



## Legislation Text

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**File #:** 19-248, **Version:** 1

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Staff Report for a City of San Leandro City Council Resolution Authorizing the City Manager to Accept Grant Funds in the Amount of \$31,599 from the Department of Justice's Byrne Justice Assistance Grant (JAG) to Fund the Purchase of Unmanned Aerial System (UAS) Equipment

### **SUMMARY AND RECOMMENDATIONS**

Staff recommends the City Council adopt a resolution to accept a grant award totaling \$31,599 from the Department of Justice's Byrne Justice Assistance Grant (JAG) and authorize the City Manager to execute all documents and appropriate the funds.

### **BACKGROUND**

The Edward Byrne Memorial Justice Assistance (JAG) Grant Program (42 U.S.C. 3751 (a)) is the primary provider of federal criminal justice funding to state and local jurisdictions. The Byrne JAG Program is administered by the U.S. Department of Justice, Office of Justice Programs and was created in 2005 by merging the Edward Byrne Memorial Grant Program (Byrne) with the Local Law Enforcement Block Grant Program (LLEBG). Byrne JAG funding can be used to support a broad range of state and local government projects, including those designed to prevent and control crime and to improve the criminal justice system.

To ensure that each state and territory receives an appropriate share of JAG funds, allocation to state and local governments is based on a formula using population and crime statistics in combination with a minimum allocation. Funds are split 60/40 between state and local recipients within states. Municipal governments, tribes, and community-and faith-based groups are eligible to receive Byrne JAG funding. Historically, funding for the JAG Program in California had been allocated directly to counties through a non-competitive process.

The JAG Program supports seven "Program Purpose Areas" designated by federal statute. These include the following:

- (1) Law enforcement programs.
- (2) Prosecution and court programs, including indigent defense.
- (3) Prevention and education programs.
- (4) Corrections and community corrections programs.
- (5) Drug treatment and enforcement programs.
- (6) Planning, evaluation and technology improvement programs.
- (7) Crime victim and witness programs (other than compensation).

The JAG funding must be spent according to certain federal guidelines, including the following:

- (1) Byrne JAG funds must be used to supplement existing funds for program activities and cannot replace, or supplant, nonfederal funds that were appropriated for the same purpose.
- (2) Byrne JAG funds cannot be used to fund security enhancements or to purchase equipment by nongovernmental entities not engaged in criminal justice or public safety directly or indirectly.
- (3) Byrne JAG funds cannot be used to purchase vehicles (excluding police cruisers), vessels (excluding police boats), or aircraft (excluding police helicopters); luxury items; real estate; or for construction projects, other than penal or correctional institutions.
- (4) JAG funds can be used for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and information systems for criminal justice for any one or more of the following purpose areas:
  1. law enforcement programs;
  2. prosecution and court programs;
  3. prevention and education programs;
  4. corrections and community corrections programs;
  5. drug treatment programs;
  6. planning, evaluation, and technology improvement programs; and
  7. Crime victim and witness programs (other than compensation).

The Police Department has a need for additional unmanned aerial system (UAS) equipment (“drones”) to complement its current program. The department recommends the City Council appropriate the JAG funding to purchase this software application, which satisfies the “technology improvement program” purpose area listed above.

### **Legal Analysis**

Litigation specifically involved a challenge to the Byrne JAG grant certification and eligibility conditions primarily related to cooperation with Federal immigration enforcement authorities. In summary, the court found that: 1) U.S. Code section 1373 is unconstitutional because it commandeers state officials to carry out federal duties by requiring states and local governments to share information about the citizenship status of individuals; 2) regardless of the constitutionality of Section 1373, the law creating the Byrne JAG program and does not authorize the Attorney General to require certification of compliance with Section 1373 as a condition of the eligibility to receive the grant; and 3) even if the condition was permissible, both California’s and San Francisco’s sanctuary laws comply with Section 1373. As a result of the case, the District Court issued a mandamus ordering the Attorney General to disburse Byrne JAG funding it had previously withheld because of failure to submit the required certifications (City & County of San Francisco v. Sessions, 349 F. Supp. 3d 924, 974 (N.D. Cal. 2018).)

The holding that the State’s sanctuary law does not violate Section 1373 was recently affirmed in a different case by the Ninth Circuit (see *United States v. California*, No. 18-16496, 2019 WL 1717075, at \*5 (9th Cir. Apr. 18, 2019). ). In short, there is nothing different in San Leandro’s sanctuary City

resolution that would lead a court to find it violates Section 1373.

To summarize, the District Court found the requirements of the certification for this grant to be unlawful, but even if they were lawful, the Court found that the State's sanctuary law did not violate the relevant statute. Based on this analysis, San Leandro can accept these funds without compromising or undermining either the State's sanctuary policy of the City of San Leandro Sanctuary City policy.

### **Fiscal Impact**

The acceptance of the grant will not impact the General Fund. If approved, the grant allocation will be \$31,599, and the City will receive \$30,019.05 after Alameda County Sheriff's Office deducts \$1,579.95 for administrative fees tied to grant management. The allocation will provide technology improvements per the terms of the DOJ-JAG guidelines, with no local share (matching funds) required. Expenditures will be captured in Special Grants Fund, account #150-21-057. Staff requests that the City Council approve appropriation of \$31,599 for this project.

### **ATTACHMENTS**

None.

**PREPARED BY:** Scott Koll, Police Business Manager, Police Department