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2006 CONGRESSIONAL DRUG CONTROL BUDGET AND POLICY ASSESSMENT: A REVIEW OF THE 2007 NATIONAL DRUG CONTROL BUDGET AND 2006 NATIONAL DRUG CONTROL STRATEGY

SIXTH REPORT

BY THE

COMMITTEE ON GOVERNMENT REFORM

together with

ADDITIONAL VIEWS

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LETTER OF TRANSMITTAL

HOUSE OF REPRESENTATIVES,
Washington, DC, April 25, 2006.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: By direction of the Committee on Government Reform, I submit herewith the committee's sixth report to the 109th Congress. The committee's report is based on a study conducted by its Subcommittee on Criminal Justice, Drug Policy, and Human Resources.

TOM DAVIS,
Chairman.

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2006 CONGRESSIONAL DRUG CONTROL BUDGET AND POLICY ASSESSMENT: A REVIEW OF THE 2007 NATIONAL DRUG CONTROL BUDGET AND 2006 NATIONAL DRUG CONTROL STRATEGY

APRIL 25, 2006.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. TOM DAVIS, from the Committee on Government Reform submitted the following

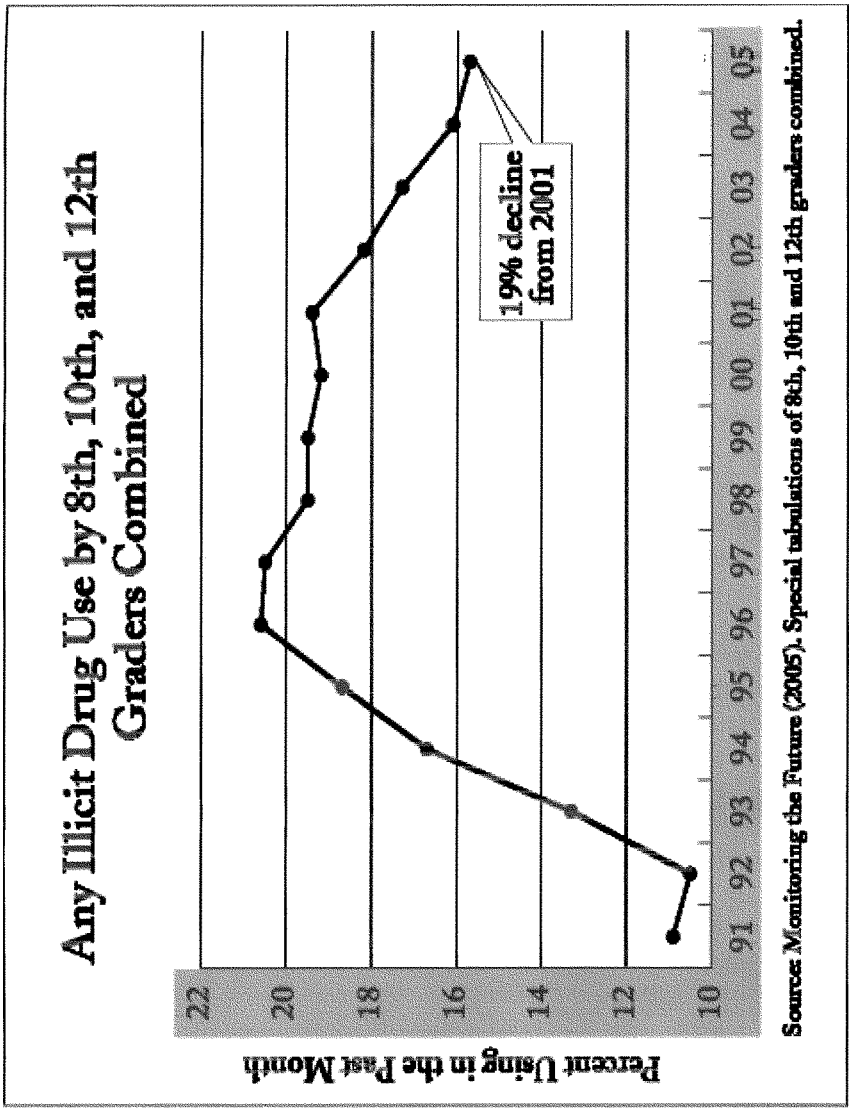
SIXTH REPORT

On March 9, 2006, the Committee on Government Reform approved and adopted a report entitled, "2006 Congressional Drug Control Budget and Policy Assessment: a Review of the 2007 National Drug Control Budget and 2006 National Drug Control Strategy." The chairman was directed to transmit a copy to the Speaker of the House.

I. THE NATIONAL DRUG CONTROL STRATEGY: GENERAL OVERVIEW AND CONCERNS

Significant progress has been made in protecting young people from the devastating effects of drug abuse. Director John Walters of the Office of National Drug Control Policy recently testified before the committee that "overall teen drug use has declined significantly since the President took office. Current use of illicit drugs by 8th, 10th, and 12th graders combined has dropped 19 percent since 2001."[1] Nonetheless, the committee is concerned about the potential negative effects of the administration's proposed drug control budget for FY 2007.

[1] See *National Drug Control Budget for Fiscal Year 2007: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (Feb. 16, 2006) (testimony of John Walters, Director, Office of National Drug Control Policy). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=39638.



Source: Monitoring the Future (2005). Special tabulations of 8th, 10th and 12th graders combined.

The committee believes it is necessary to remind the administration that when well-established drug programs were significantly reduced in the early 1990's dramatic increases in drug use among our youth followed.[2] From 1992 until 1996, as depicted above, drug use among 8th, 10th, and 12th grades doubled from near 10 percent to over 20 percent.[3] Having learned this lesson in the past decade, the administration must acknowledge that the substantial, proposed cuts to the drug budget cannot be endured without an immediate and predictable increase in drug usage.

The 2006 *National Drug Control Strategy* presents the administration's approach as based upon three pillars: prevention, treatment, and interdiction.[4] Each of these three pillars supplement one another, creating a "balanced, integrated plan aimed at . . . reducing drug use."[5] The committee strongly agrees that this proposed, multi-faceted approach is the most effective in dealing with the complex social and political issues raised by illicit drug smuggling and abuse.

Prevention, including primarily educational and drug-testing initiatives, seeks to reduce or eliminate the demand for illicit drugs on the domestic front. Prevention—"stopping use before it starts,"[6] in the words of President Bush's recent National Drug Strategy Report—is a vital component of any effective drug control strategy. In many respects, it is the most important component, since it is the demand for drugs that attracts the supply. Prevention aimed at reducing drug use by young people is, in turn, the most important kind of demand reduction.

The Federal Government's major prevention programs include the Safe and Drug-Free Schools and Communities (SDFSC) program at the Department of Education, which includes formula grants to the states, and "national programs" that are competed for at the national level: the National Youth Anti-Drug Media Campaign (the "Media Campaign") at the Office of National Drug Control Policy (ONDCP), which helps fund a national advertising campaign to educate young people and parents about the dangers of drug abuse; the Drug-Free Communities (DFC) program at ONDCP, which provides small grants to local coalitions of organizations and individuals who come together for drug use prevention efforts in their communities; and prevention programs funded through grants provided by the Center for Substance Abuse Prevention (CSAP), part of the Substance Abuse and Mental Health Services Administration (SAMHSA) at the Department of Health and Human Services (DHHS).

The Federal Government supports significant research and development of drug prevention methods through CSAP and the Counterdrug Technology Assessment Center (CTAC) at ONDCP. The Federal Government also funds research into the health risks of drug abuse at the National Institute on Drug Abuse (NIDA), a division of the National Institutes of Health, the results of which are then publicized by NIDA and other Federal agencies.

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[2] The White House, National Drug Control Strategy, (Feb. 2006) at 1. At http://www.whitehousedrugpolicy.gov/publications/policy/ndcs06/ (last visited Feb. 24, 2006).
[3] Id.
[4] Id. at 2.
[5] Id.
[6] Id. at 11.

Drug treatment programs set out to provide ready and effective means of rehabilitating those caught in the vicious cycle of substance dependence. Since "19.1 million Americans have used at least one illicit substance in the past month," identifying those in need and providing accessible treatment programs are essential components in any drug strategy.[7]

Drug addiction is a complex disorder that can involve virtually every aspect of an individual's functioning in the family, at work, and in the community. Because of addiction's complexity and pervasive consequences, drug addiction treatment typically must involve many components. Some of those components focus directly on the individual's drug use. Others focus on restoring the addicted individual to productive membership in the family and society.

A variety of scientifically based approaches to drug addiction treatment exist. Drug addiction treatment can include behavioral therapy (such as counseling, cognitive therapy, or psychotherapy), medications, or their combination. Federal drug treatment programs are found within the Substance Abuse and Mental Health Services Administration, which oversees and implements drug treatment programs; the National Institute on Drug Abuse, which focuses on drug prevention research; and the Department of Health and Human Services, which also provides programs that address drug abuse treatment.

Finally, interdiction efforts, comprised of multiple agency and interagency missions within the Department of Justice & Department of Homeland Security, and supported by the Department of Defense, have been developed over the past few decades to efficiently and dramatically disrupt the flow of illicit drugs from various source countries.

The Government Reform Committee, particularly via the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, is responsible for oversight of all aspects of the Federal Government's drug control policy and budget. Recent hearings at the committee and subcommittee levels have focused on drug use

[7] Id.

prevention,[8] drug addiction treatment,[9] Federal drug enforcement,[10] and international supply reduction.[11]

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[8] See *Drug Prevention Programs and the FY 2006 Drug Control Budget: Is the Federal Government Neglecting Illegal Drug Use Prevention? Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (Apr. 26, 2005). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=26210; *Stopping the Methamphetamine Epidemic: Lessons From the Pacific Northwest: Hearing before the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (Oct. 14, 2005). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=35704; *Fiscal Year 2006 Drug Budget: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (Feb. 10, 2005). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=22068; *ONDCP Reauthorization: The National Youth Anti-Drug Media Campaign: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Mar. 27, 2003); *Drug Production on Public Lands—A Growing Problem: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Oct. 10, 2003). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=7225; *To Do No Harm: Strategies For Preventing Prescription Drug Abuse: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Feb. 9, 2004). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=10001; *Marijuana and Medicine: The Need For a Science-Based Approach: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Apr. 1, 2004). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=13362; *ONDCP Reauthorization and the National Drug Control Strategy for 2003: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Mar. 5, 2003); *The Office of National Drug Control Policy Reauthorization Act 2003, H.R. 2086: Hearing before the House Committee on Government Reform,* 108th Cong. (May 22, 2003).

[9] See *Harm Reduction or Harm Maintenance: Is There Such a Thing as Safe Drug Abuse? Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (Feb. 16, 2005). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=22570; *Authorizing the President's Vision: Making Permanent the Faith-Based and Community Initiative: H.R. 1054, The Tools for Community Initiative Act: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (June 21, 2005). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=29319; *Recovery Now: The President's Drug Treatment Initiative: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Feb. 27, 2003); *Faith-Based Perspectives on the Provision of Community Services—Field Hearing in Franklin, TN: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (June 16, 2003); *The Role of Faith-Based Organizations in Providing Effective Social Services: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (July 2, 2003); *Faith-Based Perspectives on the Provision of Community Services—Field Hearing in Chicago, IL: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Aug. 25, 2003); *Faith-Based Perspectives on the Provision of Community Services—Field Hearing in Charlotte, NC: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Dec. 10, 2003); *Faith-Based Perspectives on the Provision of Community Services—Field Hearing in Los Angeles California: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Jan. 12, 2004). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=10078; *Faith-Based Perspectives on the Provision of Community Services—Field Hearing in Colorado Springs, CO: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Jan. 23, 2004); *Legal and Practical Issues Related to the Faith Based Initiative: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Mar. 23, 2004). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=11573; *Measuring the Effectiveness of Drug Addiction Treatment Programs: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Mar. 30, 2004). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=11695; *Faith Based Perspectives on the Provision of Community Services—Field Hearing in Seattle, WA: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Apr. 26, 2004); *Access to Recovery: Improving Participation and Access in Drug Treatment: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Sept. 22, 2004). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=19353.

[10] See *How Can the Federal Government Support Local and State Initiatives to Protect Citizens and Communities Against Drug-Related Violence and Witness Intimidation? Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (May 2, 2005). At http://reform.house.gov/CJDPHR/Hearings/

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EventSingle.aspx?EventID=26376; *FY 2006 Drug Control Budget and Byrne Grant, HIDTA, and Other Law Enforcement Programs: Are we Jeopardizing Federal, State and Local Cooperation? Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (Mar. 10, 2005). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=23722; *Fighting Meth in America's Heartland: Assessing Federal, State, and Local Efforts: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (June 27, 2005). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=29587; *Fighting Meth in America's Heartland: Assessing the Impact on Local Law Enforcement and Child Welfare Agencies: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (July 26, 2005). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=31114; *Law Enforcement and the Fight Against Methamphetamine: Improving Federal, State, and Local Efforts: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (Aug. 23, 2005). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=33151; *ONDCP Reauthorization: The High-Intensity Drug Trafficking Areas Program and CTAC: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Apr. 8, 2003); *Facing the Methamphetamine Problem in America: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (July 18, 2003). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=7300; *Facing the Methamphetamine Problem in America: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (July 18, 2003). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=7300; *How Can the Federal Government Assist State and Local Programs to Protect Citizens & Communities Against Drug-Related Violence? Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (July 21, 2003). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=7306; *Fighting Methamphetamine in the Heartland: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Feb. 6, 2004). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=10066; *Terrorist Financing and Money Laundering Investigations: Who Investigates and How Effective Are They? Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (May 11, 2004). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=13993; *Ice in the Ozarks: The Methamphetamine Epidemic in Arkansas: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (June 28, 2004). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=16356; *Drugs and Security in a Post-9/11 World: Coordinating the Counternarcotics Mission at the Department of Homeland Security: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (July 22, 2004). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=16918; *Law Enforcement and the Fight Against Methamphetamine: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Nov. 18, 2004). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=20333; *DOD Counternarcotics: What Is Congress Getting for Its Money? Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Apr. 21, 2004). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=13557; *The Poisoning of Paradise: Crystal Methamphetamine in Hawaii: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Aug. 2, 2004). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=17259.

[11] See *Threat Convergence Along the Border: How Can We Improve the Federal Effort To Dismantle Criminal Smuggling Organizations: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (July 12, 2005). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=30454; *2006 DOD Counternarcotics Budget: Does It Deliver the Necessary Support? Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (May 10, 2005). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=27247; *Threat Convergence Along the Border: How Does Drug Trafficking Impact Our Borders? Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (June 14, 2005). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=29024; *Interrupting Narco-terrorist Threats on the High Seas: Do We Have Enough Wind in Our Sails? Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (June 29, 2005). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=29727; *The Impact of the Drug Trade on Border Security and National Parks: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Mar. 10, 2003); *The Impact of the Drug Trade on Border Security: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Apr. 15, 2003); *Disrupting the Market: Strategy, Implementation, and Results in Narcotics Source Nations: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (July 9, 2003). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=7484; *Implementation of a Na-*

Moreover, the committee and subcommittee are responsible for the authorization of the White House Office of National Drug Control Policy (ONDCP) and related programs.[12] In fulfilling its oversight function the committee has identified and highlighted several fundamental issues of utmost concern that are significantly impacted by the 2007 *National Drug Control Strategy and Budget Summary.*[13]

1. Methamphetamine

The committee is concerned about the administration's complete unwillingness to provide any leadership or strategy to address the growing methamphetamine epidemic throughout the country. U.S. Attorney General Alberto Gonzalez stated that "in terms of damage to children and to our society, meth is now the most dangerous drug in America."[14] According to surveys conducted by the National Association of Counties, meth is now the number one drug problem for the majority (58 percent) of county law enforcement agencies, and the drug is having far-reaching impacts on child welfare services.[15]

Methamphetamine, because of its insidious, devastating social and personal side effects, has presented a novel opportunity to raise our country's cultural awareness of the threat of illicit drug use in general. The committee remains disappointed that ONDCP has not utilized the heightened media attention that the methamphetamine issue receives to fully develop public awareness and education.

Since the first mention of a meth strategy in the long-overdue October 2004 "National Synthetic Drug Action Plan," the Office of National Drug Control Policy has done nothing but repeat its intention to provide a methamphetamine strategy, as evidenced by the following statement in the Nation Drug Control Strategy for FY 2006: "The Administration is in the process of developing and re-

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tional Supply Reduction Strategy: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform, 108th Cong. (Sept. 17, 2003). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=7291; *Afghanistan: Law Enforcement Interdiction Efforts in Transshipment Countries to Stem the Flow of Heroin: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Feb. 26, 2004). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=10843; *Andean Counterdrug Initiative: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Mar. 2, 2004). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=11000; *Afghanistan: Are British Counternarcotics Efforts Going Wobbly? Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Apr. 1, 2004). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=13347; *Northern Ice: Stopping Methamphetamine Precursor Chemical Smuggling Across the U.S.-Canada Border: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Apr. 20, 2004). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=13368; *The Impact of the Drug Trade on Border Security—Field Hearing in Las Cruses, NM: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (June 29, 2004). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=16366; *The War Against Drugs and Thugs: A Status Report on Plan Columbia Successes and Remaining Challenges: Hearing before the House Committee on Government Reform,* 108th Cong. (June 17, 2004); *Securing Our Borders: What We Have Learned From Government Initiatives and Citizen Patrols: Hearing before the House Committee on Government Reform,* 108th Cong. (May 12, 2005).

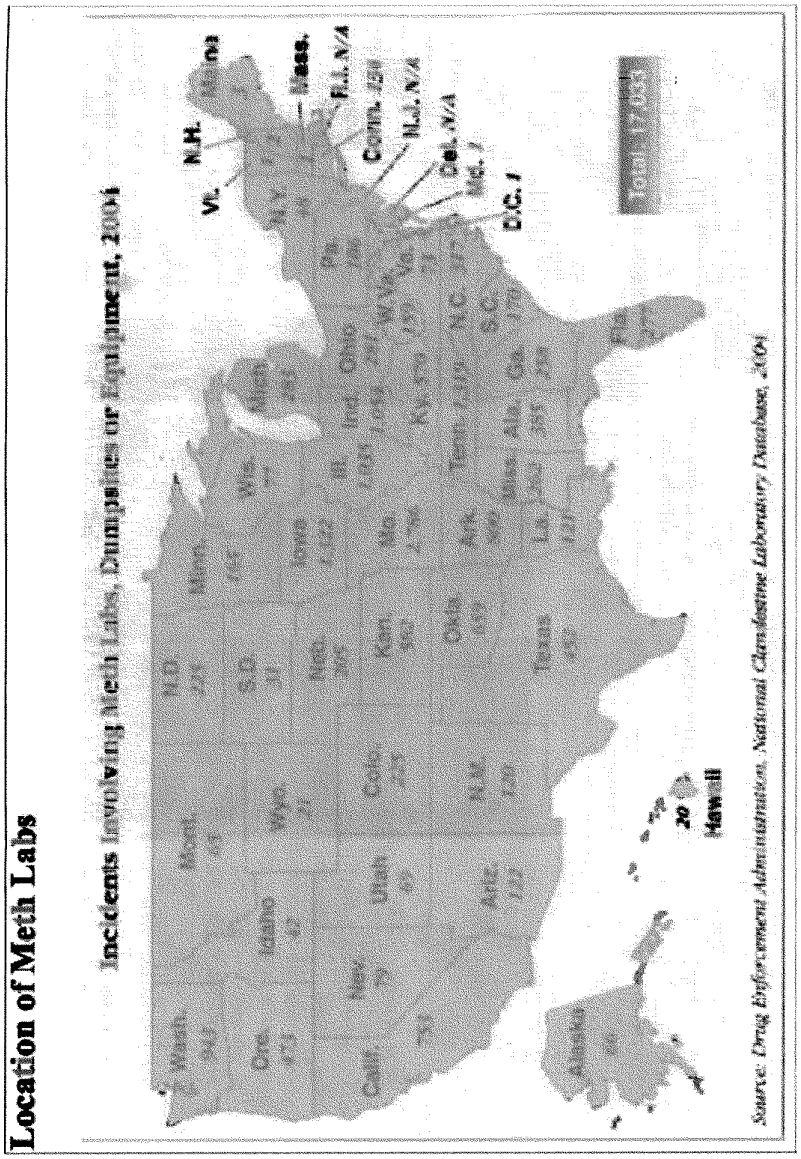
[12] 21 U.S.C. 1703(c)(3).

[13] "It is a shameful thing to be weary of inquiry when what we search for is excellent." Marcus Tullius Cicero (106–43 BC), Roman Senator.

[14] Jefferson, David J., *The Meth Epidemic—Inside America's New Drug Crisis,* NEWSWEEK, Aug. 8, 2005.

[15] National Association of Counties, *The Impact of Meth on Children: Out of Home Placement and The Criminal Effect of Meth on Communities,* July 5, 2005.

leasing a strategic document that details next steps for addressing the problem of synthetic drugs like methamphetamine."[16]



[16] The White House, National Drug Control Strategy (Feb. 2006) at 15.

Methamphetamine has been steadily moving across the country for years, starting on the West coast and moving eastward, devastating countless communities in its wake.[17] The President of the International Narcotics Control Board recently stated: "The major problem that they have (in the United States) is with methamphetamine . . . Methamphetamine is pandemic now."[18] In response, the administration has only delayed, refusing to provide a necessary, comprehensive strategy.

Absence of Administration Legislative Efforts on Methamphetamine

The administration claims to have supported legislative efforts by Congress to lead in addressing the methamphetamine epidemic: "The Bush Administration has urged Congress to enact legislation that would limit the amount of pseudoephedrine for retail sale to what could be used for individual, legitimate medical purposes."[19] Despite such rhetoric, however, the administration provided no help to Congress when it was considering the Combat Methamphetamine Epidemic Act that is now a part of the Patriot Act. In fact, a State Department memorandum sharply critical of some provisions of the bill circulated among congressional offices the night before a committee mark-up, while the *New York Times* reported that the FDA was working behind the scenes to block it.[20]

In addition, ONDCP also states: "To ensure that the drug [pseudoephedrine] is not rerouted away from legitimate businesses and consumers, the Administration is working with other countries to improve the flow of information to the US Drug Enforcement Administration (DEA) about bulk shipments of this chemical."[21]

Although a great deal of attention has been paid to the local production of meth in small, clandestine (or "clan") laboratories, the majority of the U.S. supply of illegal meth is now believed to come from Mexico, or is controlled by Mexican drug trafficking organizations. Moreover, virtually all of the world's supply of the major meth precursor chemical—pseudoephedrine—is manufactured overseas, in only relatively few factories. As such, meth is as much an international as a local problem. Of genuine concern is the report of the seizure of a methamphetamine laboratory in Colombia in 2005, the first of its kind in that country.[22] On its own the seizure appears to have little significance, however given the entrepreneurial bent Colombia drug traffickers have displayed in the past, neither the seizure, nor its potential, can be ignored.

Most of the methamphetamine problem can be attributed to one simple fact: the U.S. and the international community have failed to set up an effective control system for pseudoephedrine and other precursor chemical products. Unlike meth, pseudoephedrine cannot be made clandestinely—it can only be manufactured in large facilities using very sophisticated equipment. As a groundbreaking report by *The Oregonian* newspaper recently showed, only a few com-

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[17] Methamphetamine, 15 CQ Researcher Num. 25, 589, 592 (2006).

[18] Francis Murphy, *UN Narcotics Watchdog Sees New Pandamic,* REUTERS HEALTH, Mar. 1, 2006.

[19] The White House, National Drug Control Strategy (Feb. 2006) at 15.

[20] Gardiner Harris, *Fighting Methamphetamine, Lawmakers Reach Accord to Curb Sale of Cold Medicines,* NEW YORK TIMES, Dec. 15, 2005, at 33; at http://select.nytimes.com/gst/abstract.html?res=F10810FA34550C768DDDAB0994DD404482 (last visited Feb. 24, 2006).

[21] The White House, National Drug Control Strategy (Feb. 2006) at 15.

[22] INTERNATIONAL NARCOTICS CONTROL BOARD, 2005 REPORT, (Mar. 1, 2006) at 66.

panies worldwide make the chemical, and virtually all of the world's supply comes from three countries: Germany, India, and China.[23] As such, it would not be very difficult for the U.S. and its allies to get better control of the chemical and prevent its large-scale diversion.

Instead, huge amounts of pseudoephedrine products are being shipped all over the world, with little or no tracking or control. Many nations are importing far more than they can legitimately consume, meaning that the excess is probably being diverted to meth production. Mexican imports of pseudoephedrine, the primary meth precursor, have risen from almost 100 tons in 2001 to nearly 224 tons in 2003. Mexican authorities estimate their legitimate demand for pseudoephedrine at only 70 tons per year.[24]

The International Narcotics and Law Enforcement Affairs (INL) very recently released its annual report in which international precursor chemical control is substantially addressed. The INL report stated: "The emergence of methamphetamine as a major drug of abuse and a significant domestic law enforcement problem in the United States was the most important factor impacting U.S. chemical control in 2005."[25] The report also indicates that "Mexico is now tightening its controls on methamphetamine precursors and the concern is that they will be sold to countries with fewer controls and smuggled into Mexico, or the U.S., for drug production."[26] "Traffickers continue to evade the reach of these initiatives by turning to nonparticipating countries to obtain these . . . chemicals. Many of these countries lack the legal, administrative, and law enforcement infrastructure to control the chemicals."[27]

Where precursor control legislation is tightened, traffickers have reverted to nations in Africa where controls are weaker.[28] Further, traffickers are using methods of concealment for precursor chemicals that were previously reserved for the drugs themselves.[29] These occurrences are causes for uneasiness for the international community. They add weight to the call from International Narcotics Control Board (INCB) for countries to provide pre-export notification of precursor chemicals to importing nations.[30]

The committee strongly encourages such international efforts to address the control of international precursor chemicals, but was very disappointed by the Department of State's (DOS) direct opposition to the international provisions addressing precursor chemical reporting within the Combat Methamphetamine Epidemic Act. Moreover, no substantive support, beyond technical comments, was received from the Department of Justice (DOJ).

Cooperation with involved administration Departments and agencies, such as DEA, State, & DOJ is the specific responsibility of ONDCP. In sum, the committee must express its deep dissatisfaction with ONDCP which offered no support throughout the legislative process, despite being responsible for leading drug policy efforts within the administration.

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[23] Suo, Steve, *The Mexican Connection,* OREGONIAN, June 5, 2005.
[24] Id.
[25] DEPT. OF STATE, BUREAU FOR INTERNATIONAL NARCOTICS AND LAW ENFORCEMENT AFFAIRS, INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT, vol. I, (Mar. 2006) at 73.
[26] Id.
[27] Id.
[28] INTERNATIONAL NARCOTICS CONTROL BOARD, 2005 REPORT, (Mar. 1, 2006) at 42.
[29] Id, at 71.
[30] Id, at 28.

Beyond legislation, the committee seeks to highlight particular Federal programs that have been established to counteract the continuous and devastating spread of methamphetamine abuse. These programs, critical to mitigating the ongoing threat of methamphetamine, are in substantial danger of being severely degraded by the proposed FY 2007 drug control budget. Foremost among such programs are COPS Meth Hot Spots and methamphetamine-oriented High Intensity Drug Trafficking Areas.

Department of Justice: Methamphetamine-Related Assistance (COPS Meth Hot Spots) [31]

The committee has ongoing concerns about the proposed reduction in funds administered by the Department of Justice's Community Oriented Policing Services (COPS) office dedicated to law enforcement activities against methamphetamine trafficking. To assist these overburdened agencies, Congress approved $63,590,000 for fiscal year 2006 (up from $52,556,000 in fiscal year 2005) for policing initiatives to combat methamphetamine production and trafficking and to enhance policing initiatives in "drug hot spots."

Disappointingly, the administration again proposes to eliminate the remaining "Meth Hot Spots" funding for other anti-meth enforcement activities—which Congress has always appropriated in the form of specific earmarks for designated projects.

The committee believes that Congress and the administration need to work together to restore and reform the additional Hot Spots funding. The proposed elimination of the rest of the "Meth Hot Spots" funding would greatly reduce the ability of affected state and local law enforcement agencies to help their Federal partners in reducing methamphetamine abuse, particularly given the proposed overall reduction in other state and local law enforcement assistance grants.

ONDCP: Methamphetamine oriented High Intensity Drug Trafficking Areas (HIDTAs)

Each High Intensity Drug Trafficking Area (HIDTA) that is primarily focused on combating the spread of methamphetamine was created after 1990. The Midwest HIDTA, which includes Iowa, Kansas, Missouri, Nebraska and South Dakota, was created specifically to fight the spread of meth in the Midwest. It promotes a comprehensive, cooperative strategy by law enforcement at the Federal, state and local levels to reduce drug trafficking.

The collection of multi-agency leaders participating on individual HIDTA boards, individual task force boards and/or oversight committees allows for current information and trends to be shared on the growing concerns and dangers of methamphetamine production, distribution, and use. Nationally, the latest survey indicates there are 211 HIDTA task forces across the nation with 5,321 officers representing 34 states and territories which, in addition to other duties, are substantially involved in enforcement efforts re-

[31] For further information, see the COPS website, http://www.cops.usdoj.gov/, or call the COPS office at (202) 616–1728.

garding the distribution and/or manufacturing of methamphetamine.[32]

The methamphetamine issue will continue to be a high priority for the committee. Such commitment is necessary when Congress is forced to embrace a leadership role where ONDCP has left a void.

2. Drug Interdiction Reclassified as Non-Homeland Security Mission within DHS

Another issue of serious concern to the committee is the unannounced reclassification of the drug interdiction mission within DHS. The congressional authorization that created DHS in 2002 specifically defined the drug interdiction mission as one of the primary missions of the Department.[33] This year, without any formal explanation or announcement, the administration's budget request for the Coast Guard recategorized "Illegal Drug Interdiction" and "Other Law Enforcement" missions as "Non-Homeland Security" missions.[34]

The connection between terrorism and drug smuggling is being increasingly established by incoming intelligence. Antonio Maria Costa, the head of the United Nations Office on Drugs and Crime, stated: "The world is seeing the birth of a new hybrid of organized-crime-terrorist organization."[35] This new hybrid, according to many intelligence analysts, is comprised of "terrorist organizations stealing whole chapters out of the criminal playbook—trafficking in narcotics, illegal goods, counterfeit goods, illegal aliens—and in the process converting their terrorist cells into criminal gangs."[36] A stark example, "the terrorists behind the Madrid attacks were major drug dealers, with a network stretching from Morocco through Spain to Belgium and the Netherlands."[37]

This proposed change clearly runs contrary to the organic statute establishing DHS.[38] When asked about the initiatives being taken by ONDCP to counteract this fundamental, wide reaching policy change, Director John Walters of ONCDP indicated a complete lack of awareness of the issue or its details.[39] Moreover, the reclassification is not even mentioned, much less properly highlighted and explained, in the main body of the Coast Guard Budget in Brief.[40] Inexplicably, the only indication of this infrastructural policy realignment must be found and interpreted from a program cost summary table.[41]

At a February 7, 2006, DHS budget briefing a DHS Budget officer confirmed that the reclassification is not isolated to the Coast Guard but is being implemented as a DHS policy throughout each

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[32] See *Law Enforcement and the Fight Against Methamphetamine: Improving Federal, State, and Local Efforts: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (Aug. 23, 2005) (testimony of John Sommer, Director, Ohio High Intensity Drug Trafficking Areas).

[33] H.R. 5005, 107th Cong. § 888 (2002). Public Law 107–296.

[34] U.S. COAST GUARD, BUDGET IN BRIEF, FY 2007, Feb. 2006, Appendix B, at B–2.

[35] David E. Kaplan, *Paying for Terror,* U.S. NEWS & WORLD REPORT, (Dec. 5, 2005) at 41.

[36] Id, at 42.

[37] Id, at 44.

[38] H.R. 5005, 107th Cong. § 888 (2002). Public Law 107–296.

[39] See *National Drug Control Budget for Fiscal Year 2007: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (Feb. 16, 2006) (testimony of John Walters, Director, Office of National Drug Control Policy).

[40] U.S. COAST GUARD, BUDGET IN BRIEF, FY 2007, Feb. 2006.

[41] Id, Appendix B, at B–2.

agency whose mission includes drug interdiction.[42] The reclassification explicitly excludes drug interdiction from the general homeland security mission of DHS and, over time, will gradually increase the ongoing diversion of resources away from drug interdiction missions.

The committee's skepticism concerning DHS's transparency and willingness to communicate has been further strained by this unauthorized recategorization which knowingly brushes aside Congress's clear intent to classify drug interdiction as a homeland security mission.[43] In addition, ONDCP's utter ignorance of this new DHS policy illustrates reason for the committee's deep dissatisfaction with the leadership within the administration that ONDCP is supposed to provide.

3. Prevention

The administration asserts that it seeks a "balanced strategy that focuses on three primary elements: stopping drug use before it starts, healing drug users, and disrupting the market for illicit drugs."[44] As in years past, the administration's *2006 National Drug Control Strategy* identifies drug use prevention—"stopping drug use before it starts"—as one of the three key pillars of its drug strategy. However, since prevention comprises only 11.7 percent of the entire FY 2007 drug control budget and represents a 19.3 percent decrease in prevention funding from that enacted in FY 2006, the committee questions the administration's claim that it has "set a bold agenda" in its prevention efforts.[45]

"Over the FY 2001—FY 2007 period, demand reduction (prevention and treatment) has increased only $49 million or 1.1 percent whereas supply reduction (enforcement and interdiction) increased by $3.2 billion, or 66.1 percent."[46] In light of the profound emphasis the current administration has placed on enforcement and interdiction, the committee questions whether prevention, which has steadily decreased in funding, authentically represents a "pillar" of the administration's approach to the drug problem.

With respect to particular prevention programs, the committee has concerns about the proposed elimination of the State Grants program, representing the substantial portion of the Safe and Drug Free Schools and Communities (SDFSC) program at the Department of Education. Congress emphatically rejected a similar proposal in last year's budget.

The grants distributed under the State Grants program serve as vital leverage that allows local communities to significantly augment their capacity to provide drug prevention programs.

> Elimination of this funding will have a catastrophic effect in the balance of drug usage among school-aged children in America. Many school systems across America have found unique ways to combine these SDFSCA funds with

[42] Subcommittee on Criminal Justice, Drug Policy, and Human Resources staff briefing with DHS representatives on 2007 DHS drug budget, Feb. 7, 2006.

[43] H.R. 5005, 107th Cong. § 888 (2002). Public Law 107–296.

[44] The White House, National Drug Control Strategy, (Feb. 2006) at 1. At http://www.whitehousedrugpolicy.gov/publications/policy/ndcs06/.

[45] Id, at 5.

[46] Carnevale Associates, *Policy Brief, FY '07 Drug Budget: Demand Reduction Being De-Emphasized,* LLC, Feb. 2006. At http://www.carnevaleassociates.com/Federal_Drug_Budget_FY07.pdf (last visited Feb. 24, 2006).

> very little local moneys in order to provide the highest level of drug prevention. Removing the monetary foundation of these programs could cause many if not all of them to collapse. I know this because in our system, one of the wealthiest in the nation, elimination of these funds would severely impact or cancel many well developed, well documented, and successful drug prevention programs. I can't imagine how drug prevention programs in other smaller systems will survive.[47]

The State Grants programs serves as a vehicle for bringing effective anti-drug education to millions of young people in our schools. As we recommended last year, the committee strongly suggests that the administration take substantial steps to reform the well established State Grants program.

4. State and Local Law Enforcement Drug Control Efforts

The committee focuses much concern on the administration's approach to programs directly impacting the cooperation between Federal, State, and local law enforcement agencies and initiatives. Since State and local agencies make over 95 percent of the arrests of drug violators, the vital role carried out by non-Federal enforcement is unquestionable and indispensable to furthering intelligence and operational activities at the Federal level.[48]

The administration's recent budget proposal to realign HIDTA under the Organized Crime Drug Enforcement Task Force (OCDETF)[49] while decreasing its funding, to eliminate the Edward Byrne Memorial Justice Assistance Grant program, and to diminish the Counterdrug Technology Assessment Center (CTAC) would severely impede, if not permanently incapacitate, the current system of broad-based interagency cooperation and information sharing.

High Intensity Drug Trafficking Areas (HIDTA)

This year, the administration has requested $209 million for the HIDTA program but has again asked that it be moved to the Department of Justice despite the same proposal being rejected last year. If enacted, these proposals would effectively terminate the current HIDTA program. For this reason, the committee again[50] strongly opposes the budget cut, any radical reallocation of funding (if unaccompanied by a comprehensive, performance-based justification), and the move of the program into the Justice Department.

Moving HIDTA into the Justice Department is highly problematic. Notably, the administration's representatives who testified at the March 10, 2005, hearing declined to inform the Congress how HIDTA would be managed under OCDETF and how decisions

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[47] See *Drug Prevention Programs and the Fiscal Year 2006 Drug Control Budget: Is the Federal Government Neglecting Illegal Drug Use Prevention: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong, (Apr. 26, 2005) (testimony of Clarence Jones, coordinator, Safe and Drug-Free Youth Section, Fairfax County Public Schools).

[48] FEDERAL BUREAU OF INVESTIGATION, CRIME IN THE UNITED STATES, UNIFORM CRIME REPORT, U.S. DEPARTMENT OF JUSTICE (2002).

[49] DEPT. OF JUSTICE, FY 2007 BUDGET AND PERFORMANCE SUMMARY, Annual Rep. at 107: "The FY 2007 President's Budget proposes the transfer of the HIDTA program from [ONDCP] to OCDETF."

[50] *The National Drug Control Strategy for 2005 and the National Drug Control Budget for Fiscal Year 2006,* COMMITTEE ON GOVERNMENT REFORM REPORT, H. Rept. 109–172, (2005) at 29.

would be made at the local HIDTA.[51] Such a significant change demands prior planning that can be clearly and thoroughly communicated to Congress. Transferring the HIDTA to OCDETF without any clear plan concerning the manner in which the program would be administered is not an authentic proposal that deserves consideration by Congress.[52]

Beyond the reasons just mentioned, the proposed transfer to the Justice Department is contrary to existing law and to sound drug enforcement policy. It would potentially be even more disruptive to the HIDTA program than simple budget cuts.[53] From a legal perspective, transferring this program across departments is contrary to every authorization the Congress has passed for HIDTA. Moreover, attempting to move the program through an appropriations bill would almost certainly conflict with any reauthorization legislation agreed to by the House and Senate during the 109th Congress.

In addition, eliminating or eviscerating particular HIDTAs would be a far greater financial loss to Federal drug enforcement efforts than simply the money spent by the Federal Government directly on their budgets. State and local agencies make significant contributions of their own agents, employees, office space, and equipment to HIDTA task forces—much of which is not reimbursed with Federal dollars and which frequently dwarf, in their dollar value, the Federal budget components of the individual HIDTAs. We risk losing those contributions without the individual HIDTAs.

Edward Byrne Memorial Justice Assistance Grant

The committee opposes the administration's renewed proposal to terminate the state formula grants portion of the Edward Byrne Memorial Justice Assistance Grant program. The administration has asked Congress to eliminate it entirely and restrict Federal assistance for state and local law enforcement programs to a series of enumerated grants (most of which are previously existing programs) under a "Justice Assistance" account. In practice, this will sharply limit the amount of money available to help state and local agencies.[54]

The administration's drastic proposed cuts would create massive shortfalls in the budgets of state and local law enforcement agencies across the country. Numerous state and local officials have informed the committee members and staff that many programs—particularly drug enforcement programs—within their states would

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[51] See *FY 2006 Drug Control Budget and Byrne Grant, HIDTA, and Other Law enforcement programs: Are we jeopardizing Federal, state and local cooperation? Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (Mar. 10, 2005).

[52] DEPT. OF JUSTICE, 2007 BUDGET AND PERFORMANCE SUMMARY, Annual Rep. at 107: "The FY 2007 President's Budget proposes the transfer of the HIDTA program from [ONDCP] to OCDETF."

[53] The committee's reasons for opposing the transfer of the HIDTA program to the Justice Department are discussed in greater detail in the committee's report on H.R. 2829 (H. Rept. 109–315, Part I, pps. 52–53).

[54] The Byrne Formula Grant Program was created by the Anti-Drug Abuse Act of 1988 (Public Law 100–690). One-half of the appropriated funds is to be awarded to the states based on their relative populations, while the other half is to be awarded on the basis of the violent crime rates in the states.

have to be shut down if all Byrne Grant and similar funding were cut off.[55]

Moreover, it is not necessarily the case that Federal support for state and local efforts lacks national impact. Particularly in the area of drug enforcement, state and local participation is vital to our national success. As mentioned above, state and local agencies make more than 95 percent of arrests of drug violators.[56] Collectively, they have far more personnel and resources than the Federal Government does. Federal support for these agencies can have a very positive national impact by facilitating their involvement as partners in the fight against drug trafficking and other criminal activities.

Counterdrug Technology Assessment Center (CTAC)

The committee opposes the administration's current request of only $9.6 million for the CTAC program, a drastic cut from the $29.7 million appropriated for fiscal year 2006 (which was itself a major cut from the $41.7 million appropriated for fiscal year 2005). The CTAC research program provides support to law enforcement supply reduction by developing advancement in technology for drug detection, communications, surveillance and methods to share drug crime investigative information.[57] In addition, funding is available for research into drug abuse and addiction. Further, CTAC supports the Technology Transfer Program which supplies new counterdrug technologies to state and local law enforcement.

The proposed decreases would cut the research program from $14 million to $9.6 million—while completely eliminating Technology Transfer Program (appropriated at nearly $16 million in fiscal year 2006). The committee strongly opposes the termination of the Technology Transfer Program which provides another means of building operational cooperation between Federal, State, and local law enforcement.

The committee believes that reform is the appropriate remedy for any CTAC difficulties. At a time when assistance to state and local drug enforcement is under consistent attack throughout the current drug control budget, it is unwise for the Federal Government to cut off yet another source of badly needed anti-drug trafficking technology.

HITDA, Byrne Grants, and the CTAC Technology Transfer program represent networks of enforcement cooperation between Federal, State, and local agencies in which information, intelligence, and assets are shared and ultimately maximized. The particular relationships and venues for dialog that comprise this multi-level cooperation have been gradually developed since the creation of the first HIDTAs in 1990.

If the proposed budget changes are implemented, it could take another 16 years to recover and rebuild these programs to their current level of operational sophistication. Consequently, the com-

[55] See *FY 2006 Drug Control Budget and Byrne Grant, HIDTA, and other law enforcement programs: Are we jeopardizing Federal, state and local cooperation? Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (Mar. 10, 2005) (testimony of Tom Donahue, Director, Chicago HIDTA, and Mark Henry, president, Illinois Drug Enforcement Officer's Association).

[56] FEDERAL BUREAU OF INVESTIGATION, CRIME IN THE UNITED STATES, UNIFORM CRIME REPORT, U.S. DEPARTMENT OF JUSTICE (2002).

[57] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at 89.

mittee, after much experience with the profoundly improved and necessary impact made by collaboration between Federal, State, and local law enforcement, believes that maintaining these programs is of the highest priority.

5. Interdiction

It is crucial that the Federal Government pursue the most effective interdiction strategy possible. In what appears to be a rapidly developing partnership, illicit drug production and smuggling is being directly linked to terrorist cells around the world.[58] Traffickers smuggle drugs, money, people, information, weapons, and substances the same way terrorists do. Sometimes, narco-traffickers are terrorists.[59] When speaking about the Colombian insurgency, Chairman Tom Davis of the House Government Reform Committee stated, "These are not idealistic liberators; they're thugs and terrorists, funded by the illicit drug trade."[60] When drugs are interdicted, the financing of terrorist operations becomes more difficult.[61]

For the third straight year, joint service, interagency, and multinational forces in the transit zone have seized and disrupted a record amount of cocaine.[62] A critical element of the strategy to disrupt the market focuses U.S. interdiction efforts on seizing cocaine and other illicit drugs bound for the U.S. from South America in the transit zone. The transit zone is a six million square mile area that encompasses Central America, Mexico, the Caribbean Sea, the Gulf of Mexico, and the eastern Pacific Ocean. Transit zone seizures and disruptions in 2005 amounted to 254 metric tons of cocaine, compared to 219 metric tons in 2004 and 176 metric tons in 2003.[63]

Transit zone interdiction is a team effort that relies on the successful execution of several steps in an interdiction continuum, including the collection and dissemination of actionable intelligence, the detection and monitoring of suspect vessels, and the physical interdiction of those vessels.[64] The primary operations center and coordinator for detecting and monitoring suspected air and maritime drug trafficking events in the transit zone is Joint Interagency Task Force South (JIATF-South). Located in Key West, Florida, JIATF-South includes representatives from Defense, Justice, Homeland Security, and nations such as France, the Netherlands, and the United Kingdom.

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[58] Miles, Donna, *Rumsfeld, Ecuadoran Leaders Vow Continued Cooperation,* AMERICAN FORCES PRESS SERVICE, Nov. 16, 2004, at http://www.defenselink.mil/news/Nov2004/n11162004_2004111604.html (last visited Feb. 24, 2006); Department of Defense Press Briefing by Secretary of Defense Donald Rumsfeld and chairman of the Joint Chiefs of Staff General Richard Myers on Jan. 6, 2004, at http://www.defenselink.mil/transcripts/2004/tr20040106-secdef1104.html (last visited Feb. 24, 2006).

[59] Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources drug control budget briefing with Department of Defense Office of the Deputy Assistant Secretary for Counternarcotics, Nov. 10, 2005; Dept. of State, Designated Foreign Terrorist Organizations, 2004, at http://www.state.gov/documents/organization/45323.pdf (last visited Feb. 24, 2006).

[60] See *The War Against Drugs and Thugs: A Status Report on Plan Colombia Successes and Remaining Challenges: Hearing before the House Committee on Government Reform,* 109th Cong. (2004) (statement of Chairman Tom Davis).

[61] The White House, National Drug Control Strategy, (Feb. 2006) at 33.

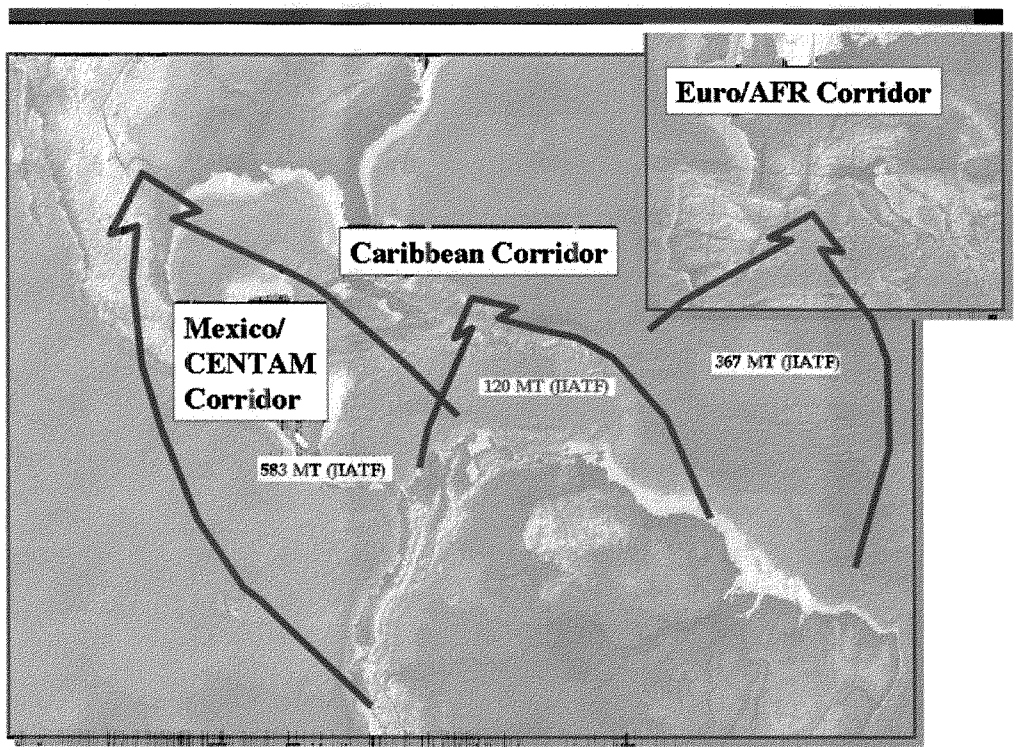
[62] Id. Joint service, interagency, and multinational forces in the transit zone seized 254 metric tons of cocaine in 2005.

[63] Id.

[64] Id, at 35.

What we expect to see

Projection of Cocaine Flows for 2006 in Metric Tons



The chart depicted above reflects JIATF-South's estimates of the intercontinental flow of cocaine out of the source countries. However, estimates of the drug flow through the transit zone are problematic. In its assessment for 2004, ONDCP reported that between 325 metric tons and 675 metric tons of cocaine may be moving toward the United States.[65] Given the lower and upper bound flow estimates, the committee has deep reservations regarding the credibility of eradication, production, interdiction, and usage estimates and performance measures.[66]

The majority of "frontline" interdiction personnel and assets are contained within the Department of Homeland Security (DHS). In addition, the Department of Defense (DOD) has been designated as the single lead agency of the Federal Government for the detection and monitoring of the aerial and maritime transit of illegal drugs into the U.S.[67] DOD carries out this responsibility by providing aircraft and ships to patrol the transit zones, utilizing radars and other technologies to monitor drug smuggling routes, and employing tactical intelligence units. With the ongoing DOD and DHS focus on the global war on terrorism and illegal immigration, the committee is deeply concerned that many of the resources within these departments traditionally integral to drug interdiction will be increasingly diverted for anti-terror and immigration missions, and the administration is not adequately addressing the interagency detection and monitoring capabilities that support U.S. interdiction efforts in the transit zone.

Increasing the challenge of interdicting drugs in the transit zones is the mounting shortage of detecting, monitoring and interdiction assets (ships, planes, and helicopters) allocated to this critical mission. This is the result of the administration's failure to plan to replace aging DHS and DOD assets. The shortage of these assets is perhaps more pronounced recently because of substantial gains that have been made in developing "known actionable" maritime events.[68] Moreover, the Director of JIATF-South recently reconfirmed what Congress was told last year: JIATF-South now has more actionable drug intelligence than there are interdiction assets available to respond to smuggling events.[69] The impressive level of intelligence is displayed by the accompanying graphic in which known, specific, smuggling events are broken down to the means of transportation used ("go-fast" speed boat (57.2 percent), fishing vessel (30.5 percent), motor vessel (9.6 percent), other (2.7 percent).

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[65] DRUG CONTROL: AGENCIES NEED TO PLAN FOR LIKELY DECLINES IN DRUG INTERDICTION ASSETS, AND DEVELOP BETTER PERFORMANCE MEASURES FOR TRANSIT ZONE OPERATIONS, GAO REPORT NO. 06–2000, (Nov. 2005) at 6.

[66] Id, at 25; The principal source of information about cocaine flow in the transit zone is ONDCP's Interagency Assessment of Cocaine Movement (IACM). The IACM is prepared annually for ONDCP by an interagency group representing departments and agencies involved in U.S. counternarcotics efforts. For 2003 and 2004, according to the interagency group, the IACM's estimate of the amount of cocaine available for export was too low in relation to estimated U.S. and non-U.S. demand for cocaine after taking into account seizures and disruptions.

[67] 10 U.S.C. § 124 (1989).

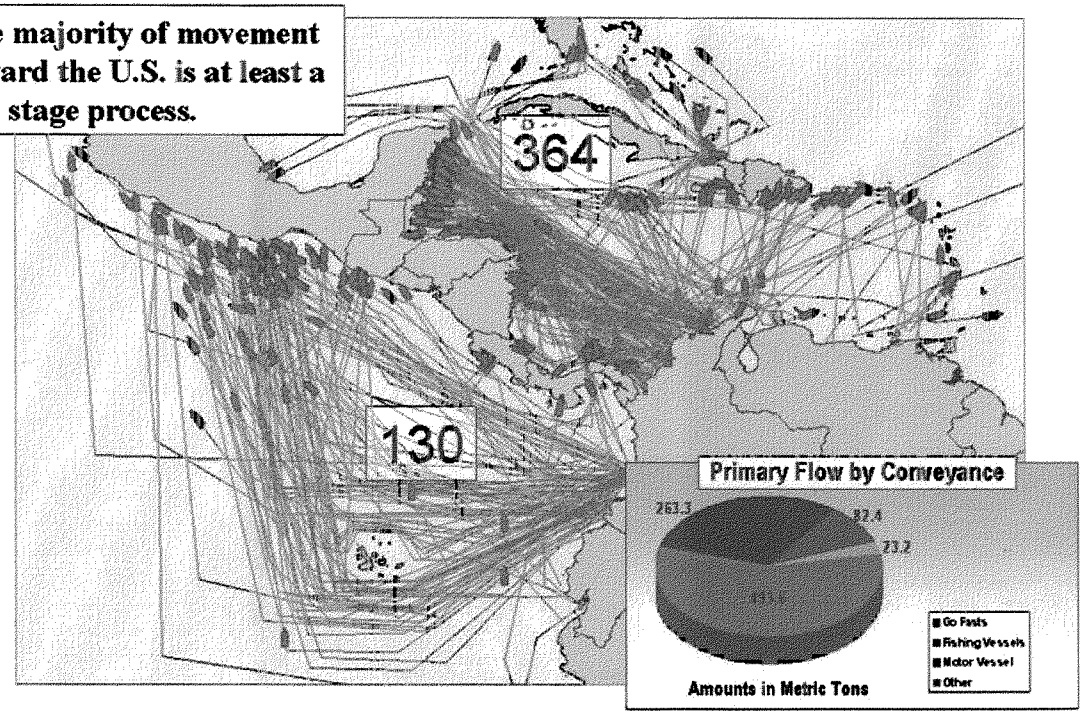
[68] DRUG CONTROL: AGENCIES NEED TO PLAN FOR LIKELY DECLINES IN DRUG INTERDICTION ASSETS, AND DEVELOP BETTER PERFORMANCE MEASURES FOR TRANSIT ZONE OPERATIONS, GAO REPORT NO. 06–2000, (Nov. 2005) at 17.

[69] Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources visit to JIATF-South, Key West, Florida on Jan. 12, 2006.

Maritime Activity

1 Jan 2004 – 30 Apr 2005

The majority of movement toward the U.S. is at least a two stage process.

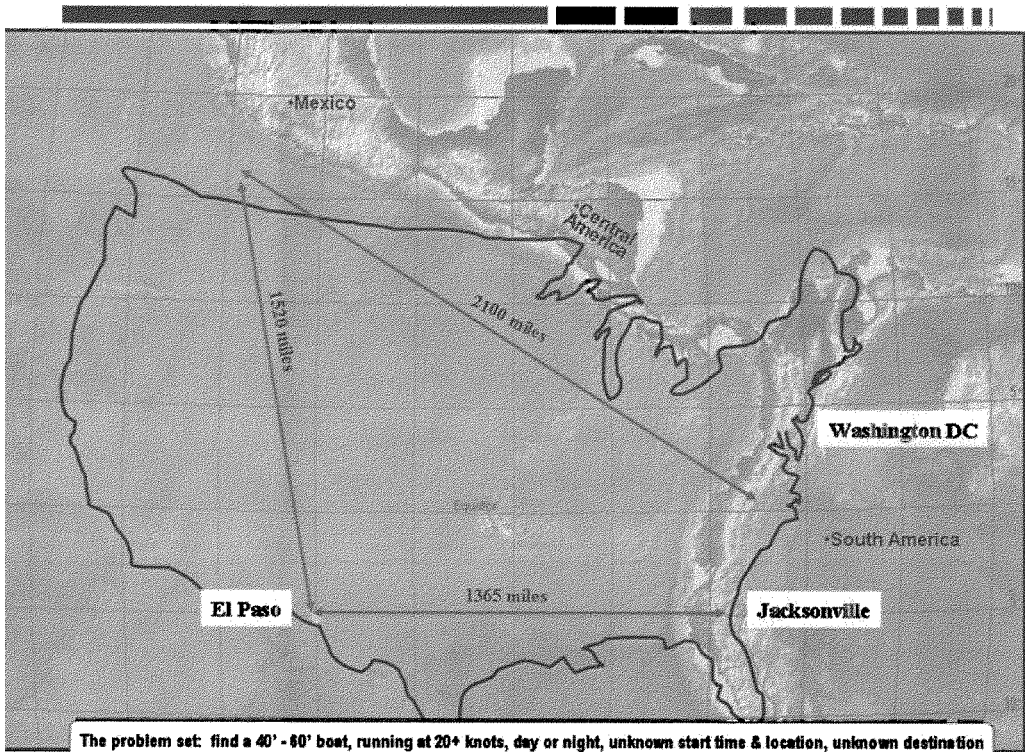


The committee is alarmed that the administration has not directly addressed the issue of insufficient interdiction assets. Equally troubling, ONDCP does not identify and discuss this issue in its 2007 Strategy, other than to highlight the improvements in intelligence. The committee is concerned that until ONDCP clearly articulates the current shortages in drug interdiction assets, the administration will not provide the support necessary to respond.

Another crucial piece necessary to understanding the challenge of the interdiction process addresses the vast distances associated with the high seas maritime transit zones that are manipulated by drug smugglers to their strategic advantage. The Eastern Pacific maritime transit zone, as depicted in the graphic nearby, places tremendous strains on U.S. interdiction intelligence, personnel, and assets. Over time the smugglers have measured the interdiction capabilities of these assets and have continually utilized these known limits to exploit weaknesses, irresolvable without an additional commitment of assets, to continue the flow of illegal drugs into the continental United States.

The Tyranny of Distance

Size of Eastern Pacific vs. Size of Continental U.S.



The problem set: find a 40' - 60' boat, running at 20+ knots, day or night, unknown start time & location, unknown destination

In addition to the vast distance being covered, the means most frequently used by smugglers, even if detected, present a substantial challenge to the interdiction mission. High-speed "go-fast" vessels are used in the majority of the smuggling events in the transit zone. "Go-fast" vessels, which are very hard to detect by ship and helicopter acting without maritime patrol aircraft, are capable of speeds up to 40+ knots while hauling as much as four metric tons of cocaine. In the Eastern Pacific, these speed boats seek to avoid U.S. interdiction forces by taking broad, round-about paths into the middle of the Pacific Ocean before heading north to Mexico. In the Caribbean, they leave Colombia's North Coast at night, rapidly transit across the Caribbean basin, and then hug the Central American coastline in the voyage north to Mexico.

The number of go-fast boats involved in smuggling has increased substantially since 1995. Such craft are small, very fast, nearly invisible to radar, and difficult to see in daylight when painted in blue (seized go-fast (left) with four 200 horsepower outboard engines is pictured with a U.S. Coast Guard over-the-horizon small boat).

Since calendar year 2000, JIATF-South officials report that they had information about more maritime drug movements than they could detect visually.[70] The number of "known actionable" maritime events in the western Caribbean Sea and the eastern Pacific Ocean more than doubled from 154 in 2000 to 330 in 2004.[71] According to JIATF-South officials, in many cases the maritime event is too far away for available ships and aircraft to go to the area and visually locate the suspected drug movement. However, once JIATF-South locates a suspect movement, the disruption rate has significantly increased since 2000—from less than 60 percent in 2000 and 2001 to over 80 percent in 2003 to 2005.[72]

The critical need for Maritime Patrol Aircraft

One of the most critical areas of concern to the committee is the steady reduction of DOD and DHS maritime patrol aircraft (MPA) patrol hours. MPA assets are the linchpin of maritime interdiction operations and play a key role virtually every significant maritime drug seizure. These aircraft provide the necessary detection and monitoring capability in the transit zones on which all other interdiction and law enforcement efforts depend.

In his opening remarks to the House Committee on International Relations Subcommittee on the Western Hemisphere on November 9, 2005, Chairman Dan Burton said that many of the air assets in the drug transit zone had been ". . . taken out of the interdiction business and committed to counter-terrorism and homeland security. This often leaves us with more actionable intelligence on drug shipments than assets to intercept them." This lack of air assets often leaves law enforcement with no way to counteract drug shipments, leaving them to merely watch as drugs made their way into the country.[73]

While the U.S. interdiction forces have seized record amounts of cocaine over the past three years,[74] the Coast Guard, Customs and Border Protection and DOD face several challenges in maintaining current level of assets to support transit zone interdiction operations.

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[70] DRUG CONTROL: AGENCIES NEED TO PLAN FOR LIKELY DECLINES IN DRUG INTERDICTION ASSETS, AND DEVELOP BETTER PERFORMANCE MEASURES FOR TRANSIT ZONE OPERATIONS, GAO REPORT NO. 06–2000, (Nov. 2005) at 17.

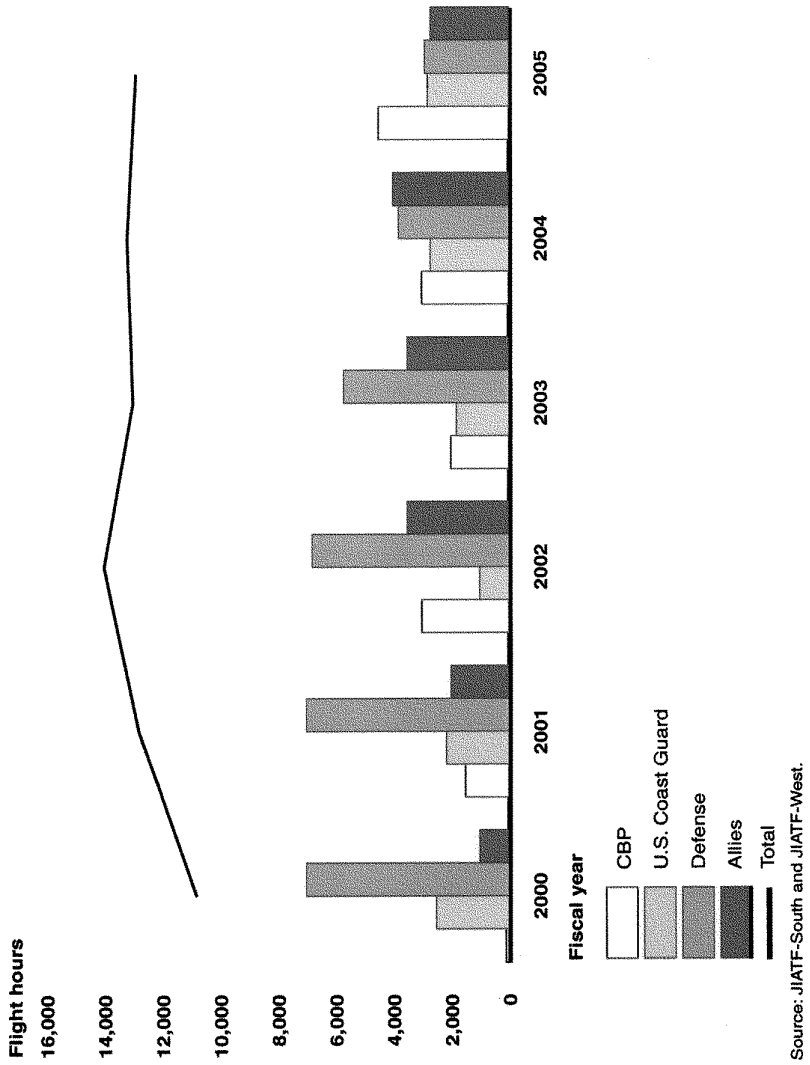
[71] Id.

[72] Id.

[73] See *Illicit Drug Transit Zone in Central America: Hearing before House Subcommittee on the Western Hemisphere, Committee on International Relations,* 109th Cong. (Nov. 9, 2005) (statement of Chairman Dan Burton).

[74] The White House, National Drug Control Strategy, (Feb. 2006) at 33.

ON STATION FLIGHT HOURS FOR INTERDICTION IN THE TRANSIT ZONE, FISCAL YEARS 2000–2005



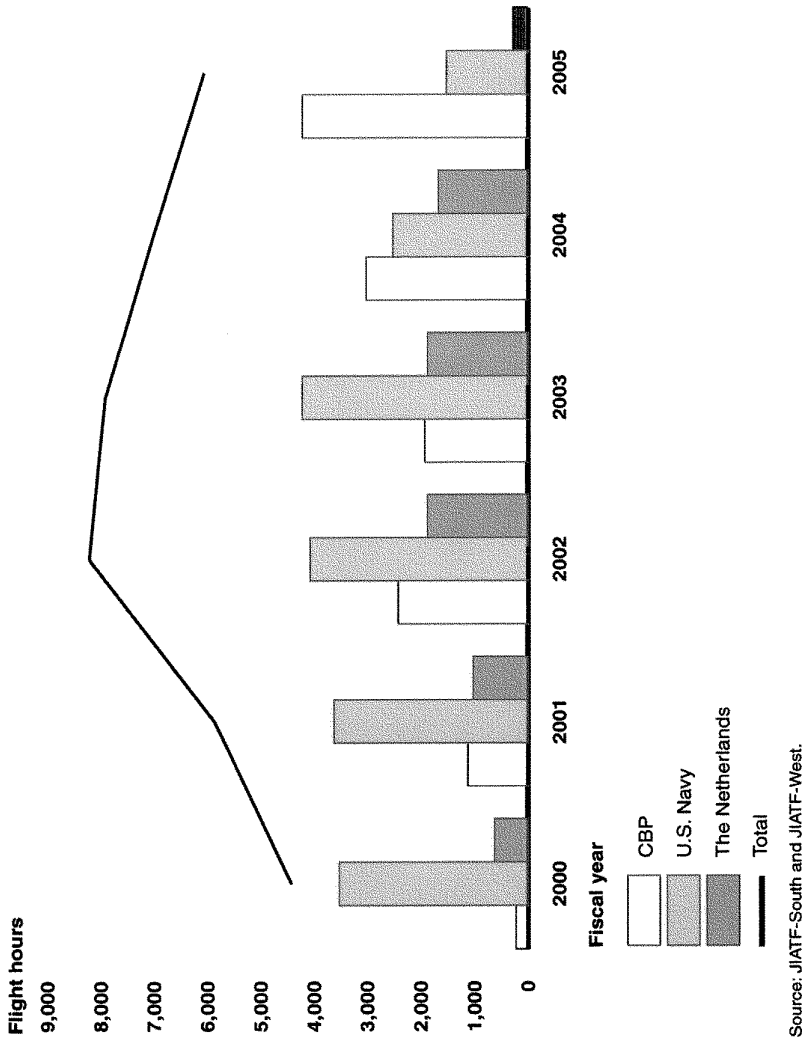
According to JIATF-South and U.S. Interdiction Coordinator officials, because of its longer range, the P–3 aircraft can monitor a much larger surface area than other maritime patrol aircraft and can provide covert surveillance until other interdiction assets arrive.[75] As displayed in the nearby graph, the availability of the U.S. Navy P–3 maritime patrol aircraft has steadily declined since 2002, and will degrade JIATF-South's ability to detect and monitor maritime movements.[76] JIATF-South, Coast Guard, CBP, and U.S. Interdiction Coordinator officials stated that while some short-term fixes have been made, the longer-term implications of the likely continued declines in the monitoring and interdiction assets for the transit zone have not been addressed.[77] The committee is concerned that the reduced availability of the U.S. Navy P–3 maritime patrol aircraft and the apparent lack of a suitable replacement aircraft are the most critical issues challenging the future of interdiction efforts in the transit zone.

[75] DRUG CONTROL: AGENCIES NEED TO PLAN FOR LIKELY DECLINES IN DRUG INTERDICTION ASSETS, AND DEVELOP BETTER PERFORMANCE MEASURES FOR TRANSIT ZONE OPERATIONS, GAO REPORT NO. 06–2000, (Nov. 2005) at 18.

[76] See *Interrupting Narco-terrorist Threats on the High Seas: Do We Have Enough Wind in Our Sails? Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (June 29, 2005) (testimony of Rear Admiral Jeffrey Hathaway, Director of JIATF-South).

[77] Id.

TOTAL P–3 ON-STATION FLIGHT HOURS IN THE TRANSIT ZONE, FISCAL YEARS 2000–2005



Source: JIATF-South and JIATF-West.

The availability of the P–3 aircraft has declined for several reasons. In fiscal years 2000–2003, the U.S. Navy provided the majority of P–3 maritime patrol flying hours in support of interdiction efforts. However, in FY 2004, the Navy began limiting the use of its P–3 maritime patrol aircraft for transit zone interdiction missions because of structural problems in the P–3's wings[78] and other worldwide commitments. Since FY 2000, the number of hours flown by U.S. Navy P–3s has decreased nearly 60 percent to about 1,500 hours in FY 2005.[79] In addition, in December 2004, the Netherlands removed the P–3 aircraft it used to fly interdiction missions in the transit zone and sold its planes to Germany for use in the Baltic. According to the U.S. Interdiction Coordinator, the P–3s flown by the Netherlands were vital to interdiction efforts in the Caribbean Sea, averaging over 1,300 flight hours during fiscal years 2000–2004. In April 2005, the Netherlands began using the Fokker F–60, a shorter-range twin engine aircraft, to fly interdiction missions, but, according to Defense officials, these aircraft are less capable than the P–3.[80]

Defense Department plans to support Maritime Patrol Aircraft

The steady reduction of DOD maritime patrol aircraft resource hours and the apparent gap in providing a replacement aircraft or unmanned aerial vehicles in the transit zone reflects woeful shortcomings in DOD's management of its detection and monitoring responsibilities. The committee believes that if DOD is unable to fully perform its statutory responsibility as the lead Federal agency for the detection and monitoring of illicit drug trafficking, other agencies, most notably the enforcement agencies at the Department of Homeland Security (DHS), should be provided the resources necessary to fill the void in illicit drug detection, monitoring and interdiction missions.

Customs and Border Protection plans to support Maritime Patrol Aircraft

To help compensate for the reduction in U.S. Navy P–3 availability, the Department of Homeland Security's Customs and Border Protection (CBP) has increased its P–3 maritime patrol on-station flight hours in the transit zone from about 1,777 flight hours in 2000[81] to over 4,300 in 2005.[82] The committee strongly supports CBP's increasing role in transit zone. However, CBP P–3 aircraft, which are formally owned and operated by the U.S. Navy, are challenged with the same maintenance issues of a Vietnam-era aircraft.

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[78] The P–3 is a 40-year-old aircraft that has begun to develop cracks in its wing structure. Presently, the Navy plans to retire the P–3 and replace it with a different aircraft. However, the full fleet of aircraft will not be available until 2013, leaving a potential gap in Maritime Patrol hours.

[79] DRUG CONTROL: AGENCIES NEED TO PLAN FOR LIKELY DECLINES IN DRUG INTERDICTION ASSETS, AND DEVELOP BETTER PERFORMANCE MEASURES FOR TRANSIT ZONE OPERATIONS, GAO REPORT NO. 06–2000, (Nov. 2005) at 18.

[80] Id, at 19.

[81] Statistics provided in letter from Mary Beth Long, Deputy Assistant Secretary of Defense for Counternarcotics to Mark Souder, chairman, Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform (July 13, 2005) (on file with Subcommittee on Criminal Justice, Drug Policy, and Human Resources).

[82] DRUG CONTROL: AGENCIES NEED TO PLAN FOR LIKELY DECLINES IN DRUG INTERDICTION ASSETS, AND DEVELOP BETTER PERFORMANCE MEASURES FOR TRANSIT ZONE OPERATIONS, GAO REPORT NO. 06–2000, (Nov. 2005) at 19.

The committee has grave concerns about the apparent lack of replacement or service life extension plans for CBP's aging air fleet. Also, it is not clear what steps CBP or DHS, as a whole, are taking to ensure continued P–3 aircraft support to counterdrug missions in the transit zone, and are not diverted to other CBP mission areas.

We recommend that the DHS closely evaluate current CBP procurement and modernization proposals and submit recommendations to Congress that will maintain these critical MPA capabilities throughout the projected gap period before U.S. Navy replacement aircraft come on-line. Without these capabilities, DHS efforts to combat terrorism and illegal drug movements in the source, transit, and arrival zones and to provide interagency law enforcement support would be severely hindered and may threaten national security. The committee recommends CBP Air program continue to fully support all international and MPA missions in the transit zones.

Coast Guard plans to support Maritime Patrol Aircraft

The Coast Guard, although hampered by its aging assets, has also attempted to rise to the task. The Service is now dedicating more maritime patrol aircraft (MPA) hours to drug interdiction missions since the 9/11 terrorist attacks.[83]

However, the Coast Guard airframe which supports the MPA mission, the HC–130, is less capable than the P–3 aircraft, and the percentage of time the HC–130 maritime patrol surveillance aircraft were available to perform MPA missions was below the target level in fiscal year 2004. Additionally, the surface radar system on the aircraft is subject to frequent failures.[84] In some instances, mission flight crews had to look out the windows of the aircraft for targets because the radar systems were inoperable.

The administration has developed a strategic plan to replace the Coast Guard's aging ships and aircraft. The committee believes the Coast Guard's Deepwater fleet modernization project is critical to U.S. transit zone drug interdictions. However, the Coast Guard needs to develop aircraft and unmanned aerial vehicles that can effectively perform the MPA mission, with the type of radars and sensors capable of complementing the aging fleet of P–3 currently performing the mission. Consequently, the administration and DHS need to ensure they are putting the right tools and equipment into the hands of Coast Guard men and women so that they may continue to effectively interdict drugs on the high seas, and deliver the maritime safety and security America deserves.

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[83] Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources Staff budget summary briefing with U.S. Coast Guard officials on Nov. 17, 2005; Resource hours committed to the drug interdiction mission include on-station hours spent on detection, monitoring and interdiction operations, and also transit hours needed for assets to get into position to begin operations.

[84] DRUG CONTROL: AGENCIES NEED TO PLAN FOR LIKELY DECLINES IN DRUG INTERDICTION ASSETS, AND DEVELOP BETTER PERFORMANCE MEASURES FOR TRANSIT ZONE OPERATIONS, GAO REPORT NO. 06–2000, (Nov. 2005) at 21.

II. Strategic and Budgetary Analysis of Federal Drug Control Programs and Agencies

A. DEPARTMENT OF DEFENSE (DOD)

DOD Drug Control Funding (in millions)

DOD Drug Control	FY 2005 Requested [85]	FY 2005 Final [86]	FY 2006 Requested [87]	FY 2006 Enacted [88]	FY 2007 Request [89]
AGENCY TOTAL	$852.7	$1,147.8*	$895.7	$936.1	$926.9

* Includes supplemental appropriations.

Contact Information: Department of Defense Office of Public Affairs: 703–428–0711, http://www.defenselink.mil/.

The President's budget proposal includes approximately $927 million for Department of Defense (DOD) counterdrug funding. However, this budget request does not reflect the total amount of money given to the Department for Drug Control programs. DOD has received counterdrug funds through the War Supplemental Appropriations process to support programs in Afghanistan. The committee is concerned that ONDCP does not account for this supplemental counterdrug funding. It is very difficult for ONDCP to provide effective oversight on the entire U.S. National Drug Control Strategy if some DOD programs are funded outside the established process for coordinating programs.

The committee understands and greatly appreciates the efforts of U.S. Armed Forces in carrying out dangerous missions around the world. It was on the heels of September 11th that a changed world brought this marriage of drugs and terror into stark focus. In a special briefing on Humanitarian Assistance for Afghanistan, the Deputy Assistant Secretary for Defense for Peacekeeping and Humanitarian Affairs, Joseph Collins, said Osama bin Laden and the Taliban had been ". . . closely associated with major drug traffickers since 1996." He added, "With overseas donations, kickbacks from Al Qaeda, and a huge drug business, the Taliban has not lacked for financing."[90] In November 2004, an unnamed senior defense official traveling with Defense Secretary Rumsfeld in Central America told a reporter that drug trafficking (among other illegal activities) in the region was helping fund Hamas and Hezbollah.[91] In a January 2004 press briefing, General Richard Myers, accompanied by Secretary Rumsfeld, responded to a question concerning recent ship seizures in the Persian Gulf that contained illegal drugs. General Myers said it was clear there was a connection be-

[85] The White House, National Drug Control Strategy, FY 2005 Budget Summary (Mar. 2004) at http://www.whitehousedrugpolicy.gov/publications/policy/budgetsum04/index.html (last visited Feb. 24, 2006).

[86] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[87] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/index.html (last visited Feb. 24, 2006).

[88] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[89] Id.

[90] Special Press Briefing on Humanitarian Assistance for Afghanistan by Joseph Collins, Deputy Assistant Secretary of Defense for Peacekeeping and Humanitarian Affairs, Nov. 15, 2001, at http://www.defenselink.mil/transcripts/2001/t11152001_t1115aid.html (last visited Feb. 24, 2006).

[91] *Rumsfeld, Ecuadoran Leaders Vow Continued Cooperation*, American Forces Press Service, Nov. 16, 2004 at http://www.defenselink.mil/news/articles.html (last visited Feb. 24, 2006).

tween terrorism and the drug business, both in South America and the Middle East.[92] Mary Beth Long, Deputy Assistant Defense Secretary for Counternarcotics testified in June 2005, that Colombian narcoterrorists receive the majority of their funds from protecting, "taxing" and engaging in this illegal drug trade, and they seek to overthrow the freely elected Colombian government, the oldest democracy in Latin America.[93] "Financial, political and operational linkages already exist among narcotics trafficking, smuggling at large, and the regional and global expansion and movement of terrorists."[94]

The counternarcotics mission offers a solid opportunity for DOD collaboration with other nations combating drug trafficking. The development of ties and partnerships extends beyond the drug issue and overlaps into other areas. For example, the Quadrennial Defense Review Report stated, "Where possible, the United States will cooperate with Russia on shared interests such as countering the proliferation of weapons of mass destruction, combating terrorism, and counter the trafficking of narcotics."[95]

DOD has recently developed new counternarcotics policies and programs that support the Global War on Terrorism, advance security cooperation goals, and contribute to national security. In order to accomplish these new policies, DOD has defined "narcoterrorists" to include "Terrorists who benefit from narcotics production and trafficking."[96]

1. Central Transfer Account (CTA)

In an effort to align DOD's financial management accounts to support this new definition of narcoterrorists, the Department has proposed combining the one counternarcotics central transfer account (CTA) with that of the much larger counterterrorism account. No rationale has been offered by DOD to support this change. In effect, DOD would fund all counter-terrorism activities worldwide out of this one account. As a practical consequence, it would merely augment the Department's discretion over these funds and significantly frustrate Congress' ability to hold DOD accountable for its mandated counterdrug mission.[97]

Currently, DOD's Assistant Secretary for Special Operations and Low Intensity Conflict (SOLIC) is responsible for supervising how DOD counternarcotics programs will be prioritized and coordinated with approved national drug strategies. Since the CTA funding mechanism is with the policy-maker, timely disbursements can be,

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[92] Dept. of Defense Press Briefing by Secretary of Defense Donald Rumsfeld and chairman of the Joint Chiefs of Staff General Richard Myers on Jan. 6, 2004 at http://www.defenselink.mil/transcripts/ (last visited Feb. 24, 2006).

[93] See *2006 DOD Counternarcotics Budget: Does It Deliver the Necessary Support? Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (May 10, 2005) (Testimony of Mary Beth Long, Deputy Assistant Secretary of Defense for Counternarcotics). At http://reform.house.gov/CJDPHR/News/DocumentSingle.aspx?DocumentID=26864.

[94] Dept. of Defense, Office of Counternarcotics policy statement describing the link between counternarcotics and terrorism, at http://defenselink.mil/policy/sections/policy_offices/solic/cn/cn_terrorism.html.

[95] *Quadrennial Defense Review Report,* (Department of Defense), Feb. 2006, at 29.

[96] Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources drug control budget brief with Department of Defense, Office of the Deputy Assistant Secretary for Counternarcotics, Nov. 10, 2005 (on file with Subcommittee on Criminal Justice, Drug Policy, and Human Resources).

[97] Letter from Mark Souder, chairman of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform to DOD Secretary Rumsfeld (Sept. 30, 2005) (on file with Subcommittee on Criminal Justice, Drug Policy, and Human Resources).

and have been made to take advantage of immediate opportunities. The proposed takeover of the CTA would make it virtually impossible for SOLIC to continue to preserve the integrity of counterdrug appropriations, allow for historical data collection, and provide the basis for conducting cost-effectiveness and comparative analyses.

The Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources raised similar concerns in correspondence to the Department.[98] The committee was startled at the insolent response from DOD, which stated, "If we make changes to the Department's internal management of the Counternarcotics program we will notify you immediately."[99] The Department's lack of coordination and clarity on this issue raises grave doubts and concerns about the priority and status of all counternarcotics programs within DOD.

The committee agrees with the Department's assertion that terrorists may benefit from drug smuggling and that the Department performs a critical role as the lead agency for the detection and monitoring of drug trafficking into the United States. Be that as it may, the committee opposes any attempt to change the existing management, structure and procedures of the Central Transfer Account. While a successful effort to combat drug smuggling can deny funds to terrorists, it is less clear that a successful effort against terrorists can impact the drug trade. The committee strongly believes that DOD's current authority is sufficient and preserves important safeguards against the unnecessary diversion of counterdrug resources to non-drug interdiction operations.

2. U.S. Military Support to Counterdrug Operations

The Department of Defense's role in support of stopping illicit drug trafficking is clearly spelled out in statute; the Department shall serve as the single lead agency of the Federal Government for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.[100] The Department carries out this responsibility by providing aircraft and ships to patrol the transit zones, utilizing radar and other technologies to monitor drug smuggling routes, and employing tactical intelligence units. The tactical intelligence units utilize DOD's intelligence assets and procedures to collect and analyze information about smuggling events.

3. Joint Interagency Task Force South (JIATF South)

The committee fully supports the efforts of DOD's Joint Interagency Task Force South (JIATF South), located in Key West, Florida, which serves as the central operations center for detection and monitoring activities covering the Caribbean and Eastern Pacific

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[98] Id; Letter from Mark Souder, chairman of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform to DOD Secretary Rumsfeld (Jan. 30, 2006), at http://reform.house.gov/CJDPHR/News/DocumentSingle.aspx?DocumentID=39045 (on file with Subcommittee on Criminal Justice, Drug Policy, and Human Resources); Roxana Tiron, *Pentagon's possible move to eliminate special ops oversight office could trigger Hill ire,* THE HILL, Feb. 1, 2006, at http://www.thehill.com/thehill/export/TheHill/News/Frontpage/020106/rumsfeld.html.

[99] Letter from Thomas O'Connell, Assistant Secretary of Defense, to Mark Souder, chairman of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform (Oct. 11, 2005) (on file with Subcommittee on Criminal Justice, Drug Policy, and Human Resources).

[100] 10 U.S.C. § 124 (1989).

transit zones. In recent years, JIATF South has achieved remarkable results in coordinating the detection, monitoring and eventual interdiction of record quantities of cocaine in the transit zone. In FY 2005, the Coast Guard seized over 300,000 pounds of cocaine.[101] The committee recognizes the Coast Guard's success is a direct result of the highly successful efforts of JIATF South and its participating agencies.

We commend the work of JIATF South and fully support the international, interagency team effort that has led to record drug seizures. The teamwork and unity of effort effectively demonstrated at JIATF South should be fully supported and used as an example of how U.S. departments and agencies can work together to achieve a common goal.[102]

JIATF South's continued success is based partly on their efforts in fusing a wide range of information sources to support patrolling ships and aircraft in the transit zones. The committee fully supports JIATF South's focus on intelligence and support of specific programs such as Operation Panama Express. The committee recommends that DOD and JIATF South continue to enhance these programs which have produced outstanding results.

4. Maritime Patrol Aircraft

The committee supports the efforts of DOD to focus its counternarcotics role in areas that uniquely call for military support. However, we are concerned that DOD may not be currently capable of fulfilling its assigned role in the source and transit zones (i.e., Latin America, the Caribbean, and the Eastern Pacific Ocean).

DOD Maritime Patrol Aircraft On-station Hours

Fiscal Year	Maritime Patrol Aircraft
FY 2001 [103]	7,229
FY 2002	6,425
FY 2003	6,000
FY 2004	4,426
FY 2005 [104]	2,940

As shown above, the steady drop in DOD MPA hours has steadily reduced a much needed detection and monitoring capability in the transit zones and, subsequently, diminished JIATF South's operational capabilities.[105] JIATF South officials attribute the recent declines primarily to the reduced availability of U.S. Navy P–3 MPA because of structural problems with the older aircraft.

The lack of maritime patrol aircraft assets supporting JIATF South is a crisis, as the U.S. has been unable to respond to known

[101] U.S. COAST GUARD, Budget in Brief, FY 2007, Feb. 2006, Appendix B, at B–2.

[102] Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources visit to JIATF-South, Key West, Florida on Jan. 12, 2006; The White House, National Drug Control Strategy, (Feb. 2006) at 34. At http://www.whitehousedrugpolicy.gov/publications/policy/ndcs06/index.html (last visited Feb. 24, 2006).

[103] Statistics provided in letter from Mary Beth Long, Deputy Assistant Secretary of Defense for Counternarcotics to Mark Souder, chairman of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform (July 13, 2005) (on file with Subcommittee on Criminal Justice, Drug Policy, and Human Resources).

[104] DRUG CONTROL: AGENCIES NEED TO PLAN FOR LIKELY DECLINES IN DRUG INTERDICTION ASSETS, AND DEVELOP BETTER PERFORMANCE MEASURES FOR TRANSIT ZONE OPERATIONS, GAO REPORT NO. 06–2000, (Nov. 2005) at 15.

[105] Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources visit to JIATF-South, Key West, Florida on Jan. 12, 2006.

shipments of drugs departing Colombia into the Caribbean and Eastern Pacific transit zone. Credible intelligence information far exceeds our ability to respond to these shipments. The committee believes that if DOD is unable to fully support the detection and monitoring mission, other agencies, most notably the enforcement agencies at the Department of Homeland Security (DHS), should be provided the resources necessary to fill the critical void in drug detection, monitoring and interdiction missions.

5. Maritime Refueling Vessel for the Eastern Pacific

The committee is aware of and concerned about the flow of drugs bound for the U.S. and recognizes the unique challenges and vulnerabilities associated with U.S. interdiction efforts in the transit zone. At the May 11, 2005 House International Relations Committee hearing, Speaker Dennis Hastert testified that Congress "must continue to find ways to stop those illicit drugs that are not eradicated from traveling through the transit zone to our shores." [106]

In the Eastern Pacific transit area, which is larger than the continental U.S., there are, on average, four ships dedicated to the drug interdiction mission. The example is certainly sobering: four ships to patrol an area larger than the continental U.S., trying to stop smugglers who will risk everything to evade U.S. law enforcement efforts.[107]

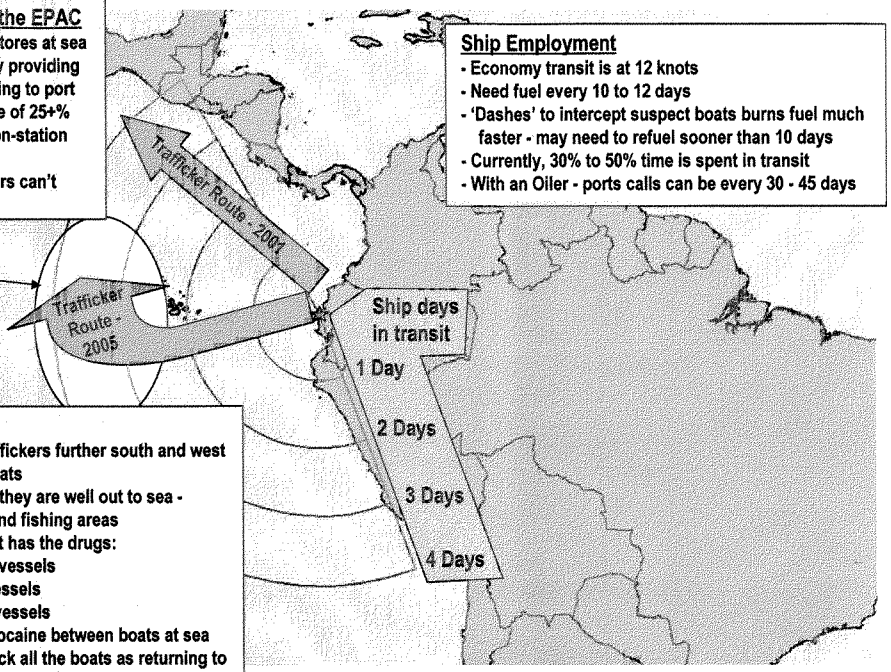
[106] See *Plan Colombia: Major Successes and New Challenges: Hearing before the House Committee on International Relations,* 109th Cong. (May 11, 2005) (testimony of Speaker Dennis Hastert).

[107] Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources visit to Eleventh Coast Guard District, Alameda, CA, on Nov. 29, 2005.

U.S. Ships Refueling in Manta, Ecuador

Advantage of an Oiler in the EPAC
- Replenish fuel and limited stores at sea
- Increases on-station time by providing fuel to ships without returning to port
- Estimate on-station increase of 25+%
  - -- At least 10 more days on-station per ship
- Increased OPSEC - traffickers can't track our port visit

Ship Employment
- Economy transit is at 12 knots
- Need fuel every 10 to 12 days
- 'Dashes' to intercept suspect boats burns fuel much faster - may need to refuel sooner than 10 days
- Currently, 30% to 50% time is spent in transit
- With an Oiler - ports calls can be every 30 - 45 days



Trafficker Behavior
- Successes pushed the traffickers further south and west
- Blend in with legitimate boats
- Only sort traffickers when they are well out to sea - beyond legitimate boats and fishing areas
- A shell game of which boat has the drugs:
  - -- Two or three security vessels
  - -- Two or three decoy vessels
  - -- Two or three logistic vessels
  - -- Traffickers will shift cocaine between boats at sea
- Must stay on-station to track all the boats as returning to port for fuel breaks contact

The Department of Defense and the Department of Homeland Security report that narcotics smuggling organizations continue to avoid U.S. drug interdiction efforts by transiting deep into the Eastern Pacific ocean, often south and west of the Galapagos Islands, which is well beyond the endurance of employed U.S. ships.[108] The graphic nearby details this intentional, evasive strategy on the part of smugglers that strikes at this persistent, yet unaddressed, vulnerability of U.S. efforts. The traffickers have developed a sophisticated refueling system using support ships, while the U.S. has nothing similar.

Drug smugglers use the Eastern Pacific transit zone for moving narcotics into Mexico and then the United States. On any given day, U.S. and Allied forces seize an average of 100 kilograms of cocaine per ship when patrolling in the Eastern Pacific maritime transit zone. Because of the lack of a maritime oiler ship, the U.S. Coast Guard estimates it loses 100 "ship-days" each year due to lengthy refueling trips to central and South American countries.[109] U.S. Navy ships conducting drug interdiction operations also face similar refueling challenges.

As detailed above, interdiction efforts in the maritime transit zones are hampered by the absence of a refueling ship. The U.S. needs a maritime refueling vessel in the Eastern Pacific transit zone for drug interdiction operations. U.S. Coast Guard, U.S. Navy, and Allied warships performing drug interdiction missions currently have no "at-sea" refueling capability in that area and thus cannot operate for any significant length of time before they must return to port to refuel.

Acting U.S. Interdiction Coordinator (USIC) Ralph Utley testified on June 29, 2005, that there would be substantial benefits if a maritime oiler ship were employed to support interdiction activities in the Eastern Pacific maritime transit zone.[110] At the same hearing, witnesses representing the Department of Defense, the U.S. Coast Guard, Customs and Border Protection, and the Drug Enforcement Administration testified that they believe the employment of a maritime oiler vessel would be an immediate improvement to U.S. interdiction operations in the transit zone.[111]

The U.S. Navy, which manages a fleet of refueling and support ships, has been unable to commit refueling ships to support the drug interdiction mission. On July 13, 2005, the Deputy Assistant Secretary of Defense for Counternarcotics wrote to the Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources that "the assets are simply not available."[112]

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[108] Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources briefing at JIATF-South, Key West, Florida, on Jan. 13, 2006.

[109] See *Interrupting Narco-terrorist Threats on the High Seas: Do We Have Enough Wind in Our Sails? Hearing before the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (June 29, 2005) (testimony of Rear Admiral Dennis Sirois, Assistant Commandant for Operations, U.S. Coast Guard). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=29727.

[110] Id, (testimony of Ralph Utley, Acting U.S. Interdiction Coordinator).

[111] Id, (testimony of Rear Admiral Jeffrey Hathaway, Director of JIATF-South) (testimony of Rear Admiral Dennis Sirois, Assistant Commandant for Operations, U.S. Coast Guard) (testimony of Mr. Charles E. Stallworth II, Acting Assistant Commissioner, Office of Air and Marine Operations, U.S. Customs and Border Protection) (testimony of Mr. Thomas M. Harrigan, Chief of Enforcement Operations, Drug Enforcement Administration).

[112] Letter from Mary Beth Long, Deputy Assistant Secretary of Defense for Counternarcotics to Mark Souder, chairman of the Subcommittee on Criminal Justice, Drug Policy, and Human

Continued

In the post 9/11 world, where both securing and detecting threats to our nation's borders have become critical national security objectives, we cannot continue to neglect the fact that narco-traffickers are breaching our borders on a daily basis and transporting deadly narcotics onto our nation's streets. Drug trafficking organizations have already adapted to these long transit routes by employing support ships to refuel drug laden boats on the high seas. The committee believes it is time that U.S. interdiction agencies be provided the right tools to respond to this unique opportunity to stop smugglers in the Eastern Pacific.

Congress has recently attempted to address this vulnerability. Amendment No. 10 to H.R. 889, The Coast Guard and Maritime Transportation Act of 2005, was agreed to by voice vote on September 15, 2005, having received the support of leadership and the Committee on Transportation and Infrastructure. The Amendment authorized $50 million to enable the State Department's Bureau for International Narcotics Control and Law Enforcement Affairs (INL) to purchase or lease a maritime refueling support vessel capable of refueling U.S. and Allied vessels engaged in drug interdiction in the Eastern Pacific transit zone.[113]

This is the second time the House voted in favor of procuring a drug interdiction refueling vessel. On July 19, 2005, a similar amendment was agreed to by voice vote and included in H.R. 2601, The Foreign Relations Authorization Act, Fiscal Years 2006 and 2007.[114]

The committee commends DOD for reaching out to our international partners and requesting maritime refueling assistance. In November 2005, DOD stated that the Chilean Navy had an oiler available to support U.S. interdiction efforts in the transit zones and that a trial period would begin in the Spring of 2006.[115]

6. U.S. Navy—Aviation Use of Force (AUF)

The committee fully supports the U.S Navy's new armed helicopter program for drug interdiction missions.[116] We believe that the Coast Guard's Helicopter Interdiction Squadron (HITRON) has clearly demonstrated a safe and effective capability to stop fleeing, drug-laden speedboats. Although the process of developing the capability has been slow and was originally scheduled to be fully capable in October 2005, the committee commends the U.S. Navy for demonstrating flexibility and initiative to incorporate the Coast Guard's techniques.[117] The committee has high expectations that

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Resources, Committee on Government Reform (July 13, 2005) (on file with Subcommittee on Criminal Justice, Drug Policy, and Human Resources).

[113] 109 Congressional Record H8047 (daily ed. Sept. 15, 2005) (statement of Representative Souder), available at http://thomas.loc.gov (last visited Feb. 24, 2006).

[114] 109 Congressional Record H6049 (daily ed. July 19, 2005) (statement of Representative Souder), available at http://thomas.loc.gov (last visited Feb. 24, 2006).

[115] Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources drug control budget brief with Department of Defense Office of the Deputy Assistant Secretary for Counternarcotics, on Nov. 10, 2005.

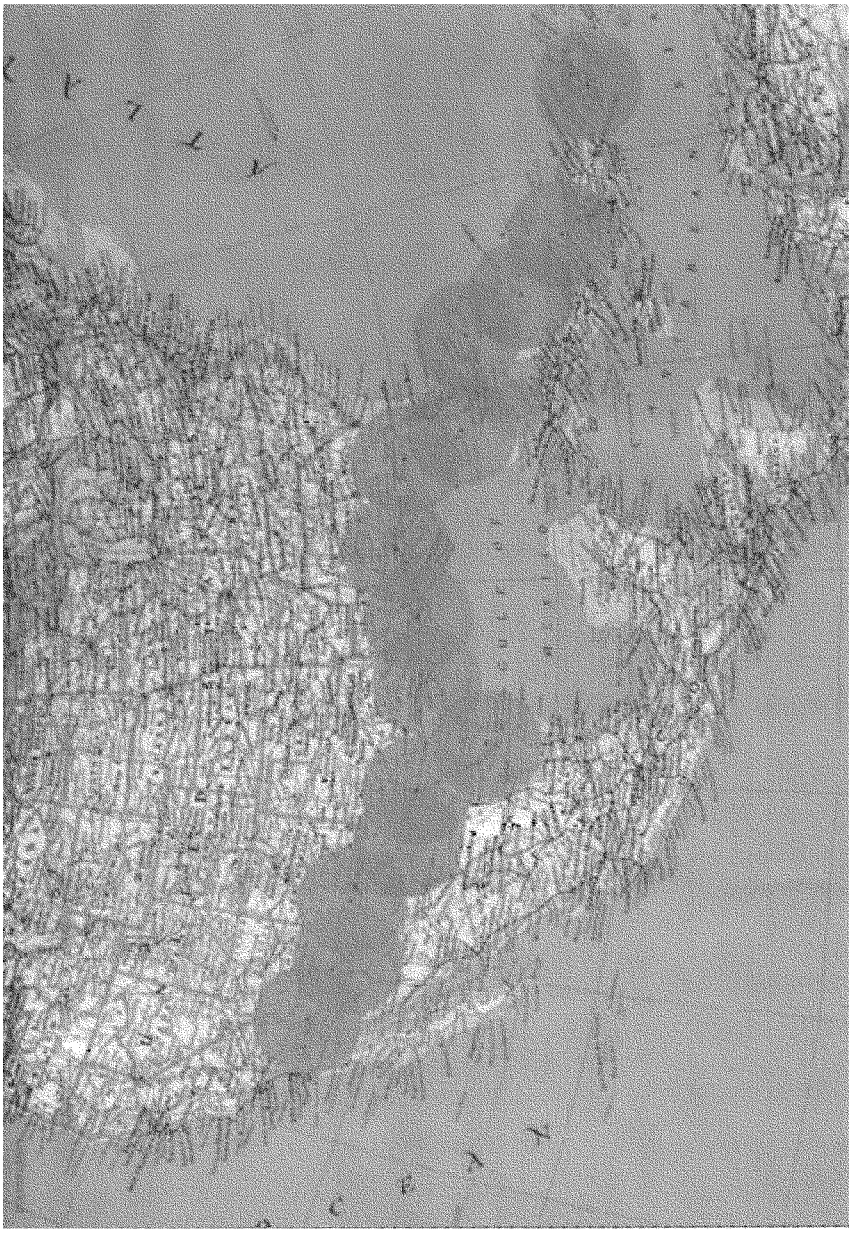
[116] Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources drug control budget brief with Department of Defense, Office of the Deputy Assistant Secretary for Counternarcotics, on Nov. 10, 2005; The White House, National Drug Control Strategy, (Feb. 2006) at 35.

[117] Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources detection and monitoring brief with Department of Defense Office of the Deputy Assistant Secretary for Counternarcotics, on Aug. 31, 2005; Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources visit to Coast Guard HITRON, Jacksonville, Florida, on Jan. 9, 2006.

the new AUF capabilities will provide immediate results in interdicting go-fast smuggling vessels in the transit zones.

7. Tethered Aerostat Radar System (TARS)

The degrading of the Tethered Aerostat Radar System (TARS) is an area of concern for the committee. As demonstrated in the graphic nearby, the U.S. Air Force, which took over control of TARS from the U.S. Customs Service, has reduced the number of TARS radar sites from 14 to 8. This reduction in capability has left the U.S. relatively blind to air and marine smuggling activities along the entire Gulf Coast (stretching from the east coast of Texas to the southern tip of Florida) and from the eastern coast of Florida to Puerto Rico.



The Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources has raised concerns in correspondence to the Department.[118] In response, DOD has stated they have developed an over-the-horizon radar system to replace the old Caribbean radar network,[119] but the committee believes this new system has limited ability to detect vector and speed and that TARS is superior. In addition, DOD stated that drug smuggling through the U.S. gulf coast has always been deemed to be negligible. The committee is very concerned that a "gap" between detection systems may be developing in the gulf coast region. As record seizures and enforcement actions are increased in both the maritime transit zones and along the Southwest Border with Mexico, the gulf coast region will provide an easy entry way for traffickers wanting to avoid detection.

If DOD is not committed to managing the TARS program as designed, the committee recommends that the Customs and Border Protection program in DHS, with appropriate funding for maintenance and improvements, regain operational responsibility for the TARS program. DOD, however, should retain the responsibility for the program's logistics and procurement.

8. Afghanistan Operations

"We live in a world that is full of conflict, contradictions, and accelerating change. Viewed from the perspective of the Director of National Intelligence, the most dramatic change of all is the exponential increase in the number of targets we must identify, track, and analyze. Today, in addition to hostile nation-states, we are focusing on terrorist groups, proliferation networks, alienated communities, charismatic individuals, narcotraffickers, and microscopic influenza."[120]

The connection between heroin production and terrorism in Afghanistan cannot be overstated. "The booming drug trade has given a strong second wind to the stubborn insurgency being waged by the Taliban and Islamists warlords—The ballooning dope trade is rapidly creating narco-states in central Asia, destroying what little border control exists and making it easier for terrorist groups to operate."[121] In an April 2004 hearing, Rear Admiral Bruce Clingan for U.S. Central Command told the Senate Armed Services Committee Subcommittee on Emerging Threats and Capabilities that the counternarcotics program in Afghanistan was a "key element" in the U.S. campaign against terrorism.[122] The cultivation of pop-

[118] Letter from Mark Souder, chairman of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform to DOD Office of the Secretary of Defense, to U.S. Southern Command and to U.S. Northern Command, (July 29, 2005) (on file with Subcommittee on Criminal Justice, Drug Policy, and Human Resources); Letter from Mark Souder, chairman of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform, to Director, Joint Interagency Task Force South, (Jan. 31, 2005) (on file with Subcommittee on Criminal Justice, Drug Policy, and Human Resources).

[119] Letter from Mary Beth Long, Deputy Assistant Secretary of Defense for Counternarcotics, to Congressman Mark Souder, chairman of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform (July 13, 2005) (on file with Subcommittee on Criminal Justice, Drug Policy, and Human Resources).

[120] See *Current and Projected National Security Threats to the United States Hearing before Senate Select Committee on Intelligence,* 109th Cong. (Feb. 2, 2006) (testimony of John D. Negroponte, Director of National Intelligence).

[121] David E. Kaplan, *Paying for Terror,* U.S. NEWS & WORLD REPORT, (Dec. 5, 2005) at 50.

[122] See *U.S. Central Command's Counter Narcotics Program Hearing before the Senate Subcommittee on Emerging Threats and Capabilities, Senate Armed Services Committee,* 109th

Continued

pies, which was regulated and taxed under Taliban rule, flourished after the elimination of the Taliban regime.[123]

In August 2005, the U.N. reported that opium production had decreased by 21 percent from its 2004 level but, even with this decrease, Afghanistan still ranks as the world's largest opium supplier accounting for 87 percent of the world's supply, according to the U.N.[124] There is reportedly evidence that the Taliban are ordering increased poppy production from Afghan farmers in remote regions beyond the government's control as a means to make money to finance their operations and also to weaken the Afghan central government.[125] In Helmand province, the new governor recently stated that the Taliban have forged an alliance with drug smugglers, providing protection for drug convoys and mounting attacks to keep the government away and the poppy flourishing.[126]

The committee believes that U.S. counterdrug efforts in Afghanistan have failed to prevent the explosion in heroin production and trafficking. If all of Afghanistan's opium were converted to heroin, the result would be 526 metric tons.[127] Recent estimates from the United Nations office on Drugs and Crime indicate that 87 percent of the world's illegal opiates are produced in Afghanistan.[128]

"For my money, the No. 1 problem in Afghanistan is drugs," said U.S. Marine Corps General James L. Jones, the Supreme Allied Commander, Europe (SACEUR) and the Commander of the United States European Command (COMUSEUCOM).[129] Despite recognition by some U.S. military leaders that drugs are currently Afghanistan's primary security problem, DOD has played only a supporting role in counternarcotics operations in Afghanistan. The committee fully agrees with General Jones. The illicit drug trade must be addressed through a coordinated effort of involved U.S. agencies and coalition forces before stability and democracy can take hold in Afghanistan.

In 2005, the Department of Defense increased its counternarcotics role in Afghanistan but did not become actively involved in counterdrug operations on the ground. The U.S. military in Afghanistan supported efforts by Afghan and U.S. agencies such as the Drug Enforcement Administration (DEA) by providing helicopter and cargo aircraft transport and planning and intelligence assets.[130] To fund efforts to combat the drug trade in Afghanistan, DOD requested $257 million,[131] and Congress approved $242 mil-

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Cong. (Apr. 2, 2004) (testimony of Rear Admiral Bruce Clingan, USN, Deputy J–3, U.S. Central Command). At http://www.globalsecurity.org/military/library/congress/2004_hr/040402-clingan.pdf (last visited Feb. 24, 2006).

[123] *U.S. Set to Battle Afghan Drug Trade,* NEW YORK TIMES ON THE WEB, Aug. 11, 2004.

[124] *The Opium Situation in Afghanistan as of 29 Aug. 2005,* THE UNITED NATIONS OFFICE ON DRUGS AND CRIME, (UN REPORT), Aug. 2005.

[125] Philip Shishkin and David Crawford, *In Afghanistan, Heroin Trade Soars Despite U.S. Aid,* WALL STREET JOURNAL, Jan. 18, 2006, and Declan Walsh, *In Afghanistan, Taliban Turning to the Drug Trade,* BOSTON GLOBE, Dec. 18, 2005.

[126] Carlotta Gall, *Another Year of Drug War, and the Poppy Crop Flourishes,* NEW YORK TIMES ON THE WEB, Feb. 17, 2006.

[127] Briefing by Drug Enforcement Administration to the Speaker's Drug Policy Task Force, Washington, DC, (Jan. 26, 2006).

[128] The White House, National Drug Control Strategy, (Feb. 2006) at 38.

[129] Associated Press, *Drugs Main Threat in Afghanistan, General Says,* LOS ANGELES TIMES, Dec. 16, 2005.

[130] Thom Shanker, *Pentagon Sees Antidrug Effort in Afghanistan,* NEW YORK TIMES, Mar. 25, 2005, and James Gordon Meek, *DEA Team to Fight Afghani Opium Trade,* NEW YORK DAILY NEWS, Apr. 3, 2005.

[131] *Department of Defense FY 2005 Supplemental Request for Operation Iraqi Freedom (OIF), Operation Enduring Freedom (OEF), and Operation Unified Assistance, (DOD)* Feb. 2005, at 81.

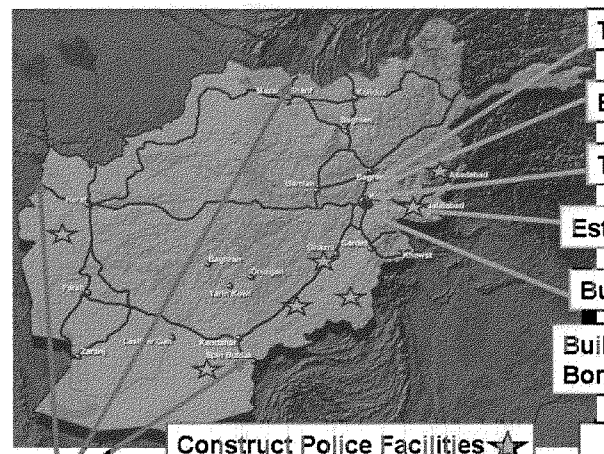
lion (Public Law 109–13, 119 Stat. 240) to fund facilities, equipment, communications, and training, and to lease and refurbish helicopters for the Afghan government. These funds are in addition to the $15.4 million in DOD's FY 2005 Defense Budget for counter-narcotics assistance to the Afghan government.

The committee supports the goals outlined in the President's Drug Control Strategy Report.[132] Many of these efforts are pictured below, which call for helping the Afghans build a judicial system, construct a narcotics prosecution task force, establish border crossings and border strong points, and train and equip a counter-narcotics police force. However, while the committee agrees that these are appropriate goals, they are better suited to programs run by the State Department and not efforts and missions to which DOD should be tasked.

[132] The White House, National Drug Control Strategy, (Feb. 2006) at 38.

DoD counternarcotics efforts in Afghanistan

Build Afghanistan Security Force capacity to address narcoterrorism.



- Train and Equip Afghan CN police
- Establish Police Helicopter Unit
- Train and Equip Interdiction Unit
- Establish Intelligence Fusion Centers
- Build Judicial Center
- Build Communications System for Border Police
- Construct Police Facilities
- Construct and Equip Border Crossing Facilities and Border Strong Points

FUNDING

	FY05	FY06
Fixed Costs	$0.0M	$0.0M
Discretionary Funds	$23.8M	$218.3M
TOTAL	**$218.3M**	**$23.8M**

Instead, the committee believes that the destruction of heroin producing laboratories, stockpiles of precursor chemicals, opium, and heroin should be DOD's primary mission areas for counterdrug activity in Afghanistan. DOD should target and destroy Afghan drug production infrastructures and trafficking operations. The reluctance to target known stockpiles of opium products will encourage even more heroin production, threatening to increase heroin addiction in Europe and the U.S. and providing increased funding for the terrorists who are currently engaging our troops in Afghanistan. Until DOD shows a willingness to take effective action against heroin production and to closely coordinate its efforts with the State Department, the U.S. Agency for International Development (USAID), and the Drug Enforcement Administration (DEA), limited progress will be made.

The committee is similarly concerned about the limited support being provided by DOD to U.S. and Allied agencies actually trying to conduct counterdrug operations in Afghanistan. DOD has been reluctant to provide aviation assets or other logistical support to DEA personnel.

Not only does the administration need to refine U.S. mission areas in Afghanistan, but DOD needs to better align and coordinate with U.S. agencies with similar mission sets. The committee was pleased to learn of the Department's recent decision to lease low-quality Soviet-era MI–17 helicopters to support and transport DEA teams, and believes it is long overdue. The committee recommends that the Department provide better support to DEA's counterdrug efforts.

9. Colombian Operations

U.S. military involvement in Colombia began in 2000 under "Plan Colombia" and was limited to training Colombian counternarcotics units, although U.S. forces now train the Colombian military in counterinsurgency operations. This change of emphasis is a result of the September 11, 2001 terrorist attacks, whereby Colombia went from being a part of the "War on Drugs" to the "Global War on Terror" (GWOT). The danger to the Americas, even to those nations with long histories of self-determination, and of the political instability generated by drug trafficking was made clear by Chairman Tom Davis of the House Government Reform Committee on October 7, 2005, when he said of Colombia, "(It) is not only one of the oldest democracies in our hemisphere, but is also home to three terrorist groups who fund their guerilla activities with drugs smuggled into the U.S. for American consumption." [133]

Colombia occupies a unique position in the administration's global war on terror, in that its targeted terrorist groups are Marxist, as opposed to Islamic-based, and have no reported links to Al Qaeda or other Islamic groups. Colombia has been involved for almost forty years in what some describe as a civil war and others describe as a counterinsurgency campaign against three major groups. The first two groups, the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN) started in the 1950s as Marxist revolutionary groups but reportedly have

[133] Press Release, House Committee on Government Reform, (Oct. 7, 2005) at www.reform.house.gov.

lost most of their ideological support and have transformed into violent criminal organizations.[134] The other group, the rightist United Self-Defense Forces of Colombia (AUC) is a conglomerate of illegal self-defense groups formed in rural areas where the Colombian government did not exert a strong presence.[135] All three groups allegedly fund their activities through drug revenues [136] and are on the administration's official list of terrorist organizations.[137]

In June 2004 congressional testimony before the House Committee on Government Reform, the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict told House members that DOD and other U.S. agencies operating in Columbia, ". . . seek to systematically dismantle drug trafficking networks, both to halt the flow of drugs into the United States, and to bolster the broader war on terrorism effort." [138] Narcoterrorism was reported by Brigadier General Benjamin Mixon, Director of Operations, Southern Command in a hearing before Senate Armed Services Committee Subcommittee on Emerging Threats and Capabilities in April 2004, as ". . . erode(ing) the very fabric of democracy by spawning terrorism, corrupting public institutions, promoting criminal activity, undermining legitimate economies and disrupting social order." [139]

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[134] Lieutenant Colonel Kevin W. Buckley, *U.S. Support to Plan Colombia: A Heading Check U.S. Army War College Strategy Research Project,* U.S. Army War College, Carlisle Barracks, Pa. (2004) at 1 (on file with U.S. Army War College).

[135] Id.

[136] Id.

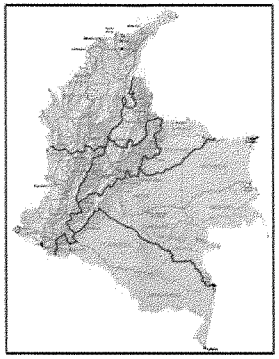
[137] Dept. of State, *Designated Foreign Terrorist Organizations,* (2004) at http://www.state.gov/documents/organization/45323.pdf (last visited Feb. 24, 2006).

[138] See *The War Against Drugs and Thugs: A Status Report on Plan Colombia Successes and Remaining Challenges: Hearing before the Committee on Government Reform,* 108th Cong. (June 17, 2004) (testimony of Thomas O'Connell, Assistant Secretary of Defense for Special Operations and Low Intensity Conflict).

[139] See *Testimony on the Department of Defense Counternarcotics Program in Review of the Defense Authorization Request for Fiscal Year 2005: Hearing before the Senate Subcommittee on Emerging Threats and Capabilities, Senate Armed Services Committee,* 108th Cong. (Apr. 2, 2004) (testimony of Brigadier General Benjamin Mixon, U.S. Army, Director of Operations, U.S. Southern Command).

DOD's CN efforts in SOUTHCOM
(Colombia)

Consolidate gains while helping Colombia assume responsibility for major programs.



Support to Colombia
Build Armed Force capacity to defeat a narcoterrorist insurgency (Army, Navy, Air Force, Special Forces)
Train forces to plan and operate in a joint environment
Develop an entry level and a transition helicopter school
Improve intelligence, logistical, and medical support
Upgrade and provide maintenance for major systems
Support Air Bridge Denial operations
Assist with military justice reform

FUNDING

	FY05	FY06
Fixed Costs	$71.5M	$81.8M
Discretionary Funds	$73.9M	$77.4M
TOTAL	**$148.9M**	**$155.7M**

Transitioning Responsibilities to Colombia
***Ground Based Radars Systems (2008)**
***Helicopter Training Program (2009)**
***Logistics and Maintenance Program**

About 200 special forces soldiers are currently serving as trainers, where they are limited to training in garrison and planning support at headquarters, and another 200 troops provide "information support" including intelligence, leadership, and planning support.[140] Also contributing to Colombia's success has been the Air Bridge Denial program.[141] In 2005, this program resulted in seven interdictions, five impounded aircraft, the destruction of two aircraft, and the seizure of 1.5 metric tons of cocaine in Colombia. Additionally, three aircraft and 2.1 metric tons of cocaine were impounded in neighboring countries after coordination between host nations and JIATF South.

In its Quadrennial Defense Review Report, released February 6, 2006, DOD justifiably recognized its part in the successes achieved in helping stabilize large tracts of Colombia.

> U.S. Southern Command's support for Plan Colombia is yet another example of preventive action. The United States has worked with the Government of Colombia to combat the production and trafficking of illegal drugs. In 2002, at the request of the Administration, Congress granted expanded authorities to help the Colombian Government wage a unified campaign against terrorism as well as drugs, and thereby assert effective control over its territory. This broader mission has helped the Colombian Government seize the initiative against illegal armed groups, demobilize thousands of illegal paramilitaries, decrease violence and return to government authority areas that had been under the control narcoterrorists for decades.[142]

The committee strongly recommends that the Department continue to fully support these important programs. These efforts, combined with the Government of Colombia's efforts to attack powerful drug traffickers and extradite them to the United States has produced unparalleled results[143] and need to remain robust to be effective.

Moreover, the committee encourages CENTCOM to coordinate the meeting of Colombian military and police personnel with Iraqi counterparts to discuss Colombian approaches to oil pipeline protection and counterdrug helicopter operations. Colombian security services have had vast experience and measured success guarding oil pipelines and carrying out tactical helicopter missions that may prove beneficial to both counterdrug operations and efforts to protect oil pipelines in Iraq.

10. Department of Defense Performance Measures

Congress has had difficulty obtaining sufficient information from DOD that would allow for an evaluation of the effectiveness of counterdrug programs at the Department. For example, the Department has not established a ship and aircraft resource hour tar-

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[140] Kathleen T. Rhem, *U.S. Military Helping Colombian Military Cope With Drug War's Legacy*, AMERICAN FORCES INFORMATION SERVICE, Nov. 29, 2005.

[141] The White House, National Drug Control Strategy, (Feb. 2006) at 20.

[142] DEPT. OF DEFENSE, QUADRENNIAL DEFENSE REVIEW REPORT, (Feb. 2006) at 14. At http://www.defenselink.mil/qdr/report/Report20060203.pdf (last visited Feb. 24, 2006).

[143] The White House, National Drug Control Strategy, (Feb. 2006) at 21.

get to support transit zone detection and monitoring programs.[144] Additionally, DOD's counternarcotics program has not yet been reviewed under the administration's Performance Assessment Rating Tool (PART) process.[145] GAO reported in November 2005 that DOD "is developing performance measures that focus on the number of disruptions of cocaine trafficking events, but it has not yet set any targets or goals to assess its progress.[146] The committee urges the Department to make greater progress in performance accountability. In particular, the committee believes that substantial increases in resources committed to the Department's detection and monitoring mission in the transit zone need to be made in order to achieve greater supply reduction.

B. DEPARTMENT OF EDUCATION

Safe and Drug-Free Schools and Communities State Grants Program Funding

SDFSC State Grants	FY 2005 Requested [147]	FY 2005 Final [148]	FY 2006 Requested [149]	FY 2006 Enacted [150]	FY 2007 Request [151]
AGENCY TOTAL*	$610.98	$437.38	$0	$346.50	$0

* in millions.

Contact Information: Office of SDFSC: 202–260–3954, http://www.ed.gov/about/offices/list/osdfs/index.html.

1. Safe and Drug-Free Schools and Communities

The committee has specific concerns about the administration of the Safe and Drug Free Schools and Communities (SDFSC) program at the Department of Education. Despite the strong rejection by Congress of last year's budget proposal to completely eliminate the State grants program and ample evidence that the stated reasons behind such a step are not properly grounded, the Office of Management and Budget (OMB) has once again made the same proposal with the support of officials at the Department of Education.

Congressman Mark Souder, chairman of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, expressed strong support for the State Grants Program: "Safe and Drug-Free Schools and similar programs have great potential as a vehicle for bringing effective anti-drug education to millions of young people in

[144] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at 15.

[145] Id.

[146] DRUG CONTROL: AGENCIES NEED TO PLAN FOR LIKELY DECLINES IN DRUG INTERDICTION ASSETS, AND DEVELOP BETTER PERFORMANCE MEASURES FOR TRANSIT ZONE OPERATIONS, GAO REPORT NO. 06–2000, Nov. 2005, at 25.

[147] The White House, National Drug Control Strategy, FY 2005 Budget Summary (Mar. 2004) at http://www.whitehousedrugpolicy.gov/publications/policy/budgetsum04/index.html (last visited Feb. 24, 2006).

[148] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[149] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/index.html (last visited Feb. 24, 2006).

[150] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[151] Id.

our schools."[152] Moreover, Ranking Member, Representative Elijah Cummings, reemphasized the same message:

> The most severe program cut in the area of prevention is the elimination of $441 million in funding for grants to States under the Safe and Drug-Free Schools program within the Department of Education. If we enact the President's request, the consequences will be felt in classrooms across the country, where States and localities simply cannot afford to fund drug education on their own.[153]

The grants distributed under the State Grants program serve as leverage that allows local communities to significantly augment their capacity to provide drug prevention programs. "Many school systems across America have found unique ways to combine these SDFSC funds with very little local moneys in order to provide the highest level of drug prevention. Removing the monetary foundation of these programs could cause many if not all of them to collapse."[154]

The committee is very concerned that the major reforms required in Title IV, Part A of the "No Child Left Behind Act" (NCLB)[155] were never implemented by the Department of Education. To date, the Department has failed to provide any guidance to the states regarding implementation of the requirements for a Uniform Management Information and Reporting System (UMIRS).

This system was specifically included in the NCLB Act to ensure that uniform information, data and outcome measures for drug use were collected by every state in a uniform manner and reported to the Secretary of Education, so that progress could be measured within a state over time, as well as among and between all of the states. Congress also specifically included a minimum data set as part of the Safe Report required in Section 4116 of the NCLB Act.[156]

This minimum data set requires that the following drug use data be collected, tracked and reported to the Secretary by all states: incidence and prevalence, age of onset, perception of health risk and perception of social disapproval of drug use and violence by youth in schools and communities. As outlined in the law, the data set for the drug-related indicators are identical to what is currently being collected successfully by both the Office of National Drug Control Policy's Drug-Free Communities Act grantees and the Center for Substance Abuse Prevention's State Incentive Grant recipients.

The Department has failed to meet the requirements of Title IV, Part A of the NCLB Act, intended to measure the effectiveness and outcomes of the SDFSC program. Consequently, Congress recently mandated that the following actions be taken by the Department

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[152] See *Drug Prevention Programs and the Fiscal Year 2006 Drug Control Budget: Is the Federal Government Neglecting Illegal Drug Use Prevention? Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (Apr. 26, 2005) (statement of Congressman Mark Souder, chairman, Subcommittee on Criminal Justice, Drug Policy, and Human Resources).

[153] Id, (statement of Congressman Elijah Cummings, ranking member, Subcommittee on Criminal Justice, Drug Policy, and Human Resources).

[154] Id, (statement of Clarence Jones, coordinator, Safe and Drug-Free Youth Section, Fairfax County Public Schools).

[155] No Child Left Behind Act, 20 U.S.C. §§ 6301–6578 (2001).

[156] Public Law 89–10 (1994).

of Education to correct this failure of implementation, in the Conference Report accompanying the FY 2006, Labor, Health and Human Services and Education Appropriations Act: [157]

> *The Conference Committee is concerned that the Department of Education has neglected to report specific data to Congress as required under Section 4122(c) of Title IV, Part A of the No Child Left Behind Act. This data is required to be included in the State Report under Section 4116 of the Safe and Drug-Free Schools and Communities program. The report specifically requires all states to collect and report to the Secretary, in a form specified by the Secretary, the following data: incidence and prevalence, age of onset, perception of health risk and perception of social disapproval of drug use and violence by youth in schools and communities. The Conference Committee expects the Department to develop a plan for how it will collect the specified data from the states and report it to Congress in a timely manner. The plan should be submitted to the House and Senate authorizing and oversight committees within 60 days of the passage of this bill.*

The committee focuses its critique on the administration of the Safe and Drug-Free Schools program and the proposed elimination of the State Grants program. A central reason behind this proposal was the determination that this program was "ineffective" under OMB's Program Assessment Rating Tool (PART) review for the fiscal year 2004 Budget. However, in qualifying this determination the PART assessment stated that the "existing program indicators use national surveys and don't measure . . . drug abuse at State and local levels." [158]

The subcommittee specifically inquired in a November 17, 2005, letter to the Department of Education concerning the steps being taken to address this criticism. The Department provided the following response: "The President's Budget request for FY 2006 recommended termination of the Safe and Drug-Free Schools State Grants Program." [159] Staff interviews with representatives from Safe and Drug-Free Schools and Communities also reconfirmed the administration's adherence to the program's claimed "ineffectiveness" as justification for not taking steps to reform the State Grants program.

In the "Summary: FY 2007 National Drug Control Budget," the administration once again, repeating the unfounded and inadequate reasons given last year, states: "The President's Budget does not include funding for Safe and Drug-Free Schools State Grant Program, as grant funds are spread too thinly to support quality interventions and it was rated "ineffective" by PART because of its inability to demonstrate effectiveness." [160] However, the

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[157] See http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_reports&docid=f:hr143.109.pdf (last visited Feb. 24, 2006).

[158] Letter from Debra A. Price, Assistant Deputy Secretary, Office of Safe and Drug Free Schools, Department of Education, to Congressman Mark Souder, chairman, Subcommittee on Criminal Justice, Drug Policy, and Human Resources, (Dec. 8, 2005) (on file with Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources).

[159] Id.

[160] The White House, National Drug Control Strategy, (Feb. 2006) at 1. At http://www.whitehousedrugpolicy.gov/publications/policy/ndcs06/.

SDFSC representatives interviewed by staff acknowledged that, utilizing proxy measures, the Department of Education has been incapable of getting results to show either the effectiveness or the ineffectiveness of the State Grants Program.

Moreover, SDFSC State data collection project officials developed a preliminary strategy designed to address the problem of collecting data from the states, such as providing exemptions from certain reporting requirements for some states.[161] "However, this strategy has not been finalized, and Education has not developed a specific plan of action for how they might (1) help states that are deficient, (2) deal with state expectations for phasing out the multiple data collections, or (3) meet the expectations of their own program offices."[162] The committee is dissatisfied with the degree of implementation on the part of the administrators of SDFDC.

Moreover, Chairman Mark Souder made the following comments directly addressing the lack of support the State Grants program has received from the administration in general:

> The administration has never attempted to reform this program, however, which ought to be the first step, not eliminating it entirely. And I want to say as a member of the Education Committee, and as somebody who was on it when we did this that we got no leadership at the time we authorized the program either, other than eliminating it.[163]

The committee agrees that ineffective programs should be held accountable. However, proposing the elimination of a program because it is supposedly "ineffective," while also admitting that its effectiveness is unknown, is of utmost concern. The more serious concern arises from the Department's contribution to the claimed inefficiency by having failed to implement congressionally-mandated requirements and its failure to give the States any specific guidance on how to report their data and outcomes. These failures directly impact the Department of Education's incapacity to actually determine the effectiveness of the State Grants program.

In FY 2006 Congress emphatically rejected the same administration proposal to eliminate the State Grants program. Instead of eliminating the program, Congress appropriated $346.5 million for the State Grants program. Similar to last year, the committee strongly suggests that the administration take substantial steps to reform the State Grants program rather than eliminate it. More specifically, the committee suggests that the administrators of the SDSFC program at the Department of Education be held accountable for neglecting the legal obligation to collect state data intended to measure the effectiveness and outcomes of the SDFSC State Grant program.

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[161] EDUCATION'S DATA MANAGEMENT INITIATIVE: SIGNIFICANT PROGRESS MADE, BUT BETTER PLANNING NEEDED TO ACCOMPLISH PROJECT GOALS, GAO REPORT NO. 06–6 (Government Accounting Office), Oct. 28, 2005, at 2.

[162] Id.

[163] See *Drug Prevention Programs and the Fiscal Year 2006 Drug Control Budget: Is the Federal Government Neglecting Illegal Drug Use Prevention? Hearing Before House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (Apr. 26, 2005) (statement of Congressman Mark Souder, chairman, Subcommittee on Criminal Justice, Drug Policy, and Human Resources).

2. Student Drug Testing [164]

For FY 2006, Congress appropriated $9.09 million for school-based drug testing programs for students. The FY 2007 request of $15 million is a $4.6 million increase over last year.[165] The committee strongly supports this testing initiative. However, in light of the administrations proposal to eliminate the State Grants Program, a more significant augmentation in the funding for student drug testing is strongly recommended.

By addressing accountability, drug testing in schools has proven the single most effective drug-prevention program in the United States. In 2002 the Supreme Court declared: "[W]e find that testing students who participate in extracurricular activities is a reasonably effective means of addressing the School District's legitimate concerns in preventing, deterring, and detecting drug use." [166]

The administration has taken a leadership role in promoting drug testing in the schools. Drug testing shows great promise in preventing young people from using narcotics. It is also a tool for identifying which students will need treatment and other special help to get them off drugs and achieve their true potential. It is also an excellent tool for measuring the success of other drug use prevention programs, as it shows whether the true bottom line—reducing drug use—has been achieved." [167]

The purpose of drug testing is not to punish students who use drugs but to help those in trouble by preventing drug use and helping drug-using students become drug-free in a confidential manner. The results of a positive drug test should be used to intervene with not-yet-dependent students and get drug-dependent students into effective treatment. After assessing the extent of the problem, parents and administrators can recommend further prevention activities such as education on the negative effects of drugs, counseling, and if necessary, drug treatment.

ONDCP and the U.S. Department of Education announced the release of $7.2 million in Federal grants for schools to implement student drug testing programs in October 2005. Fifty-five grants were awarded to fund random student drug testing programs in 352 schools.[168] The competitive grant program supports schools in the design and implementation of a confidential and non-punitive program to randomly screen selected students and to intervene with assessment, referral, and intervention for students whose test results indicate they have used illicit drugs.

Results from a longitudinal study, the Student Athlete Testing Using Random Notification Project (SATURN), reported that of the 25 percent of students surveyed who used marijuana and of the 60 percent who used alcohol, only 9 percent would continue to use

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[164] For further information, see the Department's website at http://web99.ed.gov/GTEP/Program2.nsf/b39cd123fd4a045b8525644400514f2b/cea6c8f66422784785256d3c0074e597?OpenDocument (last visited Feb. 26, 2006), or call the Department's Office of SDFS at (202) 260–3428.

[165] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at 17. At http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[166] *Bd. of Educ.* v. *Earls,* 536 U.S. 822, 837 (2002).

[167] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at 17. At http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[168] See ONDCP news release at http://www.whitehousedrugpolicy.gov/news/press05/122805.html (last visited Feb. 24, 2006).

drugs and 12 percent would continue to use alcohol if mandatory drug testing were present in their schools.[169] Moreover, a study at Hunterdon Central Regional High School in New Jersey, highlighted in the chart below, stated: "of students who reported using marijuana in the last year, 58 percent reported Random Drug testing (RDT) is a good excuse not to use. 81.8 percent of those students who did not use marijuana in the past year agreed that RDT is a good excuse not to use."[170]

Student Past Month Drug Use: Hunterdon County vs. National Average[171]

	10th	US 10th	12th	US 12th
Alcohol	29.9% ↓	35%	49.6% ↑	48%
Been Drunk	9.7% ↓	18%	30.8% ↓	31%
Marijuana	4.7% ↓	17%	11.7% ↓	21
Cocaine	0	1%	1.4 ↓	2%
Ecstasy	0.1%	NA	0.8%	Na
Heroin	0	<1%	0.6%	<1%
Cigarettes	11.5% ↓	17%	25.5% ↑	24%

The committee supports the administration's request of $15 million for non-punitive random student drug testing as an effective and economical method to deter drug use and identify those in need of treatment. At the same time, if prevention authentically represents one of the three pillars of the administration's efforts to end illegal drug abuse, then the committee strongly recommends a substantial increase to the funding of student drug testing as an effective and accountable form of drug prevention.

3. Lack of Diligence in Reporting to Congress

The committee is seriously concerned with the Department of Education's lack of due diligence in preparing for a drug prevention hearing held on April 26, 2005. Department of Education representatives were formally notified to prepare to testify at the April hearing in a December 16, 2004, briefing. Despite being put on notice in December 2004 to prepare for the hearing, ED officials claimed immediately prior to the hearing in April that they had not had enough time to sufficiently prepare to testify.

If not constituting intentional avoidance of testifying before Congress, such unwillingness to be held accountable at least is grossly negligent. ED representatives have an obligation to promptly and reasonably respond to requests for testimony from Congress. Otherwise, the oversight function of congressional committees would be seriously impaired.

[169] See http://www.studentdrugtesting.org/SDT%20DUPONT%20STUDY.pdf (last visited Feb. 24, 2006).
[170] See http://www.studentdrugtesting.org/Hunterdon%20study2.PDF (last visited Feb. 24, 2006).
[171] Id.

C. DEPARTMENT OF HEALTH AND HUMAN SERVICES

HHS	FY 2005 Requested [172]	FY 2005 Final [173]	FY 2006 Requested [174]	FY 2006 Enacted [175]	FY 2007 Request [176]
National Institute of Drug Abuse	$1,019.1	$1,006.4	$1,010.1	$1,000.0	$994.8
Substance Abuse and Mental Health Services Administration	$2,637.7	$2,490.5	$2,498.8	$2,442.5	$2,411.1
AGENCY TOTAL*	$3,656.8	$3,496.9	$3,508.9	$3,442.5	$3,405.9

* in millions.

Contact Information: HHS Office of Public Affairs: 202–690–7850, http://www.hhs.gov/budget/.

The President's drug control budget request for the Department of Health and Human Services (HHS) has historically been the largest single-department request. This Department is responsible for providing programs addressing drug abuse treatment and prevention. The President has requested a total of $70.64 billion for all of HHS's programs, of which $3.4 billion is part of the drug budget.

The two agencies within HHS that maintain drug control programs tracked by the President's drug budget request are (1) National Institute on Drug Abuse (NIDA), and (2) Substance Abuse and Mental Health Services Administration (SAMHSA). Conspicuously absent from the scrutiny of drug budget oversight is the Food and Drug Administration (FDA), which is responsible for drug approval, labeling and manufacturing standards.

Perhaps due to the lack of oversight by the administration of the FDA, prescription drug abuse today is a critical national problem, second only to marijuana abuse.[177] FDA's stubbornly consistent position is that the problem of diverted and abused drugs is solely one for the Drug Enforcement Administration.

The committee notes with frustration the apparent incongruity in FDA's sole authority to approve drugs—including drugs likely to be abused—with their official non-involvement in any sort of drug control program. Moreover, the FDA has failed to act in any meaningful way in the face of twelve states[178] approving the use of botanical marijuana for medical purposes.

[172] The White House, National Drug Control Strategy, FY 2005 Budget Summary (Mar. 2004) at http://www.whitehousedrugpolicy.gov/publications/policy/budgetsum04/index.html (last visited Feb. 24, 2006).

[173] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[174] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/index.html (last visited Feb. 24, 2006).

[175] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[176] Id.

[177] The 2004 National Survey on Drug Use and Health (NSDUH) found that 6.0 million Americans were current (past-month) non-medical users of prescription drugs. Only marijuana was higher, with 14.6 million users.

[178] The 12 states and their relevant statutes are: Alaska [Alaska Stat. § 11.71.090 (2005)]; Arizona [Ariz. Rev. Stat. Ann. § 13–3412.01(A) (2006)]; California [Cal. Health & Safety Code Ann. § 11362.5 (2006)]; Colorado [Colo. Const. Art. XVIII § 4 (2005)]; Hawaii [Haw. Rev. Stat. §§ 29–121 to 329–128 (2005)]; Maine [Me. Rev. Stat. Ann. tit. 22 § 1102 or 2382–B (5) (2005)]; Montana [Mont. Code Ann. §§ 50–46–101 to 50–46–210 (2005)]; Nevada [Nev. Rev. Stat. Ann. §§ 453A.010 to 453A.400 (2005)]; Oregon [Ore. Rev. Stat. §§ 475.300 to 475.346 (2003)]; Rhode Island [R.I. Gen. Laws § 21–28.6 (2006)]; Vermont [Vt. Stat. Ann. tit. 18, §§ 4472–4474d (2005)]; Washington [Wash. Rev. Code Ann. §§ 69.51A.005 to 69.51A.902 (2005)].

The seriousness of the prescription drug abuse problem[179] should compel, at the very least, FDA action with education and approval programs that specifically address this type of abuse. Likewise, state approval of drugs for medical use should compel the FDA to assert its authority under the Food, Drug and Cosmetic Act as the sole agency charged with determining the safety and efficacy of a drug for therapeutic treatment.

Although the FDA has never approved marijuana as a treatment for any condition,[180] its inaction when states independently determine that marijuana can be used for therapeutic purposes significantly undermines FDA's statutory authority.[181] It is possible that continued inaction on the part of FDA in these critical abuse areas will prompt congressional legislation to correct the problems and perhaps formalize a stronger drug approval role for DEA.

Finally, the committee notes that it is unhelpful to national anti-drug efforts for HHS to sponsor and participate in so called "harm reduction" conferences promoting a pro-drug legalization philosophy.[182] A 2005 harm reduction conference[183] that consumed at least $20,000 of HHS funds promoted pro-drug themes that are counter to the administration's public approach in fighting illegal drug use.[184] One of the major sessions at this Harm Reduction conference was entitled, "We Don't Need a War on Methamphetamine." Another conference topic was "You Don't Have to be Clean and Sober. Or Even Want to Be!"

A Senate hearing[185] revealed that HHS spent more than $1.4 billion on conferences since the year 2000. At a time when the nation's budget is constrained and our anti-drug efforts are affected by certain budget restrictions, the committee views as inexcusable for HHS to make lavish expenditures on conferences where pro-drug legalization themes are dominant. Such money would be better applied to real anti-drug efforts, such as methamphetamine treatment programs.

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[179] See *To Do No Harm: Strategies for Preventing Prescription Drug Abuse: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Feb. 9, 2004). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=10001.

[180] In 1978, as part of a lawsuit settlement by HHS, NIDA began supplying cannabis to patients whose physicians applied for and received, a "compassionate use" exemption from the FDA. The practice was terminated in 1992, but NIDA was allowed to continue supplying cannabis to those patients receiving it at the time, and is currently supplying cannabis to seven patients. National Institute on Drug Abuse, "Provision of Marijuana and Other Compounds for Scientific Research," Jan. 1998. At http://www.nida.nih.gov/about/organization/nacda/marijuanastatement.html (last visited Feb. 24, 2006).

[181] See *Marijuana and Medicine: The Need for a Science-Based Approach: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Apr. 1, 2004). At http://reform.house.gov/UploadedFiles/Nora%20D.%20Volkow%20-%20NIDA.pdf.

[182] See *Harm Reduction or Harm Maintenance—Is There Such a Thing as Safe Drug Abuse? Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (Feb. 16, 2005). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=22570.

[183] Science & Response, Conference by Harm Reduction Coalition and Harm Reduction Project, in Salt Lake City, Utah (Aug. 19–20, 2005). HHS was listed on the conference program as a "primary sponsor" of the event.

[184] HHS's sponsorship of this meeting was the subject of a critical letter from Mark Souder, chairman of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform, to HHS Secretary Michael Leavitt Aug. 12, 2005. At http://reform.house.gov/CJDPHR/News/DocumentSingle.aspx?DocumentID=32260.

[185] *Federal Agencies and Conference Spending: Hearing before the Senate Homeland Security and Governmental Affairs Subcommittee on Federal Financial Management, Government Information and International Security,* 109th Cong. (Feb. 7, 2006).

1. National Institute on Drug Abuse—[NIDA]

NIDA	FY 2005 Requested [186]	FY 2005 Final [187]	FY 2006 Requested [188]	FY 2006 Enacted [189]	FY 2007 Request [190]
AGENCY TOTAL*	$1,019.1	$1,006.4	$1,010.1	$1,000.0	$994.8

* in millions.

Contact Information: 301–443–1124, http://drugabuse.gov/.

The President's drug budget request of $994.8 million for the National Institute on Drug Abuse is a $5.2 million decrease from the 2006 enacted amount for the Institute. This would mark a two-year decline in the budget for NIDA.

NIDA is a component of the National Institutes of Health, and supplies critical basic research that supports a broad range of drug prevention and treatment programs, all designed to reduce the adverse health, economic and social consequences to individuals, families, and communities affected by drug abuse.[191] NIDA's activities are aimed at providing the infrastructure, research and medical compounds for developing new treatments for addiction, and its Clinical Trials Network (CTN) is designed to bridge 15 to 20-year gap between treatment research and practice.

NIDA's first priority area is prevention research in order to better understand normal brain development, how that development can be influenced by drugs, and how drug use harms the developing brain. NIDA has increased its emphasis on adolescent brain development, and the institute is currently studying the "social neuroscience" of children and evaluating the genetics, development, environment and co-morbidity to determine which factors play a role in drug use and addiction.

The second priority area for NIDA is treatment interventions. NIDA was instrumental in developing buprenorphine, a treatment for opiate dependence,[192] and has placed an emphasis on developing new compounds to address addiction to marijuana, America's most abused illegal substance.[193] In particular, NIDA's focus on how marijuana abuse[194] affects the adolescent brain is guiding the

[186] The White House, National Drug Control Strategy, FY 2005 Budget Summary (Mar. 2004) at http://www.whitehousedrugpolicy.gov/publications/policy/budgetsum04/index.html (last visited Feb. 24, 2006).

[187] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[188] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/index.html (last visited Feb. 24, 2006).

[189] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[190] Id.

[191] See U.S. National Institute on Drug Abuse, *Bringing the Power of Science to Bear on Drug Abuse and Addiction: 5 Year Strategic Plan, 2000–2005.* NIH PUBLICATION NO. 00–4774, Sept. 2000. At http://www.drugabuse.gov/StrategicPlan/index00–05.html (last visited Feb. 24, 2006).

[192] See U.S. NATIONAL INSTITUTE ON DRUG ABUSE, SUCCESSFUL TRIAL CAPS 25-YEAR BUPRENORPHINE DEVELOPMENT EFFORT, at http://www.drugabuse.gov/NIDA_notes/NNvol19N3/Successful.html (last visited Feb. 21, 2006).

[193] See *Marijuana and Medicine: The Need for A Science-Based Approach: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Apr. 1, 2004) (statement of Nora Volkow, M.D., Director, NIDA). At http://reform.house.gov/UploadedFiles/Nora%20D.%20Volkow%20-%20NIDA.pdf (last visited Feb. 21, 2006).

[194] See NIDA's webpage devoted to information about Marijuana: http://drugabuse.gov/DrugPages/Marijuana.html (last visited Feb. 21, 2006). See also *A Collection of Articles that Ad-*

Continued

agency in its development of new prevention and intervention programs.

Also a target for treatment intervention, and second only to marijuana use, is the abuse of prescription drugs.[195] Abuse of prescription drugs, which are cheaper than illegal drugs and can be easier to obtain, is increasing at an alarming rate. NIDA has developed science-based materials to educate the public and health care community on abuse of prescription drugs.

Finally, NIDA recognizes the growing rate of methamphetamine use and addiction as a special urgency for treatment intervention because of its highly addictive and toxic properties.[196] In addition to the funds NIDA devotes to general drug abuse research, NIDA has allocated an increasing amount of funds specifically to methamphetamine targeted research.[197]

NIDA views methamphetamine addiction as chronic—the addiction must be constantly treated but cannot be cured. NIDA's focus, therefore, with methamphetamine is to minimize the rate of relapse. NIDA has developed three promising compounds to treat methamphetamine addiction, and its Methamphetamine Clinical Trials Group is conducting several clinical trials of medications for methamphetamine addiction. NIDA expects data on these medications to be available within two years.

NIDA has created the Clinical Trials Network as a way to translate the research knowledge into successful treatment programs. CTNs systematically test promising behavioral, pharmacological, and integrated drug abuse treatments in community settings. There are currently seventeen CTN nodes comprised of approximately 120 providers.

In addition to a yearly review, the CTN nodes are thoroughly evaluated every five years when each project must go through a recompetition process in which applications for new grants and continuation proposals can compete. The most recent competition process led to the determination that two of them would be discontinued.

The CTN program allows evaluation of treatments from small research settings and has had measurable results in adapting behavior treatment approaches: in 2005, the project trained 184 treatment providers[198] in three treatment approaches adapted for community-based settings; to date, the CTN has included nearly 6,400

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dress Research on Marijuana at http://drugabuse.gov/NIDA_Notes/NN0058.html (last visited Feb. 24, 2006).

[195] According to the National Survey on Drug Use and Health (available at http://www.oas.samhsa.gov/nhsda.htm), 11.4% of youths ages 12 to 17 in 2004 reported ever misusing prescription pain relievers such as oxycodone and codeine, compared to 1.2% in 1989. See Institute of Medicine, Committee on the Assessment of the U.S. Drug Safety System, July 19, 2005, Statement of Marc J. Wheat, staff director and chief counsel, House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform. At http://reform.house.gov/UploadedFiles/Testimony%20for%20Meeting%20Two.pdf; See also *To Do No Harm: Strategies for Preventing Prescription Drug Abuse: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Feb. 9, 2004). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=10001.

[196] See NIDA's webpage devoted to information about Methamphetamine at http://drugabuse.gov/infofacts/methamphetamine.html (last visited Feb. 21, 2006).

[197] In FY 2001: $18.2M; FY 2002: $21.3M; FY 2003: $27.2M; FY 2004: $37.3M; FY 2005: $40.2M; FY 2006: $41.0M.

[198] This number of treatment providers is 94 more than the projected target of training 90 treatment providers in 2005.

people participating in 21 different treatment research protocols. The committee is disappointed that this program is at zero growth.

The committee recognizes the importance of prevention programs, and addressing drug abuse with a balanced strategy.

2. Substance Abuse and Mental Health Services Administration [SAMHSA]

SAMHSA	FY 2005 Requested [199]	FY 2005 Final [200]	FY 2006 Requested [201]	FY 2006 Enacted [202]	FY 2007 Request [203]
AGENCY TOTAL*	$2,637.7	$2,490.5	$2,498.8	$2,442.5	$2,411.1

* in millions.

Contact Information: SAMHSA Office of Policy, Planning and Budget: 240–276–2200, http://www.samhsa.gov.

SAMHSA was established by Congress in 1992 "to fully develop the Federal Government's ability to target effectively substance abuse and mental health services to the people most in need and to translate research in these areas more effectively and more rapidly into the general health care system."[204] The President has requested $2.41 billion for SAMHSA's prevention and treatment programs. This is an overall decrease of $31.4 million from the FY 2006 enacted amount. The President's request includes $551.6 million for prevention programs and $1.86 billion for treatment programs.

Prevention

The President has requested a total of $551.6 million for SAMHSA's prevention programs. Consistent with the President's dramatic overall 19.3 percent reduction in prevention programs in the drug control budget, the amount requested for SAMHSA's prevention efforts is $11.41 million lower than the FY 2006 enacted amount. This continues the ongoing decline in funds for SAMHSA's prevention programs,[205] which are not justified by SAMHSA in its budget requests.[206]

Reduction in funding for our nation's prevention efforts in the area of substance abuses is a matter of serious concern, because it impacts our first line of defense. The President's Drug Control Strategy emphasizes "stopping use before it starts" as one of three national priorities for drug control. Curtailing prevention efforts

[199] The White House, National Drug Control Strategy, FY 2005 Budget Summary (Mar. 2004) at http://www.whitehousedrugpolicy.gov/publications/policy/budgetsum04/index.html (last visited Feb. 24, 2006).

[200] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[201] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/index.html (last visited Feb. 24, 2006).

[202] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[203] Id.

[204] CONFERENCE REPORT TO ACCOMPANY S. 1306, H. REPT. NO. 102–522, at 125 (1992).

[205] FY 2004 prevention programs through SAMHSA were funded at $572.7M; FY 2005 prevention programs through SAMHSA were funded at $572.6M; FY 2006 prevention programs through SAMHSA are funded at $563.0M.

[206] In a briefing with the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources staff, SAMHSA stated that the 2006 prevention reduction was realized through removing special earmarks, though this was not discussed in SAMHSA's justification for 2006. Likewise, there is no discussion in the 2007 budget request justifying the prevention reduction, and presumably would not be explainable by the removal of earmarks.

will only lead to an increased need for treatment, and the committee is very concerned about ensuring that prevention programs are adequately funded.

SAMHSA's prevention efforts are coordinated through the Center for Substance Abuse Prevention (CSAP), which brings prevention programs to all states nationwide. These programs engage states, communities and organizations to reduce risk factors for substance abuse through the Strategic Prevention Framework (SPF).[207]

The SPF is a step-by-step process allowing communities to implement the most effective prevention efforts for their specific needs. Built on evidence-based practices, it is a five-step model designed to (1) profile community needs and readiness (2) mobilize and build needed capacity (3) develop a prevention plan (4) implement programs, policies and strategies based on what is known to be effective (5) evaluate program effectiveness.

The SPF program is accomplished through State Incentive Grants (SIGs) that require 85 percent of the funding must be used locally within the state receiving the grant. In Fiscal Year 2005, twenty-four states received SPF SIGs. The committee applauds SAMHSA's efforts through the SPF program for its evidence-based approach to prevention. Through the National Registry of Effective Programs and Practices[208] CSAP identifies and works to increase model, evidence-based prevention programs in communities throughout the country. This demonstrable effort is faithful to the Drug Control Strategy's goal of "stopping use before it starts."

Treatment

The President has requested $1.86 billion for SAMHSA's treatment efforts, a decrease of $19.99 million from the enacted amount for FY 2006. The committee is concerned about the fact that this is an ongoing decline in SAMHSA's treatment budget (FY 2006 enacted budget was $38.39 million below 2005).

SAMHSA's treatment efforts are coordinated through the Center for Substance Abuse Treatment (CSAT). CSAT promotes the availability and quality of community-based substance abuse treatment programs.[209] Working with other Federal agencies, state and local governments, organizations, and faith-based and community-based providers, CSAT's goals are to increase the availability of treatment services, improve and strengthen treatment support organizations, and promote and sustain evidence-based practices.[210]

Within the President's budget request for SAMHSA's treatment programs, $98.2 million is being requested for the President's Access to Recovery program (ATR). This amount is unchanged from the FY 2006 enacted amount. ATR is a state-run voucher program

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[207] See *Drug Prevention Programs and the Fiscal Year 2006 Drug Control Budget: Is the Federal Government Neglecting Illegal Drug Use Prevention? Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (Apr. 26, 2005). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=26210.

[208] See SAMHSA's website for a description of the National Registry at http://modelprograms.samhsa.gov/template.cfm?page=default (last visited Feb. 21, 2006).

[209] SAMHSA has a substance abuse treatment facility locator on its website at http://findtreatment.samhsa.gov/ (last visited Feb. 24, 2006).

[210] See *Providing Substance Abuse Prevention and Treatment Services to Adolescents: Hearing before the Senate Subcommittee on Substance Abuse and Mental Health Services, Committee on Health, Education, Labor and Pensions,* 108th Cong. (June 15, 2004). At http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_senate_hearings&docid=f:94384.pdf (last visited Feb. 24, 2006).

allowing Americans with substance abuse disorders to choose treatment and recovery support services from a range of qualified community-based providers.

Within the ATR program, the President is requesting that $24.8 million be dedicated to a stand-alone methamphetamine voucher program, intended to fund approximately ten grants at $2.5 million each for states where methamphetamine use and treatment is high.

While the committee strongly supports a targeted approach to the methamphetamine plague, it is unclear how the dedicated program will materially supplement existing efforts, especially when the $24.8 million is not additional funding to existing efforts; rather, the request for ATR is level funded, and the proposed stand-alone methamphetamine voucher program represents a large portion of the existing ATR program.

The committee strongly supports the ATR initiative. The voucher program achieves three key treatment objectives: consumer choice, effective treatment outcomes, and increased treatment capacity. Since the vouchers are intended to supplement current programs, ATR enhances outcome-oriented performance incentives in the substance abuse treatment system.[211]

Moreover, individuals are able to access care that might otherwise be out of reach for them, including care from faith-based providers. (Among the providers participating in the ATR program, 27 percent are faith-based.)

ATR requires reporting from the states to demonstrate that they are increasing the array of providers and the number of people treated. This accountability, and the array of providers, including faith-based providers, are characteristics applauded by the committee, which strongly supports the ATR program.

The President's request also includes a voucher incentive program that would provide up to 25 grant awards of $1 M to $5 M to States and Tribal organizations who voluntarily commit to use a portion of their Block Grant funds to deliver prevention and treatment services through vouchers. The committee commends this initiative to increase voucher programs.

Block Grants

The Substance Abuse Prevention and Treatment (SAPT) Block Grants are administered through CSAP and CSAT. The SAPT Block Grants represent forty percent of total State spending on treatment and prevention. The Grants have been level-funded for two years, and the President's request for 2007 at $1.76 billion continues this level-funding trend.

SAPT block grants are distributed at 20 percent to prevention and 80 percent to treatment, in accordance with statutory requirements in the Public Health Service Act.[212] As a condition for re-

[211] See *Access to Recovery: Improving Participation and Access in Drug Treatment: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Sept. 22, 2004). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=19353; *Recovery Now Initiative: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Feb. 27, 2003). At http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_house_hearings&docid=f:86828.pdf (last visited Feb. 24, 2006).

[212] 42 U.S.C. §§ 1921–1955 (2006).

ceiving the funds, States are required to spend at least 20 percent of their allotment on primary prevention programs.

The committee is concerned about the fact that there is no mandatorily-collected data from the states to determine measurable outcomes for the SAPT block grants. Without such data, there is poor accountability for the programs that are continuously funded and no meaningful measure by which to judge the effectiveness of SAPT-funded programs.

This lack of outcome measures led to a PART review rating of "ineffective" for the SAPT prevention and treatment programs in fiscal year 2005, since there was no quantifiable data by which to demonstrate results. The importance of performance measurement cannot be overstated,[213] and the committee continues to urge the swift adoption of consistently measurable standards to assure accountability with publicly-funded drug control programs.

SAMHSA has identified ten domains as National Outcome Measures (NOMs) to represent meaningful outcomes for those striving to recover from substance abuse: (1) abstinence, (2) employment/education, (3) crime/criminal justice, (4) stability in housing, (5) access to services/increased service capacity, (6) treatment retention, (7) social connectedness, (8) perception of care, (9) cost effectiveness and (10) use of evidence-based practices.[214]

In an effort to improve data collection for its programs, SAMHSA has made funds available for States to use in reporting data that is associated with the SAMHSA-identified NOMs. SAMHSA expects 32 states to take advantage of these funds for enhancing data collection efforts, and the agency expects all states to report on all NOMs elements by end of fiscal year 2007.

Currently, many states are reporting on various NOMs, but no state is reporting on all NOMs. Not one state is reporting on cost effectiveness or use of evidence-based practices, a disappointing fact that the committee is watching closely.

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[213] See *Measuring the Effectiveness of Drug Addiction Treatment: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Mar. 30, 2004). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=11695; *Performance and Outcome Measurement in Substance Abuse and Mental Health Programs: Hearing before the Senate Subcommittee on Substance Abuse and Mental Health Services, Committee on Health, Education, Labor and Pensions,* 108th Cong. (July 20, 2004). At http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_senate_hearings&docid=f:95101.pdf (last visited Feb. 24, 2006).

[214] Information on SAMHSA's state data and NOMs is available at SAMHSA's website: http://nationaloutcomemeasures.samhsa.gov/./outcome/index.asp (last visited Feb. 24, 2006).

D. DEPARTMENT OF HOMELAND SECURITY

DHS Drug Control Funding

DHS	FY 2005[215] Requested	FY 2005[216] Final	FY 2006[217] Requested	FY 2006[218] Enacted	FY 2007[219] Request
AGENCY TOTAL*	$2,519.4	$2,662.4	$2,936.9	$3,059.9	$3,304.6

* in millions.

Contact Information: DHS Office of Public Affairs: 202–282–8000, http://www.dhs.gov/dhspublic/.

The committee supports the President's request for $3.3 billion for counterdrug activities at the Department of Homeland Security (DHS), which is a slight increase over the $3.06 billion enacted in fiscal year 2006. That support, however, is conditioned on the expectation that such funds will actually be used for counterdrug purposes. As discussed elsewhere, most of these funds are not actually designated for counterdrug purposes; instead they are merely estimates of how much time and how many resources the three main interdiction agencies at DHS—Coast Guard, Immigration and Customs Enforcement (ICE), and Customs and Border Protection (CBP)—will spend on counterdrug activities.

To ensure that those estimates turn into reality, DHS must fulfill its responsibilities to the counterdrug mission. That will require not only commitment by the leadership of DHS but also diligent oversight by the Office of Counternarcotics Enforcement (CNE) and ONDCP.

1. Reorganization

When Congress created DHS in 2002, it established an Undersecretary for Border and Transportation Security (BTS) Directorate. The Directorate was assigned the legacy agencies of the U.S. Customs Service (USCS), the Immigration and Naturalization Service (INS), the Transportation Security Administration (TSA), the port of entry inspector of the Department of Agriculture, the Federal Air Marshals Service (FAMS), and the Federal Protective Service.

The newly created organization, once implemented, did not bring forth the improvements intended. Far from providing effective coordination and oversight, BTS served simply as a policy office with little or no operational functions, adding another layer of unnecessary bureaucracy.

Recognizing the mistake, DHS announced the results of a "Second Stage Review" (2SR) in July 2005 which realigned the Department to increase its ability to prepare, prevent, and respond to ter-

[215] The White House, National Drug Control Strategy, FY 2005 Budget Summary (Mar. 2004) at http://www.whitehousedrugpolicy.gov/publications/policy/budgetsum04/index.html (last visited Feb. 24, 2006).

[216] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[217] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/index.html (last visited Feb. 24, 2006).

[218] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[219] Id.

rorist attacks and others emergencies.[220] These changes were intended to better integrate the Department and its employees to improve the performance of their mission. The 2SR plan included the formation of a Directorate of Policy to serve as the primary Department-wide coordinator for policy, regulations and other initiatives. The new policy office assumed the functions previously performed by BTS.

The committee believes that DHS' 2SR reorganization may not have gone far enough, and may need to be revisited. The Department must address the problems created by the arbitrary and increasingly unworkable divisions which still exist within DHS between the bureaus of Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE). As former CBP Commissioner Robert Bonner said, separating ICE and CBP was like separating the cops "on the beat" from their detectives.[221] And even more importantly, the division means that neither ICE nor CBP, nor any other Federal agency, has a border security strategy for inside and beyond the border—not just at the land border.

The Department's own Inspector General has issued a report calling for ICE and CBP to be put back together.[222] The committee believes that until the current organizational structure is remedied, DHS will continue to operate with great inefficiencies. Such inefficiencies are exemplified by the breakdowns in; 1) coordination between apprehension, detention and removal efforts; 2) coordination between interdiction and investigative efforts; and 3) coordination of intelligence activities.

2. Congressional Responsiveness

The committee is very concerned about the apparent lack of responsiveness on the part of DHS in providing information to Congress in a timely fashion. DHS has a legal responsibility to use due diligence in promptly responding to the legitimate information requests of Congress. Specifically, when DHS makes "major" media announcements such as the 2SR event or the recent Secure Border Initiative (SBI), there is frequently no plan behind the media event. These media events should be clearly premised by distinctively articulated and communicated plans, with specific details, so that Congress can fully understand how and where the Department intends to achieve its advertised goals. The committee believes that DHS needs to provide more strategic, internal management documents instead of just generalizations tailored for public relations events.

Additionally, the committee is disappointed to report that certain elements of the newly created DHS bureaucracy have already distinguished themselves as major obstacles to congressional oversight. Leading this list is DHS' Customs and Border Protection program. The frequent and consistent lack of responsiveness to congressional correspondence by this program is cause for great concern and heightened scrutiny.

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[220] Press Release, Department of Homeland Security, Secretary Chertoff's Second Stage Review (July 13, 2005) (on file with subcommittee). Very few documents were provided to Congress on the Second Stage Review.

[221] Jerry Seper, *Bonner Pitches Merging Agencies,* WASHINGTON TIMES, Dec. 7, 2005 at http://washingtontimes.com/national/20051206–105109–9990r.htm (last visited Feb. 24, 2006).

[222] *DHS Office of Inspector General Report,* OIG–06–04, (Nov. 2005) at http://www.mipt.org/ (last visited Feb. 24, 2006).

The apparent lack of strategic planning, coordination and communication demonstrated as CBP reorganized its Air program has grave implications. CBP Air's P–3 airplanes provide essential maritime patrol aircraft (MPA) and are crucial to the Department's and the nation's efforts against drug trafficking in the "transit zone."[223] They also perform other vital homeland security missions, such as providing airspace security. For these reasons, the committee is concerned about the nature of the Department's commitment to maintain the current level of operation of each of the sixteen P–3s.[224]

Equally disturbing is the disregard CBP has for briefing relevant congressional committees. The Government Reform Committee's Subcommittee on Criminal Justice, Drug Policy, and Human Resources has submitted frequent requests for information regarding CBP Air strategic and recapitalization plans, and only after frequent reminders has the Department responded.[225] The committee strongly recommends that DHS renew efforts to properly update congressional offices on relevant issues and developments. In addition, specifically in reference to CBP, DHS needs to reestablish control of an apparently troubled operation.

3. Office of Counternarcotics Enforcement (CNE)

When Congress created DHS in 2002, it combined some of the most important anti-drug trafficking agencies in the Federal Government. To assist DHS in meeting its vital counterdrug responsibilities, Congress originally created the Counternarcotics Officer (CNO) position. The original law did not clearly define how the CNO was to fulfill those duties, nor did it give the CNO adequate status or resources to carry out what Congress had envisioned. In order to correct these problems, Congress passed legislation in 2004 that replaced the CNO with a new Office of Counternarcotics Enforcement, headed by a Director nominated by the President and confirmed by the Senate.[226] The law authorized up to $6 million of the Department's management funds for a dedicated budget for the new Office.

The committee fully supports the administration's proposed appropriation of $2.8 million for the CNE program in fiscal year 2007,

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[223] As Acting Assistant Commissioner, Charles E. Stallworth testified, "The backbone of CBP's efforts in support of transit zone interdiction operations is our fleet of aging P–3 aircraft." See *Interrupting Narco-terrorist Threats on the High Seas: Do We Have Enough Wind in Our Sails? Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (June 29, 2005) (Statement of Charles E. Stallworth, Assistant Commissioner, Office of Air and Marine Operations, U.S. Customs and Border Protection). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=29727.

[224] Letter from Mark Souder, chairman of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform to CBP Commissioner Robert Bonner (Nov. 4, 2005) (on file with Subcommittee on Criminal Justice, Drug Policy, and Human Resources).

[225] Letter from Mark Souder, chairman of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform, to DHS Secretary Michael Chertoff (Nov. 30, 2005); Letter from Mark Souder, chairman of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform, to Acting CBP Commissioner Deborah Spero (Dec. 20, 2005); Letter from Mark Souder, chairman of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform to Acting CBP Commissioner Deborah Spero (Jan. 23, 2006) (on file with Subcommittee on Criminal Justice, Drug Policy, and Human Resources); Letter from Mark Souder, chairman of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform to DHS Secretary Michael Chertoff (Jan. 23, 2006) (on file with Subcommittee on Criminal Justice, Drug Policy, and Human Resources).

[226] Intelligence and Terrorism Prevention Act of 2004, Public Law 108–458, (2004).

but is disappointed that there was no specific line item in the budget request.[227] The additional funding is viewed as a positive indication that drug control remains a priority within DHS. However, the committee recommends that Congress specifically designate a line item for the Office of Counternarcotics Enforcement in DHS appropriations legislation. Adequate and specific funding will allow DHS CNE to hire sufficient staff for the Office and provide critical internal oversight for the Department's counternarcotics efforts.

4. United States Coast Guard

U.S. Coast Guard Drug Control Funding

USCG Drug Control Funding	FY 2005[228] Requested	FY 2005[229] Final	FY 2006[230] Requested	FY 2006[231] Enacted	FY 2007[232] Request
AGENCY TOTAL*	$822.3	$871.9	$972.7	$1,032.4	$1,030.1

* in millions.

Contact Information: Coast Guard Office of Public Affairs: 202–267–1587, http://www.uscg.mil/USCG.shtm.

The President's budget proposal includes $8.4 billion for the U.S. Coast Guard, of which $1.03 billion is estimated to be used for drug control. Like other DHS agencies, the Coast Guard does not have a specific appropriation for drug interdiction activities. The committee conditionally supports this year's proposal which is approximately the same amount as provided for drug control in fiscal year 2006. The committee believes the administration's proposal to "flat line" the Coast Guard budget may have a leveling effect on the Coast Guard's drug interdiction removal rate and prevent the service from achieving the administration's established performance standards in the upcoming year.[233]

As highlighted by its response to Hurricane Katrina in August and September of 2005, the Coast Guard has continued to struggle to balance new missions with traditional ones as a component within DHS. Moreover, a rapidly deteriorating fleet of ships and aircraft and limited resources made proper prioritization of the manifold missions of the Coast Guard increasingly difficult.

Regarding competing mission interests, the committee also is gravely concerned with the administration's decision, highlighted in the 2007 proposed budget, to tap the Coast Guard to assume the airborne security mission within the National Capitol Region (NCR) surrounding Washington, DC.[234] The administration's proposed budget includes $62.4 million for the Coast Guard to establish a permanent National Capital Region Air Defense program.[235]

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[227] DEPARTMENT OF HOMELAND SECURITY, Budget in Brief, FY 2007, (Feb. 2006) at 102.

[228] The White House, National Drug Control Strategy, FY 2005 Budget Summary (Mar. 2004) at http://www.whitehousedrugpolicy.gov/publications/policy/budgetsum04/index.html (last visited Feb. 24, 2006).

[229] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[230] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/index.html (last visited Feb. 24, 2006).

[231] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[232] Id.

[233] U.S. COAST GUARD, Budget in Brief, FY 2007, (Feb., 2006) at Appendix B, B–13.

[234] DEPARTMENT OF HOMELAND SECURITY, Budget in Brief, FY 2007, (Feb. 2006) at 53.

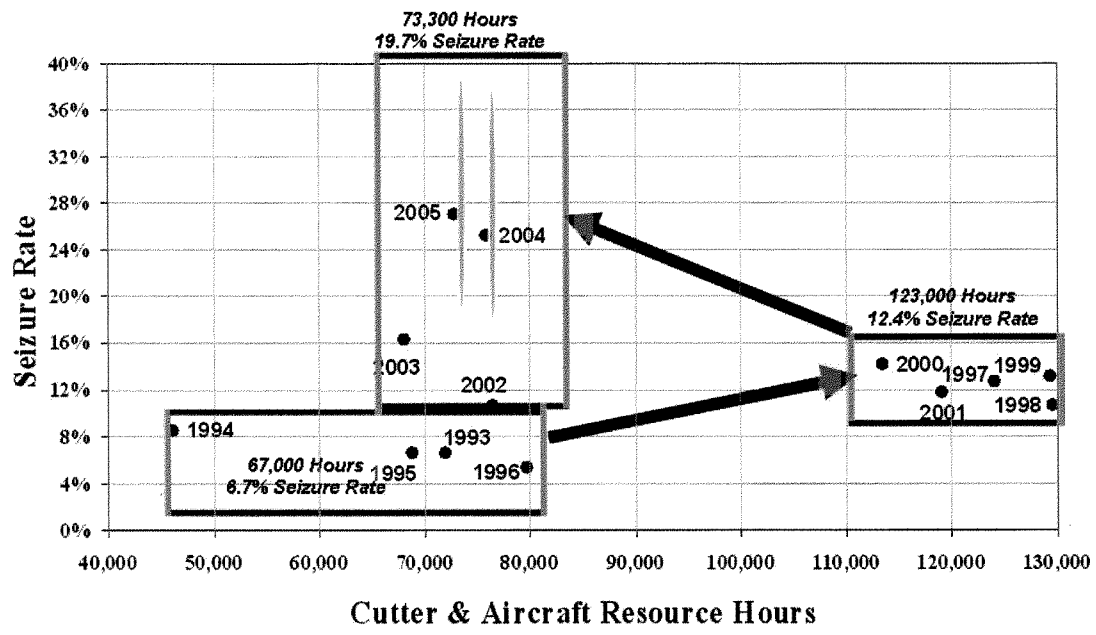
[235] U.S. COAST GUARD, Budget in Brief, FY 2007, (Feb. 2006) at 19.

Specifically, the committee is very concerned about the impact of this new NCR mission on existing Coast Guard missions, and specifically, counterdrug patrols utilizing armed helicopters in the transit zone. It is not clear how the NCR airspace security mission should fall to the Coast Guard within any of the traditional or expanded DHS missions of the Coast Guard. Furthermore, no specific plan has been divulged to Congress explaining how the proposed funding ($62.4 million) would provide the additional helicopters, personnel and equipment necessary to adequately support the new mission without significantly degrading existing mission areas, including its critical work in the maritime transit zones.

As shown in the diagram below, Coast Guard "total" resource hours devoted to counterdrug patrols since the terrorist attacks of September 11th, 2001 have steadily declined.[236]

[236] Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources staff budget summary briefing with U.S. Coast Guard officials on Nov. 17, 2005, (on file with Subcommittee on Criminal Justice, Drug Policy, and Human Resources).

U.S. Coast Guard
Effort & Results Relationship



The downward trend of Coast Guard resource hours supporting the counterdrug mission is due to new post–9/11 operational requirements, ongoing traditional missions such as search and rescue and maritime safety, and the Coast Guard's rapidly deteriorating inventory of aging cutters and aircraft.

As an example, the administration's 2007 budget proposal includes plans to decommission two veteran ships, the 61 year-old cutter STORIS and the 64 year-old cutter GENTIAN.[237] The STORIS, based in Kodiak, Alaska, will be replaced by the 35 year-old cutter MUNRO. Saddled with many Vietnam-era deepwater cutters, the Coast Guard is challenged to perform its important missions with aged and nearly obsolete equipment.

During fiscal years 2000 through 2004, the readiness rates of the Coast Guard's older ships and aircraft showed a general decline, although the rates fluctuated from year to year.[238] For example, ships used to monitor drug trafficking activities and carry the helicopters that disable and stop go-fast boats were below their target levels for time free of major deficiencies or loss of at least one primary mission. These declines are directly linked to the rapidly deteriorating mechanical readiness of its aged assets.[239]

The diagram above also shows an increasing seizure rate beginning in 2003, resulting from several record years of cocaine seizures. In 2005, the Coast Guard prevented a record 338,000 pounds of cocaine and more than 10,000 pounds of marijuana from reaching the U.S.[240] These outstanding results were due to a combination of the Coast Guard utilizing new tools such as armed "HITRON" helicopters and specialized law enforcement detachments. Equally important, the record-setting year was a result of increasing and improved inter-department and inter-agency cooperation, as well as significantly improved intelligence developed through Operation Panama Express and Joint Interagency Task Force South (JIATF-South).

The Director of JIATF-South has recently stated that there continues to be more known actionable intelligence available than there are surface and air assets available to respond.[241] The national drug interdiction community and the Coast Guard need more surface and air assets to respond to this growing supply of invaluable intelligence.

The Coast Guard, although hampered by its aging assets, has attempted to rise to the task. As the following statistics show, the service is now dedicating more maritime patrol aircraft (MPA) hours to drug interdiction missions since the 9/11 terrorist attacks.[242]

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[237] U.S. COAST GUARD, Budget in Brief, FY 2007, (Feb. 2006) at 10.

[238] *Drug Control: Agencies Need to Plan for Likely Declines in Drug Interdiction Assets, and Develop Better Performance Measures for Transit Zone Operations,* GAO Report No. 06–2000, (Nov. 2005) at 21; The Coast Guard uses these assets to perform a variety of missions, such as interdicting illicit drug shipments and illegal migrants or rescuing mariners at sea.

[239] Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources staff visit to Cutter GALLATIN (WMEC 721), in Key West, Florida on Jan. 14, 2006.

[240] U.S. COAST GUARD, Budget in Brief, FY 2007, Feb. 2006, Appendix B, B–12.

[241] Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources visit to JIATF-South, Key West, Florida, on Jan. 12, 2006.

[242] Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources staff budget summary briefing with U.S. Coast Guard officials on Nov. 17, 2005; Resource hours committed to the drug interdiction mission include on-station hours spent on detection, monitoring and interdiction operations, and also transit hours needed for assets to get into position to begin operations.

U.S. Coast Guard Maritime Patrol Aircraft On-station Hours

Fiscal Year	Maritime Patrol Aircraft
FY 2001 [243]	1,889
FY 2002	997
FY 2003	1,410
FY 2004	2,721
FY 2005 [244]	2,780

However, the percentage of time the HC–130 maritime patrol surveillance aircraft were available to perform missions was below the target level in fiscal year 2004, and the surface radar system on the aircraft is subject to frequent failures.[245] In some instances, mission flight crews had to look out the windows of the aircraft for targets because the radar systems were inoperable.

The administration and the Coast Guard have developed a strategic plan to replace its legacy ships and aircraft. The committee believes the Coast Guard's Deepwater fleet modernization project is critical to U.S. transit zone drug interdictions. However, the Coast Guard needs to develop an aircraft that can effectively perform the MPA mission. Consequently, the administration and DHS need to ensure they are putting the right tools and equipment into the hands of Coast Guard men and women so that they may continue to effectively interdict drugs on the high seas and deliver the maritime safety and security America deserves.

Program Assessment Rating

The committee is pleased to see improvements in the Coast Guard's measures of performance, specifically regarding the drug interdiction program. As briefed by Coast Guard officials, the service has recently updated and aligned its measures with ONDCP's established goals and leveraged improvements in intelligence.[246] The Coast Guard now measures drug interdiction performance using a Removal Rate figure, as opposed to the previously established Seizure Rate. The new Removal Rate includes drugs seized, and also includes drugs jettisoned, destroyed, or otherwise lost at sea, and is vetted through an interagency group led by the U.S. Interdiction Coordinator's (USIC) Consolidated Counterdrug database (CCDB). Although there is great concern and debate regarding the overall quantity of drugs smuggled through the transit zones, the committee is pleased to see the Coast Guard's efforts to measure its drug control performance against national standards.[247]

[243] Statistics provided in letter from Mary Beth Long, Deputy Assistant Secretary of Defense for Counternarcotics to Congressman Mark Souder, chairman, Subcommittee on Criminal Justice, Drug Policy, and Human Resources (July 13, 2005) (on file with Subcommittee on Criminal Justice, Drug Policy, and Human Resources).

[244] *Drug Control: Agencies Need to Plan for Likely Declines in Drug Interdiction Assets, and Develop Better Performance Measures for Transit Zone Operations,* GAO REPORT NO. 06–2000, (Nov. 2005) at 15.

[245] *Drug Control: Agencies Need to Plan for Likely Declines in Drug Interdiction Assets, and Develop Better Performance Measures for Transit Zone Operations,* GAO REPORT NO. 06–2000, (Nov. 2005) at 21.

[246] Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources staff budget summary briefing with U.S. Coast Guard officials on Nov. 17, 2005.

[247] *Drug Control: Agencies Need to Plan for Likely Declines in Drug Interdiction Assets, and Develop Better Performance Measures for Transit Zone Operations,* GAO REPORT NO. 06–2000, (Nov. 2005) at 25.

5. Immigration and Customs Enforcement (ICE)

ICE Drug Control Funding

ICE Drug Control Funding	FY 2005[248] Requested	FY 2005[249] Final	FY 2006[250] Requested	FY 2006[251] Enacted	FY 2007[252] Request
AGENCY TOTAL*	$575.8	$361.5	$453.3	$436.5	$477.9

* in millions.

Contact Information: ICE Office of Public Affairs: 202–514–2648, http://www.ice.gov/graphics/index/htm.

The committee supports the President's request for ICE, which is estimated by ONDCP to include $477.9 million for drug control operations. This would be an increase of approximately $42 million over the $436.5 million enacted for fiscal year 2006. This increase, however, needs to be actually utilized by ICE to fulfill drug control responsibilities and not diverted to other missions.

The committee is concerned about ICE's annual budgetary shortfalls. The ongoing funding shortage has led to serious and continuous operational difficulties in pursuing drug investigations and other critical mission areas for the agency. It is unclear how the proposed 2007 budget will resolve these financial management issues, and allow ICE agents to fully focus on DHS investigations.

Mission Alignment

The committee is concerned about the evolving missions of ICE within DHS. It is very important that the "front line" officers of CBP and the Border Patrol have a clear and effective relationship with the investigators of ICE. Currently, despite being the largest investigative arm within the Department, it is not evident that ICE has a clearly established role as the lead investigative arm within DHS. Although ICE officials have testified that the agency is responsible for identifying and eliminating vulnerabilities at our Nation's border, there appear to be several bureaucratic obstacles predating the creation of DHS that prevent ICE from effectively and consistently supporting the Department.[253] Specifically, the role of ICE appears to vary in different regions of the country because of non-uniform, out-dated memoranda which have carried over from legacy U.S. Customs Service and U.S. Border Patrol.[254] Currently, some U.S. Border Patrol drug seizures are turned over to the DEA and others are turned over to ICE, depending upon where the sei-

[248] The White House, National Drug Control Strategy, FY 2005 Budget Summary (Mar. 2004) at http://www.whitehousedrugpolicy.gov/publications/policy/budgetsum04/index.html (last visited Feb. 24, 2006).

[249] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[250] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/index.html (last visited Feb. 24, 2006).

[251] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[252] Id.

[253] See *Threat Convergence Along the Border: How Does Drug Trafficking Impact Our Borders? Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (June 14, 2005) (Statement by John P. Torres, Assistant Director, Immigration and Customs Enforcement). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=29024.

[254] Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources staff visit to Messina, NY, on Aug. 15, 2005, Detroit, MI, on Aug. 16, 2005, and Bellingham, WA, on Aug. 18, 2005.

zure occurs along the border. The fact that ICE and CBP are now within the same Department should be reflected in standard management protocols that eliminate circumstantially outdated management techniques. The committee recommends DHS, ICE, CBP and DEA move quickly to establish new protocols and procedures for investigating all seizures at the border, be it illegal immigrants, drugs or other illicit contraband. DHS's campaign to establish "one face at the border" should be broadened to include "one investigator at the border."

Financial Investigations

As stated in the 2006 National Drug Control Strategy, the lure of making large sums of cash is the main motivation that drives drug trafficking.[255] It is critically important that U.S. law enforcement strategically target and seize moneys and revenue resulting from the illicit drug trade. This will cause a significant disruption to the supply of illegal drugs entering the U.S. and is a major focus both of DHS, through ICE, and the Department of Justice, through the OCDETF program.

Nationally, ICE financial investigations have resulted in the seizure of more than $477 million over the past three fiscal years, with $100 million of that in bulk currency. Since ICE was created in 2003, ICE arrests in financial investigations, including those involving drug smuggling, increased from 1,224 that year to 1,567 in FY 2005. The number of indictments increased from 865 to 932 and the number of convictions increased from 703 to 823. From FY 2003 to FY 2005, ICE agents arrested 260 individuals for bulk cash smuggling alone. In FY 2004, ICE agents seized nearly $159 million in currency and monetary instruments and executed approximately 1,400 arrests for financial crimes, many directly related to drug smuggling and drug money laundering activities.[256]

ICE has introduced a number of new initiatives aimed at analyzing and combating the movement of illicit funds by bulk cash smuggling, trade-based money laundering, courier hubs, money service businesses, charities, and alternative remittance systems. Some of these initiatives, highlighted in the U.S. Money Laundering Threat Assessment, include the creation of a trade transparency unit, the creation of a foreign political task force, and a multi-agency approach designed to target unlicensed money service businesses that are involved in utilizing money transmitters to wire illicit drug proceeds to recipients in foreign countries.[257]

The committee fully supports the efforts of ICE to coordinate DHS financial investigations. For this reason, it is important that ICE investigators be closely integrated into all drug and money seizures along the border by the U.S. Border Patrol and CBP officers. As Custom and Border Protection's Director of Drug Interdiction, Greg Passic, testified before the Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources, "Nothing is more worthless . . . than a load of dope that doesn't belong to

[255] The White House, National Drug Control Strategy, (Feb. 2006) at 32. At http://www.whitehousedrugpolicy.gov/publications/policy/ndcs06/index.html (last visited Feb. 24, 2006).

[256] For additional information regarding Immigration and Customs Enforcement financial investigations see http://www.ice.gov/graphics/cornerstone/index.htm (last visited Feb. 24, 2006).

[257] U.S. Money Laundering Threat Assessment, (Dec. 2005) at I. At http://www.ots.treas.gov/docs/4/480215.pdf (last visited Feb. 24, 2006).

anybody."[258] Investigators are the critical link in establishing connections between random drug seizures at the border and trafficking networks. The committee believes it is vitally important that all CBP seizures along the border be coordinated with ICE investigators.

ICE coordination with OCDETF and DEA investigators is also paramount to a unified, effective strategy to disrupt drug supply revenues. Last year ICE's Deputy Assistant Director, John Torres, testified that ICE does not currently participate in the OCDETF Drug Fusion Center because of pre-existing legal hurdles dealing with immigration and proprietary commercial business relations.[259] The committee fully supports ICE's pending partnership in the OCDETF Drug Fusion Center.[260]

Drug Investigations

Like the Coast Guard, ICE has struggled to re-balance its counterdrug resources to sustainable levels since the terrorist attacks of September 11, 2001. ICE agents are tasked with conducting investigations of persons and events subject to the administrative and criminal provisions of the Immigration and Nationality Act. Although ICE continues to enforce U.S. drug laws, primarily with a nexus to the border, investigative resources are lacking due to the expanded responsibilities of immigration enforcement.

The role of ICE as the primary criminal immigration enforcement agency is critical to the nation's national security. ICE has continued to increase its apprehensions of criminal aliens while, at the same time, increasing its seizures of narcotics. In 2003, DHS agents and officers apprehended 1,046,422 aliens. DHS removed 186,151 aliens in FY 2003. This was an increase of approximately 36,067 from FY 2002.[261]

In 2004, DHS agents and officers apprehended an estimated 1,241,098 foreign nationals and removed 88,897 criminal aliens from the United States. Approximately 33,367 or 37.5 percent of the criminal aliens removed in 2004 were for dangerous drugs.[262] In 2003, DHS agents and officers removed 79,395 criminal aliens, an 11 percent increase from FY 2002. Approximately 31,352 or 39 percent of the criminal aliens removed in 2003 were for dangerous drugs.[263]

In FY 2003, ICE completed 82,236 immigration-related criminal investigations, an increase of 3,395 from the previous year.[264]

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[258] See *Threat Convergence Along the Border: How Does Drug Trafficking Impact Our Borders? Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (June 14, 2005) (Statement by Gregory Passic, Director of Drug Interdiction, Custom and Border Protection). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=29024.

[259] See *Threat Convergence Along the Border: How Does Drug Trafficking Impact Our Borders? Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (June 14, 2005) (Statement by John P. Torres, Assistant Director, Immigration and Customs Enforcement). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=29024.

[260] Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources staff budget summary briefing with Immigration and Customs Enforcement officials on Dec. 9, 2005.

[261] For additional Immigration and Customs Enforcement background information and statistics see http://uscis.gov/graphics/shared/statistics/yearbook/2003/2003ENF.pdf (last visited Feb. 24, 2006).

[262] Id.

[263] Id.

[264] Id.

The committee is very concerned about the apparent downward trend in resources committed to drug investigations due to the increased demand of immigration investigations. The committee recommends that DHS and ICE take the necessary corrective actions to ensure DHS' investigators at ICE have the proper resources to keep drug investigations a top priority at the border.

Program Assessment Rating

The ICE Office of Investigations received an "adequate" rating in the administration's Performance Assessment Rating Tool (PART) process.[265] The ICE Office of Investigations had 43.8 percent of their cases result in an enforcement consequence (arrest, indictment, conviction, seizure, fine or penalty). The committee hopes that ICE will continue to make progress in its performance measurement system.

6. Customs and Border Protection (CBP)

CBP Drug Control Funding

CBP Drug Control Funding	FY 2005[266] Requested	FY 2005[267] Final	FY 2006[268] Requested	FY 2006[269] Enacted	FY 2007[270] Request
AGENCY TOTAL*	$1,121.4	$1,429	$1,510.9	$1,591	$1,796.5

* in millions.

Contact Information: CBP Office of Public Affairs: 202–344–1770, http://www.cbp.gov.

The committee supports the President's request for $1.8 billion for counterdrug activities at Customs and Border Protection (CBP), which is a sizeable increase over the $1.6 billion enacted in fiscal year 2006. That support, however, is conditioned on the expectation that such funds will actually be used for counterdrug purposes. As discussed previously, most of these funds are not actually designated for counterdrug purposes; instead they are merely estimates of how much time and how many resources the three "frontline forces" at CBP—U.S. Border Patrol, Air and Marine Program and Office of Field Operations—will spend on counterdrug activities.

A significant portion of the increase to the drug budget for CBP, $152 million, is to support the Secure Border Initiative (SBI). The total increase for the SBI initiative, which includes drug and nondrug funding, is $639 million. Most of the SBI program comes in the form of new Border Patrol agents, and technology and assets designed for border operations. However, almost all of the Border Patrol's drug seizures occur at checkpoints on the highways behind

[265] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at 53.

[266] The White House, National Drug Control Strategy, FY 2005 Budget Summary (Mar. 2004) at http://www.whitehousedrugpolicy.gov/publications/policy/budgetsum04/index.html (last visited Feb. 24, 2006).

[267] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[268] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/index.html (last visited Feb. 24, 2006).

[269] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[270] Id.

the ports of entry. In other words, the new assets for Border Patrol aren't primarily intended for the places where Border Patrol agents actually seize drugs. The committee is concerned that the only reason the administration's "drug budget" shows an increase is because of these broad and often inaccurate assumptions regarding drug budget assets and activities. The committee strongly recommends the administration refine its drug budget methodology so that drug control funds will actually be used for drug control purposes.

The Bureau of Customs and Border Protection (CBP) combines the port of entry inspectors of the legacy Customs Service and the Immigration and Naturalization Service, as well as the Department of Agriculture's port of entry inspectors, the U.S. Border Patrol, and the Air and Marine Operations (AMO) division of legacy Customs. The Customs inspectors, AMO aviators and boat operators, and Border Patrol agents are crucial to our drug interdiction and enforcement efforts. The committee is very concerned that drugs remain a priority at CBP as the agency vigorously attempts to "take control of the border."

CBP Air and Marine Operations

The President's budget includes $276 million for Operations and Maintenance for CBP's Air and Marine Operations program (CBP Air). It is not clear what percentage of the operations and maintenance budget will be dedicated to support counterdrug missions. The committee is concerned that the administration's proposal will not be sufficient to cover CBP Air's current commitments in the "source" zones of South America, in the transit zones, and along the northern border.

The 2007 proposed budget also includes $61.3 million for the procurement of 30 small helicopters to support the Secure Border Initiative (SBI).[271] The committee believes that the SBI is a worthwhile effort to control the land borders, but it should not come at the expense of CBP withdrawing from the counterdrug mission. It is unclear how the administration's budget will support the operations, maintenance and upgrades for CBP Air's fleet of P–3 maritime patrol aircraft (MPA). The CBP P–3 aircraft provide essential maritime patrol coverage and as such are crucial to the administration's efforts against drug trafficking in the transit zone. The committee strongly recommends the administration and CBP remain committed to the counterdrug mission and continue to provide and support CBP's drug interdiction aircraft.

Additionally, CBP's Air and Marine Operations Center (AMOC), the agency's primary tracking and monitoring facility located in Riverside, California, remains undermanned and underutilized.[272] With the personnel shortfalls, AMOC managers must selectively choose what radar feeds to monitor, leaving the nation vulnerable in the sectors that AMOC cannot watch. Additionally, with the development of Unmanned Aerial Vehicles (UAV), AMOC can perform an important role in the command, control and coordination for UAV operations within the Department.

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[271] CUSTOMS AND BORDER PROTECTION, Budget in Brief, FY 2007, (Feb. 2006) at 25.

[272] Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources visit to CBP's Air and Marine Operations Center (AMOC), Riverside, CA, on Mar. 29, 2005.

In December 2005, CBP stated that all CBP air assets will be tracked by AMOC in the very near future.[273] The AMOC is a unique tool which, if used properly, can provide crucial operational and safety information to all CBP and Department units, especially as DHS operations intensify along the Southwest Border.

As the statistics below demonstrate, and as discussed previously, CBP Air plays a critical role in providing air detection and interdiction support to drug control programs, both domestically and internationally. The Director of the Joint Interagency Task Force South (JIATF-South) recently emphasized that there continues to be more actionable intelligence available than there are surface and air assets available to respond.[274] As a result, the national drug interdiction community needs more maritime patrol aircraft (MPA) to respond to the growing supply of invaluable intelligence. The committee recommends CBP Air continue to fully support all international and MPA missions in the transit zones to both support JIATF-South's actionable intelligence and continue to directly promote record cocaine seizures on the high seas.

Customs and Border Protection Maritime Patrol Aircraft On-station Hours

Fiscal Year	Maritime Patrol Aircraft
FY 2001[275]	1,771
FY 2002	2,367
FY 2003	2,300
FY 2004	4,654
FY 2005[276]	4,385

The committee has grave concerns about the apparent lack of replacement or modernization plans for the aging air fleet found within the CBP. It is not clear what steps the program or DHS are taking to ensure continued support to counterdrug missions. We recommend that the Department closely evaluate current agency modernization proposals and submit recommendations to Congress that will maintain critical air capabilities. Without these capabilities, U.S. efforts to combat terrorism and illegal drug movement in the source, transit, and arrival zones, provide law enforcement support, and perform other air security missions would be severely hindered and threaten national security.

CBP Air and Marine Operations—Reorganization

Regardless of the status of the proposed ICE and CBP merger, it is critically important to the National Drug Control Strategy that the fixed wing aircraft of the CBP Air program continue to support U.S. and Allied nation interdiction efforts in the transit zones. Fis-

[273] Letter from Thaddeus Bingel, Assistant Commissioner, Customs and Border Protection, to Mark Souder, chairman, the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform, (Dec. 28, 2005) (on file with Subcommittee on Criminal Justice, Drug Policy, and Human Resources).

[274] Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources visit to JIATF-South on Jan. 12, 2006.

[275] Statistics provided in letter from Mary Beth Long, Deputy Assistant Secretary of Defense for Counternarcotics, to Congressman Mark Souder, chairman, Subcommittee on Criminal Justice, Drug Policy, and Human Resources (July 13, 2005) (on file with Subcommittee on Criminal Justice, Drug Policy, and Human Resources).

[276] DRUG CONTROL: AGENCIES NEED TO PLAN FOR LIKELY DECLINES IN DRUG INTERDICTION ASSETS, AND DEVELOP BETTER PERFORMANCE MEASURES FOR TRANSIT ZONE OPERATIONS, GAO REPORT NO. 06–2000, (Nov. 2005) at 15.

cal year 2005 was another record year of cocaine seizures in the transit zones, and the CBP P–3 aircraft played a critical and necessary role in the detection and monitoring of smuggling vessels and further directing Coast Guard ships and helicopters towards their drug-laden targets.

Last year the committee applauded DHS' efforts to consolidate aviation and marine assets by merging the Border Patrol's air and marine program with the legacy U.S. Customs Service Air and Marine Operations (AMO) program. The merger was intended to help consolidate the operation, training, maintenance, and procurement of these high-value/low density law enforcement assets.

The committee's enthusiasm was misplaced. It appears that the drug interdiction mission has suffered as a result of the merger. The AMO program has historically been responsible for interdicting drug-smuggling airplanes and "go-fast" speed boats, supporting Customs drug investigations and raids (as well as migrant interdictions), providing airspace security in the nation's Capital (and at special events like the Olympics), and for providing critical maritime patrol aircraft, most notably the fleet of P–3 radar planes, for drug interdiction operations in the Caribbean and Eastern Pacific.

Today, however, CBP is attempting to transfer control of most of AMO's operations to individual sector chiefs of the Border Patrol. While the AMO program is responsible for supporting Border Patrol missions, that is only one of its traditional duties. However, despite the diversion of AMO assets from drug interdiction activities, no proposal from CBP has been forthcoming to address or replace the critical aircraft. The committee feels it is unwise for CBP to take such a vital national asset and "regionalize" it. That model did not serve the old Immigration and Naturalization Service (INS) well, and it will not serve DHS or the country well.

To solve this problem, the committee recommends that DHS reestablish AMO with a clearly defined interdiction mission in the transit zone requiring both air support for ICE and CBP, and continuing to provide traditional MPA detection to the international, interagency effort led by JIATF-South. AMO should remain a truly national program, accountable both to the Secretary and to Congress for its crucial missions.

7. U.S. Border Patrol

There are over 11,000 Border Patrol agents that are assigned the mission of detecting and apprehending any illegal entrants between the ports-of-entry along the United States land borders. These illegal entries include alien and drug smugglers, potential terrorists, wanted criminals, and persons seeking to avoid inspection at the designated ports of entry.

The committee has deep concerns about the level of commitment of all sectors of the Border Patrol to the drug interdiction mission. In many sectors, the Border Patrol appears to be far more focused on illegal migrant interdiction than stopping drug traffickers. Moreover, the Border Patrol's willingness to cooperate with other law enforcement agencies on drug investigations and operations leaves room for improvement. Stopping illegal immigration is certainly a vital mission of the Border Patrol. If, however, the Border Patrol is going to be the primary agency responsible for protecting our nation's land borders, it must take a more active role not only

in conducting its own drug interdiction operations, but in supporting the border-related drug investigations of other agencies as well.

As noted above, former CBP Commissioner Robert Bonner recently said that separating ICE and CBP was like separating the cops "on the beat" from their detectives.[277] Currently, some Border Patrol drug seizures are turned over to the DEA, and others are turned over to ICE. The fact that CBP and ICE are now both within DHS should be reflected in updated procedures and protocols. The current divisions between ICE and the U.S. Border Patrol mean that neither CBP nor ICE, nor any other Federal agency, has a border security strategy for inside and beyond the border.

Shadow Wolves Customs Patrol Officers

The committee has grave concerns about the status of the last remaining unit of Customs Patrol Officers patrolling the border, the "Shadow Wolves" unit that works on the 76-mile stretch of the Mexico-Arizona border contained in the Tohono O'odham sovereign Indian Nation. The Shadow Wolves are all Native Americans, who combine traditional tracking methods and modern technology to find, follow, and arrest drug traffickers. The Shadow Wolves have historically been one of our nation's most effective drug enforcement units, seizing over 100,000 pounds of narcotics annually, with only 15 agents.

The Shadow Wolves were a part of the U.S. Customs Service until March 2003, when DHS assigned them to CBP, which in turn placed them under the control of the Border Patrol. Border Patrol management has not been successful, as the missions, priorities, and methods of the two groups are substantially distinct. Only 15 of the 21 Shadow Wolves agents in uniform in 2003 are still active, and there is a serious risk that the rest will retire or move to other employers if the problems are not addressed. The Border Patrol itself has reportedly asked that the unit be transferred to another agency.

The committee agrees that the Shadow Wolves should be moved to another agency within DHS. Two possible new "homes" for the unit are the Office of Air and Marine Operations (AMO) at CBP, or the Office of Investigations at ICE. Both of these units worked very successfully with the Shadow Wolves prior to 2003 (when they were all part of the Customs Service). The committee may pursue legislation to address this problem if DHS is unwilling or unable to take the initiative.

Program Assessment Rating

The overall CBP drug control program has not been reviewed under the administration's Program Assessment Rating Tool (PART) process. However, the Office of Border Patrol, found within CBP, received a "Results not Demonstrated" rating from the PART process due to a lack of suitable outcome measures for the agency. A November 2005 GAO report noted that "CBP is developing performance measures related to operational readiness rates (a measure of its ability to responds when requested), but these rates are

[277] Jerry Seper, *Bonner Pitches Merging Agencies,* WASHINGTON TIMES, Dec. 7, 2005, at http://washingtontimes.com/national/20051206–105109–9990r.htm (last visited Feb. 24, 2006).

not specific to transit zones or to counternarcotics activities and do not measure results."[278] The committee recommends that CBP take prompt action to develop an effective performance management tool for its counterdrug programs.

E. DEPARTMENT OF JUSTICE

The Department of Justice is home to some of the most important drug control agencies and programs in the Federal Government. As our nation's primary law enforcement agency, its efforts are crucial to the struggle to reduce drug trafficking and abuse. Moreover, the grant programs it administers—which assist state and local agencies with everything from investigations to drug treatment for prisoners—are vital to Federal, state, and local coordination and cooperation on drug policy.

Contact Information: Department of Justice Office of Public Affairs: 202–514–2007, http://www.usdoj.gov.

1. Assistance to State and Local Law Enforcement

Methamphetamine-Related Assistance (COPS Meth Hot Spots)

COPS Meth Hot Spots	FY 2005[279] Requested	FY 2005[280] Final	FY 2006[281] Requested	FY 2006[282] Enacted	FY 2007[283] Request
AGENCY TOTAL*	$20	$52.6	$20	$63.59	$40.1

* in millions.

Contact Information: COPS Office: 202–616–1728, http://www.cops.usdoj.gov.

The committee has ongoing concerns about the proposed reduction in funds (administered by the Department of Justice's Community Oriented Policing Services (COPS) office) dedicated to law enforcement activities against methamphetamine trafficking. Methamphetamine abuse has ravaged communities across the United States and put severe strains on state and local enforcement agencies forced to find clandestine drug labs, clean up the environmental damage they create, protect the citizens who assist law enforcement,[284] and arrest the drug trafficking rings that operate them. To assist these overburdened agencies, Congress approved $63,590,000 for fiscal year 2006 (up from $52,556,000 in fiscal year 2005) for policing initiatives to combat methamphetamine produc-

[278] DRUG CONTROL: AGENCIES NEED TO PLAN FOR LIKELY DECLINES IN DRUG INTERDICTION ASSETS, AND DEVELOP BETTER PERFORMANCE MEASURES FOR TRANSIT ZONE OPERATIONS, GAO REPORT NO. 06–2000, (Nov. 2005) at 25.

[279] The White House, National Drug Control Strategy, FY 2005 Budget Summary (Mar. 2004) at http://www.whitehousedrugpolicy.gov/publications/policy/budgetsum04/index.html (last visited Feb. 24, 2006).

[280] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[281] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/index.html (last visited Feb. 24, 2006).

[282] White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[283] Id.

[284] See *How Can the Federal Government Support Local and State Initiatives to Protect Citizens and Communities Against Drug-Related Violence and Witness Intimidation? Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (May 2, 2005). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=26376 .

tion and trafficking and to enhance policing initiatives in "drug hot spots."

The administration has increased its request for the program from only $20,000,000 for fiscal year 2006 to $40,084,000 for fiscal year 2007. As in previous years, however, the administration is still only requesting funds for the DEA-administered fund that reimburses state and local agencies for the costs of cleaning up toxic meth lab sites. Thus, the administration again proposes to eliminate the remaining "Meth Hot Spots" funding for other anti-meth enforcement activities—which Congress has always spent in the form of specific earmarks for designated projects.

The committee fully supports the DEA reimbursement fund and commends the administration for proposing to increase it. The committee also believes, however, that Congress and the administration need to work together to restore and reform the additional Hot Spots funding. The proposed elimination of the rest of the "Meth Hot Spots" funding would greatly reduce the ability of affected state and local law enforcement agencies to help their Federal partners in reducing methamphetamine abuse, particularly given the proposed overall reduction in other state and local law enforcement assistance grants.

It should be noted, however, that Congress itself needs to take steps to ensure that Federal assistance is targeted to the most affected areas of the country. Excessive "earmarking" of these funds undermines their efficiency. Although many states and communities suffer from methamphetamine trafficking and abuse, Federal dollars are limited and must be directed to the areas where they will make the most difference from a national point of view. The committee urges Congress and the administration to work together in finding ways to address this issue.

2. Prescription Drug Monitoring Program

Prescription Drug Monitoring Program	FY 2005 Requested	FY 2005[285] Final	FY 2006[286] Requested	FY 2006[287] Enacted	FY 2007[288] Request
AGENCY TOTAL*	$0	$9.9	$5.0	$7.4	$9.919

* in millions.

Contact Information: Department of Bureau of Justice Assistance: 202–616–6500, http://www.usdoj.gov/BJA/.

The committee also has concerns about the continuing reductions in funding for a prescription drug monitoring program. For fiscal year 2006, Congress approved $7,500,000 for this program—but that was itself a 25 percent cut from 2005 funding. This year, the administration has requested only $9,919,000—about two-thirds of fiscal year 2005's appropriated level.

Prescription drug abuse is a serious and growing problem throughout the United States, as illustrated by the recent wave of

[285] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[286] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/index.html (last visited Feb. 24, 2006).

[287] White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[288] Id.

OxyContin and other oxycodone-related overdoses. In fact, according to the Monitoring the Future survey of drug abuse among high school students, prescription drugs were the only drugs that showed an increase in student use in 2005.[289]

One major difficulty facing Federal, State and local law enforcement agencies in dealing with this threat is the lack of sufficient information about how these drugs are being diverted from their proper medical uses to illegal trafficking and abuse.[290] The Federal Government needs to continue work on the establishment of a monitoring system that would track supplies of prescription drugs and give law enforcement officials more information about illegal diversion.[291] A truly effective program will require more, not less, financial assistance from the Federal Government.

3. Edward Byrne Memorial Justice Assistance Grant

Byrne Memorial Grant	FY 2005 Requested	FY 2005 Final	FY 2006 [292] Requested	FY 2006 [293] Enacted	FY 2007 [294] Request
AGENCY TOTAL*	$508	$634	$0	$416.5	$0

* in millions.

The committee opposes the administration's renewed proposal to terminate the state formula grants portion of the Edward Byrne Memorial Justice Assistance Grant program. Congress appropriated only $416,478,000 for the formula Byrne Grants for fiscal year 2006, down from $634,000,000 for fiscal year 2005.[295] The administration has again asked Congress to eliminate it entirely and restrict Federal assistance for state and local law enforcement programs to a series of enumerated grants (most of which are previously existing programs) under a "Justice Assistance" account. In practice, this will sharply limit the amount of money available to help state and local agencies.[296]

The administration's proposed reduction appears to reflect, in additional to fiscal constraints, a concern about excessive Federal subsidization of law enforcement at the state and local level. The Federal treasury is not infinite and simply cannot pay for law enforcement at all levels and in every area. Moreover, choices about how much to spend on law enforcement in a state or community are, properly, choices that should be made at the state or local level—and the responsibility of paying for those choices should also

[289] See Press Release, *Meth And Steroid Use Decline Sharply Among Youth; Overall Youth Drug Use Down Again,* ONDCP (Dec. 19, 2005) at http://www.whitehousedrugpolicy.gov/news/press05/121905.html. (last visited Feb. 24, 2006).

[290] See *To Do No Harm: Strategies for Preventing Prescription Drug Abuse: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Feb. 9, 2004). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=10843.

[291] See *Hearing before the Institute of Medicine's Committee on the Assessment of the U.S. Drug Safety System,* 109th Cong. (2005) (statement by J. Marc Wheat, staff director of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources) at www.reform.house.gov/CJDPHR/.

[292] 2005 BUDGET OF THE UNITED STATES GOVERNMENT, FISCAL YEAR 2006, Appendix, 706.

[293] 2006 BUDGET OF THE UNITED STATES GOVERNMENT, FISCAL YEAR 2007, Appendix, 708.

[294] Id.

[295] Note that in addition to this funding for the Byrne state formula grants, Congress also appropriated $191,704,000 for the so-called Byrne "discretionary grants"—the vast majority of which is earmarked in the appropriations bill for specific projects.

[296] The Byrne Formula Grant Program was created by the Anti-Drug Abuse Act of 1988 (Public Law 100–690). One-half of the appropriated funds are to be awarded to the states based on their relative populations, while the other half is to be awarded on the basis of the violent crime rates in the states.

remain at that level. Excessive subsidization of state and local law enforcement by the Federal Government may lead to inefficiency and imbalance in our overall law enforcement strategy.

The committee shares those concerns, but the administration's drastic proposed cuts would create massive shortfalls in the budgets of state and local law enforcement agencies across the country. Numerous state and local officials have informed the committee members and staff that many programs—particularly drug enforcement programs—within states would have to be shut down if all Byrne Grant and similar funding were cut off.[297]

Moreover, it is not necessarily the case that Federal support for state and local efforts lacks national impact. Particularly in the area of drug enforcement, state and local participation is vital to our national success. State and local agencies make more than 95 percent of arrests of drug violators.[298] Collectively, they have far more personnel and resources than does the Federal Government. Federal support for these agencies can have a very positive national impact if it helps involve them as partners in the fight against drug trafficking and other criminal activities.

The administration should instead propose reforms, where needed, to some of the Federal Government's assistance grants. Specifically, legislation may be needed to help the Federal Government collect more data about how these grants are being used and to make them more accountable. Such reform proposals should be accompanied by a comprehensive plan for how, and for what specific purposes, future Federal assistance to state and local law enforcement should be provided. Without such a plan, the proposed massive reductions lack a complete and coherent justification and leave the programs vulnerable to continued earmarking and potential misallocation of funds.

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[297] See *Fiscal Year 2006 Drug Control Budget and the Byrne Grant, HIDTA and Other Law Enforcement Programs: Are We Jeopardizing Federal, State and Local Cooperation? Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (Mar. 10, 2005). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=23722.

[298] *Crime in the United States 2002,* 2002 U.S. DEPT. OF JUSTICE, FEDERAL BUREAU OF INVESTIGATION UNIFORM CRIME REPORT, sec. IV at http://www.fbi.gov/ucr/cius_02/pdf/02crime.pdf. (last visited on Feb. 24, 2006).

4. Regional Information Sharing System[299]

RISS	FY 2005[300] Requested	FY 2005[301] Final	FY 2006[302] Requested	FY 2006[303] Enacted	FY 2007[304] Request
AGENCY TOTAL*	$45.0	$39.5	$45.0	$40.2	$39.7

* in millions.

Contact Information: Justice Department RISS Program Manager: 202–616–7829, http://www.rissinfo.com.

The committee supports the administration's request for $39,676,000 for the Regional Information Sharing System (RISS), only a 1 percent reduction from the $40,233,000 appropriated for fiscal year 2006. The committee believes that RISS, which facilitates electronic, computerized sharing of intelligence and information among Federal, state, and local law enforcement agencies, is an important tool in the fight against drug trafficking and other organized crime.

The committee does question, however, why the administration has included the entire RISS budget request in the Drug Budget Summary, though the system is not exclusively intended or used for drug enforcement. It would be more accurate to estimate the percentage used for drug enforcement activities and include only that estimated portion in the drug budget. If the entire RISS budget is included in the drug budget, then it is unclear why none of the COPS grant funds are included.

5. Weed and Seed Program

Weed & Seed Program	FY 2005[305] Requested	FY 2005[306] Final	FY 2006[307] Requested	FY 2006[308] Enacted	FY 2007[309] Request
AGENCY TOTAL*	$58.3	$61.2	$59.6	$48.6	$49.3

* in millions.

The committee supports the administration's request for $49,348,000 for the Weed and Seed Program, only a 1 percent reduction from the $50,000,000 appropriated by Congress for fiscal year 2006. The Weed and Seed Program is an important initiative

[299] For further information on the RISS program, see the program website at http://www.rissinfo.com/, or call the Justice Department RISS program manager at (202) 616–7829.

[300] The White House, National Drug Control Strategy, FY 2005 Budget Summary (Mar. 2004) at http://www.whitehousedrugpolicy.gov/publications/policy/budgetsum04/index.html (last visited Feb. 24, 2006).

[301] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[302] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/index.html (last visited Feb. 24, 2006).

[303] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[304] Id.

[305] The White House, National Drug Control Strategy, FY 2005 Budget Summary (Mar. 2004) at http://www.whitehousedrugpolicy.gov/publications/policy/budgetsum04/index.html (last visited Feb. 24, 2006).

[306] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[307] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/index.html (last visited Feb. 24, 2006).

[308] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[309] Id.

designed to help state and local law enforcement agencies work with members of the local community to investigate and prosecute violent criminals and drug offenders, helping to clean up our nation's streets.

The PART review rated this program as "adequate," and the committee is further encouraged by the fact that the performance measures selected for the program included real results—the percent reduction in homicides. The committee believes, however, that the performance measures for the program should also include the percent reduction in drug crimes or drug availability in funded areas. The program was not intended solely to reduce violent crimes but also drug crimes, and it should be reviewed on both criteria.

The committee also believes that ONDCP should (as with some other programs administered by the Department of Justice) estimate the percentage of funds dedicated to illegal drug control and include only that part in the drug budget. Including the entire program in the drug budget is inaccurate and undermines the ability of Congress to review how much of the program's resources is being dedicated to drug control.

6. Drug Court Program

Drug Court Program	FY 2005 [310] Requested	FY 2005 [311] Final	FY 2006 [312] Requested	FY 2006 [313] Enacted	FY 2007 [314] Request
AGENCY TOTAL*	$70.1	$39.5	$70.1	$10.0	$69.2

* in millions.

The committee supports the administration's request for $69,186,000 for the drugs courts program, a significant increase over the $10,000,000 actually appropriated by Congress for fiscal year 2006. The drug courts program assists state and local governments to establish alternatives to prosecution for low-level drug offenders. Typically, a state or local agency will offer a person facing drug charges the option of entering a drug treatment program. If the defendant successfully completes the program and avoids being rearrested for a period thereafter, the drug charges will be dropped. The drug court concept is praised by law enforcement officers, judges, and addiction specialists throughout the country and shows a great deal of promise.

The committee is concerned that the ever-shrinking amounts appropriated by Congress for this program jeopardize the continued success of drug courts. The committee notes that while drug court programs are likely to continue at the state and local level, Federal assistance has two beneficial effects. First, the financial assistance allows more drug offenders to benefit from them. Second, and perhaps even more important, by attaching conditions to the funding,

[310] The White House, National Drug Control Strategy, FY 2005 Budget Summary (Mar. 2004) at http://www.whitehousedrugpolicy.gov/publications/policy/budgetsum04/index.html (last visited Feb. 24, 2006).

[311] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[312] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/index.html (last visited Feb. 24, 2006).

[313] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[314] Id.

Congress can help ensure that they meet minimum quality standards. Without funding, Congress has little leverage to ensure that these programs achieve national goals.

In light of the most recent PART review (2002) of the program, which found "results not demonstrated,"[315] the administration must take steps to improve the program's accountability and performance management. The committee is encouraged that, according to the latest PART review, the Department has been able to improve grantees' reporting of results. The committee also notes that, unlike many prevention programs, the drug courts program is not simply defining performance in terms of program expansion (i.e., the simple number of drug courts in existence) but in terms of actual results (i.e., the re-arrest rate of program participants). This is a positive development that will hopefully be expanded, not simply within this program but in other prevention and treatment initiatives.

The committee has previously stated its belief that the drug courts program should monitor not simply the re-arrest rate of program participants but their drug use as well.[316] Ideally, convicts should be sentenced to drug abstinence, not just drug treatment. A vigorous, mandatory system of drug testing should be applied in every drug court case to ensure that program participants are staying off of drugs.

The committee acknowledges, however, that there are practical and (potentially) legal limits on what drug court programs can achieve in this regard. First, as a practical matter, drug court programs have little ability to monitor a participant's behavior after the participant has completed the drug treatment program. Whether a participant has been re-arrested is fairly easy to keep track of (provided the participant does not move outside the drug court program's jurisdiction). Drug use that does not result in re-arrest, however, would require drug testing to monitor. Besides being expensive, such after-completion drug testing likely would face constitutional hurdles. Unlike parolees or probationers, who (as convicts) may be required to submit to random drug tests, those who complete drug court programs have not been convicted of a crime. It is possible that the courts would hold that the Fifth Amendment bars such post-program drug testing.

Given the difficulties associated with long-term, post-completion drug testing of drug court participants, the committee instead makes two recommendations. First, it is imperative that the treatment required by a drug court program be of sufficient duration to ensure its effectiveness. Second, any treatment program should require multiple, random drug tests, with serious and graduated consequences for participants who fail them. The House recently passed legislation that would mandate such testing for drug court programs receiving Federal funding, and the committee urges the Senate to enact it into law.[317]

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[315] The White House, National Drug Control Strategy (Feb. 2006) at 86. At http://www.whitehousedrugpolicy.gov/publications/policy/ndcs06/.

[316] COMMITTEE ON GOVERNMENT REFORM REPORT, THE NATIONAL DRUG CONTROL STRATEGY FOR 2005 AND THE NATIONAL DRUG CONTROL BUDGET FOR FISCAL YEAR 2006, H. Rept. 109–172, (2005) at 47.

[317] See CONFERENCE REPORT TO ACCOMPANY H.R. 3199 (U.S.A. PATRIOT IMPROVEMENT AND REAUTHORIZATION ACT OF 2005), H. Rept. 109–333, Sec. 751 (2005).

7. Residential Substance Abuse Treatment (RSAT) Program

RSAT	FY 2005 [318] Requested	FY 2005 [319] Final	FY 2006 [320] Requested	FY 2006 [321] Enacted	FY 2007 [322] Request
AGENCY TOTAL*	$76.1	$24.7	$44.1	$10	$0

* in millions.

The committee opposes the administration's proposal to terminate all funding for the RSAT program. The committee is particularly disappointed with the administration's loss of commitment to providing drug treatment for state and local prisoners. Last year the administration requested $44,119,000 for the program, and only two years ago it requested $76,054,000.

It is regrettable that Congress continues to slash funds for this program (appropriating only $10,000,000 for fiscal year 2006), which is intended to support drug treatment for prisoners in state and local prison systems.[323] Most of our nation's drug offenders are incarcerated in state or local prisons. Moreover, most of these prisoners are the kind of low-level offenders who would benefit most from drug treatment. (By contrast, those in the Federal prisons are typically major drug traffickers whose primary motive was most likely greed, rather than the simple need to obtain more drugs to feed addiction.) The committee is concerned that the administration's reduced requests may accelerate Congress's shrinking commitment to drug treatment in the prisons and jails.

The committee believes that support for the program would be increased if the administration took steps to improve performance measurement for RSAT. The program's last PART review found "results not demonstrated," and it was clear that the performance measures identified for the program—namely the numbers of prisoners treated under the program, and the cost per prisoner—address only the size and functioning of the program, not its end result. Performance measures should be developed to determine how effective the treatment provided under the program is, not simply how much it costs or how much is provided. Greater attention needs to be paid to monitoring the actual positive results of RSAT grants.

[318] The White House, National Drug Control Strategy, FY 2005 Budget Summary (Mar. 2004) at http://www.whitehousedrugpolicy.gov/publications/policy/budgetsum04/index.html (last visited Feb. 24, 2006).

[319] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[320] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/index.html (last visited Feb. 24, 2006).

[321] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[322] Id.

[323] Congressional cuts in this program need to be understood in the context of the administration's overall drug budget proposal for fiscal year 2006, which attempted to force through severe cuts in drug control programs. Though Congress was able to restore some of that funding, not all of it could be preserved.

8. Southwest Border Prosecutor Initiative

Southwest Border Prosecutor Initiative	FY 2005 [324] Requested	FY 2005 [325] Final	FY 2006 [326] Requested	FY 2006 [327] Enacted	FY 2007 [328] Request
AGENCY TOTAL*	$48.4	$29.6	$48.4	$30.0	$29.8

* in millions.

The committee has concerns about the administration's request for only $29,757,000 for the Southwest Border Prosecutor Initiative, which is intended to reimburse state and local prosecutors in border areas for the increase in local crime from border activities (namely, drug and people smuggling from Mexico). That would be a significant decrease from the $48,418,000 requested for fiscal year 2006 and a slight decrease from the $30,000,000 actually appropriated by Congress. The committee hopes that the reduced request does not reflect a reduced commitment on the part of the administration to helping communities overburdened by cross-border drug trafficking and other crime.

The committee believes that (in accordance with congressional intent) the program's funds should be directed towards border-related crime—not simply general crimes committed in the border area. Information provided by the Department to the staff of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources indicates that only a quarter (at most) of the program's funds is dedicated to drug offenses, and none to immigration offenses.[329]

To be sure, the heavy drug and immigration caseload borne by Federal prosecutors in border regions may indirectly increase the "general crime" caseload of state agencies—since Federal prosecutors may not be able to take on as many non-drug or non-immigration cases in those areas. Nevertheless, the committee believes that such a low percentage of drug cases calls the program's justification into question. Moreover, it calls into question the administration's decision to include the entire program budget request in the Drug Budget Summaries of recent years, distorting the true picture of Federal counter-drug activities.

[324] The White House, National Drug Control Strategy, FY 2005 Budget Summary (Mar. 2004) at http://www.whitehousedrugpolicy.gov/publications/policy/budgetsum04/index.html (last visited Feb. 24, 2006).

[325] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[326] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/index.html (last visited Feb. 24, 2006).

[327] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[328] Id.

[329] Dept. of Justice budget briefing for Staff of Subcommittee on Criminal Justice, Drug Policy, and Human Resources, (Dec. 2004).

9. Prisoner Re-entry Initiative

Prisoner Re-entry Initiative	FY 2005 Requested	FY 2005 Final	FY 2006[330] Requested	FY 2006 Enacted	FY 2007[331] Request
AGENCY TOTAL*	$—	$—	$15	$3.0	$14.9

* in millions.

The committee supports the administration's request for $14,879,000 for a prisoner re-entry initiative, designed to assist faith and community-based organizations in their services to prisoners preparing to reintegrate into society after incarceration. The committee hopes that Congress will improve on the only $3,000,000 approved for these kinds of programs for fiscal year 2006 (as part of the appropriation for the Federal prison system).

The committee held a hearing on this issue last year[332] and was provided information about the significant accomplishments of faith and community-based organizations in the field of prisoner re-entry services.[333] The committee believes that this proposal would be further strengthened by authorizing legislation from the Congress that protects the rights of faith and community-based organizations. Legislation of that kind would better define the program's goals and methods of implementation.

10. Cannabis Eradication Program

Cannabis Eradication Program	FY 2005 Requested	FY 2005 Final	FY 2006[334] Requested	FY 2006[335] Enacted	FY 2007[336] Request
AGENCY TOTAL*	$0	$0	$20.0	$5.0	$10.7

* in millions.

The committee has concerns about the administration's request for only $10,713,000 for the Cannabis Eradication Program. Only a year ago, the administration requested nearly twice as much ($19,100,000)—although it should be noted that even this year's request is twice as much as Congress actually appropriated for fiscal year 2006 (only $5,000,000).[337]

Led by the Drug Enforcement Administration (DEA), the Cannabis Eradication Program organizes joint Federal, state, and local enforcement actions to stop domestic marijuana cultivation. Marijuana growing has become a major problem in many parts of the U.S.—presenting a serious challenge to law enforcement. For example, in California's national parks and forests, marijuana growers

[330] 2005 BUDGET OF THE UNITED STATES GOVERNMENT, FISCAL YEAR 2006, Appendix, 704.

[331] 2006 BUDGET OF THE UNITED STATES GOVERNMENT, FISCAL YEAR 2007, Appendix, 706.

[332] See *Confronting Recidivism: Prisoner Re-entry Programs and a Just Future for All Americans, Hearing before House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (Feb. 2, 2005). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=21850.

[333] Id, (testimony of Pat Nolan, president of Justice Fellowship).

[334] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/index.html (last visited Feb. 24, 2006).

[335] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[336] Id.

[337] Congressional cuts in this program need to be understood in the context of the administration's overall drug budget proposal for fiscal year 2006, which attempted to force through severe cuts in drug control programs. Though Congress was able to restore some of that funding, not all of it could be preserved.

(organized by Mexican drug trafficking cartels) have caused major environmental damage and have used violence against park rangers and tourists.[338] The committee believes that, far from cutting this vital program, Congress and the administration should increase its scope to tackle the growing problem of marijuana cultivation.

11. Bureau of Prisons

Bureau of Prisons	FY 2005[339] Requested	FY 2005[340] Final	FY 2006[341] Requested	FY 2006[342] Enacted	FY 2007[343] Request
AGENCY TOTAL*	$49.3	$48.6	$49.7	$49.0	$51.0

* in millions.

Contact Information: Bureau Of Prisons Public Affairs Division: 812–244–4400, http://www.bop.gov.

The committee supports the administration's request for $51,000,000 for the Bureau of Prisons' drug treatment programs. This would be an increase of approximately $2 million over the fiscal year 2006 enacted level.

The committee believes that the Bureau's efforts to reduce drug use and addiction by prisoners are commendable and have had very positive results. The Bureau should seek to actively participate in programs that strive to replicate these results in state and local prisons and jails, where the vast majority of drug offenders are incarcerated. In addition, the Bureau should foster the drug treatment services of faith-based providers, who bring hope for a better future to the prisons.

The committee is disappointed that the administration did not continue its practice, begun just last year, of requesting a specific amount for "inmate programs." That line item more clearly separated the costs of actually confining prisoners from the costs of assisting prisoners to reintegrate into society after release. In addition to drug treatment, these reintegration programs include education and vocational training.

The committee is appreciative of the administration's continued support, specifically mentioned in the Fiscal Year 2007 Budget, for faith-based programs such as the Life Connections Program.[344] The committee held a hearing last year on the issue of prisoner re-entry

[338] See *Drug Production on Public Lands—A Growing Problem: Joint Hearing before House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform, and the House Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs,* 108th Cong. (Oct. 10, 2003). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=7225.

[339] The White House, National Drug Control Strategy, FY 2005 Budget Summary (Mar. 2004) at http://www.whitehousedrugpolicy.gov/publications/policy/budgetsum04/index.html (last visited Feb. 24, 2006).

[340] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[341] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/index.html (last visited Feb. 24, 2006).

[342] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[343] Id.

[344] 2006 BUDGET OF THE UNITED STATES GOVERNMENT, FISCAL YEAR 2007, Appendix, at 702.

programs and is seeking ways to help promote them.[345] The committee looks forward to working with the administration to continue making progress and to replicate these initiatives at the state and local level.

The committee has concerns, however, about the failure of the administration in recent fiscal years to identify the other drug control-related costs included in the Bureau's budget request, including the cost of incarcerating drug offenders, the cost of drug testing of prisoners and employees, and the cost of screening visitors and packages for illegal drugs. These are clearly expenditures directly associated with drug control, meaning that it is simply incorrect for ONDCP to claim that only 1.0 percent of the Bureau's budget is drug related.

12. National Drug Intelligence Center (NDIC)

NDIC	FY 2005 Requested	FY 2005 Final	FY 2006[346] Requested	FY 2006 Enacted	FY 2007[347] Request
AGENCY TOTAL*	$34.9	$39.4	$17	$39	$15.85

* in millions.

Contact Information: National Drug Intelligence Center Public Affairs: 814–532–4902, http://www.usdoj.gov/ndic.

The committee supports the administration's request for $15,852,000 to fund the shutdown of the National Drug Intelligence Center (NDIC) and the transfer of its functions to other agencies. Although the goals of NDIC are worthy—the analysis of drug intelligence and the gathering of information from local law enforcement—it is not clear that the separate existence of the Center is necessary. Currently funded at $39 million for fiscal year 2006, NDIC is an expensive and duplicative use of scarce Federal drug enforcement resources.[348]

The Center is located in Johnstown, Pennsylvania and has a staff of nearly 400 employees. First created in 1993, it has cost the American taxpayers nearly $400 million. From the beginning, the agency was criticized as duplicative of already-existing drug intelligence centers (such as the DEA's El Paso Intelligence Center (EPIC) along the southwest border). Critics also questioned why a Federal intelligence center would be physically located so far from every other Federal drug enforcement agency.[349]

In fact, NDIC was never able to fulfill its original mission of centralizing and coordinating drug intelligence, given its remote location and the unwillingness of the other Federal agencies to contribute significant information. Instead, over time the Center took on two different missions: analysis of "open source" (i.e., publicly

[345] See *Confronting Recidivism: Prisoner Re-entry Programs and a Just Future for All Americans, Hearing before House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (Feb. 2, 2005). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=21850.

[346] 2005 BUDGET OF THE UNITED STATES GOVERNMENT, FISCAL YEAR 2006, Appendix, 1181.

[347] 2006 BUDGET OF THE UNITED STATES GOVERNMENT, FISCAL YEAR 2007, Appendix, 673.

[348] Though the administration has repeatedly proposed closing the Center, Congress has continued to fund it through an earmark in the Intelligence Community Management Account, part of the annual Department of Defense appropriations bill. Although appropriated on that bill, the funds have been directed to be transferred to the Department of Justice, which Congress has made responsible for managing the Center.

[349] Bret Schulte, *A Drug War Boondoggle,* U.S. NEWS & WORLD REPORT, (May 9, 2005).

available) information already published by other drug enforcement agencies and the development of software capable of analyzing documents seized by other agencies (particularly state and local agencies).[350]

Though these missions are acknowledged as having some marginal value by other Federal agencies, as well as drug policy analysts, it is not clear whether they alone justify the continued separate existence of NDIC or its location in Johnstown. Moreover, the Center has been plagued by scandal. Its director was fired in 2004 by the Justice Department for inappropriately taking nearly $164,000 in official trips with his secretary.[351]

The committee agrees that the Center's work has value, but also agrees with the administration's assessment that the current funding is excessive, and that the separate Johnstown facility is unnecessary. In a time of shrinking budgets, it makes a great deal of sense to consolidate the existing resources and functions of NDIC within other agencies. For example, the true intelligence-gathering personnel and functions of the Center should be relocated to the southwest border at EPIC or within the new drug fusion center established by the Organized Crime Drug Enforcement Task Force (OCDETF).

13. Drug Enforcement Administration[352]

DEA	FY 2005[353] Requested	FY 2005[354] Final	FY 2006[355] Requested	FY 2006[356] Enacted	FY 2007[357] Request
AGENCY TOTAL*	$1.66	$1.65	$1.69	$1.68	$1.74

* in billions.

Contact Information: Drug Enforcement Administration Public Affairs: 202–307–7977, http://www.usdoj.gov/dea/.

The committee supports the administration's proposal for $1,736,491,000 for the Drug Enforcement Administration, an increase of approximately $50 million from the $1,686,457,000 received by DEA for fiscal year 2006. The committee also supports the administration's proposal to increase the Diversion Control Fee Account (DFCA)—the fees paid by the pharmaceutical industry to DEA to finance its prescription drug diversion control activities—to approximately $212 million, an increase of over $10 million from the level approved by Congress for fiscal year 2006 ($201,673,000).

[350] Id.
[351] Id.
[352] DEA budget figures discussed in this section include only appropriations, and do not include funding through the Diversion Control Fee Account (DFCA)—the fees paid by the pharmaceutical industry to the DEA to finance its prescription drug diversion control activities.
[353] The White House, National Drug Control Strategy, FY 2005 Budget Summary (Mar. 2004) at http://www.whitehousedrugpolicy.gov/publications/policy/budgetsum04/index.html (last visited Feb. 24, 2006).
[354] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).
[355] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/index.html (last visited Feb. 24, 2006).
[356] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).
[357] Id.

DEA Demand Reduction

Given the tremendous cuts proposed by the administration for demand reduction programs government-wide, the committee can no longer support the administration's proposal to eliminate the DEA's Demand Reduction program. Although the committee recognizes that the DEA is a law enforcement organization, it is imperative that what few demand reduction programs remain within the Federal Government survive.

The committee is grateful that the final appropriations conference report approving the DEA Demand Reduction program directed it to be targeted against methamphetamine abuse.[358] For such a relatively small program, a specific target like methamphetamine will help to maximize its impact.

Methamphetamine Enforcement

The committee continues to be very concerned about the growing danger from methamphetamine (meth) and recommends it be a top priority at the DEA, and in the nation's overall drug strategy. Meth is one of the most powerful and dangerous drugs available. The last several years have seen an unprecedented rise in its use, trafficking, and manufacturing.[359] The wholesale abuse of the drug itself is serious enough. But when we factor in the toxic environmental effects from unregulated chemicals used in clandestine laboratories, we see that methamphetamine is taking a terrible toll. No community is immune. Methamphetamine abuse has devastated communities across the nation and put unsustainable strains on the responsible State and local enforcement agencies. The committee is therefore grateful that the final appropriations conference report directed DEA to make methamphetamine enforcement a priority.[360]

The committee is therefore opposed to the administration's proposal to cut its Mobile Enforcement Teams (METs) by one-half. The METs, small units of DEA officers who can be rapidly deployed to assist local law enforcement, have been invaluable tools in the fight against clandestine meth labs and simply cannot be replaced. The committee applauds the appropriations conference report's insistence that the METs be maintained at their current level (rather than reduced as proposed by the administration) and targeted at methamphetamine.[361]

The committee is also concerned about the impact of the administration's proposal to eliminate the DEA's Regional Enforcement Teams. These teams were intended to respond to major drug trafficking activity in cities or communities that did not have a permanent DEA presence. The elimination of the Regional Enforcement Teams could have a detrimental impact on rural communities that

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[358] CONFERENCE REPORT TO ACCOMPANY H.R. 2862 (MAKING APPROPRIATIONS FOR SCIENCE, THE DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, AND RELATED AGENCIES FOR THE FISCAL YEAR ENDING SEPT. 30, 2006, AND FOR OTHER PURPOSES), H. REPT. 109–272, at 79 (2005).

[359] See *Law Enforcement and the Fight Against Methamphetamine: Hearing before House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (Nov. 18, 2004). (Statement of Joseph T. Rannazzisi, Drug Enforcement Administration). At http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=20333.

[360] CONFERENCE REPORT TO ACCOMPANY H.R. 2862 (MAKING APPROPRIATIONS FOR SCIENCE, THE DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, AND RELATED AGENCIES FOR THE FISCAL YEAR ENDING SEPT. 30, 2006, AND FOR OTHER PURPOSES), H. REPT. 109–272, at 79–80 (2005).

[361] Id, at 79.

may lack a DEA office, but that have a significant meth trafficking problem.

DEA Efforts in Afghanistan

The committee is concerned about the administration's decision not to request a specific amount for its efforts there. Last year, the administration requested $22 million to enhance DEA's anti-heroin activities in Afghanistan. It is critically important that DEA be fully supported in these efforts to stop heroin production and trafficking by the Department of Defense, the State Department's International Narcotics and Law Enforcement (INL) program, and the U.S. Agency for International Development. The committee remains very concerned that an insufficient level of cooperation is taking place in Afghanistan among State, U.S. AID, CENTCOM and DEA programs. A specific line item in the budget would allow Congress and the executive branch to account for and support DEA's critical efforts in this troubled area of the world.

The committee is grateful that the final appropriations conference report for fiscal year 2006 directed DEA to use at least some of its funding increase for Afghanistan and Central Asian activities.[362] The committee urges the Appropriations Committee, however, to strongly consider designating an actual line item in the fiscal year 2007 budget for these activities.

The committee is pleased to learn of the Department of Defense's recent decision to lease Soviet era MI–17 helicopters to support and transport DEA teams and believes it is long overdue. As mentioned previously, it is important that DEA personnel be provided the tools and support necessary to safely address and curtail heroin production and trafficking in Afghanistan.

Diversion Control

As noted above, the committee supports the administration's proposal to increase the Diversion Control Fee Account (DCFA) by approximately $10 million. This program supports DEA's efforts to stop the diversion of controlled substances and key precursor chemicals (like pseudoephedrine by meth traffickers) from being diverted to illegal uses. In an era of increased prescription drug abuse and rampant methamphetamine manufacturing, diversion control must be a top priority for U.S. drug policy.

According to the budget, $3.4 million of the increase would be financed through "programmatic enhancements," and this amount would be used to hire new intelligence analysts for the program. The remaining increase is projected to come from increased fee revenue due to increased industry profits.

In FY 2006, the DCFA received $47,457,000 in adjustments to base and enhancements, which, in part, came from a transfer of DCFA-related costs previously paid from DEA's direct budget. In late 2005, DEA's proposal to increase the fee paid by the registrant community, e.g., manufacturers, distributors, pharmacists, and practitioners, was published in the Federal Register. The revenue generated from the new fee will allow DEA to cover the cost of 2006 enhancements and the DCFA program costs in years 2007 and 2008.

[362] Id.

Operation Panama Express

The committee is appreciative of the administration's stated intent in the Budget to fund "Operation Panama Express," a joint drug intelligence operation with the Federal Bureau of Investigation (FBI), U.S. Immigration and Customs Enforcement (ICE), Department of Defense, Coast Guard and DEA personnel. The committee remains concerned that the successful intelligence driven programs of both Panama Express North and Panama Express South continue to operate with insufficient funding from the Departments of Defense, Justice and Homeland Security. Therefore, the committee recommends that funding for each Panama Express program (North and South) be clearly identified with separate line items and fully supported in the administration's budget.

Performance Measurement

The DEA has received an "adequate"[363] rating through the PART process and has developed new goals, objectives, and strategies to support the Justice Department's goal of reducing the availability of drugs in the U.S. by 5 percent each year. The committee commends this effort to improve accountability and performance measures.

14. Interagency Crime and Drug Enforcement/Organized Crime Drug Enforcement Task Force (OCDETF)

OCDETF	FY 2005 Requested [364]	FY 2005 Final [365]	FY 2006 Requested [366]	FY 2006 Enacted [367]	FY 2007 Request [368]
AGENCY TOTAL*	$580.6	$554	$561	$489.44	$498.5

* in millions.

Contact Information: Executive Office for OCDETF: 202–514–2073, http://www.usdoj.gov/criminal/ocdetf.html.

The committee generally supports the administration's request for $498,457,000 for "Interagency Crime and Drug Enforcement," the account under which the administration places its request for funds for the Organized Crime Drug Enforcement Task Force (OCDETF). That is an increase of over $9 million from the FY 2006 enacted funding of $489,440,000. The committee does not, however, support the additional transfer of $208 million for the High Intensity Drug Trafficking Areas (HIDTA) program from the Office of National Drug Control Policy (ONDCP) to OCDETF.[369] As was the

[363] See *Program Assessment Rating Tool, 2007 Budget,* at http://www.whitehouse.gov/omb/budget/fy2007/sheets/part.xls (last visited on Feb. 24, 2006).

[364] The White House, National Drug Control Strategy, FY 2005 Budget Summary (Mar. 2004) at http://www.whitehousedrugpolicy.gov/publications/policy/budgetsum04/index.html (last visited Feb. 24, 2006).

[365] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[366] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/index.html (last visited Feb. 24, 2006).

[367] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[368] Id.

[369] FY 2007 USDOJ BUDGET AND PERFORMANCE SUMMARY 107, (2006) ("The FY 2007 President's Budget proposes the transfer of the HIDTA program from [ONDCP] to OCDETF.")

case last year, that proposal has not been nearly adequately explained or justified by the administration.

Program Overview

The OCDETF program, established in 1982, was intended to fund joint, case-specific drug enforcement "task forces" (both investigative and prosecutorial) between multiple Federal, state, and local agencies. Headquartered at the Executive Office of OCDETF within the Justice Department, OCDETF operates through nine regional boards that oversee funded task forces throughout the country.

Prior to fiscal year 1998, the Justice Department's OCDETF office actually managed joint funding not simply for Justice Department law enforcement agencies (such as DEA, FBI, and the U.S. Marshal's Service), but also for non-Justice Department agencies such as the Customs Service and the Internal Revenue Service. Beginning in 1998, however, Congress ended this practice—meaning that the OCDETF office no longer controls the funding for any non-Justice Department Federal agency. Other Federal agencies involved in OCDETF "task forces" (such as ICE, CBP, and IRS), however, are still considered program participants and have representatives on OCDETF regional boards.

Today, OCDETF provides funding for investigations and prosecutions of drug cases. The prosecutions are primarily funded through direct disbursements to local U.S. Attorney's offices, which pay for the salaries of full-time Federal prosecutors. The investigations are funded both through direct disbursements to Federal agencies to pay for full-time agent salaries and through reimbursements of overtime pay for state and local agents working on OCDETF task force cases.

In theory, to qualify for any funding under OCDETF, an agency or U.S. Attorney's office must seek approval from the regional board and the central OCDETF office. That approval, in turn, depends on whether the funding is properly tied to a specific OCDETF-qualifying case. To qualify, a case must target a significant drug trafficking organization. New guidelines set forth in 2002 eliminated eligibility for so-called "local impact" cases not tied to national or at least regional organizations.[370]

In practice, however, only the funding of state and local overtime must be approved in advance. The funding of Federal agent and prosecutor salaries is essentially pre-approved through an annual allocation and must simply be justified *post hoc* by demonstrating that the particular agency or U.S. Attorney's office worked a sufficient number of hours on OCDETF-approved cases. By contrast, state and local overtime may only be paid after a case has been approved for OCDETF status.[371]

Issues

The 2002 guidelines were designed to address concerns that OCDETF had deviated from its original charter to target major narcotic trafficking and money-laundering organizations by accepting drug targets that did not meet the major threshold. Despite

[370] OCDETF budget briefing for Government Reform Committee, Subcommittee on Criminal Justice, Drug Policy, and Human Resources staff on Dec. 7, 2005.
[371] Id.

this, the guidelines have apparently not had any appreciable effect on the amount of OCDETF funds allocated to Federal agencies or to individual U.S. Attorneys' offices. It is possible, however, that the guidelines have spurred those agencies and offices to target higher-level organizations.[372]

One of the weaknesses of the OCDETF program is that it is not clear how valuable the assistance being provided by OCDETF is to ongoing investigations of non-Justice Department agencies. Non-Justice Department Federal agents involved in drug investigations, interviewed by the committee staff, asserted that OCDETF status merely gained them preferential treatment for their cases by the local United States Attorney's office. It should be noted, however, that Congress is most likely to blame for this problem. When the OCDETF office's authority over non-Justice Department agencies' funding was eliminated after 1997, the OCDETF program no longer had much to offer to those agencies. Moreover, even the funding of state and local overtime is unlikely to be of much use to agencies focused on drug trafficking at the borders and ports of entry—notably ICE and the Coast Guard—because their cases rarely rely on state and local assistance (unlike DEA, for example).

The committee is disappointed by the administration's failure to re-submit its proposal of last year to use $58 million to fund additional narcotics agents at the FBI, as well as prosecutors. Congress declined to support this proposal in last year's appropriations bill, with the final conference report expressing the concern that providing funding to the FBI through OCDETF would "unnecessarily limit the FBI's ability to allocate resources to the highest priority threats such as terrorism, counterintelligence, cyber crime and gang enforcement."[373] While these are all important priorities for the FBI, the committee believes that drug trafficking is an equally serious threat and one which FBI agents have special abilities to deal with.

Keeping a certain number of FBI agents primarily focused on narcotics enforcement is entirely in keeping with the agency's history and practices. Certainly the FBI should be able, as it was after September 11, 2001, to temporarily shift agents to urgent needs (such as terrorist threats) in a crisis. But Congress ought, through funding programs such as OCDETF, to ensure that major enforcement agencies do not "drop the ball" when it comes to drug enforcement, simply because some threats garner more media attention than others. The FBI, like other agencies, should strive to maintain a constant level of effort against key criminal threats (including drugs), regardless of the ever-shifting currents of public or political opinion.

The committee does expect, however, that should Congress ever approve this type of request, OCDETF would monitor these new employees to make sure that their efforts remain focused on drug enforcement. OCDETF should never become a funding source for other agencies to conduct non-drug related activities.

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[372] Id.

[373] See CONFERENCE REPORT TO ACCOMPANY H.R. 2862 (MAKING APPROPRIATIONS FOR SCIENCE, THE DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, AND RELATED AGENCIES FOR THE FISCAL YEAR ENDING SEPT. 30, 2006, AND FOR OTHER PURPOSES), H. REPT. 109–272, at 73 (2005).

Drug Intelligence Fusion Center

The committee is disappointed by the administration's failure to specify in the Budget how much it proposes to spend for the recently developed OCDETF Drug Fusion Center. The committee has supported the continued development of the Fusion Center computer system that finds criminal linkages by matching criminal data inputs from a multitude of Federal drug investigative cases. The committee has also supported the integration of non-Justice Department agencies (such as U.S. Immigration and Customs Enforcement (ICE)) into the Fusion Center network and hopes that such integration will be completed soon.

The committee is concerned, however, that the Fusion Center not become a one-way street, in which participating agencies provide information but receive nothing in return. Such an approach may hamper the potential effectiveness of other Federal, state and local law enforcement agencies that could benefit from the linkage information.

The committee recommends that programs like OCDETF increase their efforts to improve intelligence and information sharing by drug enforcement agencies. The shortfalls in intelligence and key information sharing described in the 9/11 Commission Report are not confined to the FBI and CIA.[374] Information sharing failures extend to the agencies entrusted with protecting our borders and interdicting illegal drugs—several of which are now combined in the Department of Homeland Security. In fact, the 9/11 terrorists each had to clear Federal customs and immigration authorities and had brushes with local law enforcement. If everyone had had all the information on these killers, they might not have been able to carry out their planned attacks. These problems can also undermine our efforts to identify and stop drug traffickers.

Panama Express

The committee believes that OCDETF should seek to support the efforts of Operation Panama Express, two interagency intelligence-driven programs managed by the Departments of Justice, Defense and Homeland Security. These programs should be used as models for future information sharing efforts and joint operations. Criminal Justice Subcommittee Chairman Mark Souder and members of the subcommittee staff saw first-hand the incredible effectiveness of Panama Express South during a recent visit.[375] The intelligence cueing from this operation has allowed Joint Interagency Task Force South (JIATF-South) to optimize its DHS and DOD interdiction forces, resulting in the seizure of over 480 tons of cocaine and the arrest of over 1,000 individuals since its inception in February 2000.[376]

The committee is concerned that these successful intelligence-driven programs continue to operate with insufficient funding from DOD, DHS, and the Department of Justice. These programs should be fully supported and enhanced. Therefore, the committee again recommends that funding for both Panama Express North and

[374] *Final Report of the National Commission on Terrorist Attacks Upon the United States,* THE 9/11 COMMISSION, (2004).

[375] Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources visit to Operation Panama Express South, Sarasota, FL, on Jan. 10, 2006.

[376] The White House, National Drug Control Strategy (Feb. 2006) at 33.

South be clearly identified with separate line items and fully supported within the administration's budget. If Panama Express North can be given a line item (in DEA's budget), then Panama Express South can, too.

PART Review

The OCDETF program has not yet been reviewed by the administration's Performance Assessment Rating Tool (PART) process. The committee has been informed, however, that a PART review will take place soon. The committee believes that in addition to other long-term outcome measures, the OCDETF should be evaluated for its effectiveness in helping agencies focus on high-level drug trafficking organization targets. In particular, the PART review should determine whether the new 2002 guidelines actually caused OCDETF-participating agencies to focus more time on such high-value targets.

15. Department of Justice Financial Management

The Department of Justice has come under heavy criticism in recent years for its poor financial management. Beginning in 2004, the Government Accountability Office statement on *Major Management Challenges at the Department of Justice* noted that the results of the fiscal year 2004 financial statement audit indicated "serious financial issues," particularly at one of Justice's significant components, the Office of Justice Programs (OJP).[377] OJP has assets of $8.4 billion (31 percent of DOJ's total assets) and net costs of $4 billion (13 percent of DOJ's total net costs). Because OJP is such a large component, it is "material" to—meaning large enough to affect—the financial statements for the entire Department.

The 2004 financial audit revealed serious accounting problems that have affected DOJ's ability to achieve its mission. The most serious problems occurred in the area of grants management, including the Community Oriented Policing Services (COPS) Program. In the COPS Program alone, audits by DOJ's Inspector General (OIG) alleged that $277 million was misspent, and that the OIG has requested documentation from 82 police agencies that have not explained in detail how they spent $111 million. It is clear that poor financial management has undermined confidence in the COPS Program and other grants programs.[378]

Proper accounting and management controls could prevent these problems. Recognizing the importance of sound financial management, Congress passed the Chief Financial Officers Act of 1990 to require Federal agencies to submit audited financial statements. For fiscal year 2004, DOJ's auditors were unable to express an opinion as to the reliability of the financial statements, and they rescinded the unqualified opinion rendered on the 2003 statements.[379] The committee believes it is important to recognize the seriousness of that audit result. In the private sector, anything other than an unqualified or "clean" audit opinion would be unac-

[377] *Major Management Challenges at the Department of Justice,* GOVERNMENT ACCOUNTABILITY OFFICE, at http://www.gao.gov/pas/2005/doj.htm.

[378] Peter Eisler, *10 years and $10B later, COPS drawing scrutiny,* USA TODAY, (Apr. 11, 2005).

[379] *Independent Accountants' Report on Financial Statements,* FISCAL YEAR 2004 DEPARTMENT OF JUSTICE PERFORMANCE AND ACCOUNTABILITY REPORT, at III–9. At http://www.usdoj.gov/ag/annualreports/pr2004/TableofContents.htm (last visited on Feb. 24, 2006).

ceptable, and any restatement of a prior year's audit would be front-page news.

It is not yet clear how much progress the Department has made in correcting these problems. It is at least encouraging that the fiscal year 2005 independent auditors were able to express an opinion on OJP's—and hence the Department's—financial statements, noting that OJP had at last set up an adequate financial accounting system.[380] Despite this, the independent auditors identified two "material weaknesses" with the Department's financial management and with OJP's in particular:

- Fundamental changes are needed in the component's internal control to ensure that financial information can be provided timely to manage the Department's programs and to prepare its financial statements within the reporting deadlines of the OMB.
- Improvements are needed in the Department's and components' financial systems general and application controls.[381]

Moreover, the last "scorecard" in the GAO's *Fiscal Year 2005 Financial Report of the United States Government* does not indicate substantial improvement. The Department received a red, "Agency has any number of serious flaws" score for financial performance (current status as of September 30, 2005) and only a yellow, "Slippage in implementation schedule, quality of deliverables, or other issues requiring adjustments by agency in order to achieve initiative on a timely basis," score for progress in financial performance.[382]

The committee urges the Department to make greater progress in financial accountability. In particular, the committee believes that substantial improvements in the Department's financial management need to be made before Congress even considers transferring programs like the High Intensity Drug Trafficking Areas (HIDTA) program to the Department.

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[380] *Independent Auditors' Report on Financial Statements,* FISCAL YEAR 2005 DEPARTMENT OF JUSTICE PERFORMANCE AND ACCOUNTABILITY REPORT, at III–7. At http://www.usdoj.gov/ag/annualreports/pr2005/TableofContents.htm (last visited on Feb. 24, 2006).

[381] *Independent Auditors' Report on Financial Statements,* FISCAL YEAR 2005 DEPARTMENT OF JUSTICE PERFORMANCE AND ACCOUNTABILITY REPORT, at III–14. At http://www.usdoj.gov/ag/annualreports/pr2005/TableofContents.htm (last visited on Feb. 24, 2006).

[382] FISCAL YEAR 2005 FINANCIAL REPORT OF THE UNITED STATES GOVERNMENT, at http://www.gao.gov/financial/fy2005financialreport.html (last visited on Feb. 24, 2006).

F. OFFICE OF NATIONAL DRUG CONTROL POLICY ("ONDCP")

ONDCP	FY 2005 [383] Requested	FY 2005 [384] Final	FY 2006 [385] Requested	FY 2006 [386] Enacted	FY 2007 [387] Request
AGENCY TOTAL*	$27.60	$26.80	$24.22	$26.90	$23.31

* in millions.

Contact Information: ONDCP Public Affairs Division: 202–395–6618, http://www.whitehousedrugpolicy.gov.

BUDGET REQUEST

The committee generally supports the administration's request for $23.31 million for operations at ONDCP. That is, however, below the appropriated level of $26.9 million for fiscal year 2006, as well as below the administration's own requests for $24.224 million for 2006 and $27.6 million for fiscal year 2005. Director Walters, in response to written questions from the Criminal Justice Subcommittee last year, stated that the FY 2006 reduction reflected an attempt to shift $2.6 million of ONDCP's rental and health care costs from ONDCP to the Office of Administration at the Executive Office of the President. Director Walters assured the subcommittee that no reduction in ONDCP staffing or activity would occur.[388]

The committee appreciates the fact that the administration has committed to maintaining current staffing levels at ONDCP. As noted above, however, even taking into consideration the accounting shift of $2.6 million in costs from one office of the Executive Office of the President to another, the administration is still requesting nearly $1.7 million less for ONDCP than it did two years ago. The committee would like to know whether in spite of these steady reductions in ONDCP funding requests, Director Walters' previous assurances to the subcommittee that no reduction in staffing or operations remain in effect. The committee also trusts that the declining funding requests do not indicate a corresponding reduction in the administration's commitment to the Office and its mission.

Similarly, the committee is very concerned about—and will vigorously oppose—the administration's proposal to allow the President to shift up to 10 percent of ONDCP's congressionally-appropriated funds to any other department or program of his choosing, without

[383] The White House, National Drug Control Strategy, FY 2005 Budget Summary (Mar. 2004) at http://www.whitehousedrugpolicy.gov/publications/policy/budgetsum04/budgetsum05.pdf (last visited Feb. 24, 2006).

[384] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/office_national_drug_control_policy.pdf (last visited Feb. 24, 2006).

[385] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/ondcp.pdf (last visited Feb. 24, 2006).

[386] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/office_national_drug_control_policy.pdf (last visited Feb. 24, 2006).

[387] Id.

[388] See *Fiscal Year 2006 Drug Control Budget: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (Feb. 10, 2005) (testimony of Director Walters). At http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_house_hearings&docid=f:20878.pdf (last visited Feb. 24, 2006).

seeking the approval of Congress.[389] The committee is not, in principle, opposed to a temporary reprogramming authority during a national emergency. The administration's proposal, however, is not limited to national emergencies—it would be unlimited in purpose and duration.

The committee is aware that in a time of shrinking budgets, many agencies must share the burden of budget cuts. The committee reminds the administration, however, that ONDCP is not simply an administrative subdivision of the White House. It is both the President's principal advisor with respect to drug control policy development and program oversight, and it is responsible to Congress to account for the nation's efforts to reduce the use, manufacturing, and trafficking of illicit drugs. Reductions in its budget and attacks on its independence will hinder ONDCP's ability to provide effective policy coordination and oversight—a result that this committee will strenuously oppose.

OVERSIGHT AND COORDINATION BY ONDCP

The committee has ongoing concerns that ONDCP has not been exercising the kind of active leadership, oversight, and coordination of executive branch drug control efforts envisioned by Congress when it was authorized in 1988. As the committee noted in its report last year, ONDCP has not yet provided effective responses to several major challenges to Federal drug enforcement efforts.[390]

First, ONDCP has not taken the initiative in formulating an effective Federal anti-methamphetamine strategy. Although ONDCP has been involved in the administration's very limited anti-meth efforts to date (see Section I.1. above), there is little indication that ONDCP has attempted to push other branches of the Federal Government to take further, necessary action. Indeed, public statements by a number of ONDCP officials suggest that the Office does not regard the meth epidemic as a priority—or even as an epidemic.[391]

Nor is there any indication that ONDCP has effectively responded to the increasing pressure on agencies such as the FBI, the Coast Guard, the Border Patrol, and the legacy Customs Service to abandon or reduce drug enforcement in favor of homeland security and counterterrorism missions. This year, Director Walters apparently certified a budget request for the Department of Homeland Security that would eliminate any funding to ensure that vital maritime patrol aircraft will remain operational over the next 5–

[389] See OFFICE OF MANAGEMENT AND BUDGET: GENERAL PROVISIONS—GOVERNMENT-WIDE, BUDGET OF THE UNITED STATES GOVERNMENT, FISCAL YEAR 2007: APPENDIX, Proposed Sec. 835 at 13.

[390] COMMITTEE ON GOVERNMENT REFORM, REPORT: THE NATIONAL DRUG CONTROL STRATEGY FOR 2005 AND THE NATIONAL DRUG CONTROL BUDGET FOR FISCAL YEAR 2006, H. Rept. 109–172, (2005) at 27. At http://reform.house.gov/UploadedFiles/The%20 National%20 Drug%20 Control%20 Strategy%20 for%20 2005%20 and%20 the%20 National%20 Drug%20 Control%20 Budget%20 for%20 Fiscal%20 Year%20 2006%20-%20 Report.pdf (last visited Feb. 24, 2006).

[391] See, e.g., David J. Jefferson, et al., *America's Most Dangerous Drug,* NEWSWEEK, Aug. 8, 2005 (quoting ONDCP spokesman Tom Riley, "I'm afraid there's also an element of people 'crying meth' because it's a hot new drug."); Jim Barnett, *Drug Czar Ignoring New Peril, Some Say,* SYRACUSE POST-STANDARD, Aug. 7, 2005 ("Two of [ONDCP Director John] Walters' top deputies—Dave Murray and John Horton—declared that meth still doesn't qualify as an epidemic."); compare, Prepared Remarks of Attorney General Alberto Gonzales at the National District Attorneys Association Meeting, (July 18, 2005), at www.usdoj.gov (referring to "the epidemic of methamphetamine drug use," and stating, "In terms of damage to children and to our society, meth is now the most dangerous drug in America.").

10 years.[392] As described in Section I.5. above, this would have a crippling effect on our long-term drug interdiction capabilities. The fact that Director Walters certified such a budget request as adequate raises serious questions about ONDCP's fulfillment of its statutory responsibilities.

Similarly, ONDCP must take more assertive action to respond to the reduced commitment of the Department of Defense to counterdrug efforts.[393] The Defense Department has dedicated fewer assets to interdiction in the "transit zones" of the Caribbean and eastern Pacific Ocean, has scaled back National Guard assistance to state and local law enforcement, and—most significantly—has failed to take effective action against the rapid growth of heroin production in Afghanistan. While the committee recognizes that ONDCP must frequently defer to the Defense Department on questions affecting the military, ONDCP should also be assertive in ensuring that the national priority of reducing drug trafficking is not forgotten, even by our government's largest and most respected institutions. To date, however, ONDCP has been publicly silent about the Defense Department's reduced commitments—and has failed to present Congress with any plans to "backfill" those reductions in assets and personnel for counternarcotics missions.

It was no accident that the original legislation creating ONDCP was titled the "National Narcotics *Leadership* Act of 1988" (emphasis added). Congress expected leadership from ONDCP on drug control issues—not simply passive support for whatever actions the other branches of the administration take. The committee hopes that the Office will increase its efforts to forge a strong, unified approach to the drug problem within the administration.

To help the Office achieve that result, the committee included a number of provisions in H.R. 2829, the Office of National Drug Control Policy Reauthorization Act of 2005. These provisions give ONDCP additional tools as it exercises its leadership responsibilities, including:

- A clear statement of congressional intent that the Director of ONDCP has the same rank and status as the heads of the executive Departments he is charged with overseeing and coordinating;
- Requirement for written strategies concerning Southwest Border drug trafficking, Afghan heroin and South American heroin and cocaine;
- Requirement for revised, government-wide General Counterdrug Intelligence Plan (GCIP) and National Interdiction Command and Control Plan (NICCP); and
- Requirement that Federal agencies and programs with drug control responsibilities submit *all* of their drug control activity budget requests to ONDCP for review and certification.

The Office administers several programs related to drug enforcement and prevention. The committee's views on each are set forth below:

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[392] CUSTOMS AND BORDER PROTECTION, BUDGET IN BRIEF, FY 2007, (Feb. 2006) at 25.

[393] See DRUG CONTROL: AGENCIES NEED TO PLAN FOR LIKELY DECLINES IN DRUG INTERDICTION ASSETS, AND DEVELOP BETTER PERFORMANCE MEASURES FOR TRANSIT ZONE OPERATIONS, GAO REPORT NO. 06–2000, (Nov. 2005).

1. High Intensity Drug Trafficking Areas (HIDTA) Program

HIDTA	FY 2005 [394] Requested	FY 2005 [395] Final	FY 2006 [396] Requested [397]	FY 2006 [398] Enacted	FY 2007 [399] Request [400]
TOTAL*	$208.4	$226.5	$100	$227	$208

* in millions.

The committee has deep concerns about the administration's proposals for the High Intensity Drug Trafficking Areas (HIDTA) program. The administration has requested $208 million for the program but has again (as it did last year) proposed moving it (via the appropriations process) from ONDCP to the Department of Justice's Organized Crime Drug Enforcement Task Force (OCDETF).[401] The administration has also stated its intention, should Congress approve that request, to create a "better focused" HIDTA program that will "focus funds on regions that are primary national drug distribution or transit zones."[402] The administration has not explained what it means by that statement. The committee has received reports from sources inside the program, however, indicating that ONDCP and the Justice Department may intend to redirect most, if not all of the requested funding to the five HIDTAs originally designated in 1990—eliminating up to 23 of the current HIDTAs.

PROGRAM BACKGROUND

When it was created in 1990, the program was intended to reduce the nation's overall supply of illegal drugs by bringing together Federal, state, and local law enforcement agencies in the most significant regions (each referred to as a "HIDTA") where drugs were produced, smuggled, or distributed. As the program's budget has grown—from only $25 million at its inception to $228 million in fiscal year 2005—the number of designated regions has grown as well. From the initial five HIDTAs in 1990, the program has expanded to 28 HIDTAs, and pressure is building in Congress to create even more of them.

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[394] The White House, National Drug Control Strategy, FY 2005 Budget Summary (Mar. 2004) at http://www.whitehousedrugpolicy.gov/publications/policy/budgetsum04/budgetsum05.pdf (last visited Feb. 24, 2006).

[395] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/office_national_drug_control_policy.pdf (last visited Feb. 24, 2006).

[396] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/ondcp.pdf (last visited Feb. 24, 2006).

[397] The administration requested that funding for the HIDTA program for fiscal year 2006 be shifted to the Organized Crime Drug Enforcement Task Force (OCDETF) program at the Justice Department; Congress rejected that request.

[398] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/office_national_drug_control_policy.pdf (last visited Feb. 24, 2006).

[399] Id.

[400] The administration is again requesting that the HIDTA program funding be transferred from ONDCP to OCDETF at the Department of Justice for fiscal year 2007.

[401] The specific budget language proposed by the administration is somewhat vague as to whether HIDTA would be officially controlled by OCDETF. BUDGET OF THE UNITED STATES GOVERNMENT, FISCAL YEAR 2007: APPENDIX, at 1157 (stating only that HIDTA is "to be carried out by the Attorney General"). However, the appropriation requested by the administration would be under the "Interagency Crime and Drug Enforcement" heading, which is (in practice) the appropriation for OCDETF. Id. Moreover, in its own budget submission, the Department states, "The FY 2007 President's Budget proposes the transfer of the HIDTA program from [ONDCP] to OCDETF." 2006–2007 DOJ BUDGET AND PERFORMANCE SUMMARY, 107.

[402] Id.

The program's expansion has raised questions about what the true purpose of the HIDTAs really is, and whether the current program structure fulfills the mission Congress set out for it. Those questions are not easy to answer. Some HIDTAs are located in areas (such as the Southwest Border HIDTA) that clearly serve as major smuggling corridors, while others are located in areas more realistically characterized as high drug consumption zones (rather than production or transshipment zones) or as areas with highly localized drug production and trafficking. Even within the HIDTAs, some funded initiatives are targeted at major drug trafficking organizations, while others are aimed at local manifestations of the drug trade (like open drug markets in the streets).

The HIDTA program is, in practice, a blend of the "national" and "regional/local" purposes—both in terms of which areas have been designated as HIDTAs and which initiatives have been funded within each HIDTA. Even the most nationally significant HIDTAs (like the Southwest Border HIDTA) fund some local drug enforcement activities, while even those with the least apparent national impact fund some initiatives aimed at major drug trafficking organizations.

The fact that HIDTAs fund some initiatives of greater significance to the local community and some more important to Federal law enforcement is not in itself a problem. In fact, the HIDTA program would not be able to carry out its primary function—to bring Federal, state, and local drug enforcement agencies together for cooperative efforts—if no allowance for state and local priorities were permitted. Neither is the fact that some HIDTAs have greater "national" significance than others is itself a weakness. There will always be differences in importance and focus from region to region.

What has been a problem, however, is the program's current inability to base its allocation of funds to the individual HIDTAs on any criteria at all—national, regional, or local. Congress bears much of the blame for this. For many years, appropriations bills have forbidden ONDCP from funding any HIDTA at below its previous year's level—effectively locking in over $200 million of its budget. ONDCP has had true discretion over less than 10 percent of the program's funds.

The administration, for its part, has done nothing to solve this problem. Each appropriations bill has given ONDCP the option to request a reallocation of HIDTA funds by presenting a plan to the Appropriations Committees in the House and Senate. ONDCP has thus far declined to do so.

As a result, the HIDTA program currently guarantees funds to the designated HIDTAs with little or no regard for efficiency, impact, or national priorities. ONDCP cannot (and until now has not even tried to) redirect the program's funds in response to the ever-changing drug trafficking threat.

THE ADMINISTRATION'S PROPOSAL

In response to these difficulties, the administration has proposed drastic changes to the program in each of its last two budget proposals. Last year, the administration asked Congress to cut the program's budget from fiscal year 2005's enacted level of $228,350,000 to $100,000,000 and to transfer the administration of the remaining funds to the Organized Crime Drug Enforcement

Task Force (OCDETF), a Department of Justice program. Congress rejected both proposals, electing to keep HIDTA at ONDCP and to fund the program at $227 million.

This year, the administration has requested $208 million for the HIDTA program but has again asked that it be moved to OCDETF. Moreover, as noted above, the administration has stated its intention to redirect the program dollars to those HIDTAs that are the most important national drug transit and distribution regions.

If enacted, these proposals would effectively terminate the current HIDTA program. The committee believes that this would be a severe blow to Federal, state, and local cooperation and to drug enforcement in general. For this reason, the committee strongly opposes the budget cut, any radical reallocation of funding (if unaccompanied by a comprehensive, performance-based justification), and the move of the program into the Justice Department.

Keeping HIDTA at its Current Funding Level

At first glance, the administration did avoid this year one of the mistakes from its fiscal year 2006 budget proposal: the 56 percent cut in the HIDTA program budget. Instead, the administration proposes a more modest cut—$19 million—from the HIDTA budget approved by Congress for fiscal year 2006.

The committee is concerned, however, that the higher request may not reflect any greater long-term commitment to the HIDTA program. The administration did not provide any explanation for the drastic cut in its budget proposal last year; neither has it provided an explanation for restoring the funding this year. This suggests that no serious study has gone into what the proper level of funding ought to be. Rather, it appears to reflect political and not practical considerations.

In any case, the committee believes that HIDTA funding should continue at last year's level of $227 million. The $19 million cut proposed by the administration would eliminate the only portion of the program budget that ONDCP has any real discretion over. The regular budgets of the existing 28 HIDTAs, together with ONDCP's administrative costs for the program, would exhaust virtually all of the $208 million requested by the administration. Since (as noted above) language requiring "level funding" of each individual HIDTA has been included in Congress' appropriations bills for nearly a decade, ONDCP has virtually no discretion over the allocation of those funds.

ONDCP has had discretion over the additional funds—approximately $20 million per year—approved by Congress for the HIDTA program. Such funds have, in the past, been used to fund emergency counterdrug activity in specific HIDTAs (for example, maintaining National Guard assistance at ports of entry in the Southwest Border HIDTA), and to fund special, high-priority investigations of major drug trafficking organizations on the Justice Department's Consolidated Priority Organization Target (CPOT) list.

The committee strongly supports these uses of the program discretionary funds and urges Congress to continue providing those funds. The committee also urges Congress, however, to delete or amend language included in the fiscal year 2006 appropriations bill prohibiting the use of any HIDTA funds for the CPOT program. While the committee agrees that HIDTA funds should not be redi-

rected to non-HIDTA programs, ONDCP should be permitted to use the discretionary funds to reward those HIDTAs that target CPOT organizations.

Keeping HIDTA in ONDCP

The proposed transfer to the Justice Department is contrary to existing law and to sound drug enforcement policy.[403] It would potentially be even more disruptive to the HIDTA program than simple budget cuts.[404]

First, transferring this program across departments is contrary to every authorization the Congress has passed for HIDTA. The original legislation creating HIDTA, each of the two reauthorization acts (in 1993 and 1998), and the most recent reauthorization bill passed by the House (H.R. 2086, passed in 2003) specifically placed the program in ONDCP. At no time has the House or the Senate passed legislation moving the program into the Department of Justice. Congress emphatically rejected moving HIDTA out of ONDCP in the final fiscal year 2006 budget.[405] Letters signed by 90 Members of the House and 56 Senators expressed Congress' broad-based opposition to any transfer or substantial reduction in HIDTAs.[406]

Moreover, attempting to move the program through an appropriations bill would almost certainly conflict with any reauthorization legislation agreed to by the House and Senate during this Congress. Notably, the current reauthorization legislation approved by the committee, H.R. 2829, would keep the HIDTA program within ONDCP.

Even apart from the legal question, moving HIDTA into the Justice Department is highly problematic. At the Subcommittee on Criminal Justice, Drug Policy, and Human Resources' March 10, 2005 hearing on this issue, not one of the state and local officials who actively work with the HIDTA program supported moving the program into the Justice Department. Also, in written responses to questions submitted after the hearing, not one of the HIDTA directors supported moving the program.[407]

HIDTA, unlike any program currently administered by the Justice Department, seeks to bring together Federal, state, and local law enforcement agencies in cooperative operations, intelligence sharing, and investigations. Each HIDTA has an executive board made up of equal representation of Federal agencies on the one

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[403] See *Office of National Drug Control Policy Reauthorization Act of 2005, H.R. 2829: Hearing before the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (June 15, 2005). At http://a257.g.akamaitech.net/7/257/2422/08dec20051200/www.access.gpo.gov/congress/house/pdf/109hrg/23688.pdf (last visited Feb. 24, 2006).

[404] The committee's reasons for opposing the transfer of the HIDTA program to the Department of Justice are discussed in greater detail in the committee's report on H.R. 2829 (H. Rept. 109–315, Part I, at 52–53).

[405] Public Law 109–115.

[406] Letter from Mark Souder, chairman of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform, et al., to House Appropriations Committee (Apr. 12, 2005) (on file with subcommittee); Letter from Senator Max Baucus, Senator Chuck Grassley, et al., to Senate Appropriations Committee Apr. 20, 2005 (on file with the Subcommittee on Criminal Justice, Drug Policy, and Human Resources).

[407] See *Fiscal Year 2006 Drug Control Budget and the Byrne Grant, HIDTA and Other Law Enforcement Programs: Are We Jeopardizing Federal, State and Local Cooperation: Hearing before the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (Mar. 10, 2005). At http://a257.g.akamaitech.net/7/257/2422/01sep20051200/www.access.gpo.gov/congress/house/pdf/109hrg/22201.pdf (last visited Feb. 24, 2006).

hand, and state and local agencies on the other. The boards then decide how to allocate their budgets among various task forces and other operations.

This equal voice for state and local agencies has generated an unprecedented level of cooperation on the part of all participants. It is unlikely that state and local agencies will be willing to make significant contributions of their personnel and resources to HIDTA task forces if they believe they will not have an equal say in their deployment.

Notably, the administration's representatives who testified at the March 10, 2005 hearing declined to inform the subcommittee about how HIDTA would be managed under OCDETF and how decisions would be made at the local HIDTA.[408] The Director of OCDETF, Catherine O'Neil, simply stated that her program would "study" the HIDTA program if granted control by Congress and make changes at a later date.[409] The administration has been no more forthcoming this year about how the Justice Department would administer the HIDTA program.

This approach gets things backwards by demanding the authority to change the program before deciding what changes to make or even whether change is necessary. The committee agrees that some reforms of the HIDTA program may be needed. However, the appropriate response is for the administration first to study the program and then make recommendations to Congress for changes in management and funding for individual HIDTAs. After Congress has reviewed the administration's recommendations, it can then decide whether to include them in reauthorizing legislation. Once this occurs, an appropriations request for a revised program would be in order.

Two additional arguments made by the administration to justify moving the HIDTA program need to be addressed. First, the administration relies on the HIDTA's Program Assessment Rating Tool (PART) review—which claimed that HIDTA had failed to demonstrate results—for its argument that the program must be overhauled. However, ONDCP apparently failed to provide sufficient information about the HIDTA program's results to the Office of Management and Budget (OMB) and also failed to establish specific performance measures in time for the review. Had OMB been given the complete annual reports of the individual HIDTAs, which detail the many investigations, arrests, seizures, and other actions undertaken by the program, and had OMB waited until the performance measures had been fully implemented, it is difficult to see how the HIDTA program could have been graded significantly worse than the Drug Enforcement Administration, the Coast Guard, or any other drug enforcement agency. As noted above, the HIDTA directors have developed a uniform performance measurement system, which now awaits the approval of ONDCP. The committee urges ONDCP to adopt that system expeditiously and to resubmit HIDTA for PART review when sufficient data has been collected.

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[408] See *Fiscal Year 2006 Drug Control Budget and the Byrne Grant, HIDTA and Other Law Enforcement Programs: Are We Jeopardizing Federal, State and Local Cooperation? Hearing before the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (Mar. 10, 2005) (testimony of Catherine M. O'Neil, and John Horton). At http://a257.g.akamaitech.net/7/257/2422/01sep20051200/www.access.gpo.gov/congress/house/pdf/109hrg/22201.pdf (last visited Feb. 24, 2006).

[409] Id, (testimony of Catherine M. O'Neil).

Finally, the administration argues that the program should be transferred in order to consolidate drug enforcement programs within the Department of Justice. There are two problems with this argument. First, even within the Federal Government, drug enforcement cannot be "consolidated" within the Justice Department. Most Federal drug interdiction personnel are employed by agencies at the Department of Homeland Security, namely the Coast Guard, Customs and Border Protection (CBP), and Immigration and Customs Enforcement (ICE), each of which participate in individual HIDTAs. ICE and the Internal Revenue Service (IRS), which also participates in HIDTAs, also engage in significant drug enforcement and money-laundering investigations.

Second, although the Justice Department certainly plays a vital role in drug enforcement—both through the investigative work done by DEA and the Federal Bureau of Investigation (FBI) and through prosecutions in Federal court by the U.S. Attorneys' offices—that Department does not have an exclusive focus on drug control. Instead, drug enforcement is but one of many disparate missions that the Justice Department must balance, and the committee is concerned that counterdrug money would later be absorbed there by non-counterdrug programs. For example, in its press release announcing the fiscal year 2007 Department of Justice budget proposal, the Department mentioned "terrorism" eleven times—and drugs only once.[410]

ONDCP, by contrast, is exclusively dedicated to drug control. It is not forced to divert resources or attention to other matters. Thus, an anti-drug trafficking program like HIDTA, which brings together both Justice Department and non-Justice Department Federal drug control agencies, as well as state and local drug control agencies, is much better located within ONDCP.

Reallocation of HIDTA Funds

The budget cut proposed last year by the administration—56 percent of the previous year's enacted level—if enacted would have shut down most of the task forces, intelligence centers, and "deconfliction" activities funded by the program. This is because either most of the 28 individual HIDTAs would have had to be eliminated, or all of them would have had to accept very deep cuts. The funding level requested for fiscal year 2007—$208 million—in principle avoids this problem, since it would permit each HIDTA to be funded at last year's base level.

The committee has questions, however, about how the administration intends to implement its proposal to "focus" the HIDTA program's funding on only the most significant drug distribution and transit areas. Presumably, this means that the administration would reallocate funding among the various HIDTAs—ending the current practice of "level funding" for the HIDTAs. Indeed, if the administration has no plans to shift the program's funds, then there seems to be little reason to move it from ONDCP.

At present, however, it is unclear which HIDTAs meet the administration's new standards—or even what the standards actually are. The committee is aware of reports that the administration is

[410] Press Release, *Department of Justice FY 2007 Budget Request* (Feb. 6, 2006) at http://www.usdoj.gov/opa/pr/2006/Feb./06_ag_062.html (last visited Feb. 24, 2006).

considering attempting to redirect all or most of the program's funds into the original five HIDTAs. This would (if fully implemented) eliminate 23 of the existing HIDTAs, including:

Chicago HIDTA	Midwest HIDTA
Michigan HIDTA	Washington/Baltimore HIDTA
Appalachia HIDTA	Milwaukee HIDTA
Rocky Mountain HIDTA	Central Florida HIDTA
Ohio HIDTA	North Texas HIDTA
Gulf Coast HIDTA	Atlanta HIDTA
Central Valley HIDTA	Hawaii HIDTA
Lake County HIDTA	Nevada HIDTA
New England HIDTA	North Florida HIDTA
Northern California HIDTA	Northwest HIDTA
Oregon HIDTA	Philadelphia/Camden HIDTA
Puerto Rico/U.S.V.I. HIDTA	

The committee is not opposed to a reallocation of resources among the various HIDTAs to meet the ever-changing drug trafficking threat. Moreover, the committee strongly supports the proposition that those HIDTAs which could have the greatest potential impact on the national supply and distribution of drugs should receive most of the program's funds. In fact, both of the ONDCP reauthorization bills adopted by the committee in recent years—H.R. 2086 in 2003, and H.R. 2829 in 2005—envisioned the possibility of annual, evidence-based reallocations among the HIDTAs.

The committee believes, however, that Congress must have a great deal more information about the administration's long-term plans for the HIDTA program before it grants such sweeping authority. The termination of numerous HIDTAs will have a severe impact on drug enforcement in the affected regions. The 23 HIDTAs designated after 1990 cover a broad section of the country, including major urban centers, island "transit zones," and rural areas devastated by methamphetamine production and trafficking. The total elimination of all or most of them would have deep repercussions for drug enforcement throughout the country.

Most importantly, the loss of these 23 HIDTAs would destroy one of the most significant means for Federal, state, and local cooperative efforts against drug trafficking. Federal drug agencies cannot expect to have real success in controlling drug trafficking without the assistance of state and local law enforcement—the country is simply too large for DEA or any other agency to police it. HIDTA is perhaps our most important tool for enlisting the support of state and local agencies for national anti-drug trafficking efforts.

Seven representatives of state and local law enforcement agencies from around the country who work with the HIDTA program testified about that impact at the Criminal Justice Subcommittee's hearing on March 10, 2005. They told the subcommittee that the vital task forces, intelligence and investigation "deconfliction" centers, and other interagency activities funded by HIDTA would be eliminated if the program ceased operations in their areas.[411]

[411] See *Fiscal Year 2006 Drug Control Budget and the Byrne Grant, HIDTA and Other Law Enforcement Programs: Are We Jeopardizing Federal, State and Local Cooperation? Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (Mar. 10, 2005) (testimony of Ron Brooks, president,

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Furthermore, the loss of these HIDTAs would seriously damage our national anti-methamphetamine efforts. All of the HIDTAs with a primary or significant focus on meth were designated after 1990. Some of these HIDTAs—such as the Midwest HIDTA and the Rocky Mountain HIDTA—organize Federal, state, and local efforts to stop the proliferation of meth labs. Other HIDTAs—most notably the Central Valley HIDTA in California—target the "superlabs" that have flooded the entire country with meth. In both cases, the loss to our anti-meth strategy would be irreparable. For example, Sheriff Jack Merritt of Greene County, Missouri testified last March that the anti-methamphetamine task force that brings together Federal, state, and local law enforcement in his community would be shut down without the HIDTA program.[412]

The impact would not be confined to anti-meth efforts, however. Many of the threatened HIDTAs are designed to combat the drug gangs that plague inner-city and other urban centers. These HIDTAs—including the Philadelphia/Camden, Lake County (Indiana), Washington/Baltimore, and Chicago HIDTAs—have been the primary centers of joint Federal, state, and local anti-drug gang activity. The elimination of these HIDTAs would destroy one of our best weapons against the drug dealers who terrorize city streets. Baltimore Police Commissioner Leonard Hamm, for example, testified last March that his anti-heroin and anti-drug gang task forces would also end without HIDTA assistance.[413]

Eliminating or eviscerating these individual HIDTAs would be a far greater financial loss to Federal drug enforcement efforts than simply the money spent by the Federal Government directly on their budgets. State and local agencies make significant contributions of their own agents, employees, office space, and equipment to HIDTA task forces—much of which is not reimbursed with Federal dollars and which frequently dwarf, in their dollar value, the Federal budget components of the individual HIDTAs. We risk losing those contributions without the individual HIDTAs.[414]

The committee proposes, instead, that the administration present to Congress a comprehensive, evidence-based reallocation plan for the HIDTA program—as permitted by recent appropriations bills (and as would be required by H.R. 2829). The plan would allow Congress to evaluate the current state of the HIDTA program overall, the purpose and impact of the individual HIDTAs, and recent trends that have altered the drug trafficking landscape since present funding levels were set in the late 1990's. That would allow Congress and the administration to work together to ensure that HIDTA remains a vital tool in our national anti-drug efforts.

National Narcotics Officer's Associations Coalition, Tom Carr, Director, Washington-Baltimore HIDTA, Tom Donahue, Director, Chicago HIDTA, Chief Jack Harris, Phoenix Police Dept. & Vice-Chair, Southwest Border HIDTA, Leonard Hamm, acting Baltimore police commissioner, Mark Henry, president, Illinois Drug Enforcement Officer's Association, and Sheriff Jack L. Merritt, Greene County, MO). At http://a257.g.akamaitech.net/7/257/2422/01sep20051200/www.access.gpo.gov/congress/house/pdf/109hrg/22201.pdf (last visited Feb. 24, 2006).

[412] Id, (testimony of Sheriff Jack Merritt).

[413] Id, (testimony of Commissioner Leonard Hamm).

[414] Id, (written responses of each HIDTA director).

2. National Youth Anti-Drug Media Campaign

Media Campaign	FY 2005 Requested [415]	FY 2005 Final [416]	FY 2006 Requested [417]	FY 2006 Enacted [418]	FY 2007 Request [419]
TOTAL*	$145	$120	$120	$100	$120

* in millions.

The committee is deeply concerned about the future of the National Youth Anti-Drug Media Campaign, and believes that the administration is not working for adequate funding for it. The Campaign, an integrated effort that combines paid and donated advertising with public communications outreach to bring drug abuse prevention messages to young people, has suffered repeated, deep cuts in its budget since 2001. The cuts have been so deep that the Campaign is now at a crossroads: if the administration and Congress do not increase its budget, the program will likely slip into irrelevance.

Program Overview and History

The Media Campaign funds television, radio, print, and Internet advertisements designed to communicate the dangers of drug abuse to young people and parents. Most of the program's dollars are spent on the purchase of advertising "time and space," namely the cost of actually airing or printing an advertisement. The Campaign also funds the creation, testing, and evaluation of advertisements, industry outreach, and strategic partnerships with local communities. Each dollar spent on time and space must be "matched" by the entity accepting the dollar with one dollar of donated time and space, doubling the impact of the Campaign's expenditures. No match is required for other services purchased by the Campaign, however.

The Campaign was created by Congress in 1997 to expand and enhance the efforts of the Partnership for a Drug-Free America (PDFA), a not-for-profit organization created in 1987 to curb illegal drug use among America's youth. In a collaborative effort, the PDFA solicited anti-drug ads from various ad agencies who donated their creative talent to design and produce anti-drug television ads (pro bono). The PDFA also solicited and obtained donated media airtime from the big three television networks to run the anti-drug ads as public service announcements (PSAs).

For over ten years, the PDFA coordinated these activities with great success and at no expense to the American taxpayer. According to the annual University of Michigan Monitoring the Future survey, at the same time that the level of anti-drug television ads was rising, attitudes about the social disapproval and the perceived risks of illegal drug use were also rising. Likewise, there was a cor-

[415] The White House, National Drug Control Strategy, FY 2005 Budget Summary (Mar. 2004) at http://www.whitehousedrugpolicy.gov/publications/policy/budgetsum04/index.html (last visited Feb. 24, 2006).

[416] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[417] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/index.html (last visited Feb. 24, 2006).

[418] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[419] Id.

responding decrease in illegal drug use among young people during the same period. The program seemed to be working.

Beginning in 1991, however, the donated airtime from the big three media networks began to decline significantly. Throughout the nineties, the PDFA worked diligently to rebuild the donated air times to previous levels (in 1991 the estimated value of donated media air time was $350 million)—but that effort did not fully succeed.

In 1996, the PDFA commissioned an ad agency study which determined that an effective media campaign would require an exposure rate of 4 times per day and frequency rate of 90 percent of the target audiences. The minimum cost for such an effort was determined to be $175 million (in 1996 dollars), which represented one-half of the $350 million donated in 1991.

Realizing they needed help to reach their goals, the PDFA approached Congress for assistance. In 1997, President Clinton requested $175 million in Federal funds for the program, to be named the "National Youth Anti-Drug Media Campaign." Congress appropriated $195 million (for fiscal year 1998) and ultimately gave statutory authorization for the program in 1998.

Early Problems with the Campaign

The Campaign has not been problem-free, however. Almost from its inception, some critics have attacked the program as either ineffective, and/or an inappropriate use of Federal funds.

Such criticism was amplified when, in 2000, it was reported that Ogilvy & Mather, the advertising agency that ONDCP (through its contracting agent, the Department of Health and Human Services (HHS)) had hired in 1998 to make media purchases for the Campaign, had improperly charged the government for services during 1999. A subsequent investigation by the GAO determined that Ogilvy had indeed improperly billed the government and that HHS had inadequately managed the contract, in particular by awarding the contract before sufficiently determining whether Ogilvy had an adequate accounting system.[420] A criminal investigation of Ogilvy by the Justice Department resulted in a settlement in 2002, under which the firm agreed to pay $1.8 million to the government. In 2005, two former Ogilvy employees were convicted of conspiracy and making false statements in connection with the investigation.[421]

The negative publicity from the accounting scandal was further exacerbated when, despite the accounting irregularities, ONDCP's new contracting agent, the Department of the Navy, exercised its option to renew the contract with Ogilvy in 2001. Indeed, Ogilvy was retained to provide services for the Campaign until the expiration of the contract in 2004. ONDCP defended the government's decision to retain Ogilvy as reasonable in light of all the circumstances, and that argument was not without merit. Nevertheless, the continuing involvement of Ogilvy almost certainly eroded congressional and public support for the program.

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[420] *Anti-Drug Media Campaign: Aspects of Advertising Contract Mismanaged by the Government; Contractor Improperly Charged Some Costs,* GAO, REPORT NO. GAO–01–623, (June 2001).

[421] Joshua Chaffin, *Former Ogilvy partner sentenced to prison,* FINANCIAL TIMES, July 13, 2005.

Evaluating and Reforming the Campaign

When Congress first authorized the Campaign, it required extensive evaluations to ensure the program's effectiveness at reducing youth drug use. Beginning in 1998, ONDCP commissioned the National Institute on Drug Abuse (NIDA) at HHS to conduct regular evaluations of the Campaign through the program's initial authorization period (i.e., until the end of fiscal year 2003). NIDA then contracted with Westat, a private research firm, to evaluate the effectiveness of the Campaign-funded advertisements.

Westat's regular reports, the last of which was released in December 2003 (covering the period ending in June 2003), indicated that while the Campaign's advertisements had some positive impact on the attitudes of parents, there was no positive impact on the attitudes of young people.[422] This led many, including some in Congress, to question the utility of the Campaign.[423]

In response to Westat's reports, Director Walters acknowledged the Campaign's shortcomings in 2002,[424] and ONDCP undertook a major strategic overhaul of the program. Major changes included better targeting of advertisements at key age groups, a renewed focus on testing of advertisements before airing, and a primary focus on marijuana, the primary illegal drug of abuse among teenagers.[425]

The committee believes that the preponderance of the evidence indicates that the post–2002 changes have made the Campaign significantly more effective. A survey by the Partnership for a Drug-Free America (PDFA) in August 2003 demonstrated a significant positive connection between the Campaign-funded advertisements and youth perceptions of marijuana use risk.[426] In June 2005, the Substance Abuse and Mental Health Services Administration (SAMHSA), a division of HHS, released a report showing that young people who reported having seen or heard prevention messages in the media during the past year were much less likely than their peers to report illicit drug use.[427]

Finally, the ultimate evidence of the Campaign's success is the continuing decline since 2002 in overall drug use, and particularly marijuana use, among teens nationwide.[428] The bottom line is that when adequately funded and properly managed, the Campaign works.[429]

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[422] WESTAT, EVALUATION OF THE NATIONAL YOUTH ANTI-DRUG MEDIA CAMPAIGN: 2003 REPORT OF FINDINGS, (Dec. 2003), executive summary available at http://www.mediacampaign.org/publications/performance.html).

[423] See, e.g., CONFERENCE REPORT TO ACCOMPANY H.J. RES. 2 (MAKING CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 2003, AND FOR OTHER PURPOSES), H. REPT. 108–10, 1345–1346 (2003).

[424] Christopher Newton, *Survey: Anti-Drug Ads Have No Effect,* ASSOCIATED PRESS, May 14, 2002.

[425] See *ONDCP Reauthorization & the National Youth Anti-Drug Media Campaign: Hearing before House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Mar. 27, 2003) (testimony of Christopher Marston). At http://frwebgate.access.gpo.gov/cgi-bin/
getdoc.cgi?dbname=108_house_hearings&docid=f:87450.pdf (last visited Feb. 24, 2006).

[426] PARTNERSHIP FOR A DRUG-FREE AMERICA, PARTNERSHIP ATTITUDE TRACKING STUDY–2003 TEENS STUDY: SURVEY OF TEENS' ATTITUDES AND BEHAVIORS TOWARD MARIJUANA, (Aug. 2003), at http://www.mediacampaign.org/publications/index.html (last visited Feb. 24, 2006).

[427] *National Survey on Drug Use and Health,* SAMHSA, (June 2005) at http://oas.samhsa.gov/nsduh.htm#NSDUHinfo (last visited Feb. 24, 2006).

[428] See *Monitoring the Future,* 2005, at http://monitoringthefuture.org/.

[429] For these reasons, the committee believes that the most recent OMB PART review findings for the Campaign—"results not demonstrated"—are simply not based in fact. Although the di-

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Program Funding

Despite that record of improvement and success, Congress has not adequately funded the Campaign in recent years. When the program was first created in 1997, it was funded at $195 million (for fiscal year 1998). From fiscal years 1999 through 2001, it was funded at approximately $185 million per year; thereafter Congress cut the budget dramatically—to $180 million in fiscal year 2002, $150 million in 2003, $145 million in 2004 and $120 million in 2005. Last year, Congress approved only $100 million for fiscal year 2006. Following Congress' lead, the administration began reducing its budget requests for the Campaign, from $185 million for fiscal year 2002, to $180 million for 2003, $170 million for 2004, $145 million for 2005 and $120 million for 2006. Finally, for 2007, the administration has broken this pattern by requesting $120 million—although this would simply restore the Campaign to 2005's already low level.

In fact, when inflation is taken into account, the budget of the Media Campaign has declined from $195 million in 1998 to only (approximately) $83 million (in constant 1998 dollars) for 2006—a drop of well over 50 percent in the Campaign's resources. The damage to the Campaign is amplified by the fact that advertising costs have far outpaced the overall rate of inflation.[430] Moreover, since the Campaign relies on the "match" requirement, a drop of one dollar in appropriated funds is, in fact, a two dollar cut in actual advertising exposure—since the Media Campaign cannot obtain a match for that lost dollar.[431]

In the face of these facts, Congress nevertheless began slashing funding for the Campaign at the precise moment when ONDCP corrected many of its early problems. There are probably many reasons for this. First, the negative publicity surrounding the Ogilvy scandal and the early Westat reports garnered far more attention than subsequent improvements. Second, ONDCP's refusal (until just last year) to target any Campaign advertisements at the burgeoning epidemic of methamphetamine abuse meant the Campaign lost an opportunity to build support for the program in rural and other communities hardest hit by that drug. Moreover, continuing disputes over whether the Campaign has been effective, and even how to evaluate it, have also taken their toll.[432]

Whatever the reason, the Campaign is now at a crossroads. The committee urges Congress and the administration to support full funding for the program. If the current, greatly reduced funding levels are continued or lowered even further, the Campaign will no

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rect impact of advertising on its target audience is always difficult to measure, the ultimate "performance measure" for an advertising campaign is whether the target audience responded as hoped. In this case, it is clear that it has: young people are reporting decreased use of marijuana. While many factors may have contributed to this decline, it is hard not to give at least some credit to the marijuana-focused advertisements purchased by the Campaign. The committee believes that this program is showing clear results, and should be fully funded.

[430] See *Fiscal Year 2006 Drug Control Budget and the Byrne Grant, HIDTA and Other Law Enforcement Programs: Are We Jeopardizing Federal, State and Local Cooperation? Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (Mar. 10, 2005) (testimony of Stephen Pasierb, PDFA) (media advertising cost inflation has averaged between 8 and 12 percent over past 8 years). At http://a257.g.akamaitech.net/7/257/2422/01sep20051200/www.access.gpo.gov/congress/house/pdf/109hrg/22201.pdf (last visited Feb. 24, 2006).

[431] Id, at 123.

[432] The committee is aware, in particular, of a dispute between ONDCP and Westat over how to evaluate the Campaign, which may result in the replacement of Westat. That dispute is apparently being reviewed by the GAO, with the GAO's findings to be released sometime this year.

longer be able to function as originally envisioned by Congress in 1998. A Campaign that cannot reach its audience with sufficient frequency or quality of message is probably not worth funding at all. The committee hopes that such a result will be avoided.

The Future of the Campaign

In addition to the funding problems faced by the Campaign, two major issues need to be addressed by Congress and the administration. First, despite the fact that the Campaign's original, primary purpose was to buy media time and space for anti-drug advertisements (to ensure that they reach the national youth audience with sufficient frequency), a growing amount of program funds have been expended on other activities, such as media consultants, and "outreach" to the media industry. A recent report by the Government Accountability Office (GAO) revealed that the Campaign spent over 28 percent of the program's funds from fiscal years 2002–2004 on such activities.[433]

Concerns about this trend were raised by the Senate Appropriations Committee and by this committee during the 108th Congress.[434] Although some such expenditures are undoubtedly necessary to ensure program effectiveness and adequate management of the Campaign by ONDCP, care must be taken to prevent excessive diversion of program dollars away from their primary purpose. This is particularly important now when the Campaign's budget is shrinking. In a time of scarce resources, the program must focus on its major purpose of getting advertisements on the air.

To ensure that result, the committee has twice approved legislation that would set a minimum percentage of program funds for purchasing media time and space. H.R. 2829 (as did H.R. 2086 during the 108th Congress) would require, under normal circumstances, that at least 77 percent of Campaign funds be spent on time and space. However, that percentage would rise to 82 percent when the program's budget falls below $125 million and would fall to 72 percent if the budget rose above $195 million. By doing so, the legislation seeks to minimize the loss of media time and space in a time of falling budgets and to allow for greater diversification in a time of rising budgets.

Second, although the Media Campaign has produced effective advertisements targeted at marijuana abuse since 2002, only last year (after a great deal of criticism from Congress and the public) did the ONDCP agree to use Campaign funds to produce similar advertisements targeted at the growing epidemic of methamphetamine abuse. ONDCP has thus far committed to spending $1 million to produce such advertisements (but has not stated how much it will spend to ensure that they are actually aired).

The committee believes that the Campaign needs to do more to deal with methamphetamine and similar emerging drug threats. Last year, a bipartisan amendment to add $25 million for anti-

[433] *Anti-Drug Media Campaign: An Array of Services Was Provided, but Most Funds Were Committed to Buying Media Time and Space,* GAO REPORT NO. GAO–05–175, Mar. 2005.

[434] See SENATE COMMITTEE ON APPROPRIATIONS, REPORT TO ACCOMPANY S. 1589 (TRANSPORTATION, TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS BILL, 2004), S. REPT. NO. 108–146, (2003) at 143; See *ONDCP Reauthorization: The National Youth Anti-Drug Media Campaign: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resource, Committee on Government Reform,* 108th Cong. (Mar. 27, 2003). At http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_house_hearings&docid=f:87450.pdf (last visited Feb. 24, 2006).

meth advertisements to the Media Campaign's budget was passed in the House. Regrettably, the Senate did not reciprocate that move. The committee will explore amending H.R. 2829, however, to set aside some percentage of Campaign funds for anti-meth and similar targeted advertisements for emerging drugs.

3. Drug-Free Communities (DFC) Program

DFC	FY 2005 Requested [435]	FY 2005 Final [436]	FY 2006 Requested [437]	FY 2006 Enacted [438]	FY 2007 Request [439]
TOTAL*	$80	$80	$80	$80	$79.19

* in millions.

The committee generally supports the administration's request for $79,190,000 for the Drug-Free Communities (DFC) Program, which assists local community anti-drug coalitions to prevent substance abuse among young people. This is slightly below the same level of funding requested by the administration and appropriated by Congress for fiscal years 2005 and 2006. The reduction, however, is largely due to the fact that the administration is only requesting the maximum amount ($750,000) authorized by statute for the National Community Anti-Drug Coalition Institute. Last year, Congress appropriated funds ($2 million) exceeding the maximum amount authorized (see discussion below).

While the committee agrees that the Institute should not be funded above its authorized level (see below), the committee is concerned about the administration's unwillingness to redirect all of the excess funds into new coalition grants (keeping the total program funds at $80 million). If the program's budget does not expand, many new coalitions may not be able to start their work—particularly in the poorest communities where the need for drug use prevention is greatest.

One significant issue facing the program is performance measurement. In its 2006 PART review, DFC received an "adequate" rating—higher than many similar prevention programs.[440] As is the case with other programs, however, the targets established for DFC—"enhancing the capabilities of community anti-drug coalitions," "enhancing prevention activities," and "increase[ing] citizen participation"—have more to do with the processes of the program than with its intended result, namely reducing drug use. Although DFC should not be singled out for criticism on this point, ONDCP and other agencies involved in drug use prevention need to start defining success less in terms of whether the program is simply

[435] The White House, National Drug Control Strategy, FY 2005 Budget Summary (Mar. 2004) at http://www.whitehousedrugpolicy.gov/publications/policy/budgetsum04/index.html (last visited Feb. 24, 2006).

[436] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[437] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/index.html (last visited Feb. 24, 2006).

[438] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[439] Id.

[440] The White House, National Drug Control Strategy, FY 2006 Budget Summary, 96 (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/index.html (last visited Feb. 24, 2006).

functioning as planned and more in terms of whether its functions are achieving a quantifiable result.

There is some evidence that the program is achieving that result. In testimony before the subcommittee on April 26, 2005, General Arthur Dean, chairman and CEO of the Community Anti-Drug Coalitions of America (CADCA), highlighted successes achieved by the DFC Program. According to General Dean, in communities where DFC grantees operate, drug use has sharply decreased in comparison to communities in which there is not an anti-drug presence. For example, in the period of 1993 to 2000, Cincinnati, Ohio achieved a 41 percent decrease in marijuana use among 7th to 12th graders, while communities in this region without the presence of an anti-drug coalition experienced a 33 percent increase.[441]

The committee is pleased by this evidence and hopes that coalitions receiving grants will continue to make efforts to show their quantifiable successes. Such data will help Congress evaluate competing programs for scarce counterdrug funding.

National Community Anti-Drug Coalition Institute

As noted above, the administration is only requesting $750,000 for the Institute, which is the maximum amount authorized by statute for fiscal year 2007.[442] The Institute, currently operated by CADCA, provides training and other technical assistance to coalitions receiving funds under the program.[443]

Congress authorized $2 million for each of the first two years of the Institute's existence, but thereafter funding was to decrease to $1 million for two years and then $750,000 for fiscal years 2006 and 2007.[444] As this committee noted when it approved the legislation authorizing the Institute, Federal funding was only supposed to be temporary. The Institute was expected to seek private funding and end all dependence on the Federal budget within a few years.[445]

Committee staff have subsequently been informed by personnel at CADCA that the Institute has been unable to obtain the expected private funding. While the committee is sympathetic, that is a problem shared by many organizations and institutions. While $1.25 million may not seem to be a large amount of money in the context of the entire Federal budget, it potentially represents grants to at least 12 new coalitions. The committee believes that the Institute should be funded at no more than its authorized level, with additional dollars to go to new grants under the main program.

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[441] See *Drug Prevention Programs and the Fiscal Year 2006 Drug Control Budget: Is the Federal Government Neglecting Illegal Drug Use Prevention? Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (Apr. 26, 2005) (statement of General Arthur T. Dean, U.S. Army, retired, on behalf of CADCA). At http://a257.g.akamaitech.net/7/257/2422/01sep20051200/www.access.gpo.gov/congress/house/pdf/109hrg/22201.pdf (last visited Feb. 24, 2006).

[442] Public Law 107–82, Sec. 4(d) (2005).

[443] Public Law 107–82, Sec. 4(c) (2005).

[444] Public Law 107–82, Sec. 4(d) (2005).

[445] GOVERNMENT REFORM COMMITTEE REPORT, TO EXTEND THE AUTHORIZATION OF THE DRUG-FREE COMMUNITIES SUPPORT PROGRAM FOR AN ADDITIONAL 5 YEARS, TO AUTHORIZE A NATIONAL COMMUNITY ANTIDRUG COALITION INSTITUTE, AND FOR OTHER PURPOSES (H.R. 2291), H. REPT. 107–175, Pt. 1.

2005 Drug-Free Communities Grant Application Process

The committee is closely monitoring a significant dispute that has arisen in the wake of the 2005 DFC grants application process. Major changes implemented at the direction of ONDCP in the review process for grant applications have resulted in the de-funding of 63 community coalitions that had been receiving grants and the placing on probation of 88 more coalitions. The controversy threatens to undermine confidence in the program, and the committee hopes that it can be resolved soon.

The changes implemented by ONDCP began with the replacement in 2004 of the agency responsible for evaluating proposals and awarding grants—the Office of Juvenile Justice and Delinquency Prevention (OJJDP) at the Justice Department—with the Substance Abuse and Mental Health Services Administration (SAMHSA) at the Department of Health and Human Services (HHS). Though ONDCP indicated to program participants that the change in administrator would not affect the actual administration of the program, in fact a number of significant changes were made in the evaluation procedures.

It is still not entirely clear how the decisions to fund, de-fund, or place existing coalitions on probation were made by ONDCP and SAMHSA. The co-chairs of the Senate Caucus on International Narcotics Control have requested a full investigation of the revised process by the GAO.[446] From evidence provided to the committee, however, several general statements may be made about the revised grant review process:

- Unlike in previous years, the professional "peer reviews" of coalition activity were given far less importance in the final decision to continue funding a coalition, as many of the defunded coalitions received high peer review scores;
- The policy staff of ONDCP played a far more active role in deciding which coalitions would continue to receive funding;
- Although the grant eligibility criteria applied to the coalitions supposedly did not change, it is clear that ONDCP's interpretation of those criteria did change, as coalitions were defunded on the grounds that they no longer met the eligibility criteria—and there is no evidence that the coalitions themselves changed in any way;
- ONDCP did a poor job of explaining to defunded and probationed coalitions the precise grounds for the adverse decision;[447] and
- ONDCP placed 88 coalitions on probation because they supposedly exceeded a 20 percent cap on "direct services" spending (namely, spending on specific programs), even though the 20 percent cap is not mentioned anywhere in statute.[448]

[446] Letter from Senators Grassley and Biden to GAO (Oct. 18, 2005) at http://cadca.org/CoalitionResources/pp-main.asp (last visited Feb. 24, 2006).

[447] For example, the letters sent to de-funded coalitions simply listed all possible grounds why the coalition was found to be ineligible—without specifying which specific grounds, or the facts supporting the particular determination.

[448] For more specific information about the controversy, see Letters from Senators Grassley and Biden to Director Walters, (Oct. 18, 2005, and Dec. 2, 2005) at http://cadca.org/CoalitionResources/pp-main.asp (last visited Feb. 24, 2006).

There are a number of other questions that remain to be answered, including whether the 20 percent "direct services" cap was actually used as an eligibility criteria—a policy not authorized by the statute. Moreover, the controversy as a whole raises the question of whether ONDCP attempted to implement a significant policy shift in the program—by essentially redefining the purposes and goals of DFC—through what was intended to be a merely administrative process. The committee hopes that GAO will be able to report back to Congress soon on this matter.

Until then, the committee urges ONDCP and SAMHSA to reexamine some of the decisions made during the 2005 grants review process. In particular, it may be appropriate for ONDCP to implement an "appeals" process for defunded or probationed coalitions, as has been urged by the bipartisan co-chairs of the Senate Caucus on International Narcotics Control.[449] The committee also expects that the 2006 grants review process will be conducted in a more transparent manner, ensuring that the program's fairness is not left in doubt.

4. Counterdrug Technology Assessment Center (CTAC)

CTAC	FY 2005 Requested [450]	FY 2005 Final [451]	FY 2006 Requested [452]	FY 2006 Enacted [453]	FY 2007 Request [454]
TOTAL*	$40	$41.7	$30	$29.7	$9.6

* in millions.

The committee opposes the administration's current request for only $9.6 million for the CTAC program, a drastic cut from the $29.7 million appropriated for fiscal year 2006 (which was itself a major cut from the $41.7 million appropriated for fiscal year 2005). The CTAC research program provides support to law enforcement supply reduction by developing advancement in technology for drug detection, communications, surveillance and methods to share drug crime investigative information.[455] In addition, funding is available for research into drug abuse and addiction. Further, CTAC supports the Technology Transfer Program which supplies new counterdrug technologies to state and local law enforcement.

The proposed decreases would cut the research program from $14 million to $9.6 million, while completely eliminating Technology Transfer Program (appropriated at nearly $16 million in fiscal year 2006). The committee strongly opposes the termination of the Technology Transfer Program.

The program is certainly in need of greater direction and oversight. ONDCP has not taken sufficient steps to ensure that the Technology Transfer Program supports national goals in reducing

[449] See letter from Senators Grassley and Biden to Director Walters (Dec. 2, 2005) at http://cadca.org/CoalitionResources/pp-main.asp (last visited Feb. 24, 2006).

[450] The White House, National Drug Control Strategy, FY 2005 Budget Summary (Mar. 2004) at http://www.whitehousedrugpolicy.gov/publications/policy/budgetsum04/index.html last visited Feb. 24, 2006).

[451] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[452] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/index.html (last visited Feb. 24, 2006).

[453] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[454] Id.

[455] Id. at 89.

overall drug trafficking and improving interagency communication and cooperation. For example, ONDCP needs to make sure that any communications or information sharing equipment or systems funded by CTAC do not simply benefit the agency receiving the transfer. Rather, such systems or equipment should only be provided if they also link the recipient agency with other Federal, state, and local agencies and result in increased information sharing.

Legislation approved by the committee (H.R. 2829) would help ONDCP to improve the program's accountability and effectiveness. The bill would give priority, for example, to technology transfers in border drug trafficking regions. It would also require an annual report to Congress listing where transfers were made and what the criteria were for awarding them.

The committee believes that reform of this kind—not termination—is the appropriate remedy for CTAC's difficulties. At a time when assistance to state and local drug enforcement is under consistent attack, it is unwise for the Federal Government to cut off yet another source of badly needed anti-drug trafficking technology.

5. Counterdrug Intelligence Executive Secretariat (CDX)

CDX	FY 2005 Requested [456]	FY 2005 Final [457]	FY 2006 Requested [458]	FY 2006 Enacted [459]	FY 2007 Request [460]
TOTAL*	$4.5	$1.98	$0	$0	$0

* in millions.

In its report last year, the committee expressed concerns about the administration's proposal to eliminate all funding for the Counterdrug Intelligence Executive Secretariat (CDX). Congress ultimately decided not to provide any funding for CDX for fiscal year 2006, and it is the committee's understanding that the last remaining member CDX staff has since been transferred to the Drug Enforcement Administration's El Paso Intelligence Center (EPIC). This year's budget again proposes no funding for CDX.

This program, which was last appropriated at slightly less than $2,000,000 for fiscal year 2005, certainly suffered from a lack of direction. It was intended to help ONDCP coordinate the drug intelligence policies and activities of multiple Federal law enforcement agencies, most notably through the creation of a General Counterdrug Intelligence Plan (GCIP). The need for that coordination is as great today as it ever was, meaning that the mission of CDX is far from fulfilled.

It may well be that the functions of CDX would be better carried out by another agency, such as EPIC, or the new drug intelligence fusion center created by the Justice Department's Organized Crime

[456] The White House, National Drug Control Strategy, FY 2005 Budget Summary (Mar. 2004) at http://www.whitehousedrugpolicy.gov/publications/policy/budgetsum04/index.html (last visited Feb. 24, 2006).

[457] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[458] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/index.html (last visited Feb. 24, 2006).

[459] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[460] Id.

Drug Enforcement Task Force (OCDETF). The administration, however, should set forth its specific plans for improving drug intelligence sharing, preferably through a new GCIP (which is in great need of updating in the post–9/11 era).[461] For that reason, the committee included a requirement for a new GCIP in H.R. 2829.

6. National Drug Court Institute

National Drug Court Institute	FY 2005 Requested [462]	FY 2005 Final [463]	FY 2006 Requested [464]	FY 2006 Enacted [465]	FY 2007 Request [466]
TOTAL*	$1.0	$0.744	$1.0	$1.0	$0.99

* in millions.

Contact Information: 703–575–9400, http://www.NDCI.org.

The committee generally supports the administration's request for $990,000 for the National Drug Court Institute, which is slightly less than last year's request and the appropriated level for fiscal year 2006 ($1 million). The cut is small, but with the increasing popularity of drug court programs around the country, it is more important than ever that ONDCP review these programs and determine their rate of success.

The committee believes that better guidance could help improve and promote these programs nationwide. A vigorous, mandatory system of drug testing should be applied in every drug court case to ensure that program participants are staying off of drugs. Convicts should be sentenced to drug abstinence, not just drug treatment. Unless participants are given incentives to overcome their drug abuse, it is unlikely that they will avoid future crimes. It is not clear that ONDCP has pursued this issue since the committee's last report. The committee therefore intends to explore the matter further.

[461] The current General Counterdrug Intelligence Plan may be found at http://www.whitehousedrugpolicy.gov/publications/gcip/index.html.

[462] The White House, National Drug Control Strategy, FY 2005 Budget Summary (Mar. 2004) at http://www.whitehousedrugpolicy.gov/publications/policy/budgetsum04/index.html (last visited Feb. 24, 2006).

[463] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[464] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/index.html (last visited Feb. 24, 2006).

[465] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[466] Id.

7. National Alliance for Model State Drug Laws[467]

National Alliance for Model State Drug Laws	FY 2005 Requested[468]	FY 2005 Final[469]	FY 2006 Requested[470]	FY 2006 Enacted[471]	FY 2007 Request[472]
TOTAL*	$0	$0.992	$0	$1.0	$0

* in millions.

Contact Information: 703–836–6100, http://www.Natlalliance.org.

The committee opposes the administration's proposal to eliminate all Federal funding for the National Alliance for Model State Drug Laws, which was funded at $1,000,000 in fiscal year 2006. The Alliance serves an important function by reviewing the drug laws in the various states and by proposing model state laws in response to new drug threats or challenges. For example, the Alliance recently held a major conference on methamphetamine legislation and policy, bringing together law enforcement officials, addiction treatment professionals, elected officials, and public health officials from 38 states, 4 countries, the District of Columbia and Guam to discuss new solutions to the serious problems related to meth abuse, production, and trafficking.

Most drug enforcement, treatment and prevention is provided at the state and local level. The Federal Government has a strong interest in effective state drug policies, and the Alliance helps to promote such policies.

Although Director Walters has claimed that the work of the Alliance could be performed by ONDCP staff,[473] the committee strongly disagrees. Since the administration has not proposed to add any new staff positions to ONDCP, it is unclear which current staff have the additional free time to take up the work of the Alliance. The committee is not of the opinion that ONDCP is completely fulfilling its current responsibilities. There is thus little indication that the Office is prepared to provide the extensive legal analysis, outreach to state and local governments, and coordination of multistate information sharing that the Alliance does.

[467] For more information on the National Alliance for Model State Drug Laws, see the Alliance's website at http://www.natlalliance.org/, or contact the Alliance at (703) 836–6100.

[468] The White House, National Drug Control Strategy, FY 2005 Budget Summary (Mar. 2004) at http://www.whitehousedrugpolicy.gov/publications/policy/budgetsum04/index.html (last visited Feb. 24, 2006).

[469] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[470] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/index.html (last visited Feb. 24, 2006).

[471] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[472] Id.

[473] See *Fiscal Year 2006 Drug Budget: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. 46 (Feb. 10, 2005). At http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_house_hearings&docid=f:20878.pdf (last visited Feb. 24, 2006).

8. United States Anti-Doping Agency and Membership Dues to World Anti-Doping Agency

U.S. Anti-Doping Agency	FY 2005 Requested [474]	FY 2005 Final [475]	FY 2006 Requested [476]	FY 2006 Enacted [477]	FY 2007 Request [478]
TOTAL*	$1.5	$7.44	$7.4	$8.5	$8.5

* in millions.

World Anti-Doping Agency	FY 2005 Requested [479]	FY 2005 Final [480]	FY 2006 Requested [481]	FY 2006 Enacted [482]	FY 2007 Request [483]
TOTAL*	$1.0	$1.438	$2.9	$2.9	$1.5

* in millions.

The committee supports the administration's request for $8,500,000 for the U.S. Anti-Doping Agency, an increase of nearly $7 million over the administration's fiscal year 2005 request (and identical to the appropriated level for fiscal year 2006). Similarly, the committee generally supports the administration's request for $1,500,000 for our nation's membership dues in the World Anti-Doping Agency. Through the U.S. Anti-Doping Agency and its international counterpart, the United States seeks to stop the use of illegal performance-enhancing drugs by American and international athletes in Olympic sports through education, drug testing programs, and similar initiatives.

The committee remains committed to investigating steroid abuse in professional sports. The committee held hearings on March 17, 2005, April 27, 2005, May 19, 2005 and June 15, 2005 to examine steroid abuse in professional sports and steroid use by young women and will continue to provide oversight regarding this issue in order to establish and promote adequate drug prevention and testing programs. The committee hopes that ONDCP and other elements of the administration will increase their efforts to stop steroids, doping, and other unhealthy and illegal performance enhancement practices.

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[474] The White House, National Drug Control Strategy, FY 2005 Budget Summary (Mar. 2004) at http://www.whitehousedrugpolicy.gov/publications/policy/budgetsum04/index.html (last visited Feb. 24, 2006).

[475] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[476] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/index.html (last visited Feb. 24, 2006).

[477] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[478] Id.

[479] The White House, National Drug Control Strategy, FY 2005 Budget Summary (Mar. 2004) at http://www.whitehousedrugpolicy.gov/publications/policy/budgetsum04/index.html (last visited Feb. 24, 2006).

[480] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[481] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/index.html (last visited Feb. 24, 2006).

[482] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[483] Id.

9. National Drug Control Program Performance Measures

NDCP Performance Measures	FY 2005 Requested [484]	FY 2005 Final [485]	FY 2006 Requested [486]	FY 2006 Enacted [487]	FY 2007 Request [488]
TOTAL*	$2.0	$0.992	$2.0	$1.5	$1.98

* in millions.

The committee supports the administration's request for $1,980,000 for the further development of performance measures for Federal drug control programs, an increase of $480,000 from the $1,500,000 actually appropriated for fiscal year 2006. The committee notes, however, that the "performance measures" funds provided by Congress to ONDCP since fiscal year 2003 have not been used (nor were they intended by Congress to be used) to develop a truly comprehensive performance measurement system for the national drug control programs. Instead, the funds have been intended and used for research into discrete issues of performance measurement. For example, the $1.5 million appropriated for fiscal year 2006 will be spent to replace the Justice Department's discontinued Arrestee Drug Abuse Monitoring (ADAM) system.[489]

In fact, there has been no attempt to generate a comprehensive performance measurement system since 2002. ONDCP was tasked in its 1998 reauthorization statute with developing and submitting a report containing a comprehensive performance measurement system in 1999.[490] ONDCP submitted annual updates to that report through 2002, but the program was discontinued thereafter. Beginning in 2003, Congress began appropriating limited funds to ONDCP for the more limited research programs now in development.

The problem of measuring effectiveness in drug control programs—whether enforcement, treatment, or prevention—is a difficult one. It has never been more necessary than now, however, when tremendous pressure is being placed on every aspect of the Federal budget, particularly drug control programs. Without adequate performance measures, it will be impossible to demonstrate the real, tangible results of the billions of dollars being spent on enforcement, treatment, and prevention.

The committee hopes that ONDCP will make solid progress in developing and implementing such performance measures. To that end, the new reauthorization legislation approved by the committee (H.R. 2829) requires ONDCP to submit a comprehensive performance measurement system as part of each annual National Drug Control Strategy. While the research currently funded should continue, ONDCP needs to ensure a more systematic and inclusive

[484] The White House, National Drug Control Strategy, FY 2005 Budget Summary (Mar. 2004) at http://www.whitehousedrugpolicy.gov/publications/policy/budgetsum04/index.html (last visited Feb. 24, 2006).

[485] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[486] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/index.html (last visited Feb. 24, 2006).

[487] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[488] Id.

[489] OFFICE OF NATIONAL DRUG CONTROL POLICY, FY 2007 CONGRESSIONAL BUDGET SUBMISSION (Feb. 2006) at 129.

[490] 21 U.S.C. 1705(c) (2005).

measurement system that will allow Congress and the public to evaluate the progress made by the Federal Government against drug trafficking and abuse.

G. DEPARTMENT OF STATE

The Department of State receives significant Federal funding in relation to its various drug interdiction, supply reduction and alternative development programs.

1. Bureau for International Narcotics and Law Enforcement Affairs (INL)

	FY 2005[491] Requested	FY 2005[492] Final	FY 2006[493] Requested	FY 2006[494] Enacted	FY 2007[495] Request
Andean Counterdrug Initiative (ACI) Budget*	$731	$725.2	$734.5	$727.2	$721.5
International Narcotics and Law Enforcement (INCLE) Budget*	$190.6	$178	$341.2	$301	$445.2
Supplemental Account*	-	$260	-	-	-
Total INL Budget*	$1,089.8	$2,833	$1,218.4	$1,199.6	$1,166.7
Drug Resources Percentage	84.6%	41.1%	88.3%	85.7%	76.9%

* in millions.

Contact Information: Andean Counterdrug Initiative: 202–647–8464, Afghanistan: 202–647–6642 (Office of Civilian Police and Asia, Africa and Europe Programs) or 202–647–5175 (Afghanistan Country Desk) http://www.state.gov/p/inl/.

The President's FY 2007 budget requests $721.5 million for the Andean Counterdrug Initiative (ACI). This is a $5.7 million decrease from the FY 2006 enacted amount of $727.2 million. While the committee supports the FY 2007 budget request, we are concerned with the decline in the proposed levels of financial support for the Andean Counterdrug Initiative and the dire situation in Afghanistan. It is encouraging to see that the President's FY 2007 budget includes $297.4 million for counterdrug support in Afghanistan.[496] It is vital that the U.S. work with its allies to continue to stamp out drug production at the source and build and maintain momentum for these critical programs.

During a committee-initiated briefing with INL held in November 2005, it was suggested by INL staff that their counter-narcotics mission may be better supported and achieved if their budget resources were divided between counter-narcotics missions and law enforcement support missions, instead of by country program. The INL budget is currently divided into an ACI account and an International Narcotics Control and Law Enforcement (INCLE) account, which seems to inhibit the discretion of INL to designate resources

[491] The White House, National Drug Control Strategy, FY 2005 Budget Summary (Mar. 2004) at http://www.whitehousedrugpolicy.gov/publications/policy/budgetsum04/agency_budget.pdf (last visited Feb. 24, 2006).

[492] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/dept_state.pdf (last visited Feb. 24, 2006).

[493] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/06budget.pdf (last visited Feb. 24, 2006).

[494] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/dept_state.pdf (last visited Feb. 24, 2006).

[495] Id.

[496] Id.

to purely counterdrug missions. This type of division may provide INL with more flexibility to move money to the programs or countries that are in need of additional counterdrug resources at a specific time. Although no proposals have been made to affect this change, the committee supports research into this possible new budget structure, on the condition that INL provide strong justification for this change.

Programs operated by INL support two of the State Department's strategic goals, which are "to reduce the entry of illegal drugs into the United States" and "to minimize the impact of international crime on the United States and its citizens."[497]

While counter-terrorism operations receive the highest priority in many of the regions of the world in which INL functions, according to documents received from INL, 85.75 percent of their FY 2006 budget has been designated for counterdrug missions.[498] Illegal drug production and trade has long been believed to finance terrorist activities, so the committee commends INL for prioritizing counterdrug missions.

2. Andean Counterdrug Initiative

The State Department's INL Bureau and its Andean Counterdrug Initiative (ACI) have both received "adequate" ratings in the administration's CY 2005 Performance Assessment Rating Tool (PART) process.[499] The committee supports the programs' efforts to develop long-term performance and efficiency measures.

The committee supports the administration's request for $721.5 million for the ACI but is disappointed that it represents a $5.7 million decrease from $727.2 million appropriated for FY 2006. The ACI budget provides support to Colombia, Peru, Bolivia, Ecuador, Brazil, Venezuela and Panama.[500] These funds are needed to continue programs in law enforcement, border control, crop reduction, alternative economic development, democratic institution building, and administration of justice and human rights programs in the region. It is critical to maintain the priority of funding drug control programs in Colombia, since 90 percent of the cocaine that enters the United States either originates in, or transits through, Colombia.[501]

The committee is also concerned about funding for the Air Bridge Denial program, which provides assets to conduct surveillance and drug interdiction in Colombia. The Air Bridge Denial program was once a separate line item with separate funding and requests, in order to facilitate congressional oversight, but is now funded

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[497] For more information, see the Bureau for International Narcotics and Law Enforcement Affairs home page at http://www.state.gov/p/inl/ (last visited Feb. 24, 2006).

[498] Letter from William Todd, Principal Deputy Assistant Secretary for Civilian Police and Asia, Africa and Europe Programs, Bureau of International Narcotics and Law Enforcement Affairs, U.S. Department of State, to Mark Souder, chairman of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform (Jan. 9, 2006) (on file with the Subcommittee on Criminal Justice, Drug Policy, and Human Resources).

[499] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/06budget.pdf. At http://www.state.gov/documents/organization/59169.pdf (last visited Feb. 24, 2006).

[500] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/dept_state.pdf (last visited Feb. 24, 2006).

[501] Connie Veillette, *Andean Counterdrug Initiative (ACI) and Related Funding Programs: FY2006 Assistance, CRS Report No. RL 33253* (Congressional Research Service) (Jan. 27, 2006) at http://www.congress.gov/erp/rl/pdf/RL33253.pdf (last visited Feb. 24, 2006).

through the ACI.[502] The administration has proposed $465 million for Colombia under ACI, with approximately $13 million designated for the Air Bridge Denial program. This is a slight decrease from the $14 million appropriated in FY 2006.[503] Moreover, the request is significantly lower than the State Department FY 2006 request for $21 million.[504] As stated in the National Drug Control Strategy, the Air Bridge Denial program contributes to Colombia's success.[505] The committee agrees with this assessment, and recommends the administration provide greater support for the program.

It is crucial that the State Department be provided with appropriate air assets and equipment, which are essential to the counternarcotics and counter-terrorism missions in the Andean Region. In its FY 2007 budget, the administration has requested $65.7 million for the Critical Flight Safety Program (CFSP), which is intended to upgrade aged and ailing aircraft. While this seems like a noble objective, the committee is concerned that this sum of money has been designated solely for upgrading 35 year-old helicopters, with over 10,100 airframe hours, instead of purchasing new aircraft, which will serve their mission for a longer period of time.[506] For the amount of money designated to refurbish 35 year-old helicopters—with 6,000 more airframe hours than DOD customarily allows its helicopters to remain in service[507]—the administration may be able to purchase nearly 20 new Huey II helicopters.

Following seven years of counterdrug work, U.S. efforts in Colombia are increasingly bearing concrete results directly impacting the domestic supply in America. The price of cocaine and heroin originating from the Andean region has risen and the purity has decreased.[508] These successes are due in large part to interdiction missions carried out by the Marine Patrol Aircraft (MPA) and other air-based interdiction efforts. In order to capitalize on these gains, the committee agrees with International Relations Committee chairman, Henry Hyde, in urging the State Department to replenish and bolster MPA air assets for the Colombian Navy.[509]

In order to maintain the outstanding results to date under plan Colombia, both with coca and opium eradication it is essential that the 22 aircraft (fixed and rotor) lost by the Colombian National Police (CNP) since 2000 be promptly replaced. In addition, to ensure the safety and ongoing training of the CNP pilots and to foster Colombianization of the counternarcotics program, INL should upgrade the rotary simulator and purchase a fixed wing simulator

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[502] *Budget of the United States Government, Fiscal Year 2007: Appendix,* at http://www.whitehouse.gov/omb/budget/fy2007/appendix.html (last visited Feb. 24, 2006).

[503] See CONFERENCE REPORT TO ACCOMPANY H.R. 3057 (FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT OF 2006) H.R. CONF. REP. PUBLIC LAW 109–102, at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_bills&docid=f:h3057eh.txt.pdf (last visited Feb. 24, 2006).

[504] BUREAU FOR INTERNATIONAL NARCOTICS AND LAW ENFORCEMENT AFFAIRS, INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT, (Mar. 2005) at http://www.state.gov/p/inl/rls/nrcrpt/2005/vol1/html/42361.htm (last visited Feb. 24, 2006).

[505] The White House, National Drug Control Strategy, (Feb. 2006) at 20.

[506] DEPT. OF STATE, SECRETARY OF STATE, SUMMARY AND HIGHLIGHTS: INTERNATIONAL AFFAIRS, FUNCTION 150, FISCAL YEAR 2007, at http://www.state.gov/documents/organization/60297.pdf (last visited Feb. 24, 2006).

[507] Id.

[508] Id.

[509] Letter from Henry Hyde, chairman of the International Relations Committee, to Condoleezza Rice, Secretary of State (Feb. 14, 2006) (on file with the Subcommittee on Criminal Justice, Drug Policy, and Human Resources).

that will assist the CNP in the performance of nighttime operations.[510]

In addition, in order to produce successful efforts to stem the flow of illicit narcotics from the Andean Region, participating parties must be adequately supplied with surveillance assets. The committee is pleased with the progress being made to train more Bell 212 pilots and to equip these aircrafts with Night Vision Goggle (NVG) capabilities as a part of the plan to improve the technical capacity of the CNP. INL held an NVG training session in early January 2006 for 5 Bell 212 pilots. In addition, INL has recently placed an order for 42 upgrade kits for ANVIS–6 NVGs, totaling $284,000, as well as an order for 52 new ANVIS–9 goggles, totaling $454,000. These new NVGs and the upgrade kits will be delivered in May 2006.[511]

The committee believes the administration should take a more active role to ensure that the U.S. Government provides financial and technical support for Colombia's demobilization program. Under this program, former members of narco-terrorist organizations (such as the FARC, ELN and AUC) agree to lay down their weapons, stop drug trafficking, provide valuable intelligence to Colombia's security agencies, and seek employment in the civilian economy. Recently, a legal dispute between the U.S. Department of State and the U.S. Department of Justice has delayed American support for Colombia's demobilization program and has squandered important opportunities. The administration should actively seek to resolve those differences immediately to prevent any further disruption in U.S. support for this vital program.

Finally, the committee commends the work of INL to stem the international flow of illicit drugs across our American borders and into our neighborhoods. However, the lack of significant coordination between agencies to achieve this goal is a vital concern. The committee is disappointed that the U.S. Department of State and the U.S. Department of Defense cannot agree on where to station crucial air assets, and that they cannot reach an agreement on a counter-narcotics mission. The committee is gravely concerned by the lack of coordination among USG agencies to achieve a comprehensive, counter-narcotics strategy and recommends that ONDCP take a prominent leadership role in developing and coordinating a strategy.

Bolivia

ACI funding is given to seven countries located in the Andean Region. While the focus of the initiative has historically and logically been Colombia, Bolivia has lately become a particularly volatile country.

On December 18, 2005, Evo Morales, former leader of the Coca Grower's Union, was elected president by an overwhelming majority. Morales, an indigenous cocalero, ran on a platform of nationalism. He vowed to alleviate poverty and discrimination towards indigenous persons. During his campaign, Morales promised to re-examine the current coca eradication programs.[512]

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[510] Id.

[511] Id.

[512] DEPT. OF STATE, POST REPORTS, (Jan. 25, 2006), at http://foia.state.gov/phonebook/postrpt/pr_view_all.asp?CntryID=18 (last visited Feb. 24, 2006).

President Morales claims that he wants to increase the production of coca for use in medicines, toothpaste and soft drinks. Eradication efforts are hampered to some extent because the cultivation and sale of small amounts of coca is legal in Bolivia. The United States contends that additional production of the plant—the main ingredient used to make cocaine—eventually ends up on illegal drug markets. To further complicate matters, the coca plant is prized by Bolivian indigenous farmers for traditional medicinal uses and herbal teas.[513]

Although he has been in office less than one month, Morales has made numerous cabinet selections believed to be based more on loyalty to his administration rather than qualifications or credentials for the position. Most notable was his selection of Felipe Caceres, a former coca grower, as Bolivia's new drug czar. In an interview with BBC concerning his appointment, Mr. Caceres said he was convinced he would help lead a successful fight within President Morales' government to end drug-trafficking in Bolivia, proclaimed, "What we say is no to drugs, but yes to the coca leaf," adding he would not stop production on his own plantation.[514]

Prior to taking office, Morales himself was a coca farmer who often protested against U.S.-backed eradication efforts. Since being elected President, Morales has repeatedly said he is seeking a drug-fighting program whose emphasis would be, "No to zero coca, but yes to zero cocaine."[515]

While it is too soon to predict Morales' stance on counter-narcotics and drug eradication, he has agreed that it, along with U.S. assistance, is important. During campaign speeches, Morales indicated his loyalty to coca farmers by taking the position of "long live coca, death to gringos." However, he has altered his slogan somewhat since his election to "long live coca, death to cocaine."[516] Since taking office, no eradication has occurred, although drug interdiction seems to be improving.[517]

Afghanistan

The administration is requesting $297.4 million for the State Department's International Narcotics and Law Enforcement (INL) programs in Afghanistan.[518] According to the ONDCP Budget Summary of the FY 2007 National Drug Control Budget, "Funds will be used to expand the opium poppy elimination program from 12 to 14 provinces, providing coverage for 90 percent of the territory where the poppy crop is grown."[519] While this funding will be used to accelerate the development of police programs and to reduce opium poppy cultivation by providing a drug control capacity, the committee is concerned that an insufficient level of cooperation is taking place in Afghanistan among State, DEA, USAID and

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[513] *Coca grower in Bolivia drug post,* BBC NEWS, (Jan. 28, 2006) at http://www.chron.com/disp/story.mpl/bizarre/3619594.html (last visited Feb. 24, 2006).

[514] *Coca grower in Bolivia drug post,* BBC NEWS, (Jan. 28, 2006) at http://news.bbc.co.uk/2/hi/americas/4658880.stm (last visited Feb. 24, 2006).

[515] *Coca grower appointed drug czar in Bolivia,* REUTERS NEWS SERVICE, (Jan. 28, 2006) at http://www.chron.com/disp/story.mpl/bizarre/3619594.html (last visited Feb. 24, 2006).

[516] State Department Briefing to House Committee on International Relations, (Feb. 10, 2006).

[517] Id.

[518] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/dept_state.pdf (last visited Feb. 24, 2006).

[519] Id.

CENTCOM elements to assure that the issue is properly addressed.

The committee is pleased that the President's FY 2007 budget requests funding up front for State Department counter-narcotics programs in Afghanistan, rather than seeking to fund it through supplemental requests. Although, there is much more work to be done. The U.S. agencies need to coordinate and depend on many other countries' assistance for military support and assistance, however, counterdrug operations are carried out mostly by Afghan forces. The German mission statement, for example, states, "The responsibility for drug law enforcement is with the Afghan government, it is not part of the mission of the German forces in Afghanistan. It is a central task for the German reconstruction teams to create an atmosphere of security in which Afghan drug law enforcement forces can be trained and in which these forces can be supported realizing their long term drug fighting strategy by the International Community."[520]

Despite multinational efforts to reduce poppy cultivation and drug trafficking in Afghanistan, in 2005 it continued to supply 87 percent of the world's illicit opium.[521] In addition, the export of Afghan opium in 2005, which totaled $2.7 billion, was equivalent to 52 percent of the nation's GDP. Of this sum, 80 percent ends up in the pockets of drug trafficking networks, while the rest is distributed among the nation's two million poppy farmers.[522]

While the number of hectares of opium poppy decreased slightly in FY 2005 to 104,000 hectares from 131,000 hectares in FY 2004, the average opium yield increased from 32 kg/ha in FY 2004 to 39 kg/ha in FY 2005, which represented a nearly 22 percent increase in yield.[523] According to the UN report, the Southern Region, including the Helmand province, displayed a 136.3 percent increase in opium poppy production from 27.8 kg/ha in 2004 to 37.9 kg/ha 2005.

Afghan President Hamid Karzai has made a ". . . clear commitment to stemming drug production and trade in Afghanistan and has set the goal of a 20 percent reduction in opium cultivation in 2006."[524] In order to assist Afghanistan in its effort to eliminate its illicit drug economy, strong narcotics laws and law enforcement must be present. The committee is pleased that the President's FY 2007 budget reflects and prioritizes the strategic role of the State Department in assisting the Government of Afghanistan in the development of its legal system and the rule of law. Both the Afghan Counter-narcotics Tribunal (CNT) and the Counter-narcotics Justice Center (CNJC), which have nationwide jurisdiction over pros-

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[520] Deutscher Bundestag, Drucksache 15/ 5996 Antrag der Bundesregierung, Fortsetzung der Beteiligung bewaffneter deutscher reitkraefte an dem Einsatz einer Internationalen Sicherheitsunterstuetzungstruppe in Afghanistan unter Fuehrung der NATO auf Grundlage der Resolutionen 1386 (2001) vom 20. Dezember des Sicherheitsrates der Vereinten Nationen.

[521] CHRISTOPHER BLANCHARD, AFGHANISTAN: NARCOTICS AND U.S. POLICY, CRS REPORT RL 32686 (Congressional Research Service) (Jan. 25, 2006), at http://www.congress.gov/erp/rl/pdf/RL32686.pdf (last visited Feb. 24, 2006).

[522] Press Release, Dept. of State, Office of the Spokesman, *Fact Sheet: Counter-Narcotics* (Jan. 31, 2006) (on file with the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform).

[523] *Summary Findings of Opium Trends in Afghanistan, 2005* (United Nations Office on Drugs and Crime), (Sept. 12, 2005) at http://www.unodc.org/pdf/afghanistan_2005/annex_opium-afghanistan–2005–09–09.pdf (last visited Feb. 24, 2006).

[524] DEPARTMENT OF STATE, BUREAU FOR INTERNATIONAL NARCOTICS AND LAW ENFORCEMENT AFFAIRS, INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT, (Mar. 2006) vol. I, at 208.

ecution of mid-level and high-level drug trafficking crimes, are now fully operational.[525]

While this progress is promising, much work still remains to solidify the criminal justice system in Afghanistan and to disarm drug trafficking organizations.[526] A recent New York Times article criticized the multinational poppy eradication, alternative development and law enforcement efforts in Afghanistan, noting that farmers have continued growing opium poppy against the directive of the head of the Afghan anti-narcotics department in the Helmand province, and in spite of personal pleas from President Hamid Karzai.[527] According to Fazel Ahmad Sherzad, the head of the Afghan anti-narcotics department in the Helmand province, "Last year 40 percent of land was used for poppy cultivation . . . This year it is up to 80 percent in places." According to Mr. Sherzad, many believe that eradication efforts last year were "a joke" as cultivation in Kandahar and Farah increased. Eradication missions even led to conflict between farmers and Afghan eradication teams trained by USAID alternative development contractor, DynCorp.[528]

In a country that is so vital to the security of the United States and its allies, opium growth and in turn narcotic production and smuggling, which are widely known to support terrorism, must be eliminated.[529] The Taliban is currently conducting a PR campaign to raise drug money to carry out their terrorist activities by circulating flyers demanding farmers to continue growing poppy. According to the new governor in Helmand, the Taliban have forged an alliance with drug smugglers, providing protection for drug convoys and mounting attacks to keep the government away and the poppy flourishing.[530]

The committee strongly encourages the Department of State and other Federal agencies to coordinate their efforts with each other, as well as with their multinational partners and the Afghan government. The committee advises the Department of State to work closely with the Department of Defense in a joint effort to root out the production and trade of illicit narcotics, which finance the Taliban and potentially other terrorist groups.[531] Strong government and law enforcement presence is needed in these poppy growing provinces to enforce existing laws, and to protect those who are carrying out the eradication and alternative development efforts.

It is crucial that every agency responsible for carrying out the international counter-drug strategy remain open and mindful to

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[525] Press Release, Dept. of State, Office of the Spokesman, *Fact Sheet: Strengthening the Rule of Law* (Jan. 31, 2006) (on file with the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform).

[526] See *Afghanistan—Law Enforcement Interdiction Efforts in Transshipment Countries to Stem the Flow of Heroin: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Feb. 26, 2004) at http://frwebgate.access.gpo.gov/cgi-bin/ getdoc.cgi?dbname=108_house_hearings&docid=f:96524.pdf (last visited Feb. 24, 2006).

[527] Carlotta Gall, *Another Year of Drug War, and the Poppy Crop Flourishes,* THE NEW YORK TIMES, (Feb. 17, 2006) at http://www.nytimes.com/2006/02/17/international/asia/ 17poppy.html?_r=1&oref=slogin (last visited Feb. 24, 2006).

[528] Id.

[529] See *U.S. Counternarcotics Policy in Afghanistan: Time for Leadership: Hearing before the House Committee on International Relations,* 109th Cong., (Mar. 17, 2005) at http:// wwwc.house.gov/international_relations/109/20058.pdf (last visited Feb. 24, 2006).

[530] Id.

[531] See *Afghanistan: Are the British Counternarcotics Efforts Going Wobbly? Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Apr. 1, 2004) at http://purl.access.gpo.gov/GPO/LPS57423 (last visited Feb. 24, 2006).

structural changes that may enhance their efficiency in achieving this strategy. During a committee-initiated briefing with INL held in November 2005, INL staff suggested that counterdrug goals and priorities in Afghanistan may be more effectively achieved if the USAID Alternative Livelihoods alternative development program were to be moved under the supervision of, and funded through, INL. This move would ensure that the USAID Alternative Livelihoods program supports the counter-narcotics strategy of INL. The committee supports this effort.

Methamphetamine

According to the INL FY 2006 Budget Justification, in addition to its traditional mission to stem the flow of cocaine and heroin from Andean countries, "INL is also targeting . . . Mexico, which is . . . a source country for heroin, marijuana as well as methamphetamines. Finally, INL is also giving increased attention the entry of synthetic drugs via the Western Hemisphere into the United States."[532]

In FY 2007, Mexico will receive $39 million in INL funding, which will be used for three major programs to combat narcotics trafficking, including efforts to stem the flow of methamphetamine to America. These programs include Homeland/Border Security, Counternarcotics and Institutional Development.[533] According to a State Department publication, "attacking methamphetamine production facilities will be a top enforcement priority."[534] The committee supports this decision and is pleased that a substantial portion of the $39 million will be used to protect America against the threat of methamphetamine production and trafficking.

According to correspondence received from INL by the committee, INL funds and supports a variety of precursor chemical diversion programs in key nations. Recent multilateral success in regulating the importation of precursors from Canada has shifted the flow of precursors from the Northern Border to the Southern Border. Mexico has become a major source of meth and its precursors, which are frequently smuggled into America across our common border.[535] In order to address this new challenge, INL is collaborating with the Mexican government to establish training programs, prosecution teams, and specialized teams to dismantle methamphetamine labs. INL also contributes financial support to the International Narcotics Control Board's Databank for Precursor Control, which assists governments in their effort to prevent the diversion of precursor chemicals.[536]

The committee commends the efforts of INL to assist law enforcement institutions in other countries in stemming the international flow of illicit narcotics. However, we encourage INL not to neglect the movement of precursor chemicals (those chemicals needed in

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[532] DEPT. OF STATE, BUREAU OF INTERNATIONAL NARCOTICS AND LAW ENFORCEMENT AFFAIRS, FISCAL YEAR 2006 BUDGET, CONGRESSIONAL JUSTIFICATION, at http://www.state.gov/documents/organization/54134.pdf (last visited Feb. 24, 2006).

[533] DEPT. OF STATE, SUMMARY AND HIGHLIGHTS: INTERNATIONAL AFFAIRS, FUNCTION 150, FISCAL YEAR 2007.

[534] Id.

[535] Letter from William Todd, Principal Deputy Assistant Secretary for Civilian Police and Asia, Africa and Europe Programs, Bureau of International Narcotics and Law Enforcement Affairs, U.S. Department of State, to Mark Souder, chairman of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform (Jan. 9, 2006) (on file with the subcommittee).

[536] Id.

the production process) in the effort to reduce meth, heroin and cocaine production. Meth use and demand are increasing in the U.S. and elsewhere. Therefore, INL must continue to fund meth precursor interdiction, as well as law enforcement training programs, at appropriate levels.

We must address the meth epidemic using a comprehensive approach of State laws restricting pseudoephedrine and production controls on the few factories that produce pseudoephedrine internationally.[537] The committee encourages the State Department to work toward a protocol for global tracking of pseudoephedrine shipments.

Finally, the committee expects the State Department to be aggressive in its implementation of the methamphetamine certification statute in the Combat Methamphetamine Epidemic Act of 2005.[538]

H. UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

The President's FY 2007 budget requests $337.8 million for the United States Agency for International Development (USAID) to supplement counter-narcotics missions in Afghanistan and the Andean Region. This represents a $31.6 million decrease from the FY 2006 enacted amount of $369.4. While the committee supports the FY 2007 budget request for USAID, we have numerous areas of concern, particularly with respect to deficiencies in the administration of taxpayer money.[539]

USAID	FY 2005 Requested	FY 2005 Final	FY 2006 Requested [540]	FY 2006 Enacted [541]	FY 2007 Request
ACI—Alternative Development*	$229.3 [542]	$235.1	$216.3	$228.8	$228.8 [543]
Afghanistan Alternative Livelihoods*	$95.7 [544]	$175	$146	$140.6	$109
Total USAID counterdrug moneys*	$325	$362.3	$410.1	$369.4	$337.8

* in millions.

Contact Information: U.S. Agency for International Development: 202–712–4810, http://www.usaid.gov/.

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[537] *Meth still pouring through loopholes: Congress must adopt global controls to put meth ingredients out of the long reach of the Mexican drug cartels,* THE OREGONIAN, Jan. 24, 2006, at http://www.oregonlive.com/search/index.ssf?/base/editorial/1138065917166080.xml?oregonian?ede&coll=7#continue (last visited Feb. 24, 2006).

[538] The U.S.A. Patriot Act, Title II—The Combat Methamphetamine Epidemic Act of 2005, S. 2118, 108th Cong., at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_bills&docid=f:s2118is.txt.pdf (last visited Feb. 24, 2006).

[539] Letter from Mark Souder, chairman of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform, to Randall Tobias, U.S. Global AIDS Coordinator, U.S. Department of State, (Feb. 6, 2006) at http://reform.house.gov/UploadedFiles/02.06.06%20State%20Tobias%20USAID%20prostitution%20lies.pdf.

[540] U.S. AGENCY FOR INT'L DEV., CONGRESSIONAL BUDGET JUSTIFICATION, FY 2006, at http://www.usaid.gov/policy/budget/cbj2006/summary.html (last visited Feb. 24, 2006).

[541] MAKING APPROPRIATIONS FOR FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT OF 2006, PUBLIC LAW 109–102 TO ACCOMPANY H.R. 3057, H.R. CONF. REPT. NO. 109–265. At http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_reports&docid=f:hr265.109.pdf (last visited Feb. 24, 2006).

[542] U.S. AGENCY FOR INT'L DEV., CONGRESSIONAL BUDGET JUSTIFICATION, FY 2005, at http://www.usaid.gov/policy/budget/cbj2005/summary.html (last visited Feb. 24, 2006).

[543] BUDGET OF THE UNITED STATES GOVERNMENT, FISCAL YEAR 2007: APPENDIX, at http://www.whitehouse.gov/omb/budget/fy2007/appendix.html (last visited Feb. 24, 2006).

[544] U.S. AGENCY FOR INT'L DEV., AFGHANISTAN BUDGET SUMMARY, at http://www.usaid.gov/policy/budget/cbj2006/ane/af.html.

1. Andean Counterdrug Initiative and Alternative Development

The committee supports the administration's FY 2007 request for $721.5 million for the Andean Counterdrug Initiative but is disappointed that it represents a $13 million decrease from $734.5 million appropriated for FY 2006.[545] Of this FY 2007 ACI request, nearly $207 million will be allocated to USAID in order to carry out alternative development and institution-building programs.[546] This money will fund projects needed to continue the enforcement, border control, crop reduction, alternative economic development, democratic institution building, and administration of justice and human rights programs in the region.

While the committee applauds the work of USAID in the Andean Region, it is concerned with the decrease in FY 2007 funding for its alternative development program within the Andean Counterdrug Initiative.

USAID has the responsibility to take effective action to eliminate illicit coca production and to establish licit, sustainable farm-level production capacity and economic stability in countries throughout the Andean Region. USAID uses ACI funds for programs in four Andean countries—Colombia, Bolivia, Peru and Ecuador.[547] These programs include expanding a licit agricultural economy, assisting displaced groups, strengthening democratic institutions, promoting the rule of law, human rights, and judicial reform. This work is crucial to our nation's drug control strategy and must be funded at appropriate levels.[548]

The committee believes that the USAID counter-narcotics mission should coordinate more effectively with the State Department's Bureau of International Narcotics and Law Enforcement Affairs (INL), and because of their expertise, INL must take a more active lead in the apportioning of designated dollars. USAID acknowledges how important its efforts are in the ACI supply reduction and alternative development efforts, and therefore, moneys spent must be included in the national drug budget.

The ACI budget provides support to Colombia, Peru, Bolivia, Ecuador, Brazil, Venezuela and Panama. The subcommittee is concerned that the 13 percent reduction between 2003 and the administration's 2005 request for the initiative (from $841 million to $731 million) stifles the hard-earned successes that have recently become evident.

2. Afghanistan and Alternative Development

While the USAID alternative development programs in Colombia can be called a qualified success, the committee is cautious about making the same pronouncement of USAID's efforts in Afghanistan. Although USAID's Alternative Livelihoods Program (AL) is

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[545] The Conference Report on H.R. 3057, Foreign Operations, Export Financing, and Related Programs Appropriations Act of 2006 (Public Law 109–102), provides $734.5 million for the Andean Counterdrug Initiative, of which $228.8 million was directed for alternative development and institution building programs, to be carried out by USAID. Of this amount, $131.2 million was allocated for Colombia; $37 million for Bolivia; $11.54 million for Ecuador; and $49 million for Peru.

[546] Press Release, U.S. Agency for Int'l Dev., *USAID Fiscal Year 2007 Budget Request* (Feb. 8, 2006) at http://www.usaid.gov/press/factsheets/2006/fs060208.html (last visited Feb. 24, 2006).

[547] DEPT. OF STATE, SUMMARY AND HIGHLIGHTS: INTERNATIONAL AFFAIRS, FUNCTION 150, FISCAL YEAR 2007.

[548] U.S. AGENCY FOR INT'L DEV., BUDGET JUSTIFICATION TO THE CONGRESS FY 2006, at http://www.usaid.gov/policy/budget/cbj2006/summary.html (last visited Feb. 24, 2006).

part of the strategy of "The 1384 (2005) Counter Narcotics Implementation Plan—to tackle the cultivation, production and trafficking of drugs in Afghanistan," this program has failed to curtail Afghan opium poppy production, which has greatly increased since the inception of AL in 2004.[549] The AL Program was initially funded at $5 million in FY 2004 but was financed at $175 million in FY 2005. In FY 2006, USAID will only receive $146 million for the AL Program, which is a $29 million decrease from FY 2005. The committee is concerned with the declining trend in the families of the AL program. USAID received $146 million for the AL Program in FY 2006 and has requested only $109 million for FY 2007.

The committee encourages USAID to be clear and consistent in its presentation of the condition of poppy cultivation, yield and opium production in Afghanistan. When the term "cultivation" is used, it refers to the number of hectares that have been planted and the amount of land area used for planting. The Federal agencies involved in opium poppy eradication frequently use this measurement to determine the number of hectares of poppy grown and the number of acres devoted to poppy cultivation. The recent decrease in cultivation is indeed a significant stride in the right direction. However, it does not portray the complete picture. One must also look at the poppy yield to determine the success of eradication programs.

The term "yield" refers to the quality of the actual harvest (or crop) of poppy in terms of its potential to produce illicit opium. While it is important to determine whether poppy cultivation is up or down, it is even more important to ensure that the opium poppy yield decreases. A decrease or increase in yield is often dependent on factors such as growing conditions and weather, which are out of the control of those involved in eradication. Yield may also be a result of better quality fertilizer and other farming techniques. And finally, "production" refers to the actual production of illicit opium from the good quality poppy crop.

Under the watch of USAID and other U.S. Government agents, Afghan opium poppy cultivation dramatically increased, from 80,000 hectares in 2003, to 131,000 hectares in 2004.[550] Similarly, the production of opium increased from 3,600 metric tons (mt) in 2003 to 4,200 mt in 2004.[551] On the other hand, while opium cultivation and production increased, the average opium yield decreased from 45 kg/ha in 2003 to 32 kg/ha in 2004.[552]

As discussed previously, while cultivation of opium poppy decreased slightly in FY 2005 to 104,000, the average opium yield increased from 32 kg/ha in FY 2004 to 39 kg/ha in FY 2005.[553] According to the UN report, the Southern Region, including the Helmand province, displayed a 136.3 percent increase in opium

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[549] *The 1384 (2005) Counter Narcotics Implementation Plan of the Islamic Republic of Afghanistan,* at http://www.mcn.gov.af/imp_plan.htm (last visited Feb. 24, 2006).

[550] UNITED NATIONS OFFICE ON DRUGS AND CRIME, AFGHANISTAN OPIUM SURVEY, 2004, (Nov. 2004) at http://www.unodc.org/pdf/afg/afghanistan_opium_survey_2004.pdf (last visited Feb. 24, 2006).

[551] Id.

[552] Id.

[553] UNITED NATIONS OFFICE ON DRUGS AND CRIME, SUMMARY FINDINGS OF OPIUM TRENDS IN AFGHANISTAN, 2005 (Sept. 12, 2005) at http://www.unodc.org/pdf/afghanistan_2005/annex_opium-afghanistan–2005–09–09.pdf.

poppy production from 27.8 kg/ha in 2004 to 37.9 kg/ha 2005. USAID focuses much of its AL program in Helmand.[554]

State Department's anticipated cultivation trends for 2006 are alarming for Afghanistan. Only three of the thirty-four provinces in the country are expected to see a decrease in poppy cultivation.[555] Another thirteen are expected to see increases in production, with seven of those seeing growth of greater than fifty percent over 2005.[556] Helmand Province alone is anticipated to produce 75,000 to 85,000 hectares of opium poppy which represents 51 percent of the world's anticipated opium poppy harvest.[557]

While the committee finds the initial efforts of AL praiseworthy, the committee urges quick action to address deficiencies. The committee is shocked and dismayed to learn that the greatest increases in opium poppy production have taken place in the areas where USAID administers its AL programs.

FACT SHEET—AFGHANISTAN [558]

	2004	Variation on 2004	2005
Net opium poppy cultivation	131,000 ha	−21%	104,000 ha
in percent of actual agricultural land	2.9%		2.3%
number of provinces affected	32 (all)		25
Average opium yield	32 kg/ha	22%	39 kg/ha
Production of opium	4200 mt	− 2.4%	4,100 mt
in percent of world illicit opium production	87%		87%
Number of households involved in opium cultivation	356,000	−13%	309,000
Number of persons involved in opium cultivation	2.3 million		2.0 million
in percent of total population (23 million)	10%		8.7%
Average farm-gate price of fresh opium at harvest time	US $92	+11%	US $102/kg
Average farm-gate price of dry opium at harvest time	US $142	−3%	US $138/kg
Afghanistan GDP	US $4.7 billion	+10.4	US $5.2 billion
Total export value of opium to neighboring countries	US $2.8 billion	−3.6%	US $2.7 billion
in percent of GDP	61%		52%
gross trafficking profits of Afghan traffickers	US $2.2 billion	−2.7%	US $2.14 billion
total farm-gate value of opium production:	US $600 million	6.6%	US $560-million
Household average yearly gross income from opium of opium growing families	US $1,700	+6%	US $1,800
Per capita gross income from opium of opium growing families	US $260		US $280
Afghanistan's GDP per capita	US $206		US $226
Indicative gross income from opium per ha	US $4,600	+17%	US $5,400

In correspondence with the committee, USAID cited both U.S. and United Nations estimates, which indicate a decrease in the total area under cultivation for poppy in Afghanistan from 2004 to 2005.[559] These estimates, which range from a decrease of 21 percent according to the UN, to 48 percent, according to the United States, are misleading because they do not account for the total increase in opium poppy yield. While the total area dedicated to poppy cultivation decreased in 2005, improved growing conditions

[554] Id.
[555] Subcommittee on Criminal Justice, Drug Policy, and Human Resources staff briefing with INL Principal Deputy Assistant Secretary on INL Afghanistan Operations, Mar. 8, 2006.
[556] Id.
[557] Id.
[558] Id.
[559] Letter from J. Edward Fox, Assistant Administrator, Bureau for Legislative and Public Affairs, to Mark Souder, chairman of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform (Jan. 12, 2006) (on file with the Subcommittee on Criminal Justice, Drug Policy, and Human Resources).

resulted in a higher yield than in 2004.[560] Consequently, the total production of opium decreased by a much smaller margin than the decrease in the total area under cultivation.[561] A better representation of the level of poppy production in Afghanistan would show only a 2.4 percent decrease from 2004 to 2005, and a 22 percent increase in opium yield.[562] The committee suggests that USAID use the measurement of opium yield (in kilograms), rather than total area under cultivation, in order to properly measure progress in Afghanistan.

Interviews of USAID officials by committee staff confirmed numerous deficiencies in the management of the AL program. Specifically, the committee is troubled by what it learned about AL systems for delivering crop fertilizer and monitoring its use. No standard or system had been established to certify the use of fertilizer for its intended application to alternative crops. The USAID officials interviewed on January 18, 2006, were unable to cite any steps taken in AL to ensure that fertilizer is not being diverted to cultivate on the opium poppy crops it was intended to help eradicate.[563] However, USAID representatives recently confirmed that for the most recent Seed and Fertilizer distribution, USAID contractors and the Government Accountability Office (GAO) officials met with farmers and village elders in advance of the distribution to ensure that recipients used the fertilizer for licit means. From these meetings, a written agreement was signed with local officials that committed the recipients to not grow poppy; and the GAO is responsible for monitoring compliance.

Similarly, in order to properly monitor the AL Program, the Committee urges USAID to perform vigilant oversight of both: the Afghanistan AL contractors Development Alternatives Inc., Chemonics, and PADCO; as well as those used as a part of ACI. USAID must be able to show that grants and contracts are awarded through a competitive process. Appropriate requirements for grantees or contractors must also be instituted in order to work with USAID.

Finally, the committee believes that if a country is on the "majors list" (i.e. a major drug producer), then funding for USAID programs should be co-managed with INL, thereby facilitating more coordination to improve and accomplish the counter-narcotics strategy.

In a Foreign Press Center Briefing in New York City on September 15, 2005, Nancy J. Powell, Assistant Secretary of State for International Narcotics and Law Enforcement Affairs, noted the 20 countries listed on the President's 2005 majors list. These countries are: Afghanistan, the Bahamas, Bolivia, Brazil, Burma, Colombia, Dominican Republic, Ecuador, Guatemala, Haiti, India, Jamaica,

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[560] See *Afghanistan: Are the British Counternarcotics Efforts Going Wobbly? Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (Apr. 1, 2004) at http://purl.access.gpo.gov/GPO/LPS57423, (last visited Feb. 24, 2006).

[561] Press Release, U.S. Department of State, Office of the Spokesman, *Fact Sheet: Counter-Narcotics* (Jan. 31, 2006) (on file with the Subcommittee on Criminal Justice, Drug Policy, and Human Resources).

[562] UNITED NATIONS OFFICE ON DRUGS AND CRIME, SUMMARY FINDINGS OF OPIUM TRENDS IN AFGHANISTAN, 2005, (Sept. 12, 2005) at http://www.unodc.org/pdf/afghanistan_2005/annex_opium-afghanistan–2005–09–09.pdf (last visited Feb. 24, 2006).

[563] The staff of the Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources, received a briefing from USAID on Jan. 18, 2006, in which the lack of sufficient monitoring of fertilizer distribution was discussed.

Laos, Mexico, Nigeria, Pakistan, Panama, Paraguay, Peru and Venezuela. In order for a country to be among the world's largest drug producing/drug transit countries, it must be one in which:

> "(A) 1,000 hectares or more of illicit opium poppy is cultivated or harvested during a year; (B) 1,000 hectares or more of illicit coca is cultivated or harvested during a year; or (C) 5,000 hectares or more of illicit cannabis is cultivated or harvested during a year, unless the President determines that such illicit cannabis production does not significantly affect the United States. FAA § 481(e) (2)."[564]

Or

> "(A) That is a significant direct source of illicit narcotic or psychotropic drugs or other controlled substances significantly affecting the United States; or (B) Through which are transported such drugs or substances. FAA § 481(e) (5)."[565]

The USAID efforts in the Andean Region are currently funded through INL, whereas the USAID Alternative Livelihoods Program in Afghanistan is funded from a separate fund in the State Department budget. Funding for the AL Program comes from a combination of Economic Support Funds and Development Assistance funds.[566] The committee suggests that this funding discrepancy be investigated and that appropriate changes be made in the funding source of the USAID AL Program in Afghanistan. More specifically, the committee strongly recommends that the Afghan AL program be funded through INL as in Colombia.

3. Office of Management and Budget (OMB) PART Performance Evaluation of ACI

A recent OMB Program Assessment Rating Tool (PART) evaluation examined the USAID operations within the Andean Counterdrug Initiative over a three month period from June 30, 2005 through September 30, 2005.[567] While this was not a comprehensive PART review, it did illuminate some apparent flaws in the performance measures used to assess USAID programs. The terms used in the performance measurements are vague and must be defined so that performance measures accurately reflect success or failure. The committee believes that the performance measures used to assess USAID programs must be unambiguous so that the Agency can be properly held accountable for the taxpayer dollars they receive.

The FY 2006 OMB PART Program Assessment scored the Andean Counterdrug Initiative with an overall "adequate" rating.[568] In

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[564] See http://www.state.gov/p/inl/rls/nrcrpt/1999/916.htm (last visited Feb. 24, 2006).

[565] Id.

[566] Letter from J. Edward Fox, Assistant Administrator, Bureau for Legislative and Public Affairs, to Mark Souder, chairman of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform (Jan. 12, 2006) (on file with the Subcommittee on Criminal Justice, Drug Policy, and Human Resources).

[567] Letter from J. Edward Fox, Assistant Administrator, Bureau for Legislative and Public Affairs, to Mark Souder, chairman of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform (Jan. 12, 2006) (on file with the Subcommittee on Criminal Justice, Drug Policy, and Human Resources).

[568] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at 107. At http://www.whitehousedrugpolicy.gov/publications/policy/06budget/06budget.pdf (last visited Feb. 24, 2006).

the PART evaluation of ACI, it is clear that USAID is a crucial actor not only in capacity-building programs in the Andean Region but also in providing assistance directly to those institutions and communities so as to prevent the cultivation, processing and trafficking of illicit drugs. This further supports the inclusion of USAID programs within the ACI in the ONDCP National Drug Budget.

While USAID received good marks for its yearly and long-term output measures (i.e. measuring hectares of licit crops in USAID assisted areas), the PART evaluation notes a deficiency in USAID outcome measurements. It should be noted, therefore, that although USAID has a long-term output measure for its alternative development programs in the Andean region, the agency "has not yet developed long-term outcome measures for the alternative development component of the program." [569]

The PART review also illustrated a lack of coordination and consultation at the Washington headquarters level between USAID and INL, specifically concerning whether the USAID alternative development goals sufficiently complement INL's goals of eradication. In addition, USAID and INL must effectively collaborate with ONDCP when setting annual and long-term goals. INL and USAID have, however, committed to closer coordination in the planning of their complementary program goals.

The committee strongly urges USAID to work with OMB and ONDCP to develop new and more detailed performance measurements to be used in the PART Program Assessment, as well as in ongoing outcome measurements. For example, in measuring the success of USAID Alternative Development Programs, it would be helpful to know how many villagers, either in the Andean Region or Afghanistan, have formally agreed not to grow illicit crops and not to divert seed and fertilizer for illicit purposes. Similarly, it would be useful to measure success by the number of acres that once grew illicit crops, but are now growing legal crops or have been used to build a business and create jobs.

The committee commends USAID for participating in so many counterdrug strategy Working Groups with other Federal agencies, as well as with host country governments. The Working Groups include weekly counter-narcotics core group meetings at the US Embassy in Kabul, Afghanistan, weekly Afghanistan Working Group meetings, the Afghanistan Interagency Operations Group (AIOG), in which ONDCP plays a leadership role, and the Committee for International Drug Control, which is periodically chaired by ONDCP.[570] We urge ONDCP to ensure that these Working Groups are truly collaborative in nature and that they serve to provide cooperation, partnership and deconfliction among the parties represented. If these Working Group meetings are merely a formality, then they are not serving to achieve goals to stem the flow of illicit narcotics into America.

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[569] Id, at 108.

[570] Letter from J. Edward Fox, Assistant Administrator, Bureau for Legislative and Public Affairs, to Mark Souder, chairman of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform (Jan. 12, 2006) (on file with the Subcommittee on Criminal Justice, Drug Policy, and Human Resources).

4. Harm Reduction

A recurring criticism is that the Washington, D.C. USAID office exercises very little oversight over its field offices, which are largely responsible to the embassies to which they are attached, but less so to USAID headquarters.

USAID field offices are known to finance the production of "Harm Reduction" materials and brochures in Central Asia and East Asia. However, these moneys are not accounted for by the USAID Washington, D.C. office, or in the ONDCP national drug budget. "Harm Reduction" is an ideological position identified with the views of drug legalization financier George Soros, which assumes certain individuals are incapable of making healthy decisions. Advocates of this position hold that dangerous behaviors, such as drug abuse, therefore simply must be accepted by society and those who choose such lifestyles—or become trapped in them—should be enabled to continue these behaviors in a "less harmful" manner. Often, however, these lifestyles are the result of addiction, mental illness or other conditions that should and can be treated rather than accepted as normative, healthy behaviors.

In its annual report released March 2, 2004, the International Narcotics Control Board—the United Nations' drug agency—sharply criticized "harm reduction" measures such as needle exchange programs and so-called "safe injecting rooms," because such policies encourage drug use and violate "article 4 of the 1961 Convention [which] obliges State parties to ensure that the production, manufacture, import, export, distribution of, trade in, use and possession of drugs is to be limited exclusively to medical and scientific purposes. Therefore, from a legal point of view, such facilities violate the international drug control conventions."[571]

The committee is deeply concerned that while the International Narcotics Control Board was warning parties to the Single Convention on Narcotic Drugs (1961), the Convention on Psychotropic Substances (1971), and the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988) that government financing of "harm reduction" schemes may be in violation of those accords, it appears that USAID was financing a "harm reduction" agenda of its own.[572]

On February 10 2005, the White House Office of National Drug Control Policy Director John Walters testified before the Subcommittee on Criminal Justice, Drug Policy, and Human Resources.[573] He was asked about USAID's involvement in two questionable "harm reduction" projects. The first project was the 14th International Conference on Reduction of Drug Related Harm held in Chiang Mai, Thailand from April 6–10, 2003.[574] The conference

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[571] DEPT. OF STATE, INTERNATIONAL NARCOTICS AND LAW ENFORCEMENT, DRUGS, THE LAW AND HUMAN RIGHTS, ANNUAL REPORT FOR 2003, at http://www.release.org.uk/news/International_Narcotics_Control_Board_040316.pdf#search='International%20Narcotics%20Board%202003%20annual%20report (last visited Feb. 24, 2006).

[572] For more information on these treaties, see the International Narcotics Control Board website at http://www.incb.org/incb/index.html (last visited Feb. 24, 2006).

[573] See *Fiscal Year 2006 Drug Budget: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (Feb. 10, 2005) (statement of John Walters, Director of the White House Office of National Drug Control Policy). At http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_house_hearings&docid=f:20878.pdf (last visited Feb. 24, 2006).

[574] For more information on the 14th International Conference on Reduction of Drug Related Harm held in Chiang Mai, Thailand from Apr. 6–10, 2003, see https://www.globalhealth.org/news/article/2194 (last visited Feb. 24, 2006).

was sponsored by the International Harm Reduction Association, the Asian Harm Reduction Network, and cosponsored by the Centre for Harm Reduction and USAID.[575]

The second project was the Asian Harm Reduction Network's 350-page, second-edition *Manual for Reducing Drug Related Harm in Asia* (which bears a USAID logo). USAID's role in the production of the manual is acknowledged inside the cover: "This publication was made possible through support provided by the Office of Strategic Planning, Operations, and Technical Support, Bureau for Asia and the Near East, U.S. Agency for International Development. . .[576] Included in the second chapter of the manual, "Rationale for Harm Reduction," are sections on "needle and syringe programs," "sales and purchasing of injecting equipment," and "removing barriers."[577] In the fifth chapter, "Injecting Safely," are sections devoted to "sharing of injecting equipment," and "safe injecting."[578]

ONDCP Director Walters responded that he was not aware of the "harm reduction" publication financed by USAID nor did he attend the USAID-cosponsored 14th International Conference on Reduction of Drug Related Harm.[579] He added, however, that he has been aggressive in rebuking international organizations which promote "harm reduction."[580] He pledged to look into this regrettable matter and report back to the Committee.[581] He has not yet done so.

While this matter is under investigation by the White House, the committee recommends that any drug-related programs of USAID be put under close oversight and management by the State Department's Bureau of International Narcotics and Law Enforcement. Ultimately, taxpayer subsidies of "Harm Reduction" efforts should be eliminated and all drug-related activity by USAID must be accounted for in the national drug budget, and, therefore, supervised by ONDCP.

In February 2005, the Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources requested that USAID provide comprehensive documentation of all financial interactions with the Soros Foundation, the Open Society Institute, and other organizations affiliated with George Soros or the "Harm Reduction" movement. In a letter received on January 12, 2006, from USAID, it is stated that, "USAID has not and does not support any 'harm reductions' strategies inconsistent with either U.S.

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[575] For more information on the Asian Harm Reduction Network, see http://ahrn.thaiis.us/index.php?option=content&task=view&id=2117&Itemid=2 (last visited Feb. 24, 2006).

[576] *Manual for Reducing Drug Related Harm in Asia,* Macfarlane Burnet Centre for Medical Research and Asian Harm Reduction Network, (the Centre for Harm Reduction), at http://www.chr.asn.au/freestyler/gui/files/Manual.pdf#search='manual%20for%20reducing%20drug%20related%20harm%20in%20asia' (last visited Feb. 24, 2006).

[577] Id.

[578] Id.

[579] For more information on the 14th International Conference on Reduction of Drug Related Harm held in Chiang Mai, Thailand from Apr. 6–10, 2003, see https://www.globalhealth.org/news/article/2194 (last visited Feb. 24, 2006).

[580] See *Fiscal Year 2006 Drug Budget: Hearing before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 109th Cong. (2005) (Statement of John Walters, Director of the White House Office of National Drug Control Policy), at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_house_hearings&docid=f:20878.pdf (last visited Feb. 24, 2006).

[581] Id.

law or policy."[582] To date, USAID has provided 11 CD-ROMs, with over 3000 documents detailing financial interactions with these groups. The committee is in the process of analyzing these documents and thanks USAID for its cooperation and disclosure.[583]

I. Department of Treasury

1. Internal Revenue Service

IRS Drug Control Funding (in millions)

IRS Drug Control Funding	FY 2005[584] Requested	FY 2005 Final	FY 2006[585] Requested	FY 2006[586] Enacted	FY 2007[587] Request
AGENCY TOTAL	$	$	$55.6	$55.0	$55.6

Contact Information: Department of Treasury Office of Public Affairs: 202–622–2960, http://www.irs.gov/compliance/enforcement.

The committee supports the President's request for Internal Revenue Service (IRS) drug control programs, which is estimated to include $55.6 million for drug control investigations. This would be an increase of less than $1 million over the $55 million enacted for fiscal year 2006. This funding would provide 329 FTE to support the Department of Justice's Organized Crime Drug Enforcement Task Force (OCDETF) program.

As stated in the 2006 National Drug Control Strategy, it is critically important that U.S. law enforcement focus its resources to attack the financial infrastructure of drug trafficking organizations.[588] This will cause a significant disruption to the supply of illegal drugs entering the U.S. and is a major focus both of the Department of Homeland Security, the Department of Justice (through the OCDETF program) and the Internal Revenue Service.

Money laundering—the process of disguising or concealing illicit funds to make them appear legitimate—is a serious crime, with an estimated $500 billion to $1 trillion laundered worldwide annually, according to the United Nations Office of Drug Control and Prevention.[589] Money laundering provides the fuel for terrorists, drug

[582] Letter from J. Edward Fox, Assistant Administrator, Bureau for Legislative and Public Affairs, to Mark Souder, chairman of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform (Jan. 12, 2006) (on file with the Subcommittee on Criminal Justice, Drug Policy, and Human Resources).

[583] USAID's cooperation and disclosure was markedly improved after a Nov. 16, 2005 meeting with committee staff inquiring why USAID should not receive a subpoena for document requests left unanswered for an unreasonable amount of time. For more material on this meeting, see, e.g., Letter from Mark Souder, chairman of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform, to Randall Tobias, U.S. Global AIDS Coordinator, U.S. Department of State, (Feb. 6, 2006) at http://reform.house.gov/UploadedFiles/02.06.06%20State%20Tobias%20USAID%20prostitution%20lies.pdf.

[584] FY 2006 was the first year that the IRS received a direct appropriation to support drug control programs. In previous years, the IRS would receive drug control funding through the Department of Justice's OCDETF program.

[585] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/index.html (last visited Feb. 24, 2006).

[586] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006)

[587] Id.

[588] The White House, National Drug Control Strategy, (Feb. 2006) at 32. At http://www.whitehousedrugpolicy.gov/publications/policy/ndcs06/ (last visited Feb. 24, 2006).

[589] See *Threat Convergence at the Border: How Can We Improve the Federal Effort To Dismantle Criminal Smuggling Organizations? Hearing Before the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform,* 108th Cong. (July 12, 2005) (testimony of Richard M. Stana, Director of Homeland Security and Justice Issues,

dealers, arms traffickers, and other criminals to operate and expand their activities, which can have devastating social and economic consequences.[590]

The committee recognizes that the IRS plays a unique role in illicit drug money investigations. The IRS has sole jurisdiction for criminal violations of the Internal Revenue Code (IRC), Title 26 of the United States Code.[591] According to the code, gross income is defined as ". . . all income from whatever source derived." This has been held by the courts to include income earned from illegal activities such as drug trafficking. The primary criminal statutes violated include evasion of income tax, false income tax returns, and failure to file tax returns, among others.

The IRS, as part of its core tax administration mission, addresses both the criminal and civil aspects of money laundering. The IRS Criminal Investigations Division (CID) is involved in several initiatives which identify, target, disrupt and dismantle drug traffickers. IRS-CI special agents "follow the money" within various inter-agency task forces and centers. Some of these initiatives include establishing 41 Suspicious Activity Review Teams (SAR–RT) to review and analyze suspicious activity data, and participation in both High Intensity Drug Trafficking Areas (HIDTA) and the Department of Justice's Organized Crime Drug Enforcement Task Force (OCDETF) initiatives.[592]

The committee fully supports the efforts of the IRS to support counterdrug financial investigations. Given the unique statutory authorities of the IRS, it is important that its investigators be closely integrated into all major drug and money seizures pursued by the Federal law enforcement agencies. The committee believes that investigators are the critical link in establishing connections between random drug seizures and trafficking networks.

Government Accountability Office), at http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=30454.

[590] Id.

[591] Additional IRS background information at http://www.irs.gov/taxpros/article/0,,id=98137,00.html (last visited Feb. 26, 2006).

[592] More information available at http://www.irs.gov/compliance/enforcement/article/0,,id=107488,00.html (last visited Feb. 23, 2006).

J. Department of Veterans Affairs

1. General

VA Drug Control Funding

DVA	FY 2005 Requested [593]	FY 2005 Final [594]	FY 2006 Requested [595]	FY 2006 Enacted [596]	FY 2007 Request [597]
AGENCY TOTAL*	$822.787	$396.13	$532.947	$412.648	$428.349

* in millions.

Contact Information: Office of Public Affairs: 202–273–6000, http://www.va.gov.

The Department of Veterans Affairs (VA) has served an essential role in preventing and treating the abuse of drugs by former military personnel. The committee generally supports the administration's fiscal year 2007 budget request for VA drug control. However, the committee has particular concerns, detailed below, addressing the VA portion of the administration's Drug Strategy and Budget.

2. Narrowing the Scope of the Provision of Treatment

The committee is deeply concerned with the administration's strategy with respect to the availability of drug treatment for military personnel now returning from active deployment. The current VA policy allows for only a two-year window in which all military personnel, including National Guard, returning from duty abroad qualify for VA drug treatment.

VA officials made clear that current scientific evidence indicates, based on studies dating back to Vietnam era personnel, that 70–80 percent of those returning from active duty will not begin to seek drug treatment until two years after returning from active deployment.[598] Consequently, the committee expresses deep concern that the VA is not making drug treatment sufficiently available to military personnel returning from active duty. The committee strongly suggests that the VA revise this policy to provide for a five-year window for drug treatment.

The committee also repeats last year's critique of the VA policy of restricting access to drug treatment services by excluding those veterans without dependents who have an income of more than $29,903 or do not have a service-related disability. Such an arbitrary delineation both restricts a veteran's access to care and provides no assurance that alternative care is available. This economic

[593] The White House, National Drug Control Strategy, FY 2005 Budget Summary (Mar. 2004) at http://www.whitehousedrugpolicy.gov/publications/policy/budgetsum04/index.html (last visited Feb. 24, 2006).

[594] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[595] The White House, National Drug Control Strategy, FY 2006 Budget Summary (Feb. 2005) at http://www.whitehousedrugpolicy.gov/publications/policy/06budget/index.html (last visited Feb. 24, 2006).

[596] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at http://www.whitehousedrugpolicy.gov/publications/policy/07budget/ (last visited Feb. 24, 2006).

[597] Id.

[598] Paula P. Schnurr, Carole A. Lunney, Anjana Sengupta, & Lynn C. Waelde, *A Descriptive Analysis of PTSD Chronicity in Vietnam Veterans,* 16 J. of Traumatic Stress, (2003) at 545.

focus has been described as being a "Department wide" policy in staff interviews.[599]

Although the committee supports the position that those who are most unable to provide treatment by private means should receive treatment priority, the reality is that drug addiction and dependence, commonly resulting from active duty, do not respect the economic background of particular veterans.

3. Specialized Treatment

With an increase of drug abuse patients expected from currently deployed troops, the committee supports the estimated request of $428.3 million for VA drug treatment programs for fiscal year 2007. This compares to the enacted fiscal year 2006 level of $412.6 million.[600] In fiscal year 2004, the VA reports having treated 89,000 veterans with substance abuse disorders.[601]

The committee supports the VA's prioritization on improving specialized treatment. As indicated in our most recent Staff interviews, the specific priorities are the replacement of methadone treatment with buprenorphine treatment for opiate addicts, the expansion of residential treatment capabilities, and generally increasing overall treatment availability.[602]

Patients who have acquired familiarity with methadone treatment are extremely reluctant to adopt other forms of treatment.[603] In light of such difficulties involved with replacing methadone treatment with buprenorphine treatment, the committee supports the VA's initiative to utilize buprenorphine with all new patient cases. VA representatives disclosed in staff interviews that approximately 138 VA physicians have received training and are currently prescribing buprenorphine.[604] VA is also planning four regional training seminars for certification in prescribing buprenorphine.[605]

Continued training of VA physicians on buprenorphine treatment is also strongly supported in order that VA physicians will both understand its benefits over methadone treatment and acquire a familiarity with its implementation with new patients. The committee strongly suggests that methadone treatments be entirely phased out and replaced by the more effective buprenorphine treatment with new patients.

The committee also supports the VA's continued efforts to expand its residential treatment capabilities. Specialized treatment includes the cost generated by the treatment of patients with a drug use disorder who are treated in a substance abuse treatment program, including inpatient programs, outpatient treatment, residential treatment, and methadone and buprenorphine treatment. Staff interviews revealed that approximately 125,000 veterans currently

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[599] Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources, drug control budget briefing with the Department of Veterans Affairs on Dec. 16, 2005.

[600] The White House, National Drug Control Strategy, FY 2007 Budget Summary (Feb. 2006) at 6.

[601] Dr. John D. McKellar & Meghan Saweikis, M.S., *Health Services for VA Substance Use Disorder Patients: Comparison of Utilization in Fiscal Years 2004, 2003, and 1998,* (2005).

[602] Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources, drug control budget briefing with the Department of Veterans Affairs on Dec. 16, 2005.

[603] Id.

[604] Id..

[605] Id.

need special treatment while only 89,000 receive it, many of whom require residential treatment in order to receive optimal care.[606]

4. Inter-Departmental Cooperation

Staff interviews indicate the VA's strong collaboration, specifically relating to research and development, with the Center for Substance Abuse Treatment and the National Institute for Drug Abuse.

- DHHS—VA senior officials serve on the National Advisory Councils of NIDA, the Center for Substance Abuse Treatment (CSAT), and the Center for Substance Abuse Prevention (CSAP). VA officials also have a seat on a planning committee with SAMHSA on the preparation of a conference in March 2006, on the "Returning Veteran." The Program Evaluation and Resource Center (PERC) shares data on VA programs with SAMHSA, one of the major data sets being the triennial Drug Abuse Program Survey (DAPS).
- DOD—VA and DOD have jointly prepared a detailed set of Treatment Guidelines for substance abuse for use in both departments. Both departments currently are actively involved in implementing the "seamless transition" initiative for returning veterans.
- NIDA—a number of VA investigators have grants for their research from NIDA, and VA was a primary site for research in NIDA's medication development project.
- ONDCP—VA works closely with ONDCP on programming and budgetary issues relating to VA's substance abuse treatment activities.[607]

Such dialog and information sharing is strongly encouraged in order to most efficiently utilize resources allocated towards research and development.

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[606] Dr. John D. McKellar & Meghan Saweikis, M.S., *Health Services for VA Substance Use Disorder Patients: Comparison of Utilization in Fiscal Years 2004, 2003, and 1998,* (2005).

[607] E-mail from Dr. Richard T. Suchinsky, Associate Chief for Addictive Disorders, Department of Veterans Affairs, to James Kaiser, counsel, Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Committee on Government Reform, (Feb. 9, 2006, 12:42 EST) (on file with the Subcommittee on Criminal Justice, Drug Policy, and Human Resources).

ADDITIONAL VIEWS OF HON. HENRY A. WAXMAN AND HON. ELIJAH E. CUMMINGS

The report adopted by the committee was prepared by the majority staff of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, without the consultation or participation of the minority. Nevertheless, we concur, or do not take issue, with many of the majority views expressed in the report.

Fundamentally, we share a deep concern about the substantial downward shift in the proportion of Federal drug control funding devoted to demand reduction programs (i.e., drug prevention and drug treatment) versus supply reduction programs (e.g., domestic enforcement, interdiction, and source-country eradication) since President Bush issued his administration's first National Drug Control Strategy in 2002. If the President's fiscal year 2007 budget request is enacted, prevention and treatment together will account for just 35.5 percent of the President's drug budget request, down from 47 percent in fiscal year 2001, while supply reduction will have increased from 53 percent to 64.5 percent over the same period.

With more than 20,000 Americans dying from illegal drugs annually, our Nation cannot afford to shrink from its commitment to reducing demand for illegal drugs through prevention and expanding access to drug treatment for those in need. The administration has invested much effort in attempting to alter the delivery mechanism for drug treatment services with its Access to Recovery voucher initiative and this year's proposal to "voucher-ize" treatment services delivered with Substance Abuse Prevention and Treatment Block Grant funding, but it has failed to make significant progress in closing the gap between the number of people needing treatment and the woefully inadequate volume of accessible treatment services. It is difficult to see how a budget that further reduces funding for the Substance Abuse and Mental Health Services Administration's Center for Substance Abuse Treatment will turn the tide.

We hope that, like last year, Congress will reject the bulk of the administration's proposed cuts for key demand reduction programs within the Department of Education and the Department of Health and Human Services and for programs, including the High-Intensity Drug Trafficking Areas program, Byrne Justice Assistance Grants, and Community Oriented Policing Services program, that support and amplify State and local drug enforcement efforts.

HARM REDUCTION AND NEEDLE EXCHANGE PROGRAMS

As in years past, we strongly disagree with the majority's perspective and representations concerning the purpose, efficacy, and legality of "harm reduction" strategies, particularly as they relate to needle- or syringe-exchange programs [SEPs].

In arguing the need for increased oversight of USAID activities, the majority offers the following mischaracterization:

> "Harm reduction" is an ideological position . . . which assumes certain individuals are incapable of making healthy decisions. Advocates of this position hold that dangerous behaviors, such as drug abuse, therefore simply must be accepted by society and those who choose such lifestyles—or become trapped in them—should be enabled to continue these behaviors in a less harmful manner. Often however, these lifestyles are the result of addiction, mental illness o[r] other conditions that should and can be treated rather than accepted as normative, healthy behaviors.

Harm reduction is, in fact, a basic conceptual pillar of mainstream public health policy in many contexts. With respect to HIV prevention among drug abusers, harm reduction is embodied in the National Institute on Drug Abuse's "Principles of HIV Prevention in Drug-Using Populations." This publication describes a "hierarchy of HIV/AIDS risk-reduction messages, beginning with the most effective behavioral changes that drugs users can make," as follows:

- Stop using and injecting drugs
- Enter and complete drug abuse treatment, including relapse prevention
- If you continue to inject drugs, take the following steps to reduce personal and public health risks:
  - Never re-use or "share" syringes, water, or drug preparation equipment
  - Use only sterile syringes obtained from a reliable source (e.g., a pharmacy or a syringe access program)
  - Always use a new, sterile syringe to prepare and inject drugs
  - If possible, use sterile water to prepare drugs; otherwise use clean water from reliable source (e.g., fresh tap water)
  - Always use a new or disinfected container ("cooker") and a new filter ("cotton") to prepare drugs
  - Clean the injection site with a new alcohol swab before injecting drugs
  - Safely dispose of syringes after one use [1]

Similarly, the Department of Health and Human Service has published "A Guide to Primary Care of People with HIV/AIDS" that advises:

> The primary care provider should routinely screen for drug abuse and treat or refer for treatment as quickly as possible . . . [and] the provider should also counsel patients who are actively using drugs not to share needles with oth-

[1] National Institute on Drug Abuse, *Principles of HIV Prevention in Drug-Using Populations* (NIH Pub. No. 02–4733) 13 (Mar. 2002), (online at http://www.nida.nih.gov/PDF/POHP.pdf).

ers and to take advantage of the programs that distribute clean needles.[2]

Neither NIDA nor HHS advocates the view that "addiction, mental illness o[r] other [unspecified treatable] conditions" should be "accepted as normative, healthy behaviors" instead of being treated. On the contrary, their advice to public health professionals is consistent with ample research demonstrating that the most effective approach to preventing the spread of HIV among drug users is a comprehensive strategy that includes community-based outreach, drug abuse treatment, and access to sterile injection equipment.[3]

Since 1991, there have been at least 17 major reviews and assessments of needle exchange programs by expert bodies such as the National Commission on AIDS, the Institute of Medicine, the National Institutes of Health, the Centers for Disease Control, the American Medical Association, the American Society of Addiction Medicine, and the World Health Organization. These assessments have found that needle exchange programs help reduce the spread of AIDS and other dangerous infectious disease without encouraging or increasing drug use. In fact, according to experts, needle exchange programs provide valuable opportunities to reduce illegal drug use.

In part as a result of these conclusions, needle exchange programs have been endorsed by a wide range of expert scientific and medical organizations, including the American Academy of Family Physicians,[4] the American Academy of Pediatrics,[5] the American Academy of Physician Assistants,[6] the American College of Preventive Medicine,[7] the American Medical Association,[8] the American Nurses Association,[9] the American Psychological Association,[10] the Association of Nurses in AIDS Care,[11] and the Infectious Diseases Society of America.[12]

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[2] Health Resources and Services Administration, *A Guide to Primary Care of People with HIV/AIDS*, 105, 111 (2004) (online at http://hab.hrsa.gov/tools/primarycareguide/).

[3] *Principles of HIV Prevention in Drug-Using Populations, supra* note 1, at 16–17.

[4] American Academy of Family Physicians, *Substance and Alcohol Abuse and Addiction* (2003) (online at http://www.aafp.org/x7096.xml).

[5] American Academy of Pediatrics, Provisional Committee on Pediatric AIDS, *Reducing the Risk of Human Immunodeficiency Virus Infection Associated with Illicit Drug Use,* Pediatrics, 945–7 (Dec. 1994) (online at http://aappolicy.aappublications.org/cgi/reprint/pediatrics;94/6/945.pdf).

[6] American Academy of Physician Assistants, *Needle/Syringe Access for the Prevention of HIV Transmission* (policy paper adopted 2003) (http://www.aapa.org/policy/needle_access.html).

[7] American College of Preventive Medicine, *Public Policy on Needle-Exchange Programs to Reduce Drug-Associated Morbidity and Mortality,* American Journal of Preventive Medicine, 173–5 (2000) (online at http://www.acpm.org/ajpm369.pdf).

[8] American Medical Association, *Syringe and Needle Exchange Programs* (Policy Statement H–95.958) (online at http://www.ama-assn.org/apps/pf_new/pf_online?f_n=resultLink&doc=policyfiles/HnE/H-95.958.HTM&s_t=syringe+and+needle+exchange+programs&catg=AMA/HnE&catg=AMA/BnGnC&catg=AMA/DIR&&nth=1&&st_p=0&nth=1&).

[9] American Nurses Association, *Position Statement: Needle Exchange and HIV* (effective Apr. 2, 1993) (online at http://nursingworld.org/readroom/position/blood/blnedl.htm).

[10] American Psychological Association, *APA Council Endorses Fair-Testing Code, Forms New Working Group, among Other Actions* (Apr. 4, 2001) (online at http://www.apa.org/monitor/apr04/endorses.html).

[11] Association of Nurses in AIDS Care, *Position Statement: Needle and Syringe Exchange* (rev. Sept. 2002) (online at http://www.anacnet.org/media/pdfs/ PS_Needle_Syringe_Exch_4-2003.pdf).

[12] Infectious Diseases Society of America, *Supporting Document for IDSA's Policy Statement on Syringe Exchange, Prescribing and Paraphernalia Laws* (Oct. 5, 2001) (online at http://www.idsociety.org/Content/ContentGroups/Public_Statements_and_Policies1/Statements/Sup-

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In chronological order, expert reviews and assessments of needle exchange programs include the following:

- In 1991, the National Commission on AIDS, whose members included then-Secretary of Defense Richard B. Cheney, convened a hearing on drug use and HIV. Based on the testimonies of expert witnesses at the hearing and a review of scientific evidence, the Commission issued a report that found:

  > Outreach programs which operate needle exchanges and distribute bleach not only help to control the spread of HIV, but also refer many individuals to treatment programs . . .. Most significantly, these programs, rather than encouraging substance use, lead a substantial number of substance users to seek treatment.[13]

- In 1995, a report prepared by a joint panel of the National Research Council and the Institute of Medicine reviewed the available evidence on needle exchange programs and concluded: "Needle exchange programs reduce the spread of HIV—the virus that causes AIDS—without increasing either the injection of illegal drugs among program participants or the number of new initiates to injection drug use." [14]

- In 1997, a Consensus Panel convened by the National Institutes of Health concluded:

  > An impressive body of evidence suggests powerful effects from needle exchange programs. The number of studies showing beneficial effects on behaviors such as needle sharing greatly outnumber those showing no effects. There is no longer doubt that these programs work. . . . Does needle exchange promote drug use? A preponderance of evidence shows either no change or decreased drug use.[15]

- In 1997, the Council on Scientific Affairs of the American Medical Association issued a report on the medical and scientific literature on needle exchange programs that found:

  > There is substantial evidence of reduced needle-sharing among regular participants in needle-exchange programs. More importantly, HIV infection rates among drug users have been consistently lower in cities with needle-exchange programs. . . . For example, while the HIV infection rate among injection drug users remained 1% to 2% in the Scottish city of Glasgow, where a needle-exchange program was quickly established, it reached 70% in nearby Edinburgh, where the response of government officials was

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porting_Document_for_IDSA's_Policy_Statement_on_Syringe_Exchange,_Prescribing_and_Paraphernalia_L.htm) (emphasis in original).

[13] National Commission on Acquired Immune Deficiency Syndrome, *The Twin Epidemics of Substance Use and HIV* (July 1991) (online at http://www.dogwoodcenter.org/references/studies91F.html#RECOMMENDATION%202).

[14] National Academies, *Needle Exchange Programs Reduce HIV Transmission among People Who Inject Illegal Drugs* (Sept. 18, 1995) (online at http://www4.nationalacademies.org/news.nsf/isbn/ 0309052963?OpenDocument).

[15] National Institutes of Health, *Interventions to Prevent HIV Risk Behaviors* (Feb. 11–13, 1997) (Consensus Statement No. 104) (online at http://consensus.nih.gov/cons/104/104_statement.htm).

to implement even more stringent controls over injection equipment.[16]

- In 1997, the American Public Health Association stated that "an enormous body of published research" exists "attesting to the efficacy of clean needle exchange for reducing HIV transmission among drug users. Moreover, study after study has shown that needle exchange does not lead to an increase of illegal drug use."[17]
- In 2000, the U.S. Surgeon General and other senior scientists at the Department of Health and Human Services reviewed scientific research completed since April 1998 on needle exchange programs. In a published summary of the review, the Surgeon General announced:

  > After reviewing all of the research to date, the senior scientists of the Department and I have unanimously agreed that there is conclusive scientific evidence that syringe exchange programs, as part of a comprehensive HIV prevention strategy, are an effective public health intervention that reduces the transmission of HIV and does not encourage the use of illegal drugs.[18]

- In 2000, the Institute of Medicine released a report on the findings of a committee it had convened at the request of the Centers for Disease Control to conduct a comprehensive review of current HIV prevention efforts in the United States. The report described the evidence on needle exchange programs as "compelling" and cited a study that suggested that "expanded provision of needle exchange programs in the United States could have averted between 10,000 and 20,000 new infections over the past decade."[19] According to the report:

  > Although many communities and law enforcement officials have expressed concern that increasing availability of injection equipment will lead to increased drug use, criminal activity, and discarded contaminated syringes, studies have found no scientifically reliable evidence of these negative effects.[20]

- In 2000, the Academy for Educational Development, in a policy report prepared in collaboration with the Centers for Disease Control, observed that much research had been conducted on needle exchange programs. Citing this research, the report concludes that "SEPs [syringe exchange programs] have significant positive effects on preventing adverse health consequences asso-

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[16] American Medical Association, *Report 8 of the Council on Scientific Affairs* (A–97) (June 1997) (online at http://www.ama-assn.org/ama/pub/category/13636.html).

[17] American Public Health Association, *American Public Health Association Supports Lifting Federal Ban on Funding for Needle Exchange* (Aug. 20, 1997) (online at http://www.apha.org/news/press/1997/needle.htm).

[18] U.S. Department of Health and Human Services, *Evidence-Based Findings on the Efficacy of Syringe Exchange Programs: An Analysis of the Scientific Research Completed since April 1998* (Mar. 17, 2000).

[19] Institute of Medicine, *No Time to Lose: Getting More from HIV Prevention,* 114–5 (2000) (online at http://books.nap.edu/books/0309071372/html/1.html#pagetop).

[20] Institute of Medicine, *No Time to Lose: Getting More from HIV Prevention,* 114–5 (2000) (online at http://books.nap.edu/books/0309071372/html/1.html#pagetop).

ciated with injection drug use and . . . do not increase drug use or promote the initiation of injection drug use."[21]

- In 2000, the American Society of Addition Medicine reported that "[n]eedle exchange programs have been shown to be a crucial component of a spectrum of HIV prevention services to injection drug users, resulting in an effective reduction in the transmission of the Human Immunodeficiency Virus." The Society of Addiction Medicine also reported that "[t]here has not been an increase in drug use or an increase in injection as a route of drug administration as a result of implementation of needle exchange programs, nor has there been demonstration of an increase in contaminated injection equipment in the community."[22]
- In 2002, the Centers for Disease Control summarized scientific studies of needle exchange programs. CDC explained: "SEPs have been shown to be an effective way to link some hard-to-reach IDUs [intravenous drug users] with important public health services, including TB and STD treatment. Through their referrals to substance abuse treatment, SEPs can help IDUs stop using drugs. Studies also show that SEPs do not encourage drug use among SEP participants or the recruitment of first-time drug users."[23]
- In 2002, the National Institute on Drug Abuse published a research-based guide to preventing HIV in drug-using populations. Concerning needle exchange programs, the guide stated: "Evaluations of these programs indicate that they are an effective part of a comprehensive strategy to reduce the injection drug use-related spread of HIV and other blood-borne infections. In addition they do not encourage the use of illicit drugs."[24]
- In 2002, a Consensus Panel convened by the National Institutes of Health on management of hepatitis C found that "needle and syringe exchange programs . . . have been shown to be effective in preventing HIV transmission and are likely to be useful for decreasing HCV transmission."[25] The panel recommended: "Institute measures to reduce transmission of HCV among IDUs, including providing access to sterile syringes through needle exchange, physician prescription, and pharmacy sales."[26]
- In 2003, the head of the HIV/AIDS unit of the International Federation of Red Cross and Red Crescent Societies, stated: "There is clear scientific evidence that needle exchange programmes work. They help contain the HIV/AIDS pandemic, and in a very

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[21] Academy for Educational Development, *A Comprehensive Approach: Preventing Blood-Borne Infections among Injection Drug Users,* A7 (Dec. 2000) (online at http://www.thebody.com/cdc/pdfs/comprehensive-approach.pdf).

[22] American Society of Addiction Medicine, *Public Policy of ASAM: Access to Sterile Syringes and Needles* (adopted Dec. 20, 2000) (online at http://www.asam.org/ppol/Needle%20 Exchange.htm).

[23] Centers for Disease Control, *Syringe Exchange Programs* (Jan. 2002) (online at http://www.cdc.gov/idu/facts/aed_idu_syr.htm).

[24] National Institutes of Health, *National Institute on Drug Abuse, Principles of HIV Prevention in Drug-Using Populations: A Research-Based Guide* (Mar. 2002).

[25] National Institutes of Health, *Management of Hepatitis C: 2002 (June 10–12, 2002) (http://consensus.nih.gov/cons/116/091202116cdc*_statement.htm#5).

[26] Id.

cost effective way. Evidence is also clear that these programmes do not promote drug use."[27]

- In 2004, the Association of State and Territorial Health Officials, together with the National Alliance of State and Territorial AIDS Directors, the National Association of County and City Health Officials, and the Council of State and Territorial Epidemiologists, stated that "[s]cientific evidence demonstrates that needle exchange programs and pharmacy sales of sterile syringes can be effective public health strategies to reduce the transmission of injection-related HIV infection without increasing drug use."[28]
- In 2004, Dr. Elias A. Zerhouni, Director of the National Institutes of Health, wrote a letter to Members of Congress in response to an inquiry about the scientific evidence on syringe exchange programs. The letter stated: "A number of studies conducted in the U.S. have shown that SEPs do not increase drug use among participants or surrounding community members and are associated with reductions in the incidence of HIV, hepatitis B, and hepatitis C in the drug-using population."[29]
- In 2004, a policy brief from the World Heath Organization discussed the evidence obtained from a review of more than 200 studies on needle and syringe exchange programs. The policy brief reported:

  > There is compelling evidence that increasing the availability and utilization of sterile injecting equipment for both out-of-treatment and in-treatment injecting drug users contributes substantially to reductions in the rate of HIV transmission. . . . There is no convincing evidence of major unintended negative consequences of programmes providing sterile injecting equipment to injecting drug users, such as initiation of injecting among people who have not injected previously, or an increase in the duration or frequency of illicit drug use or drug injection.[30]

- In 2004, the Joint United Nations Programme on HIV/AIDS noted that "[a] review comparing HIV prevalence in cities across the globe with and without needle and syringe programmes found that cities which introduced such programmes showed a mean annual 19 percent decrease in HIV prevalence. This compares with an 8 percent increase in cities that failed to implement prevention measures."[31]

We strongly believe that U.S. policy on syringe-exchange should be based upon scientific evidence as to its efficacy and that the

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[27] International Federation of Red Cross and Red Crescent Societies, *Spreading the Light of Science: Guidelines on Harm Reduction Related to Injecting Drug Use,* 53 (2003) (online at http://www.ifrc.org/cgi/pdf_pubs.pl?health/ hivaids/harm_reduction.pdf).

[28] Association of State and Territorial Health Officials, *Position Statement: Guiding Principles for HIV Prevention* (approved June 18, 2004) (online at http://www.astho.org/policy_statements/HIV% 20Position%20Statement.pdf).

[29] Letter from NIH Director Dr. Elias A. Zerhouni to Representatives Henry A. Waxman and Elijah E. Cummings (Oct. 7, 2004).

[30] World Health Organization, *Policy Brief: Provision of Sterile Injecting Equipment to Reduce HIV Transmission* (2004) (online at http://www.wpro.who.int/NR/rdonlyres/BA463DB4-2390-4964-9D86-11CBABCC9DA9/ 0/provisionofsterileen.pdf).

[31] United Nations Programme on HIV/AIDS, *2004 Report on the Global AIDS Epidemic,* 85 (June 2004) (online at http://www.unaids.org/bangkok2004/GAR2004_pdf/Chapter4_prevention_en.pdf).

United States should not exercise is disproportionate influence in international organizations and forums to discourage the implementation of non-U.S.-funded syringe exchange programs. The international community should not be restricted from opting to implement the most effective programs to prevent the transmission of HIV/AIDS among injection drug users and the broader population.

In this regard, we reiterate our previous rejection of the erroneous assertion by Chairman Davis and Subcommittee Chairman Souder, repeated in this report, that SEPs violate the 1961 Single Convention on Narcotic Drugs. As we noted in letters to Secretary of State Condoleezza Rice and U.S. Agency for International Development Administrator Andrew S. Natsios, the International Narcotics Control Board (INCB) has stated the following concerning needle-exchange:

> In a number of countries, Governments have introduced since the end of the 1980s programmes for the exchange or distribution of needles or syringes for drug addicts, with the aim of limiting the spread of HIV/AIDS. The Board maintains the position expressed by it already in 1987 that Governments need to adopt measures that may decrease the sharing of hypodermic needles among injection drug abusers in order to limit the spread of HIV/AIDS. At the same time, the Board has been stressing that any prophylactic measures should not promote and/or facilitate drug abuse.[32]

Nowhere has the INCB identified SEPs as violating any provision of the Single Convention, despite the majority's interpretation of the INCB's 2003 report.

In many developing and highly populous nations including Russia, China, and Vietnam, injection drug use, not sexual transmission, is the principal factor driving HIV transmission rates.[33] Indeed, one in three new infections outside Africa is attributed to injection drug use. Even in many areas where sexual transmission is the principal mode of HIV transmission, injection drug use is a major contributing factor, because high-risk drug use behaviors and high-risk sexual behaviors often are linked.

Syringe exchange may hold the promise of saving millions of lives in developing countries that are at high risk of suffering an explosion in HIV/AIDs infections as a result of IDU-driven transmission; moreover, as the scientific evidence overwhelmingly indicates, it can do so without increasing drug use among participants or surrounding community members.

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[32] International Narcotics Control Board, *Report of the International Narcotics Control Board for 2003,* 36 (online at http://www.incb.org/e/ind_ar.htm).

[33] *Taking Drugs Can Lead to HIV/AIDS,* Fact Sheet, United Nations Office on Drugs and Crime (2004); *Spreading the Light of Science: Guidelines on Harm Reduction Relating to Injecting Drug Use,* International Federation of Red Cross and Red Crescent Societies (2003).

Finally, we note that the committee's 2-year-long and apparently ongoing inquiry into USAID activities relating to harm reduction still has yielded no evidence that any USAID funds have been expended in a manner inconsistent with U.S. law

HON. HENRY A. WAXMAN.
HON. ELIJAH E. CUMMINGS.

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