

THE CONSTITUTION PROJECT



Safeguarding Liberty, Justice & the Rule of Law

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GAO Study Shows Federal Justice Grants Overwhelmingly Favor Law Enforcement Over Indigent Defense

TCP's Sloan: No One Should Be Surprised Justice for the Poor Is Given 'Short Shrift'

WASHINGTON, D.C. -- Almost none of the money that the federal government provides to state and local governments for justice system improvements goes to helping to defend poor people, a new study shows. The report bears out claims that supporters of indigent defense have made for years that there is an enormous disparity between governmental financial support for prosecutors and defenders.

According to a Government Accountability Office (GAO) [report released yesterday](#), almost half the money block granted to the states under the Byrne Justice Assistance Grant Program (Byrne JAG) grants goes to fund law enforcement and prosecution activities, with less than 1 percent being used for public defenders or other private lawyers appointed to assist those who cannot afford legal representation on their own.

"Despite repeated calls from the legal community for improved funding for indigent defense, and even though Attorney General Holder himself has declared a 'crisis' in the right to counsel for the poor, this study shows that state and local governments continue to give justice for the needy short shrift when they divide up the federal dollars they receive," said Virginia Sloan, president of The Constitution Project (TCP), a bipartisan legal watchdog group.

The GAO report says that the Department of Justice (DOJ) distributed more than \$500 million to state and local government under the Byrne JAG program in five of the six fiscal years between 2005 and 2010. Less than one-tenth of 1 percent of the money sent to local governments, and only seven-tenths of 1 percent of the money allocated to the states, was spent on indigent legal defense, the report shows. In contrast, 54 percent of the funds DOJ sent to localities, and 38 percent of the funds sent to states, were spent on law enforcement and prosecution activities.

The report indicates that among the reasons that indigent defenders do not receive more funding is that, most of the time, they are not part of the decision-making process that disperses the funds, and many are not even aware they are eligible to apply for them. Nearly two-thirds of the public defender offices responding to a GAO survey said they did not know that they were eligible for federal funding, and 31 percent said they lacked the knowledge or the personnel to complete the application process.

In responding to the GAO report, the DOJ indicated it was taking steps to make public defenders more aware of their eligibility.

"We commend the DOJ for finally taking steps to alert the indigent defense community to their ability to tap these federal dollars," Sloan said, "but much more needs to be done, including more systematic planning for the expenditure of these funds, with public defenders and other indigent defense counsel at the table for the planning process. Most importantly, the federal government must tell the states and localities that they will not receive funding unless they distribute it more fairly between law enforcement and indigent defense."

The GAO report was prepared at the request of Representatives John Conyers (D-MI), Jerrold Nadler (D-NY) and Bobby Scott (D-VA). Sloan applauded the three for their request, and said TCP had worked closely with them on it.

TCP released a comprehensive bipartisan report on problems in the indigent defense system, [*Justice Denied: America's Continuing Neglect of Our Constitutional Right to Counsel*](#), in 2009.

A copy of the [GAO report](#) is available online.

[About The Constitution Project](#)

Created out of the belief that we must cast aside the labels that divide us in order to keep our democracy strong, The Constitution Project (TCP) brings together policy experts and legal practitioners from across the political spectrum to foster consensus-based solutions to the most difficult constitutional challenges of our time. TCP seeks to reform the nation's broken criminal justice system and to strengthen the rule of law through scholarship, advocacy, policy reform and public education initiatives. Established in 1997, TCP is based in Washington, D.C.

