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(Original Signature of Member)

109TH CONGRESS
1ST SESSION

H. R. _____

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

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

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,*



1 **SECTION 1. SHORT TITLE.**

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

5 **SEC. 2. FINDINGS.**

6 Congress finds the following:

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

18 (2) Numerous General Accounting Office re-
19 ports have found that the United States Justice De-
20 partment has inadequately monitored Byrne discre-
21 tionary grants. A 2001 General Accounting Office
22 report found that a third of the grants did not con-
23 tain required monitoring plans. 70 percent of grant
24 files did not contain required progress reports. 41
25 percent did not contain financial reports covering
26 the full grant period. A 2002 report by the Heritage



1 Foundation reported that “there is virtually no evi-
2 dence” that Byrne grants have been successful in re-
3 ducing crime and that the program lacks “adequate
4 measures of performance”.

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

21 (4) The most well-known Byrne-funded task
22 force scandal occurred in Tulia, Texas, where dozens
23 of African American residents (totaling over 16 per-
24 cent of the town’s African American population)
25 were arrested, prosecuted, and sentenced to decades



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

21 (5) A case arose in a Federal court in Waco,
22 Texas concerning the wrongful arrest of 28 African
23 Americans out of 4,500 other residents of Hearne,
24 Texas. In November 2000, these individuals were ar-
25 rested on charges of possession or distribution of



1 crack cocaine, and they subsequently filed a case
2 against the county government. On May 11, 2005,
3 a magistrate judge found sufficient evidence that a
4 Byrne-funded anti-drug task force had routinely tar-
5 geted African Americans to hold the county liable
6 for the harm suffered by the plaintiffs. Plaintiffs in
7 that lawsuit alleged that for the past 15 years, based
8 on the uncorroborated tales of informants, task force
9 members annually raided the African American com-
10 munity in eastern Hearne to arrest the residents
11 identified by the confidential informants, resulting in
12 the arrest and prosecution of innocent citizens with-
13 out cause. On the eve of trial the counties involved
14 in the Hearne task force scandal settled the case,
15 agreeing to pay financial damages to the plaintiffs.

16 (6) Byrne grant-related scandals have grown so
17 prolific that the Texas legislature has passed several
18 reforms in response to them, including outlawing ra-
19 cial profiling and changing Texas law to prohibit
20 drug offense convictions based solely on the word of
21 an undercover informant. The Criminal Jurispru-
22 dence Committee of the Texas House of Representa-
23 tives issued a report in 2004 recommending that all
24 of the State's federally funded antidrug task forces
25 be abolished because they are inherently prone to



1 corruption. The Committee reported, “Continuing to
2 sanction task force operations as stand-alone law en-
3 forcement entities—with widespread authority to op-
4 erate at will across multiple jurisdictional lines—
5 should not continue. The current approach violates
6 practically every sound principle of police oversight
7 and accountability applicable to narcotics interdic-
8 tion.”. Most recently the Texas legislature passed a
9 law that ends the ability of a narcotics task force to
10 operate as an entity with no clear accountability.
11 The legislation transfers authority for multicounty
12 drug task forces to the Department of Public Safety
13 and channels one-quarter of asset forfeiture proceeds
14 received by the task forces to a special fund to sup-
15 port drug abuse prevention programs, drug treat-
16 ment and other programs designed to reduce drug
17 use in the county where the assets are seized.

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



1 (8) During floor debate, conservative Texas leg-
2 islators pointed out that Mosaic law requires cor-
3 roboration: “One witness shall not rise up against a
4 man for any iniquity, or for any sin, in any sin that
5 he sinneth: at the mouth of two witnesses, or at the
6 mouth of three witnesses, shall the matter be estab-
7 lished.” Deuteronomy 19:15. Jesus concurred with
8 the corroboration rule: “If thy brother shall trespass
9 against thee, go and tell him his fault between thee
10 and him alone . . . But if he will not hear thee, then
11 take with thee one or two more, that in the mouth
12 of two or three witnesses every word may be estab-
13 lished.” Matthew 18:15–16.

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



1 and other brands of wallboard. The revelations led
2 to the dismissal of over 40 cases (although some of
3 those arrested were already deported). In April
4 2005, a former Dallas narcotics detective was sen-
5 tenced to 5 years in prison for his role in the
6 scheme. Charges against others are pending.

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

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

24 (a) **LIMITATION.**—For any fiscal year, a State shall
25 not receive any amount that would otherwise be allocated



1 to that State under section 506 of the Omnibus Crime
2 Control and Safe Streets Act of 1968 (42 U.S.C. 3756),
3 or any amount from any other law enforcement assistance
4 program of the Department of Justice, unless the State—

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

7 (2) has in effect throughout the State laws that
8 ensure—

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

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

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

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



1 **SEC. 4. COLLECTION OF DATA.**

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

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

7 (2) nature of the criminal law specified in the
8 charges made; and

9 (3) city or law enforcement jurisdiction in
10 which the charge was made.

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

