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M E M O R A N D U M

To: Michael D. Schrunk
From: Mark McDonnell
cc: Norm Frink
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Subject: Nine Month Drug Impact Area Report

The Drug Impact Area (DIA) program completed its ninth month of operation in March. Since the start of the DIA program, 400 criminal cases (267 felonies and 133 misdemeanors) have been issued involving the unlawful delivery or possession of heroin, cocaine, and marijuana that occurred in one of the 3 Drug Impact Areas: Heroin (Downtown, Old Town, and Holladay Park), Cocaine (Old Town and Holladay Park) and Marijuana (Downtown and Old Town). Of the 400 drug related criminal cases issued that occurred in one of the DIAs, 121 involved the unlawful delivery of heroin, cocaine, or marijuana (53 unlawful delivery of heroin, 35 unlawful delivery of cocaine and 33 unlawful delivery of marijuana cases). Of the 121 defendants charged with delivery, only 26 (21%) reported a primary address located within the DIA in which the person was arrested. 95 of the defendants charged with delivery occurring in one of the DIAs (79%), had a primary address located outside the DIAs.

In comparison, over the same period 1202 criminal cases involving the unlawful delivery or possession of cocaine, heroin, and marijuana were issued countywide outside one of the three DIAs. Regardless of whether the incident occurred inside or outside one of three DIAs, defendants convicted of unlawful delivery or possession of heroin, cocaine or marijuana are subject to an exclusion from the DIA for the particular drug upon which the conviction is based. For example, defendants convicted of a drug crimes involving heroin are subject to exclusion from the Heroin DIA, whether or not the incident occurred within the Heroin DIA. The same applies to defendants convicted of drug crimes involving

cocaine and marijuana. Imposition of the DIA exclusion is requested after conviction for those defendants who are sentenced to a term of probation.

DIA exclusions are not requested for defendants sentenced to prison. Further, DIA exclusions are not requested for defendants enrolled in the Multnomah County STOP drug court diversion program and actively engaged in treatment. STOP eligibility is limited to defendants charged with the unlawful possession of a “user quantity” of a schedule I or schedule II controlled substance. STOP participants are required to successfully complete out-patient treatment and appear before the STOP court judge at regular intervals to review the person’s progress in recovery. If the defendant successfully completes treatment the person is allowed to withdraw their guilty plea and have their case dismissed. If the defendant does not comply with the terms and conditions of the STOP program, a felony conviction is entered whereupon the person becomes eligible for a DIA exclusion.

As of March 31, the court had imposed 417 DIA exclusions as a condition of probation involving 381 individual defendants. A small number of defendants were convicted of a DIA eligible crime more than once, resulting in the imposition of multiple DIA exclusions. Of the 417 DIA exclusions ordered, 47 were imposed for a conviction of unlawful delivery of heroin, 21 for a conviction of unlawful delivery of cocaine, and 44 for a conviction of unlawful delivery of marijuana. The other 305 DIA exclusions were ordered in cases where the defendant was convicted of crimes involving the unlawful possession of heroin, cocaine and marijuana.

In conjunction with the creation of the DIA program, the District Attorney’s Office revised its policy regarding the prosecution of cases involving the possession of residue quantities (less than .01 grams) of heroin and cocaine. Previously, cases involving the possession of residue quantities of heroin and cocaine were processed as violations in community court. Since the inception of the DIA program, 277 cases that were formerly eligible for violation treatment have been issued as misdemeanors. Defendants convicted of these drug related misdemeanor are now eligible for a DIA exclusion as a condition of bench probation.

With the creation of the DIA program, the Service Coordination Team (SCT) agreed to screen each defendant who received a DIA exclusion. The SCT program identifies the most chronic offenders, providing them with intensive, focused drug treatment, housing, and services. Of the 381 distinct defendants who were issued a DIA exclusion, 152 are eligible for SCT services. Of those 152 eligible defendants, 58 have been served by SCT in the past with 20 currently being served. Additionally, 35 defendants convicted under the revised policy qualify for services through the Service Coordination Team. Prior to the DIA program, these defendants would have been convicted of a violation and simply fined. Because of the DIA program, these defendants are eligible for intensive focused drug treatment and housing.

An essential component of the DIA program was the creation of a DIA deputy district attorney position. Billy Prince has served as the DIA prosecutor since the inception of the program in June of 2011. In addition to being responsible for the prosecution of drug related felonies occurring inside DIAs, Mr. Prince also acts as the liaison between the District Attorney's Office, Portland Police Bureau, Department of Community Justice, the court, and community members. To facilitate his community outreach function Mr. Prince has an office in Old Town/China Town in addition to his office in the courthouse. Since June, Mr. Prince has made presentations regarding the DIA program to several business and neighborhood associations including the Old Town/Chinatown Neighborhood Association, the Portland Downtown Neighborhood Association, the Central Precinct Public Safety Action Committee, the Old Town/Chinatown Business Association, and the Pearl District Livability Committee and board. Mr. Prince's presence in Old Town/China Town has proven critical in assisting officers working in the area and addressing community concerns.

Creation of the DIA prosecutor position has also permitted the District Attorney's Office to become more actively involved in attacking the blatant drug dealing in the Downtown and Old Town areas. Mr. Prince has assisted PPB in two undercover illegal drug interdiction missions resulted in the indictment of 30 defendants for unlawful delivery of heroin and cocaine and worked with federal

prosecutors to indict selected cases in federal court. With the support of the US Attorney's office, Barry Walker and Juan Antonio Cruz were indicted federally for dealing drugs in the DIAs. Mr. Walker was indicted for unlawful delivery of cocaine in the Downtown DIA. Juan Antonio Cruz was indicted for unlawful delivery of heroin in the DIA and unlawful reentry. Mr. Walker qualified as a career offender under federal sentencing guidelines because of his 2 prior convictions for unlawful delivery of cocaine. Mr. Walker pleaded guilty and was sentenced to 120 months of prison. Mr. Cruz was arrested after Drug's and Vice Division (DVD) investigated a heroin overdose death in the Downtown Heroin DIA. DVD was able to identify and arrest the decedent's heroin supplier who then led them to his supplier, Mr. Cruz. If Mr. Cruz is convicted of being in the distribution chain of a controlled substance that causes the death of another he is subject to a 20 year mandatory minimum prison sentence or life in prison under the federal "Len Bias" statute. Use of the "Len Bias" statute has proven to be a very helpful and effective tool in the investigation and prosecution persons in the upper echelons of several local drug trafficking networks. The prosecution of persons such as Barry Walker and Juan Antonio Cruz demonstrate that heroin and cocaine dealers are no longer able to operate in the Downtown and Old Town areas with impunity.

I. Drug related criminal cases issued since 6/1/11 occurring within 1 of the 3 Drug Impact Areas

- A. Total cases issued: 400 (267 felonies and 133 Misdemeanors)
- B. Racial Background of cases issued
 - 13- Hispanic (3%)
 - 153- African American (38%)
 - 227- White (57%)
 - 7- Other (2%)
- C. Gender
 - 99- Female (25%)
 - 301- Male (75%)
- D. Total charges issued: 469 (Some cases have multiple drug charges)
 - 53- Unlawful delivery of heroin
 - 157- Unlawful possession of heroin
 - 35- Unlawful delivery of cocaine
 - 199- Unlawful possession of cocaine
 - 35- Unlawful delivery of marijuana
 - 25- Unlawful possession of marijuana

- E. Disposition (including cases issued prior to 6/1/11)
 - 209- Convicted
 - 140- Excluded*
 - 22- Prison
- F. Racial background of excluded defendants
 - 3- Hispanic (2%)
 - 60- African American (43%)
 - 77- White (55%)

II. Drug related criminal cases issued since 6/1/11 occurring outside the 3 Drug Impact Areas

- A. Total cases issued: 1202 (1062 Felonies and 140 Misdemeanors)
- B. Racial background of cases issued
 - 123- Hispanic (10%)
 - 300- African American (25%)
 - 746- White (63%)
 - 33- Other (3%)
- C. Gender of cases issued
 - 224- Female (19%)
 - 978- Male (81%)
- D. Total charges issued: 1218 (Some cases have multiple drug charges)
 - 163- Unlawful delivery of heroin
 - 327- Unlawful possession of heroin
 - 87- Unlawful delivery of cocaine
 - 310- Unlawful possession of cocaine
 - 120- Unlawful delivery of marijuana
 - 211- Unlawful possession of marijuana
- E. Disposition (Including cases issued prior to 6/1/11)
 - 810- Convicted
 - 277- Excluded*
 - 98- Prison
- F. Racial background of excluded defendants
 - 15- Hispanic (5%)
 - 102- African American (37%)
 - 150- White (54%)
 - 10- Other (4%)

*Several of the convictions involved cases issued prior to the creation of the DIA program. Further, most defendants charged with unlawful possession of heroin, cocaine and marijuana are eligible to participate in the Multnomah County STOP drug court treatment program. Defendants enrolled in STOP are not issued a DIA exclusion as long as they are actively engaged in treatment. If the person successfully completes treatment they are allowed to withdraw their guilty plea and have their case dismissed. If the person does not comply with the terms of the program, a felony conviction is entered whereupon the person becomes eligible for a DIA exclusion. Finally, DIA exclusions are not issued for defendants sentenced to prison.