Vera
INSTITUTE OF JUSTICE

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Director
Office of Management and Budget
725 17th Street, NW
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Todd Blanche
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950 Pennsylvania Avenue, NW
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Re: Office of Management and Budget (OMB) Regulation for Federal Financial Assistance, OMB-2026-0034

To Director Vought and Acting Attorney General Blanche:

Thank you for the opportunity to comment on OMB-2026-0034, which changes how federal financial assistance is regulated under title 2 of the Code of Federal Regulations (CFR), subtitle A.

I am submitting this comment on behalf of The Vera Institute of Justice (Vera). Founded in 1961, Vera seeks to advance safety and justice for all—a goal shared by a majority of Americans. Working in more than 40 states and across political lines, we pilot, test, and scale evidence-based solutions that prevent crime, respond to crises, stop violence, and rely less on failed policies that have put too many people behind bars without making our communities safer.

Although this comment focuses on the rule's consequences for criminal justice funding, the proposed regulation reaches far beyond the Department of Justice (DOJ) and related agencies. The OMB's proposal seeks to establish binding, government-wide regulations governing more than $1 trillion in annual federal financial assistance. If finalized, the rule would fundamentally reshape how the federal government solicits, awards, administers, monitors, and terminates grants. Its provisions would affect every state, Tribal Nation, and territory; thousands of local governments; most major universities and hospitals; and tens of thousands of nonprofits, community-based organizations, and private entities that partner with the federal government to deliver essential public services.

Vera strongly opposes OMB's proposed *Regulation for Federal Financial Assistance*. As explained below, the proposal would inject uncertainty into funding decisions, weaken evidence-based public safety investments, destabilize long-standing grants that support safer communities, and make it harder for federal funds to reach the communities they are intended to serve.

OMB's Proposal Threatens Progress the Criminal Justice Field Has Made Toward Evidence-Backed Public Safety Funding

OMB's proposed rule would require senior political appointees to approve every discretionary grant and certify that it "demonstrably advance[s] the President's policy priorities" (§200.205(b)). It would also grant agencies sweeping termination authority: agencies could terminate discretionary awards if applicants have a history of "questionable practices" (§200.206(b)); if grants fail to "effectuate program goals, Federal agency priorities, or the national interest" (§200.340); if grantees affiliate with organizations that "undermine public safety or national security" (§200.206(b)); or if sub-grantees act in ways that damage the federal government's "reputation" (§200.332(i)). The proposal also provides only illusory remedies for challenging termination decisions (§200.342), and it would allow agencies to impose new conditions at any point during the grant period (§200.208).

None of these operative terms are defined. Criminal justice-related grantees, including many familiar with the prior grantmaking system, are left with little information on critical questions such as what counts as a "questionable practice," what it means to damage the federal government's "reputation," and whether the mere perception that an organization works on issues the administration dislikes count as harm, on equal footing with actual fraud or misconduct. A government-wide regulation should not omit a basic framework for answering these questions.

Recent media coverage shows the consequences of this kind of vagueness. Weeks before OMB announced the rule, the *New York Times* reported that the administration had circulated a memo requiring federal agencies to catalogue all grants to "certain nonprofit organizations," including the American Civil Liberties Union, the National Urban League, and legal aid groups. Around the same time, the DOJ brought an 11–count wire fraud, bank fraud, and money laundering prosecution against the Southern Poverty Law Center—one of the nation's most prominent civil rights organizations. These incidents raise cause for concern that the new OMB guidelines could be used to target organizations the administration views at odds with its own aims.

OMB's proposal hands the president a durable mechanism to escalate attacks on organizations doing critical work to advance safety and justice. In 2025, the DOJ's Office of Justice Programs (OJP) terminated roughly $500 million in grants to 221 organizations because their work had ceased to "effectuate Department priorities." OMB's rule would make that once-obscure phrase binding across all federal agencies—handing this administration, and every administration after it, a ready-made mechanism to terminate grants on grounds of politics rather than what is best for the American people.

The OJP terminations were both arbitrary and self-defeating. The Trump administration slashed funding from organizations working to interrupt gun violence, shelter domestic violence survivors, treat substance use disorder, protect children from abuse, reduce truancy, combat antisemitism, stop sexual abuse in prisons, prevent elderly adults against scams, and equip law enforcement with tools to interdict terrorism. Affected organizations spanned 37 states, including Republican-led states like Kentucky and Florida, and included organizations providing services to crime victims—an issue the administration claims to champion. Unable to cover payroll or wait out a lengthy appeals process, many of these organizations have now shuttered or scaled back services. Criminal justice and crime experts credit programs like these for the decline in serious crime that the administration once dismissed and now claims credit for. These cuts may not yet be immediately reflected in reported crime statistics, but they are likely making communities less safe.

Vera was among the organizations whose awards were terminated. OJP terminated $5 million in funding that supported Vera's work to improve prison safety, expand diversion to community-based programs, support crisis response for behavioral health 911 calls, and serve Deaf survivors of crime and trafficking. Vera had received federal funding under both Democratic and Republican administrations for decades, demonstrating that evidence-backed safety programs work regardless of who holds power. Vera led a class-action lawsuit challenging OJP's cuts, alongside the Center for Children and Youth Justice, Health Resources in Action, FORCE Detroit, and Stop AAPI Hate. That case remains pending on appeal, and many affected organizations are still waiting to learn whether their funding will be restored.

OMB's proposal would also authorize agencies to cooperate with individuals or organizations seeking to sue grantees for alleged violations of federal law or grant terms, effectively deputizing private actors to police compliance (§200.339(b)). Although this mechanism of private enforcement is not new—under the False Claims Act (FCA), private relators may already sue on the government's behalf and collect 15 to 30 percent of any funds recovered—OMB's proposal would supercharge that incentive.

Public safety depends on consistent effort, long-term planning, and stable resources. When agencies can terminate grants at will—or dangle threats of new, politically expedient conditions after awards have been made—grantees cannot reliably plan for, let alone meet, their communities' needs. The uncertainty OMB's rule creates does not protect public safety. It erodes the foundation public safety work depends on.

OMB's Carve-Out for Formula and Block Grants Makes Even Law Enforcement Funding Uncertain

Even the provisions of OMB's rule that purport to protect grantees from arbitrary termination leave critical questions unresolved—questions that should have been clarified with the DOJ before rulemaking. As discussed above, virtually all discretionary grants may be terminated at will with minimal justification. The rule carves out two major exceptions: awards cannot be terminated under §200.340 if termination would "conflict with a Federal statute" or if the award is "made under programs where legislation establishes an entitlement to the funds on the part of the recipient, such as **block grants**, those awarded based on a **statutory formula**, or disaster recovery grants" (emphasis added).

The Edward Byrne Memorial Justice Assistance Grant (Byrne JAG)

On its face, OMB's exceptions reflect an unremarkable principle: congressionally funded programs cannot be arbitrarily terminated. In practice, it reveals a fundamental misunderstanding of how criminal justice grants operate. Byrne JAG, one of the DOJ's largest formula grants, has funded all 50 states with varying allocations by population and violent crime rate since fiscal year (FY) 2012. States and localities rely on these dollars to purchase law enforcement equipment, fund substance use disorder treatment, build mental health crisis response infrastructure, and pay for other core public safety needs. But Byrne JAG's formula structure has morphed over time: set-asides (or earmarks) for discretionary programs grew from 5 percent of total funding in FY2013 to 63 percent in FY2024, and that figure fluctuates yearly.

The distinction between statutorily authorized funding and set-asides under §200.340 disadvantages grantees. The topline discretionary sums Congress carves out for Byrne JAG set-asides are themselves appropriated by statute, and the statute directs that this money be spent according to the explanatory statement. The final FY2023 budget, for example, appropriated $229,551,000 for discretionary criminal justice grants, directing that the funds "shall be used for the projects, and in the amounts, specified” in the explanatory statement’s “Byrne Discretionary Community Project Grants” section. But the statute’s only substantive limitation is that these funds “may not be transferred for any other purpose.” It does not identify a recipient, guarantee continued funding for any project, or establish an entitlement to any individual grantee. Instead, each earmark recipient’s identity and award amount exists only in the explanatory statement the statute references, not in the statutory text itself.

Even if a statute prohibits transfers for other non-designated purposes, appropriations law typically permits DOJ to transfer up to 5 percent of a line item to other accounts within the department. For FY2026, however, Congress narrowed that authority specifically for grantmaking dollars, capping transfers to non-grantmaking purposes at 3.5 percent. But because that restriction appears only in the FY2026 explanatory statement and not in the statute’s text, it binds DOJ only by custom, not by law. If an explanatory statement cannot reliably constrain DOJ’s own transfer authority, it cannot reliably guarantee an earmarked grantee’s funding either. Thus, an earmarked Byrne JAG grantee’s claim to funding rests on that same weaker foundation. Nothing in the enacted appropriations statute entitles the grantee to their award, and their claim exists only in a document OMB’s own rule would allow DOJ to disregard.

Officer Robert Wilson III Memorial Initiative on Preventing Violence Against Law Enforcement and Ensuring Officer Resilience and Survivability (VALOR)

The VALOR grant, which aims to improve law enforcement safety and well-being, illustrates the opposite case. Unlike Byrne JAG’s discretionary set-asides in FY2023, VALOR’s $13 million allocation appears directly in the enacted appropriations act itself, not merely in an accompanying explanatory statement. The same is true for FY2025 (applications closed in February 2026, and the DOJ anticipates awarding nearly $11 million). VALOR therefore appears better positioned to satisfy §200.340’s “conflict with a Federal statute” exception than Byrne JAG’s earmarked programs, even though both are conventionally described as “discretionary” grants and VALOR serves a narrower purpose.

OMB’s rule offers no principled basis for that distinction. Two programs serving law enforcement, both created and sustained by congressional appropriators, could receive entirely different treatment under §200.340 based solely on the technical mechanism Congress used to allocate the funds. That distinction is invisible to the grantees who depend on that funding and irrelevant to whether the underlying work serves public safety.

Community Oriented Policing Services (COPS) Program

The COPS program shows another aspect of how far the funding uncertainty extends. Authorized by the Violent Crime Control and Law Enforcement Act of 1994, COPS grants have funded the hiring of police officers and a wide range of law enforcement functions since FY1995. In FY2026, COPS funding totaled $820 million, making the program one of the largest single funding sources for local law enforcement nationwide. Yet COPS has not been reauthorized since 2005.

Unlike Byrne JAG, which continues to operate under active statutory authorization even as its funding composition shifts, COPS now exists only because Congress continues to fund it through annual appropriations acts or continuing resolutions, without any underlying statute establishing the program's basis. It is the only DOJ grantmaking program in this position. That raises the question squarely: without an underlying statutory entitlement, is all COPS funding subject to the termination provisions under §200.340? Or does an annual appropriations act satisfy the exceptions where an expired authorization does not?

OMB's proposed rule does not address these nuances and leaves gaping holes for grantees to navigate. Ironically, considering the administration's frequent statements of support for police and the DOJ's $300 million Model Cities Initiative to "supercharge" law enforcement, the new rule would place COPS funding—and the local law enforcement agencies that depend on it—in the same precarious position as discretionary grants for legal aid or violence intervention. Section 200.340 authorizes the DOJ to terminate grants under expanded criteria. DOJ may choose not to exercise that authority against COPS grantees, but the rule provides no guarantee that it will refrain from doing so.

This ambiguity creates a perverse incentive: grantees seeking insulation from termination may push harder for earmarked, congressionally directed funding, which bypasses competitive review and carries far less oversight and transparency than formula or peer-reviewed discretionary awards. Yet, as discussed above, earmarks may not even provide the protection grantees would be seeking, since an individual earmark recipient's claim to funding often rests on explanatory statement language rather than statutory text.

The trend is already moving in that direction. According to the Council on Criminal Justice, DOJ earmark funding grew to $938.4 million in FY2026—a 57 percent increase over FY2024—and roughly 70 percent of all DOJ earmarks, about $659 million, went to law enforcement or prosecution. Earmarks also carry a structural disadvantage the rule does not address: the DOJ's grantmaking components are not authorized to provide technical assistance to site-based grantees who are funded by earmarks. This leaves those grantees, some of whom are likely under-resourced, without the support that other grantees receive through the competitive grant application process.

OMB's Restrictions on Subawards Threaten the Bedrock of Criminal Justice Grantmaking

OMB's proposal also threatens one of the defining features of modern criminal justice grantmaking: the use of subawards to deliver federal resources to the organizations best positioned to improve public safety. Across evidence-backed public safety initiatives like community violence intervention, youth justice, victim services, behavioral health, and others, primary grantees routinely partner with local organizations that possess the relationships, expertise, and local trust necessary to implement programs effectively. These community-based organizations are often small, rural, understaffed, or otherwise face barriers in applying for and administering federal grants. The subaward model exists precisely to bridge that gap: it allows larger organizations to secure federal grants, provide technical assistance, ensure compliance, and channel resources to the local partners best equipped to do the work.

OMB's proposal would instead treat subawards as a source of heightened risk. Under §§ 200.329(h) and 200.332(g), federal agencies must require primary grantees to more rigorously monitor, classify, and report on each subaward and each subrecipient's performance, with reporting failures potentially serving as a basis for award termination. Section 200.332(i) goes even further, requiring primary grantees to ensure that subrecipients do not "take actions that could significantly damage the reputation" of the primary grantee, the awarding agency, or the federal government. As previously discussed, OMB provides no definition of the operative terms. Primary grantees are therefore expected to police an undefined standard carrying potentially severe consequences for both themselves and their subrecipients.

Last year's OJP cuts illustrate the stakes: nearly two-thirds of organizations that lost funding were *subgrantees*. OMB's proposal would reinforce that pattern by increasing compliance burdens while creating new opportunities to terminate awards based on vague and subjective standards.

The Justice Reinvestment Initiative (JRI) demonstrates why these changes matter. For more than a decade, JRI has helped states across the political spectrum reduce incarceration while maintaining public safety through data-driven policy reforms. Between 2008 and 2023, JRI states experienced a 38 percent decline in crime while generating more than $3.2 billion in taxpayer savings. Last year, however, OJP terminated nearly $92 million in grants supporting JRI and related technical assistance providers, including organizations responsible for passing federal resources and expertise to state and local partners implementing these reforms. Those providers were not peripheral to JRI—they were the mechanism through which states received technical assistance, analytical support, and implementation guidance. Weakening the subaward system therefore does more than merely burden intermediaries; it disrupts the delivery of evidence-based public safety investments to the communities they are intended to serve.

Conclusion

OMB's proposal would fundamentally alter the federal criminal justice grantmaking system without demonstrating that such sweeping changes are necessary to advance safety and justice. Rather than promoting accountability, the rule injects broad political discretion into grantmaking through vague standards that give grantees little notice of what conduct is prohibited or what protections remain once an award is made. It also creates substantial uncertainty regarding the security of congressionally funded grant programs, including some of the DOJ's most long-standing public safety investments like Byrne JAG and COPS. Finally, by imposing new burdens and liabilities on subawards, it threatens the partnerships that allow federal funding to reach the community-based organizations, state and local governments, and technical assistance providers responsible for implementing evidence-based public safety strategies.

Grantees receiving federal criminal justice funds succeed because of on-the-ground community leadership, stable partnerships, and expert guidance from technical assistance partners and awarding agencies, including the DOJ. OMB's proposal undermines each of those pillars. OMB should withdraw the proposed rule and preserve a grantmaking system that is transparent, predictable, and focused on advancing the infrastructure for effective public safety solutions rather than creating uncertainty for the organizations entrusted to deliver it.

For further questions, please contact Sam Feineh, senior advocacy strategist, at sfeineh@vera.org.

Respectfully,

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