



May 31, 2012

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The Honorable Denise O'Donnell
Director, Bureau of Justice Assistance
U.S. Department of Justice
810 Seventh Street NW
Washington, D.C. 20531

Dear Director O'Donnell:

On behalf of the California State Association of Counties (CSAC), I write to convey our strong opposition to the Bureau of Justice Assistance's (BJA) unilateral decision to discontinue State Criminal Alien Assistance Program (SCAAP) payments for inmates whose immigration status is "unknown." This is a significant change to the reimbursement formula that will heavily impact counties in California and across the nation.

Although it is the federal government's responsibility to protect and secure the country's borders, counties incur millions of dollars in unreimbursed expenses each year as a result of housing undocumented immigrants who violate local, state and/or federal laws. Additionally, California's counties are responsible for processing and prosecuting undocumented offenders, and, in many cases, must provide medical care and other services to these individuals.

As you know, the SCAAP program provides partial reimbursement to local governments for some of the costs associated with incarceration; however, federal funding has remained grossly inadequate. The current funding level of \$240 million falls far short of the actual costs incurred by eligible jurisdictions nationwide. Additionally, modifications to the SCAAP payment methodology have further reduced the level of reimbursement to eligible counties. In 2002, for example, BJA announced that jurisdictions were no longer able to request reimbursement for undocumented immigrants who are never convicted. In other words, although counties are obligated to incarcerate undocumented immigrants who are arrested for committing an alleged crime or crimes, they must cover the entire cost of the detention for those individuals who are not subsequently convicted.

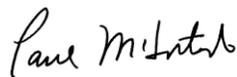
The most recent announcement by BJA that the agency will again alter the SCAAP payment methodology will further reduce SCAAP reimbursements to counties and put additional strains on already tight county budgets. By way of illustration, if BJA's new reimbursement criteria had been in place for the 2010 application period, California's counties would have seen their SCAAP awards drop from \$40.8 million down to \$21.8 million, a nearly 50 percent decrease in funding.

In past years, BJA appropriately provided reimbursement credit to states and localities that have incurred costs for detaining individuals whom they believe to be undocumented criminals. The reasoning was based on the fact that undocumented individuals constitute a high percentage of foreign-born inmates of unknown immigration status because these individuals – who have never before been apprehended and screened by federal immigration agents – will not be in any federal immigration database. As you know, it has been estimated that 80 percent of inmates of unknown immigration status in county jails are undocumented.

By proceeding with the modified payment methodology, however, BJA is now unilaterally eliminating reimbursement for a significant portion of undocumented inmates in California's local jail system. Such a decision penalizes local jurisdictions for the federal government's continued failure to determine the immigration status of all foreign-born inmates in local custody and will have a detrimental impact on county budgets.

We strongly urge you to rescind this decision and to reinstate the previous reimbursement practice, which would more equitably reimburse jurisdictions for the costs of housing undocumented individuals, including those inmates whose status may be unknown to the Department of Homeland Security.

Sincerely,

A handwritten signature in black ink that reads "Paul McIntosh". The signature is written in a cursive, slightly slanted style.

Paul McIntosh
Executive Director
California State Association of Counties

cc: U.S. Attorney General Eric Holder
California Congressional Delegation