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Position Paper

PROPOSAL:

The Director of the Office of National Drug Control Policy (ONDCP) recommends reducing the High Intensity Drug Trafficking Area (HIDTA) Program's funding from \$227 million to \$100 million and transferring the program from the ONDCP to the Department of Justice (DOJ) under the Organized Crime Drug Enforcement Task Force (OCDETF) program.

ISSUES:

- The HIDTA program is a demonstrably effective program and cannot accomplish its mission and objectives with a 56% budget reduction.
- HIDTA cannot remain effective under the auspices of the Department of Justice and should remain at ONDCP's Bureau of State and Local Affairs.
- Representations made supporting the proposal are misleading, incorrect and may seriously hamper accurate legislative decision making related to this proposal.

The ONDCP Director's recommendation was made without consulting the hundreds of federal, state and local law enforcement leaders making up the executive boards of the various HIDTAs. The HIDTA executive boards and directors are opposed to this recommendation because it would virtually render the program ineffective and destroy the equal partnership by giving management and control to the federal government. To infer that these cuts and movement would enhance the program is not logical. There are no specifics or data to demonstrate why this proposal is good public policy or good for drug law enforcement. One can only speculate as to why and how this recommendation came about. The HIDTA Program has shown tremendous positive results and continues to become more successful. The following is success by any measure:

- The development of innovative programs
- Centralized and coordinated intelligence centers
- Nationwide connectivity
- Training 21,893 students in 2004³
- In 2004, the disruption or dismantling of 509 international, 711 multi-state and 1,110 local drug trafficking organizations¹

These are but a few of the areas HIDTA has shown positive results and leadership in drug law enforcement.

HIDTA was designed to be a grass roots program. Its objective is to empower and facilitate local, state and federal law enforcement officials to work as a team. The success of this coordination is due to the required federal, state and local agency executive boards, initiative structure and the relationships made at the regional level. HIDTA was conceptualized as a grass roots program because of the fact that strict federal direction from Washington, D.C. often discourages and minimizes local and state participation. Centralized federal bureaucracy and agency guidelines are seldom flexible enough to be responsive to regional needs.

Proponents of this budget proposal must recognize that the drug problem is not solely national. It is a collection of interconnected, regional drug problems. HIDTA was specifically created to improve law enforcement's ability to react to these various regions. HIDTA's positive influence in those regions and capability to work inter-regionally is part of its success.

Since its inception in 1990, HIDTA programs have:

- Seized record numbers of drugs and assets gained through drug trafficking activities
- Arrested and convicted tens of thousands of criminals
- Disrupted and dismantled thousands of drug trafficking organizations (DTOs)-
- Established intelligence centers in 33 regions that are used by hundreds of agencies in and away from those regions
- Provided a level playing field and partnership for local, state and federal leaders
- Established an annual Threat Assessment procedure
- Developed strategies on a regional basis that interrupt the national flow of drugs
- Established commingled, collocated multi-agency task forces whose performance are measured and reported annually to ONDCP
- Provided in-depth annual reporting of accomplishments
- Received numerous OCDETF and ONDCP awards for investigative achievement
- Provided investigators with innovative technology, analytical support and training to support their cases
- Created a national corps of well trained local, state and federal investigators who desire to work in a cooperative environment
- Developed data and deconfliction systems to ensure officer safety, share information, track violators, analyze intelligence and provide nationwide connectivity
- Provided for unprecedented levels of interagency cooperation and collaboration

HIDTA has been and continues to be one of the most successful partnerships between federal, state and local government as well as a successful national drug enforcement program. The program is strategically placed in 28 regions throughout the nation to facilitate and coordinate the activities of drug law enforcement. The overall goal of this partnership is to reduce drug availability regionally and nationally as well as make drug law enforcement more effective and efficient. **The primary reason for the success of**

the program is that it is within ONDCP's Bureau of State and Local Affairs, a neutral entity with no enforcement arm to compete or take control. No personnel from ONDCP are members of the Executive Board. Thus, HIDTA provides for an equal partnership between federal, state and local law enforcement leaders tailored for a regional approach and goals yet tied to the national mission. The federal, state and local drug enforcement missions, although different, are intimately and directly inter-related and must be melded together in the form of collaborative, information sharing, networks and task forces. That is what HIDTA is. An effective national counter-drug strategy will not work if the federal agencies, state agencies and local agencies go their separate ways and don't leverage effort and share information. This proposal sets back fifteen years of effort to meld federal, state and local agencies into effective drug enforcement partnerships.

OCDETF AND HIDTA ARE DIFFERENT PROGRAMS WITH DIFFERENT MISSIONS AND SHOULD BE KEPT SEPARATE:

Task Forces:

OCDETF's nine regional "task forces" are non-operational, administrative bodies that are labeled task forces solely due to their varied federal participants. They do not perform any enforcement activities. All cases seeking OCDETF sanction emanate from within the member agencies, state and local agencies and/or HDTAs. None stem from an investigator assigned to an OCDETF regional task force. Their use of the term task force is non-traditional in drug law enforcement.

HIDTA funded task forces are commingled, collocated, multi-agency, operational units made up of federal, state and local officers with various missions that include, but are not limited to, money laundering, distribution, sales, interdiction, prosecution, violence, gangs and intelligence. The 355 HIDTA-funded task forces across the country involve over 12,000 personnel (2/3 of which are from state and local agencies) from:³

283 federal agency offices
327 state agencies
916 local agencies

Investigations initiated by HIDTA task forces (825 with OCDETF designation¹) represent a significant portion of OCDETF's reported achievements.

Investigative Intelligence and Support Activities:

OCDETF has no intelligence capabilities of its own nor does it provide any intelligence to law enforcement. All intelligence resides within the member's respective agency. OCDETF's support activity is that of funding. It does not provide investigative support beyond prosecution and money.

HIDTA has intelligence units that:

- Have multiple local, state and federal as well as commercial databases with pointer indices to avoid duplicative investigative effort and enhance productivity
- Provide post-seizure analysis
- Offer deconfliction of cases, subjects and operational events ensuring officer and citizen safety
- Are connected to national law enforcement cyber pipelines to ensure connectivity among HIDTAs and other law enforcement agencies
- Produce annual threat assessments and special strategic reports
- Have sub-committees and task force commanders from local, state and federal agencies to direct their activities
- Provide analytical support through all phases of an investigation
- Conduct pro-active intelligence activities to produce informants and develop cases

Funding:

The \$550 million OCDETF budget primarily funds approximately 4,000 federal personnel outside their agency’s budget. In 2004, that included personnel apportioned as follows:²

<u>Agency</u>	<u>Personnel</u>
DEA	1,270
FBI	937
U.S. Attorneys	881
IRS	471
ICE	384
ATF	54
U.S. Marshals	13

These agents and personnel are assigned to their various divisional offices carrying out their respective agency’s mission relating to drug enforcement and under the direction of the special agent in charge of that office. A small percentage of the OCDETF budget directly helps fund OCDETF-designated investigations with overtime and travel money for state and local law enforcement.

The \$227 million of HIDTA funding in twenty-eight strategic regions goes to support:³

- 355 operational task forces (65% established by HIDTA)
- 53 intelligence centers (all but one established by HIDTA)
- 4,428 federal personnel
- 8,459 state and local personnel of which 1,996 are directly funded by the HIDTA Program

By law, at least 51 percent of HIDTA funds must go to state and local agencies. The fact that funding can be distributed among local, state and federal agencies at the Executive Board's direction allows for fiscal flexibility which would be unavailable within the Department of Justice. Fiscal flexibility does not mean non-compliance with OMB regulations. To the contrary, HIDTA funds disbursed to local and state agencies have more levels of scrutiny and audit than any other program. In fact, it is easier to track HIDTA funds to local and state agencies than funds to federal participants. The flexibility mentioned refers to the ability to make a choice when contracting or making purchases by selecting the most appropriate agency and minimizing obstacles.

Structure:

OCDETF is a program for federal agencies and managed by a federal agency, Department of Justice. The majority of its funding is designated for full time federal employees distributed among participating federal agencies (see above). No funding is provided for sustained analytical/intelligence support, equipment or case development (prior to OCDETF designation). It has no operational task forces, pointer indices or intelligence capability. Non-federal agencies are not represented in their administrative task forces.

HIDTAs are governed by executive boards that contain an equal number of state/local law enforcement agency heads and federal agency administrators. These partnerships produce regional threat assessments, develop strategies to attack the threat and implement the strategies with operational task forces. They decide the level of funding for each task force and assess results annually. Task force commanders are selected from agencies participating in HIDTA and lead commingled, collocated officers and analytical personnel in their investigative effort. The task forces are continually monitored for efficiency and effectiveness by the Executive Board. Each task force and ultimately each HIDTA must report their success through OMB compatible performance measures.

Operations:

OCDETF designated investigations are submitted to OCDETF by federal, state and local agencies and/or task forces. The designation is generally for funding assistance and the assignment of prosecutors on a case by case basis. The OCDETF-funded federal positions are assigned to work within their respective federal offices throughout the United States.

OCDETF is primarily a federal funding mechanism for federal positions and also provides some support to drug law enforcement with funding for major cases. No cases start at or within an OCDETF task force. OCDETF cases generally evolve from local and regional targets and develop into OCDETF investigations.

Unlike OCDETF, **HIDTA** task forces actually develop and open cases, provide and share intelligence and informants that leads to OCDETF investigations and support for other OCDETF cases across the country. HIDTA proactively identifies, targets, investigates

and attempts to disrupt or dismantle international, multi-state and local drug trafficking organizations.

HIDTA staff is currently compiling case statistics from 2004. As of March 3, 2005, with only 70% of HIDTA's reporting, HIDTA funded task forces:

- Investigated 3,117 drug trafficking organizations. Of those, 60% or 1,881 were international or multi-state in scope
- 813 of the drug trafficking organizations were dismantled and 1,517 were disrupted
- 825 OCDETF cases were referred from HIDTA funded task forces and 230 were linked to CPOT targets

CLARIFYING ISSUES RELATED TO THE PROPOSAL:

DEA AND OCDETF SUCCESS RELATED TO CPOT

In 2004, DEA and OCDETF successfully dismantled 36 organizations linked to the consolidated priority organization targeting (CPOT) list and significantly disrupted the activities of 159 others.⁴

RESPONSE

CY2004 preliminary data from the HIDTAs concludes that the majority of the cases cited as OCDETF/CPOT were actually from HIDTA funded task forces with DEA, state and local officers working as a team.³ OCDETF does not investigate and are not involved in operations. Their function is to provide supplemental fiscal and prosecution assistance. Yet the proposal is to cut the HIDTA Program and enhance OCDETF.

HIDTA HAS FAILED WITH CPOT TARGETS

Efforts to focus HIDTAs on targeting high level organizations (DTOs) such as CPOT have failed.⁴

RESPONSE

In 2004, HIDTA targeted¹:

- 875 international DTOs
- 1,006 multi-state DTOs
- 1,236 local DTOs
- Of these targeted cases, 230 were linked to CPOT

- This represents 32% of the 730 active investigations linked to 42 targets cited by USDOJ⁴

It is an inaccurate statement that the HIDTAs failed to target high level DTOs. The real issue was how ONDCP used the supplemental funds to finance investigations linked to the CPOT list. The Director failed to consult with HIDTA leadership, ONDCP guidelines were vague, CPOT lists were difficult to obtain, funding was rarely needed to pursue CPOT cases, and when it was needed for cases, it took over six months to receive the allocation.

It is important to note that the Director was responsible to give final approval for any CPOT or related funding. The Director never requested HIDTA practitioners to assess the viability of the program to fund CPOT cases. HIDTA did not and has not failed to target high level DTOs. The conclusions that HIDTAs did not target high level organizations were made without receiving or including the 2004 performance data.

HIDTA NO LONGER FOCUSED

In 1990, HIDTA originally set up in five regions considered most critical high intensity drug trafficking areas at \$25 million and has expanded to 28 regions and \$227 million in 2004. Today, the program is no longer well focused.⁴

RESPONSE

HIDTA evolved over the last fourteen years precisely because it is a highly successful program. It expanded as drug experts, and Congress recognized the need for a more regional approach to the national drug problem. It grew because it works. The HIDTA Program is more focused today than it has ever been. The newly developed performance measures implemented in CY2004 demonstrate this focus. This is clearly reflected by the caliber of its investigations, the advancement of model intelligence centers, national connectivity, proactive training, law enforcement partnerships, innovative new programs, and a high degree of accountability. The HIDTA Program is one of the most focused programs in law enforcement. It has a clear mission, aligned goals and specific performance measures.

HIDTA NOT LINKED TO SIGNIFICANT REDUCTION

State and local drug enforcement efforts have not been able to show a link with significant reductions in drug trafficking.

RESPONSE

HIDTAs are focused on the most significant drug trafficking organizations and have achieved a very impressive track record. Drug law enforcement experts agree that the majority of high level cases originate with state and local law enforcement efforts. The

best mechanism for these agencies to partner with federal agencies is through existing HIDTA funded task forces. HIDTA supports the efforts of local and state agencies. It enables them to pursue cases to the highest level possible.

It is short sighted and revisionist to imply federal drug enforcement can better impact the national drug problem without a close coordinated cooperative partnership with state and local law enforcement. This is why the HIDTA program was created. Universally, drug enforcement experts agree the key to success is for state and local law enforcement to develop cases, informants, and interdictions on the interstates.

With HIDTA's growth across the country, teen drug use has been lowered and a reduction in crime has occurred. These results were achieved based on a compilation of efforts, and HIDTA was an integral part.

HIDTA TRANSFER WILL RETAIN POSITIVE ASPECTS

ONDCP will ensure the HIDTA Program retains its positive aspects such as an emphasis on intelligence sharing and interagency cooperation after its transfer.⁶

RESPONSE

It is simply not logical to assume a program reduced by 56% of its operational budget will retain much of what the program has accomplished. The proposal will effectively eliminate most of the HIDTA Intelligence Centers and many of the multi-agency drug task forces. If the intelligence sharing and intelligence center is a positive aspect of HIDTA, why is the federal government allocating funds to federal agencies for intelligence sharing and drug intelligence fusion centers? How can interagency cooperation be maintained when preliminary surveys indicate that a good portion of the federal, state and local commingled, collocated task forces will be disbanded with the proposed reduction? How is an equal partnership between federal, state and local law enforcement leaders maintained when the program is run and directed by a federal agency out of Washington, DC? Who can truly believe that much of what the HIDTA program represents would be retained with these cuts and transfer.

HIDTA TARGETS ARE TOO LOW LEVEL

The HIDTA Program is presently pursuing targets at too low a level in the drug market to be effective.

RESPONSE

The 2004 performance measurements demonstrate that this statement is inaccurate. HIDTAs target at a very high level to include international and multi-state DTOs many with CPOT linkage and OCDETF designation. In addition to these high level cases,

HIDTA also targets local drug trafficking organizations. Many of these local investigations evolve into elevated or high level multi-state or international cases. It is uncommon to initiate a DTO investigation at the highest level. HIDTA protocols, support and performance measurements encourage and enable task forces to investigate their cases to the highest level possible.

HIDTA FAVORS CERTAIN AREAS

The process used to fund HIDTAs favors certain areas without systematically assessing the country's overall drug enforcement priority and needs.

RESPONSE

This is contrary to the process for approving funding and allocation of areas to be designated HIDTA. HIDTAs are required to submit a threat assessment, provide a strategy to address the threat and fund initiatives that are part of the strategy. Annually, each HIDTA is judged by performance measures. All of these documents are submitted to ONDCP for their use on an annual basis. There are unique challenges and threats for each HIDTA office. These threats and operational costs often fluctuate based on the region where the office is housed. The ONDCP Director seems to suggest a one size fits all approach will be more efficient. Again, HIDTA was developed regionally to address the threats in a specific area. Not all regional threats are the same. The Director has access to a tremendous resource in terms of leadership and experience within the HIDTA Program. He could have communicated these concerns at any time but failed to do so. The Director should evaluate the process for approving funding and for the allocation of areas designated as HIDTAs, not the program itself.

ADVANTAGES OF HIDTA UNDER OCDETF

The advantages to placing the HIDTA Program under OCDETF control are that it would assure the resources are more nationally aligned with programs with a proven record of success against high level targets. This move would also improve HIDTA's access to DOJ's new intelligence fusion centers reinforcing its intelligence related efforts. This proposed change would enhance the effectiveness and would more than justify the change.

RESPONSE

As shown earlier, these programs with proven records of success are primarily based on HIDTA task forces. As described earlier in this paper, there is not a natural alignment between OCDETF and HIDTA. In fact, they are different programs with different missions. HIDTA has a proven record of success against priority high level targets and has contributed to a great deal of OCDETF statistics. HIDTA has federal, state and local personnel all working in central intelligence centers (ISCs) in 53 locations throughout the

United States. A close relationship between the fusion centers and HIDTA ISCs could be a very powerful tool. However, stating this change will enhance effectiveness is totally unsupported and inaccurate.

OMB CITES HIDTA

The Office of Management and Budgets Program Assessment Rating Tool (PART) cited the HIDTA Program for not being able to demonstrate results.⁶

RESPONSE

PART does not cite the HIDTA Program as being ineffective but rather for “Results not demonstrated”. Twenty-nine percent of the federal programs reviewed received the same rating. OCDETF apparently has not been assessed. The HIDTA Directors did not totally disagree with OMB’s assessment of FY 2003. The performance measures developed and supplied by ONDCP for the most part did not reflect the effectiveness of HIDTA. When this report came out, ONDCP’s Bureau of State and Local Affairs, HIDTA Directors Committee and staff, including a former OMB program manager developed new performance measures. They were used for the first time in 2004.

These performance measures cite sixteen core measurements of effectiveness. Unfortunately, the ONDCP Director chose not to review the data or use this data in making his recommendations. The program is confident that these new performance measurements more than demonstrate HIDTAs efficiency and effectiveness.

Apparently, the ONDCP Director disregarded the following information related to the March 2004 Drug Control Funding Report that is important to this issue. The overall PART rating for the HIDTA Program was “Results Not Demonstrated.” The program’s FY 2003 performance measures are primarily outputs supplemented with milestones. New outcome-oriented measures have been developed for future years as part of the performance management system designed in FY 2003. A committee of HIDTA directors is currently refining the system to enable a better linkage of performance to budgets, taking into account the shortage of HIDTA-specific data. This system should enable the program to document its effectiveness.⁷

The new performance measures (16) used in 2004 includes such data as:

- Efforts against drug trafficking organizations by type and scope including cost
- Efforts against money laundering organizations by type and scope
- Drugs removed by wholesale value and return on investment
- Illegally gained assets removed and return on investment
- Cost of investigative activity
- Efforts against methamphetamine clandestine laboratories, precursor/chemical sources and laboratory dump sites
- Training efficiency

- Event and case deconfliction
- Analytical support
- Investigation referral to other HIDTAs or agencies

SUMMARY:

- HIDTA has been able to demonstrate its effectiveness targeting, dismantling and disrupting international, multi-state and local drug trafficking organizations many of which have OCDETF designation and linked to CPOT. However, HIDTA has also maintained its flexibility to successfully address other drug problems such as the clandestine manufacture of methamphetamine.
- The primary reason for the success of the program is that it is within ONDCP's Bureau of State and Local Affairs, a neutral entity with no enforcement arm to compete or take control. No personnel from ONDCP are members of the Executive Board. Thus, HIDTA provides for an equal partnership between federal, state and local law enforcement leaders tailored for a regional approach and goals yet tied to the national mission.
- The HIDTA Program cannot remain effective with a 56% reduction in funds regardless of where it is housed.
- The human, operational, intelligence and technical infrastructure that HIDTA has built in the last fifteen years, changing the face of drug law enforcement across the nation, will be lost if this proposal becomes reality.
- HIDTA's successes and contributions can and should be factored into the cause for the reduction of teen drug use and drug related crime as much as any other singular endeavor, such as a media campaign.
- OCDETF and HIDTA are beneficial programs but whose missions are dissimilar.
- OCDETF/DOJ has a unilateral, federal approach to drug law enforcement. HIDTA addresses the totality of drug law enforcement.
- OCDETF precludes the incorporation of state and local police executives in drug law enforcement management that affects their areas.
- The HIDTA Program's most beneficial contributions cannot endure under DOJ management and guidelines.

NOTES:

¹2004 HIDTA Annual Report Performance Measures Tables (as of 3/3/05 with 70% of HIDTAs reporting)

²DOJ FY 2005 Budget and Performance Summary (OCDETF)

³HIDTA Director's Survey, February 22, 2005 with 79% of HIDTA's reporting

⁴Department of Justice 2006 Budget "At a Glance"

⁵Statement of ONDCP Director Walters before the House Committee on Government Reform Subcommittee on Criminal Justice, Drug Police and Human Resources, February 10, 2005

⁶National Drug Control Strategy, February 2005

⁷Drug Control Funding: Agency Summary, FY 2003 – FY 2005

⁸GAO January 2005 Report, "High Intensity Drug Trafficking Area's effort to link investigations to international drug traffickers"