup>Rothstein, "Menino Defense Cracks."

<sup>23</sup>*Ibid.*

<sup>24</sup>42 U.S. Code § 3799dd-1(c)(7). Similarly, recipients of COPS grants "for hiring or rehiring additional career law enforcement officers [must] specify plans for the assumption by the applicant of a progressively larger share of the cost in the course of time, looking toward the continuation of the increased hiring level using State or local sources of funding following the conclusion of Federal support." *Id.* § 3799dd-1(c)(8). Like officials in other large cities, Boston officials appear to not have given much thought or made a real commitment to fulfilling this condition of receiving millions of federal taxpayers' dollars.

<sup>25</sup>In addition to rejecting law enforcement grant funding, local governments have declined funding for other projects funded under the American Recovery and Reinvestment Act. Warren County, Ohio, rejected almost \$2.2 million in "stimulus" funding for new transit buses and the repair of windows and roofs for government buildings. North Platte, Nebraska, declined \$600,000 in funds for fixing landscaping, driveways, and sidewalks. See Matt Leingang, "Handful of Cities, Counties Refusing Stimulus," *Associated Press*, April 22, 2009.

<sup>26</sup>Lynh Bui, "Scottsdale Turns Down Stimulus Funds," *The Arizona Republic*, April 23, 2009.

<sup>27</sup>*Ibid.*

<sup>28</sup>*Ibid.*

<sup>29</sup>Leingang, "Handful of Cities, Counties Refusing Stimulus."

<sup>30</sup>Justin Schoenberger, "Federal Funding Could Bring More Police to Area: Money Could Cause More Harm than Good, Some Say," *The Free Press* (Kinston, N.C.), May 3, 2009.

<sup>31</sup>*Ibid.*

<sup>32</sup>*Ibid.*

<sup>33</sup>Robert E. Brooks *et al.*, "Restoration of Funding for the Byrne Justice Grant (JAG) Program," letter to chairmen and ranking members of the House and Senate Appropriations Committees, April 17, 2008, at <http://www.ncja.org/Content/NavigationMenu/GovernmentAffairs/Appropriations/Spreadthewordaboutcuts%20toJAG/Byrne-JAGCoalitionRestorationLetter4-17-08.pdf> (January 27, 2009).

<sup>34</sup>Ron Brooks, testimony before the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform, U.S. House of Representatives, May 23, 2006.

<sup>35</sup>Eric Helland and Alexander Tabarrok, "The Fugitive: Evidence on Public Versus Private Law Enforcement From Bail Jumping," *Journal of Law and Economics*, Vol. XLVII (April 2004), pp. 93–122.

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<sup>37</sup>*Ibid.*, p. 110.

<sup>38</sup>For a discussion of previous calls for additional COPS funding, see David B. Muhlhausen and Erica Little, "Federal Law Enforcement Grants and Crime Rates: No Connection Except for Waste and Abuse," Heritage Foundation *Backgrounder* No. 2015, March 14, 2007, at <http://www.heritage.org/Research/Crime/bg2015.cfm>.

<sup>39</sup>Police Executive Research Forum, *Chief Concerns: A Gathering Storm—Violent Crime in America* (Washington, D.C.: Police Executive Research Forum, October 2006), and James Alan Fox and Marc L. Swatt, "The Recent Surge in Homicides Involving Young Black Males and Guns: Time to Reinvest in Prevention and Crime Control," Northwestern University, December 2009.

<sup>40</sup>Police Executive Research Forum, *Chief Concerns*.

<sup>41</sup>*Ibid.*, p. 1.

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<sup>43</sup>Fox and Swatt, "The Recent Surge in Homicides Involving Young Black Males and Guns."

<sup>44</sup>*Ibid.*, p. 1.

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- <sup>47</sup>Michael R. Rand, "Criminal Victimization, 2007," U.S. Bureau of Justice Statistics *Bulletin*, NCJ-224390, December 2008, p. 1.
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- <sup>61</sup>For a discussion of the Inspector General audits, see Muhlhausen, "Impact Evaluation of COPS Grants in Large Cities," pp. 16-18.
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<sup>70</sup>*Ibid.*, p. 17.

<sup>71</sup>*Ibid.*, p. 18.

<sup>72</sup>Kevin Johnson, “Misuse of Past Aid Costs Cops Stimulus; 26 Agencies in 16 States Miss Out on Slice of \$1B,” *USA Today*, May 7, 2009.

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