

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

**name redacted**

Analyst in Illicit Drugs and Crime Policy

**name redacted**

Specialist in Domestic Security

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## Summary

The Office of National Drug Control Policy (ONDCP) is located in the Executive Office of the President and 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 developing a comprehensive National Drug Control Strategy (Strategy) to direct the nation's anti-drug efforts; 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 federal Drug Control Program agencies; and 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, then-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 2014 National Drug Control Strategy outlines seven core areas—ranging from strengthening international partnerships to focusing on intervention and treatment efforts in health care—aimed at reducing both illicit drug use and its consequences. The overall goal is to achieve a 15% reduction in the rate of drug use and its consequences over a five-year period (2010-2015).

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. As requested by Congress in the ONDCP Reauthorization Act of 2006 (P.L. 109-469), the Budget was restructured in FY2012, incorporating the activities and budgets of 19 additional federal agencies/programs, to reflect a more complete range of federal drug control spending. The FY2013 Budget incorporated four additional federal agencies/programs, and the FY2014 Budget incorporated one additional federal program. In the proposed FY2015 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 FY2015 Budget proposes to use 57% of the funds (\$14.436 billion) for supply-side functions and 43% of the funds (\$10.927 billion) for demand-side functions. Federal drug control activities were funded at \$25.212 billion for FY2014. In September 2014, the Continuing Appropriations Resolution, 2015 (P.L. 113-164) continued funding the federal government at FY2014 spending levels through December 11, 2014. Details of FY2015 federal drug control spending, however, remain unclear.

In considering ONDCP's reauthorization, there are several issues on which policy makers 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 that might be debated is whether the revised Budget structure captures the full scope of the nation's anti-drug activities. Further, ONDCP has created 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.

Given the current public debate over the legal status of marijuana, Congress may also choose to address ONDCP's ability to support or oppose marijuana legalization. Current law requires the Director of National Drug Control Policy to (1) ensure that no federal funds appropriated to ONDCP are expended for any study or contract relating to the legalization of a substance listed in Schedule I of the Controlled Substances Act and (2) oppose any attempt to legalize the use of any such substance that the Food and Drug Administration has not approved for use for medical purposes.

Finally, should Congress choose to reauthorize ONDCP, it may wish to reconsider the role of ONDCP and the director. ONDCP has distanced itself from the seemingly outdated term "war on drugs," but the office is arguably a product of the war on drugs.

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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 and overseeing 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
- coordinating, overseeing, and evaluating the effectiveness of federal anti-drug policies and the National Drug Control Strategy implementation by the various agencies contributing to the Drug Control Program.<sup>5</sup>

In carrying out these responsibilities, former Director R. Gil Kerlikowske put an end to the use of the term “war on drugs,”<sup>6</sup> and current Acting Director Michael Botticelli<sup>7</sup> has referred to the war on drugs as “outdated.”<sup>8</sup> The Obama Administration views a comprehensive drug control strategy as one that includes a range of prevention, treatment, and law enforcement elements and “is guided by what experience, compassion, and science demonstrate about the true nature of drug

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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 (name redacted).

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

<sup>5</sup> Executive Office of the President, *Fiscal Year 2015 Congressional Budget Submission*, p. ONDCP-3; 21 U.S.C. §1703.

<sup>6</sup> Gary Fields, “White House Czar Calls for End to ‘War on Drugs’,” *The Wall Street Journal*, May 14, 2009.

<sup>7</sup> In August 2014, President Obama nominated Acting Director Michael Botticelli to be director of ONDCP. See Katie Zezima, “White House Nominates Botticelli, a Recovering Alcoholic, to be Drug Czar,” *The Washington Post*, August 28, 2014.

<sup>8</sup> Testimony of Acting ONDCP Director Michael P. Botticelli before the U.S. Congress, House Committee on Energy and Commerce, Subcommittee on Oversight and Investigations, *Examining the Growing Problems of Prescription Drug and Heroin Abuse*, 113<sup>th</sup> Cong., 2<sup>nd</sup> sess., April 29, 2014.

use in America.”<sup>9</sup> Most of the American public reportedly concurs with the government’s view that drug use is a significant challenge facing the nation. According to a 2014 Gallup survey, 63% of respondents reported that they worry a “great deal” or “fair amount” about drug use as a problem in the United States while 37% reported that they worry “only a little” or “not at all” about this issue.<sup>10</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. Policy makers 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 revised National Drug Control Budget represents a complete 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. Given the current public debate over the legal status of marijuana, Congress may also choose to address ONDCP’s ability to support or oppose marijuana legalization. Current law<sup>11</sup> requires the Director of National Drug Control Policy to (1) ensure that no federal funds appropriated to ONDCP are expended for any study or contract relating to the legalization of a substance listed in Schedule I of the Controlled Substances Act and (2) oppose any attempt to legalize the use of any such substance that the Food and Drug Administration (FDA) has not approved for use for medical purposes.<sup>12</sup>

## **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>13</sup> In creating the Strategy, ONDCP consults with the contributing federal Drug Control Program agencies<sup>14</sup> 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 each Strategy since 2010, ONDCP has outlined seven specific objectives—to be accomplished by 2015—aimed at reducing both illicit drug use and its consequences.<sup>15</sup> These objectives include reducing the following:<sup>16</sup>

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<sup>9</sup> Ibid.

<sup>10</sup> For more information, see Gallup at <http://www.gallup.com/poll/1657/Illegal-Drugs.aspx>.

<sup>11</sup> 21 U.S.C. §1703(b)(12).

<sup>12</sup> In the 113<sup>th</sup> Congress, legislation (H.R. 4046; Unmuzzle the Drug Czar Act of 2014) has been introduced that would strike the provisions that (1) prohibit the director of ONDCP from expending funds on research relating to the legalization of a substance in Schedule I and (2) require the director to oppose any attempt to legalize such substance that the FDA has not approved for medical purposes.

<sup>13</sup> 21 U.S.C. §1705(a)(1).

<sup>14</sup> A list of contributing agencies is provided in the section, “National Drug Control Budget.”

<sup>15</sup> Office of National Drug Control Policy, *2014 National Drug Control Strategy*, p. 4. Of note, illicit drug use includes the non-medical use of prescription drugs.

<sup>16</sup> These goals are to be measured over a five-year time period.

- The prevalence of 12- to 17-year-olds who report having used any illicit drugs in the past 30 days (by 15%). According to the 2013 National Survey on Drug Use and Health (NSDUH),<sup>17</sup> 9.4% of youth in this age range report being “current” (in the past month) users of illicit drugs.<sup>18</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 2013 Monitoring the Future study,<sup>19</sup> 27.8% of 8<sup>th</sup> graders report having had alcohol (1.7% decline since 2012), 14.8% of 8<sup>th</sup> graders report having used cigarettes (0.8% decline since 2012), and 20.3% of 8<sup>th</sup> graders report having used some form of illicit drug in their lifetimes (1.8% increase since 2012).<sup>20</sup>
- The prevalence of 18- to 25-year-olds who report having used any illicit drugs in the past 30 days (by 10%). Notably, 21.5% of adults in this age range reported being current illicit drug users in 2013.<sup>21</sup>
- The number of chronic drug users (by 15%). For instance, the 2013 NSDUH suggests that about 8.1 million individuals used marijuana on a daily or near-daily basis in the previous year.<sup>22</sup>
- The number of drug-induced deaths (by 15%). In 2011, there were a reported 43,544 drug-induced deaths<sup>23</sup> in the United States.<sup>24</sup>
- Drug-related morbidity (by 15%). In 2011, the Drug Abuse Warning Network (DAWN) estimates there were over 5 million drug-related emergency department visits.<sup>25</sup>

<sup>17</sup> The NSDUH is an annual survey of approximately 68,500 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.samhsa.gov/data/NSDUH.aspx>.

<sup>18</sup> U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, *Results from the 2013 National Survey on Drug Use and Health: Summary of National Findings*, NSDUH Series H-48, September 2014, <http://www.samhsa.gov/data/NSDUH/2013SummNatFindDetTables/NationalFindings/NSDUHresults2013.htm> (hereinafter, *2013 NSDUH*).

<sup>19</sup> Monitoring the Future is an annual survey of about 46,500 students in the 8<sup>th</sup>, 10<sup>th</sup>, and 12<sup>th</sup> grades. It is used to assess behaviors, attitudes, and values of these students, and conducts follow-up assessments after graduation. Research and data collection are conducted at the University of Michigan, Institute for Social Research. For more information, see <http://monitoringthefuture.org/>.

<sup>20</sup> Lloyd D. Johnston, Patrick M. O'Malley, and Richard A. Miech, et al., The University of Michigan Institute for Social Research, *Monitoring the Future, National Results on Drug Use: 1975-2013: Overview, Key Findings on Adolescent Drug Use*, February 2014, pp. 55-58, <http://www.monitoringthefuture.org/pubs/monographs/mtf-overview2013.pdf>.

<sup>21</sup> *2013 NSDUH*.

<sup>22</sup> *Ibid.*

<sup>23</sup> “Drug-induced deaths” includes deaths from poisoning and medical conditions caused by use of legal or illegal drugs, and also deaths from poisoning due to medically prescribed and other drugs. It excludes unintentional injuries, homicides, and other causes indirectly related to drug use, as well as newborn deaths due to the mother’s drug use.

<sup>24</sup> U.S. Centers for Disease Control and Prevention, *Detailed Tables for the National Vital Statistics Reports, Deaths: Final Data for 2011*, Table 12, [http://www.cdc.gov/nchs/data/nvsr/nvsr63/nvsr63\\_03.pdf](http://www.cdc.gov/nchs/data/nvsr/nvsr63/nvsr63_03.pdf).

<sup>25</sup> U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, *Drug Abuse Warning Network, 2011: National Estimates of Drug-Related Emergency Department Visits*, HHS Publication No. (SMA) 13-4760, DAWN Series D-39, 2013, <http://www.samhsa.gov/data/DAWN.aspx>.

- The prevalence of drugged driving (by 10%). In 2013, an estimated 3.8% of the 12-and-older population drove under the influence of an illicit drug. This represents a decrease from the rate in 2012 (3.9%).<sup>26</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; end the cycle of drug use, crime, and incarceration; 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.

In addition to revising the orientation of the Strategy, ONDCP identifies three policy priorities where the Administration believes there can be substantial progress over the short term. These priorities include reducing prescription drug abuse, addressing drugged driving, and preventing drug use before it begins. The 2014 Strategy highlights certain issues that merit special attention, including the threat of new synthetic drugs and cooperation with international partners in combating transnational organized crime.

In a review of ONDCP's revised Strategy and programs included in the federal drug control budget, the U.S. Government Accountability Office (GAO) found that "[ONDCP] and federal agencies have not made progress toward achieving most of the goals articulated in the 2010 National Drug Strategy ... but are reported to be on track to implement most Strategy action items intended to support these goals."<sup>27</sup> GAO also concluded that federal drug abuse programs are "fragmented and overlapping" and recommended that ONDCP assist federal agencies in coordinating efforts and reducing inefficiencies.<sup>28</sup>

## Prescription Drug Abuse Action Plan

The Obama Administration describes prescription drug abuse as the nation's fastest growing drug problem, and in 2011, released a prescription drug abuse plan, *Epidemic: Responding to America's Prescription Drug Abuse Crisis*. The plan expanded upon the Strategy's action items that specifically addressed demand reduction. Some action items included additional training and education for physicians and pharmacists, improved drug disposal programs, enhanced prescription drug monitoring programs (PDMPs), and improved cooperation and information sharing among PDMPs.<sup>29</sup>

Health statistics support the Administration's statements on the rising problem of prescription drug abuse. According to the Centers for Disease Control and Prevention, hospital visits for abuse of prescription drugs are now as common as hospital visits for abuse of illicit drugs. Of the 1.6 million hospital visits for all misused or abused drugs, 500,000 involved abuse of prescription

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<sup>26</sup> 2013 NSDUH.

<sup>27</sup> U.S. Government Accountability Office, *Office of National Drug Control Policy: Office Could Better Identify Opportunities to Increase Program Coordination*, GAO-13-333, March 2013, p. i, <http://www.gao.gov/assets/660/653354.pdf>.

<sup>28</sup> Ibid, p. 41.

<sup>29</sup> Office of National Drug Control Policy, *Epidemic: Responding to America's Prescription Drug Abuse Crisis*, pp. 1-7.



drugs in 2004. In 2008, 1 million of the 2 million total visits involving drug abuse involved abuse of prescription drugs.<sup>30</sup>

## Strategy at the U.S. Border

ONDCP has issued two supplemental strategies to address drug trafficking and U.S. border security. The *National Southwest Border Counternarcotics Strategy*, first released in 2009 and subsequently updated in 2011 and 2013, describes the Obama Administration's efforts to disrupt and dismantle drug trafficking networks that operate along the Southwest border and reduce drug use and crime in border communities.<sup>31</sup> One of the top concerns is the increased amount of heroin seized at the border, which increased by 232% from 2008 to 2012.<sup>32</sup>

In 2012, the Obama Administration released its first *National Northern Border Counternarcotics Strategy*, and in August 2014, the Administration updated and expanded upon this strategy. It describes transnational criminal organizations' illicit drug operations across the U.S.-Canada border. Top concerns include cocaine trafficking through the United States and into Canada, exploitation of tribal lands for smuggling illicit drugs, and trafficking of MDMA (3,4-methylenedioxy-methamphetamine; also known as ecstasy), and other synthetic substances from Canada into the United States. ONDCP specifies objectives and actions to address these issues in its strategy including improving relationships and counterdrug efforts on tribal lands and enhancing law enforcement cooperation with Canada.<sup>33</sup>

## 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. The Budget experienced a significant restructuring in FY2012; as part of this effort, ONDCP reviewed all federal programs with a "drug control nexus."<sup>34</sup> The review included two measures to determine eligibility: whether the program has a drug control nexus and whether the program has an adequate budget estimation methodology. This review yielded an addition of 19 federal programs or agencies to the Budget. For FY2013, ONDCP added four federal programs or agencies to the Budget, and for FY2014, ONDCP added one

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<sup>30</sup> Centers for Disease Control and Prevention, "Emergency Department Visits Involving Nonmedical Use of Selected Prescription Drugs—United States, 2004-2008", *Morbidity and Mortality Weekly Report*, vol. 59, no. 23 (June 18, 2010), <http://www.cdc.gov/mmwr/pdf/wk/mm5923.pdf>.

<sup>31</sup> ONDCP, *National Southwest Border Counternarcotics Strategy*, 2013, [http://www.whitehouse.gov/sites/default/files/ondcp/policy-and-research/southwest\\_border\\_strategy\\_2013.pdf](http://www.whitehouse.gov/sites/default/files/ondcp/policy-and-research/southwest_border_strategy_2013.pdf).

<sup>32</sup> U.S. Drug Enforcement Administration, *2013 National Drug Threat Assessment Summary*, DEA-NWW-DIR-017-13, November 2013, p. 5.

<sup>33</sup> ONDCP, *National Northern Border Counternarcotics Strategy*, August 2014, [http://www.whitehouse.gov/sites/default/files/ondcp/policy-and-research/noborder\\_counternarc\\_2014.pdf](http://www.whitehouse.gov/sites/default/files/ondcp/policy-and-research/noborder_counternarc_2014.pdf).

<sup>34</sup> Office of National Drug Control Policy, *National Drug Control Strategy: Fiscal Year 2012 Budget and Performance Summary*, pp. 5-6.

additional federal program.<sup>35</sup> Of note, several agencies and programs have been removed or eliminated from the Budget since FY2012.<sup>36</sup>

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

- Department of Agriculture\*<sup>37</sup>
  - U.S. Forest Service\*
- Court Services and Offender Supervision Agency for the District of Columbia\*
- Department of Defense
  - Drug Interdiction and Counterdrug Activities/OPTEMPO (Operating Tempo)\*
  - Defense Health Program\*\*
- Federal Judiciary\*
- Department of Education
  - Office of Elementary and Secondary Education
- Department of Health and Human Services
  - Administration for Children and Families\*\*
  - Centers for Medicare and Medicaid Services\*
  - Health Resources and Services Administration\*
  - Indian Health Service
  - National Institutes of Health—National Institute on Alcohol Abuse and Alcoholism\*
  - National Institutes of Health—National Institute on Drug Abuse
  - Substance Abuse and Mental Health Services Administration
- Department of Homeland Security
  - U.S. Customs and Border Protection
  - Federal Law Enforcement Training Center\*
  - U.S. Immigration and Customs Enforcement
  - U.S. Coast Guard

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<sup>35</sup> Ibid; Office of National Drug Control Policy, *National Drug Control Strategy: Fiscal Year 2014 Budget and Performance Summary*, p. 1.

<sup>36</sup> For example, the National Drug Intelligence Center closed in June 2012 and funding was not requested for this agency for FY2014; therefore, the agency is not included as part of the FY2014 National Drug Control Budget.

<sup>37</sup> \* Indicates an agency or program that was newly included in the FY2012 Budget. \*\* Indicates an agency or program that was newly included in the FY2013 Budget. \*\*\* Indicates an agency or program that was newly included in the FY2014 Budget; the Byrne Memorial Justice Assistance Grant Program, administered by the Department of Justice, Office of Justice Programs, was included in the FY2014 Budget.

- Department of Housing and Urban Development\*\*
  - Community Planning and Development\*\*
- Department of the Interior
  - Bureau of Indian Affairs
  - Bureau of Land Management\*
  - National Park Service\*
- Department of Justice
  - Assets Forfeiture Fund\*
  - Federal Bureau of Prisons\*
  - Criminal Division\*
  - U.S. Drug Enforcement Administration<sup>38</sup>
  - Organized Crime Drug Enforcement Task Force Program
  - Office of Justice Programs\*\*\*
  - U.S. Attorneys\*
  - U.S. Marshals Service\*
  - U.S. Marshals Service—Federal Prisoner Detention
- Department of Labor\*\*
  - Employment and Training Administration\*\*
- Office of National Drug Control Policy
  - High Intensity Drug Trafficking Areas Program
  - Other Federal Drug Control Programs
  - Salaries and Expenses
- Department of State
  - Bureau of International Narcotics and Law Enforcement Affairs
  - U.S. Agency for International Development

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<sup>38</sup> On June 15, 2012, the National Drug Intelligence Center (NDIC) closed. In FY2012, the NDIC received appropriated funding for necessary expenses to close the office. Activities performed by NDIC, including Document and Media Exploitation and strategic intelligence analysis, were transferred to the Drug Enforcement Administration. For more information, see Office of National Drug Control Policy, *National Drug Control Strategy: Fiscal Year 2014 Budget and Performance Summary*, p. 191.

- Department of Transportation
  - Federal Aviation Administration\*
  - National Highway Traffic Safety Administration
- Department of the Treasury
  - Internal Revenue Service
- Department of Veterans Affairs
  - Veterans Health Administration<sup>39</sup>

In the FY2015 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>40</sup> The FY2015 request includes \$25.4 billion for these priorities, an increase of approximately \$0.2 billion over the FY2014 enacted amount of \$25.2 billion.<sup>41</sup> In September 2014, the Continuing Appropriations Resolution, 2015 (P.L. 113-164) continued funding the federal government at FY2014 spending levels through December 11, 2014. Details of FY2015 federal drug control spending remain unclear.

ONDCP manages two primary program accounts: the High Intensity Drug Trafficking Areas (HIDTA) Program and the Other Federal Drug Control Programs. ONDCP previously managed the National Youth Anti-Drug Media Campaign which last received appropriations in FY2011.

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

The HIDTA program, originally authorized by the Anti-Drug Abuse Act of 1988 (P.L. 100-690),<sup>42</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>43</sup>

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<sup>39</sup> Office of National Drug Control Policy, National Drug Control Budget: FY2015 Funding Highlights, pp. 13-14.

<sup>40</sup> Ibid, p. 12.

<sup>41</sup> Ibid, p. 2.

<sup>42</sup> 21 U.S.C. §1706.

<sup>43</sup> Office of National Drug Control Policy, *HIDTA Designation Process & Authorizing Language*, <http://www.whitehouse.gov/ondcp/hidta-designation-process>.

## ***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 FY2015 Budget request includes monies for the Drug-Free Communities Program, Anti-Doping Activities, and the World Anti-Doping Agency.<sup>44</sup>

## ***National Youth Anti-Drug Media Campaign***

In 1998, ONDCP launched the National Youth Anti-Drug Media Campaign aiming to change youth attitudes about drug use and reverse youth drug trends through targeted media ads.<sup>45</sup> In multiple evaluations, it was reported that the program did not have favorable effects on youth behavior or beliefs.<sup>46</sup> ONDCP recreated the youth media campaign in “Above the Influence” (ATI), with a new approach of using a “highly visible and effective national messaging presence while encouraging youth participation with ATI at the community level.”<sup>47</sup> One study indicated that ATI was “trending toward positive impacts on attitudes and behavior” and “continues to have noteworthy potential.”<sup>48</sup> Another study noted positive impacts in discouraging female 8<sup>th</sup> grade students from initiating marijuana use, but it did not identify any significant influence over male 8<sup>th</sup> grade students or over students in grades 10 and 12.<sup>49</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>50</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 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

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<sup>44</sup> Office of National Drug Control Policy, *National Drug Control Strategy: Fiscal Year 2015 Budget and Performance Summary*, 2014, pp. 239-241.

<sup>45</sup> Office of National Drug Control Policy, *The National Drug Control Strategy, 1998: Budget Summary*, [http://www.whitehouse.gov/sites/default/files/ondcp/Fact\\_Sheets/FY1999-Budget-Summary-February-1998.pdf](http://www.whitehouse.gov/sites/default/files/ondcp/Fact_Sheets/FY1999-Budget-Summary-February-1998.pdf).

<sup>46</sup> Westat, *Evaluation of the National Youth Anti-Drug Media Campaign: 2004 Report of Findings*, Executive Summary, Rockville, MD, <http://archives.drugabuse.gov/initiatives/westat/NSPY2004Report/ExecSumVolume.pdf>; Westat and Annenberg School for Communication, *Evaluation of the National Youth Anti-Drug Media Campaign: 2003 Report of Findings*, Executive Summary, Rockville, MD, <http://archives.drugabuse.gov/initiatives/westat/pdf/1203ExSummary.pdf>; and Westat and Annenberg School for Communication, *Evaluation of the National Youth Anti-Drug Media Campaign: Fifth Semi-Annual Report of Findings*, Executive Summary, Rockville, MD, <http://archives.drugabuse.gov/initiatives/westat/Westat2003/ExecSum.pdf>.

<sup>47</sup> ONDCP, *National Youth Anti-Drug Media Campaign*, <http://www.whitehouse.gov/ondcp/anti-drug-media-campaign>.

<sup>48</sup> Michael D. Slater, Kathleen J. Kelly, and Frank R. Lawrence, et al., “Assessing Media Campaigns Linking Marijuana Non-Use with Autonomy and Aspirations: “Be Under Your Own Influence” and ONDCP’s “Above the Influence”,” *Prevention Science*, vol. 12, no. 1 (March 2011), pp. 12-22.

<sup>49</sup> Christopher S. Carpenter and Cornelia Pechmann, “Exposure to the Above the Influence Antidrug Advertisements and Adolescent Marijuana Use in the United States, 2006-2008,” *American Journal of Public Health*, vol. 101, no. 5 (May 2011), pp. 948-854.

<sup>50</sup> 21 U.S.C. §1705(c).

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.

ONDCP updated its Performance Reporting System,<sup>51</sup> which enables the office to carry out its evaluation responsibilities. It relies 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 also each agency's detailed progress toward the Strategy's seven objectives.<sup>52</sup> The PRS incorporates new performance measures that monitor and evaluate each agency's contribution to the Strategy's goals. The new PRS is also described as adaptable to changing metrics as new drug control threats emerge.<sup>53</sup> At the end of each fiscal year, ONDCP reports each agency's contribution to the Strategy's two overarching goals: to reduce drug use and its consequences by 2015.

## 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.<sup>54</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.

Over the past several years, Director Kerlikowske has repeatedly stated 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>55</sup> For instance, according to the National Survey on Drug Use and Health, about 24.6 million Americans aged 12 and older were current (in the past month) illegal drug users in 2013, representing 9.4% of this population.<sup>56</sup> This also represents the largest proportion in the past decade of people aged 12 and

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<sup>51</sup> According to ONDCP, the PRS was developed in accordance with the Government Performance and Results Modernization Act of 2010 (P.L. 111-352).

<sup>52</sup> Executive Office of the President, Office of National Drug Control Policy, *2012 National Drug Control Strategy: Performance Reporting System Report*, pp. 1-6.

<sup>53</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.

<sup>54</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>55</sup> Ibid. See the full interview with *The Wall Street Journal* at <http://online.wsj.com/article/SB124233331735120871.html>; ONDCP, *What Drug Policy Reform Looks Like: Director's Remarks at the National Press Club*, Remarks of Director Gil Kerlikowske – As Prepared for Delivery, Washington, DC, April 17, 2013; ONDCP, *Principles of Modern Drug Policy*, Statement of the Government of the United States of America World Federation Against Drugs 3<sup>rd</sup> World Forum, Stockholm, Sweden, May 21, 2012.

<sup>56</sup> 2013 NSDUH.

older being identified as current illegal drug users. Further, the abuse of alcohol and illicit drugs contributes to over 100,000 deaths in the United States annually.<sup>57</sup>

## Budget Priorities

The FY2015 Budget request includes approximately \$25.363 billion across both supply- and demand-related programs.<sup>58</sup> As shown in **Table 1**, this would be an increase of \$151 million over the FY2014 enacted amount of \$25.212 billion. As noted, the Continuing Appropriations Resolution, 2015 (P.L. 113-164) extended funding for the federal government at FY2014 spending levels through December 11, 2014. Details of FY2015 federal drug control spending, including the proportion focused on supply-reduction versus demand-reduction activities, remain unclear.

**Table 1. Federal Drug Control Budget by Function**

FY2013–FY2015, amounts in billions of dollars

Function	FY2013 Final	FY2014 Enacted	FY2015 Request <sup>a</sup>
Treatment	\$7.889	\$8.825	\$9.597
Prevention	1.275	1.279	1.337
Domestic Law Enforcement	8.850	9.274	9.177
Interdiction	3.941	4.048	3.863
International	1.846	1.786	1.389
<b>Total</b>	<b>23.800</b>	<b>25.212</b>	<b>25.363</b>
Demand Reduction <sup>b</sup>	9.157	10.097	10.927
Supply Reduction <sup>c</sup>	14.643	15.115	14.436
<b>Total</b>	<b>23.800</b>	<b>25.212</b>	<b>25.363</b>

**Source:** Amounts were taken from Office of National Drug Control Policy, National Drug Control Budget: FY2015 Funding Highlights, p. 12.

**Notes:** Amounts may not add to total due to rounding.

- In September 2014, the Continuing Appropriations Resolution, 2015 (P.L. 113-164) continued funding the federal government at FY2014 spending levels through December 11, 2014. Details of FY2015 federal drug control spending remain unclear.
- Demand reduction includes treatment and prevention.
- Supply reduction includes domestic law enforcement, interdiction, and international.

In the FY2015 request, the Administration proposes to use approximately 57% of the funds (\$14.436 billion) for supply-side functions and 43% of the funds (\$10.927 billion) for demand-side functions. Supply reduction includes funding for domestic law enforcement (\$9.177 billion), interdiction (\$3.863 billion), and international support (\$1.389 billion), while demand reduction focuses on treatment (\$9.597 billion) and prevention (\$1.337 billion). Over the past decade or so,

<sup>57</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>58</sup> Office of National Drug Control Policy, National Drug Control Budget: FY2015 Funding Highlights, p. 12.



the proportion of federal drug control spending allocated towards supply-side functions has ranged from about 37% to about 43%.<sup>59</sup>

Policy makers 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. 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 has not yielded the same results.<sup>60</sup> In addition to considering outcome effectiveness, policy makers have questioned the cost effectiveness of supply- and demand-reduction activities. Former Director Kerlikowske has indicated that the most cost-effective elements of the Strategy and Budget are in prevention and treatment<sup>61</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>62</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>63</sup> In considering ONDCP’s reauthorization, policy makers 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.

## Scope of the National Drug Control Budget

Policy makers and industry experts alike have, despite the restructuring of the National Drug Control Budget in FY2012, questioned whether the Budget captures the full scope of the nation’s counter-drug activities. For instance, the Budget did not formerly include costs for prosecuting and incarcerating drug offenders. The proportion of costs incurred by the U.S. Attorneys related to prosecuting drug-related crimes was not included in the previous 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. Under the revised Budget structure, some drug-related prosecution costs are included; the U.S. Attorneys’ drug budget is determined by calculating the costs of attorneys and non-attorneys that are dedicated to non-Organized Crime Drug Enforcement Task Force drug prosecutions.<sup>64</sup>

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<sup>59</sup> Ibid., p. 15.

<sup>60</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.

<sup>61</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>62</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>63</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.

<sup>64</sup> Office of National Drug Control Policy, *National Drug Control Strategy, Fiscal Year 2015 Budget and Performance Summary*, p. 212.



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 was previously included in the unrevised Budget, the resources accounted for were only those for inmate treatment programs. Prior to FY2012, the Budget did not include funds for the housing of inmates incarcerated for drug-related crimes, but the revised Budget now includes these associated costs.

While experts have expressed concern about drug control policy elements *omitted* from the Budget, some have also questioned whether certain 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>65</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, policy makers 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), policy makers made it a requirement for ONDCP to create and report on a national drug control performance measurement system, as discussed above.<sup>66</sup> Before the recent National Drug Control Budget restructure, ONDCP 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>67</sup> Critics of this measurement system argued that while it allowed ONDCP to evaluate individual programs and agencies, the performance measurement system did not allow ONDCP to holistically assess whether the Strategy’s goals and objectives were truly being accomplished.<sup>68</sup> ONDCP addressed this concern by developing the Performance Reporting System (PRS).

When debating issues surrounding ONDCP’s reauthorization, Congress may exercise oversight regarding the new PRS and whether this system allows for evaluation of individual programs and agencies as well as whether it allows for evaluation of each agency’s contribution to the Strategy’s goals. The first PRS assessment report was released in 2012, and a second assessment was released in 2014. According to ONDCP, significant progress was made in achieving stated goals for domestic law enforcement, strengthening international partnerships, and youth substance use prevention. For example, according to ONDCP, “key source and transit countries demonstrated increased commitment to reducing drug trafficking and use through demand and

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<sup>65</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.

<sup>66</sup> 22 U.S.C. §1705(c).

<sup>67</sup> Executive Office of the President, Office of National Drug Control Policy, *2009 National Drug Control Strategy*, pp. 37-38.

<sup>68</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.

supply reduction efforts.”<sup>69</sup> ONDCP also cited areas where more progress was needed including working with partner countries to reduce the cultivation of drugs and their production potential, especially poppy cultivation in Afghanistan, Burma, and Laos; marijuana cultivation in Mexico; and coca cultivation in Peru.”<sup>70</sup> ONDCP also noted that more improvement is needed in preventing youth marijuana use and changing youth perceptions that marijuana is not harmful.

## Research on Marijuana

In 1970, the Controlled Substances Act designated marijuana as a Schedule I controlled substance. This legislation officially prohibited the unauthorized manufacture, distribution, dispensation, and possession of marijuana. Current law also requires the Director of National Drug Control Policy to (1) ensure that no federal funds appropriated to ONDCP are expended for any study or contract relating to the legalization of a substance listed in Schedule I of the Controlled Substances Act and (2) oppose any attempt to legalize the use of any such substance that the Food and Drug Administration has not approved for use for medical purposes.<sup>71</sup>

Despite federal restrictions on marijuana, states have deviated by establishing a range of laws and policies allowing its medical and recreational use.<sup>72</sup> Some states have pursued decriminalization initiatives, legal exceptions for medical use, and legalization of certain quantities for recreational use. As such, in considering ONDCP’s reauthorization, Congress may choose to address ONDCP’s ability to support or oppose marijuana legalization.

## Considering the Role of ONDCP

Should Congress choose to reauthorize ONDCP, it may wish to consider the role of ONDCP and the director. The Obama Administration has stressed the need for a more comprehensive approach to drug control and its desire to shift more resources toward treatment and prevention; however, enforcement of federal drug laws and the allotment of federal drug control funds for drug demand versus drug supply have not significantly changed over the last decade. The federal government has strict criminal enforcement measures in place in prohibiting the manufacture, distribution, sale, and possession of illicit drugs such as marijuana and heroin. The majority of federal drug control funds continues to go toward law enforcement efforts to reduce the supply of illicit drugs.

ONDCP has distanced itself from the seemingly outdated term “war on drugs,” but the office is arguably a product of the war on drugs. In considering reauthorization, Congress may choose to question the modern role of ONDCP in determining U.S. drug policy or reconsider the nature of the organization altogether.

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<sup>69</sup> *National Drug Control Strategy: Performance Reporting System Report*, 2014, p. 1, [http://www.whitehouse.gov/sites/default/files/ondcp/policy-and-research/prs\\_2014.pdf](http://www.whitehouse.gov/sites/default/files/ondcp/policy-and-research/prs_2014.pdf).

<sup>70</sup> Ibid.

<sup>71</sup> 21 U.S.C. §1703(b).

<sup>72</sup> For a summary of actions taken by states and a discussion of relevant legal issues, see CRS Report R43435, *Marijuana: Medical and Retail—Selected Legal Issues*, by (name redacted) and (name redacted). For a discussion of the policy issues, see CRS Report R43164, *State Marijuana Legalization Initiatives: Implications for Federal Law Enforcement*, by (name redacted) and (name redacted).

## **Author Contact Information**

(name redacted)  
Analyst in Illicit Drugs and Crime Policy  
[redacted]@crs.loc.gov, 7-....

(name redacted)  
Specialist in Domestic Security  
[redacted]@crs.loc.gov, 7-....

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