



# Reauthorizing the Office of National Drug Control Policy: Issues for Consideration

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## Summary

The Office of National Drug Control Policy (ONDCP) has the responsibility for creating policies, priorities, and objectives for the federal Drug Control Program. This national program is aimed at reducing the use, manufacturing, and trafficking of illicit drugs and the reduction of drug-related crime and violence and of drug-related health consequences. The Director of ONDCP has primary responsibilities of (1) developing a comprehensive National Drug Control Strategy (Strategy) to direct the nation's anti-drug efforts; (2) developing a National Drug Control Budget (Budget) to implement the National Drug Control Strategy, including determining the adequacy of the drug control budgets submitted by contributing Drug Control Program agencies; and (3) evaluating the effectiveness of the National Drug Control Strategy implementation by the various agencies contributing to the Drug Control Program. Authorization for ONDCP expired at the end of FY2010, but it has continued to receive appropriations. Congress, while continuously charged with ONDCP's oversight, is now faced with its possible reauthorization.

In May 2009, Director R. Gil Kerlikowske called for an end to use of the term "war on drugs." This is in part because while drug use was previously considered a law enforcement or criminal justice problem, it has transitioned to being viewed more as a public health problem. Indeed, the Obama Administration has indicated that a comprehensive strategy should include a range of prevention, treatment, and law enforcement elements. The 2010 National Drug Control Strategy outlines seven specific objectives—ranging from reducing the prevalence of youth engaged in illegal drug use to reducing the number of drug-related deaths—aimed at reducing both illicit drug use and its consequences.

In creating the National Drug Control Strategy, ONDCP consults with the various federal Drug Control Program agencies. ONDCP then reviews their respective drug budgets and incorporates them into the National Drug Control Budget, which is submitted to Congress as part of the annual appropriations process. In the FY2011 Budget, there are five priorities for which resources are requested across agencies: substance abuse prevention and substance abuse treatment (both of which are considered demand-reduction areas), and drug interdiction, domestic law enforcement, and international partnerships (the three of which are considered supply-reduction areas). The FY2011 request proposes to use 64.0% of the funds (\$9.952 billion) for supply-side functions and 36.0% of the funds (\$5.600 billion) for demand-side functions. There is currently a continuing resolution (P.L. 111-290) funding federal drug control activities at the FY2010 enacted level of almost \$15.032 billion.

In considering ONDCP's reauthorization, there are several issues that policymakers may deliberate. Congress may consider whether to authorize specific supply-reduction or demand-reduction programs. Congress may also exercise oversight regarding ONDCP's implementation of evidenced-based activities. Another issue up for debate is whether the Budget captures the full scope of the nation's anti-drug activities. Further, ONDCP is creating a new Performance Reporting System (PRS) to evaluate annual progress toward each of the Drug Control Program's strategic goals. Congress may exercise oversight regarding the new PRS.

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## Introduction

The Office of National Drug Control Policy (ONDCP) has the responsibility for creating policies, priorities, and objectives for the federal Drug Control Program. This national program is aimed at reducing the use, manufacturing, and trafficking of illicit drugs and the reduction of drug-related crime and violence and of drug-related health consequences.<sup>1</sup> ONDCP is located in the Executive Office of the President. It was initially created by the Anti-Drug Abuse Act of 1988<sup>2</sup> and most recently reauthorized in the Office of National Drug Control Policy Reauthorization Act of 2006.<sup>3</sup> ONDCP was authorized to receive “such sums as may be necessary for each of fiscal years 2006 through 2010.”<sup>4</sup> Authorization for ONDCP expired at the end of FY2010, but it has continued to receive appropriations. Congress, while continuously charged with ONDCP’s oversight, is now faced with its possible reauthorization.

The Director of ONDCP, often referred to as the “Drug Czar,” has numerous responsibilities, of which the primary three are

- developing a comprehensive National Drug Control Strategy to direct the nation’s anti-drug efforts;
- developing a National Drug Control Budget to implement the National Drug Control Strategy, including determining the adequacy of the drug control budgets submitted by contributing Drug Control Program agencies (listed below); and
- evaluating the effectiveness of the National Drug Control Strategy implementation by the various agencies contributing to the Drug Control Program.<sup>5</sup>

In carrying out these responsibilities, Director R. Gil Kerlikowske has put an end to the use of the term “war on drugs”<sup>6</sup> and has stated that the Obama Administration views a comprehensive drug control strategy as including a range of prevention, treatment, and law enforcement elements.<sup>7</sup> The Director is reported to favor a more balanced strategy<sup>8</sup> that shifts more resources toward treatment and further away from enforcement and incarceration—where the vast majority of federal efforts have been focused to date—as a means to control the United States’ drug issues. And the American public does indeed view these issues as a significant challenge facing the

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<sup>1</sup> For more information on ONDCP and its mission, see <http://www.whitehousedrugpolicy.gov/index.html>.

<sup>2</sup> P.L. 100-690, Title I, Subtitle A, National Narcotics Leadership Act of 1988, November 18, 1988, 102 Stat. 4181.

<sup>3</sup> P.L. 109-469. For detailed information on the 2006 reauthorization as well as background on ONDCP, see archived CRS Report RL32352, *War on Drugs: Reauthorization and Oversight of the Office of National Drug Control Policy*, by Mark Eddy.

<sup>4</sup> P.L. 109-469, Title VI, Section 601.

<sup>5</sup> Executive Office of the President, Office of National Drug Control Policy, *Fiscal Year 2011 Congressional Budget Submission*, p. 3.

<sup>6</sup> Gary Fields, “White House Czar Calls for End to ‘War on Drugs’,” *The Wall Street Journal*, May 14, 2009, <http://online.wsj.com/article/SB124225891527617397.html>.

<sup>7</sup> Testimony by ONDCP Director Kerlikowske before the U.S. Congress, House Committee on Oversight and Government Reform, Subcommittee on Domestic Policy, *ONDCP’s Fiscal Year 2011 National Drug Control Budget: Are We Still Funding a War on Drugs?*, 111<sup>th</sup> Cong., 2<sup>nd</sup> sess., April 14, 2010.

<sup>8</sup> Executive Office of the President, Office of National Drug Control Policy, *National Drug Control Strategy, A New Balanced Approach, Highlights 2010*, [http://www.whitehousedrugpolicy.gov/strategy/highlight\\_brochure.pdf](http://www.whitehousedrugpolicy.gov/strategy/highlight_brochure.pdf).

nation. According to a 2009 Gallup survey, 35% of survey participants indicated that drug problems pose an “extremely serious” problem for the United States. Thirty-three percent indicated that drugs were a “very serious” problem, and 26% found them to be a “moderately serious” problem.<sup>9</sup>

This report provides a discussion of the National Drug Control Strategy, the National Drug Control Budget, and ONDCP’s evaluation of the National Drug Control Strategy implementation. It then provides an analysis of selected legislative and oversight issues that Congress may consider when debating the reauthorization of ONDCP. Policymakers may question the status of the war on drugs, whether drug use should be seen as more of a law enforcement issue or a public health issue, and whether drug control resources are more effective when directed toward prevention and treatment or toward law enforcement. Another issue for consideration is whether the National Drug Control Budget—as currently conceived—represents a comprehensive view of federal drug control activities in the United States. Further, Congress may exercise oversight over ONDCP’s means of evaluating the nation’s federal drug control programs.

## **National Drug Control Strategy**

Congress has specified that the purpose of the National Drug Control Strategy (Strategy) is to outline a plan to reduce (1) illicit drug consumption in the United States and (2) the consequences of such use.<sup>10</sup> In creating the Strategy, ONDCP consults with the 34 contributing federal Drug Control Program agencies as well as Congress; state, local, and tribal officials; foreign government representatives; and private sector representatives with expertise in both supply and demand reduction.

In the 2010 Strategy, ONDCP outlines seven specific objectives—to be accomplished by 2015—aimed at reducing both illicit drug use and its consequences.<sup>11</sup> These objectives include reducing the following:

- The prevalence of 12–17 year olds who report having used any illicit drugs in the past 30 days (by 15%). According to the 2009 National Survey on Drug Use and Health (NSDUH),<sup>12</sup> 10.0% of youth in this age range report being “current” (in the past month) users of illicit drugs.<sup>13</sup>
- The prevalence of 8<sup>th</sup> graders who report having used any alcohol, tobacco, or illicit drugs in their lifetimes (by 15%). According to the 2009 Monitoring the

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<sup>9</sup> For more information, see Gallup at <http://www.gallup.com/poll/1657/Illegal-drugs.aspx>.

<sup>10</sup> 21 U.S.C. § 1705(a)(1).

<sup>11</sup> Executive Office of the President, Office of National Drug Control Policy, *2010 National Drug Control Strategy*, p. 6.

<sup>12</sup> The NSDUH is an annual survey of approximately 67,500 people, including residents of households, non-institutionalized group quarters, and civilians living on military bases. The survey is administered by the Substance Abuse and Mental Health Services Administration of the U.S. Department of Health and Human Services and is available at <http://www.oas.samhsa.gov/nsduhLatest.htm>.

<sup>13</sup> U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Office of Applied Studies, *Results from the 2009 National Survey on Drug Use and Health: Volume I. Summary of National Findings*, September 2010, p. 1, <http://oas.samhsa.gov/NSDUH/2k9NSDUH/2k9ResultsP.pdf> (hereafter, *2009 NSDUH*).

Future (MTF) study,<sup>14</sup> 19.9% of 8<sup>th</sup> graders report having used some form of illicit drug in their lifetimes.<sup>15</sup>

- The prevalence of 18–25 year olds who report having used any illicit drugs in the past 30 days (by 10%). In 2009, 21.2% of adults in this age range reported being current illicit drug users.<sup>16</sup>
- The number of chronic drug users (by 15%). For instance, the 2009 NSDUH suggests that about 4 million individuals used marijuana on a daily or near-daily basis in the previous year.<sup>17</sup>
- The number of drug-induced deaths (by 15%). In 2007, there were a reported 38,371 drug-induced deaths in the United States.<sup>18</sup>
- Drug-related morbidity (by 15%). In 2008, the rate (per 100,000) of drug-related emergency department visits was estimated at 326.7.<sup>19</sup>
- The prevalence of drugged driving (by 10%). In 2009, an estimated 4.2% of the 12-and-older population drove under the influence of an illicit drug.<sup>20</sup>

In order to attain these goals, the Strategy proposes initiatives to bolster community-based drug prevention efforts; expand health care opportunities, both for early drug and substance abuse intervention as well as for treatment and recovery; improve the handling of substance abuse within the criminal justice systems; disrupt domestic drug production and trafficking; strengthen international law enforcement, intelligence, and civic partnerships; and enhance the use of science to inform program evaluation and policymaking.

## **National Drug Control Budget**

In creating the National Drug Control Strategy, ONDCP consults with the various federal Drug Control Program agencies; ONDCP then reviews their respective drug budgets and incorporates them into the National Drug Control Budget (Budget), which is submitted to Congress as part of the annual appropriations process. ONDCP has acknowledged that it is difficult to get a full

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<sup>14</sup> Monitoring the Future is an annual survey of about 50,000 8<sup>th</sup>, 10<sup>th</sup>, and 12<sup>th</sup> grade students. It is used to assess behaviors, attitudes, and values of these students, and conducts follow-up assessments after graduation. Research is conducted at the University of Michigan, Institute for Social Research. For more information, see <http://monitoringthefuture.org/>.

<sup>15</sup> Lloyd D. Johnston, Patrick M. O'Malley, and Jerald G. Bachman, et al., The University of Michigan Institute for Social Research, *Monitoring the Future, National Results on Adolescent Drug Use: Overview of Key Findings 2009*, U.S. Department of Health and Human Services, National Institute on Drug Abuse, National Institutes of Health, NIH Publication No. 10-7583, May 2010, p. 50, <http://monitoringthefuture.org/pubs/monographs/overview2009.pdf> (hereafter, *MTF 2009*).

<sup>16</sup> *2009 NSDUH*, p. 2.

<sup>17</sup> *Ibid.*, p. 27.

<sup>18</sup> Jiaquan Xu, Kenneth D. Kochanek, and Sherry L. Murphy, et al., *National Vital Statistics Reports, Deaths: Final Data for 2007*, U.S. Centers for Disease Control and Prevention, Volume 58, Number 19, May 20, 2010, p. 93, [http://www.cdc.gov/nchs/data/nvsr/nvsr58/nvsr58\\_19.pdf](http://www.cdc.gov/nchs/data/nvsr/nvsr58/nvsr58_19.pdf).

<sup>19</sup> U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Office of Applied Studies, *Drug Abuse Warning Network, 2008: Selected Tables of National Estimates of Drug-Related Emergency Department Visits, 2009*.

<sup>20</sup> *2009 NSDUH*, p. 28.

picture of federal resources allocated to drug control. This is, in part, because the activities of many contributing agencies are multi-faceted, and it is difficult to determine precisely what portion of their resources are dedicated to drug control and related activities.<sup>21</sup>

Another factor that presents a challenge in determining the full scope of federal drug control resources is the disparity between those agencies contributing to the Strategy and those included in the Budget. Of note, while ONDCP consults with 34 National Drug Control Program agencies to create the *Strategy*, not all of these agencies are included in the *Budget*. Under the current Budget formulation, only those agencies whose missions directly support the Strategy are included in the Budget. Those agencies “whose primary mission does not include drug control, nor have readily identifiable drug control line items” are not currently included in the Budget.<sup>22</sup> For instance, the Drug Enforcement Administration (DEA)—whose primary mission includes enforcing the federal controlled substance laws and regulations—is included in the Budget. However, the U.S. Attorneys—whose primary mission includes prosecuting *all* criminal cases brought by the federal government, not only drug-related cases—is not included in the Budget.

Federal departments, agencies, and programs receiving funding directly under the National Drug Control Budget currently include

- Department of Defense
- Department of Education
- Department of Health and Human Services
  - Centers for Medicare and Medicaid Services
  - Substance Abuse and Mental Health Services Administration
  - National Institutes of Health—National Institute on Drug Abuse
  - Indian Health Service
- Department of Homeland Security
  - U.S. Customs and Border Protection
  - U.S. Immigration and Customs Enforcement
  - U.S. Coast Guard
  - Office of Counternarcotics Enforcement
- Department of the Interior
  - Bureau of Indian Affairs
- Department of Justice
  - Federal Bureau of Prisons
  - U.S. Drug Enforcement Administration

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<sup>21</sup> Executive Office of the President, Office of National Drug Control Policy, *2010 National Drug Control Strategy*, p. 99.

<sup>22</sup> Executive Office of the President, Office of National Drug Control Policy, *Fiscal Year 2011 Congressional Budget Submission*, p. 4.

- Organized Crime Drug Enforcement Task Force Program
- Office of Justice Programs
- National Drug Intelligence Center
- Office of National Drug Control Policy
  - Counterdrug Technology Assessment Center
  - High Intensity Drug Trafficking Areas Program
  - Other Federal Drug Control Programs
- Department of State
  - Bureau of International Narcotics and Law Enforcement Affairs
- U.S. Agency for International Development
- Department of Transportation
  - National Highway Traffic Safety Administration
- Department of the Treasury
  - Internal Revenue Service
- Department of Veterans Affairs
  - Veterans Health Administration
- Small Business Administration<sup>23</sup>

In the FY2011 Budget, there are five priorities for which resources are requested across agencies: substance abuse prevention, substance abuse treatment, drug interdiction, domestic law enforcement, and international partnerships.<sup>24</sup> The FY2011 request includes over \$15.5 billion for these priorities, an increase of \$521.0 million over the FY2010 enacted amount of over \$15.0 billion.<sup>25</sup> There is currently a continuing resolution (P.L. 111-290) funding federal drug control activities at the FY2010 enacted level.

ONDCP manages three primary program accounts: the Counterdrug Technology Assessment Center (CTAC), the High Intensity Drug Trafficking Area (HIDTA) Program, and the Other Federal Drug Control Programs.

### ***Counterdrug Technology Assessment Center (CTAC)***

The CTAC was given statutory authority in the Office of National Drug Control Policy Reauthorization Act of 2006 (P.L. 109-469).<sup>26</sup> It serves two primary functions: (1) counterdrug

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<sup>23</sup> Executive Office of the President, Office of National Drug Control Policy, *2010 National Drug Control Strategy*, p. 111.

<sup>24</sup> Testimony by ONDCP Director Kerlikowske before the U.S. Congress, House Committee on Oversight and Government Reform, Subcommittee on Domestic Policy, *ONDCP's Fiscal Year 2011 National Drug Control Budget: Are We Still Funding a War on Drugs?*, 111<sup>th</sup> Cong., 2<sup>nd</sup> sess., April 14, 2010.

<sup>25</sup> *Ibid.*

<sup>26</sup> 21 U.S.C. § 1707.



technology research and development and (2) technology transfer. Funds under this account may be transferred from ONDCP to other federal departments and agencies. ONDCP has proposed that this account be discontinued starting in FY2011, as its roles have been taken on by various federal Drug Control Program agencies.

### ***High Intensity Drug Trafficking Area (HIDTA) Program***

The HIDTA program, originally authorized by the Anti-Drug Abuse Act of 1988 (P.L. 100-690),<sup>27</sup> provides assistance to federal, state, and local law enforcement operating in areas deemed as most-impacted by drug trafficking. The ONDCP Director has the authority to designate areas within the United States that are centers of illegal drug production, manufacturing, importation, or distribution as HIDTAs—of which there are currently 28. Four main criteria are considered when designating an area as a HIDTA:

- (1) the extent to which the area is a significant center of illegal drug production, manufacturing, importation, or distribution;
- (2) the extent to which State, local, and tribal law enforcement agencies have committed resources to respond to the drug trafficking problem in the area, thereby indicating a determination to respond aggressively to the problem;
- (3) the extent to which drug-related activities in the area are having a significant harmful impact in the area, and in other areas of the country; and
- (4) the extent to which a significant increase in allocation of Federal resources is necessary to respond adequately to drug related activities in the area.<sup>28</sup>

### ***Other Federal Drug Control Programs***

The Other Federal Drug Control Programs account is administered by ONDCP, and its funds support high-priority drug control programs. The FY2011 Budget request includes monies for the National Youth Anti-Drug Media Campaign, the Drug-Free Communities Program, Performance Measures Development, Anti-Doping Activities, U.S. Membership Dues to the World Anti-Doping Agency (WADA), the National Drug Court Institute, and the National Alliance for Model State Drug Laws.<sup>29</sup>

## **Evaluation of the Strategy**

The Office of National Drug Control Policy Reauthorization Act of 1998 (Title VII of P.L. 105-277) made it a requirement for ONDCP to submit to Congress—along with the National Drug Control Strategy—a report on a national drug control performance measurement system.<sup>30</sup> In essence, the report is aimed at evaluating the effectiveness of the Strategy. The performance measurement system report is to contain two- and five-year performance measures (along with descriptions of information and data that will be used for each measure) and targets for each of the Strategy's goals and objectives for reducing drug use, drug availability, and the consequences

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<sup>27</sup> 21 U.S.C. § 1706.

<sup>28</sup> Office of National Drug Control Policy, *The High-Intensity Drug Trafficking Area Program: An Overview*, <http://whitehousedrugpolicy.gov/hidta/overview.html>.

<sup>29</sup> Executive Office of the President, Office of National Drug Control Policy, *National Drug Control Strategy, FY2011 Budget Summary*, 2010, p. 157, <http://www.whitehousedrugpolicy.gov/publications/policy/11budget/fy11budget.pdf>.

<sup>30</sup> 22 U.S.C. § 1705(c).

of drug use. It should also identify federal programs and activities that support the Strategy and evaluate the contribution of both demand- and supply-reduction activities. The evaluation should also ensure that each contributing federal drug control agency's goals and budgets are consistent with the Strategy. In addition, it is to assess existing national instruments and techniques to measure drug use, supply- and demand-reduction activities, and the effectiveness of substance abuse treatment in reducing illicit drug use and criminal behavior—both during and after treatment.

Currently, ONDCP is in the process of developing an updated Performance Reporting System that will aid in carrying out these evaluation responsibilities. It has indicated that the evaluation, while not submitted with the 2010 Strategy, will be included in the 2011 Strategy.<sup>31</sup> To date, ONDCP has relied on data from multiple sources in its evaluation of individual drug control agencies. It has used not only national research and indicators—such as the National Survey on Drug Use and Health and the Monitoring the Future study—but records maintained by individual agencies.<sup>32</sup> ONDCP encourages agencies to improve performance by linking performance to the certification of agency budgets. In the process of creating the National Drug Control Budget, ONDCP certifies each agency budget. It remains to be seen how the reformulated Performance Reporting System will impact ONDCP's ability to evaluate the contribution of each National Drug Control agency and program to the overall Strategy.

## **Selected Reauthorization Issues**

### **Status of the War on Drugs**

The term “war on drugs,” popularized by former President Richard Nixon, was commonly used for nearly 40 years. In May 2009, ONDCP Director Kerlikowske called for an end to use of the term “war on drugs.”<sup>33</sup> He noted that using this term is misleading because the United States is not at war with the individuals consuming drugs, but rather with the illegal drugs and their effects. He also described a gradual shift in societal thoughts on drug use and abuse. The Director notes that while drug use was previously considered a law enforcement or criminal justice problem, it transitioned to being viewed as a combination of criminal justice, social policy, and public health problems. He contends that recently, drug use has been seen more as a public health problem.<sup>34</sup>

### **Drug Use: A Public Health Issue**

According to the National Survey on Drug Use and Health, in 2009 about 21.8 million Americans aged 12 and older were current (in the past month) illegal drug users, representing 8.7% of this

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<sup>31</sup> Executive Office of the President, Office of National Drug Control Policy, *Fiscal Year 2011 Congressional Budget Submission*, p. 5.

<sup>32</sup> Executive Office of the President, Office of National Drug Control Policy, *2009 National Drug Control Strategy*, pp. 37–38.

<sup>33</sup> Gary Fields, “White House Czar Calls for End to ‘War on Drugs’,” *The Wall Street Journal*, May 14, 2009, <http://online.wsj.com/article/SB124225891527617397.html>.

<sup>34</sup> *Ibid.* See the full interview with *The Wall Street Journal* at <http://online.wsj.com/article/SB124233331735120871.html>.

population.<sup>35</sup> This also represents the largest proportion in the past decade of people aged 12 and older being identified as current illegal drug users. Further, the abuse of alcohol and illicit drugs contribute to over 100,000 deaths in the United States annually.<sup>36</sup>

The elevated proportion of drug users in 2009 was accompanied by an estimated 1,663,582 arrests for drug abuse violations.<sup>37</sup> Further, of the total number of federal cases in which offenders were sentenced in 2009 (N = 81,372), 25,164 (or 34.4% of all cases with available sentencing information) were sentenced for federal drug violations.<sup>38</sup> This is a decrease—both in number as well as in proportion—from the number of drug offenders sentenced at the federal level in 2008. In 2008, of the 76,478 federal cases in which offenders were sentenced, 25,500 (or 36.2% of cases with available sentencing information) were sentenced for federal drug violations (e.g., drug trafficking, simple possession, or participation in a continuing criminal enterprise).<sup>39</sup> While there was a decrease in federal offenders sentenced for drug crimes between 2008 and 2009, two years of data is insufficient for analysts to determine whether there is a relationship between this drop and any shift in Administration policies toward viewing drug use/abuse as a public health issue. With additional years of sentencing and drug use data, analysts will be better positioned to evaluate such a relationship.

## **Budget Priorities**

The FY2011 Budget request includes almost \$15.553 billion across both supply- and demand-related programs.<sup>40</sup> This is an increase of \$521.1 million over the FY2010 enacted amount of nearly \$15.032 billion. In the FY2011 request, the Administration proposes to use 64.0% of the funds (\$9.952 billion) for supply-side functions and 36.0% of the funds (\$5.600 billion) for demand-side functions. Supply reduction includes funding for domestic law enforcement (\$3.917 billion), interdiction (\$3.727 billion), and international support (\$2.308 billion), while demand reduction focuses on treatment (almost \$3.883 billion) and prevention (nearly \$1.718 billion).<sup>41</sup> The Administration proposes five new demand reduction priority areas for which \$151.3 million of FY2011 funds would be used. These priority areas include

- creating a nationwide community-based drug prevention system targeting adolescents;
- training primary healthcare givers to intervene in developing drug abuse cases;
- expanding and improving specialty addiction care;

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<sup>35</sup> 2009 NSDUH, p. 1.

<sup>36</sup> National Institutes of Health, National Institute on Drug Abuse, *Drugs, Brains, and Behavior—The Science of Addiction*, NIH Pub No. 10-5605, August 2010, <http://www.nida.nih.gov/scienceofaddiction/sciofaddiction.pdf>.

<sup>37</sup> Sourcebook of Criminal Justice Statistics Online, Table 4.1.2009, <http://www.albany.edu/sourcebook/pdf/t412009.pdf>. Data estimations are based on the Federal Bureau of Investigation (FBI) Uniform Crime Report (UCR) program data. The UCR program compiles data from monthly reports transmitted directly to the FBI from approximately 17,000 local police departments or state agencies.

<sup>38</sup> U.S. Sentencing Commission, *Sourcebook of Federal Sentencing Statistics*, <http://www.ussc.gov/ANNRPT/2009/figi.pdf>.

<sup>39</sup> U.S. Sentencing Commission, *Sourcebook of Federal Sentencing Statistics*, <http://www.ussc.gov/ANNRPT/2008/figi.pdf>.

<sup>40</sup> *Ibid.*, p. 109.

<sup>41</sup> As mentioned, a continuing resolution (P.L. 111-290) is currently funding federal drug control activities at the FY2010 enacted level of more than \$15.0 billion.

- developing safe, effective means to manage drug-related offenders; and
- creating a permanent drug monitoring system.<sup>42</sup>

Policymakers have questioned whether the National Drug Control Budget aims funding toward the most effective, evidence-based strategies to reduce illicit drug use and abuse. Currently, the Budget can be thought of as funding two broad categories of demand-reduction and supply-reduction activities. Further, the funding allocated for each contributing Drug Control Program agency is deemed as either supply-related or demand-related in its entirety. This approach cannot accurately measure the true breakdown of Drug Control Program funds dedicated to either supply or demand reduction because contributing agencies may have programs that target both supply and demand reduction. For instance, the Drug Enforcement Administration (DEA) uses funds for intelligence, investigations, state and local assistance, international support, and prevention<sup>43</sup>—a mix of both supply- and demand-reduction activities—but for classification purposes, the funds that DEA receives are considered to be supply-reduction funds. As a result of this current classification structure, ONDCP has suggested a restructuring of the way funding is captured and presented in future Budgets and Strategies.<sup>44</sup>

Critics of the current—and previous—Budget’s focus on supply reduction activities may argue that research on prevention and treatment programs has suggested that such demand-reduction programs may be effective at reducing drug use. Research on supply-reduction, enforcement programs have not yielded the same results.<sup>45</sup> In addition to considering *outcome effectiveness*, policymakers have questioned the *cost effectiveness* of supply- and demand-reduction activities. Director Kerlikowske has indicated that the most cost effective elements of the Strategy and Budget are in prevention and treatment<sup>46</sup>—the two components of demand reduction. Research has indicated, for instance, that drug treatment for high-risk populations, such as criminal offenders, can reduce societal costs.<sup>47</sup> Expert analysis of drug enforcement programs, on the other hand, indicates that while enforcement may produce short-term drug market disruption, the effects are not lasting.<sup>48</sup> In considering ONDCP’s reauthorization, policymakers may deliberate on whether to authorize specific supply-reduction or demand-reduction programs. Congress may also exercise oversight regarding ONDCP’s implementation of evidenced-based activities.

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<sup>42</sup> Executive Office of the President, Office of National Drug Control Policy, *National Drug Control Strategy, FY2011 Budget Summary*, 2010, pp. 1-2, <http://www.whitehousedrugpolicy.gov/publications/policy/11budget/fy11budget.pdf>.

<sup>43</sup> *Ibid.*, p. 121.

<sup>44</sup> Executive Office of the President, Office of National Drug Control Policy, *2009 National Drug Control Strategy*, p. 99.

<sup>45</sup> Rosalie Liccardo Pacula, *An Assessment of the Scientific Support Underlying the FY2011 Budget Priorities of the Office of National Drug Control Policy*, RAND Corporation, CT-344, April 2010, [http://www.rand.org/pubs/testimonies/2010/RAND\\_CT344.pdf](http://www.rand.org/pubs/testimonies/2010/RAND_CT344.pdf).

<sup>46</sup> Testimony by ONDCP Director Kerlikowske before the U.S. Congress, House Committee on Oversight and Government Reform, Subcommittee on Domestic Policy, *ONDCP’s Fiscal Year 2011 National Drug Control Budget: Are We Still Funding a War on Drugs?*, 111<sup>th</sup> Cong., 2<sup>nd</sup> sess., April 14, 2010.

<sup>47</sup> Kathryn E. McCollister, Michael T. French, and Michael Prendergast, et al., “Is In-Prison Treatment Enough? A Cost-Effective Analysis of Prison-Based Treatment and Aftercare Services for Substance-Abusing Offenders,” *Law & Policy*, vol. 25, no. 1 (2003).

<sup>48</sup> Rosalie Liccardo Pacula, *An Assessment of the Scientific Support Underlying the FY2011 Budget Priorities of the Office of National Drug Control Policy*, RAND Corporation, CT-344, April 2010, [http://www.rand.org/pubs/testimonies/2010/RAND\\_CT344.pdf](http://www.rand.org/pubs/testimonies/2010/RAND_CT344.pdf).

## Scope of the National Drug Control Budget

Policymakers and industry experts alike have questioned whether the National Drug Control Budget captures the full scope of the nation's anti-drug activities. For instance, the Budget does not currently include costs for prosecuting and incarcerating drug offenders. In fact, the proportion of costs incurred by the U.S. Attorneys related to prosecuting drug-related crimes is not included in the current Budget. The U.S. Attorneys prosecute the entire spectrum of federal crimes; while some cases may be entirely drug-related, others may only have a drug component, while still others may not be related to drugs at all. For instance, in FY2009 the U.S. Attorneys reported 67,864 cases filed against 89,633 defendants. Of these, 15,321 narcotics cases were filed against 28,790 defendants.<sup>49</sup> There may still be other cases with a drug component that were not necessarily classified as narcotics cases. If the costs for prosecuting drug-related crimes were included in the Budget, ONDCP, with relevant drug control agencies, may need to determine whether to include costs related only to those cases that are entirely drug-related and classified as narcotics cases or whether to include costs for prosecuting all cases with a drug component. Additionally, there would need to be a system in place for the U.S. Attorneys to record monetary and personnel resources allocated for the prosecution of these cases.

A similar story holds true for the Federal Bureau of Prisons (BOP). BOP is responsible for housing federal inmates—not solely those incarcerated for drug crimes. While BOP is included in the current Budget, the resources accounted for are only those for inmate treatment programs. The Budget does not include funds for the housing of inmates incarcerated for drug-related crimes. As of October 30, 2010, BOP reported a total inmate population of 210,148.<sup>50</sup> Of those inmates whose offense information was available, 51.4% (100,439) were incarcerated for drug offenses. Additionally, the most recent statistics indicate that the cost of incarcerating someone in a BOP facility in FY2009 was \$74.66 per day (\$27,251.50 annually), and the cost for incarceration in a community correction center was \$67.83 per day (\$24,758.22 annually).<sup>51</sup> One challenge in including incarceration costs in the Budget would be determining whether to include costs for housing only those inmates incarcerated for drug crimes or costs for housing all inmates who are determined to have drug abuse issues, regardless of whether drugs are related to the crime(s) for which they are sentenced.

While experts have expressed concern about drug control policy elements *omitted* from the Budget, some have also questioned whether some elements *included* in the current Budget may be overly broad and may not directly tackle the nation's drug problems. For instance, some have argued that policies such as those assisting the Afghan government in combating the drug trade and those funding Colombian rule of law programs do not directly reduce the supply of drugs to the United States.<sup>52</sup> On the other hand, some may argue that these programs impacting drug source countries can, in turn, reduce the availability of illicit drugs at home. Thus, policymakers

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<sup>49</sup> U.S. Department of Justice, Executive Office for U.S. Attorneys, *United States Attorneys' Annual Statistical Report, Fiscal Year 2009*, p. 5, [http://www.justice.gov/usao/reading\\_room/reports/asr2009/09statrpt.pdf](http://www.justice.gov/usao/reading_room/reports/asr2009/09statrpt.pdf). If drug cases from the Government Regulatory/Money Laundering Program category are included, there were 15,388 narcotics cases filed against 28,909 defendants.

<sup>50</sup> U.S. Department of Justice, Federal Bureau of Prisons, *Quick Facts About the Bureau of Prisons*, <http://www.bop.gov/about/facts.jsp>.

<sup>51</sup> Information provided to CRS by the Administrative Office of the U.S. Courts.

<sup>52</sup> Rosalie Liccardo Pacula, *An Assessment of the Scientific Support Underlying the FY2011 Budget Priorities of the Office of National Drug Control Policy*, RAND Corporation, CT-344, April 2010, [http://www.rand.org/pubs/testimonies/2010/RAND\\_CT344.pdf](http://www.rand.org/pubs/testimonies/2010/RAND_CT344.pdf).

may also debate whether the current Budget elements, such as those under the international supply-reduction strategy, are directly related to the National Drug Control Strategy and should be maintained as part of the Budget.

## **Performance Measurement for Federal Drug Control Programs**

When Congress reauthorized ONDCP in 1998 (Title VII of P.L. 105-277), policymakers made it a requirement for ONDCP to create and report on a national drug control performance measurement system, as discussed above.<sup>53</sup> To date, ONDCP has measured performance by using data from individual agencies—data collected as required by the Government Performance and Results Act (P.L. 103-62)—and from national research.<sup>54</sup> Critics of this measurement system have argued that while it allows ONDCP to evaluate individual programs and agencies, the current system does not allow ONDCP to holistically assess whether the Strategy’s goals and objectives are truly being accomplished.<sup>55</sup> ONDCP has indicated that the forthcoming Performance Reporting System (PRS) will address this concern. Director Kerlikowske described the new PRS as being able to evaluate annual progress toward each of the Drug Control Program’s strategic goals. The new PRS is also expected to be adaptable to changing metrics as new drug control threats emerge.<sup>56</sup> When debating issues surrounding ONDCP’s reauthorization, Congress may exercise oversight regarding the new PRS and whether this system will indeed allow for evaluation of individual programs and agencies as well as programmatic goals.

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<sup>53</sup> 22 U.S.C. § 1705(c).

<sup>54</sup> Executive Office of the President, Office of National Drug Control Policy, *2009 National Drug Control Strategy*, pp. 37-38.

<sup>55</sup> See the written statement of John T. Carnevale, Ph.D., President, Carnevale Associates, LLC, before the U.S. Congress, House Committee on Oversight and Government Reform, Subcommittee on Domestic Policy, *ONDCP’s Fiscal Year 2010 National Drug Control Budget and the Policy Priorities of the Office of National Drug Control Policy under the New Administration*, 111<sup>th</sup> Cong., 1<sup>st</sup> sess., May 19, 2009, p. 12.

<sup>56</sup> See the written statement of ONDCP Director Kerlikowske before the U.S. Congress, House Committee on Oversight and Government Reform, Subcommittee on Domestic Policy, *ONDCP’s Fiscal Year 2011 National Drug Control Budget: Are We Still Funding a War on Drugs?*, 111<sup>th</sup> Cong., 2<sup>nd</sup> sess., April 14, 2010, pp. 14-15.