

# WebMemo



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## Get Out of Jail Free: Why Byrne JAG Grants Should Not Be Part of Economic Stimulus Package

*David B. Muhlhausen, Ph.D.*

While the “economic stimulus” packages developed by the U.S. House of Representatives (H.R. 1) and the U.S. Senate (S. 1) were originally intended to stimulate the economy, the legislation has now become a political Christmas tree filled with funding for activities that have little to do with stimulating the economy.<sup>1</sup> Both “stimulus” packages potentially include millions of taxpayer dollars for the release of felons before trial. Specifically, the House of Representatives has allocated \$3 billion for the Edward Byrne Memorial Justice Assistance Grant (JAG) Program, while the Senate has allocated \$1.5 billion for the grant program.

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>2</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>3</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

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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>4</sup>

Instead of obtaining release through the assistance of private bond agents, an enormous infusion of Byrne JAG funding, as proposed by Congress, 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.

**Jeopardizing the Public's Safety.** Not only should Congress be concerned about the pretrial services funded by Byrne JAG grants, but these grants will do virtually nothing to stimulate the economy.<sup>5</sup> The activities funded by these grant programs are not the types of activities that will provide a stimulus or “shock” to the economy. Instead, Byrne JAG grants may actually promote policies that jeopardize public safety.

—David B. Muhlhausen, Ph.D., is Senior Policy Analyst in the Center for Data Analysis at The Heritage Foundation.

1. To review the contents of H.R. 1, see <http://www.readthestimulus.org> (February 4, 2009).
2. 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.
3. *Ibid.*, p. 108.
4. *Ibid.*, p. 110.
5. David B. Muhlhausen, “More Byrne JAG and COPS Funding Will Not Stimulate the Economy,” Heritage Foundation *WebMemo* No. 2251,” January 28, 2009, at <http://www.heritage.org/Research/Economy/wm2251.cfm>