



The Florida Senate

Interim Project Summary 2000-27

November 1999

Committee on Criminal Justice

Senator Ginny Brown-Waite, Chairman

MONEY LAUNDERING IN FLORIDA: REPORT OF THE LEGISLATIVE TASK FORCE

SUMMARY

The Legislative Task Force on Illicit Money Laundering was a joint legislative task force created to study and recommend ways to enhance Florida's strategy in combating money laundering. During the 1999 Interim, the Task Force heard considerable testimony on the extent of the problem and proposed solutions. The Task Force made 36 recommendations described below.

For an extended discussion of the Task Force findings and recommendations, refer to the full report, entitled: *Money Laundering in Florida: Report of the Legislative Task Force* on file with the Senate Criminal Justice Committee or available on the Internet at www.leg.state.fl.us/drugsummit.

BACKGROUND

The illicit drug trade relies heavily on money laundering because it is almost exclusively a cash business. Drug interdiction, while an essential component of attacking the illicit drug trade cannot, standing alone, reverse the tide of illicit drugs. Combating money laundering, combined with strong interdiction efforts, offers a more effective law enforcement response.

The Senate President and House Speaker created the Legislative Task Force on Illicit Money Laundering to study and recommend ways to enhance our strategy in combating the drug problem.

The President and Speaker appointed the Task Force members on March 10, 1999. Senator Ginny Brown-Waite served as the Task Force's Chairman; Representative Carlos Valdes served as its Vice-Chairman. The other Task Force members were Representative Randy Ball, Senator Locke Burt, Representative Johnnie Byrd, Representative Larry Crow, Senator Tom Rossin, and Senator Ronald Silver.

The Task Force was to develop legislative and funding recommendations to aid law enforcement in their efforts to combat money laundering. The Task Force heard extensive testimony from industry representatives, criminal justice officials and community leaders. After considerable debate and deliberation the Task Force adopted the 36 recommendations contained in this summary.

METHODOLOGY

Task Force members arrived at the findings and recommendations after considerable public testimony and deliberations.

After an organizational meeting held on April 27, 1999 in Tallahassee, the Task Force held three meetings, in the following locations:

- ▶ Miami - City Hall - July 26, 1999,
- ▶ Jacksonville - JaxPort - August 25, 1999, and
- ▶ Tampa - Tampa International Airport - September 28, 1999.

Approximately 131 industry representatives, criminal justice officials and community leaders attended these meetings.

At the Miami meeting, law enforcement officials and prosecutors provided the Task Force a basic introduction to money laundering and its prosecution, and also introduced legislative proposals for more effective enforcement and prosecution of money laundering cases.

At the Jacksonville meeting, law enforcement, seaport and airport officials presented testimony on the currency smuggling problem, as well as security and counter-smuggling measures. Also, interested parties presented proposals relating to transportation and distribution issues.

At the Tampa meeting, interested parties presented testimony on the money laundering reporting and registration requirements for financial institutions and other businesses. An official from the Comptroller's Office presented proposals to amend Florida's money laundering laws. Task Force members and interested parties discussed these and other previously introduced proposals.

The final three Task Force meetings took place in Tallahassee on October 4, October 23, and November 1, 1999. At the October meetings, Task Force members discussed and approved the proposals which led to the recommendations contained in this report. At the November 1 meeting, the Task Force reviewed and approved a working draft of the full report, entitled: *Money Laundering in Florida: Report of the Legislative Task Force*.

FINDINGS

Law Enforcement and Prosecution. The Task Force recommendations reflect its findings that law enforcement and prosecutors should be provided more tools to investigate and successfully prosecute money launderers. The Task Force found that convicted money launderers rarely receive state prison sentences and prosecutors believe that this was a result of the existing sentencing scheme. In response, the Task Force recommended substantially increasing and graduating penalties to correspond to the amount of money laundered to ensure that high level money launderers are given the harshest penalties.

Transportation and Distribution. In exploring transportation and distribution issues the Task Force discovered that Florida's large, diverse and mobile population provides drug traffickers with an opportunity to transport their illicit products, while avoiding detection. Florida's drug interdiction efforts are daunting because of its highly populated roadways, seaports and airports. The Task Force members were concerned that significant security gaps exist at Florida's airports and these transportation gateways have been exploited by drug traffickers. Several recommendations, including the expanded use of canines, are aimed at securing the ports.

Recognizing manpower alone cannot do the job, the Task Force obtained expert testimony on the viability and limitations of high technology solutions. However, the Task Force agreed that detection equipment alone will not stop illicit drugs and money from flowing

through Florida. Detection equipment combined with coordinated intelligence is the most effective solution.

Financial Institutions and Related Entities. Florida's financial institutions and businesses are major conduits in money laundering operations because they provide a variety of services and products that can be used to conceal the source of illicit money. Financial entities and the self described "non-banking" community offer services and instruments (bank accounts, cashier's checks, traveler's checks, wire transfers) that are utilized in laundering activities. Likewise, merchants and retailers sell products used as vehicles for money laundering.

The Task Force heard considerable testimony from state regulators, including banking, revenue, insurance, and real estate representatives, about their respective efforts to combat money laundering through their regulatory role of overseeing the state's financial and business community. The Task Force found that financial transaction reports are critical tools which create a valuable "paper trail" for investigators to follow and emphasized that regulators must work together with law enforcement and the Financial Crimes Enforcement Network (FinCEN) to improve communication and to share financial data with each other. Moreover, the Department of Revenue should educate the business community on their duty to file such financial reports. The Task Force recommended the creation of a centralized database containing information gleaned from the financial transaction reports. This will allow sophisticated analyses to be performed. Additionally, the Task Force recommended changes to several provisions of the Money Transmitter's Code to provide a stronger regulatory framework.

Persons representing financial entities and retail merchant groups represented to the Task Force their efforts to comply with both federal and state currency reporting requirements and money laundering laws. These groups expressed an overarching concern about several proposals presented to the Task Force and their potential for negatively impacting Florida's legitimate businesses. Task Force members agreed with these concerns and sought to strike a balance between the interests of regulators, law enforcement officials and the legitimate concerns of the business community.

For an extended discussion of the findings, refer to the full report, entitled: *Money Laundering in Florida: Report of the Legislative Task Force*.

RECOMMENDATIONS

During the course of its work, the Task Force received and analyzed over 50 proposals for recommendations from interested parties and the public. After considerable debate and deliberation the Task Force adopted the 36 recommendations contained below.

For an extended discussion of these recommendations, refer to the full report, entitled: *Money Laundering in Florida: Report of the Legislative Task Force*.

Recommendation # 1

The Legislature should provide a uniform sentencing scheme by adopting graduated penalties for section 896.101, F.S., based upon the amount of the transaction involved in the money laundering.

The Legislature should rank these felony violations in levels 7-9 under the sentencing code based upon their felony degree and thereby significantly increasing the penalties for convicted money launderers.

Recommendation # 2

The Legislature should create a new third degree felony offense of unlawful structuring of financial transactions to avoid reporting requirements under chapter 896, F.S.

Recommendation # 3

The Legislature should expand the definition of “drug paraphernalia” in chapter 893, F.S., to include hidden compartments in vehicles.

Recommendation # 4

The Legislature should statutorily provide an affirmative burden of reasonable inquiry on persons in situations involving suspicious transactions or transportation (knew or should have known in certain circumstances).

Recommendation # 5

The Legislature should add felony violations of chapter 560, F.S., to the list of predicate offenses under the RICO statute.

Recommendation # 6

The Legislature should criminalize certain violations of chapter 560, F.S., which are not classified as such or which do not carry any type of criminal penalty.

Recommendation # 7

The Office of Drug Control and the Statewide Drug Policy Advisory Council should research the possibility of a HIFCA designation in Florida.

Recommendation # 8

The Legislature should establish minimum standards for seaport and airport security.

Recommendation # 9

The Legislature should designate a state agency to be responsible for seaport and airport security.

Recommendation # 10

The Legislature should authorize the Department of Transportation to establish a trust fund and receive forfeiture funds.

Recommendations # 11 - 14

The Legislature should amend the Money Transmitters’ Code (chapter 560, F.S.) to:

- ▶ allow the Department of Banking and Finance to bring enforcement actions against code violators without providing advance written notice, except in limited circumstances.
- ▶ authorize the Department of Banking and Finance to conduct an examination of a money transmitter without providing advance notice if the department suspects that the transmitter has violated the code, criminal laws of this state, or engaged in unsound practices.
- ▶ repeal the public records and public meetings exemptions to open pleadings and hearings of code violators to the public, except in certain situations.
- ▶ require records be audited by an independent third party or by a certified public accountant, with specific exceptions for payment instrument sellers.

Recommendation # 15

The Legislature should authorize the Florida Department of Law Enforcement to assume responsibility for a centralized “financial transaction reports” database. The requirement that trades and businesses file Form 8300 with the Department of Revenue should remain law and the department should educate the trade and business community on this filing requirement. Additionally, current law should be amended to require that the Form 8300 be filed with

the Department of Revenue within 15 days after the transaction occurs.

Recommendation # 16

The Legislature should statutorily authorize prosecutors to seek a temporary injunction to “freeze” bank accounts of suspected money launderers for 10 days, providing certain conditions are met to protect innocent persons.

Recommendation # 17

The Legislature should provide statutory authority for law enforcement to obtain a seizure warrant in money laundering cases.

Recommendation # 18

The Legislature should statutorily authorize “rewards” to informants who provide information leading to recovery of fines, penalties and forfeitures involving money laundering.

Recommendation # 19

The Legislature should amend section 896.101, F.S., to define “transaction” and “financial transaction” to include using safe deposit boxes and transferring title to any real property or vehicle.

Recommendation # 20

The Legislature should abolish the “corpus delicti rule” for violations of chapter 896, sections 560.123, 560.125 and 655.50, F.S., so a confession or admission against interest may be introduced into evidence without first establishing that substantial evidence exists, independent of the confession or admission, that a crime was committed.

Recommendation # 21

The Legislature should codify the “fugitive disentitlement” doctrine to prevent fugitives from challenging money laundering forfeitures.

Recommendation # 22

The Legislature should add avoidance of money transmitters’ registration requirements to the activity that is prohibited in section 896.101, F.S.

Recommendation # 23

The Legislature should create a statutory inference of a person’s knowledge of reporting and registration requirements by proof that someone engaged in the business of money transmitting and for monetary consideration, transported over \$10,000 in currency.

Recommendation # 24

The Legislature should statutorily preclude the use of certain defenses in a money laundering prosecution.

Recommendation # 25

The Legislature should amend chapter 560, F.S., to remove the requirement that the Department of Banking and Finance prove willfulness and knowledge on the part of a code violator. The Legislature should further authorize additional disciplinary penalties.

Recommendation # 26

The Legislature should create a public records exemption for seaport security plans.

Recommendation # 27

The Legislature should clarify that an “authorized vendor” must have his or her own place of business within Florida and not merely be acting as an agent for a registrant.

Recommendation # 28

The Legislature should clarify that compliance with registration requirements is required for any money transmitting activity in this state, even if the actual business is located outside of Florida.

Recommendation # 29

The Legislature should statutorily clarify that specified undercover law enforcement activity is authorized in connection with legitimate money laundering investigations.

Recommendation # 30

The Legislature should authorize the Department of Banking and Finance to conduct extensive background investigations and require the filing of fingerprints under the Money Transmitters’ Code. Furthermore, the department should be given authority to deny a renewal license for the same reasons it can deny an initial license application.

Recommendation # 31

The Florida Congressional Delegation should work to increase the number of Customs agents and canine units at Florida’s airports and seaports.

Recommendation # 32

The Florida Congressional Delegation should support efforts to secure a Northeast Florida High Intensity Drug Trafficking Area (HIDTA) designation.

Recommendation # 33

The Florida Congressional Delegation should make the IRS Form 8300 more accessible to state and local law enforcement agencies.

Recommendation # 34

The Florida Congressional Delegation should work to increase funding for the National Guard’s drug interdiction efforts at Florida’s seaports.

Recommendation # 35

The Florida Congressional Delegation should work to ensure that the FAA’s review of airport security programs evaluates measures to detect the transportation of illegal drugs.

Recommendation # 36

The Florida Congressional Delegation should work to ensure Miami is selected for a Geographical Targeting Order, provided sufficient federal resources are made available.

COMMITTEE(S) INVOLVED IN REPORT *(Contact first committee for more information.)*

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Committee on Judiciary
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MEMBER OVERSIGHT

Senator Brown-Waite (Task Force Chairman), Senators Burt, Rossin, Silver (Task Force Members)