

Nowhere to HIDTA

The High Intensity Drug Trafficking Area program, along with other Drug Law Enforcement efforts that focus on supply, has resulted in the introduction of fentanyl into the heroin, cocaine and opioid (fentanyl masquerading as oxycodone or hydrocodone) markets, leading directly to the increase in overdose deaths.

Communication to the City of Milwaukee Common Council's Finance and Personnel Committee

RE: File No. 180151: Resolution relative to acceptance and funding of the 2018 High-Intensity Drug Trafficking Area project awards.

FROM: Paul Mozina

Executive Summary

- Prohibition of arbitrarily defined “controlled substances” by The State has resulted in the endless and unwinnable War On Drugs.
- “Human nature – the way it is – if you don’t have one addictive substance you’ll figure out another way, and, of course, someone will figure out a way to supply you with it.”, Ald. Murphy July 21, 2017 CCHOC Task Force meeting.
- Efforts by the DEA, FBI, ONDCP and it’s flagship program HIDTA, have utterly failed to prevent controlled substances from being readily available.
- Law enforcement efforts to control heroin and prescription opioids have led directly to the development and distribution of synthetic opioids like fentanyl. As Ald. Murphy put it: “so you squeeze one side, something else comes in on the other side.”
- “I Feel the fentanyl issue is truly driving the epidemic we have right now and the stats definitely prove that. If you look at it, if you go through year to year, it’s doubled, quadrupled, and *I hate to say it*, but **if we could get back to the heroin status it would be success**. But really that’s kind of where it’s at really when we’re talking about fentanyl.” Lieutenant Shaun Doyne, MPD Narcotics Division – HIDTA, December 1, 2017 CCHCO Task Force Meeting.
- The GAO reports show that the ONDCP and its flagship program, HIDTA, are failing to meet any of the goals set in 2010 by the Obama Administration

HIDTA Exists Because of Prohibition

- See Appendix I “The Harmful Side Effects of Drug Prohibition” 2009 by Randy E. Barnett, Carmack Waterhouse Professor of Legal Theory, Georgetown University Law Center.
- Drug Laws Punish Users.
- Drug Laws Raise the Price of Drugs to Users.
- Drug Laws Make Drug Users Buy from Criminals.
- Drug Laws Induce the Invention of New Intoxicating Drugs (fentanyl).
- Drug Laws Criminalize Users.
- Negative Impact of Drug Law Enforcement to General Public
 - Scarce Resources spent to enforce Drug Laws, Increased Crime, Harms Resulting from the “Victimless” character of Drug Use, Incentives Created by Crimes without Victims, Invasion of Privacy, Weakening of Constitutional Rights, Corruption, Injustice

The HIDTA Program is a Failure

The Government Accountability Office has been looking closely at the Office of National Drug Control Policy and its flagship program: HIDTA. Below are summaries of the GAO's findings from 2013 to 2017. The 7 goals referenced are from the 2010 National Drug Control Strategy

<https://obamawhitehouse.archives.gov/sites/default/files/ondcp/policy-andresearch/ndcs2010.pdf>:

1. Strengthen Efforts to Prevent Drug Use in Our Communities
2. Seek Early Intervention Opportunities in Health Care
3. Integrate Treatment for Substance Use Disorders into Health Care, and Expand Support for Recovery
4. Break the Cycle of Drug Use, Crime, Delinquency, and Incarceration
5. Disrupt Domestic Drug Trafficking and Production
6. Strengthen International Partnerships
7. Improve Information Systems for Analysis, Assessment, and Local Management

Office Could Better Identify Opportunities to Increase Program Coordination

The Office of National Drug Control Policy (ONDCP) and federal agencies have not made progress toward achieving most of the goals articulated in the 2010 National Drug Control Strategy (the Strategy), but are reported to be on track to implement most Strategy action items intended to support these goals. ONDCP established seven Strategy goals related to reducing illicit drug use and its consequences by 2015. **As of March 2013, GAO's analysis showed that of the five goals for which primary data on results are available, one shows progress and four show no progress.** For example, no progress has been made on reducing drug use among 12- to 17-year-olds by 15 percent.

This is primarily due to an increase in the rate of reported marijuana use, offset by decreases in the rates of reported use of other drugs. Nevertheless, ONDCP reported that 107 of the 112 action items in the Strategy are complete or on track. ONDCP officials stated that implementing these action items is necessary but may not be sufficient to achieve Strategy goals.

Lack of Progress on Achieving National Strategy Goals

GAO reported in March 2013 that the Office of National Drug Control Policy (ONDCP) and other agencies had not made progress toward achieving most of the goals in the 2010 National Drug Control Strategy (the Strategy) and ONDCP had established a new mechanism to monitor and assess progress. In the Strategy, ONDCP established seven goals related to reducing illicit drug use and its consequences to be achieved by 2015. As of March 2013, GAO's analysis showed that of the five goals for which primary data on results were available, one showed progress and four showed no progress. GAO also reported that ONDCP established a new monitoring system intended to provide information on progress toward Strategy goals and help identify performance gaps and options for improvement. At that time, the system was still in its early stages, and GAO reported that it could help increase accountability for improving progress. In November 2015, ONDCP issued its annual Strategy and performance report, which assess progress toward all seven goals. **The Strategy shows progress in achieving one goal, no progress on three goals, and mixed progress on the other three goals. Overall, none of the goals in the Strategy have been fully achieved.**

Progress toward Some National Drug Control Strategy Goals, but None Have Been Fully Achieved

The Office of National Drug Control Policy (ONDCP) and federal agencies have made mixed progress toward achieving the goals articulated in the 2010 National Drug Control Strategy (Strategy) and ONDCP has established a mechanism to monitor and assess progress. In the Strategy, ONDCP established seven goals related to reducing illicit drug use and its consequences by 2015. **As of May 2016, our analysis indicates that ONDCP and federal agencies have made moderate progress toward achieving one goal, limited progress on three goals, and no progress on the three other three goals. Overall, none of the goals in the Strategy have been fully achieved.** In March 2013, GAO reported that ONDCP established the Performance Reporting System to monitor and assess progress toward meeting Strategy goals and objectives. GAO reported that the system's 26 new performance measures were generally consistent with attributes of effective performance management. A 2015 ONDCP report on progress towards these measures similarly identified some progress towards overall achievements—some of the measures had met or exceeded targets, some had significant progress underway, and some had limited or no progress.

Information on Status of Federal Efforts and Key Issues for Preventing Illicit Drug Use

GAO reported in March 2013 that the Office of National Drug Control Policy (ONDCP) and other agencies had not made progress toward achieving most of the goals in the 2010 National Drug Control Strategy (the Strategy) and ONDCP had established a new mechanism to monitor and assess progress. In the Strategy, ONDCP established seven goals related to reducing illicit drug use and its consequences to be achieved by 2015. As of March 2013, GAO's analysis showed that of the five goals for which primary data on results were available, one showed progress and four showed no progress. GAO also reported that ONDCP established a new monitoring system intended to provide information on progress toward Strategy goals and help identify performance gaps and options for improvement. At that time, the system was still in its early stages, and GAO reported that it could help increase accountability for improving progress. **In November 2015, ONDCP issued its annual Strategy and performance report, which assess progress toward all seven goals. The Strategy shows progress in achieving one goal, no progress on three goals, and mixed progress on the other three goals. Overall, none of the goals in the Strategy have been fully achieved.**

HIDTA Program Uses Deception to Create Meaningless ONDCP Reports to Congress

- Please see appendices II-IV for the Wisconsin Individual HIDTA reports for 2017, 2016 and 2015. The 2017 report begins by defining the terms used to measure the “success” of the program
- Annual reports to Congress are *projections*, not actual data (see definition of YEAR)
- Drug Trafficking Organizations (DTOs) *expected* to be disrupted/dismantled is akin to Vietnam War era “body counts” as true measure of “success”
 - 2015 *projected* DTOs disrupted or dismantled: 48, **DTOs actually disrupted or dismantled 27**
 - 2014 *projected* DTOs disrupted or dismantled: 59, **DTOs actually disrupted or dismantled 35**
- Return on Investment: Assets and Return on Investment: Drugs are cynical and meaningless measures of the actual “success” of the program and rather serve merely to justify its perpetuation from a cost to government perspectives (HIDTA-Program-Effectiveness-2016 report
(<http://www.hidtadirectors.org/pdf/HIDTAProgram-Effectiveness-2016.pdf>)
- HIDTA does not report harms caused or unintended side effects of its efforts e.g., the introduction of fentanyl into the heroin, cocaine and opioid markets (see also effects of prohibition noted above).

MPD HIDTA Stands Down in the Face of DEA (Cartel) Admissions that *Their Physicians (Dealers)* are Illegally Prescribing Opioids and Pumping Pills on the Street

- Has MPD's HIDTA Program team taken any action to address the admissions made in their presence by Ms. Kathy Federico, 28-year DEA veteran and currently Diversion Control Supervisor, at the July 21, 2017 meeting of the Milwaukee City-County Heroin, Opioid and Cocaine (CCHOC) Task Force?

“...And you did talk about some of the administrative proceedings that we can take against *our physicians* that are **over prescribing and not prescribing in a legitimate manner**, that puts oxycodone and hydrocodone on the street. **And we do have a lot of those.**”

And I mean the other issue we have is, is having ahh — prosecutions — of physicians that are pumping pills on the street without people having legitimate medical problems. And that's an issue we address all the time because **nobody wants to put a doctor behind — in jail.**

...You talk about the PDMP and having this big impact. The PDMP has been out there for a long time and we had some impact initially when it started. I don't know exactly what issue you want me to address but some of the PDMP issues, is, yes, it's very true that the doctors is going to have to check, it's going to be mandatory, **but there are no consequences if the doctors do not check. And we have a lot of the doctors that are not looking at the PDMP..”**

- According to the DEA's Criminal Cases Against Doctors website: https://www.deadiversion.usdoj.gov/crim_admin_actions/index.html, there were only 2 cases in the last 4 years reported in Wisconsin
- Wisconsin Act 266 strengthened the PDMP (Prescription Drug Monitoring Program) and, even prior to that update, the legislation had provided “consequences” for physicians by permitting the Controlled Substances Board (CSB) to make referrals based on its evaluation of the practitioner's actions (see <https://docs.legis.wisconsin.gov/statutes/statutes/961/III/385/2/f>). The DEA can refer cases of physicians that are illegally prescribing, or not using the PDMP, to the CSB and **create consequences.**

MPD Exposes HIDTA Failure

- MPD HIDTA admits no way to arrest way out of problem
- MPD HIDTA says their results are limited by current resource levels
- MPD HIDTA refuses offer of additional resources from Ald. Murphy and Ald. Lewis
 - It is fair to conclude then that MPD HIDTA isn't trying to "win" the drug war — they only need enough resources to *continue playing the game*
- MPD HIDTA says voids created by their actions will eventually be filled by new suppliers
- MPD HIDTA says synthetic opioids like fentanyl are available on the "dark web" (making interdiction virtually impossible)
- "I Feel the fentanyl issue is truly driving the epidemic we have right now and the stats definitely prove that. If you look at it, if you go through year to year it's doubled, quadrupled, and *I hate to say it*, but **if we could get back to the heroin status it would be success**, but really that's kind of where it's at really when we're talking about fentanyl." MPD Narcotics Division — HIDTA Lieutenant Shaun Doyne

MPD's HIDTA Program Unaccountable to Public

- HIDTA Grant/Award does not require research or evaluation
- HIDTA Grant requires NO reporting by MPD of any of their activities – no way for public to judge the program
 - No listing of Court Cases resulting from their actions
 - No demographic reports on who they are targeting
 - No reporting on asset forfeiture revenue generated
 - How many cases bumped up to Federal level by HIDTA so MPD can participate in “Equitable Sharing” of any forfeiture revenue?
 - No breakdown in “Equitable Sharing Agreement and Certification – Annual Certification Report of revenue generated by HIDTA (see appendices V and VI)
 - No Civil Rights Cases listed on Annual Certification Report since 2014
 - No reporting on scope of activity i.e., whether it is limited to mid to high level cases or extends to low level cases
 - No reporting on when violence involved in actions or “collateral” damage
 - No basic reporting on actual results achieved provided to Common Council or Public (are HIDTA activities a secret?)
 - No reporting on their use of wire taps (danger of “parallel construction”)

What is Total Cost to MPD to participate in the HIDTA Program?

- What are the infrastructure support costs to MPD of:
 - HIDTA-Operated Case Explorer?
 - HIDTA-Operated SAFENet?
 - HIDTA Investigative Support Center?
- How many MPD sworn officers not funded via the grant work on the HIDTA program?
- How many MPD employees, other than sworn officers, work on the HIDTA Program?

Conclusion

- MPD's participation in the HIDTA program is "Mission Impossible"
 - No evidence that The State is winning the Drug War, rather evidence shows it is loosing badly (emergence of fentanyl and GAO Reports)
 - "Human Nature, the way it is" will never submit to coercive interference in free choice: the War On Drugs is inherently unwinnable and doomed to failure
 - Prohibition of Controlled Substances, unlike alcohol prohibition, was never subjected to Constitutional Amendment or decision by the people
 - If asked, how many people would say 'Yes, I want the government to control what I can inoffensively possess and consume'?
- HIDTA program perpetuates itself on asset forfeiture revenue and deceptive reporting to Congress
- MPD's HIDTA program can show no long-term positive results, the results they do show are short-term at best and any voids in supply created are quickly filled
- MPD's participation in the HIDTA program, along with all of the other controlled substance law enforcement efforts by The State, have utterly failed to prevent the emergence of extremely dangerous synthetic opioids like fentanyl and have, in fact, contributed to the emergence of these new drugs.

- MPD's HIDTA Program has operated for years without being held accountable for its results and the Common Council rubber stamps funding year after year without exercising any monitoring or oversight of HIDTA Program activities
- HIDTA Grant/Award does not measure true cost to the City to support the Program in MPD
- MPD HIDTA admits it is failing: “...if we could get back to the heroin status it would be success.”, Lieutenant Doyne
- MPD's HIDTA program operates under a veil of secrecy that is unwarranted (no demographic data, no court case references, no actual results reported, no wire tap data, no asset forfeiture reporting)
- The City of Milwaukee cannot afford \$2,000,000 to continue funding failed, unjust, secretive and positively harmful programs like HIDTA



2009

The Harmful Side Effects of Drug Prohibition

Randy E. Barnett

Georgetown University Law Center, rb325@law.georgetown.edu

Georgetown Public Law and Legal Theory Research Paper No. 12-037

This paper can be downloaded free of charge from:

<http://scholarship.law.georgetown.edu/facpub/817>

<http://ssrn.com/abstract=2021438>

2009 Utah L. Rev. 11-34

This open-access article is brought to you by the Georgetown Law Library. Posted with permission of the author.

Follow this and additional works at: <http://scholarship.law.georgetown.edu/facpub>



Part of the [Criminal Law Commons](#), and the [Law Enforcement and Corrections Commons](#)

THE HARMFUL SIDE EFFECTS OF DRUG PROHIBITION

Randy E. Barnett*

I. INTRODUCTION: CURING THE DRUG LAW ADDICTION

Some drugs make people feel good. That is why some people use them. Some of these drugs are alleged to have side effects so destructive that many advise against their use. The same may be said about statutes that attempt to prohibit the manufacture, sale, and use of drugs. Advocating drug prohibition makes some people feel good because they think they are “doing something” about what they believe to be a serious social problem. Others who support these laws are not so altruistically motivated. Employees of law enforcement bureaus and academics who receive government grants to study drug use, for example, may gain financially from drug prohibition. But as with using drugs, using drug laws can have moral and practical side effects so destructive that they argue against ever using legal institutions in this manner.

One might even say—and not altogether metaphorically—that some people become psychologically or economically *addicted* to drug laws.¹ That is, some people continue to support these statutes despite the massive and unavoidable ill

* © 2009 Randy E. Barnett, Carmack Waterhouse Professor of Legal Theory, Georgetown University Law Center. Permission to copy for classroom use is hereby granted. This article revises and updates Randy E. Barnett, *Curing the Drug Law Addiction: The Harmful Side-Effects of Legal Prohibition*, in *DEALING WITH DRUGS* (Ronald Hamowy ed., 1987). My thanks to Professor Erik Luna for his interest in seeing that this article receive a wider audience and to the editors of the Utah Law Review for helping to update it.

¹ For those who would object to my use of the word *addiction* here because drug laws cause no physiological dependence, it should be pointed out that, for example, the Illinois statute specifying the criteria to be used to pass upon the legality of a drug nowhere requires that a drug be physiologically addictive. The tendency to induce physiological dependence is just one factor to be used to assess the legality of a drug. Drugs with an accepted medical use may be controlled if they have a potential for abuse, and abuse will lead to “psychological *or* physiological dependence.” 720 ILL. COMP. STAT. 570/205 (2006) (emphasis added); *see also id.* §§ 570/207, 570/209, 570/211. Thus, applying the same standard to drug-law users as they apply to drug users permits us to characterize them as addicts if they are psychologically “dependent” on such laws. Personally, I would favor limiting the use of the term addiction to physiological dependence. As John Kaplan put the matter, “while the concept of addiction is relatively specific and subject to careful definition, the concept of psychological dependence, or habituation, often merely reflects the common sense observation that people who like a drug will continue to use it if they can—so long as they continue to like it: effects.” JOHN KAPLAN, *MARIJUANA: THE NEW PROHIBITION* 160 (1970). The same might be said about those who like drug laws.

effects that result.² The psychologically addicted ignore these harms so that they can attain the “good”—their “high”—they perceive that drug laws produce. Other drug-law users ignore the costs of prohibition because of their “economic” dependence on drug laws; these people profit financially from drug laws and are unwilling to undergo the economic “withdrawal” that would be caused by their repeal.³

Both kinds of drug-law addicts may deny their addiction by asserting that the side effects are not really so terrible or that they can be kept “under control.” The economically dependent drug-law users may also deny their addiction by asserting that (1) noble motivations, rather than economic gain, lead them to support these statutes; (2) they are not unwilling to withstand the painful financial readjustment that ending prohibition would force them to undergo; and (3) they can “quit” their support any time they want to—provided, of course, that they are rationally convinced of its wrongness.

Their denials notwithstanding, both kinds of addicts are detectable by their adamant resistance to rational persuasion. While they eagerly await and devour any new evidence of the destructiveness of drug use, they are almost completely uninterested in any practical or theoretical knowledge of the ill effects of illegalizing such conduct.⁴ Yet in a free society governed by democratic principles, these addicts cannot be compelled to give up their desire to control the consumption patterns of others. Nor can they be forced to support legalization in spite of their desires. In a democratic system, they may voice and vote their opinions about such matters no matter how destructive the consequences of their desires are to themselves or, more importantly, to others. Only rational persuasion may be employed to wean them from this habit. As part of this process of persuasion, drug-law addicts must be exposed to the destruction their addiction wreaks on drug users, law enforcement, and on the general public. They must be made to understand the inherent limits of using law to accomplish social objectives.

This Article will not attempt to identify and “weigh” the costs of drug use against the costs of drug laws. Instead, it will focus exclusively on identifying the harmful side effects of drug law enforcement and showing why these effects are unavoidable. So one-sided a treatment is justified for two reasons. First, a cost-

² See David C. Leven, *Our Drug Laws Have Failed—So Where Is the Desperately Needed Meaningful Reform?*, 28 FORDHAM URB. L.J. 293, 305–06 (2000) (stating that many people still support the current drug laws).

³ See David R. Henderson, *A Humane Economist’s Case For Drug Legalization*, 24 U.C. DAVIS L. REV. 655, 662 (1991) (noting that some scholars argue that illegality is more profitable).

⁴ See James Ostrowski, *The Moral & Practical Case for Drug Legalization*, 18 HOFSTRA L.REV. 607, 647–50 (1990) (many proponents of drug laws mischaracterize their effects to gain support).

benefit or cost-cost analysis may simply be impossible.⁵ Second, discussions by persons who support illegalizing drugs usually emphasize only the harmful effects of drug use while largely ignoring the serious costs of such policies. By exclusively relating the other side of the story, this Article is intended to inject some balance into the normal debate.

The harmful side-effects of drug laws have long been noted by a number of commentators, although among the general public the facts are not as well known as they should be.⁶ More importantly, even people who agree about the facts fail to grasp that it is the nature of the means—coercion—chosen to pursue the suppression of voluntary consumptive activity that makes these effects unavoidable. This vital and overlooked connection is the main subject of this Article.

II. CLARIFYING OUR TERMS

The inherently destructive effects of drug laws, results from the combination of two aspects of drug prohibition that need to be distinguished. The first is the coercive nature of the means being used. The second is the type of conduct being coerced. Only by understanding the kind of conduct that is the subject of drug laws and how it differs from other kinds of conduct regulated by law can we begin to see why legal coercion is an inappropriate means in which to pursue our objectives.

Drug laws reflect the decision of some persons that other persons who wish to consume certain substances should not be permitted to act on their preferences. Nor should anyone be permitted to satisfy the desires of drug consumers by making and selling the prohibited drug. For the purposes of this discussion, the most important characteristic of the legal approach to drug use is that these consumptive and commercial activities are being regulated by *force*.⁷ Drug-law

⁵ See Randy E. Barnett, *Pursuing Justice in a Free Society: Part One—Power vs. Liberty*, 4 CRIM.L JUST. ETHICS 50, 63–65 (1985) (discussing some of the problems with efforts at cost benefit calculation).

⁶ While there certainly is no consensus on the conclusions that ought to be drawn from the facts of this tragic story, the facts themselves are not unknown in law enforcement or in academia. See, e.g., ARTHUR D. HELLMAN, *LAW AGAINST MARIJUANA: THE PRICE WE PAY* 16 (1975) (describing the costs and benefits of drug laws); JOHN KAPLAN, *THE HARDEST DRUG: HEROIN AND PUBLIC POLICY* 94–100 (1983) (noting the problems that would be remedied by free availability); Glenn Garvin et al., *Heroin: Should it be Legal—Advocates are few but Persuasive*, WASH. TIMES, Sept. 28, 1984, at A1; Alan L. Otten, *Dealing With Drugs—The Drug Trade: Experts in the Field of Narcotics Debate Ways to Curb Abuse—One Side Touts Legalization, Other Wants Crackdown; Probably Neither Is Right—Corporate Attitudes Change*, WALL ST. J., Nov. 29, 1984, at 1; Megan Cox, *Dealing With Drugs—The Drug Trade: Abuse of Narcotics in US is by No Means A Recent Phenomenon—In the 1800s Doctors’ Praise of Opium and Morphine Caused Much Addiction—Cocaine for the Common Cold*, WALL ST. J., Dec. 3, 1984, at 1.

⁷ While force is a neglected element of a proper moral evaluation of law, it may not be a *necessary* characteristic of law. Some institutions that may be characterized as

users wish to decide what substances others may consume and sell, and they want their decision to be imposed on others by force. The forcible aspect of the legal approach to drug use is one of two factors that combine to create the serious side effects of drug-law use. The other contributing factor is the nature of the conduct that drug laws attempt to prohibit.

No one claims that the conduct sought to be prohibited is of a sort that, if properly conducted, inevitably causes death or even great bodily harm.⁸ Smoking tobacco is bad for your health. It may shorten your life considerably. But it does not immediately or invariably kill you. The same is true of smoking marijuana.⁹ Of course, prohibited drugs can be improperly administered and cause great harm indeed, but even aspirin can be harmful in certain cases. Further, the conduct that drug laws prohibit is not inevitably addicting.¹⁰ Some users become psychologically or physically dependent on prohibited substances. Others do not.¹¹

genuinely legal in nature may do their work without using force. *See, e.g.*, LON L. FULLER, *THE MORALITY OF LAW* 108–10 (1965). What is important here is that the particular kind of law advocated by drug control enthusiasts is that kind that *does* involve the use of force. Therefore, in this chapter I will be using the term “law” in this limited sense, and although I will not repeatedly qualify this use in the manner suggested by Fuller’s analysis, such a limited use is intended and should be implied. *See* Dale A. Nance, *Legal Theory and the Pivotal Role of the Concept of Coercion*, 57 U. COLO. L. REV. 1, 2–3 (1985) (discussing the role of coercion in legal theory).

⁸ Like the federal government, the State of Illinois classifies or “schedules” controlled substances according to their varying characteristics from most serious (Schedule I) to least serious (Schedule V). That drugs can cause death or great bodily harm is not a requirement for prohibition. For drugs under schedules 11–V, potential for causing death or great bodily harm is not even a factor to be considered in determining the classification of a controlled substance. *See* 720 ILL. COMP. STAT. ANN. 570/201–212 (West 2003 & Supp. 2008). Schedule I drugs are those drugs that have a “high potential for abuse” and have “no currently accepted medical use in treatment in the United States *or* lack[] accepted safety for use in treatment under medical supervision.” 720 ILL. COMP. STAT. ANN. 570/203 (emphasis added). In other words, if a drug has no accepted medical use in treatment in the United States, all that is required for it to be scheduled is that it have a “high potential for abuse.” *Id.*

⁹ In discussing the effects of marijuana, the legislative declaration of the Cannabis Control Act of the State of Illinois states only that “the current state of scientific and medical knowledge concerning the effects of cannabis makes it necessary to acknowledge the physical, psychological and sociological damage which is incumbent upon its use.” 720 ILL. COMP. STAT. ANN. 550/1. *But see, e.g.*, Munir A. Khan, Assad Abbas, and Knud Jensen, *Cannabis Usage in Pakistan: A Pilot Study of Long Term Effects on Social Status and Physical Health*, in *CANNABIS AND CULTURE* 349–50 (Vera Rubin, ed., 1975) (“The most significant point which emerged was that in a society such as Pakistan where cannabis consumption is socially accepted, habituation does not lead to any undesirable results. . . . Our study appears to show that cannabis does not produce any serious long-term effects.”).

¹⁰ “[C]ultural and social factors . . . in combination with the individual’s somatic and psychic characteristics, determine the pattern of his drug behavior once he has chosen to experiment with it. The majority of individuals who reach this point progress no further and often discontinue marihuana use.” NATIONAL COMMISSION ON MARIJUANA AND DRUG

What then characterizes the conduct being prohibited by statutes illegalizing drugs? It is conduct where persons either introduce certain intoxicating substances into their own bodies, or manufacture or sell these substances to those who wish to use them.¹² The prime motivation for the drug user's behavior is to alter his state of mind to get "high."¹³ The harmful effects of the substances are not normally the effects being sought by the user; thus they are usually termed "*side effects*." People could introduce all sorts of harmful substances into their bodies, but do not generally do so unless they think that it will have a mind-altering effect. Anyone who wishes to ingest substances to cause death or great bodily harm will always have a vast array of choices available to him at the corner hardware store. A widespread black market in poisons has not developed to meet any such demand.

One can speculate about the underlying psyche of those who would engage in such risky behavior. One can argue that such persons must be "self-destructive"—that is, out to harm themselves in some way. It is doubtful, however, that such generalizations are any truer for drug users than they are for alcohol users or cigarette smokers, for whom the adverse health effects may be both more likely and more severe than those of many prohibited substances,¹⁴ or for skydivers,

ABUSE, MARIHUANA: A SIGNAL OF MISUNDERSTANDING 44 (1972); *see also* PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND THE ADMINISTRATION OF JUSTICE, THE CHALLENGE OF CRIME IN A FREE SOCIETY 13 (1967) ("Physical dependence does not develop"); Khan, Abbas, and Jensen, *supra* note 9, at 349 ("We have deliberately used the word habituation rather than addiction because we did not find either increased tolerance or withdrawal symptomatology, which are the essential prerequisites for addiction"); Kaplan, *supra* note 1, at 157–69 (arguing that there is little evidence to prove marijuana causes a physical dependence).

The Illinois statute prohibiting certain substances exemplifies the fact that drug laws are not aimed exclusively at addictive drugs. The criteria of Schedule I drugs, quoted *supra* note 8, requires only that the substance have a high potential for abuse. The other schedules make it clear that "abuse" is not the same as potential for "psychological or physiological dependence," by consistently listing them as separate factors that must be found before a drug that does have a legitimate medical usage in the United States may be legally controlled. *See* 720 ILL. COMP. STAT. ANN. 570/201–212 (West 2003 & Supp. 2008).

¹¹ For a summary of research on the pharmacology of opiates and their effects on the street user, see KAPLAN, *supra* note 6, 5–22.

¹² *See supra* note 8.

¹³ One objection to the definition offered in the text for the subject of drug laws is that it would apply to alcohol and caffeine consumption and for this reason must miss some special purpose of drug laws. On the contrary, the manufacture and sale of alcohol were once made illegal for similar reasons. Only the disastrous consequences that resulted from alcohol prohibition and the social acceptability of both alcohol and coffee have kept both substances legal to date. Moreover, at least with alcohol, regulation and even prohibition is constantly being advocated by some and implemented in certain locales.

¹⁴ *See* John C. Ball & John Chapman Urbaitis, *Absence of Major Medical Complications Among Chronic Opiate Addicts*, in THE EPIDEMIOLOGY OF OPIATE ADDICTION IN THE UNITED STATES 301, 304–06 (1970); World Health Org. Special Comm., *Problems Related to Alcohol Consumption: The Changing Situation*, 9 CONTEMP. DRUG PROBS. 185, 194–98 (1980). Since the much heralded appearance of the U.S. DEP'T

skiers, or bicyclers on city streets—not to mention the millions of people who refuse to wear their seat belts.

We can conclude then that the *end* or purpose of drug laws is to discourage people from engaging in risky activity in which they wish to engage either because they desire the intoxicating effects they associate with the consumption of a drug or because they desire the profit that can be realized by supplying intoxicating drugs to others.¹⁵ The *means* that drug laws employ to accomplish this end is using force against those who would engage in such activities, either to prevent them from doing so or to punish those who nonetheless succeed in doing so.

With this understanding of means and ends, I now explain why using force against people who wish to use intoxicants *inevitably* harms them, harms the general public, and harms the legal system.

III. THE HARMFUL EFFECTS OF DRUG LAWS ON DRUG USERS

At least part¹⁶ of the motivation for drug prohibition is that drug use is thought to harm those who engage in it.¹⁷ A perceived benefit of drug prohibition is that fewer people will engage in self-harming conduct than would in the absence of prohibition.¹⁸ While the contention that drug use can be harmful will not be

OF HEALTH, EDUC., AND WELFARE, REPORT OF THE ADVISORY COMMITTEE TO THE SURGEON GENERAL OF THE PUBLIC HEALTH SERVICE, SMOKING AND HEALTH, PUBLIC HEALTH SERVICE PUB. NO. 1103 (Jan. 11, 1964), the adverse health effects of tobacco smoking have been much studied and are quite well known.

¹⁵ See *infra* notes 19–21 and accompanying text (discussing the typical policy rationales used to justify drug laws that prohibited perceived self-harming conduct).

¹⁶ The other important motivation for drug prohibition is the perceived effects of drug use on the rest of society. See *infra* note 18 (Illinois legislature declaring its belief that drug consumption creates “consequences upon every element of society”). For a discussion on the countervailing costs imposed on society by drug laws will also be discussed, see *infra* Section IV.

¹⁷ In its legislative declaration, the legislature of the State of Illinois expressed this typical sentiment:

The abuse and misuse of alcohol and other drugs constitutes a serious public health problem the effects of which on public safety and the criminal justice system cause serious social and economic losses, as well as great human suffering. It is imperative that a comprehensive and coordinated strategy be developed . . . to empower individuals and communities through local prevention efforts and to provide intervention, treatment, rehabilitation and other services to those who misuse alcohol or other drugs (and, when appropriate, the families of those persons) to lead healthy and drug-free lives and become productive citizens in the community.

20 ILL. COMP. STAT. 301/1-5 (2009).

¹⁸ See 720 ILL. COMP. STAT. 570/100 (1998) (“It is the intent of the General Assembly, recognizing the rising incidence in the abuse of drugs and other dangerous

disputed here, there is another dimension of the issue of harm to drug users that may seem obvious to most when pointed out, but nonetheless is generally ignored in policy discussions of drug prohibition. Much of the harms associated with drug use is caused not by intoxicating drugs, but by the fact that such drugs are illegal.

A. *Drug Laws Punish Users*

The most obvious harm to drug users caused by drug laws is the legal and physical jeopardy in which they are placed. Imprisonment must generally be considered a harm to the person imprisoned or it would hardly be an effective deterrent.¹⁹ To deter certain conduct it is advocated that we punish—in the sense of forcibly inflict unpleasantness upon—those who engage in this conduct.²⁰ In so doing it is hoped that people will be discouraged from engaging in the prohibited conduct.

But what about those who are not discouraged and who engage in such conduct anyway? Does the practice of punishing these persons make life better or worse for them? The answer is clear. As harmful as using drugs may be to someone, being imprisoned often makes matters much worse.

Normally when considering matters of legality, we are not concerned about whether a law punishes a lawbreaker and makes him worse off. Indeed, normally such punishment is deliberately imposed on the lawbreaker to protect *someone else* who we consider to be completely innocent—like the victim, or potential victim, of a rape, robbery, or murder.²¹ We are therefore quite willing to harm the lawbreaker to protect the innocent. In other words, the objects of these laws are the victims; the subjects of these laws are the criminal.

substances and its resultant damage to the peace, health, and welfare of the citizens of Illinois, to provide a system of control over the distribution and use of controlled substances which will more effectively: . . . (2) deter the unlawful and destructive abuse of controlled substances; (3) penalize most heavily the illicit traffickers and profiteers of controlled substances, who propagate and perpetuate the abuse of such substances with reckless disregard for its consumptive consequences upon every element of society.”)

¹⁹ Imagine if we told people that if we caught them using drugs, we would send them to the Riviera for a few years, all expenses paid.

²⁰ See Stanley I. Benn, *Punishment*, in 7 THE ENCYCLOPEDIA OF PHILOSOPHY 29, 29 (Paul Edwards ed., Reprint ed. 1972) (“Characteristically, punishment is unpleasant. It is inflicted on an offender because of an offense he has committed; it is deliberately imposed, not just the natural consequence of a person’s action (like a hang-over), and the unpleasantness is essential to it, not an accidental accompaniment to some other treatment (like the pain of a dentist’s drill).”).

²¹ Punishment is also favored on the grounds that the lawbreaker deserves to be punished. See, e.g., John Hospers, *Retribution: The Ethics of Punishment*, in ASSESSING THE CRIMINAL: RESTITUTION, RETRIBUTION, AND THE LEGAL PROCESS 181, 181–209 (Randy E. Barnett & John Hagel III eds., 1977) (discussing criminal punishment under the retributive theory). But see Walter Kaufmann, *Retribution and the Ethics of Punishment*, in ASSESSING THE CRIMINAL: RESTITUTION, RETRIBUTION, AND THE LEGAL PROCESS 211, 211–30 (Randy E. Barnett & John Hagel III eds., 1977).

Drug laws are different in this respect from many other criminal laws. With drug prohibition we are supposed to be concerned with the well-being of prospective drug users. So the object of drug laws—the persons whom drug laws are supposed to “protect”—are often the same persons who are the subject of drug laws. Whenever the object of a law is also its subject, however, a problem arises. The means chosen for benefiting prospective drug users seriously harms those who still use drugs and does so in ways that drugs alone cannot: by punishing drug users over and above the harmful effects of drug use. But the harm done by drug prohibition to drug users goes beyond the direct effects of punishment.

B. Drug Laws Raise the Price of Drugs to Users

Illegalization makes the prices of drugs rise.²² By increasing scarcity, all else being equal, the confiscation and destruction of drugs causes the price of the prohibited good to rise. And by increasing the risk to those who manufacture and sell, drug laws raise the cost of production and distribution, necessitating higher prices that reflect a “risk premium.”²³ Like the threat of punishment, higher prices may very well discourage some from using drugs who would otherwise do so. This is, in fact, a principal rationale for interdiction policies.²⁴ But higher prices take their toll on those who are not deterred, and these adverse effects are rarely emphasized in discussions of drug laws.

Higher prices require higher income by users. If users cannot earn enough by legal means to pay higher prices, then they may be induced to engage in illegal conduct— theft, burglary, robbery—in which they would not otherwise engage.²⁵ The increased harm caused to the victims of these crimes will be discussed below as a cost inflicted by drug laws on the general public. Relevant here is the adverse effect drug laws have on the life of drug users. By raising the costs of drugs, drug laws breed criminality.²⁶ They induce some drug users who would not otherwise

²² Morgan Cloud, *Cocaine, Demand, and Addiction; A Study of the Possible Convergence of Rational Theory and National Policy*, 42 VAND. L. REV. 725, 757 (1989).

²³ *Id.* Price increases will not incur indefinitely, however, because at some level higher prices will induce more production.

²⁴ Ian D. Midgley, *Just One Question Before We Get to Ohio v. Robinette: “Are You Carrying any Contraband . . . Weapons, Drugs, Constitutional Protections . . . Anything Like That?”*, 48 CASE W. RES. L. REV. 173, 212 (1997).

²⁵ The traditional linkage between drug use and crime can be accounted for in three ways. First, as suggested in the text, the higher prices caused by illegality induce many drug users to commit profitable crimes to pay for the drugs. Second, criminalization of drug users can force them out of legitimate employment and into criminal employment. *See infra* notes 33-34 and accompanying text. Third, not mentioned in the text, some persons who, for whatever reason, are criminally inclined may be just the sort of persons who are also inclined to use drugs. However, even if the third account is true for some (which it undoubtedly is), the first and second will be true for others; meaning drug laws are causing a comparative increase in the number of persons who are criminally inclined—an effect of drug laws that hardly benefits those drug users so affected.

²⁶ *See supra* note 25.

have contemplated criminal conduct to develop into the kind of people who are willing to commit crimes against others.

Higher prices can also make drug use more hazardous for users.²⁷ Intravenous injection, for example, is more popular in countries where high drug prices caused by prohibition drive users to the most “efficient” means of ingesting the drug. In countries where opiates are legal, the principal methods of consumption are inhaling the fumes of heated drugs or snorting.²⁸ Before the Harrison Act of 1914, “when opiates were cheap and plentiful, they were very rarely injected. Moreover, injection is rare in those Asian countries where opiates are inexpensive and easily available.”²⁹ While physical dependence may result from either inhalation or snorting, neither is as likely as intravenous injections to result in an overdose.³⁰ And consumption by injection can cause other health problems as well. For example: “Heroin use causes hepatitis only if injected, and causes collapsed veins and embolisms only if injected intravenously.”³¹ Finally, the scourge of HIV-AIDS has been caused, in part, by the sharing of unsterilized needles by drug users.³²

C. Drug Laws Make Drug Users Buy from Criminals

Drug laws attempt to prohibit the use of substances that some people wish to consume. Thus because the legal sale of drugs is prohibited, people who still wish to use drugs are forced to do business with the kind of people who are willing to make and sell drugs in spite of the risk of punishment. Such transactions must deliberately be conducted away from the police. This puts drug users in great danger of physical harm in two ways.

First, users are forced to rely upon criminals to regulate the quality and strength of the drugs they buy. No matter how carefully they measure their dosages, an unexpectedly potent supply may result in an overdose. And if the drug

²⁷ See KAPLAN, *supra* note 6, at 128.

²⁸ See *id.* (“For instance, in Hong Kong until recently, heroin, though illegal, was cheap and relatively available, and the drug was inhaled in smoke rather than injected. In the last few years, however, law enforcement has been able to exert pressure on the supply of the drug, raising its price considerably and resulting in a significant increase in the use of injection.”)(footnote omitted).

²⁹ *Id.*

³⁰ Shane Darke & Wayne Hall, *Heroin Overdose: Research and Evidence-Based Intervention*, 80 J. URBAN HEALTH, 189, 195 (2003).

³¹ JOHN KAPLAN, *supra* note 6, at 9 (citing Jerome H. Jaffe, *Drug Addiction and Drug Abuse*, in GOODMAN AND GILMAN’S: THE PHARMACOLOGICAL BASIS OF THERAPEUTICS 535, 546 (Alfred Goodman Gilman et al., eds., 6th ed. 1980)). Kaplan argues that intravenous injection can also increase dependence by producing strong conditioning effects. See *id.* at 44 (citing Travis Thompson & Roy Pickens, *Drug Self-Administration and Conditioning*, in SCIENTIFIC BASIS OF DRUG DEPENDENCE 177, 177–98 (Hannah Steinberg, ed., 1969)).

³² Robert W. Stewart, *Increase Urged in Government AIDS Effort*, L.A. TIMES, Feb. 17, 1987, at 3.

user is suspected to be a police informant, the dosage may deliberately be made potent by the supplier.

Second, users are likely to be the victims of crime. I would estimate that approximately half the murder cases I prosecuted as an Assistant States Attorney in Cook County, Illinois were “drug related” in the sense that the victim was killed because it was thought he had either drugs or money from the sale of drugs. Crimes are also committed against persons who seek out criminals from whom to purchase prohibited drugs. Because drug users and dealers want to avoid the police, crimes against these groups are unlikely to be reported.³³ As a result, these crimes are likely brought to the attention of the authorities only when a victim’s body is found.

In 1979, I obtained the confessions that were ultimately used in a prosecution involving the savage murder of three young men.³⁴ One of the three had approached four members of the Latin Kings to purchase marijuana. When his initial attempt to do business with the gang members was rebuffed, he mistakenly believed that this was due to a lack of trust—rather than a lack of marijuana, which was the case. To ingratiate himself with the gang members, he boasted (falsely) about his gang-affiliated friends and his gang membership. Unfortunately the persons he named were members of a rival street gang, the Latin Eagles. The gang members then told him that they could supply marijuana after all and asked the three to accompany them to an alley. There they were held at gun point and eventually stabbed to death. These young men were not members of any street gang. These are drug-law-related deaths. Three young men are dead because drug laws prevented them from buying marijuana cigarettes as safely as they could buy tobacco cigarettes. While smoking either kind of cigarette may have been hazardous to their health, that issue is now moot. Where and how are their deaths registered in the cost-benefit calculation of drug-law advocates?

D. Drug Laws Induce the Invention of New Intoxicating Drugs

Drug laws make some comparatively benign intoxicating drugs—like opiates—artificially scarce and thereby create a powerful black market incentive for clandestine chemists to develop alternative “synthetic” drugs that can be made more cheaply and with less risk of detection by law enforcement.³⁵ The hallucinogen, phencyclidine hydrochloride—or “PCP”—is one drug that went from industrial to recreational usage in by this route.³⁶ Some of these substitute

³³ See Margaret P. Spencer, *Sentencing Drug Offenders: The Incarceration Addiction*, 40 VILL. L. REV. 335, 342 (1995).

³⁴ See *People v. Caballero*, 464 N.E.2d 223, 225 (Ill. 1984) (relating the factual details of the case).

³⁵ See Marissa A. Miller, *History and Epidemiology of Amphetamine Abuse in the United States*, in *AMPHETAMINE MISUSE: INTERNATIONAL PERSPECTIVES ON CURRENT TRENDS* 113–117 (Hilary Klee ed., 1997).

³⁶ Although originally developed by Parke-Davis, “[t]he PCP that is now on the streets is illegally manufactured. Unfortunately, it is very easy and very inexpensive to

drugs may turn out to be far more dangerous than the substances they replace, both to the user and to others.³⁷

E. Drug Laws Criminalize Users

Prohibition automatically makes drug users into “criminals.” While this point would seem too obvious to merit discussion, the effects of criminalization can be subtle and hidden. Criminalized drug users may not be able to obtain legitimate employment. This increases still further the likelihood that the artificially high prices of illicit drugs will lead drug users to engage in criminal conduct to obtain income. It is difficult to overestimate the harm caused by forcing drug users into a life of crime. Once this threshold is crossed, there is often no return. Such a choice would not be nearly so compelling, nor as necessary, if prohibited substances were legally available and reasonably priced.

Further, criminalization increases the hold that law enforcement agents have on drug users. This hold permits law enforcement agents to extort illegal payments from users or to coerce them into serving as informants who must necessarily engage in risky activity against others.³⁸ Thus, prohibition both motivates and enables the police to inflict harm on drug users in ways that would be impossible in the absence of the legal leverage provided by drug laws.

In all these ways, drug laws harm users of drugs well beyond any harm caused by drug use itself, and this extra harm is an inescapable consequence of using legal coercion as means to prevent people from engaging in activity they deem desirable. While law enforcement efforts typically cause harm to criminals who victimize others, such effects are far more problematic with laws that seriously harm the very people for whom these laws are enacted to help. Support for drug laws in the face of these harms is akin to saying that we have to punish, criminalize, poison, rob, and murder drug users to save them from the harmful consequences of using intoxicating drugs.

To avoid these consequences, some have proposed abolishing laws against personal use of certain drugs, while continuing to ban the manufacture and sale of these substances.³⁹ However, only the first and last of the five adverse consequences just discussed result directly from punishing and criminalizing users. The other three harms to the user result indirectly from punishing those who

make, and you don't even need a chemistry background.” OAKLEY RAY, *DRUGS, SOCIETY, & HUMAN BEHAVIOR* 414 (3d ed. 1983).

³⁷ Because of the “reefer madness” phenomenon that surrounds early reports of the ill-effects of drug use, such reports should be heavily discounted until time permits more objective researchers to do more extensive studies.

³⁸ *See, e.g.*, DOUGLAS HUSAK, *LEGALIZE THIS! THE CASE FOR DECRIMINALIZING DRUGS* 149 (2002) (discussing the causal link between drug activity and corruption); ROBERT J. MACCOUN & PETER REUTER, *DRUG WAR HERESIES* 120 (2001) (describing police behavior toward informants).

³⁹ *See, e.g.*, KAPLAN, *supra* note 6, at 189–235 (1983), for such a proposal concerning heroin.

manufacture and sell drugs. Decriminalizing the use of drugs would undoubtedly be an improvement over the status quo, but the remaining restrictions on manufacturing and sale would continue to cause serious problems for drug users beyond the problems caused by drug use itself.

As long as coercion is used to reduce drug use, these harms are unavoidable. They are caused by (1) the use of force to inflict pain on users, thereby directly harming them; and (2) the dangerous and criminalizing black market in drugs that results from efforts to stop some from making and selling a product others genuinely wish to consume. There is nothing that more enlightened law enforcement personnel or a more efficient administrative apparatus can do to prevent these effects from occurring. But, as the next section reveals, enlightened law enforcement personnel or an efficient administrative apparatus are not what results from employing legal force to prevent adults from engaging in consensual activity.

IV. THE HARMFUL EFFECTS OF DRUG LAWS ON THE GENERAL PUBLIC

The harmful side effects of drug laws are not limited to drug users. This section highlights the various harms that drug laws inflict on the general public. There is an old saying in the criminal courts that is particularly apt here: “What goes around, comes around.” In an effort to inflict pain on drug users, drug laws inflict considerable costs on nonusers as well.

A. Resources Spent on Drug Law Enforcement

The most obvious cost of drug prohibition is the expenditure of scarce resources to enforce drug laws—resources that can thus not be used to enforce other laws or be allocated to other productive activities outside of law enforcement. Every dollar spent to punish a drug user or seller is a dollar that cannot be spent collecting restitution from a robber. Every hour spent investigating a drug user or seller is an hour that could have been used to find a missing child. Every trial held to prosecute a drug user or seller is court time that could be used to prosecute a rapist in a case that might otherwise have been plea bargained. These and countless other expenditures are the “opportunity costs” of drug prohibition.

B. Increased Crime

By artificially raising the price of illicit drugs and thereby forcing drug users to obtain large sums of money, drug laws create powerful incentives to commit property and other profitable crimes. And the interaction between drug users and criminally-inclined drug sellers presents users with many opportunities to become involved in all types of illegal conduct apart from the drug trade.

Finally, usually neglected in discussions of drugs and crime are the numerous “drug-related” robberies and murders (sometimes of innocent parties wrongly thought to have drugs) created by the constant interaction between users and

criminal sellers.⁴⁰ Drug dealers and buyers are known to carry significant quantities of either cash or valuable substances.⁴¹ They must deliberately operate outside the vision of the police. They can rely only on self-help for personal protection.

Many drug-law users speculate quite freely about the intangible “adverse effects of drug use on a society.”⁴² They are strangely silent, however, about how the fabric of society is affected by the increase in both property crimes and crimes of violence caused by drug laws.⁴³

C. Harms Resulting from the “Victimless” Character of Drug Use

The most overlooked and well-hidden harms to the general public caused by drug prohibition may also be the most serious. These are harms that result from efforts to legally prohibit activity that is “victimless.” It was once commonplace to call drug consumption victimless, but not anymore. Therefore, before proceeding, it is very important to explain carefully the very limited concept of “victimless” crime that will be employed in this section.

To appreciate the hidden costs of drug law enforcement, it is not necessary to claim that the sale and use of drugs are “victimless” in the *moral* sense—that is, to claim that such activity harms only consenting parties and therefore that it violates no one’s rights and may not justly be prohibited.⁴⁴ For this limited purpose it is not necessary to question the contentions that drug users and sellers “harm society” or that drug use violates “the rights of society.”⁴⁵

Nevertheless, to understand the hidden costs of drug laws, it is vitally important to note that drug laws attempt to prohibit conduct that is “victimless” in a strictly nonmoral or *descriptive* sense: there is no victim to complain to the police and to testify at trial.

1. The Incentives Created by Crimes without Victims

When a person is robbed, the crime is usually reported to the police by the victim. When the robber is caught, the victim is the principal witness in any trial that might be held. As a practical matter, if the crime is never reported, there will normally not be a prosecution because the police will never pursue and catch the

⁴⁰ See THE ROYAL COLLEGE OF PHYSICIANS, *DRUGS: DILEMMAS AND CHOICES* 93–95 (2000).

⁴¹ See Chris Wilkins, *Cannabis Transactions and Law Reform*, 8 *AGENDA* 321, 328 (2001).

⁴² See THE ROYAL COLLEGE OF PHYSICIANS, *supra* note 40, at 83–94.

⁴³ See *id.* at 88–89.

⁴⁴ I will discuss later the issue of whether drug laws are just. See *infra* Part V.

⁴⁵ See, e.g., William F. McDonald, *The Role of the Victim in America*, in *ASSESSING THE CRIMINAL: RESTITUTION, RETRIBUTION AND THE LEGAL PROCESS* 295 (Randy E. Barnett & John Hagel III eds., 1977) (discussing the history of social attitudes toward crime and asserting that today “[c]rime is regarded as an offense against the state”).

robber. From the perspective of the legal system, it will be as though the robbery never took place. So too, if the victim refuses to cooperate with the prosecution after a suspect has been charged, the prosecution of the robber will usually not go forward.⁴⁶ What special law enforcement problems result from an attempt to prosecute crimes in the absence of a “complaining witness” who will assist law enforcement officials?

To answer this question, let us imagine that robbery—a crime that undoubtedly has a victim⁴⁷—was instead a “victimless” crime in this very limited sense, and that the police set out to catch, and prosecutors to prosecute, all robbers whose victims refused to report the crime to the police and cooperate with the prosecution. How would the police detect the fact that a crime had occurred? How would they go about identifying and proving who did it? How would the case be prosecuted?

To detect unreported crimes, the police would have to embark on a program of systematic surveillance. Because they could not simply respond to a robbery victim’s complaint as they do at present, the police would have to be watching everywhere and always. Robberies perpetrated in public places—on public streets or transportation, in public alleys or public parks—might be detected with the aid of sophisticated surveillance equipment located in these spaces. Those robberies committed in private places—homes and stores would require even more intrusive practices.

If the police did detect a robbery, they would be the principal witnesses against the defendant at trial. It would be their word against that of the alleged robber. As a practical matter, it would be within their discretion to go forward with the prosecution or not. There would be no victim pressing them to pursue prosecution and potentially questioning any decision they might make to drop the charges or withhold a criminal complaint.

⁴⁶ See Maria T. Lopez & Carol M. Bast, *The Difficulties in Prosecuting Stalking Cases*, 41 NO. 1 CRIM. L. BULLETIN 2 (2009) (discussing a prosecutor’s option “to either drop the case or continue the case even with a low probability of success” when an uncooperative victim’s testimony is the only evidence); Marc C. Miller & Ronald F. Wright, *The Black Box*, 94 IOWA L. REV. 125, 146 (2008) (discussing the “proof problem” presented to prosecutors when victims of alleged crimes refuse to cooperate). To enforce his decision of noncooperation, the victim always has available the threat of unhelpful testimony at trial. “I don’t remember if that is the man who robbed me” is all the victim need say to end the case—and (notwithstanding the theoretical availability of perjury charges) prosecutors know this.

⁴⁷ See Guyora Binder, *The Culpability of Felony Murder*, 83 NOTRE DAME L. REV. 965, 1038 (2008) (discussing robbery victims). I have chosen robbery as my example because I wish in this section to separate the issue of who is affected by a crime (who is and who is not a “victim” in this sense) from the issue of how certain crimes must be enforced in the absence of a cognizable victim-witness complainant. Robberies undoubtedly “affect” the persons who are robbed, and other persons as well. But notwithstanding these effects, if robberies were “victimless” in the sense used in the text—that is, if there was no victim complaining to the police and testifying at trial—certain unavoidable enforcement problems would develop.

We can easily imagine the probable results of such a policy of victimless robbery enforcement. To the extent that they were doing their job and that money permitted, the police would be omnipresent. One could not do or say anything in public without the chance that police agencies would be watching and recording. The enormous interference with individual liberty that such surveillance would cause is quite obvious. And putting robbery prosecutions entirely in the hands of the police would create lucrative new opportunities for corruption in at least two ways, depending on whether a crime had or had not in fact occurred.

When a crime had occurred, if the effective decision of whether or not to prosecute is solely in the hands of the police, police officers would be far more able to overlook a criminal act than they are when a cognizable victim exists. As a result, the opportunities for extortion of bribes and the incentives for robbery suspects to offer bribes are both tremendously increased.⁴⁸ When a crime had not occurred, the fact that the courts would be accustomed to relying solely on police testimony in such cases would give the police a greater opportunity to fabricate, or threaten to fabricate, cases to punish individuals they do not like, to coerce someone into becoming an informant, or to extort money from those they think will pay it.

All of the increased opportunity for corruption would result directly from an attempt to prosecute robberies when robbery victims do not come forward to report and prosecute the crime themselves. If robbery were victimless in this descriptive sense, the natural counterweight to these corrupt practices—the potential outrage of the victim of the robbery and the normal reliance by courts on victim testimony—would be absent.

Of course we know that this is not how robbery victims normally behave. Victims do routinely report instances of robbery, creating a case that the police department must “clear” in some way. And they are usually willing to cooperate with the prosecution, giving the police far less ability to influence the success of a given prosecution. Where a victim exists, the problem of corruption is enormously reduced; this is true even for the crime of murder where, in the absence of the victim can be a witness, a coroner’s office exists to establish causes of death.

Now suppose that, in addition to not reporting the crime and not testifying at trial, robbery victims were willing to pay to be robbed; that they actively but secretly sought out robbers, deliberately meeting them in private places so that the crime would be perpetrated without attracting the attention of the police; that billions of dollars in cash were received by robbers in this way.

Such a change in the behavior of robbery victims would dramatically affect law enforcement efforts. First, as will be discussed in the next section, the secrecy

⁴⁸ See Randy E. Barnett, *Bad Trip: Drug Prohibition and the Weakness of Public Policy*, 103 Yale L.J. 2593, 2597 (1994) (reviewing STEVEN B. DUKE & ALBERT C. GROSS, *AMERICA’S LONGEST WAR: RETHINKING OUR TRAGIC CRUSADE AGAINST DRUGS* (1990)); Stephanie A. Martz, Note, *Legalized Gambling and Public Corruption: Removing the Incentive to Act Corruptly, or, Teaching an Old Dog New Tricks*, 13 J. L. & Pol. 453, 463 (1997) (noting police propensity for corruption in victimless crimes).

engendered by the consensual nature of this transaction would make necessary far more intrusive kinds of investigative techniques than we at first supposed. Second, the victims' willingness to pay robbers to be robbed would make robbery more lucrative than it would otherwise be and would thus increase the ability of robbers to bribe the police when they are caught.

Police who are willing to fabricate evidence against someone they knew to be a robber would expect that such a person would probably be able to afford a substantial payoff. Of course, corrupt police officers would be risking detection by honest officers and prosecutors. So we can expect that corrupt officers will attempt to minimize their risk by entering into a regular prepayment arrangement with professional robbers to ensure that they would not be arrested when they commit a robbery. Such an illicit arrangement could be enforced by the corrupt officer's credible threat to prosecute a legitimate case or, if necessary, to fabricate a case.

The sale and use of illicit drugs are like victimless robberies, including this final twist. Drug users not only fail to report violations of the drug laws, they actively seek out sellers in ways that are designed to avoid police scrutiny. Drug use is an act deliberately conducted in private. And, because drugs users desire to consume drugs, they are quite willing to pay for the product.

Because drug use and sale are "victimless" in the purely descriptive sense employed here, the hypothetical consequences of policing victimless robberies are the very real results of drug law enforcement. The next three sections will discuss some of the more serious of these consequences.

2. *Drug Laws and Invasion of Privacy.*

Because drug use takes place in private and drug users and sellers conspire to keep their activities away from the prying eyes of the police, law enforcement surveillance must be extremely intrusive to be effective. The police must somehow gain access to private areas to watch for this activity.

One way to accomplish this is for a police officer, or more likely an informant, to pose as a buyer or seller. This means that the police must initiate the illegal transaction and run the risk that the crime being prosecuted was one that would not have occurred but for the police instigation.⁴⁹ And, since possession alone is also illegal, searches of persons without probable cause might also be necessary to find contraband.⁵⁰

Such illegal conduct by police is to be expected when one seeks to prohibit activity that is deliberately kept away from normal police scrutiny by the efforts of both parties to the transaction, thereby requiring police intrusion into private areas if they are to detect these acts.⁵¹ It is impossible for police to establish probable

⁴⁹ See, e.g., HELLMAN, *supra* note 6, at 60–88; EDWIN M. SCHUR, CRIMES WITHOUT VICTIMS 136 (1965).

⁵⁰ See HELLMAN, *supra* note 6, at 66–70.

⁵¹ *Id.* at 103 (“[A] large proportion of . . . [marijuana] arrests result from police conduct that violates the spirit if not the letter of the Fourth Amendment’s prohibition

cause for every search for illicit drugs, no matter how small the quantity. Where no constitutional grounds exist for such an intrusion, a police department and its officers are forced to decide which is more important: the protection of constitutional rights or the political consequences of failing to get results.

3. *The Weakening of Constitutional Rights*

The fact that such privacy-invading conduct by police may be unconstitutional and therefore illegal does not prevent it from occurring.⁵² Some of those who are most concerned about the harm caused by drug laws are lawyers who have confronted the massive violations of constitutional rights that drug laws have engendered.⁵³ Such unconstitutional behavior is particularly likely, given our bizarre approach to policing the police.⁵⁴

At present we attempt to rectify police misconduct mainly by preventing the prosecution from using any illegally seized evidence at trial.⁵⁵ While this would generally be enough to scuttle a drug law prosecution, it will not prevent the police from achieving at least some of their objectives. They may be more concerned with successfully making an arrest and confiscating contraband than they are with obtaining a conviction.⁵⁶ This is especially true when they would have neither confiscation nor conviction without an unconstitutional search.

A policeman who is unwilling to lie about probable cause or to conceal a prior illegal search may still be inclined to make an arrest for possession of marijuana, even if he is aware that it will not stand up under judicial scrutiny. At a minimum he will have confiscated a supply of an illegal drug. The defendant will be jailed and have to post bail, and in many cases will have to hire a lawyer; these alone serve as forms of punishment. Finally, there is always the possibility that the defendant will plead guilty to a lesser offense rather than risk a felony conviction.⁵⁷

In most instances, the success of a suppression motion depends on whether the police tell the truth about their constitutional mistake in their report and at

against unreasonable searches and seizures”); see KAPLAN, *supra* note 6, at 96 (“Many of the techniques used to enforce heroin laws do end up violating the constitutional rights of individuals”).

⁵² See Randy E. Barnett, *Resolving the Dilemma of the Exclusionary Rule: An Application of Restitutive Principles of Justice*, 32 EMORY L.J. 941–42 (1983).

⁵³ See *id.* at 975–77.

⁵⁴ The discussion that immediately follows in the text is only suggestive of a detailed analysis of this problem and a possible solution I have presented elsewhere. See *id.* at 937–85 (noting especially the discussion on victimless crimes spanning pages 980–85).

⁵⁵ See *id.* at 941.

⁵⁶ Comment, *Possession of Marijuana in San Mateo County: Some Social Costs of Criminalization*, 22 STAN. L. REV. 101, 114–15 (1969).

⁵⁷ *Id.* at 115.

trial.⁵⁸ They may not do so if they think that their conduct is illegal.⁵⁹ “There is substantial evidence to suggest that police often lie in order to bring their conduct within the limits of the practices sanctioned by judicial decisions.”⁶⁰ The only person who can usually contradict the police version of the incident is the defendant, and a defendant’s credibility does not generally compare favorably with that of police officers.⁶¹

Those who have committed no crime—who possess no contraband—will have no effective recourse at all. Because no evidence was seized, there is no evidence to exclude from a trial.⁶² As a practical matter, then, the police only have to worry about unconstitutional searches if something illicit turns up; but if they can confiscate whatever turns up and make an arrest, they may be better off than if they respect constitutional rights and do nothing at all.⁶³ Moreover, by encouraging such frequent constitutional violations, the enforcement of drug laws desensitizes the police to constitutional safeguards in other areas as well.

The constitutional rights of the general public are therefore threatened in at least two ways. First, the burden placed on law enforcement officials to enforce possessory laws without complaining witnesses virtually compels them to engage in wholesale violations of constitutional prohibitions against unreasonable searches and seizures. For every search that produces contraband there are untold scores of searches that do not. Given our present method of deterring police misconduct by excluding evidence of guilt, there is little effective recourse against the police available to those who are innocent of any crime.⁶⁴

Second, the widespread efforts of police and prosecutors to stretch the outer boundaries of legal searches can be expected, over time, to contribute to the eventual loosening up of the rules by the courts. In drug prosecutions, the evidence being suppressed strongly supports the conclusion that the defendants are guilty. The more cases that police bring against obviously guilty defendants, the more opportunities and incentives appellate courts will have to find a small exception here or there.⁶⁵ And instead of prosecuting the police for illegal conduct, the prosecutor’s office becomes an insidious and publicly financed source of political and legal agitation in the defense of such illegal conduct. As I have said elsewhere, “the arm of the government whose function is to prosecute illegal conduct is called upon, in the name of law enforcement, systematically to justify police irregularities. If these arguments are successful, the definition of illegal conduct

⁵⁸ See Barnett, *supra* note 52, at 953.

⁵⁹ HELLMAN, *supra* note 6, at 105.

⁶⁰ *Id.*

⁶¹ See Barnett, *supra* note 52, at 960–61.

⁶² *Id.*

⁶³ See *id.*

⁶⁴ See Barnett, *supra* note 52, at 962.

⁶⁵ See *id.* at 959–66 (discussing the costs imposed on courts that decide to suppress evidence).

will be altered.”⁶⁶ Refusing to consider these long run effects on the stability of constitutional protections is both dangerous and unrealistic.

One point should be made clear. The police are not the heavies in this tale. They are only doing what drug-law advocates have asked them to do by the only means such a task can be done effectively. It is the drug-law advocates who must bear the responsibility for the grave social problems caused by their favored policies. By demanding that the police do a job that cannot be done effectively without violating constitutional rights, drug-law proponents ensure that constitutional rights will be violated and that the respect of law enforcement personnel for these rights will be weakened.

4. *The Effect of Drug Laws on Corruption*

While most people have read about corrupt law enforcement officials who are supposed to be enforcing drug laws, few people are fully aware how this corruption is caused by the type of laws being enforced.⁶⁷ Drug laws allow the police to use force to prevent voluntary activities.⁶⁸ Unavoidably, the power to prohibit also gives the police a de facto power to franchise the manufacture and sale of drugs, in return for a franchise fee.⁶⁹

The corruption caused by prohibiting consensual activity is increased still further by the ease with which law enforcement officers can assist criminals when there is no complaining witness. As was seen in the discussion of “victimless robberies,” without a victim to file an official complaint, it is easier for police to overlook a crime that they might see being committed. When there is no victim to contradict the police version of events, it is much easier for police to tailor their testimony to achieve the outcome they desire, for example by describing circumstances of a bad search that would lead to the evidence being suppressed and the charges dropped. When it is the word of the police against the defendant’s, the defendant usually loses. With no victim pressing for a successful prosecution, the police, prosecutor, or judge may scuttle a prosecution with little fear of public exposure.

When compared to a victim crime like robbery, the victimless character of drug offenses (in the descriptive sense discussed above), and the fact that drug users are willing to pay for drugs, creates perverse incentives. When robbery is made illegal, robbers who take anything but cash must sell their booty at a tremendous discount. In other words, laws against robbery reduce the profit that sellers of illegally obtained goods receive and thereby discourage both robbery and the potential for corruption.⁷⁰

⁶⁶ *Id.* at 976.

⁶⁷ HELLMAN, *supra* note 6, at 150.

⁶⁸ *Id.* at 6–8.

⁶⁹ See KAPLAN, *supra* note 6, at 97–98.

⁷⁰ Organized burglary and auto theft remain profitable victim crimes, in spite of the fact that they are legally prohibited, and the profits earned from these crimes are used in part to pay for the services of corrupt law enforcement officials. Note however that—as

Drug laws have the opposite effect. Drug law enforcement creates an artificial scarcity of a desired product resulting in sellers receiving a *higher* price than they would without such laws. While it is true that drug prohibition makes it more costly to engage in the activity, this cost is partially or wholly offset by an increased return in the form of higher prices and by attracting criminal types who are less risk-averse—that is, individuals who are less likely to discount their realized cash receipts by their risk of being caught.⁷¹ For such persons, the subjective costs of providing illicit drugs are actually less than they are for more honest persons.

The extremely lucrative nature of the illicit drug trade makes the increased corruption of police, prosecutors, and judges all but inevitable. And this corruption extends far beyond the enforcement of drug laws. Beginning with the prohibition of alcohol, we have witnessed the creation of a multibillion dollar world-wide industry to supply various prohibited goods and services.⁷² The members of this industry are ruthless profit maximizers whose comparative market advantage is their ability and willingness to rely on violence and corruption to maintain their market share and to enforce their agreements.

The prohibition of alcohol and other drugs has created a criminal subculture that cares little about the distinction between crimes with victims and those without. To make matters worse, hiding the source of their income from tax and other authorities encourages these criminals to become heavily involved in legal businesses so that they may launder their illegally obtained income. They then can bring to these “legitimate” businesses their brutal tactics, which they use to drive out honest competitors.

The fact that law enforcement personnel are corrupted by drug laws should be no more surprising than the fact that many people decide to get high by ingesting certain chemicals. Among the many tragic ironies of drug prohibition is that by attempting to prevent the latter, they make the former far more prevalent. Yet drug-law advocates typically avoid the question of whether the increased systemic

compared with robbery—these crimes typically occur when the victim is not around, making them effectively “victimless” with respect to having occurrence witnesses available. And property insurance policies greatly reduce the victim’s enthusiasm to cooperate in the prosecution, which is another feature of a truly victimless crime.

⁷¹ For a discussion of the “time horizons” of criminals that may affect their internal rate of discount, see Edward C. Banfield, *Present-Orientedness and Crime*, in *ASSESSING THE CRIMINAL: RESTITUTION, RETRIBUTION, AND THE LEGAL PROCESS* 133, 133–42 (1977); see also Gerold P. O’Driscoll, Jr., *Professor Banfield on Time Horizon: What Has He Taught Us About Crime*, in *ASSESSING THE CRIMINAL: RESTITUTION, RETRIBUTION, AND THE LEGAL PROCESS* 143, 143–62 (1977); Mario J. Rizzo, *Time Preference, Situational Determinism, and Crime*, in *ASSESSING THE CRIMINAL: RESTITUTION, RETRIBUTION, AND THE LEGAL PROCESS* 163, 163–77 (1977).

⁷² See Morgan Cloud, III, *Cocaine, Demand, and Addiction: A Study of the Possible Convergence of Rational Theory and National Policy*, 42 *VAND. L. REV.* 725, 727–28 (1989) (stating that the illegal drug industry collects annual revenues of 100 billion dollars or more).

corruption that their favored policies unavoidably cause is simply too high a price to pay for whatever reduction in the numbers of drug users is achieved.

V. THE INJUSTICE OF DRUG LAWS

To this point, my argument has dwelled exclusively on exposing the hidden costs of drug prohibition—costs that unavoidably result from the fact that drug use is consensual and victimless. There is, however, a more principled lesson to be drawn from this discussion of harmful consequences of today's drug policy: Policy makers, are inherently much more limited in their ability to construct good policy than is normally acknowledged. First, policy makers suffer from a pervasive ignorance of consequences.⁷³ In advance of implementing certain kinds of social programs, it is difficult, if not impossible, to predict the precise effects they will have. The foregoing discussion of the hidden costs of drug laws illustrates that it is often very difficult even to detect and demonstrate the adverse effects of policies that have already occurred.

Second, the judgment of policy makers and other “experts” is often influenced by self-interest (as all judgment can be). After staking one's career on a commitment to certain kinds of programs, rejecting them becomes difficult when their consequences are not as expected. Jobs will be lost if programs are seen as counterproductive or harmful. In rendering opinions, such influences can be hard to resist.

To minimize decisions made in ignorance or out of self-interest, legal policy makers must somehow be constrained. And one historically important way to constrain them is by crafting general principles and rules that are based on a conception of individual rights that rests on fundamental principles of justice.⁷⁴

A sound legal system requires a firmer foundation for analyzing questions of legality than ad hoc arguments about the exigencies of particular policies. It requires the identification of general principles that reduce the hidden costs of the sort we have seen results from drug laws without resorting to an endless series of explicit cost-benefit analyses. It requires principles of general application that can be defended as basically just and right, despite the fact that circumstances will arise when adherence to such principles appears to be causing harm, which a deviation from principle would seem to be able to rectify.

A legal system based on such principles—if such principles can actually be identified—would not be as vulnerable to the shifting winds of opinion and prejudice as are particularistic public-policy discussions. I have discussed the vital social role and the appropriate substance of individual rights at greater length

⁷³ For an excellent summary of the literature that discusses the “knowledge problem” facing public policy analysts, see DON LAVOIE, NATIONAL ECONOMIC PLANNING: WHAT IS LEFT? 51–92 (1985).

⁷⁴ This section is based on the analysis of the pervasive social problems of knowledge, interest, and power in RANDY E. BARNETT, THE STRUCTURE OF LIBERTY: JUSTICE AND THE RULE OF LAW (1998).

elsewhere and shall not repeat the analysis here.⁷⁵ The conclusion of such an analysis when applied to drug laws is that such laws are not only harmful, they are unjust.

The only practical way of facilitating the pursuit of happiness for each individual who chooses to live in a social setting is to recognize the rights of individuals to control their external possessions and their bodies—traditionally known as property rights—free from the forcible interference of any other person. If the pursuit of happiness is the Good for each person, then property rights are the prerequisites for pursuing that Good while living in close proximity to others. And the social prerequisites of the Good are the tenets of justice that all must live by. To deny these rights is to act unjustly.

The inalienable rights of individuals to live their own lives and to control their own bodies are, according to this analysis, essential to human survival and fulfillment in a social setting. Drug laws undermine this control by seeking to subject the bodies of some persons to the forcible control of other persons. Such laws seek forcibly to prevent persons from using their bodies in ways that they desire and that do not interfere with the equal liberty of others.

A proper rights analysis would avoid wasteful, and often irreversible, social experimentation. Two factors were seen above to generate the hidden costs of drug laws: the use of forcible *means* to achieve the *end* of controlling consensual conduct. These are the very factors that together identify drug laws as violations of individual rights and unjust interferences with individual liberty.

Just as you do not need to try PCP to know it is, on balance, bad for you, a proper rights analysis can reveal that we do not have to try drug laws to know they are socially harmful. This illustrates why a system of rights is ultimately preferable to a system of ad hoc public policy determinations. Had we adhered to a system of properly crafted individual rights, we would have avoided these serious harms in the first place.

John Stuart Mill once provided a defense of the distinction between matters of justice or rights that are properly subject to legal enforcement and matters of morality or vice that are not: “Justice is a name for certain classes of moral rules, which concern the essentials of human well-being more nearly, and are therefore of more absolute obligation, than any other rules for the guidance of life. . . .”⁷⁶ And “the essence of the idea of justice,” is “that of a right residing in the individual. . . .”⁷⁷ As Mill then concluded, “[t]he moral rules which forbid mankind to hurt one another (in which we must never forget to include wrongful interference with each other’s freedom), are more vital to human well-being than any maxims, however important, that only point out the best mode of managing

⁷⁵ *See id.*

⁷⁶ JOHN STUART MILL, UTILITARIANISM, LIBERTY, AND REPRESENTATIVE GOVERNMENT 55 (Ernest Rhys ed., E.P. Dutton & Co 1920) (1910).

⁷⁷ *Id.*

some department of human affairs.”⁷⁸ The proposition that the law should not attempt to regulate all vices is, of course, much older than Mill.⁷⁹

A rights analysis does it deny that drug use can adversely “affect” the lives of others. Many kinds of conduct from quitting school to having sex with strangers—can adversely affect the lives of those close to the persons who engage in such activity. But this does not justify collapsing the distinction between acts that adversely affect another and acts that violate another’s rights.

Herbert Spencer considered the objection that there is no “essential difference between right conduct toward others and right conduct toward self, [because] . . . what are generally considered purely private actions, do eventually affect others to such a degree, as to render them public actions; as witness the collateral effects of *drunkenness* or suicide.”⁸⁰ In this allegation, he conceded “there is much truth; and it is not to be denied that under a final analysis, all such distinctions as those above made must disappear.”⁸¹ Nevertheless, the difficulty of drawing such a line is characteristic of all classifications. “The same finite power of comprehension which compels us to deal with natural phenomena by separating them into groups and studying each group by itself,” he replied, “may also compel us to separate those actions which place a man in direct relationship with his fellows, from others which do not so place him; although it may be true that such a separation cannot be strictly maintained.”⁸²

⁷⁸ See *id.* at 73.

⁷⁹ See, e.g., Thomas Aquinas, *The Summa Theologica II*, in 20 GREAT BOOKS OF THE WESTERN WORLD 205 (Robert Maynard Hutchins & Mortimer J. Adler eds., Fathers of the English Dominican Province trans., 1952). There he poses the question, “Whether It Belongs to Human Law to Repress All Vices?” and answers in part:

Thus the same is not possible to a child as to a full-grown man, for which reason the law for children is not the same as for adults, since many things are permitted to children which in an adult are punished by law or at any rate are open to blame. In like manner many things are permissible to men not perfect in virtue which would be intolerable in a virtuous man. Now human law is framed for a number of human beings, the majority of whom are not perfect in virtue. Therefore human laws do not forbid all vices, from which the virtuous abstain, but only the more grievous vices, from which it is possible for the majority to abstain, and chiefly those that are *to the hurt of others, without the prohibition of which human society could not be maintained*; thus human law prohibits murder, theft and the like.

Id. at 231–32 (emphasis added). The absence of tangible “injuries to others” led some modern writers to characterize laws regulating matters of vice as “victimless crimes.” See, e.g., EDWIN M. SCHUR, CRIMES WITHOUT VICTIMS 163 (1965).

⁸⁰ HERBERT SPENCER, SOCIAL STATICS; OR THE CONDITIONS ESSENTIAL TO HUMAN HAPPINESS SPECIFIED, AND THE FIRST OF THEM DEVELOPED 85–87 (D. Appleton and Co., 1888) (1865) (emphasis added).

⁸¹ *Id.*

⁸² *Id.*

Legal institutions are not capable of correcting every ill in the world. On this point most would agree. Serious harm results when legal means are employed to correct harms that are not amenable to legal regulation. The harmful side-effects of drug laws represent a case in point. A properly formulated analysis of individual rights provides a way of distinguishing harms that are properly subject to legal prohibition from those that are not.

VI. CONCLUSION

An addiction to drug *laws* is caused by an inadequate understanding of individual rights and the vital role such rights play in deciding matters of legality. As a result, policies are implemented that cause serious harm to the very individuals whom these policies were devised to help and to the general public.

If the rights of individuals to choose how to use their person and possessions are fully respected, there is no guaranty that people will exercise their rights wisely. Some may mistakenly choose the path of finding happiness in a bottle or in a vial. Others may wish to help these people by persuading them of their folly and supporting them when they seek to wean themselves from their dependency.

We must not, however, give in to the powerful temptation to grant some the power to impose their consumptive preferences on others by force. This power—the essence of drug laws—is not only addictive once tasted, it also carries with it one of the few guaranties in life: the guaranty of untold corruption and human misery.

Individual HIDTA Reports: Definition of Terms

To address the specific reporting requirements, individual HIDTA reports are provided below. These reports are succinct descriptions of the individual HDTAs and their responses to the Congressional reporting requirements. Data contained in the following regional HIDTA summaries have been developed and submitted by each HIDTA. Any questions regarding the data should be referred to the respective HDTAs. For a more comprehensive look at any particular HIDTA's performance in addressing specific drug threats, ONDCP will provide an annual report, strategy, or threat assessment upon request. Each of the individual HIDTA reports contains the following sections:

Purpose and Goals

Per the reporting requirement in Sec. 707(k)(2)(A) of the HIDTA program authorizing legislation, this section highlights the specific purpose and mission for the HIDTA.

Strategy

Per the reporting requirement in Sec. 707(k)(2)(B) of the HIDTA program authorizing legislation, this section highlights the specific long-term goals and objectives for the HIDTA.

Location

This section identifies the geographical location of the HIDTA, including the HIDTA-designated counties in its area of responsibility (AOR).

Initiatives

This section highlights the types and numbers of initiatives in the HIDTA. Initiatives are considered activities that implement portions of the HIDTA's strategy, as opposed to an organization of activities or investigative efforts.

Short-Term Objectives

Per the reporting requirement in Sec. 707(k)(2)(B) of the HIDTA program authorizing legislation, this section highlights the specific short-term goals and objectives for the HIDTA. These are presented as follows:

YEAR	DTOs Expected to be Disrupted/Dismantled	Target Return on Investment: Assets	Target Return on Investment: Drugs	Number of Investigations Expected to be Provided Analytical Support

Year: The numbers provided in the respective categories reflect the *projected* performance targets by each HIDTA for 2016 and not *actual* results from 2016. Individual HDTAs are not required to submit 2016 results until June 2017.

DTOs Expected to be Disrupted/Dismantled: A DTO is an organization consisting of five or more persons: (1) that has a clearly defined chain-of-command; and (2) whose principal activity is to generate income or acquire assets through a continuing series of illegal drug production, manufacturing, importation, transportation, or distribution activities. An organization is "dismantled" when its leadership, financial base, and supply network are incapable of operating

and/or reconstituting themselves. An organization is “disrupted” when the normal and effective operation of the organization is impeded, as indicated by changes in organizational leadership and/or changes in methods of financing, transportation, distribution, communications, or drug production. There is no precise way to calculate or measure whether a DTO/MLO is disrupted. This is a subjective assessment made by the case agent or initiative supervisor.

Target Return on Investment - Assets: Return on Investment (ROI) for assets is the ratio between the value of cash and non-cash assets seized and the amount of HIDTA funds budgeted for all activities other than treatment, prevention, and/or research and development.

Target Return on Investment - Drugs: ROI for drugs is the ratio between the wholesale value of drugs seized and the amount of HIDTA funds budgeted for all activities other than treatment, prevention, and/or research and development.

Number of Investigations Expected to be Provided Analytical Support: Analytical support means services an analyst provides to support an investigation, such as Crime Pattern Analysis (showing information relating to a series of crimes), Financial Analysis (showing connections between bank accounts and individuals or entities), Association/Link/Network Analysis (showing relationships or connections among people and organizations involved in a criminal activity), and Commodity Flow Analysis (showing the flow of goods, currency, or services relating to a criminal act, among people, organizations, or businesses).

Threat Assessment

As required by Sec. 707(m)(2) of the HIDTA program authorizing legislation, this section highlights the drug threat in the HIDTA region. While each HIDTA provides an in-depth threat assessment annually, this section includes a short overview of the drug trends and threats in the HIDTA region. These assessments are developed through cooperation among Federal, state, local, and tribal law enforcement.

Intelligence Initiatives

As required by Sec. 707(m) of the HIDTA program authorizing legislation, this section identifies the HIDTA Intelligence Initiatives in its region. Each HIDTA must have at least one intelligence and information sharing initiative that is responsible for developing information and intelligence collection requirements and for collecting, evaluating, collating, analyzing, and disseminating law enforcement information and intelligence for the HIDTA program. These initiatives are required to have participants from Federal *and* state, local, or tribal agencies.

Task Forces Operating in the HIDTA Region

As required by Sec. 707(l) of the HIDTA program authorizing legislation, this section includes a list of Federal, state, local, and tribal drug enforcement task forces operating in the HIDTA region and their locations.

Task Force Coordination

As required by Sec. 707(l) of the HIDTA program authorizing legislation, this section describes how task forces coordinate with each other; the steps taken to share information among task forces; the role of the HIDTA in coordinating information sharing; the extent of current cooperation among participants; the extent of information sharing with JTTFs; and any recommendations for ensuring effective and efficient use of task force resources.

HIDTA Evaluation

As required by Sec. 707(k)(2)(B) of the HIDTA program authorizing legislation, ONDCP provides an evaluation of the performance of each HIDTA in accomplishing its goals and objectives. It should be noted that the number of DTOs disrupted or dismantled is affected by developing cases, varying levels of DTOs, national and international scope of investigations, differing levels of sophistication and size of DTOs, and the ability to acquire resources. Performance data included in this section is provided by the HIDTA in its annual report and in the PMP database.

2017 Wisconsin HIDTA – Designated in 1998

Executive Director – James Bohn

Purpose and Goals

The mission of the Wisconsin HIDTA is to substantially reduce drug trafficking activity and related violence through enhanced intelligence processes, coordinated law enforcement, prosecutions, and demand reduction efforts. The goals are to reduce drug availability by disrupting and dismantling DTOs, diminish the harmful consequences of drug trafficking, and improve the efficiency and effectiveness of the region's law enforcement organizations.

Strategy

The Wisconsin HIDTA's strategy is to foster cooperative and effective relationships among the 26 Federal, state, and local participating member agencies to achieve the common goals of disrupting and dismantling DTOs and reducing the demand for drugs. Through Wisconsin HIDTA's enforcement initiatives, working within the seven-member counties, investigative emphasis is placed on the targeting of DTOs that pose the most significant threats, primarily those with ties to the southwest and northern borders (multi-state and international in scope). In addition, particular emphasis is placed on violent DTOs and drug traffickers that pose significant risk to the community, especially those engaged in violent criminal acts, firearm offenses, or those that traffic significant supplies of heroin to the region. In line with the HIDTA goals, the initiatives work cooperatively and share information with other HIDTAs and law enforcement agencies throughout the country to further enhance effective investigations. As described below, and in assessing the threats that face the Wisconsin HIDTA region, the Executive Board directs and adjusts its strategy to reduce the most significant threats and create safer communities. In 2016, five newly designated counties around the Minneapolis-St. Paul, Minnesota area were added to the umbrella of the Wisconsin HIDTA. The strategy moving forward is to integrate any newly formed initiatives from the recently designated Minnesota counties to address the threats to their region, as well as coordinate intelligence and information sharing with this enhanced partnership.

The Wisconsin HIDTA strategy also recognizes the need for strong demand reduction efforts in the community. The mission is to reduce violent crime through targeted law enforcement, community building, and proactive engagement of youth in activities that increase positive social skills and behaviors and teach resistance to drugs, gangs, guns, and other criminal behavior.

Location

The Wisconsin HIDTA collocates numerous initiatives within its main facility in Milwaukee, including several enforcement initiatives, a prosecution initiative, an intelligence initiative, and a prevention initiative. Several other enforcement initiatives operate within the HIDTA-designated counties outside of Milwaukee County, including Waukesha, Kenosha, Racine, Rock, Dane, and Brown counties. In addition, the newly designated counties around the Minneapolis-St. Paul, Minnesota area will now also be added to the umbrella of the Wisconsin HIDTA.

Initiatives

Presently, the Wisconsin HIDTA has 13 initiatives: 1 management, 1 training, 1 information technology support, 1 prevention, 1 prosecution, 1 intelligence, and 7

investigation/interdiction initiatives. It is anticipated that additional enforcement and intelligence initiatives will be added from the Minnesota region beginning in 2017.

Short-Term Objectives

YEAR	DTOs Expected to be Disrupted/ Dismantled	Target Return on Investment: Assets	Target Return on Investment: Drugs	Number of Cases Expected to be Provided Analytical Support
2016	44	\$1.31	\$2.92	998

Threat Assessment

Wisconsin, specifically the metropolitan areas of Milwaukee and Madison serve as a midpoint and a destination area for drug trafficking operations. These metropolitan areas are positioned along the I-90/I-94 corridor and are in close proximity to the major drug markets of Minneapolis and Chicago. Because of these factors, the Wisconsin HIDTA region is vulnerable to DTOs that establish their presence for drug trafficking activities.

Heroin continues to present the greatest threat to the current Wisconsin HIDTA region. Overdose deaths and other harmful effects resulting from the use of heroin continue to pose significant problems for the community. Closely associated with the heroin threat is the misuse of prescription medications, especially opioids such as oxycodone. Reports from law enforcement officials and substance use treatment providers clearly demonstrate a strong correlation between pharmaceutical misuse and heroin use. In addition, other opiate synthetics such as fentanyl and counterfeit pills are increasing the risk to the area.

Marijuana continues to remain the most commonly used illicit drug in the Wisconsin HIDTA region. The demand for higher potency marijuana products has increased significantly over the past few years and continues to present a serious issue within the region. Much of this demand is met by source suppliers and DTOs from the West Coast and Pacific Northwest. Continued concerns related to the distribution of high grade marijuana is the violent criminal activity and use of firearms by traffickers and users. Much of the violence can be traced to the large profits that are associated with the distribution of this drug.

Cocaine powder and crack cocaine continue to have a presence in the Wisconsin HIDTA region. Law enforcement continues to report that violent criminal activities are often tied to cocaine distribution.

Methamphetamine demand and distribution has emerged as a threat in the state as law enforcement has seen higher levels of availability and consumption. A strong link has been associated with source suppliers from the Minneapolis-St. Paul area of Minnesota.

Intelligence Initiatives

The Wisconsin HIDTA ISC provides a full range of analytical products and expertise to assist and support law enforcement investigations. The ISC employs a group of specially trained criminal intelligence analysts that includes civilian employees, supplemented with support from the Wisconsin National Guard and various Federal agencies. The ISC maintains a Watch Center that assists law enforcement with specific requests for information and facilitates event and target deconfliction for law enforcement via the Case Explorer system. In addition, the ISC shares

information within the intelligence environment, including the Wisconsin State Information Center in Madison and the FBI JTTF in Milwaukee, as appropriate. In addition, the Wisconsin HIDTA ISC was recognized as the national “Outstanding HIDTA Investigative Support Center” for 2015.

The ISC supports complex counterdrug investigations by utilizing expertise in areas of communications analysis and database research to provide investigative leads for investigators. The ISC continues to provide extensive analysis of heroin-related overdose deaths in the region and assistance for investigators to identify priority targets. The Wisconsin HIDTA ISC continues to add innovative analytical products and training to further enhance the ability to support investigations.

Task Forces Operating in the HIDTA Region

The table below highlights the federally funded drug enforcement task forces operating in the Wisconsin HIDTA region. Multiple HIDTA task forces may make up an overarching HIDTA enforcement or investigative initiative.

FEDERALLY FUNDED TASK FORCES	LOCATIONS
DEA Task Force for Southern WI (DEA)	Southeastern Wisconsin
Northeastern Drug Task Force (HIDTA) Includes Brown County MEG	Brown County
South Central Drug Task Force (HIDTA) Includes Dane County MEG	Rock and Dane Counties
Southeastern Drug Task Force (HIDTA) - Includes MEG Units from Waukesha, Racine, Kenosha	Waukesha, Racine and Kenosha Counties
Greater Racine Gang Task Force (FBI)	Kenosha County
Gang-Rock County Safe Streets Task Force (FBI)	Madison County
Drug Gang Task Force (HIDTA)	Wisconsin/HIDTA region
Milwaukee Metropolitan Enforcement Group (MMEG) co-located at HIDTA	Milwaukee County
Heroin Initiative (HIDTA)	Wisconsin/HIDTA region
Interdiction Initiative (HIDTA)	Wisconsin/HIDTA region
Fugitive Task Force (HIDTA)	Throughout Southeast WI

Task Force Coordination

Four Wisconsin HIDTA investigative/enforcement initiatives are collocated in the HIDTA facility in Milwaukee. In addition to these initiatives, the Milwaukee Metropolitan Enforcement Group (MMEG) and the FBI’s Human Trafficking Task Force are collocated with the HIDTA, but operate under their own policies. The MMEG is responsible for mid- to upper level drug investigations in Milwaukee County. Six additional investigative/enforcement initiatives are based in the northeast, south central, and southeast regions of Wisconsin, within the designated counties of Kenosha, Racine, Waukesha, Rock, Dane, and Brown.

Each of the enforcement initiatives is dedicated to its described mission, not only with respect to the regional areas of responsibility, but also as it relates to the particular threats the initiative may identify and target. For instance, as a response to the ever-increasing threat caused by heroin and prescription opioids in the region, the Heroin Initiative was created and approved

by the executive board early in 2012. This initiative continues to develop its expertise and has added several additional investigators from local and Federal agencies to target the most significant DTOs responsible for heroin trafficking in the region. Likewise, all enforcement initiatives listed above look to reduce the threats of violence, drug trafficking, and drug use within the HIDTA region.

The Wisconsin HIDTA Executive Board is composed of representatives of all 26 member agencies and is committed to an impact-driven strategy. This strategy emphasizes full cooperation and information sharing efforts, which ultimately lead to well-coordinated, efficient operations. HIDTA Board members participate on three subcommittees (Finance, Intelligence, and Initiatives) to provide guidance and oversight on all aspects of the program. Regular information sharing meetings are also held with supervisors of all enforcement initiatives to further the HIDTA mission. Moving forward in 2017, the makeup of the Executive Board will change with the inclusion of representatives of Minnesota.

Coordination of all investigative information is accomplished through the HIDTA ISC and through the use of a common automated case management system (Automated Criminal Investigation Secure System) operated by the state of Wisconsin DOJ, Division of Criminal Investigation. Criminal Intelligence Analysts from the HIDTA regularly meet with each of the task forces to gather and share information.

HIDTA Evaluation

In 2015, the Wisconsin HIDTA dismantled or disrupted 27 DTOs. Of the 27 DTOs dismantled or disrupted, 1 was international in scope, 9 were multi-state, and 17 were mainly local. The Wisconsin HIDTA initiatives seized illegal drugs with a total estimated wholesale value of over \$13.4 million and \$2.0 million in cash and assets, a total ROI of \$3.25 for each HIDTA dollar expended on enforcement. The ISC provided analytical support to 903 investigations and processed 2,440 event and 6,336 case/target deconflictions. The Wisconsin HIDTA also provided 24,475 hours of training to 1,935 students.

2016 Wisconsin HIDTA – Designated in 1998

Executive Director – James Bohn

Purpose and Goals

The mission of the Wisconsin HIDTA is to substantially reduce drug-related activity through enhanced intelligence processes and coordinated law enforcement, prosecution, and demand reduction efforts. The goals are to reduce drug availability by disrupting and dismantling DTOs, diminish the harmful consequences of drug trafficking, and improve the efficiency and effectiveness of the region's law enforcement organizations.

Strategy

The Wisconsin HIDTA's strategy is to continue working to foster cooperative and effective relationships among the 28 Federal, state, and local participating member agencies to achieve the common goals of disrupting and dismantling DTOs and reducing the demand for drugs. Through Wisconsin HIDTA's enforcement initiatives, working within the seven member counties, investigative emphasis is placed on the targeting of DTOs that pose the most significant threats, primarily those with ties to the southwest and northern borders (multi-state and international in scope). In addition, particular emphasis is placed on violent DTOs and drug traffickers that pose significant risk to the community, especially those engaged in violent criminal acts, firearm offenses, or those that traffic significant supplies of heroin to the region. In line with the HIDTA goals, the initiatives work cooperatively and share information with other HIDTAs and law enforcement agencies throughout the country to further enhance effective investigations. As described below, and in assessing the threats that face the Wisconsin HIDTA region, the Executive Board directs and adjusts its strategy to reduce the most significant threats and create safer communities.

The Wisconsin HIDTA strategy also recognizes the need for strong demand reduction efforts in the community. The mission is to reduce violent crime, through targeted law enforcement, community building, and proactive engagement of youth in activities that increase pro-social skills and behaviors, and to teach resistance to drug, gang, gun, and other criminal activities.

Location

The Wisconsin HIDTA collocates numerous initiatives within its main facility in Milwaukee, including several enforcement initiatives, its intelligence initiative, and the prevention initiative. Several other enforcement initiatives operate within the other counties that are HIDTA-designated, including Waukesha, Kenosha, Racine, Rock, Dane, and Brown counties.

Initiatives

The Wisconsin HIDTA has 13 initiatives: 1 management, 1 training, 1 information technology support, 1 prevention, 1 prosecution, 1 intelligence, and 7 investigation/interdiction initiatives.

Short-Term Objectives

YEAR	DTOs Expected to be Disrupted/ Dismantled	Target Return on Investment: Assets	Target Return on Investment: Drugs	Number of Cases Expected to be Provided Analytical Support	Number of Initiative Leads Expected to be Referred
2015	48	\$1.71	\$2.69	1,040	1,221

Threat Assessment

Wisconsin, specifically the metropolitan areas of Milwaukee and Madison, are prone to serving as a midpoint and a destination area for drug trafficking operations. These metropolitan areas are positioned along the I-90/I-94 corridor and are in close proximity to the major drug markets of Minneapolis and Chicago. Because of these factors, the Wisconsin HIDTA region is vulnerable to DTOs that establish their presence for drug trafficking activities.

Heroin presents the greatest threat to the Wisconsin HIDTA seven-county region. Overdose deaths and other harmful effects resulting from the use of heroin continue to pose significant problems for the community. Closely associated with the heroin threat is the misuse of prescription medications, especially opioids such as oxycodone. Reports from law enforcement officials and substance use treatment providers clearly demonstrate a strong correlation between pharmaceutical misuse and heroin use.

Marijuana continues to remain the most commonly used illicit drug in the Wisconsin HIDTA region. The demand for higher potency marijuana products has increased significantly over the past few years and continues to present a serious issue within the region. Much of this demand is met by source suppliers and DTOs from the West Coast and Pacific Northwest. In addition, outdoor local growing operations from around the state and elaborate indoor hydroponic sites are increasingly being encountered by law enforcement. An additional concern related to the distribution of high grade marijuana is the increase of violent criminal activity and use of firearms by traffickers and users. Much of the violence can be traced to the large profits that are associated with the distribution of this drug.

Cocaine powder and crack cocaine continue to have a presence in the Wisconsin HIDTA region. Law enforcement continues to report that violent criminal activities are often tied to cocaine distribution.

Methamphetamine distribution has emerged as a threat in the state as law enforcement has seen higher levels of availability and consumption. Early indicators reveal the source area to be the SWB region, which then makes its way into Wisconsin via sources based in the greater Minneapolis area.

Intelligence Initiatives

The Wisconsin HIDTA Investigative Support Center (ISC) provides a full range of analytical products and expertise to assist and support law enforcement investigations. The ISC employs a group of specially trained criminal intelligence analysts that includes civilian employees, supplemented with support from the Wisconsin National Guard and various Federal agencies. The ISC maintains a Watch Center that assists law enforcement with specific requests for information and facilitates event and target deconfliction for law enforcement via the Case Explorer system. In addition, the ISC shares information within the intelligence environment,

including the Wisconsin State Information Center in Madison and the Southeast Terrorism Alert Center and FBI JTTF in Milwaukee, as appropriate. The Wisconsin HIDTA ISC was recently recognized as the national “HIDTA Outstanding Investigative Support Center” for 2015.

The ISC supports complex counterdrug investigations by utilizing expertise in areas of communications analysis and database research to provide investigative leads for investigators. The ISC continues to provide extensive analysis of heroin-related overdose deaths in the region and assistance for investigators to identify priority targets.

Task Forces Operating in the HIDTA Region

The table below highlights the Federally funded drug enforcement task forces operating in the Wisconsin HIDTA region. Multiple HIDTA task forces may make up an overarching HIDTA enforcement or investigative initiative.

FEDERALLY FUNDED TASK FORCES	LOCATIONS
DEA Task Force for Southern WI (DEA)	Southeastern Wisconsin
Northeastern Drug Task Force (HIDTA) Includes Brown County MEG	Brown County
South Central Drug Task Force (HIDTA) Includes Dane County MEG	Rock and Dane Counties
Southeastern Drug Task Force (HIDTA) - Includes MEG Units from Waukesha, Racine, Kenosha	Waukesha, Racine and Kenosha Counties
Greater Racine Gang Task Force (FBI)	Kenosha County
Gang-Rock County Safe Streets Task Force (FBI)	Madison County
Drug Gang Task Force (HIDTA)	Wisconsin/HIDTA Region
Milwaukee Metropolitan Enforcement Group (MMEG) co-located at HIDTA	Milwaukee County
Heroin Initiative (HIDTA)	Wisconsin/HIDTA Region
Interdiction Initiative (HIDTA)	Wisconsin/HIDTA Region
Fugitive Task Force (HIDTA)	Throughout Southeast WI

Task Force Coordination

Four Wisconsin HIDTA investigative/enforcement initiatives are collocated in the HIDTA facility in Milwaukee. In addition to these initiatives, the Milwaukee Metropolitan Enforcement Group (MMEG) and the FBI’s Human Trafficking Task Force (HTTF) are collocated with the HIDTA, but operate under their own policies. The MMEG is responsible for smaller to mid-level drug investigations in Milwaukee County. Five additional investigative/enforcement initiatives are based within the northeast, south central, and southeast regions of Wisconsin.

Each of the enforcement initiatives are dedicated to its described mission, not only with respect to the regional areas of responsibility, but also to the particular threats the initiative targets. For instance, as a response to the ever-increasing threat caused by heroin and prescription opioids in the region, the Heroin Initiative was created and approved by the Executive Board early in 2012. Likewise, all enforcement initiatives listed above look to reduce the threats of violence, drug trafficking, and drug use within the HIDTA region.

The Wisconsin HIDTA Executive Board is composed of representatives of all 28 member agencies and is committed to an impact-driven strategy. This strategy emphasizes full cooperation and information sharing efforts, which ultimately lead to well-coordinated, efficient operations. HIDTA Board members participate on three subcommittees (Finance, Intelligence, and Initiatives) to provide guidance and oversight on all aspects of the program. Regular information sharing meetings are also held with supervisors of all enforcement initiatives to further the HIDTA mission.

Coordination of all investigative information is accomplished through the HIDTA ISC and through the use of a common automated case management system (Automated Criminal Investigation Secure System – ACISS) operated by the state of Wisconsin Department of Justice, Division of Criminal Investigation. Criminal Intelligence Analysts from the HIDTA regularly meet with each of the task forces to gather and share information.

HIDTA Evaluation

In 2014, the Wisconsin HIDTA dismantled or disrupted 35 DTOs. Of the 35 DTOs dismantled or disrupted, 3 were international, 8 multi-state, and 24 local. The Wisconsin HIDTA initiatives seized illegal drugs with a total estimated wholesale value of over \$16.9 million and \$4.7 million in cash and assets (over \$21.6 million total), for a total ROI of \$4.62. Marijuana accounted for 51% of the drugs seized. The ISC provided analytical support to 1,008 cases, referred 1,146 case leads to other HIDTAs or agencies, and processed 2,469 event and case deconflictions. The Wisconsin HIDTA provided 25,391 hours of training to 1,495 students.

2015 Wisconsin HIDTA – Designated in 1998

Acting Director – Mark Mathy

Purpose and Goals

The mission of the Wisconsin HIDTA is to substantially reduce drug-related activity through enhanced intelligence processes and coordinated law enforcement, prosecution, and demand reduction efforts. The goals are to reduce drug availability by disrupting and dismantling DTOs, diminish the harmful consequences of drug trafficking, and improve the efficiency and effectiveness of the region's law enforcement organizations.

Strategy

The Wisconsin HIDTA's strategy is to continue working to foster cooperative and effective relationships among the 25 Federal, state, and local participating member agencies to achieve the common goals of disrupting and dismantling DTOs and reducing the demand for drugs. Through Wisconsin HIDTA's enforcement initiatives, working within the seven member counties, investigative emphasis is placed on the targeting of DTOs that pose the most significant threats, primarily those with ties to the Southwest and Northern borders (multi-state and international in scope). In addition, particular emphasis is placed on violent DTOs and drug traffickers that pose significant risk to the community, especially those engaged in violent criminal acts, firearm offenses, or those that traffic significant supplies of heroin to the region. In line with the HIDTA goals, the initiatives work cooperatively and share information with other HIDTAs and law enforcement agencies throughout the country to further enhance effective investigations. As described below, and in assessing the threats that face the Wisconsin HIDTA region, the Executive Board directs and adjusts its strategy to reduce the most significant threats and create safer communities.

The Wisconsin HIDTA strategy also recognizes the need for strong demand reduction efforts in the community. The Safe & Sound prevention initiative is an integral part of the Wisconsin HIDTA's prevention strategy. The mission is to reduce violent crime through targeted law enforcement, community-building, and proactive engagement of youth in activities that increase pro-social skills and behaviors, and to teach resistance to drug, gang, gun, and other criminal activities.

Location

The Wisconsin HIDTA co-locates within its facility several enforcement initiatives, an intelligence initiative, and prevention initiatives in Milwaukee, Wisconsin. Several other enforcement initiatives operate within the other counties that are HIDTA-designated, including Waukesha, Kenosha, Racine, Rock, Dane, and Brown counties.

Initiatives

The Wisconsin HIDTA has 13 initiatives: 1 management, 1 training, 1 information technology support, 1 prevention, 1 prosecution, 1 intelligence, and 7 investigation/interdiction initiatives.

Short-Term Objectives

YEAR	DTOs Expected to be Disrupted/ Dismantled	Target Return on Investment: Assets	Target Return on Investment: Drugs	Number of Cases Expected to be Provided Analytical Support	Number of Initiative Leads Expected to be Referred
2014	59	\$1.76	\$3.17	1,061	947

Threat Assessment

Wisconsin, specifically the metropolitan areas of Milwaukee and Madison, are prone to serving as a midpoint and a destination area for drug trafficking operations. These metropolitan areas are positioned along the I-90/I-94 corridor and are in close proximity to the major drug markets of Minneapolis and Chicago. Because of these factors, the Wisconsin HIDTA region is vulnerable to DTOs that establish their presence for drug trafficking activities.

Heroin presents the greatest threat to the Wisconsin HIDTA seven-county region. Overdose deaths and other harmful effects resulting from the use of heroin continue to pose significant problems for the community. Closely associated with the heroin threat is the abuse of prescription medications, especially opioids such as OxyContin. Reports from law enforcement officials and substance use treatment providers clearly demonstrate a strong correlation between pharmaceutical abuse and heroin use.

Marijuana continues to remain the most commonly used illicit drug in the Wisconsin HIDTA region. The demand for higher potency marijuana products has increased significantly over the past couple of years and continues to present a serious issue within the region. Much of this demand is met by source suppliers and DTOs from the West Coast and Pacific Northwest. In addition, outdoor local growing operations from around the state and elaborate indoor hydroponic sites are increasingly being encountered by law enforcement. An additional concern related to the distribution of high grade marijuana is the increase of violent criminal activity and use of firearms by traffickers and users. Much of the violence can be traced to the large profits that are associated with the distribution of this drug.

Cocaine powder and crack cocaine continue to have a presence in the Wisconsin HIDTA region, and a slight increase in the threat has been observed in 2014. An increase in cocaine-related overdose deaths has occurred within the past year, and law enforcement continues to report that violent criminal activities are often tied to cocaine distribution.

Intelligence Initiatives

The Wisconsin HIDTA ISC provides a full range of analytical products and expertise to assist and support law enforcement investigations. The ISC employs a group of specially trained criminal intelligence analysts that includes civilian employees, Wisconsin National Guard analysts, and an analyst from the DEA. The ISC maintains a Watch Center that assists law enforcement with specific requests for information and facilitates event and target de-confliction for law enforcement via the Case Explorer system. In addition, the ISC shares information within the intelligence environment, including the Wisconsin State Information Center in Madison, the Southeast Terrorism Alert Center in Milwaukee, and the FBI JTTF also in Milwaukee, as appropriate.

The ISC supports complex counter-drug investigations by utilizing expertise in areas of communications analysis and database research to provide investigative leads for investigators. New in 2014 and continuing into 2015 is the extensive analysis of heroin-related overdose deaths in the region and assistance for investigators to identify priority targets.

Task Forces Operating in the HIDTA Region

The table below highlights the Federally funded drug enforcement task forces operating in the Wisconsin HIDTA region. Multiple HIDTA task forces may make up an overarching HIDTA enforcement or investigative initiative.

FEDERALLY FUNDED TASK FORCES	LOCATIONS
DEA Task Force for Southern WI (DEA)	Southeastern Wisconsin
Northeastern Drug Task Force (HIDTA) Includes Brown County MEG	Brown County
South Central Drug Task Force (HIDTA) Includes Dane County MEG	Rock and Dane Counties
Southeastern Drug Task Force (HIDTA) - Includes MEG Units from Waukesha, Racine, Kenosha	Waukesha, Racine and Kenosha Counties
Greater Racine Gang Task Force (FBI)	Kenosha County
Gang-Rock County Safe Streets Task Force (FBI)	Madison County
Drug Gang Task Force (HIDTA)	Wisconsin/HIDTA Region
Milwaukee Metropolitan Enforcement Group (MMEG) co-located at HIDTA	Milwaukee County
Heroin Initiative (HIDTA)	Wisconsin/HIDTA Region
Interdiction Initiative (HIDTA)	Wisconsin/HIDTA Region
Fugitive Task Force (HIDTA)	Throughout Southeast WI

Task Force Coordination

Four Wisconsin HIDTA investigative/enforcement initiatives are co-located in the HIDTA facility in Milwaukee. In addition to these initiatives, the Milwaukee Metropolitan Enforcement Group is co-located with the HIDTA but operates under its own Executive Board policies and is responsible for small to mid-level drug investigations in Milwaukee County. Three additional investigative/enforcement initiatives are based within the northeast, south central, and southeast regions of Wisconsin.

Each of the enforcement initiatives is dedicated to its described mission not only with respect to the regional areas of responsibility, but also to the particular threats the initiative targets. For instance, as a response to the ever-increasing threat caused by heroin and prescription opioids in the region, the Heroin Initiative was created and approved by the Executive Board early in 2012. Likewise, all enforcement initiatives listed above look to reduce the threats of violence, drug trafficking, and drug use within the HIDTA region.

The Wisconsin HIDTA Executive Board is composed of representatives of all 25 member agencies and is committed to an impact-driven strategy. This strategy emphasizes full cooperation and information sharing efforts, which ultimately lead to well-coordinated and efficient operations. To further this mission, an Operations Coordinator appointed by the Executive Board is

responsible for coordinating the investigations within the HIDTA to ensure maximum use of limited resources. Regular information-sharing meetings are held with supervisors of all enforcement initiatives to further the HIDTA mission.

Coordination of all investigative information is accomplished through the HIDTA ISC and through the use of a common automated case management system (Automated Criminal Investigation Secure System or ACISS) operated by the state of Wisconsin Department of Justice, Division of Criminal Investigation. Criminal Intelligence Analysts from the HIDTA regularly meet with each of the task forces to gather and share information.

HIDTA Evaluation

The Wisconsin HIDTA's area of responsibility focuses on seven counties in Wisconsin. In 2013, the Wisconsin HIDTA disrupted or dismantled 50 DTOs consisting of 5 international, 22 multi-state, and 23 local in scope. The wholesale value of the drugs removed from the marketplace by the HIDTA initiatives was over \$9.5 million, and the cash and assets seized was valued at over \$5.4 million. The 2013 ROI for the Wisconsin HIDTA was \$3.45 which was consistent with the 2013 target. The Safe and Sound Prevention initiative continues to make a difference in assisting after-school programs, enabling law enforcement initiatives to address drug use through a multi-pronged strategy.



Equitable Sharing Agreement and Certification



NCIC/ORI/Tracking Number: WIMPD0000
Agency Name: Milwaukee Police Department
Mailing Address: 749 W. State Street
 Milwaukee, WI 53233

Type: Police Department

Finance Contact
Name: Rotar, Daniel
Phone: 4149357452 **Email:** drotar@milwaukee.gov

ESAC Preparer
Name: Rotar, Daniel
Phone: 4149357452 **Email:** drotar@milwaukee.gov

FY End Date: 12/31/2014

Agency FY 2015 Budget: \$248,574,534.00

Annual Certification Report

Summary of Equitable Sharing Activity	Justice Funds ¹	Treasury Funds ²
1 Beginning Equitable Sharing Fund Balance <i>(Must match Ending Balance from prior FY)</i>	\$1,630,063.08	\$133,254.73
2 Equitable Sharing Funds Received	\$603,882.38	\$3,160.14
3 Equitable Sharing Funds Received from Other Law Enforcement Agencies and Task Force <i>(Complete Table B)</i>	\$6,518.61	\$0.00
4 Other Income	\$0.00	\$0.00
5 Interest Income	\$1,190.00	\$65.00
6 Total Equitable Sharing Funds Received <i>(total of lines 1-5)</i>	\$2,241,654.07	\$136,479.87
7 Equitable Sharing Funds Spent <i>(total of lines a - n below)</i>	\$918,745.19	\$0.00
8 Ending Equitable Sharing Funds Balance <i>(difference between line 7 and line 6)</i>	\$1,322,908.88	\$136,479.87

¹Department of Justice Asset Forfeiture Program participants are: FBI, DEA, ATF, USPIS, USDA, DCIS, DSS, and FDA

²Department of the Treasury Asset Forfeiture Program participants are: IRS, ICE, CBP and USSS.

Summary of Shared Funds Spent	Justice Funds	Treasury Funds
a Law enforcement operations and investigations	\$0.00	\$0.00
b Training and education	\$0.00	\$0.00
c Law enforcement, public safety and detention facilities	\$149,658.53	\$0.00
d Law enforcement equipment	\$581,009.79	\$0.00
e Joint law enforcement/public safety operations	\$0.00	\$0.00
f Contracting for services	\$67,865.15	\$0.00
g Law enforcement travel and per diem	\$90,958.18	\$0.00
h Law enforcement awards and memorials	\$0.00	\$0.00
i Drug, gang and other education or awareness programs	\$0.00	\$0.00
j Matching grants <i>(Complete Table C)</i>	\$27,030.10	\$0.00
k Transfers to other participating law enforcement agencies <i>(Complete Table D)</i>	\$0.00	\$0.00
l Support of community-based programs <i>(Complete Table E)</i>	\$0.00	\$0.00
m Non-categorized expenditures <i>(Complete Table F)</i>	\$2,223.44	\$0.00
n Salaries <i>(Complete Table G)</i>	\$0.00	\$0.00
Total	\$918,745.19	\$0.00

Table B: Equitable Sharing Funds Received From Other Agencies

Transferring Agency Name	Justice Funds	Treasury Funds
Milwaukee Metropolitan Drug Enforcement Group	\$6,518.61	

Table C: Matching Grants

Matching Grant Name	Justice Funds	Treasury Funds
2012-1014 Port Security MDA Investment Grant	\$27,030.10	

Table D: Transfers to Other Participating Law Enforcement Agencies

Receiving Agency Name	Justice Funds	Treasury Funds

Table E: Support of Community-based Programs

Recipient	Justice Funds	Treasury Funds

Table F: Non-categorized expenditures in (a) - (n) Above

Description	Justice Funds	Treasury Funds
Return proceeds to USMS (12-DEA-561857	\$2,223.44	

Table G: Salaries

Salary Type	Justice Funds	Treasury Funds

Paperwork Reduction Act Notice

Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a valid OMB control number. We try to create accurate and easily understood forms that impose the least possible burden on you to complete. The estimated average time to complete this form is 30 minutes. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, please write to the Asset Forfeiture and Money Laundering Section: 1400 New York Avenue, N.W., Washington, DC 20005.

Did your agency purchase any controlled equipment? YES NO

Affidavit

Under penalty of perjury, the undersigned officials certify that **they have read and understand their obligations under the Equitable Sharing Agreement** and that the information submitted in conjunction with this Document is an accurate accounting of funds received and spent by the Agency under the Guide during the reporting period and that the recipient Agency is compliant with the National Code of Professional Conduct for Asset Forfeiture.

The undersigned certify that the recipient Agency is in compliance with the applicable nondiscrimination requirements of the following laws and their implementing regulations: Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), and the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.), which prohibit discrimination on the basis of race, color, national origin, disability, or age in any federally assisted program or activity, or on the basis of sex in any federally assisted education program or activity. The Agency agrees that it will comply with all federal statutes and regulations permitting federal investigators access to records and any other sources of information as may be necessary to determine compliance with civil rights and other applicable statutes and regulations.

Equitable Sharing Agreement

This Federal Equitable Sharing Agreement, entered into among (1) the Federal Government, (2) the above-stated law enforcement agency ("Agency"), and (3) the governing body, sets forth the requirements for participation in the federal Equitable Sharing Program and the restrictions upon the use of federally forfeited cash, property, proceeds, and any interest earned thereon, which are equitably shared with participating law enforcement agencies. By submission of this form, the Agency agrees that it will be bound by the statutes and guidelines that regulate shared assets and the following requirements for participation in the Department of Justice and Department of the Treasury Equitable Sharing Programs. Receipt of the signed Equitable Sharing Agreement and Certification (this "Document") is a prerequisite to receiving any equitably shared cash, property, or proceeds.

1. Submission. This Document must be submitted within 60 days of the end of the Agency's fiscal year. This Document must be signed and submitted electronically. Electronic submission constitutes submission to the Department of Justice and the Department of the Treasury.

2. Signatories. This agreement must be signed by the head of the Agency and the head of the governing body. Examples of Agency heads include police chief, sheriff, director, commissioner, superintendent, administrator, city attorney, county attorney, district attorney, prosecuting attorney, state attorney, commonwealth attorney, and attorney general. The governing body's head is the head of the agency that appropriates funding to the Agency. Examples of governing body heads include city manager, mayor, city council chairperson, county executive, county council chairperson, administrator, commissioner, and governor. The governing body head cannot be from the law enforcement agency and must be from a separate entity.

3. Uses. Any shared asset shall be used for law enforcement purposes in accordance with the statutes and guidelines that govern the Department of Justice and the Department of the Treasury Equitable Sharing Programs as set forth in the current edition of the *Guide to Equitable Sharing for State and Local Law Enforcement Agencies (Guide)*.

4. Transfers. Before the Agency transfers funds to other state or local law enforcement agencies, it must first verify with the Department of Justice that the receiving agency is a compliant Equitable Sharing Program participant. Transfers of tangible property are not permitted.

5. Internal Controls. The Agency agrees to account separately for federal equitable sharing funds received from the Department of Justice and the Department of the Treasury. Funds from state and local forfeitures, joint law enforcement operations funds, and other sources must not be commingled with federal equitable sharing funds.

The Agency certifies that funds are maintained by the jurisdiction maintaining appropriated funds and agrees that such accounting will be subject to the standard accounting requirements and practices employed by the Agency's jurisdiction in accordance with the requirements set forth in the current edition of the *Guide*, including the requirement to maintain relevant documents and records for five years.

The misuse or misapplication of shared resources or supplantation of existing resources with shared assets is prohibited. The Agency must follow its jurisdiction's procurement policies when expending shared funds. Failure to comply with any provision of this agreement shall subject the recipient agency to the sanctions stipulated in the current edition of the *Guide*.

6. Audit Report. Audits will be conducted as provided by the Single Audit Act Amendments of 1996 and OMB Super Circular,

Uniform Administrative Requirements, Costs Principles, and Audit Requirements for Federal Awards. The Department of Justice and the Department of the Treasury reserve the right to conduct periodic random audits or reviews.

7. Freedom of Information Act. Information provided in this Document is subject to the FOIA requirements of the Department of Justice and the Department of the Treasury.

During the past fiscal year: (1) has any court or administrative agency issued any finding, judgment, or determination that the Agency discriminated against any person or group in violation of any of the federal civil rights statutes listed above; or (2) has the Agency entered into any settlement agreement with respect to any complaint filed with a court or administrative agency alleging that the Agency discriminated against any person or group in violation of any of the federal civil rights statutes listed above?

Yes No

Agency Head

Name: Flynn, Edward A.
Title: Chief of Police
Email: eflynn@milwaukee.gov

Signature: _____ Date: _____

To the best of my knowledge and belief, the information provided on this form is true and accurate and has been reviewed and authorized by the Law Enforcement Agency Head whose name appears above. Entry of the Agency Head name above indicates his/her acceptance of and agreement to abide by the policies and procedures set forth in the *Guide to Equitable Sharing for State and Local Law Enforcement Agencies*, including ensuring permissibility of expenditures and following all required procurement policies and procedures. Entry of the Agency Head name above also indicates his/her acceptance of and agreement to abide by requirements set forth in this Equitable Sharing Agreement, and any policies or procedures issued by the Department of Justice or the Department of the Treasury related to the Asset Forfeiture or Equitable Sharing programs. The Law Enforcement Head also certifies that no items on the Prohibited list, as detailed in "Recommendations Pursuant to Executive Order 13688", were purchased with equitable sharing funds on or after October 1, 2015.

Governing Body Head

Name: Barrett, Tom
Title: Mayor
Email: mayor@milwaukee.gov

Signature: _____ Date: _____

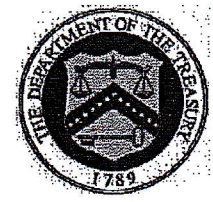
To the best of my knowledge and belief, the agency's current fiscal year budget reported on this form is true and accurate and the Governing Body Head whose name appears above certifies that the agency's budget has not been supplanted as a result of receiving equitable sharing funds. Entry of the Governing Body Head name above indicates his/her acceptance of and agreement to abide by the policies and procedures set forth in the *Guide to Equitable Sharing for State and Local Law Enforcement Agencies*, this Equitable Sharing Agreement, and any policies or procedures issued by the Department of Justice or the Department of the Treasury related to the Asset Forfeiture or Equitable Sharing Programs.

I certify that I am authorized to submit this form on behalf of the Agency Head and the Governing Body Head.

Submitted Electronically on 10/16/2015



Equitable Sharing Agreement and Certification



<input checked="" type="radio"/> Police Department	Sheriff's Office	Task Force	Prosecutor's Office	Version:1.7
National Guard Counterdrug Unit		Other		
Agency Name: Milwaukee Police Department			NCIC: WIMPD0000	
Street Address: 749 W. State Street			City: Milwaukee State: WI Zip: 53233	
Finance Contact: First: Daniel	Last: Rotar			
Phone: 414-935-7452	Email: drotar@milwaukee.gov			
Preparer: First:	Last:			
Phone:	Email:			
Independent Public Accountant: Email:				
FY End Date: 12/31/2008		Agency Current FY Budget: \$230,576,730.00		
New Participant		Existing Participant		<input checked="" type="radio"/> Amended Form

Annual Certification Report

Summary of Equitable Sharing Activity

	Justice Funds	Treasury Funds
1. Beginning Equitable Sharing Fund Balance	\$2,634,562.06	\$0.00
2. Federal Sharing Funds Received	\$884,283.82	\$105,698.22
3. Federal Sharing Funds Received from Other Law Enforcement Agencies & TI	\$0.00	\$0.00
4. Other Income	\$0.00	\$0.00
5. Interest Income Accrued	\$20,172.00	\$0.00
Non-Interest Bearing Account		
6. Total Equitable Sharing Funds (total lines 1-5)	\$3,539,017.88	\$105,698.22
7. Federal Sharing Funds Spent (total lines a-n below)	\$1,191,370.65	\$0.00
8. Ending Balance (subtract lines 7 from 6)	\$2,347,647.23	\$105,698.22

Summary of Shared Monies Spent

	Justice Funds	Treasury Funds
a. Total spent on salaries	\$0.00	\$0.00
b. Total spent on overtime	\$0.00	\$0.00
c. Total spent on informants, "buy money" and rewards	\$0.00	\$0.00
d. Total spent on travel and training	\$87,719.25	\$0.00
e. Total spent on communications and computers	\$568,886.72	\$0.00
f. Total spent on weapons and protective gear	\$37,200.28	\$20,604.00
g. Total spent on electronic surveillance	\$53,210.00	\$0.00
h. Total spent on building and improvements	\$152,818.81	\$0.00
i. Total transfers to other state and local law enforcement agencies (Table C)	\$0.00	\$0.00
j. Total spent on other law enforcement expenses (Table D)	\$291,535.59	\$0.00
k. Total Expenditures in Support of Community-based Programs (Table E)	\$0.00	
l. Total Windfall Transfers to Other Government Agencies (Table F)	\$0.00	\$0.00
m. Total spent on matching grants (Table G)	\$0.00	
n. Total	\$1,191,370.65	\$20,604.00
o. Did your agency receive non-cash assets? (Table H) Yes No		

Table A: Members of Task Force

Table B: Equitable Sharing Funds Received from Other Agencies

Agency Name

Table C: Equitable Sharing Funds Transferred to Other Agencies

Table D: Other Law Enforcement Expenses

Description of Expense	Justice	Treasury
Administrative Fees	\$3,130.34	
Arson Unit Equipment	\$8,199.54	
Audio-Visual Equipment	\$19,580.54	
Bicycle Unit	\$440.50	
Cameras for Districts	\$3,935.85	
Crime Scene Investigation Unit	\$38,291.21	
Harbor Patrol Equipment	\$16,774.53	
Homicide Unit Equipment	\$1,440.16	
Laser Speed Boards	\$44,450.00	
Search Engine Fees	\$625.00	
Mounted Patrol Unit	\$115,059.96	
Canines	\$4,276.41	
Defibrillators	\$5,654.03	
Tactical Enforcement Unit Supplies	\$6,490.70	
Forensic Investigation Equipment	\$15,041.70	
Vice Equipment & Repairs	\$4,122.86	
REFUND- Jeffrey Bell Case# 05-DEA0457520/I3-05-0253	\$4,022.26	

Table E: Expenditures in Support of Community-based Programs

Table F: Windfall Transfers

Table G: Matching Grants

Table H: Other Non-Cash Assets Received

Asset Description

Justice funds: \$43,159.66 Treasury funds:

Table I: Civil Rights Cases

Case Name	Discrimination Alleged				
Kaye, Martin D. v. Milwaukee Police Department	Race Disability	Color Age	Nat. Origin ●Other:Retaltn-DISMISS	Gender	
Kern, Harrison v. City of Milwaukee, City of Milwaukee Police Dept.	●Race Disability	Color Age	Nat. Origin ●Other:Harassment	Gender	
Burems, Ricky v. Milwaukee Police Department	●Race Disability	Color Age	Nat. Origin Other:	Gender	
Cole, Diedra Y. v. Milwaukee Police Department	●Race Disability	Color Age	Nat. Origin Other:	●Gender	
Adenekan, Tayo F. v. Milwaukee Police Department, Fire & Police Commission	●Race Disability	Color Age	●Nat. Origin ●Other:DISMISSED	Gender	
Alderman, Angel Marie v. City of Milwaukee Police Department	Race Disability	Color Age	Nat. Origin ●Other:Sex Orientation	Gender	
Moore, Percy v. Milwaukee Police Department	●Race Disability	Color ●Age	Nat. Origin Other:	Gender	

Serrano, Grisselle v. Milwaukee Police Department	Race Disability	Color Age	Nat. Origin ● Gender Other:
Khatib, Ayman v. City of Milwaukee	Race Disability	Color Age	● Nat. Origin Gender ● Other:Religion/Retali
Simpson, Lenard v. City of Milwaukee Police Department	● Race Disability	Color Age	Nat. Origin Gender Other:
Lewis, Jasmine v. City of Milwaukee	● Race Disability	Color Age	Nat. Origin ● Gender ● Other:Retaliation
Baker, Nancie A. Jr. v. City of Milwaukee Police Department	Race Disability	Color Age	Nat. Origin ● Gender Other:
Prince, Devennette v. City of Milwaukee Police Dept.	● Race Disability	Color Age	Nat. Origin ● Gender Other:
Lopez, Stacy R. v. City of Milwaukee, City of Milwaukee Police Dept.	Race Disability	Color Age	Nat. Origin ● Gender ● Other:Harrass-DISSMISS
Rhone, Eddie L. v. City of Milwaukee	● Race Disability	Color Age	Nat. Origin Gender Other:
Kaye, Martin D. v. City of Milwaukee	Race Disability	Color Age	Nat. Origin Gender ● Other:Retaltn-DISSMISS
Davis, Lacarlin A. v. City of Milwaukee Police Dept.	Race ● Disability	Color Age	Nat. Origin Gender Other:
Dudley, Kevin A.. v City of Milwaukee Police Department	● Race Disability	Color Age	Nat. Origin Gender Other:
Capati, Michael A. v. City of Milwaukee Police Dept.	● Race Disability	Color Age	Nat. Origin Gender ● Other:DISMISSED
Flowers, Kerry v. City of Milwaukee	● Race Disability	Color Age	Nat. Origin Gender ● Other:DISMISSED
Moore, Eric J. v. Milwaukee Police Department, Milwaukee Fire & Police Commission	● Race Disability	Color Age	Nat. Origin Gender ● Other:Retaliation
Metzler, Shelley M. v. Milwaukee Police Department	Race Disability	Color Age	Nat. Origin ● Gender ● Other:DISMISSED
Cole, Diedra Y. v. City of Milwaukee Police Department	● Race ● Disability	Color Age	Nat. Origin Gender ● Other:Retaliation
McIntosh, Sharell M. v. City of Milwaukee	Race Disability	Color Age	Nat. Origin ● Gender Other:
Hannah, Alvin O. v. Milwaukee Police Department	● Race Disability	Color Age	Nat. Origin ● Gender ● Other:Retaliation
Lewis, Jasmine C. v. City of Milwaukee	Race Disability	Color Age	Nat. Origin ● Gender ● Other:Harassment

During the past fiscal year, has the Agency been part of any proceedings alleging discrimination by the Agency? ● Yes No



Equitable Sharing Agreement and Certification



<input checked="" type="radio"/> Police Department	Sheriff's Office	Task Force	Prosecutor's Office
National Guard Counterdrug Unit		Other	
Agency Name: Milwaukee Police Department			NCIC: WIMPD0000
Street Address: 749 W. State Street		City: Milwaukee	State: WI Zip: 53233
Finance Contact: First: Daniel		Last: Rotar	
Phone: 414-935-7452		Email: drotar@milwaukee.gov	
Preparer: First:		Last:	
Phone:		Email:	
Independent Public Accountant: Email:			

Agency Head

Name: Edward A. Flynn

Title: Police Chief

Date: 05/14/2009

Email:

Governing Body Head

Name: Tom Barrett

Title: Mayor

Date: 05/15/2009

Email:

Subscribe to Equitable Sharing Wire: