

April 5, 2005

Dear Members of Congress:

The undersigned groups urge you to reform the Byrne Justice Assistance Grant (JAG) program, which is doing more harm than good by perpetuating racial disparities, police corruption, over-incarceration and civil rights abuses. This is especially the case when it comes to the program's funding of hundreds of regional anti-drug task forces across the country. These task forces, which lack very little state or federal oversight and are prone to corruption, are at the center of some of our country's most horrific law enforcement scandals.

The most well-known Byrne-funded scandal occurred in Tulia, Texas where dozens of African American residents (representing 16 percent of the town's black population) were arrested, prosecuted and sentenced to decades in prison, even though the only evidence against them was the uncorroborated testimony of one white undercover officer with a history of lying and racism. The undercover officer worked alone, and had no audiotapes, video surveillance, or eyewitnesses to collaborate his allegations. Suspicions eventually arose after two of the accused defendants were able to produce firm evidence showing they were out of state or at work at the time of the alleged drug buys. Texas Governor Rick Perry eventually pardoned the Tulia defendants (after four years of imprisonment), but these kinds of scandals continue to plague the Byrne grant program.

These scandals are not the result of a few "bad apples" in law enforcement; they are the result of a fundamentally flawed bureaucracy that is prone to corruption by its very structure. Byrne-funded regional anti-drug task forces are federally funded, state managed, and locally staffed, which means they do not really have to answer to anyone. In fact, their ability to perpetuate themselves through asset forfeiture and federal funding makes them unaccountable to local taxpayers and governing bodies.

The Criminal Jurisprudence Committee of the Texas House of Representatives is one of the few governing bodies to examine Byrne-funded task forces and why they are so engulfed in scandals. After comprehensive hearings last year, the Committee recommended abolishing the state's federally-funded regional anti-drug task forces 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."

A 2002 report by the ACLU of Texas identified seventeen scandals involving Byrne-funded anti-drug task forces in Texas, including cases of falsifying government records, witness tampering, fabricating evidence, stealing drugs from evidence lockers, selling drugs to children, large-scale racial profiling, sexual harassment, and other abuses of official capacity. Byrne-related scandals have grown so prolific that the Republican-led Texas legislature recently passed several reforms in response to them, including outlawing racial profiling and changing Texas law to prohibit people from being convicted of drug offenses based solely on the word of an undercover informant.

Texas is not the only state suffering from Byrne-funded law enforcement scandals. Recent scandals in other states include the misuse of millions of dollars in federal grant money in Kentucky and Massachusetts, false convictions based on police perjury in Missouri, and making deals 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. A 2001 study by the Government Accountability Office found that the federal government fails to adequately monitor the grant program and hold grantees accountable.

Congress needs to overhaul the Byrne Justice Assistance Grant program. While there are a number of reforms that should be considered, three stand out:

- Require law enforcement agencies receiving federal funding to enforce a ban on racial profiling and document their traffic stops, arrests, and searches by race, ethnicity, and gender.
- Mandate that federal funding can only be used for anti-drug activity if a state adopts legislation preventing people from being convicted of drug offenses based solely on the word of another individual without any collaborating evidence.
- Condition federal funding on establishment of statewide indigent defense systems, or require that a percentage of the federal grant go toward indigent defense programs.

These sensible reforms would go a long way towards improving the program. If steps are not taken to reduce corruption and protect civil rights, we urge you to re-consider funding the Byrne Justice Assistance Grant program.

ACLU

ACLU Drug Law Reform Project

Brennan Center for Justice

DC Prisoners' Legal Service Project

Drug Policy Alliance Network

Justice Policy Institute

Inter-Faith Drug Policy Initiative

Law Enforcement Against Prohibition

League of United Latin American Citizens (LULAC)

MASS, Inc.

National Black Police Association

Open Society Policy Center

Penal Reform International

Prisons Foundation

Rebecca Project

Re-Entry Solutions