

110th CONGRESS
1st Session
H. R. 253

To increase the evidentiary standard required to convict a person for a drug offense, to require screening of law enforcement officers or others acting under color of law participating in drug task forces, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES
January 5, 2007

Ms. JACKSON-LEE of Texas introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To increase the evidentiary standard required to convict a person for a drug offense, to require screening of law enforcement officers or others acting under color of law participating in drug task forces, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'No More Tulias: Drug Law Enforcement Evidentiary Standards Improvement Act of 2007'.

SEC. 2. FINDINGS; SENSE OF CONGRESS.

(a) Findings- Congress finds the following:

(1) In recent years it has become clear that programs funded by the Edward Byrne Memorial Justice Assistance Grant program (referred to in this Act as the 'Byrne grants program') have perpetuated racial disparities, corruption in law enforcement, and the commission of civil rights abuses across the country. This is especially the case when it comes to the program's funding of hundreds of regional antidrug task forces because the grants for these antidrug task forces have been dispensed to State governments with very little Federal oversight and have been prone to misuse and corruption.

(2) Numerous Government Accountability Office reports have found that the Department of Justice has inadequately monitored grants provided under the Byrne grants program. A 2001 General Accounting Office report found that one-third of the grants did not contain required monitoring plans. Seventy percent of files on such grants did not contain required progress reports. Forty-

one percent of such files did not contain financial reports covering the full grant period. A 2002 report by the Heritage Foundation reported that 'there is virtually no evidence' that the Byrne grants program has been successful in reducing crime and that the program lacks 'adequate measures of performance'.

(3) A 2002 report by the American Civil Liberties Union of Texas identified 17 recent scandals involving antidrug task forces in Texas that receive funds under the Byrne grants program. Such scandals include cases of the falsification of government records, witness tampering, fabricating evidence, false imprisonment, stealing drugs from evidence lockers, selling drugs to children, large-scale racial profiling, sexual harassment, and other abuses of official capacity. Recent scandals in other States include the misuse of millions of dollars in Byrne grants program money in Kentucky and Massachusetts, wrongful convictions based on police perjury in Missouri, and negotiations with drug offenders to drop or lower their charges in exchange for money or vehicles in Alabama, Arkansas, Georgia, Massachusetts, New York, Ohio, and Wisconsin.

(4) The most well-known Byrne-funded task force scandal occurred in Tulia, Texas, where dozens of African American residents (totaling over 16 percent of the town's African American population) were arrested, prosecuted, and sentenced to decades in prison, based solely on the uncorroborated testimony of one undercover officer whose background included past allegations of misconduct, sexual harassment, unpaid debts, and habitual use of a racial epithet. The undercover officer was allowed to work alone, and not required to provide audiotapes, video surveillance, or eyewitnesses to corroborate his allegations. Despite the lack of physical evidence or corroboration, the charges were vigorously prosecuted. After the first few trials resulted in convictions and lengthy sentences, many defendants accepted plea bargains. Suspicions regarding the legitimacy of the charges eventually arose after two of the accused defendants were able to produce convincing alibi evidence to prove that they were out of State or at work at the time of the alleged drug purchases. Texas Governor Rick Perry eventually pardoned the Tulia defendants (after four years of imprisonment), but these kinds of scandals continue to plague Byrne grant program spending.

(5) A case arose in a Federal court in Waco, Texas concerning the wrongful arrests of 28 African Americans out of 4,500 other residents of Hearne, Texas. In November 2000 these individuals were arrested on charges of possession or distribution of crack cocaine, and they subsequently filed a case against the county government. On May 11, 2005, a magistrate judge found sufficient evidence that a Byrne-funded anti-drug task force had routinely targeted African Americans to hold the county liable for the harm suffered by the plaintiffs. Plaintiffs in that lawsuit alleged that for the past 15 years, based on the uncorroborated tales of informants, task force members annually raided the African American community in eastern Hearne to arrest the residents identified by the confidential informants, resulting in the arrest and prosecution of innocent citizens without cause. On the eve of trial the counties involved in the Hearne task force scandal settled the case, agreeing to pay financial damages to the plaintiffs.

(6) Scandals related to the Byrne grants program have grown so prolific that the Texas legislature has passed several reforms in response to them, including outlawing racial profiling and changing Texas law to prohibit drug offense convictions based solely on the word of an undercover informant. The Criminal Jurisprudence Committee of the Texas House of Representatives issued a report in 2004 recommending that all of the State's federally funded antidrug task forces be abolished because they are inherently prone to corruption. The Committee reported, 'Continuing to sanction task force operations as stand-alone law enforcement entities--with widespread authority to operate at will across multiple jurisdictional lines--should not continue. The current approach violates practically every sound principle of police oversight and accountability applicable to narcotics interdiction.' The Texas legislature passed a law that ends the ability of a narcotics task force to operate as an entity with no clear accountability. The legislation transfers authority for multicounty drug task forces to the Department of Public Safety and channels one-quarter of asset forfeiture proceeds received by the task forces to a special fund to support drug abuse prevention programs, drug treatment, and other programs designed to reduce drug use in the county where the assets are seized.

(7) Texas's 'corroboration' law was passed thanks to a coalition of Christian conservatives and civil rights activists. As one Texas preacher related, requiring corroboration 'puts a protective hedge around the ninth commandment, 'You shall not bear false witness against your neighbor.' As long as people bear false witness against their neighbors, this Biblical law will not be outdated.'

(8) During floor debate, conservative Texas legislators pointed out that Mosaic law requires corroboration: 'One witness shall not rise up against a man for any iniquity, or for any sin, in any sin that he sinneth: at the mouth of two witnesses, or at the mouth of three witnesses, shall the matter be established.' Deuteronomy 19:15. Jesus concurred with the corroboration rule: 'If thy brother shall trespass against thee, go and tell him his fault between thee and him alone. . . . But if he will not hear thee, then take with thee one or two more, that in the mouth of two or three witnesses every word may be established.' Matthew 18:15-16.

(9) Texas's 'corroboration' law had an immediate positive impact. Once prosecutors needed more than just the word of one person to convict someone of a drug offense they began scrutinizing law enforcement tactics. This new scrutiny led to the uncovering of massive corruption and civil rights abuse by the Dallas police force. In what became known nationally as the 'Sheetrock' scandal, Dallas police officers and undercover informants were found to have set up dozens of innocent people, mostly Mexican immigrants, by planting fake drugs on them consisting of chalk-like material used in Sheetrock and other brands of wallboard. The revelations led to the dismissal of over 40 cases (although some of those arrested were already deported). In April 2005, a former Dallas narcotics detective was sentenced to five years in prison for his role in the scheme. Charges against others are pending.

(10) Many regional antidrug task forces receive up to 75 percent of their funding from the Byrne grant program. As such, the United States Government is accountable for corruption and civil rights abuses inherent in their operation.

(b) Sense of Congress- It is the sense of Congress that--

(1) grants under the Byrne grants program should be prohibited for States that do not exercise effective control over antidrug task forces;

(2) at a minimum, no State that fails to prohibit criminal convictions based solely on the testimony of a law enforcement officer or informants should receive a grant under such program; and

(3) corroborative evidence, such as video or audio tapes, drugs, and money, should always be required for such criminal convictions to be sustained.

SEC. 3. LIMITATION ON RECEIPT OF BYRNE GRANT FUNDS AND OTHER DEPARTMENT OF JUSTICE LAW ENFORCEMENT ASSISTANCE.

(a) Limitation- For any fiscal year, a State shall not receive any amount that would otherwise be allocated to that State under section 505(a) of the Omnibus Crime Control and Safe Streets Act of 1968 ([42 U.S.C. 3755\(a\)](#)), or any amount from any other law enforcement assistance program of the Department of Justice, unless the State--

(1) does not fund any antidrug task forces for that fiscal year; or

(2) has in effect throughout the State laws that ensure--

(A) a person is not convicted of a drug offense unless the fact that a drug offense was committed, and the fact that the person committed that offense, are each supported by evidence other than the eyewitness testimony of a law enforcement officer or an individual acting on behalf of a law enforcement officer; and

(B) a law enforcement officer does not participate in an antidrug task force unless the honesty and integrity of that officer is evaluated and found to be at an appropriately high level.

(b) Regulations- The Attorney General shall prescribe regulations to carry out subsection (a).

(c) Reallocation- Amounts not allocated by reason of subsection (a) shall be reallocated to States not disqualified by failure to comply with such subsection.

SEC. 4. COLLECTION OF DATA.

(a) In General- A State that receives Federal funds pursuant to eligibility under section 3(a)(2), with respect to a fiscal year, shall collect data, for the most recent year for which funds were allocated to such State, with respect to the--

- (1) racial distribution of charges made during that year;
- (2) nature of the criminal law specified in the charges made; and
- (3) city or law enforcement jurisdiction in which the charges were made.

(b) Report- As a condition of receiving Federal funds pursuant to section 3(a)(2), a State shall submit to Congress the data collected under subsection (a) by not later than the date that is 180 days prior to the date on which such funds are awarded for a fiscal year.