

## **Amendment 2196 – Closes the National Drug Intelligence Center and reassigns its necessary and essential activities.**

Every year, millions of dollars for our national defense are siphoned away from the military's budget to pay for a single Congressional earmark administered not by the Pentagon, but by the Department of Justice.

This funding is directed to the National Drug Intelligence Center (NDIC), which the Department of Justice (DoJ) has asked Congress to shut down.

DoJ believes the drug center's operations are duplicative and that reassigning NDIC's responsibilities would improve the management of counter-drug intelligence activities and allow for funds to be spent on hiring additional drug enforcement officers.

The Office of National Drug Control Policy (ONDCP) and the Office of the Director of National Intelligence (ODNI) also are also supportive of closing the NDIC and consolidating its activities.<sup>1</sup>

This amendment would protect defense dollars from being misspent and improve the management of counter-drug intelligence efforts by eliminating this wasteful spending. This amendment would appropriate the funds necessary to close NDIC.

Additionally, this amendment would ensure that any activities performed by the Center that are deemed necessary or essential to the appropriate agencies, as requested by the Department of Justice, are relocated and not discontinued.

### **NDIC Has Siphoned Over Half A Billion Dollars From National Defense Needs**

"The center was troubled from the start," according to *U.S. News & World Report*, noting that the "agency was funded by the Pentagon, but the Department of Justice was authorized to run it--an arrangement bound to cause problems."<sup>2</sup>

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<sup>1</sup> E-mail from Department of Justice Congressional Liaison, 07/09/2007 – 6:02 PM

<sup>2</sup> Bret Schulte. "A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on," U.S. News World & Report, May 1, 2005; <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>

The National Drug Intelligence Center has siphoned more than half a billion dollars to date away from national defense, even though its purpose has little to do with national defense and is administered by the Department of Justice, which would like to close the center.

<b>Fiscal Year</b>	<b>Budget</b>
1992	40,000,000
1993	0
1994	10,000,000
1995	39,000,000
1996	35,000,000
1997	27,000,000
1998	27,000,000
1999	27,000,000
2000	27,000,000
2001	34,025,000
2002	42,752,000
2003	39,100,000
2004	44,300,000
2005	39,422,000
2006	38,610,000
2007	39,000,000
Total	509,209,000 <sup>3</sup>

At the same time, it has become a routine practice for Congress to pass emergency supplemental appropriations bills costing upwards of a \$100 billion every year to finance U.S. missions to combat terrorism.

While Congress may need to provide annual emergency supplemental funds to fund the continuation of global defense operations, the Department of Justice has ended each fiscal year with over \$2 billion in unobligated, or unspent, funds.<sup>4</sup>

It is unacceptable to misuse or misdirect defense dollars that are needed to protect our nation and our men and women in uniform to pay for unneeded and unnecessary projects.

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<sup>3</sup> E-mail from Department of Justice Congressional Liaison, Friday, June 22, 2007, 5:03 PM

<sup>4</sup> "Balances of Budget Authority; Budget for Fiscal Year 2008," Office of Management and Budget, <http://www.whitehouse.gov/omb/budget/fy2008/pdf/balances.pdf> and previous years

## **NDIC Is Duplicative, Unnecessary and Unworkable**

When first proposed in 1990, the National Drug Intelligence Center was supposed to gather information on the national drug war and be a resource for local and federal agencies.<sup>5</sup>

Plans for NDIC were initially scuttled because of duplication and drug agency concerns, but as a result of language discreetly inserted into a Pentagon authorization bill, NDIC was established in Johnstown, Pennsylvania.<sup>6</sup>

When the NDIC opened, the General Accounting Office (now the Government Accountability Office or GAO) issued a report in 1993 noting that NDIC duplicates the activities of 19 drug intelligence centers that already existed.<sup>7</sup> Fifteen of these primarily existed to “gather and analyze time-sensitive information such as current location and movement of specific drug smuggling activities” and the other four “generally produce information on long-term trends and patterns.”

In 2005 the center was labeled a “boondoggle” by *U.S. News & World Report* which noted “the facility has run through six directors, been rocked by scandal, and been subjected to persistent criticisms that it should have never been created at all. ... But as any veteran of Washington's budget wars will tell you, closing even a single federal program can be a herculean task. Perhaps no example is more illuminating than the NDIC.”<sup>8</sup>

From the beginning, the NDIC’s mission “just wasn't workable” because, “In some cases, federal law prevented agencies from sharing sensitive intelligence; in others, rival agencies simply refused to give up proprietary information. Stonewalled, the NDIC began operating, effectively, as an extended staff for other drug agencies, working on projects too cumbersome, peripheral, or time-consuming for their own teams of intelligence analysts. The center was costing about \$30 million a year, but, as a former official of the drug czar's office put it bluntly, ‘we saw nothing’ from it.”<sup>9</sup>

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<sup>5</sup> Tony Harris and Drew Griffin. CNN Newsroom, May 31, 2007.

<sup>6</sup> Bret Schulte. “A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on,” *U.S. News World & Report*, May 1, 2005; <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>

<sup>7</sup> “Drug Control; Coordination of Intelligence Agencies,” U.S. General Accounting Office, April 1993; <http://archive.gao.gov/t2pbat6/149104.pdf>

<sup>8</sup> Bret Schulte. “A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on,” *U.S. News World & Report*, May 9, 2005; <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>

<sup>9</sup> Bret Schulte. “A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on,” *U.S. News World & Report*, May 9, 2005; <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>

A Pennsylvania newspaper, *The Centre Daily News*, noted in June that “the NDIC has persisted, despite lingering questions about its effectiveness in coordinating the efforts of federal authorities to collect and analyze intelligence on the domestic trafficking of cocaine, heroin, methamphetamine and other drugs.”<sup>10</sup>

The usefulness and quality of NDIC’s reports has even been questioned by a former director of the Center, Mike Horn.

Horn confessed, "I recognized that a lot of reports were God-awful, poorly written, poorly researched, and, in some cases, wrong."<sup>11</sup>

### **A Mission To Have a Mission – NDIC Searches for a Purpose to Justify Its Existence**

Since its establishment in 1992, NDIC’s purpose has frequently changed. Initially NDIC’s mission was to “coordinate intelligence collection and promote information sharing by law enforcement agencies.”<sup>12</sup>

Because its mission duplicated that of 19 other agencies and its data was not very useful to the other drug control agencies,<sup>13</sup> NDIC and its Congressional supporters have attempted to find a purpose to justify its continued existence.

Jim Milford, a former NDIC deputy, admitted “I’ve never come to terms with the justification for the NDIC” and “the bottom line was that we had to actually *search* for a mission.”<sup>14</sup>

So the NDIC switched its mission to collect and analyze intelligence already available to the public to provide policy makers with an overview on the war on drugs.

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<sup>10</sup> Daniel Lovering. “Official: disputed Pa. facility plays vital part in drug war,” Centre Daily News, June, 30, 2007; <http://www.centredaily.com/news/state/story/140171.html> .

<sup>11</sup> Bret Schulte. “A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on,” U.S. News World & Report, May 9, 2005; <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>

<sup>12</sup> “Drug Control; Coordination of Intelligence Agencies,” U.S. General Accounting Office, April 1993; <http://archive.gao.gov/t2pbat6/149104.pdf>

<sup>13</sup> Daniel Lovering. “Official: disputed Pa. facility plays vital part in drug war,” Centre Daily News, June, 30, 2007; <http://www.centredaily.com/news/state/story/140171.html> .

<sup>14</sup> Bret Schulte. “A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on,” U.S. News World & Report, May 9, 2005; <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>

NDIC then also began to develop software capable of analyzing documents seized by other agencies, called Real-time Analytical Intelligence Database (RAID) software.<sup>15</sup>

In 2000, the Clinton administration tried to define the center's role more sharply by releasing the General Counterdrug Intelligence Plan, which restricted the reach of the Johnstown center to domestic intelligence only.

Despite the NDIC's domestic mandate, NDIC director Mike Horn and his assistant, Mary Lou Rodgers, made frequent trips abroad to promote a new version of NDIC's RAID software. They traveled to places like Hong Kong, London, and Vienna, racking up nearly \$164,000 in travel expenses in less than four years, followed by an audit and admonishment by DoJ.<sup>16</sup>

A recent review discovered that the new version of the RAID software promoted by Horn had yet to be developed.<sup>17</sup>

Recently, acting Director Irene S. Hernandez defined NDIC's mission as assessing broad trends of the drug trafficking situation.<sup>18</sup>

In addition to its attempts to collect drug intelligence and data and develop software, NDIC has sought to become involved in the Iraq conflict, terror incident training, post-disaster relocation and managing the federal "no fly" list.<sup>19</sup>

*USA Today* reported in June:

"To secure congressional funding for a pet project, Rep. John Murtha, D-Pa., made a surprising claim: The little-known National Drug Intelligence Center was about to take charge of the 'vitally important' terrorist no-fly list.

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<sup>15</sup> Bret Schulte. "A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on," U.S. News World & Report, May 9, 2005; <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>

<sup>16</sup> Bret Schulte. "A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on," U.S. News World & Report, May 9, 2005; <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>

<sup>17</sup> Bret Schulte. "A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on," U.S. News World & Report, May 9, 2005; <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>

<sup>18</sup> Daniel Lovering. "Official: disputed Pa. facility plays vital part in drug war," Centre Daily News, June, 30, 2007; <http://www.centredaily.com/news/state/story/140171.html> .

<sup>19</sup> Richard Willing. "Transfer of terrorist no-fly list 'earmarked'?", USA TODAY, June 13, 2007; [http://www.usatoday.com/news/washington/2007-06-13-congress-earmarks\\_N.htm](http://www.usatoday.com/news/washington/2007-06-13-congress-earmarks_N.htm)

"Murtha's news, in a letter he sent to the House Intelligence Committee last month, came as a surprise to the nation's intelligence community. The Office of the Director of National Intelligence already had recommended that the NDIC, in Murtha's hometown of Johnstown, Pa., be closed for poor performance. It also puzzled the Justice Department, NDIC's parent agency, where spokesman Dean Boyd said there are no 'current' plans for such a transition. ...

"Murtha's office referred questions to NDIC's chief of staff, who referred them to the Justice Department. Rep. Silvestre Reyes, D-Texas, the Intelligence Committee's chairman, did not respond to interview requests. ...

"Murtha's no-fly-list claim appears deliberately inflated in an 'attempt to give some sense of purpose' to the 'underperforming, not-functioning-well' drug intelligence center that 'everybody in law enforcement knows ought to be closed.' ...

"Murtha's letter said the center 'also anticipates undertaking a new and vitally important mission ... with the National Counterterrorism Center – assuming responsibility for the terror no-fly list, the terror incident training program and (as) the post-disaster recovery site for the National Counterterrorism Center.' ...

"The Justice Department's Boyd said there are no 'current' plans to move the terror incident program to the NDIC. Boyd said he could not comment on any plans dealing with post-disaster relocation."<sup>20</sup>

Given the number of mission changes, it is not surprising NDIC has repeatedly been labeled as wasteful and non-productive. If anything, NDIC's mission has been to have a mission that justifies its existence.

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<sup>20</sup> Richard Willing. "Transfer of terrorist no-fly list 'earmarked'?" USA TODAY, June 13, 2007; [http://www.usatoday.com/news/washington/2007-06-13-congress-earmarks\\_N.htm](http://www.usatoday.com/news/washington/2007-06-13-congress-earmarks_N.htm)

## **NDIC Touts Software That is Expensive and Redundant**

Even NDIC's newer initiative – being promoted as a success by the Center – replicates software that is already available and outperforms the software developed by NDIC at a lower cost.

In a June 2007 press release, NDIC touted the use of forensic computer examination software and data in Iraq that was developed by the Center.<sup>21</sup>

The software/database, called HashKeeper, compares the electronic signatures of individual files, also called "hashes." A collection of hashes, which are essentially digital fingerprints, for an entire piece of software is referred to as a "hash set." Forensic computer examiners use hashes and hashsets to eliminate the need to search certain files on a seized computer.

Hashes and hashsets are essentially a digital fingerprint database of all "known" or "good" files. Thus, when an examiner is faced with a computer with thousands of files, the hashsets can be used to eliminate the need to examine these known files, such as Microsoft Windows or Excel. By narrowing the universe of files that need to be examined, forensic computer examiners can drastically reduce the time necessary to fully examine evidence on a seized computer.<sup>22</sup>

According to NDIC, this software is now being used in Iraq to examine computers found in terrorist holdouts.

While this is good in itself, a far more comprehensive database of hashes and hash sets, however, is already maintained by the National Software Reference Library, a program within the National Institute of Standards and Technology.

According to the NIST, "There is... a lower level of confidence in the Hashkeeper data." Unlike Hashkeeper, NSRL's File Identification Information (FII) is admissible in court as evidence, is updated every three months and can be purchased for \$90 per year.<sup>23</sup> The software needed to compare and verify the hash value of analyzed data can be downloaded online for free.<sup>24</sup>

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<sup>21</sup> NDIC Press release on HashKeeper software in Iraq, June 29, 2007; <http://www.usdoj.gov/ndic/prs/07dod/07dod.htm>

<sup>22</sup> National Institute of Standards and Technology (NIST) white paper on existing government software compared to NDIC HashKeeper software, July 2002; [http://www.nsrl.nist.gov/documents/dm\\_july02/](http://www.nsrl.nist.gov/documents/dm_july02/)

<sup>23</sup> E-Mail from NIST Congressional Liaison, 07/09/2007 – 5:11 PM

<sup>24</sup> Purchase price (\$150) of an annual subscription of existing hash data, derived primarily from MIST: <http://www.dmares.com/cgi-bin/ccp5/cp->

While the use of hashes and hash sets to examine seized computers in Iraq is undoubtedly a worthwhile effort, there is no reason for the federal government to continue to send tens of millions of dollars a year to NDIC to support software that it is produced at a lower cost by another federal government agency better equipped for such research.

## **Eliminating NDIC Could Improve Anti-Drug Efforts**

In its budget report, the Office of Management and Budget says "the proliferation of intelligence centers across the government has not necessarily led to more or better intelligence, but rather more complications in the management of information."<sup>25</sup>

Sean Kevelighan, a spokesman for the Office of Management and Budget, said NDIC has "been slow to delineate a unique or useful role within the drug intelligence community." For that reason, the OMB's 2008 budget request "fully funds all shutdown costs" for NDIC at a cost of about \$16 million, he said.<sup>26</sup>

This would save the taxpayers \$23 million this year and more than \$30 million every year thereafter and help to streamline federal drug intelligence operations.

"John Carnevale, a former ONDCP official who worked under three administrations and four drug czars, said the center's work was of no value to him when he was in government. 'I had access to the data well before they did,' said Carnevale. "So I pretty much ignored them."<sup>27</sup>

Eric Sterling, president of the Criminal Justice Policy Foundation, an advocacy group based in Maryland, said: "In many respects it seems that their stuff is out of date. ... I would describe it as a tool of limited value."<sup>28</sup>

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[app.cgi?usr=50X1501222&rnd=2186521&rrc=N&cip=69.143.1.115&pg=prod&ref=1500&cat=](http://www.karenware.com/powertools/pthasher.asp) ; Free software to compare "hash" data, updated on June 19, 2007: <http://www.karenware.com/powertools/pthasher.asp>

<sup>25</sup> Bret Schulte. "A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on," U.S. News World & Report, May 9, 2005; <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>

<sup>26</sup> Daniel Lovering. "Official: disputed Pa. facility plays vital part in drug war," Centre Daily News, June, 30, 2007; <http://www.centredaily.com/news/state/story/140171.html> .

<sup>27</sup> Bret Schulte. "A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on," U.S. News World & Report, May 9, 2005; <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>

<sup>28</sup> Bret Schulte. "A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on," U.S. News World & Report, May 9, 2005; <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>

Instead of spending tens of millions of dollars every year on a center of little value to drug enforcement efforts, these resources could be redirected to hiring more Drug Enforcement Agency (DEA) agents or spent on actual defense needs.

### **NDIC's Creation and Survival Have Been Based Largely on Location, Rather Than It's Mission**

It would seem, location, not productivity and usefulness, has been the reason for maintaining NDIC funding. NDIC is located more than 100 miles from the nation's capital in Johnstown, Pennsylvania, and has a staff of nearly 400 employees.

According to a local newspaper, "Critics have also questioned the center's location 140 miles from Washington, citing political maneuvering by [Congressman] Murtha. ... Watchdog groups and lawmakers have blasted it as a pet project of U.S. Rep. John Murtha, whose special funding requests - or earmarks - have sustained the center since it opened in his home district in the early 1990s. It has been derided as a product of pork barrel spending and an unnecessary outgrowth of the war on drugs that duplicates work done elsewhere."<sup>29</sup>

Headquartered in a renovated department store downtown, the center has brought nearly 400 federal jobs to Johnstown.

According to *U.S. News & World Report*, Law enforcement agencies, ordered to send employees to the new center, had trouble finding skilled analysts or executives who would agree to live in Johnstown. Even the bosses didn't want to go. The first director, former FBI official Doug Ball, traveled back and forth from his home near Washington. His deputy, former DEA agent Jim Milford, did the same and made no bones about it. 'I've never come to terms,' Milford says, 'with the justification for the NDIC.'<sup>30</sup>

John Carnevale, a former official with the Office of National Drug Control Policy, who supported the concept of the NDIC says "none of us wanted it in Johnstown. We viewed it as a jobs program that Mr. Murtha wanted [for his district]."<sup>31</sup>

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<sup>29</sup> Daniel Lovering. "Official: disputed Pa. facility plays vital part in drug war," Centre Daily News, June, 30, 2007; <http://www.centredaily.com/news/state/story/140171.html> .

<sup>30</sup> Bret Schulte. "A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on," U.S. News World & Report, May 9, 2005; <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>

<sup>31</sup> Bret Schulte. "A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on," U.S. News World & Report, May 9, 2005; <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>

"I know what their capabilities are, I know what they can do, but that didn't need to go to Johnstown, Pennsylvania," said James Mavromatis, a former director of the El Paso Intelligence Center, a Texas-based DEA agency. He said the center could have been housed at the El Paso facility, closer to the U.S. border with Mexico, where most illicit drugs enter the country. The NDIC had considered moving a team there, he said.<sup>32</sup>

In an interview with *U.S. News World & Report*, Murtha stated "Obviously, I wanted it in my district. I make no apologies for that."<sup>33</sup>

Additionally, even though NDIC's Document and Computer Exploitation Division (DOCEX) has been labeled as helpful, it is inefficiently located for the type of work it does. NDIC DOCEX employees comprehensively analyze seized documents and electronic equipment. To do this, they must travel to the seized documents and equipment, and while John Murtha Johnstown-Cambria County Airport is only 10 minutes from NDIC, there are few direct flights. If anything, the success of DOCEX should require it to be transferred to another center more conveniently located to a major transportation hub.

### **NDIC Also Plagued By Low Morale, Lack of Leadership, and Scandal**

In addition to problems with drifting and duplicative missions, NDIC has also suffered from high turnover of directors resulting in a lack of leadership, low morale, and even a scandal involving international junkets funded with tax dollars.

*The Centre Daily News* notes that "Over the years, directors have come and gone, in one case under a cloud of scandal."<sup>34</sup>

In 1999, Mike Horn became the fifth interim or permanent NDIC director in six years.

Despite the NDIC's domestic mandate, Horn and his assistant, Mary Lou Rodgers, made frequent trips abroad in places like Hong Kong, London, and Vienna, racking up nearly \$164,000 in travel expenses in less than four years.<sup>35</sup>

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<sup>32</sup> Daniel Lovering. "Official: disputed Pa. facility plays vital part in drug war," Centre Daily News, June, 30, 2007; <http://www.centredaily.com/news/state/story/140171.html> .

<sup>33</sup> Bret Schulte. "A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on," U.S. News World & Report, May 9, 2005; <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>

<sup>34</sup> Daniel Lovering. "Official: disputed Pa. facility plays vital part in drug war," Centre Daily News, June, 30, 2007; <http://www.centredaily.com/news/state/story/140171.html> .

A Justice Department investigation in 2003 admonished Horn for "unprofessional conduct in ... dealings with Ms. Rodgers."

Many NDIC insiders say morale at the Center was poor. NDIC employees accused Horn of continued travel abuse and cronyism, prompting another review by Justice lawyers in 2004. It was also discovered that the new version of the software promoted by Horn on his international junkets had yet to be developed.

In March 2004, Associate Deputy Attorney General David Margolis suspended Horn's power to authorize travel for Rodgers. In June 2004, Margolis fired Horn. The Justice Department would not comment to the media on the matter.<sup>36</sup>

Horn claims all travel was approved and says he has not been made to pay restitution. Horn blames the low morale on malcontents who resented the quality of work he demanded.

### **Closing NDIC Saves Money and Streamlines Federal Drug Enforcement Activities**

This amendment is not an attack on NDIC employees or the town of Johnstown and its citizens. It is also not an attack on some of the good things NDIC does.

That being said, while some of the goals of NDIC are worthy, the existence of the center is unnecessary and actually siphons resources away from both counter-drug and defense activities.

The essential or necessary functions conducted by NDIC should be consolidated within other agencies that perform similar activities.

This will save taxpayers money while streamlining and improving federal counter-drug activities.

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<sup>35</sup> Bret Schulte. "A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on," U.S. News World & Report, May 9, 2005; <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>

<sup>36</sup> Bret Schulte. "A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on," U.S. News World & Report, May 9, 2005; <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>

There are certainly other agencies focused on federal drug law enforcement that could better use the resources consumed by NDIC if they were available. For example, the Drug Enforcement Agency (DEA), the primary agency responsible for federal drug law enforcement, has a hiring freeze and has cut operations and intelligence program funding by approximately 13 percent to make it through the fiscal year. Lifting the hiring freeze for DEA would cost an additional \$31 million for Fiscal Year 2008 above the \$27 million base adjustment.

Eliminating NDIC would, therefore, give Congress the ability to provide the Drug Enforcement Agency with the resources needed to continue intelligence programs affected by the hiring freeze.

By voting for this amendment, Congress will ensure that national – and not parochial – interests are served with this funding and prove to Congress that it can prioritize taxpayer dollars effectively and efficiently.

## CLAIMS AND FACTS

**CLAIM:** NDIC is not even mentioned in this bill. This issue should be debated within the context of the Defense appropriations bill which provides the funding for NDIC.

**FACT:** Authorization bills, not appropriations bills, are the proper context for debating changes to programs and agencies. If this amendment was offered to the appropriations bill it would be ruled out of order for legislating on an appropriations bill because it not only ends funding for NDIC but also permits any duties performed by NDIC that may be deemed necessary or essential to be reassigned to another office or agency.

The real confusion comes as a result of the fact that this program, managed by the Department of Justice, was created on a Department of Defense appropriations bill. This is because the primary Congressional sponsor of this program chairs the House Defense appropriations subcommittee, not the appropriations subcommittee with jurisdiction over the Department of Justice.

NDIC first received federal funding through the Fiscal Year 1992 Department of Defense appropriations bill and was formally established a year later in the Fiscal Year 1993 Defense appropriations bill.<sup>37</sup>

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<sup>37</sup> (FY1993 bill, P.L. 102-396) SEC. 9078. There is established, under the direction and control of the Attorney General, the National Drug Intelligence Center, whose mission it shall be to coordinate and consolidate drug intelligence from all national security and law enforcement agencies, and produce information regarding the structure, membership, finances, communications, and activities of drug trafficking organizations: *Provided*, That funding for the operation of the National Drug Intelligence Center, including personnel costs associated therewith, shall be provided from the funds appropriated to the Department of Defense for drug interdiction and counter-drug activities: *Provided further*, That of the funds so appropriated for the fiscal year beginning October 1, 1991, \$20,000,000 available for the National Drug Intelligence Center may be available to the Secretary of Defense to reimburse the Department of Justice for support provided to the National Drug Intelligence Center: *Provided further*, That section 8083 of the Department of Defense Appropriations Act, 1992 (Public Law 102-172) is amended by striking out `available only for' and inserting `available until expended only for' in lieu thereof.

(FY1992 bill, P.L. 102-172) SEC. 8083. Of the funds appropriated in this Act for `Drug Interdiction and Counter-Drug Activities, Defense', \$40,000,000 shall be available only for the National Drug Intelligence Center.

**Claim:** NDIC “provides unique intelligence tool to aid the department of defense efforts in Iraq.”<sup>38</sup>

**Fact:** NDIC software is not unique.

NDIC’s program, dubbed “HashKeeper,” is designed to rapidly identify known files stored on a seized computer in order to reduce the number of files required to be examined during a forensic analysis of the computer.

The National Institute for Standards and Technology has a similar program called “National Software Reference Library (NSRL)” which is better and less costly than “HashKeeper.” It identifies files much more accurately (measuring all five ways in which data can be identified, instead of only two ways), is updated every three months and costs only \$90 per year per subscription. Most importantly, NSRL File Identification Information (FII) is admissible in court as evidence while HashKeeper FII. NSRL also contains Arabic software that could be used .<sup>39</sup>

**Claim:** The location of NDIC is inconsequential or even beneficial to achieving its mission. Because of the nature of its work, NDIC is not dependent on proximity to the sources it communicates or draws from which it draws information. A lower cost of living in Johnstown, in fact, makes NDIC a more efficient use of taxpayer dollars.

**Fact:** Although Johnston may be a lower cost area, it is not conveniently located for the type of work it does and there have been difficulties with the willingness of employees to relocate to Johnston.

According to *U.S. News & World Report*, “law enforcement agencies, ordered to send employees to the new center, had trouble finding skilled analysts or executives who would agree to live in Johnstown. Even the bosses didn't want to go. The first director, former FBI official Doug Ball, traveled back and forth from his home near Washington. His deputy, former DEA agent Jim Milford, did the same.”<sup>40</sup>

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<sup>38</sup> NDIC Press Release. 6/29/2007

<sup>39</sup> E-Mail from NIST Congressional Liaison, 07/09/2007 – 5:11 PM

<sup>40</sup> Bret Schulte. “A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on,” *U.S. News World & Report*, May 9, 2005; <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>

While NDIC is located only 10 minutes from John Murtha Johnstown-Cambria County Airport, it is neither close to other related agencies nor to areas with high illicit drug activity.

The El Paso Intelligence Center (EPIC) was created in response to a 1974 DOJ report which recommended establishing a drug intelligence center along the Southwest border – where illicit drug activity was more common. Currently, agencies working at EPIC include DEA, FBI, U.S. Marshals Service, BATFE, TSA, the U.S. Coast Guard, and a number of other agencies. EPIC has developed into “a fully coordinated, tactical intelligence center supported by databases and resources from member agencies.”<sup>41</sup>

James Mavromatis, a former director of EPIC said in a recent article NDIC could have been housed at the El Paso facility, closer to the U.S. border with Mexico, where most illicit drugs enter the country. “I know what their capabilities are, I know what they can do, but that didn't need to go to Johnstown, Pennsylvania.”<sup>42</sup>

The location also hurts the effectiveness of NDIC’s Document and Computer Exploitation Division (DOCEX) DOCEX, which has been labeled as helpful. Because NDIC DOCEX employees comprehensively analyze seized documents and electronic equipment, they must travel to the seized documents and equipment. While John Murtha Johnstown-Cambria County Airport is only 10 minutes from NDIC, there are few direct flights. If anything, the success of DOCEX should require it to be transferred to another center more conveniently located to a major transportation hub.

**Claim:** “The NDIC has had and continues to have a significant impact in our nation’s war on drugs.”<sup>43</sup>

**Fact:** The NDIC has not been effective and that is why the Department of Justice has requested that it be closed.

The usefulness and quality of NDIC’s reports has even been questioned by a former director of the Center, Mike Horn. Horn confessed, “I recognized that a lot

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<sup>41</sup> E-mail from DEA Congressional Liaison, 07/03/2007 – 4:16 PM

<sup>42</sup> Daniel Lovering. “Official: disputed Pa. facility plays vital part in drug war,” Centre Daily News, June, 30, 2007; <http://www.centredaily.com/news/state/story/140171.html>.

<sup>43</sup> “Murtha announces funding for diabetes, local defense projects in 2006 defense bill (Cambria and Somerset Counties),” Rep. Murtha Press Release, 12/19/2005, <http://www.house.gov/murtha/news05-06/PRdodcamsom.html>

of reports were God-awful, poorly written, poorly researched, and, in some cases, wrong.”<sup>44</sup>

The effectiveness and need for the NDIC, in fact, has been questioned since its inception and has led to the center continually changing its mission and prompted Congress and the current Administration to recommend its closure.<sup>45</sup>

Former federal agent and first deputy director of NDIC, Jim Milford, confessed that NDIC has had to “actually *search* for a mission.”<sup>46</sup>

There are certainly other agencies focused on federal drug law enforcement that could better use the resources consumed by NDIC if they were available. For example, the Drug Enforcement Agency (DEA), the primary agency responsible for federal drug law enforcement, has a hiring freeze and has cut operations and intelligence program funding by approximately 13 percent to make it through the fiscal year. Lifting the hiring freeze for DEA would cost an additional \$31 million for Fiscal Year 2008 above the \$27 million base adjustment.

Eliminating NDIC would, therefore, provide the Drug Enforcement Agency the resources needed to continue intelligence programs affected by the hiring freeze.

**Claim:** NDIC’s National Drug Threat Assessment Report and Document and Computer Exploitation Division (DOCEX) are pivotal tools in the war on drugs.

**Fact:** All of the information contained in the National Drug Threat Assessment Report is already publicly available.<sup>47</sup> This also makes it possible that the conclusions this report reaches are incomplete, out-of-date or incorrect and of little or no benefit to our drug enforcement agencies.<sup>48</sup> The additional value received from these reports is not worth \$39 million to the federal taxpayer and could be produced at other locations or independently of the federal government.

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<sup>44</sup> Bret Schulte. “A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on,” U.S. News World & Report, May 9, 2005; <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>

<sup>45</sup> Bret Schulte. “A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on,” U.S. News World & Report, May 9, 2005; <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>

<sup>46</sup> Bret Schulte. “A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on,” U.S. News World & Report, May 9, 2005; <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>

<sup>47</sup> Bret Schulte. “A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on,” U.S. News World & Report, May 9, 2005; <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>

<sup>48</sup> Daniel Lovering. “Official: disputed Pa. facility plays vital part in drug war,” Centre Daily News, June, 30, 2007; <http://www.centredaily.com/news/state/story/140171.html>.

While DOCEX, has been labeled as helpful, it is inefficiently located for the type of work it does. NDIC DOCEX employees comprehensively analyze seized documents and electronic equipment. To do this, the agents must travel to the seized documents and equipment, and while John Murtha Johnstown-Cambria County Airport is only 10 minutes from NDIC, there are few direct flights. If anything, the success of DOCEX should require it to be transferred to another center more conveniently located to a major transportation hub.

**Claim:** This amendment is incorrectly written because it requires the Secretary of Defense to determine what NDIC activities are necessary or essential when the Department of Justice manages the NDIC.

**Fact:** NDIC is currently funded with Department of Defense funds. If the Secretary of Defense should not be involved in this decision, funding should never have been derived from the Pentagon. This amendment does, however, direct the Secretary of Defense to consult with the appropriate Federal agencies, which would include the Justice Department, to make these determinations. Additionally, the Department of Justice which manages NDIC has requested that the Center be closed.

**Claim:** The center's funding situation has made it too difficult for it to be effective.

**Fact:** Because the center's existence is the result of a select few Members of Congress, it must rely on funds through the earmarking process. If it were to enjoy the support of the Department of Justice and be included in the national counter drug effort it would not need earmarks every year.

**Claim:** The NDIC assisted in an operation that led to the arrest of one of the world's most hunted drug traffickers, Pablo Rayo Montano.

**Fact:** Pablo Rayo Montano is one of the world's most hunted drug traffickers from Colombia. Since NDIC's mission was meant to be domestic, it is difficult to understand why its efforts would include helping to apprehend an international drug dealer.