

109TH CONGRESS
1ST SESSION

H. R. 2620

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

MAY 25, 2005

Ms. JACKSON-LEE of Texas (for herself, Mr. CONYERS, Mr. RANGEL, Mr. TOWNS, Mr. PAYNE, Mr. WYNN, Mr. CLEAVER, Mr. RUSH, Mr. LEWIS of Georgia, Mr. DAVIS of Illinois, Ms. WOOLSEY, Mr. FATTAH, Mr. JEFFERSON, Ms. WATSON, Mr. JACKSON of Illinois, and Mr. OWENS) 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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “No More Tulias: Drug
5 Law Enforcement Evidentiary Standards Improvement
6 Act of 2005”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) In recent years it has become clear that
4 programs funded by the Edward Byrne Memorial
5 Justice Assistance Grant program (Byrne Grants)
6 have perpetuated racial disparities, corruption in law
7 enforcement, and the commission of civil rights
8 abuses across the country. This is especially the case
9 when it comes to the program's funding of hundreds
10 of regional antidrug task forces. The grants for
11 these antidrug task forces have been dispensed to
12 State governments with very little Federal oversight
13 and have been prone to misuse and corruption.

14 (2) Numerous Government Accountability Of-
15 fice reports have found that the United States Jus-
16 tice Department has inadequately monitored Byrne
17 discretionary grants. A 2001 General Accounting
18 Office report found that a third of the grants did
19 not contain required monitoring plans. 70 percent of
20 grant files did not contain required progress reports.
21 41 percent did not contain financial reports covering
22 the full grant period. A 2002 report by the Heritage
23 Foundation reported that "there is virtually no evi-
24 dence" that Byrne grants have been successful in re-
25 ducing crime and that the program lacks "adequate
26 measures of performance".

1 (3) A 2002 report by the American Civil Lib-
2 erties Union of Texas identified 17 recent scandals
3 involving Byrne-funded antidrug task forces in
4 Texas, including cases of the falsification of Govern-
5 ment records, witness tampering, fabricating evi-
6 dence, false imprisonment, stealing drugs from evi-
7 dence lockers, selling drugs to children, large-scale
8 racial profiling, sexual harassment, and other abuses
9 of official capacity. Recent scandals in other States
10 include the misuse of millions of dollars in Byrne
11 grant money in Kentucky and Massachusetts,
12 wrongful convictions based on police perjury in Mis-
13 souri, and negotiations with drug offenders to drop
14 or lower their charges in exchange for money or ve-
15 hicles in Alabama, Arkansas, Georgia, Massachu-
16 setts, New York, Ohio, and Wisconsin.

17 (4) The most well-known Byrne-funded task
18 force scandal occurred in Tulia, Texas, where dozens
19 of African American residents (totaling over 16 per-
20 cent of the town's African American population)
21 were arrested, prosecuted, and sentenced to decades
22 in prison, based solely on the uncorroborated testi-
23 mony of one undercover officer whose background
24 included past allegations of misconduct, sexual har-
25 assment, unpaid debts, and habitual use of a racial

1 epithet. The undercover officer was allowed to work
2 alone, and not required to provide audiotapes, video
3 surveillance, or eyewitnesses to corroborate his alle-
4 gations. Despite the lack of physical evidence or cor-
5 roborations, the charges were vigorously prosecuted.
6 After the first few trials resulted in convictions and
7 lengthy sentences, many defendants accepted plea
8 bargains. Suspicions regarding the legitimacy of the
9 charges eventually arose after two of the accused de-
10 fendants were able to produce convincing alibi evi-
11 dence to prove that they were out of State or at
12 work at the time of the alleged drug purchases.
13 Texas Governor Rick Perry eventually pardoned the
14 Tulia defendants (after four years of imprisonment),
15 but these kinds of scandals continue to plague Byrne
16 grant program spending.

17 (5) A case arose in a Federal court in Waco,
18 Texas concerning the wrongful arrest of 28 African
19 Americans out of 4,500 other residents of Hearne,
20 Texas. In November 2000, these individuals were ar-
21 rested on charges of possession or distribution of
22 crack cocaine, and they subsequently filed a case
23 against the county government. On May 11, 2005,
24 a magistrate judge found sufficient evidence that a
25 Byrne-funded anti-drug task force had routinely tar-

1 geted African Americans to hold the county liable
2 for the harm suffered by the plaintiffs. Plaintiffs in
3 that lawsuit alleged that for the past 15 years, based
4 on the uncorroborated tales of informants, task force
5 members annually raided the African American com-
6 munity in eastern Hearne to arrest the residents
7 identified by the confidential informants, resulting in
8 the arrest and prosecution of innocent citizens with-
9 out cause. On the eve of trial the counties involved
10 in the Hearne task force scandal settled the case,
11 agreeing to pay financial damages to the plaintiffs.

12 (6) Byrne grant-related scandals have grown so
13 prolific that the Texas legislature has passed several
14 reforms in response to them, including outlawing ra-
15 cial profiling and changing Texas law to prohibit
16 drug offense convictions based solely on the word of
17 an undercover informant. The Criminal Jurispru-
18 dence Committee of the Texas House of Representa-
19 tives issued a report in 2004 recommending that all
20 of the State’s federally funded antidrug task forces
21 be abolished because they are inherently prone to
22 corruption. The Committee reported, “Continuing to
23 sanction task force operations as stand-alone law en-
24 forcement entities—with widespread authority to op-
25 erate at will across multiple jurisdictional lines—

1 should not continue. The current approach violates
2 practically every sound principle of police oversight
3 and accountability applicable to narcotics interdiction.” Most recently the Texas legislature passed a
4 law that ends the ability of a narcotics task force to
5 operate as an entity with no clear accountability.
6 The legislation transfers authority for multicounty
7 drug task forces to the Department of Public Safety
8 and channels one-quarter of asset forfeiture proceeds
9 received by the task forces to a special fund to sup-
10 port drug abuse prevention programs, drug treat-
11 ment and other programs designed to reduce drug
12 use in the county where the assets are seized.

14 (7) Texas’s “corroboration” law was passed
15 thanks to a coalition of Christian conservatives and
16 civil rights activists. As one Texas preacher related,
17 requiring corroboration “puts a protective hedge
18 around the ninth commandment, ‘You shall not bear
19 false witness against your neighbor.’ As long as peo-
20 ple bear false witness against their neighbors, this
21 Biblical law will not be outdated.”

22 (8) During floor debate, conservative Texas leg-
23 islators pointed out that Mosaic law requires cor-
24 roboration: “One witness shall not rise up against a
25 man for any iniquity, or for any sin, in any sin that

1 he sinneth: at the mouth of two witnesses, or at the
2 mouth of three witnesses, shall the matter be estab-
3 lished.” Deuteronomy 19:15. Jesus concurred with
4 the corroboration rule: “If thy brother shall trespass
5 against thee, go and tell him his fault between thee
6 and him alone. . . . But if he will not hear thee, then
7 take with thee one or two more, that in the mouth
8 of two or three witnesses every word may be estab-
9 lished.” Matthew 18:15–16.

10 (9) Texas’s “corroboration” law had an imme-
11 diate positive impact. Once prosecutors needed more
12 than just the word of one person to convict someone
13 of a drug offense they began scrutinizing law en-
14 forcement tactics. This new scrutiny led to the un-
15 covering of massive corruption and civil rights abuse
16 by the Dallas police force. In what became known
17 nationally as the “Sheetrock” scandal, Dallas police
18 officers and undercover informants were found to
19 have set up dozens of innocent people, mostly Mexi-
20 can immigrants, by planting fake drugs on them
21 consisting of chalk-like material used in Sheetrock
22 and other brands of wallboard. The revelations led
23 to the dismissal of over 40 cases (although some of
24 those arrested were already deported). In April
25 2005, a former Dallas narcotics detective was sen-

1 tenced to 5 years in prison for his role in the
2 scheme. Charges against others are pending.

3 (10) Many regional antidrug task forces receive
4 up to 75 percent of their funding from the Byrne
5 grant program. As such, the United States Govern-
6 ment is accountable for corruption and civil rights
7 abuses inherent in their operation. It is the sense of
8 Congress that Byrne grants should be prohibited for
9 States that do not exercise effective control over
10 these task forces. At a bare minimum, no State that
11 fails to prohibit criminal convictions based solely on
12 the testimony of a law enforcement officer or in-
13 formants should receive a Byrne grant. Corroborative
14 evidence (video or audio tape, drugs, and money,
15 etc.) should always be required for such convictions
16 to be sustained.

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

20 (a) **LIMITATION.**—For any fiscal year, a State shall
21 not receive any amount that would otherwise be allocated
22 to that State under section 506 of the Omnibus Crime
23 Control and Safe Streets Act of 1968 (42 U.S.C. 3756),
24 or any amount from any other law enforcement assistance
25 program of the Department of Justice, unless the State—

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

3 (2) has in effect throughout the State laws that
4 ensure—

5 (A) a person is not convicted of a drug of-
6 fense unless the fact that a drug offense was
7 committed, and the fact that the person com-
8 mitted that offense, are each supported by evi-
9 dence other than the eyewitness testimony of a
10 law enforcement officer or individuals acting on
11 behalf of law enforcement officers; and

12 (B) a law enforcement officer does not par-
13 ticipate in a drug task force unless the honesty
14 and integrity of that officer is evaluated and
15 found to be at an appropriately high level.

16 (b) REGULATIONS.—The Attorney General shall pre-
17 scribe regulations to carry out subsection (a).

18 (c) REALLOCATION.—Amounts not allocated by rea-
19 son of subsection (a) shall be reallocated to States not dis-
20 qualified by failure to comply with subsection (a).

21 **SEC. 4. COLLECTION OF DATA.**

22 (a) IN GENERAL.—A State recipient of funds under
23 section 3(a)(2) shall collect data, for the last year funds
24 were allocated, as to the—

1 (1) racial distribution of charges made during
2 that year;

3 (2) nature of the criminal law specified in the
4 charges made; and

5 (3) city or law enforcement jurisdiction in
6 which the charge was made.

7 (b) REPORT.—The data collected under subsection
8 (a) shall be reported to Congress within 180 days prior
9 to the award of funds for each fiscal year of eligibility to
10 receive grants.

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