

**Through
the**



Looking Glass

A CAGW Special Report

**Up in Smoke:
Office of National Drug Control Policy's
Wasted Efforts in the War on Drugs**

By: Angela French
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Introduction

Established in 1988 to oversee all aspects of America's war on drugs and to coordinate U.S. domestic and international anti-drug efforts, the White House Office of National Drug Control Policy (ONDCP) has morphed into a federal wasteland, throwing taxpayer money toward numerous high-priced drug control programs that have failed to show results. After 17 years of operation and funding, ONDCP has not achieved its objectives of reducing "illicit drug use, manufacturing, and trafficking, drug-related crime and violence, and drug-related health consequences."¹

Instead of curbing America's drug problem, ONDCP has wasted \$4.2 billion since fiscal 1997 on media advertising, fighting state legislation, and deficient anti-drug trafficking programs. ONDCP's fiscal 2005 budget of \$507 million will fund such diverse functions as local law enforcement, cracking down on medical marijuana use, drug research and treatment, and the eradication of coca crops in Latin America.

Many of ONDCP's outreach efforts focus on reducing marijuana use. In fact, since Arizona and California passed medicinal marijuana laws in November 1996, ONDCP has been intent on reducing the popularity of marijuana in the U.S. The agency created the National Youth Anti-Drug Media Campaign in 1998 just for that purpose. ONDCP also began campaigning against state ballot initiatives legalizing the use of medicinal marijuana, which is an infringement upon states' rights, a blatant misuse of tax dollars, and in contravention of ONDCP's original mission. The White House's drug office should use its resources to root out major drug operations in the U.S. instead of creating propaganda-filled news videos and flying across the country on the taxpayers' dime.

Another ONDCP program, the High Intensity Drug Trafficking Areas Program (HIDTA), has become a pork-saturated program that has been warped into a platform for cities to receive more funds for local law enforcement and small drug operations instead of being used for HIDTA's stated purpose of controlling the presence of drugs at the border. Typical of any mismanaged government-run program, members of Congress have seized upon the opportunity to ship HIDTA money to their own states and districts for political gain rather than to stop the influx of drugs. Now, states like California and Florida, which have been entitled to HIDTA monies to protect America's borders from drugs, must split funds with non-border states like Nebraska, West Virginia, and Wyoming. HIDTA cannot effectively stop drug trafficking when its resources are being diverted away from the border states. Congress has the chance to re-focus HIDTA by approving the President's fiscal 2006 budget proposal to reduce funding and consolidate the program with the Department of Justice's (DOJ) drug control programs. Rather than throwing more money at the drug problem, ONDCP should focus its resources where it will achieve the best results for taxpayers.

The National Youth Anti-Drug Media Campaign

One of ONDCP's cornerstone programs, the National Youth Anti-Drug Media Campaign, has been an utter failure. The five-year effort has wasted \$2 billion on propaganda with no measurable results. The project was initially created "to educate and enable youth to reject illegal drugs, especially marijuana and inhalants,"² but has been unsuccessful in reducing drug use amongst America's youth. In addition to its chronic failure, a January 2005 Government Accountability Office (GAO) report found the advertising campaign violated federal advertising laws.

¹ ONDCP, "About ONDCP," (viewed on April 28, 2005), <http://www.whitehousedrugpolicy.gov/aboutindex.html>.

² ONDCP, "National Youth Anti-Drug Media Campaign: Campaign Overview," ONDCP fact sheet, (visited April 6, 2005), <http://www.mediacampaign.org/newsroom/080299/update1.htm>.

The media campaign was the pet project of former ONDCP Director (“drug czar”) Gen. Barry R. McCaffrey. In November 1996, just nine days after Arizona and California voted in favor of their new medicinal marijuana initiatives, the White House drug czar called the first meeting at his office to mobilize “his troops to combat the spread of what he had previously called ‘Cheech & Chong’ medicine.”³ McCaffrey gathered 40 federal and private sector “drug warriors”⁴ to brainstorm over how to increase efforts on the war on drugs. The outcome was the National Youth Anti-Drug Media Campaign, which was touted as an educational outreach effort, but remains nothing more than a thinly-veiled propaganda scheme focused on curtailing further medicinal marijuana initiatives on state ballots.

Critics immediately began questioning whether the federal government should be involved in state ballot measures at all. The head of the Partnership for Responsible Drug Information, Thomas H. Haines, stated that “The use of government resources to politic on controversial issues is clearly against ethics, as well as the law stating that federal employees can not take public positions for or against legislation under consideration.”⁵

American Civil Liberties Union president Nadine Strossen also disagreed with the drug czar’s meddling, pointing out that McCaffrey’s actions were “at the very least a moral and political question. It raises First Amendment-type concerns about the nature of a free society, and what an open debate should be in a democratic society.”⁶

Despite the legal and ethical question, McCaffrey and his supporters were able to proceed with the propaganda campaign. The project, which began in fiscal 1998, partnered with schools, television, radio, Internet sites, print media and others to promote the campaign’s anti-drug messages. Congress financed the initial effort with \$1 billion in taxpayer funds. The money was to be spent on anti-drug advertising, with the stipulation that “for every ad the government bought, it demanded another of equal value for free.”⁷ ONDCP conducted nearly a year of research and consulted with experts in the fields of “behavior change, drug prevention, teen marketing, advertising, and communications”⁸ to design a campaign “[d]eveloped from a solid scientific base.”⁹ The result was a targeted campaign created to reach America’s youth, their parents, and “adult influencers.”¹⁰

The taxpayer-subsidized anti-drug campaign united with the privately-operated Partnership for a Drug-Free America, which prior to ONDCP’s campaign, was the leading voice in the fight to reduce illegal drug use in the U.S. Perhaps best known for its “this is your brain; this is your brain on drugs” commercials, the partnership was founded in 1987 with the goal to “educate teens about the risks of illicit drug use, and to increase parent/teen involvement in drug education. The Partnership relies on the media to donate time and space and on advertising agencies to volunteer their resources for advertising campaigns [.]”¹¹

³ Daniel Forbes, “Fighting ‘Cheech and Chong Medicine,’” *Salon*, July 27, 2000, p. 1.

⁴ *Idem*.

⁵ *Idem*.

⁶ *Idem*.

⁷ Daniel Forbes, “Prime-time Propaganda,” *Salon*, January 13, 2000, p. 2.

⁸ ONDCP, “National Youth.”

⁹ *Idem*.

¹⁰ Forbes, “Prime-time Propaganda,” p. 2.

¹¹ Partnership for a Drug-Free America, “Financial Statements and Supplemental Schedule,” December 31, 2003, p. 1.

Corporations and the media gave millions of dollars annually in donated space and time, peaking at \$360 million per year in both 1990 and 1991. However, by 1997, the donations had declined by 38 percent, to \$222 million annually.¹²

With donations rapidly dwindling, Partnership for a Drug-Free America Chairman James E. Burke began courting Congress to add money to ONDCP's coffers to pay for anti-drug ads. Some Republicans were reluctant to strap such an extravagant cost on the taxpayers' back for two main reasons: "[s]ome wondered if the highly visible effort would just let [President Clinton] and other Democrats claim credit as crusading anti-drug warriors; others worried about showering money on Clinton's perceived allies in Hollywood."¹³

Finding money for any new initiatives in 1997 was not an easy task. Republicans were three years into their majority and the adoption of the "Contract with America" platform. The Contract contained the Fiscal Responsibility Act, which was a "balanced budget/tax limitation amendment and a legislative line-item veto to restore fiscal responsibility to an out-of-control Congress, requiring them to live under the same budget constraints as families and businesses."¹⁴ Adding a \$1 billion media campaign to the ONDCP budget wasn't going to restore fiscal responsibility, especially when a privately-run nonprofit was already providing essentially the same service.

But Burke quickly convinced "Contract with America" champion, then-Speaker of the House Newt Gingrich (R-Ga.) to sign on to the idea, and eventually won over other Republicans. Then-chairman of the House Treasury/Postal Service Appropriations Subcommittee Jim Kolbe (R-Ariz.) stated that "[w]e were persuaded by the Partnership for a Drug-Free America to spend tax dollars' to get the message out in prime time."¹⁵

The five-year media campaign would be matched dollar-for-dollar by various media outlets. Taxpayers were now hit with \$1 billion for anti-drug ads which had been funded by the private sector for a decade. Yet, the \$200 million each year that Congress had appropriated was 10 percent less than the \$222 million that the Partnership for a Drug-Free America had been able to raise privately in 1997, the same year that Chairman Burke had begged Congress to take action. Clearly, the anti-drug media campaign did not need federal funding to keep the project going. Burke and McCaffrey used dwindling donations as an excuse to make the campaign a government-subsidized, and therefore government-controlled, project in response to marijuana laws passed in states.

In the summer of 1998, anti-drug ads started running on television, radio, newspapers, the Internet, and other media. Gen. McCaffrey touted the campaign as "our major prevention initiative, the \$2 billion five-year Anti-Drug Media Campaign."¹⁶ ONDCP claimed that the project was "the largest and most complex social-marketing campaign ever undertaken."¹⁷

ONDCP received an initial boost from major television networks like ABC and Fox, who signed on to the deals immediately, grabbing a combined \$50 million worth of federally-paid advertising in the

¹² Forbes, "Prime-time Propaganda," p. 2.

¹³ Idem.

¹⁴ U.S. House of Representatives, "Republican Contract with America," (visited April 6, 2005), <<http://www.house.gov/house/Contract/CONTRACT.html>>.

¹⁵ Forbes, "Prime-time Propaganda," p. 2.

¹⁶ Idem. (McCaffrey was adding the \$1 billion in taxpayer funds to the \$1 billion in matching contributions required of the media.)

¹⁷ Idem.

first year.¹⁸ Other networks eventually started rolling the commercials, but they were not satisfied with the 2-for-1 ad price requirement that Congress stipulated with the funding.

After convincing Congress to spend \$1 billion of the taxpayers' money for the project, ONDCP needed it to be successful. In the spring of 1998, Alan Levitt, who ran ONDCP's media campaign, came up with the idea of allowing networks to run the government's ads without having to match the ads for free. He theorized that "sitcoms and dramas that met with the drug-policy office's approval could be used in lieu of the ad slots still owed to the government. Formulas would be applied to determine the cash value of these embedded messages, and the networks would then be free to resell the commercials they otherwise would have given to the government."¹⁹

Networks were able to repay the government with subplots valued at \$110,000 to as much as \$750,000, depending on the success of the show and the anti-drug message.²⁰ With such a clear financial incentive to include anti-drug themes, some of America's most-watched sitcoms and dramas started to adopt anti-drug themes in their plots. There was, however, a stipulation that ONDCP would receive copies of the scripts before the show aired to agree on the content. That "minor" proviso didn't seem to deter the networks since the hit shows "ER," "Beverly Hills 90210," "Chicago Hope," "The Drew Carey Show," and "7th Heaven" began airing ONDCP-approved drug stories between 1998-2000.²¹ By 2000, two-thirds of ONDCP's ad budget was targeted at television.²²

In another attempt to reduce drug use, ONDCP creates anti-drug clips, fact sheets and newsletters on its website. The ads are created to specifically reach the targeted audience. A majority of the clips focus on keeping kids away from marijuana, and encourage parents to enforce that initiative. Of the 26 youth-targeted television ads available on ONDCP's website, 17 of them, or 65 percent, specifically mention pot; only 2 ads mention another type of illicit drug.²³ Of the 65 anti-drug print ads available, 34, or 52 percent, specifically stress not using marijuana.²⁴ In one television youth ad, "Jose" pays tribute to a classmate who opened his eyes to poetry and education, but the classmate was caught with a "nickelbag of herb" leading to expulsion from high school and failure in life. In another television ad, a teenager finds out she was pregnant after making a wrong decision because of marijuana. This commercial ran during the 2005 Super Bowl, where \$2.4 million bought a 30-second slot.²⁵

Despite all the funding for the commercials, the television shows and Internet clips, the National Youth Anti-Drug Media Campaign has failed to achieve its overall goal of reducing youth drug use. In September 1998, the National Institute on Drug Abuse (NIDA) competitively awarded a grant to Westat, Inc.,²⁶ a health survey research company, to conduct a "science-based evaluation"²⁷ of the program. Every Westat report has concluded that there have been no significant changes among America's young people that can be solely attributed to ONDCP's expensive anti-drug campaign.

¹⁸ ABC ran \$30 million worth of ads the first year; Fox, \$20 million. *Idem*.

¹⁹ *Idem*.

²⁰ *Ibid*, p. 3.

²¹ *Ibid*, p. 1.

²² *Ibid*, p. 2.

²³ In both the "Coroner" and "Flash Forward" ads, the drug mentioned is ecstasy. ONDCP, "Ad Gallery," National Youth Anti-Drug Media Campaign, (viewed April 6, 2005), <<http://www.mediacampaign.org/mg/television.html>>.

²⁴ *Ibid*, <<http://www.mediacampaign.org/mg/print.html>>.

²⁵ Krysten Crawford, "A Sneak Peak at Super Bowl Ads," *CNN/Money*, February 4, 2005, p. 1.

²⁶ Westat, Inc. collaborated with the Annenberg School for Communication at the University of Pennsylvania to complete its evaluations of ONDCP.

²⁷ NIDA, "Evaluation of the Office of National Drug Control Policy (ONDCP) National Youth Anti-Drug Media Campaign," (viewed April 6, 2005), <<http://www.nida.nih.gov/DESPR/Westat/>>.

In its December 22, 2003 ONDCP report, Westat reported on the Marijuana Initiative, which ONDCP began as part of the media campaign in 2002. According to the evaluation, “[t]here is little evidence of direct favorable Campaign effects on youth, either for the Marijuana Initiative period or for the Campaign as whole . . . youth who were more exposed to Campaign messages are no more likely to hold favorable beliefs or intentions about marijuana than are youth less exposed to those messages, both during the Marijuana Initiative period and over the entire course of the Campaign.”²⁸

Westat also reported that “[t]he previous two reports in this series . . . suggested that the Campaign was not achieving its major objective of affecting youth marijuana use, and even showed some evidence of an unfavorable delayed effect of the Campaign on youth.”²⁹ The report also showed that from 2000 to 2003, the percentage of America’s youth definitely not intending to try marijuana was reduced by a scant .6 percent, from 87.5 percent in 2000 to 86.9 percent in 2003.³⁰ Clearly, the money spent on television, print, radio and Internet ads was not helping ONDCP to achieve its goal.

Despite the large amount of taxpayer money invested in educating teens about the harmful effects of drug use, the trends of disapproval of drug use among high school seniors remained relatively consistent during the period of the media campaign. According to the federally-funded “Monitoring the Future” study, since 1998, there has been a modest decline in use of drugs by teenagers. ONDCP’s ads heavily emphasized marijuana, but the use of many drugs mentioned little or not at all in the media campaign, including alcohol, are down by roughly the same amount.³¹

Although the percentage of teenagers using marijuana is down, the 2004 results show a slight increase of 8th, 10th, and 12th graders using hard drugs, including inhalants, cocaine and heroin.³² Also, according to the latest survey, more 8th graders see a greater risk in smoking marijuana occasionally than in taking LSD regularly, taking ecstasy occasionally, trying crack cocaine, or drinking nearly every day.³³ Since 1998, more and more 8th graders believe any marijuana use is a great risk, yet fewer 8th graders believe there is great risk in using inhalants or LSD regularly, suggesting that the campaign may actually be steering kids toward the most dangerous drugs.

Besides being ineffective and costly, the anti-drug ads also violated federal laws. In fiscal 2004, Congress appropriated \$229 million for ONDCP’s youth anti-drug campaign. Of the total, \$145 million, or 63.3 percent, was allotted specifically for the media campaign. Added to the funding was the stipulation that “[n]o part of any appropriation contained in this or any other Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.”³⁴

Apparently ONDCP officials didn’t read the fine print because, according to a January 4, 2005 GAO report, ONDCP used covert propaganda in their video news releases without identifying the source

²⁸ Robert Hornik, David Maklan, Diane Cadell, Carlin Henry Barmada, Lela Jacobsohn, Vani Henderson, Anca Romantan, Robert Orwin, Sanjeev Sridharan, Adam Chu, Carol Morin, Kristie Taylor, and Diane Steel, “Evaluation of the National Youth Anti-Drug Media Campaign: 2003 Report of Findings,” Annenberg School for Communication, University of Pennsylvania and Westat, Inc., Report prepared for the National Institute on Drug Abuse (Contract No.: NO1DA-8-5063), December 22, 2003, p. vii.

²⁹ *Ibid.*, p. xi.

³⁰ *Ibid.*, p. xxvi.

³¹ L.D. Johnston, P.M O’Malley, J.G. Bachman and J.E. Schulenberg, “Trends in Disapproval of Drug Use by Twelfth Graders,” Monitoring the Future Study, University of Michigan, December 21, 2004, (visited April 7, 2005), < <http://www.monitoringthefuture.org/data/04data.html#2004data-drugs>>.

³² *Ibid.*, (visited May 10, 2005), < <http://www.monitoringthefuture.org/data/04data/pr04t2.pdf>>.

³³ *Ibid.*, (visited May 10, 2005), < <http://www.monitoringthefuture.org/data/04data/pr04t5.pdf>>.

³⁴ Government Accountability Office, “Office of National Drug Control Policy — Video News Release, (B-303495), January 4, 2005, p. 6.

of the ads, making them indistinguishable from real news releases. The fake news stories were sent to 770 news stations, reaching more than “22 million households on nearly 300 television stations over a total of 56 days.”³⁵

According to GAO’s assessment, “[w]hile ONDCP is authorized by the Drug-Free Media Campaign Act of 1998 to engage in ‘news media outreach,’ ONDCP is also required to comply with applicable appropriations act publicity or propaganda prohibitions. Those prohibitions require ONDCP to disclose to the television viewing audience ONDCP’s role in the production and distribution of its news stories. There is no reasonable basis in the law to find that Congress exempted ONDCP from these prohibitions. Since ONDCP did not provide the required disclosures, ONDCP’s prepackaged news stories constituted covert propaganda in violation of publicity or propaganda prohibitions of the fiscal year 2002, 2003, and 2004 appropriations acts. Moreover, because ONDCP had no appropriation available to produce and distribute materials in violation of each of these publicity or propaganda prohibitions, ONDCP also violated the Antideficiency Act, 31 U.S.C. 1341.”³⁶

Congress rolled taxpayers into a ditch of weeds by funding the National Youth Anti-Drug Media Campaign. ONDCP’s program is nothing more than smoke and mirrors, disguised as an educational outreach project but created to influence state marijuana initiatives. In the process, the campaign violated federal propaganda laws, did not reduce drug use amongst America’s youth, and has produced no significant results. Instead of committing \$1 billion in taxpayer funds to a media campaign, Congress should have left the project in the hands of the private sector.

Anti-Medicinal Marijuana Campaigns

The media campaign was just the beginning of ONDCP’s effort to stop states from legalizing medicinal marijuana. Since Arizona’s and California’s successful medicinal marijuana initiatives in 1996, the office continues to waste federal resources to influence the outcome of state ballot initiatives, acting like Big Brother and infringing upon states’ rights.

Patients suffering from a myriad of illnesses turn to marijuana when every other medicinal remedy has been tried and failed. Those suffering from AIDS, cancer, and glaucoma have used marijuana for treatment, even though any use of marijuana is prohibited at the federal level.³⁷ Yet, since 1996, 10 states³⁸ have approved the use of medicinal marijuana.

Other states have attempted to pass medicinal marijuana laws, yet the federal government has stepped in on many occasions to rigorously oppose such action. ONDCP has opposed medical marijuana initiatives in Arizona in 2002; in Maryland and Columbia, Missouri in 2003; in Montana, Oregon, and Vermont in 2004; and most recently, in Illinois in 2005.

In states which have already passed laws, ONDCP has attempted to stop any further activity. The federal government maintains that arresting all marijuana users is part of the war on drugs. Alabama

³⁵ Ibid, p. 5.

³⁶ Ibid, pp. 16-17.

³⁷ The U.S. Food and Drug Administration’s Compassionate Investigational New Drug program legally allows seven patients to each receive a tin can full of 300 marijuana joints every month. The program was established in 1975, but has not approved a new patient since 1992.

³⁸ Alaska, California, Colorado, Hawaii, Maine, Montana, Nevada, Oregon, Vermont and Washington have enacted laws that permit the use of marijuana for medicinal purposes to some extent.

Solicitor General Kevin Newsom disagreed, stating that arresting sick patients “isn’t about the drug war. It’s about states’ rights.”³⁹

During the 2002 elections, drug czar John Walters injected himself into state debates over marijuana in Arizona and Nevada. ONDCP spent \$96 million to run ads focusing on “anti-marijuana messages aimed at state ballot initiatives for drug-policy reform”⁴⁰ in states with marijuana initiatives on the ballot.

Walters was clearly opposed to Arizona’s measure to decriminalize possession of marijuana, and called the initiative a “‘stupid, insulting’ con job run by a dishonest campaign.”⁴¹ The proposition would have reduced the sentence for possession of marijuana, eliminated arrests for possession of two ounces of pot or less, required the distribution of confiscated marijuana free to qualified medical patients, and changed seizure laws. Voters did not approve this new marijuana initiative, but the medicinal marijuana laws passed in Arizona in 1996 remained unchanged.

Walters visited Nevada twice to vociferously oppose Question 9, Nevada’s 2002 marijuana initiative. The drug czar was honest about the reason for his trips. He stated that he came specifically to oppose the measure. During his October visit to the state, Walters told reporters and law enforcement agents that the pot proposition should not allow Nevada to become “‘a center for drug tourism.’”⁴²

On January 14, 2003, Nevada Secretary of State Dean Heller wrote a letter to the drug czar’s office to ask Walters to explain why he had not filed campaign finance reports as required by state law. ONDCP responded to Heller’s complaint on January 27, 2003, and stated that it was within the drug czar’s scope of work and the White House’s drug office was immune to the state law.

On April 23, 2003, Nevada State Attorney Brian Sandoval penned that it was “unfortunate that representative of the federal government substantially intervened in a manner that was clearly a State of Nevada issue. The excessive federal intervention that was exhibited in this instance is particularly disturbing because it sought to influence the outcome of a Nevada election. However, because Mr. Walters’ actions in regard to Question 9 were within the scope of his function as director of ONDCP this office believes that a court would find him to be immune from Nevada’s campaign and expenditure reporting laws.”⁴³

While ONDCP has failed to reveal the total of these expenditures, it is nonetheless an inappropriate use of federal tax dollars to fly to Nevada on two separate occasions to voice opposition to a state law.

Big Brother also stepped in during the 2004 elections. ONDCP officials visited Vermont to stop its medicinal marijuana bill, even though the law had already passed the state Senate and was on its way to a House committee. Deputy drug czar Scott Burns visited Montana to stop its pot proposition and

³⁹ Doug Bandow, “Medical Marijuana Not an Enemy in the Outrageous War on Drugs,” *Investor’s Business Daily*, December 7, 2004, p. 1.

⁴⁰ David Kiley, “Are Anti-Drug Ads a Big Waste?” *BusinessWeek Online*, October 5, 2004, p. 2.

⁴¹ Ray Stern, “Drug Czar Blasts Arizona Pot Proposition,” *East Valley Tribune*, October 10, 2002, p. 1.

⁴² Bob Keefe, “Early Voting is Under Way on Measure to Decriminalize Marijuana Possession,” *Austin American-Statesman*, October 19, 2002, p. 1.

⁴³ “Nevada Attorney General Opinion Re: MPP Complaint,” Marijuana Policy Project, (viewed on April 18, 2005), http://www.mpp.org/WarOnDrugCzar/complaints/NAG_opinion.html>.

stood firm that U.S. citizens should “look to experts to tell us what is safe”⁴⁴ and “none of them say smoking this weed is medicine.”⁴⁵

The rights of states to regulate medicine is continuously challenged by the federal government, costing taxpayers millions of dollars in court fees. In December 2003, the Ninth U.S. Circuit Court of Appeals ruled “so long as the pot was consumed for medicinal purposes, was not sold and was not transported across state lines, the federal government had no authority to interfere.”⁴⁶

However, a pending federal case in California, Ashcroft v. Raich, challenges the Ninth Circuit Court’s decision. Angel McClary Raich is a Californian who has used marijuana for the past five years under the state-approved Compassionate Use Act.⁴⁷ Raich has a number of disorders, including chronic pain, scoliosis, seizures, spasms, and multiple tumors. Her physician maintains that the patient has tried all other legal alternatives of treatment without success.

Raich sued the federal government, arguing that the Controlled Substances Act (CSA) is unconstitutional. The Ninth Circuit Court agreed with Raich, but U.S. General Attorney John Ashcroft appealed the decision, sending the case to the Supreme Court. The pending case will decide whether the CSA “exceeds Congress’s power under the Commerce Clause as applied to the intrastate cultivation and possession of marijuana for purported personal ‘medicinal’ use or to the distribution of marijuana without charge for such use.”⁴⁸

That voters continually put the issue on the ballot shows an openness to allowing the use of marijuana for medical purposes. It is irresponsible of ONDCP to use taxpayer dollars to fly around the country pushing for states to vote no on marijuana initiatives. Also, ONDCP should not be spending millions of dollars prosecuting the use of medicinal marijuana in states which have already passed laws allowing such use. When the federal government infringes upon states’ rights and influences ballot decisions, it undermines the Tenth Amendment.

The High Intensity Drug Trafficking Area Program

Another ONDCP program that has left the taxpayers high and dry is the High Intensity Drug Trafficking Area Program (HIDTA). Designed chiefly to curb drug trafficking across America’s borders, the program has become a drug prevention funding free-for-all for power-hungry politicians to bring home the bacon to their districts at the taxpayers’ expense, and has decreased drug enforcement in areas where it is critically needed. Recognizing the broken process, in his fiscal 2006 budget President Bush recommended consolidating HIDTA with DOJ’s drug control programs and reducing its budget by 55.8 percent, from \$226.5 million to \$100 million.

Created in 1988, HIDTA was supposed to assist “federal state and local law enforcement entities participating...to dismantle and disrupt drug trafficking organizations.”⁴⁹ Funding was distributed to five “gateway” regions of the U.S. where the majority of drug transfers took place, and by 1990, financial

⁴⁴ Ochenski, p. 1.

⁴⁵ Idem.

⁴⁶ Bandow.

⁴⁷ Under the Compassionate Use Act, fatally ill Californians are able to obtain and use marijuana for medical purposes if the patient’s physician has decided that using the drug is beneficial to the patient’s health.

⁴⁸ Duke Law, “Ashcroft v. Raich,” Supreme Court Online, (viewed on April 11, 2005), <<http://www.law.duke.edu/publiclaw/supremecourtonline/certgrants/2004/ashvrai.html>>.

⁴⁹ ONDCP, “The High-Intensity Drug Trafficking Area Program: An Overview,” (viewed on December 20, 2004), <<http://www.whitehousedrugpolicy.gov/hidta/overview.html>>.

support was headed to Los Angeles, Houston, New York/New Jersey, South Florida, and the Southwest border of the U.S. Soon after its inception, politicians — always aware of opportunities to bring pork to their constituents — began to lobby for HIDTA money for their states.

By 1995, HIDTA funding was allocated to Atlanta, Chicago and Philadelphia. In 1997, funding spread to the Midwest, the Gulf Coast, the Rocky Mountain region, and the Northwest — all geographically isolated from the original five border regions. By 2001, 56 percent of states were receiving funding.⁵⁰

Although funding has increased dramatically for HIDTA, an increasingly smaller percentage of tax dollars is being spent in regions for which the money was initially intended. For example, total funding for the program increased 460 percent in its first seven years, from \$25 million in fiscal 1990 to \$140 million in fiscal 1997. By 2005, the program's budget had grown 813.4 percent from 1990, to \$228.4 million.⁵¹ However, funds for the Southwest border region — a key area for stopping the import of drugs from Mexico — dropped from 44 percent of total HIDTA funds in 1990 to 25 percent in 1997.⁵²

The shift of federal funding from crucial border areas to landlocked states like Kansas and Iowa begs the question of what kind of trafficking is leading tax dollars away from the borders and toward the heartland. The Southwest U.S. serves as the main entry point for drugs to those regions. Midwest and other non-border states have argued for increased funding centered around two faulty pillars: decreasing drug trafficking once the substances cross the borders, and stopping methamphetamine production within states.

Controlling the methamphetamine (meth) situation within states by using HIDTA funds is a smoke screen for politicians to bring home federal money for state and community drug control programs. Even though the rate of small production meth labs has been increasing steadily, states are attempting to raid ONDCP's reserves to help pay for local drug problems. Currently, \$52.5 million in federal funds is designated for fighting meth production, which is a 52.4 percent increase over the \$25 million that was allotted in 2000.⁵³ The main recipients of the "anti-meth" campaign are North Dakota, Nebraska and South Carolina — all areas which are not vulnerable to high rates of drug trafficking.

Rather than worry about drugs making their way into every U.S. state, resources should be focused on barring drugs from reaching America in the first place. According to Rocky Mountain HIDTA Sergeant Jim Gerhardt, approximately 80 percent of meth on the streets can be traced to "Mexican meth," a cheaper version of the drug that is being sneaked across America's borders.⁵⁴ With federal resources pulled away from the Southwest border, it is not surprising that such a large percentage of meth can be traced back to Mexico. More HIDTA monies designated to combat the meth problem should be given to the Southwest border states, since only 20 percent of meth on the streets is produced domestically.

Also, local and state law enforcements already receive federal funds through the Department of Justice (DOJ), the Drug Enforcement Agency, and other federal agencies for drug control programs. For instance, Colorado received \$71.8 million in fiscal 2004 through DOJ for local law enforcement grants

⁵⁰ Rep. Mark Souder (R-Ind.), hearing before the House Committee on Government Reform, March 10, 2005, p. 1.

⁵¹ Ibid, p. 2.

⁵² ONDCP, "An Overview of Federal Drug Control Programs on the Southwest Border," ONDCP fact sheet, (viewed April 4, 2005), <http://www.ncjrs.org/ondcppubs/publications/enforce/border/hidta_1.html>.

⁵³ Michael Doyle, "Anti-drug Efforts Fight for Funding," *The Sacramento Bee*, December 19, 2004, p. 2.

⁵⁴ John Ingold, "Mixed Signals on Meth Crisis," *Denver Post*, November 26, 2004, p. 1.

and the Office of Community Oriented Policing Services (COPS). Wyoming received \$9.9 million during the same funding cycle, and Nebraska received \$30.8 million in DOJ grants.

The COPS program is yet another drug funding larder which provides grants to local, state, and tribal enforcement agencies to hire more cops and increase local resources. Established under the Clinton administration in 1994, the program has spent \$11.3 billion over a decade, yet “there’s little evidence that COPS was a big factor in reducing crime.”⁵⁵ Also, “[f]ederal audits of just 3% of all COPS grants have alleged that \$277 million was misspent. Tens of thousands of jobs funded by the grants were never filled, or weren’t filled for long[.]”⁵⁶ Because of the misuse of funds and inefficiency of the program, President Bush has requested only \$22 million for the COPS program in fiscal 2006, a 95.6 percent decrease from \$499 million for the program in fiscal 2005.

Even such an abundance of money and a plethora of programs, states still cry for their representatives to bring home HIDTA pork. In the fiscal 1998 Treasury/Postal Service Appropriations Act, three new HIDTA areas received \$10 million in unrequested HIDTA funds: \$6 million for the Appalachia region (Kentucky, Tennessee and West Virginia); \$3 million for Milwaukee; and \$1 million for central Florida. The new regions brought the total percentage of the U.S. population living in a HIDTA area to 25 percent.

In fiscal 2005, appropriators added \$23.8 million in HIDTA pork to the appropriations bills. In fact, \$20 million was added to the Transportation/Treasury Appropriations Act with no specific instructions on where the money should be spent. However, \$1.125 million was added by the Senate in the fiscal 2005 Defense Appropriations Act for the Appalachia region (more specifically, for Kentucky and West Virginia). Not surprisingly, Sens. Mitch McConnell (R-Ky.) and Robert Byrd (D-W.Va.) are members of the Defense Appropriations Subcommittee, thereby making it easy to slip in extra funding. Sen. McConnell also inserted another \$2.7 million for Kentucky’s National Guard Counter-drug and HIDTA Program through the defense appropriations bill.

Another area receiving questionable HIDTA funds is the Rocky Mountain region, which was mysteriously added to the HIDTA list in 1996. The region receives monies because “[m]ethamphetamine continues to pose the greatest threat in Rocky Mountain HIDTA’s four-state region. Methamphetamine abuse and trafficking are associated with financial, property, and violent crimes throughout Colorado, Utah, Montana and Wyoming.”⁵⁷

The problem with this region receiving funding is that none of the Rocky Mountain region states are points of entry for drug smugglers sneaking across the border into the U.S. However, Rocky Mountain state appropriators saw ONDCP’s program for what it has become: a federal cash cow that can be milked to produce drug control funding for their states.

For example, in 2003, Sen. Ben “Nighthorse” Campbell (R-Colo.) earmarked \$1.15 million for “a demonstration project in Colorado that uses Web-based technology to securely integrate disparate databases”⁵⁸ for the Rocky Mountain region HIDTA program. The regional HIDTA director, Tom Gorman, “was surprised to learn last year that Sen. Ben Nighthorse Campbell had gotten him a million-dollar federal grant....Gorman had not asked for the money, nor was he familiar with the software system

⁵⁵ Peter Eisler and Kevin Johnson, “10 Years and \$10B Later, COPS Drawing Scrutiny,” *USA Today*, April 11, 2005, p. 1.

⁵⁶ *Idem*.

⁵⁷ ONDCP, “Rocky Mountain HIDTA,” ONDCP fact sheet, (viewed on April 7, 2005), <http://www.whitehousedrugpolicy.gov/publications/policy/hidta04/rocky_mountain.html>.

⁵⁸ Mike Soraghan, Anne C. Mulkern and John Aloysius Farrell, “Campbell Pushed No-bid Contract,” *Denver Post*, May 30, 2004, p. 3.

it was supposed to buy.”⁵⁹ Sen. Campbell planned to steer the non-competitive grant to Thinkstream, Inc., an Oregon-based software company that was the top contributor to the senator’s re-election campaign.⁶⁰

In September 2003, the HIDTA board opened the contract up for bids, prompting Colorado’s senior senator to write a “terse letter”⁶¹ to push for Thinkstream to win the contract. The November 21, 2003 letter was addressed to Mr. Gorman, and stated that Sen. Campbell was “disappointed that despite all of the support I have given you and the Rocky Mountain HIDTA that you are reluctant to proceed.”⁶² Gorman and the Rocky Mountain region HIDTA board turned the letter over to DOJ for investigation.

In a January 2004 letter to HIDTA, the senator apologized and agreed that the software system decision should be based on “the most effective and efficient system as well as fiscal responsibility.”⁶³ In March 2004, Sen. Campbell asked the Senate Ethics Committee to investigate the matter, claiming that a former employee may have improperly used his name to help Thinkstream get the HIDTA contract. The committee was already investigating the senator’s former chief of staff, Ginnie Kontik, who was involved in a separate kickback scandal.

As part of its war on drugs, once ONDCP decided to add controlling meth to the list of reasons why a region should receive HIDTA funding, ONDCP should have made every effort to allot finances to the areas that have the highest rate of meth production. For instance, meth labs have been increasing in the Midwest, but California still accounts for 75 to 90 percent of the nation’s illegal meth production. The situation has left California to defend itself by using a two-pronged approach: defending the border from illicit drug trafficking in Southern California, and fighting meth labs in Central California.⁶⁴ Central Valley, California HIDTA Director Bill Ruzzamenti explained the situation, noting that “[o]ur congressional delegation is one of many....Everybody is still fighting over limited dollars.”⁶⁵

Although many states show an increase in drug busts (usually meth or marijuana-related), the increase in HIDTA funding has not decreased drug trafficking, drug-related crime, or production of drugs. In Arizona, drug-related crimes are on the rise, despite federal funding pouring into the state. The Arizona Criminal Justice Commission released a report in 2004 entitled “2004-2007 Strategy for Arizona Drug, Gang, and Violent Crime Control” which pointed out that “smuggling operations are becoming increasingly violent” and “drug gangs are relocating to Tucson and Phoenix....”⁶⁶

According to a fall 2004 *Journal of Urban Health* report, Tucson ranked fifth in the nation for highest percentage of meth users out of 96 cities in the U.S. Also, “drug offense arrests have increased about 90 percent statewide, and juvenile drug-related arrests are up nearly 150 percent statewide.”⁶⁷ According to Arizona Criminal Justice Commission spokesman Joe Easton, the high percentage of arrests is a result of increased law enforcement and prosecution, but “it also means you have increased activity in the drug trade.”⁶⁸ So, despite all the federal funding to combat drug trafficking and use, the drug trade

⁵⁹ Ibid, p. 1.

⁶⁰ Sen. Campbell withdrew from the 2004 senatorial election race. However, Thinkstream was the lead contributor to his campaign at the time the senator earmarked the \$1.15 million, prior to his withdrawal.

⁶¹ Mike Soraghan and Jim Hughes, “Firm in Campbell Scandal Fires Lawyers,” *Denver Post*, May 14, 2004, p. 1.

⁶² Mike Soraghan, “Campbell Ethics Inquiry Expands,” *Denver Post*, March 18, 2004, p. 1.

⁶³ Robert Gehrke, “Campbell Sends Second Allegation to Ethics Committee,” *Associated Press*, March 16, 2004.

⁶⁴ Doyle, p. 1.

⁶⁵ Idem.

⁶⁶ Becky Pallack, “Report: State Falling Behind in Drug War,” *The Arizona Daily Star*, October 24, 2004, p. 1.

⁶⁷ Ibid, p. 2.

⁶⁸ Idem.

continues to grow. According to Rep. Jim Kolbe (R-Ariz.), “the drug gang problem may be best tackled at the local funding level.”⁶⁹

Politicians are quick to claim that HIDTA funding is a necessity for their state, but in reality, they are abusing drug control funds. HIDTA is aimed at stopping trafficking on a federal level, but members of Congress are now securing capital for home districts, rather than allotting the funds to address a serious national issue. And, despite the annual millions in funding, the drug trade is on the rise. Instead of handing out tax dollars for local meth labs and so-called drug trafficking in landlocked states, ONDCP should be sending money to states that have the most pervasive drug problem. Those states still happen to be the original five areas targeted by HIDTA.

Conclusion

ONDCP was created to coordinate all aspects of America’s war on drugs. Yet, the office has not been successful in its efforts to reduce the presence of illicit drugs in America. Instead, ONDCP burns through tax dollars by funding wasteful and unnecessary projects. Partly to thwart state efforts to regulate marijuana, the drug czar created a \$2 billion national anti-drug campaign, produced expensive propaganda ads that failed to reduce drug use among America’s youth, and in the process, violated federal law. Furthermore, the office wastes federal resources by opposing any legalization of marijuana, including medicinal use, which has nothing to do with the war on drugs.

Finally, ONDCP’s HIDTA program is an example of a well-intentioned project going to waste. HIDTA resources are no longer directed at securing America’s borders from drug trafficking; instead, it has become a cash cow for members of Congress to bring home the bacon for their constituents. HIDTA monies are going to non-drug trafficking states in America’s heartland to pay for local law personnel and equipment. The president’s fiscal 2006 budget calls for the program to be reduced by 55.8 percent, from \$226.5 million in fiscal 2005 to \$100 million in fiscal 2006. More importantly, President Bush has requested that HIDTA be transferred to DOJ in order to consolidate all drug trafficking programs. Hopefully, Congress will agree with that recommendation, which could be the beginning of the end of ONDCP’s wasted efforts in the war on drugs.

⁶⁹ Idem.