

The Method to the Madness



An Introduction to the Federal
Appropriations Process

Coalition for Juvenile Justice
Topical Training Program
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The Power to appropriate

- The power to appropriate is a legislative power
 - Article I, Sec. 9 of the U.S. Constitution
 - “No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law.”
 - Generally, an appropriation may be used only for a program or activity for which Congress has specifically given statutory authority.

Basic Terms

A key to understanding the appropriations process is understanding the language of Congress.

Appropriation vs. Authorization

- An **Authorization** establishes, continues or modifies an agency, a program or grant authority for the program to do something. Similar to approving money to go into a federal checking account for a specific program.
- An **Appropriation** is specific budget authority for the program or agency to withdraw a specific amount of funds from the federal Treasury to do what is was authorized to do. Similar to “writing a check” on the federal checking account.

Appropriation vs. Authorization

- Congress can authorize funds in a specific amount, or authorize “such sums as necessary.” Compare H.R. 3846, Sec. 205 to the JJDPA, Sec. 299
- Once funds are authorized, Congress can appropriate funds in an amount less than the authorization, or not appropriate any funds at all (such as in the case of the Delinquency Prevention Block Grant). Congress may not appropriate funds in an amount that exceeds the authorization.

Allocation vs. Earmark

- An **allocation** is a spending limit for each committee set by Congress for the upcoming fiscal year.
- An **earmark** is funding directed, either in legislation or in committee reports, toward a specific person, project or place that is not subject to oversight or the competitive process
 - Each year, Congress sets aside a certain amount of “discretionary spending” that members can use for earmarks.
 - Members can also earmark programmatic funding, e.g., EUDL, G.R.E.A.T. and Tribal Youth Program in Title V
 - Funds set aside for earmarks are not available for general programmatic funding (FY08: DOJ, \$678 million)

Budget Proposal vs. Budget Resolution

- The **budget proposal** is the President's estimate of income and expenditures for the upcoming fiscal year, and articulates his/her funding priorities and recommended spending levels for programs and agencies.
 - E.g., in his FY 2009 Budget Proposal, the President eliminates all current juvenile justice programs and replaces them with one, competitive block grant titled the "Child Safety and Juvenile Justice Program."
- The **budget resolution** is Congress' statement of income projections and priorities, and sets overall spending limits (i.e., **allocations**) on how much can be appropriated by each committee for the upcoming fiscal year.
 - E.g., in its 2008 Budget Resolution, the House granted budget authority of up to \$46.1 billion in FY 2009 for the "Administration of Justice" or DOJ

Budget Committee vs. Appropriations Committee

- The **Budget Committees** in each chamber determine the overall discretionary spending levels in Congress, i.e., how much money total Congress can spend in a given fiscal year. The Budget Resolution originates here.
- The **Appropriations Committees** in each chamber determine allocated for each of the 12 subcommittees, i.e., of the total money spent, how much will be distributed to each program. The JJ appropriations bill originates here.

Mandatory Spending vs. Discretionary Spending

- **Mandatory spending** (aka “entitlements”) is federal spending governed by formulas or criteria, e.g., Social Security and Medicare. Congress must provide the budget authority necessary to fund the program.
- **Discretionary spending** is federal spending governed by the annual appropriation bills. Congress may provide the budget authority necessary to fund the program. ***All federal juvenile justice programs are discretionary spending.***

Hearing vs. Mark-up

- A **hearing** is a public meeting where committees hear testimony, ask questions and learn about particular issues, usually in preparation to act on specific legislation.
- A **mark-up** is a public meeting where members of the committee debate, re-write, negotiate and compromise on language in bills and resolutions before the committee votes.

Regular vs. Supplemental Appropriations Bills

- **Regular appropriations bills** provide most of the funding for a fiscal year during the annual appropriations cycle and are enacted before the start of the new fiscal year.*
- **Supplemental appropriations bills** provide additional funding for specified activities not appropriated during the regular appropriations cycle and are enacted during the subject fiscal year, usually in the next session of Congress.

*The federal fiscal year begins October 1, but Congress is rarely finished by this date. The regular appropriations bills typically are not enacted until the end of the calendar year.

Omnibus Bill vs. Continuing Resolution

- An **omnibus bill** is a bill that combines several appropriations bills for the purposes of passage. Typically happens in conference
 - In 6 of the last 7 years, neither the House or the Senate passed all of the regular appropriations bill. Those bill that did not pass were rolled into an omnibus bill, which was passed.
- A **continuing resolution** is a joint resolution between the House and Senate that maintains temporary funding to agencies and programs until the regular appropriations bills are enacted.
 - In 27 of the last 32 years, Congress and the President did not complete action on a majority of the regular appropriations bills by the start of the new fiscal year.

Committees of Jurisdiction

The House and Senate Committees on Appropriations have jurisdiction over the 12 annual appropriations measures, or regular appropriations bills

12 Appropriations Subcommittees*-- 12 Regular Appropriations Bills

- Agriculture
- ***Commerce, Justice, Science***
- Defense
- Energy & Water
- Financial Services
- Homeland Security
- Interior & Environment
- Labor, HHS, & Education
- Legislative Branch
- Military & Veterans Affairs
- State & Foreign Operations
- Transportation & HUD

*Parallel subcommittees in the House and the Senate

Subcommittee on Commerce, Justice, Science and Related Agencies (CJS)

- Department of Commerce
- ***Department of Justice***
 - ***Office of Justice Programs***
 - ***OJJDP***
- National Aeronautics & Space Administration (NASA)
- National Science Foundation
- Antitrust Modernization Commission
- Commission on Civil Rights
- Equal Employment Opportunity Commission
- International Trade Commission
- Legal Services Corporation
- Marine Mammal Commission
- National Intellectual Property Law Enforcement Coordinating Council
- National Veterans Business Development Corporation
- Office of Science and Technology Policy
- Office of the U.S. Trade Representative
- State Justice Institute

Committee Leadership

In the U.S. Senate –

- **Committee on Appropriations**
 - Senator Robert Byrd (D-WV), Chairman
 - Senator Thad Cochran (R-MS), Ranking Member
- **Subcommittee on Commerce, Justice, Science and Related Agencies (CJS)**
 - Senator Barbara Mikulski (D-MD), Chairman
 - Senator Richard Shelby (R-AL), Ranking Member

Committee Leadership

In the U.S. House of Representatives –

- **Committee on Appropriations**
 - Rep. Dave Obey (D-WI), Chairman
 - Rep. Jerry Lewis (R-CA), Ranking Member

- **Subcommittee on Commerce, Justice, Science and Related Agencies (CJS)**
 - Rep. Alan Mollohan (D-WV), Chairman
 - Rep. Rodney Frelinghuysen (R-NJ), Ranking Member

The Annual Appropriations Cycle

The federal fiscal year runs from
October 1 to September 30.

Two Relevant Cycles

- The **internal executive budget cycle** that determines each agency's budget requests to the President for the President's Budget Proposal.
- The **external legislative appropriations cycle** that determines the final budget passed by the Congress and signed by the President.

OJP Annual Budget Cycle

- **March**—OJP begins planning its budget for the next 3 fiscal years
- **June**—OJP submits its budget to the Attorney General
- **July**—DOJ conducts internal budget hearings with department divisions
- **September**—DOJ submits its budget to the Office of Management and Budget (OMB)
- **December**—DOJ budget is finalized for the President's Budget Proposal

Congressional Appropriations Cycle

Step 1: The President submits his/her budget proposal

- The President initiates the appropriations process by submitting his/her annual budget to Congress.
 - Statutorily, required to submit on or before the first Monday in February, but Congress can grant an extension.
- In his/her budget, the President recommends spending levels for various programs and agencies.
- The President's FY 2009 Budget Proposal, by agency or program, can be found at <http://www.whitehouse.gov/omb/budget/fy2009/appendix.html>.

Step 2: Appropriations

Subcommittees hold hearings

- Hearings typically begin in **early March**
- Each subcommittee focuses on the agencies under their jurisdiction
- Hears testimony from each agency--details of the agency's requests, including justifications for each request.
- A schedule of hearings can be found at <http://commerce.senate.gov/public/> and http://appropriations.house.gov/Subcommittees/sub_cjs.shtml.

Step 3: Congress adopts an annual budget resolution

- Congress' response to the President's budget proposal and is a guide for the House and Senate as they consider budget-related bills
 - The budget resolution originates in and is brought forward to the full chamber by the Budget Committees.
- Covers 5 fiscal years: the upcoming one plus four subsequent
- Sets spending ceilings for each Appropriations committee for the upcoming fiscal year
 - The Appropriations Committee determines allocations for each of the 12 subcommittees
- Statutorily, Congress should adopt the budget resolution **by April 15** (rarely met)

Step 4: Appropriations

Subcommittees introduce the 12 regular appropriations bills

- Pursuant to the U.S. Constitution, all appropriations bills **originate in the House**, and the Senate acts on the House-passed bill
- Each Subcommittee Chair sponsors the appropriations bill for his/her jurisdiction
 - Rep. Mollohan sponsors the House CJS bill
 - Senator Mikulski sponsors the Senate CJS bill
- Each bill receives its own separate bill number and can be tracked like other bills
 - FY 2008 CJS bills were H.R. 3093 and S. 1745

Step 5: Appropriations

Subcommittees mark-up the 12 regular appropriations bills

- Each Subcommittee debates, re-writes, negotiates and compromises on the language in its bill, and drafts report language which accompanies each bill to explain priorities and give direction to federal agencies
- Programs and funding for those programs can be increased, decreased, conditioned or eliminated all together
- Mark-up is the first place where members can add earmarks

Step 6: Each Subcommittee reports its bill separately to the full Committee for a vote

- At the full Committee level, each appropriations bill can be further debated, rewritten, negotiated and compromised
- At the full Committee level, members can add additional earmarks
- Each appropriations bill must be separately voted on and passed by a majority of full Committee members
- Each appropriations bill is accompanied by a Committee report

Step 7: The Appropriations Committee reports each appropriations bill separately to the full House for a vote

- All 12 regular appropriations bills are reported separately to the full House (brought to the floor)
- House members are provided an opportunity to propose floor amendments to each bill as it comes to the floor
- The full House votes on each bill
- Upon passage, each appropriations bill is forwarded to the Senate for consideration
- Target date is **June 30**.

Step 8: Senate receives and acts on the House-passed bills

- The 12 regular appropriations bills passed by the full House are sent to the parallel Senate subcommittee for consideration
- Senate subcommittees go through the same process—12 separate mark-ups, 12 separate votes out to the full Committee, 12 separate votes out of the full Committee to the full Senate, 12 separate votes by the full Senate
- Target date is **August 31**.

Step 9: Each appropriations bill goes to conference

- Because the Senate-passed bill is almost always different from the House-passed bill, members from each Chamber meet or **conference** to negotiate the differences and come to an agreement.
- Negotiators, or **conferees**, typically comprise 3 members from each Chamber appointed by the chairs and ranking members of the full Appropriations Committee
- Conferees must reach agreement on all points of difference before reporting the **conference report** to both chambers

Step 10: Each chamber acts on the Conference Report

- The House traditionally considers each of the conference reports first
- The House can recommit the conference report to the conference for further consideration, reject the conference report or adopt it.
- If the House adopts the report, the conference is disbanded.
- The Senate then only has two options—reject or adopt the conference report
- The appropriations bills cannot be sent to the President until both chambers have agreed to the entire bill.

Step 11: The President acts on each appropriations bill

- After receiving each bill from Congress, the President has 10 days to sign or veto the bill.
- If the President takes no action, the bill automatically becomes law at the end of the 10-day period.
- If the President vetoes the bill, s/he sends it back to Congress.
- If Congress overrides by a two-thirds vote, the bill becomes law. If Congress is unsuccessful, the bill dies and Congress starts all over again.

Contingency Plan

- If Congress reaches the start of the new fiscal year (October 1) without a bill in place, it usually passes a continuing resolution.
- If Congress fails to pass a bill and issue a CR, the federal government shuts down.
- In the 232-year history of the U.S., this has only happened five times; all five shutdowns have occurred since 1981.

Budget-Related Shutdowns

1981 - November: President Reagan vetoed a CR. 400,000 Federal employees went home at lunch and told not to come back. A few hours later, President Reagan signed a new version of the CR and the workers were back the next morning.

1984 - October: No budget and 500,000 workers are sent home. An emergency spend bill has them all back at work the next day.

1986 - October: 500,000 workers are out for a half day. President Reagan signs a final appropriations bill and the workers are ordered back for the next shift.

1990 - October: The Government shuts down during the entire three-day Columbus Day weekend. Most workers were off anyway and an emergency spending bill signed by President Bush has them back at work Tuesday morning.

1995 – November to December: In the most serious shutdown in history, different functions of government are idled for varying lengths of time between November 14, 1995 and January 6, 1996.

You Make the Difference!

Congressional members respond to their constituents when their constituents make a demand. The quality and quantity of federal support for juvenile justice depends greatly on the quality and quantity of impact juvenile justice practitioners and advocates have on their Congressional members at key points in the process.

The Importance of Having An Impact

	FY02	FY03	FY04	FY05	FY06	FY07	FY08	Pres. FY09
Title II	\$88.8	\$83.3	\$83.2	\$83.3	\$79.2	\$79.2	\$74.3	--0--
Title V	\$94.3	\$46.1	\$79.2	\$79.2	\$64.4	\$64.4	\$61.1	--0--
JABG	\$249.5	\$188.8	\$59.4	\$54.6	\$49.5	\$49.5	\$51.7	--0--
DPBG	N/A	\$126.4	--0--	--0--	--0--	--0--	--0--	--0--
OJJDP	\$6.8	\$6.8	\$3.6	\$3.0	\$0.7	\$0.7	\$0.7	--0--
Dem Projects	--0--	--0--	\$78.8	\$101.4	\$105	\$105	\$93.8	--0--
Mentoring	\$16	\$15.9	--0--	\$14.9	\$9.9	\$9.9	\$70	--0--
Child Safety	--0--	--0--	--0--	--0--	\$30	\$30	\$32	--0--

Key Points of Impact

- **February - April**

- Communicate state needs to OJJDP and OJP to impact OJP's budget requests to DOJ.
- Communicate state needs to Congressional representatives to impact the hearings and Congress' budget resolution.

Key Points of Impact (cont.)

- **April – August**

- Maintain constant contact with Congressional representatives to impact the appropriations bill drafting and mark-up processes

Ways to Have an Impact

- Attend the CJJ Annual Spring Conference and participate in Hill Day.
- Dispatch one or more teams comprised of SAG members, staff and program partners to conduct Hill visits with Congressional representatives and/or staff.
- Dispatch one or more teams to visit with Congressional representatives and/or staff year-round and during the recesses, aka District Work Periods.

Ways to Have an Impact (cont.)

- Send letters, via e-mail or fax, to Congressional representatives, touting state successes due to federal funding and support and highlighting state challenges due to lack of federal funding and support.
- Sign-on to regional or national letters to Congressional representatives advocating increased appropriations.
- Create a state sign-on letter to Congressional representatives for subgrantees and collaborative partners.

Sources

- Sandy Streeter, *The Congressional Appropriations Process: An Introduction*, CRS Report for Congress, February 22, 2007.
- Significant Events in the Budget and Appropriations Process, Office of Justice Programs Chart, http://www.ojp.usdoj.gov/about/pdfs/budget_process.pdf.
- http://appropriations.house.gov/Subcommittees/sub_cjs.shtml
- <http://appropriations.senate.gov/commerce.cfm>
- http://en.wikipedia.org/wiki/Government_shutdown

Thank You!

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