



## BOARD OF STATE AND COMMUNITY CORRECTIONS MEETING

WEDNESDAY, September 25, 2013, 10:00 A.M.  
Teleconference Special Session  
BSCC Conference Room  
660 Bercut Drive  
Sacramento, CA 95811  
(916) 445-5073 [www.bscc.ca.gov](http://www.bscc.ca.gov)

*Notes provided by Brian Goldstein, Policy Analyst  
Center on Juvenile and Criminal Justice*

Note: Further meeting documents can found online at: <http://www.bscc.ca.gov/board/past-agenda>

### **Roll Call**

LINDA PENNER Chair, BSCC – In Attendance  
JEFFREY A. BEARD Chair Secretary, CDCR – Absent  
DANIEL STONE Director Adult Parole Operations, CDCR – In Attendance  
DEAN GROWDON Sheriff, Lassen County – Absent  
LEROY BACA Sheriff, Los Angeles County – In Attendance  
SUSAN MAURIELLO County Administration Officer, Santa Cruz County – In Attendance  
MICHELLE BROWN Chief Probation Officer, San Bernardino – In Attendance  
ADELE ARNOLD Chief Probation Officer, Tuolumne County – Absent  
WILLIAM R. POUNDERS Retired Judge, Los Angeles County – In Attendance  
DAVID L. MAGGARD, Jr. Chief of Police, City of Irvine – In Attendance  
SCOTT BUDNICK Founder, The Anti-Recidivism Coalition (ARC) and Film Producer – In Attendance  
DAVID STEINHART Director Juvenile Justice Program Commonwealth – In Attendance  
MIMI H. SILBERT Chief Executive Officer and President Delancey Street Foundation – In Attendance

**DISCUSSION ITEM:** *There will be a Public Comment period prior to Board action on each item. Agenda items may be taken out of order.*

- A. Address and Take Action on Legal Counsel Advice Related to Selection of Board Members to Participate in Discussion of the Edward Byrne Justice Assistance Grant (JAG) Program and Approve the JAG Funding Allocation for Fiscal Year 2013

**PUBLIC COMMENTS:** *Public comment period on issues not on agenda.*

### **Remote Telephonic Location Sites**

400 Warner Blvd.

175 W. Fifth Street, 4<sup>th</sup> Floor

Burbank, CA 91522

San Bernardino, CA 92415

4700 Ramona Blvd.  
Monterey Park, CA 91754600 Embarcadero  
San Francisco, CA 94107

Next Meeting: November 14, 2013

**MEETING NOTES**

- A. Address and Take Action on Legal Counsel Advice Related to Selection of Board Members to Participate in Discussion of the Edward Byrne Justice Assistance Grant (JAG) Program and Approve the JAG Funding Allocation for Fiscal Year 2013
- Some Board members are participating through remote telephonic location sites, given this is a special session that was scheduled quickly. These remote locations are open to the general public.
    - Mr. Budnick is at the Burbank location. Mr. Baca and Mr. Maggard are at the Monterey Park site. Ms. Silbert is in San Francisco and Ms. Brown is in San Bernardino.
  - Mr. Hill is present and represents the BSCC staff in his position as Acting Executive Director.
  - Kara Ueda, a representative from law firm Best, Best and Krieger, is present to provide legal counsel for the Board. The firm submitted a legal memorandum, on September 6, 2013, titled *Potential Conflicts of Interest Related to the FY 2013 Edward Byrne Memorial Justice Assistance Grants ("JAG Grant") Program*.
    - Prior to the meeting, a survey was conducted of all Board members to determine if a conflict of interest might influence their vote on Byrne-JAG funding.
      - Mr. Baca, Mr. Growden, and Mr. Maggard were found to have a potential conflict of interest. The Board maintains a quorum to move forward without invoking the "rule of necessity."
      - Ms. Ueda says the three Board members were chosen because of their positions in each agency and the potential to receive Byrne-JAG funding.
    - Ms. Penner asks Board members who are recusing themselves to explain their conflict of interest.
      - Mr. Baca says he does not know the full range of conflict.
      - Ms. Ueda says the Los Angeles Sheriff's Department is one of the current recipients for Byrne-JAG funding.
      - Ms. Penner explains that Los Angeles Sheriff's Deputies participate in task forces, which receive relevant funds.
      - Mr. Baca says his department has not had a problem with this in the past. Ms. Silbert agrees with Mr. Baca's comment.
    - Mr. Maggard says his department receives a modest amount of these funds. He is concerned the recusal creates an imbalance on the Board because law enforcement cannot provide input.



- Ms. Penner says the process for determining a conflict of interest was wide, but is now narrower. The process meets legal process and the Board must respect it. This conflict of interest issue will come again before the Board. There needs to be a future legislative fix. Mr. Maggard may not directly receive Byrne-JAG funding, but his staff do. Ms. Penner would like Board members to acknowledge their conflict on the record.
- Mr. Baca asks if said Board members are recused from other issues that related to law enforcement.
  - Ms. Penner says she does not want to bifurcate the discussion.
  - Mr. Baca responds that the conversation involves a larger issue. The Board is designed to allocate money, but there may be no reason for his participation. There should be a discussion about removing this item from the purview of an appointed Board. Mr. Baca says he is not interested in approving funds, but would rather address conditions within institutions.
  - Ms. Ueda says this process only applies to the current agenda item. The intent is not to conclude Mr. Baca has a conflict in all issues before the Board.
- Ms. Penner says she understands the frustration around this discussion and would have previously recused herself if Fresno was affected by similar fund.
- Ms. Silbert says she has been on the Board for 30 years and legal counsel has not done this during that period. She would like to publicly state her disagreement even though she does not get this money. Ms. Silbert believes this completely distorts the discussion, even though she is not from a law enforcement agency.
- Mr. Steinhart says he understands the frustration, but to ignore counsel may void contracts. The Board needs a method to resolve this conflict, which could include future legislation. He recognizes the need for a balance on the Board, even though he is not found to have a conflict of interest.
- Ms. Penner asks for a verbal recusal from Mr. Baca.
  - Mr. Baca would like to know if this only applies to the law enforcement portion.
  - Ms. Ueda says the agenda item is a 1-year allocation and not a bifurcated issue.
  - Mr. Baca says the exclusion of himself and Mr. Maggard eviscerates the very reason they are on the Board.
  - Ms. Penner says it is not possible to bifurcate the issue, but that the Board will deal with larger issues and funding beyond Byrne-JAG. She asks that Mr. Baca be patient.
  - Mr. Baca asks why the issue cannot be bifurcated.
- Ms. Mauriello says the funding discussion cannot be bifurcated. She and Mr. Pounders were previously found to be in conflict on the Byrne-JAG issue and they accepted this decision. She urges Mr. Baca to recuse himself given the Los Angeles Sheriff's Department receives Byrne-JAG funds.
- Mr. Baca says he accepts that he will not vote on the funding allocation but would like to know why this cannot be bifurcated.



- Ms. Penner says that bifurcating the issue is to unduly influence the discussion. This recusal only applies to the current discussion. The urgency is due to the fact that these grant funds expire at the end of September 2013. This only involves one item.
- Ms. Brown asks if Mr. Baca is a direct recipient of Byrne-JAG funding. Ms. Penner says that he is.
  - Mr. Baca objects to the assumption that his position in law enforcement can lead to a prediction of how he will vote on the allocation.
  - Ms. Penner does not presume to know how Mr. Baca will vote and apologizes for any offense. The Board follows legal opinion or risks invalidating the process.
- Mr. Pounders agrees with members present and counsel that a bifurcation is not possible.
- Ms. Penner asks Mr. Baca if he will recuse himself.
  - Mr. Baca says he will follow whatever the Chair thinks is most appropriate.
  - Ms. Penner says this is not an acceptable response.
  - Mr. Baca says he has already made his thoughts known and will get counsel. He will also speak to Governor Brown about this issue. Mr. Baca says funding approval is better if decided as an administrative decision.
- Mr. Budnick asks Mr. Baca if he will recuse himself today if they will look at this legal issue in the future.
- Mr. Baca recuses himself from discussion after putting objections on the record.
- Ms. Penner asks Mr. Maggard if he will recuse himself.
  - Mr. Maggard says he will follow counsel's opinion, but that a later discussion should occur on a potential legislative fix.
  - Ms. Penner says there is no legislative fix today except to follow counsel.
  - Mr. Maggard recuses himself.
- Ms. Penner says that Mr. Growden is not participating in the meeting, so he cannot recuse himself.
- Ms. Silbert requests to be placed on the BSCC Standing Committee on Gang Issues.
  - Ms. Penner says that this will be on the November Board meeting agenda.
- Mr. Maggard says that he and Mr. Baca would like to sign off the conference call. No one from the public is at their location, so they end call.
- Daryle McDaniel (Field Representative, CCP) presents on agenda item.
  - BSCC receives funding that represents allocation for one year. BSCC can retain up to 10 percent of money for administrative fees. As of July 2012, the BSCC took over administrative responsibility for the fund. Byrne-JAG funds have decreased, after peaking in 2009. The funding allocation for 2013 is \$19.7 million.



- For FY 2013, the BSCC Board needs to determine the allocation. BSCC staff recommends that eight percent of fund be set aside for administrative costs.
- At the September 12, 2013 BSCC Board Meeting, the Board requested a funding timeline that incorporates the California Youthful Offender Reentry program (Cal-YOR) and human trafficking task forces, which had previously received Byrne-JAG funding.
- BSCC staff recommends that current BSCC JAG funded programs are extended for 12 months, with a 4.15 percent reduction, to allow for funding of Cal-YOR programs:
  - 61 projects in the Anti-Drug Abuse (ADA) program will receive \$13,067,010;
  - Marijuana Suppression Program (MSP) will receive \$2,078,541;
  - Crackdown Program (DOJ) will receive \$2,258,818;
  - CAMP Program (DOJ) will receive \$62,986;
  - Drug Endangered Children (DEC) will receive \$68,352;
  - Cal-YOR program will receive \$752,635.
- Mr. McDaniel says Cal-OES has funding for nine trafficking task forces.
- Human trafficking will be funded through money that was unspent in FY 2012 onwards. It is expected to be \$18.3 million. There will be partial funds. This will be known by December and can be discussed at the January Board meeting.
- BSCC staff make the following recommendations:
  - BSCC retain eight percent of funding for administrative costs.
  - BSCC fund current recipients and Cal-YOR per Attachment C.
- Ms. Silbert says she thought the Board was approving an allocation for five months and then revisiting the issue, but it now appears the Board is voting through 2014.
  - Ms. Penner says the recommendation is that the funding program is through 2014.
  - Mr. Steinhart says we were never looking at five month period. This action only changes some of the recipients.
- Ms. Brown commends BSCC staff on their work.
- Mr. Budnick asks if this takes into account the public survey where community stakeholders, including law enforcement, talked about gang interventions, not drug suppression. He asks if it is possible to implement funding and then revisit in five months to incorporate this.
  - Ms. Penner says we have the Executive Steering Committee (ESC) to take this into account. The RFP can be developed. We would present problems for local law enforcement if we shorten the length of the grant time.
  - Ms. Silbert says the War on Drugs has not been successful and she does not believe the fund has properly addressed recidivism. She would like a six-month allocation and then revisit the issue afterwards.
    - Ms. Brown says she is not sure if the extensive conversation needed can happen in six months. The Board needs to look effectively at surveys.



- Mr. Steinhart thanks staff for a coherent plan, which includes Cal-YOR. He says he understands the need for continuity, but per Mr. Budnick's comments he is not sure about the timeline. There is a logistical question of fund flow. How much does the ESC need in terms of time? Do other Board members want time?
- Ms. Mauriello asks what would be realistic if they took the surveys into account.
- Mr. Steinhart says that the best-case scenario would be to have group meet once this year and in January. The RFP must be approved by the Board and then go out in late Spring (six months).
  - Ms. Penner thinks that this estimation of ESC turnaround is overly optimistic. This must be done extensively for years two, three, and four. The Board is already bumping up against a deadline for the first year.
- Ms. Mauriello says the Byrne-JAG recipients have not been properly evaluated by the Board, but their funding continues. She asks if it is possible to get the ESC work done by January.
- Mr. Budnick says he was impressed by law enforcement at the first meeting. What has changed in the first year is Realignment. Local law enforcement has called for money for gang suppression given that serious offenders are held locally.
- Jean L. Scott, BSCC Deputy Director (Corrections and Planning Programs), says the Bureau of Justice Administration application must have one-year of spending and four years of strategy. The Board should not cut time, given a full one-year spending plan is necessary.
- Mr. Pounders makes a motion that there should be a percentage devoted for administration and incorporates the suggestion of BSCC staff. The motion is held until public comment.

### Public Comment

- Mitch Brown (DEC's Trauma Center) says that multi-disciplinary drug enforcement teams are important. Children do not start out as juvenile delinquents. Task forces are necessary to implement strategy.
- Sheriff Tom Allman (Mendocino County Sheriff's Office) says that California has a war on recidivism. The Department of Justice money is basic funding. He is concerned that three executive officers were taken off the discussion.
- Chief John Ruffcorn (Auburn Police Department) says that crime has decreased in part because of regional multi-agency task forces. These are not targeting low-level drug users, but educating children.
- Jacob Ramirez (San Jose Conservation Corps) discusses his personal experience with the Cal-YOR program. Through the program, he has received education and employment. He wants others to have a similarly positive opportunities and experience.
- Ignacio Hernandez (Hernandez Strategy Group) says the Cal-YOR program has proven to have a 1.5 percent recidivism rate. The staff recommended costs of \$111,000 are half of the actual need of \$222,000. The staff recommendation





includes discussion from formerly recused members. This provides \$20,000 for every Jacob. Every dollar amount counts.

- David King (Los Angeles Impact) says multi-jurisdictional task forces are effective and necessary. In 2012, they arrested 341 drug traffickers, seized 831 pounds of cocaine, and rescued 109 children from bad housing. This is the only mechanism to clear up and investigate labs.
- Sheriff John E. Lopey (Siskiyou County) says his county has a drug trafficking problem. Drug traffickers occupy land space. Adolescent drug use is rising. There is a multi-agency effort to curb recidivism. He supports a one-year allocation for this program.
- Chief Ron Lawrence (California Police Chiefs Association, Chief of City of Rockland) says the removal of three Board members is disturbing. He speaks in support of funding the multi-jurisdictional task forces, since most local departments are not big. These task forces provide funds for gang suppression and educating youth on narcotics. Departments rely on task forces to supplement local efforts. Otherwise he will have to explain to his citizens why there is no local funding.
- Sheriff Tom Bosenko (Shasta County) says he participates in the Drug Endangered Children program. Narcotics task force money has decreased, which has an impact on sheriffs. Human trafficking is involved with drug trafficking. Money must continue.
- Sheriff Tom Bosenko (Shasta County) provides public comment on behalf of Sheriff John D'Agostini (El Dorado County). He says the money is necessary, given that drug crimes need to be investigated in South Lake Tahoe.
- Dennis Garcia (Homeboy Industries) says the prior Byrne-JAG survey needs to be taken into account. The main priority of the survey is prevention and education. California gives 99 percent of Byrne-JAG funding to law enforcement, whereas the national average is approximately 50 percent. The Cal-YOR program has a history of success.
- J. Kirk Andrus (Siskiyou County, District Attorney) says the multi-jurisdictional task forces are essential for hostage situations and murder investigations. His office supports funding this program.
- Ignacio Hernandez speaks on behalf of Janice Hodge. He says the fiscal deadlines for local enforcement and government should not dictate the allocation of funds, otherwise the Board will have this issue again. Instead, there needs to be a June deadline, which is in line with what the government and Board have previously accepted. The multi-jurisdictional task forces should be prepared for less money given the technical assistance previously given by BSCC on this issue.
  - Mr. Steinhart asks if the proposed funding strategy cuts Cal-YOR.
  - Mr. Hernandez says the money to task forces is for one year. Cal-YOR is more flexible and an October allocation is not fair.
- Kurt Seidel (San Mateo County Child Protective Services) says that collaboration is a force multiplier. He requests that Board fund multi-jurisdictional task forces.
- Sheriff Larry Jones (Glenn County, Drug Task Force) speaks in support of Byrne-JAG funding for the multi-jurisdictional task forces. Last year his jurisdiction set a record for drug endangered children cases.



- Danielle Ayers (Task Force Commander, Santa Clara County) says the multi-jurisdictional task forces do more than drug suppression. She tells the Board of a three-year-old child rescued by the task force.
- Ms. Penner asks if there is public comment from the remote telephonic location sites. No comment is given.

### **Board Discussion**

- Ms. Silbert says groups and legislators contacted her regarding this issue. Her organization, Delancey Street Foundation, works with gang members and drug addicts. She says there is a need for police and district attorneys. Law enforcement and the therapeutic approach need to go together. The Board should revisit the issue in six months. The individuals who call for more therapy must understand that it cannot exist separately from law enforcement funding.
- Ms. Mauriello asks BSCC staff about accuracy of Cal-YOR funding. Is the staff allocation based on historical funds?
- Jean L. Scott, BSCC Deputy Director (CPP), says the \$411,000 allocation represents a 2-year period. Cal-YOR received funds over 2 years. The BSCC calculation is from a 1-year period, which explains why it is half.
- Ms. Mauriello asks if this was also done for law enforcement.
  - Ms. Scott says the BSCC will be close to spending full amount.
- Ms. Mauriello asks if there is continued support for marijuana suppression programs.
  - Sheriff John E. Lopey (Siskiyou County) says that he supports Byrne-JAG funds being used in this capacity.
- Mr. Steinhart asks Ms. Scott if it is possible for the BSCC to convert timeline to June 30, for this year and subsequent allocations.
  - Ms. Scott says the BSCC needs a year spending plan for 2013.
  - Mr. Steinhart asks why the BSCC cannot use California's fiscal year timeline, which gives a three-month differential.
  - Ms. Scott says it is possible if the ESC wants this. The BSCC has only allocated funding once previously and current proposal uses the same timeframe as last year.
- Ms. Mauriello submits a motion that Byrne-JAG programs are funded to June 2014. There will be a residual balance of \$3 million, with half allocated to law enforcement and half allocated to community rehabilitation as a placeholder for the ESC.
  - Mr. Steinhart seconds the motion. He asks what the role of the ESC will be and how this affects timing. The federal response will condition this proposal.
  - Ms. Penner says she will not support the motion, given this situation. The Board needs clarity on the issue.
  - Ms. Silbert says that she likes the proposal, but not the 50 percent split.
  - Mr. Stone is not in favor of the motion.
  - Mr. Pounders likes the motion and asks how the BSCC can accommodate this fiscal year timing issue.





- Mr. Steinhart says he will vote for the motion. The timeline for the ESC is tight, but not impossible.
- Ms. Penner says the BSCC had a close call with the Byrne-JAG allocation. The Board can revise the timeline later, but she is not confident they can meet mandates.
- Ms. Mauriello says there is value in reaching a consensus today on this decision. She says she only wants funding for three-quarters of the coming year.
- Ms. Brown says she is in favor of a longer term, given the discussion is complicated.
- Mr. Budnick says he supports Ms. Mauriello's motion for a 9-month timeline.
- Mr. Steinhart says the Board is unclear on the issue of federal guidelines.
  - Ms. Scott says the Board is not in danger of losing Byrne-JAG funding.
- Ms. Mauriello says she is willing to revise the motion so that it would fund programs for  $\frac{3}{4}$  of the year and have the ESC guide the last  $\frac{1}{4}$  allocation. She asks Ms. Scott whether the Board could do this.
  - Ms. Scott says the Board can take this action.
- Ms. Mauriello revises the motion with this amendment.
  - Mr. Steinhart seconds the motion.
  - Ms. Penner says the Board is "rolling dice", given there is no clear road map and people are relying on this decision. The ESC is relying on a process that has taken the Board four meetings. Time must also be considered for the RFP and competitive process.
  - Ms. Mauriello withdraws her motion.
- Mr. Pounders submits a motion to approve the staff recommendation, whereby current BSCC JAG funded programs are extended for 12 months, with a 4.15 percent reduction, to allow for funding of Cal-YOR programs.
  - Motion passes (all vote in support, with the exception of Ms. Silbert who abstains).
- Ms. Penner thanks the Board.

[END NOTES]