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STATE CRIMINAL ALIEN ASSISTANCE PROGRAM

REQUESTED ACTION: Congress should significantly increase funding for the State Criminal Alien Assistance Program (SCAAP), as well as address several key SCAAP-related issues, which are identified below.

BACKGROUND AND NEED FOR INCREASED FUNDING: The SCAAP program partially reimburses state and local governments that incur correctional officer salary costs for incarcerating undocumented criminals. Since 2000, the program's funding has been reduced by 70 percent - not accounting for inflation - while state and local detention costs, as well as the number of jurisdictions applying for the program, have significantly increased. All told, the State of California and its counties are estimated to incur over \$1 billion in SCAAP-eligible expenses annually; nevertheless, the total *nationwide* appropriation for SCAAP is only \$180 million.

Program Reauthorization. Although Congress has continued to provide funding for SCAAP, the program technically expired in fiscal year 2011. CSAC supports a long-term reauthorization of SCAAP at increased funding levels, consistent with pending immigration reform legislation (HR 2278 / S 744).

"Unknown" Inmates. In fiscal year 2012, the Bureau of Justice Assistance (BJA) attempted to discontinue its policy of reimbursing jurisdictions for the costs of incarcerating offenders of "unknown" immigration status. If implemented, California counties would have seen a dramatic drop in SCAAP payments. While BJA ultimately agreed to shelve the ill-advised change, the agency could reissue it in 2014. CSAC supports language in S 744 that would require DOJ to fully compensate jurisdictions for incarcerating inmates whose immigration status is "unknown."

Reimbursement Criteria Change. Current law limits SCAAP reimbursement to those cases in which an undocumented inmate is *convicted* of a felony or two or more misdemeanors. S 744 and HR 2278 would require jurisdictions to be reimbursed for the costs of detaining inmates who are *charged with* such crimes. This commonsense change would correct a long-standing flaw in federal statute that disadvantages county governments, which incur considerable costs housing pretrial offenders who may not ultimately be convicted of the crimes for which they are charged.

Transfer of SCAAP Program. CSAC believes that it may be advantageous for the Department of Homeland Security (DHS) to assume full responsibility for management of the SCAAP program, as provided for under HR 2278. Because recent trends in federal spending show that Congress has provided increased investment for various DHS-related functions, SCAAP could receive a more favorable appropriation if the program is funded under the DHS spending bill.

DOJ Reprogramming Authority. During the last two fiscal years, DOJ has utilized statutory discretion to transfer 10 percent of SCAAP funds - the maximum amount allowable - to other justice activities. This reprogramming, which has slashed the amount of SCAAP funds available to jurisdictions by roughly \$48 million, should be eliminated or significantly limited.

Potential Rescission of SCAAP Funds. The fiscal year 2014 omnibus spending bill would allow DOJ to rescind \$59 million in unobligated funds at the conclusion of the current fiscal year. Because there is precedent for DOJ to obligate SCAAP funds after October 1, SCAAP would be vulnerable to such a rescission. DOJ should be urged to obligate SCAAP funds in a timely fashion.

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