

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1701, 1703 of this title.

§ 1703. Appointment and duties of Director and Deputy Directors

(a) Appointment

(1) In general

The Director, the Deputy Director of National Drug Control Policy, the Deputy Director for Demand Reduction, the Deputy Director for Supply Reduction, and the Deputy Director for State and Local Affairs, shall each be appointed by the President, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. In appointing the Deputy Director for Demand Reduction under this paragraph, the President shall take into consideration the scientific, educational or professional background of the individual, and whether the individual has experience in the fields of substance abuse prevention, education, or treatment.

(2) Duties of Deputy Director of National Drug Control Policy

The Deputy Director of National Drug Control Policy shall—

(A) carry out the duties and powers prescribed by the Director; and

(B) serve as the Director in the absence of the Director or during any period in which the office of the Director is vacant.

(3) Designation of other officers

In the absence of the Deputy Director, or if the Office of the Deputy Director is vacant, the Director shall designate such other permanent employee of the Office to serve as the Director, if the Director is absent or unable to serve.

(4) Prohibition

No person shall serve as Director or a Deputy Director while serving in any other position in the Federal Government.

(5) Prohibition on political campaigning

Any officer or employee of the Office who is appointed to that position by the President, by and with the advice and consent of the Senate, may not participate in Federal election campaign activities, except that such official is not prohibited by this paragraph from making contributions to individual candidates.

(b) Responsibilities

The Director—

(1) shall assist the President in the establishment of policies, goals, objectives, and priorities for the National Drug Control Program;

(2) shall promulgate the National Drug Control Strategy under section 1705(a) of this title and each report under section 1705(b) of this title in accordance with section 1705 of this title;

(3) shall coordinate and oversee the implementation by the National Drug Control Program agencies of the policies, goals, objectives, and priorities established under paragraph (1) and the fulfillment of the respon-

sibilities of such agencies under the National Drug Control Strategy and make recommendations to National Drug Control Program agency heads with respect to implementation of Federal counter-drug programs;

(4) shall make such recommendations to the President as the Director determines are appropriate regarding changes in the organization, management, and budgets of Federal departments and agencies engaged in drug enforcement, and changes in the allocation of personnel to and within those departments and agencies, to implement the policies, goals, priorities, and objectives established under paragraph (1) and the National Drug Control Strategy;

(5) shall consult with and assist State and local governments with respect to the formulation and implementation of National Drug Control Policy and their relations with the National Drug Control Program agencies;

(6) shall appear before duly constituted committees and subcommittees of the House of Representatives and of the Senate to represent the drug policies of the executive branch;

(7) shall notify any National Drug Control Program agency if its policies are not in compliance with the responsibilities of the agency under the National Drug Control Strategy, transmit a copy of each such notification to the President, and maintain a copy of each such notification;

(8) shall provide, by July 1 of each year, budget recommendations, including requests for specific initiatives that are consistent with the priorities of the President under the National Drug Control Strategy, to the heads of departments and agencies with responsibilities under the National Drug Control Program, which recommendations shall—

(A) apply to the next budget year scheduled for formulation under chapter 11 of title 31, and each of the 4 subsequent fiscal years; and

(B) address funding priorities developed in the National Drug Control Strategy;

(9) may serve as representative of the President in appearing before Congress on all issues relating to the National Drug Control Program;

(10) shall, in any matter affecting national security interests, work in conjunction with the Assistant to the President for National Security Affairs;

(11) may serve as spokesperson of the Administration on drug issues;

(12) shall ensure that no Federal funds appropriated to the Office of National Drug Control Policy shall be expended for any study or contract relating to the legalization (for a medical use or any other use) of a substance listed in schedule I of section 812 of this title and take such actions as necessary to oppose any attempt to legalize the use of a substance (in any form) that—

(A) is listed in schedule I of section 812 of this title; and

(B) has not been approved for use for medical purposes by the Food and Drug Administration;

(13) shall require each National Drug Control Program agency to submit to the Director on

an annual basis (beginning in 1999) an evaluation of progress by the agency with respect to drug control program goals using the performance measures for the agency developed under section 1705(c) of this title, including progress with respect to—

(A) success in reducing domestic and foreign sources of illegal drugs;

(B) success in protecting the borders of the United States (and in particular the Southwestern border of the United States) from penetration by illegal narcotics;

(C) success in reducing violent crime associated with drug use in the United States;

(D) success in reducing the negative health and social consequences of drug use in the United States; and

(E) implementation of drug treatment and prevention programs in the United States and improvements in the adequacy and effectiveness of such programs;

(14) shall submit to the Appropriations committees and the authorizing committees of jurisdiction of the House of Representatives and the Senate on an annual basis, not later than 60 days after the date of the last day of the applicable period, a summary of—

(A) each of the evaluations received by the Director under paragraph (13); and

(B) the progress of each National Drug Control Program agency toward the drug control program goals of the agency using the performance measures for the agency developed under section 1705(c) of this title; and

(15) shall ensure that drug prevention and drug treatment research and information is effectively disseminated by National Drug Control Program agencies to State and local governments and nongovernmental entities involved in demand reduction by—

(A) encouraging formal consultation between any such agency that conducts or sponsors research, and any such agency that disseminates information in developing research and information product development agendas;

(B) encouraging such agencies (as appropriate) to develop and implement dissemination plans that specifically target State and local governments and nongovernmental entities involved in demand reduction; and

(C) developing a single interagency clearinghouse for the dissemination of research and information by such agencies to State and local governments and nongovernmental agencies involved in demand reduction.

(c) National Drug Control Program budget

(1) Responsibilities of National Drug Control Program agencies

(A) In general

For each fiscal year, the head of each department, agency, or program of the Federal Government with responsibilities under the National Drug Control Program Strategy shall transmit to the Director a copy of the proposed drug control budget request of the department, agency, or program at the same time as that budget request is submitted to

their superiors (and before submission to the Office of Management and Budget) in the preparation of the budget of the President submitted to Congress under section 1105(a) of title 31.

(B) Submission of drug control budget requests

The head of each National Drug Control Program agency shall ensure timely development and submission to the Director of each proposed drug control budget request transmitted pursuant to this paragraph, in such format as may be designated by the Director with the concurrence of the Director of the Office of Management and Budget.

(2) National Drug Control Program budget proposal

For each fiscal year, following the transmission of proposed drug control budget requests to the Director under paragraph (1), the Director shall, in consultation with the head of each National Drug Control Program agency—

(A) develop a consolidated National Drug Control Program budget proposal designed to implement the National Drug Control Strategy;

(B) submit the consolidated budget proposal to the President; and

(C) after submission under subparagraph (B), submit the consolidated budget proposal to Congress.

(3) Review and certification of budget requests and budget submissions of National Drug Control Program agencies

(A) In general

The Director shall review each drug control budget request submitted to the Director under paragraph (1).

(B) Review of budget requests

(i) Inadequate requests

If the Director concludes that a budget request submitted under paragraph (1) is inadequate, in whole or in part, to implement the objectives of the National Drug Control Strategy with respect to the department, agency, or program at issue for the year for which the request is submitted, the Director shall submit to the head of the applicable National Drug Control Program agency a written description of funding levels and specific initiatives that would, in the determination of the Director, make the request adequate to implement those objectives.

(ii) Adequate requests

If the Director concludes that a budget request submitted under paragraph (1) is adequate to implement the objectives of the National Drug Control Strategy with respect to the department, agency, or program at issue for the year for which the request is submitted, the Director shall submit to the head of the applicable National Drug Control Program agency a written statement confirming the adequacy of the request.

(iii) Record

The Director shall maintain a record of each description submitted under clause (i) and each statement submitted under clause (ii).

(C) Agency response**(i) In general**

The head of a National Drug Control Program agency that receives a description under subparagraph (B)(i) shall include the funding levels and initiatives described by the Director in the budget submission for that agency to the Office of Management and Budget.

(ii) Impact statement

The head of a National Drug Control Program agency that has altered its budget submission under this subparagraph shall include as an appendix to the budget submission for that agency to the Office of Management and Budget an impact statement that summarizes—

- (I) the changes made to the budget under this subparagraph; and
- (II) the impact of those changes on the ability of that agency to perform its other responsibilities, including any impact on specific missions or programs of the agency.

(iii) Congressional notification

The head of a National Drug Control Program agency shall submit a copy of any impact statement under clause (ii) to the Senate and the House of Representatives at the time the budget for that agency is submitted to Congress under section 1105(a) of title 31.

(D) Certification of budget submissions**(i) In general**

At the time a National Drug Control Program agency submits its budget request to the Office of Management and Budget, the head of the National Drug Control Program agency shall submit a copy of the budget request to the Director.

(ii) Certification

The Director—

- (I) shall review each budget submission submitted under clause (i); and
- (II) based on the review under subclause (I), if the Director concludes that the budget submission of a National Drug Control Program agency does not include the funding levels and initiatives described under subparagraph (B)—
 - (aa) may issue a written decertification of that agency's budget; and
 - (bb) in the case of a decertification issued under item (aa), shall submit to the Senate and the House of Representatives a copy of—
 - (aaa) the decertification issued under item (aa);
 - (bbb) the description made under subparagraph (B); and
 - (ccc) the budget recommendations made under subsection (b)(8) of this section.

(4) Reprogramming and transfer requests**(A) In general**

No National Drug Control Program agency shall submit to Congress a reprogramming or transfer request with respect to any amount of appropriated funds in an amount exceeding \$5,000,000 that is included in the National Drug Control Program budget unless the request has been approved by the Director.

(B) Appeal

The head of any National Drug Control Program agency may appeal to the President any disapproval by the Director of a reprogramming or transfer request under this paragraph.

(d) Powers of the Director

In carrying out subsection (b) of this section, the Director may—

- (1) select, appoint, employ, and fix compensation of such officers and employees of the Office as may be necessary to carry out the functions of the Office under this chapter;
- (2) subject to subsection (e)(3) of this section, request the head of a department or agency, or program of the Federal Government to place department, agency, or program personnel who are engaged in drug control activities on temporary detail to another department, agency, or program in order to implement the National Drug Control Strategy, and the head of the department or agency shall comply with such a request;
- (3) use for administrative purposes, on a reimbursable basis, the available services, equipment, personnel, and facilities of Federal, State, and local agencies;
- (4) procure the services of experts and consultants in accordance with section 3109 of title 5, relating to appointments in the Federal Service, at rates of compensation for individuals not to exceed the daily equivalent of the rate of pay payable under level IV of the Executive Schedule under section 5311 of title 5;
- (5) accept and use gifts and donations of property from Federal, State, and local government agencies, and from the private sector, as authorized in section 1702(d) of this title;
- (6) use the mails in the same manner as any other department or agency of the executive branch;
- (7) monitor implementation of the National Drug Control Program, including—
 - (A) conducting program and performance audits and evaluations; and
 - (B) requesting assistance from the Inspector General of the relevant agency in such audits and evaluations;
- (8) transfer funds made available to a National Drug Control Program agency for National Drug Control Strategy programs and activities to another account within such agency or to another National Drug Control Program agency for National Drug Control Strategy programs and activities, except that—
 - (A) the authority under this paragraph may be limited in an annual appropriations Act or other provision of Federal law;

(B) the Director may exercise the authority under this paragraph only with the concurrence of the head of each affected agency;

(C) in the case of an interagency transfer, the total amount of transfers under this paragraph may not exceed 3 percent of the total amount of funds made available for National Drug Control Strategy programs and activities to the agency from which those funds are to be transferred;

(D) funds transferred to an agency under this paragraph may only be used to increase the funding for programs or activities¹ have been authorized by Congress; and

(E) the Director shall—

(i) submit to Congress, including to the Committees on Appropriations of the Senate and the House of Representatives, the authorizing committees for the Office, and any other applicable committees of jurisdiction, a reprogramming or transfer request in advance of any transfer under this paragraph in accordance with the regulations of the affected agency or agencies; and

(ii) annually submit to Congress a report describing the effect of all transfers of funds made pursuant to this paragraph or subsection (c)(4) of this section during the 12-month period preceding the date on which the report is submitted;

(9) issue to the head of a National Drug Control Program agency a fund control notice described in subsection (f) of this section to ensure compliance with the National Drug Control Program Strategy; and

(10) participate in the drug certification process pursuant to section 2291j of title 22.

(e) Personnel detailed to Office

(1) Evaluations

Notwithstanding any provision of chapter 43 of title 5, the Director shall perform the evaluation of the performance of any employee detailed to the Office for purposes of the applicable performance appraisal system established under such chapter for any rating period, or part thereof, that such employee is detailed to such office.

(2) Compensation

(A) Bonus payments

Notwithstanding any other provision of law, the Director may provide periodic bonus payments to any employee detailed to the Office.

(B) Restrictions

An amount paid under this paragraph to an employee for any period—

(i) shall not be greater than 20 percent of the basic pay paid or payable to such employee for such period; and

(ii) shall be in addition to the basic pay of such employee.

(C) Aggregate amount

The aggregate amount paid during any fiscal year to an employee detailed to the Of-

fice as basic pay, awards, bonuses, and other compensation shall not exceed the annual rate payable at the end of such fiscal year for positions at level III of the Executive Schedule.

(3) Maximum number of detailees

The maximum number of personnel who may be detailed to another department or agency (including the Office) under subsection (d)(2) of this section during any fiscal year is—

(A) for the Department of Defense, 50; and

(B) for any other department or agency, 10.

(f) Fund control notices

(1) In general

A fund control notice may direct that all or part of an amount appropriated to the National Drug Control Program agency account be obligated by—

(A) months, fiscal year quarters, or other time periods; and

(B) activities, functions, projects, or object classes.

(2) Unauthorized obligation or expenditure prohibited

An officer or employee of a National Drug Control Program agency shall not make or authorize an expenditure or obligation contrary to a fund control notice issued by the Director.

(3) Disciplinary action for violation

In the case of a violation of paragraph (2) by an officer or employee of a National Drug Control Program agency, the head of the agency, upon the request of and in consultation with the Director, may subject the officer or employee to appropriate administrative discipline, including, when circumstances warrant, suspension from duty without pay or removal from office.

(g) Inapplicability to certain programs

The provisions of this section shall not apply to the National Foreign Intelligence Program, the Joint Military Intelligence Program and Tactical Intelligence and Related Activities unless the agency that carries out such program is designated as a National Drug Control Program agency by the President or jointly by the Director and the head of the agency.

(h) Construction

Nothing in this chapter shall be construed as derogating the authorities and responsibilities of the Director of Central Intelligence contained in sections 403-4 and 414 of title 50 or any other law.

(Pub. L. 105-277, div. C, title VII, §704, Oct. 21, 1998, 112 Stat. 2681-672.)

REPEAL OF SECTION

For repeal of section on Sept. 30, 2003, see section 1712 of this title.

REFERENCES IN TEXT

Levels III and IV of the Executive Schedule, referred to in subsecs. (d)(4) and (e)(2)(C), are set out in sections 5314 and 5315, respectively, of Title 5, Government Organization and Employees.

This chapter, referred to in subsec. (h), was in the original “this Act” and was translated as reading “this

¹ So in original. Probably should be “activities that”.

title”, meaning title VII of Pub. L. 105-277, div. C, Oct. 21, 1998, 112 Stat. 2681-670, which is classified principally to this chapter, to reflect the probable intent of Congress. For complete classification of title VII to the Code, see Short Title note set out under section 1701 of this title and Tables.

CODIFICATION

In subsec. (b)(8)(A), “chapter 11 of title 31” substituted for “the Budget and Accounting Act of 1921” on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

REPORT ON STREAMLINING FEDERAL PREVENTION AND TREATMENT EFFORTS

Pub. L. 105-277, div. D, title II, §221, Oct. 21, 1998, 112 Stat. 2681-758, expressed sense of Congress that efforts of the Federal Government to reduce demand for illegal drugs in United States are frustrated by fragmentation of those efforts across multiple departments and agencies, and improvement of those efforts can best be achieved through consolidation and coordination, and further provided that not later than 18 months after Oct. 21, 1998, Director of the Office of National Drug Control Policy was to prepare and submit to Congress a report evaluating options for increasing efficacy of drug prevention and treatment programs, including a thorough review of activities and potential consolidation of existing Federal drug information clearinghouses.

EX. ORD. NO. 12880. NATIONAL DRUG CONTROL PROGRAM

Ex. Ord. No. 12880, Nov. 16, 1993, 58 F.R. 60989, as amended by Ex. Ord. No. 13008, June 3, 1996, 61 F.R. 28721, provided:

The Office of National Drug Control Policy has the lead responsibility within the Executive Office of the President to establish policies, priorities, and objectives for the Nation’s drug control program, with the goal of reducing the production, availability, and use of illegal drugs. All lawful and reasonable means must be used to ensure that the United States has a comprehensive and effective National Drug Control Strategy.

Therefore, by the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Narcotics Leadership Act of 1988, as amended (former 21 U.S.C. 1501 *et seq.*), and in order to provide for the effective management of the drug abuse policies of the United States, it is hereby ordered as follows:

SECTION 1. GENERAL PROVISIONS. (a) Because the United States considers the operations of international criminal narcotics syndicates as a national security threat requiring an extraordinary and coordinated response by civilian and military agencies involved in national security, the Director of the Office of National Drug Control Policy (Director), in his role as the principal adviser to the National Security Council on national drug control policy (50 U.S.C. 402(f)), shall provide drug policy guidance and direction in the development of related national security programs.

(b) The Director shall provide oversight and direction for all international counternarcotics policy development and implementation, in coordination with other concerned Cabinet members, as appropriate.

(c) An Interagency Working Group (IWG) on international counternarcotics policy, chaired by the Office of National Drug Control Policy, shall develop and ensure coordinated implementation of an international counternarcotics policy. The IWG shall report its activities and differences of views among agencies to the Director for review, mediation, and resolution with concerned Cabinet members, and if necessary, by the President.

(d) A coordinator for drug interdiction shall be designated by the Director to ensure that assets dedicated by Federal drug program agencies for interdiction are sufficient and that their use is properly integrated and

optimized. The coordinator shall ensure that interdiction efforts and priorities are consistent with overall U.S. international counternarcotics policy.

(e) The Director shall examine the number and structure of command/control and drug intelligence centers operated by drug control program agencies involved in international counter-narcotics and suggest improvements to the current structure for consideration by the President and concerned members of the Cabinet.

(f) The Director, utilizing the services of the Drugs and Crime Data Center and Department of Justice Clearinghouse, shall assist in coordinating and enhancing the dissemination of statistics and studies relating to anti-drug abuse policy.

(g) The Director shall provide advice to agencies regarding ways to achieve efficiencies in spending and improvements to interagency cooperation that could enhance the delivery of drug control treatment and prevention services to the public. The Director may request agencies to provide studies, information, and analyses in support of this order.

SEC. 2. GOALS, DIRECTION, DUTIES AND RESPONSIBILITIES WITH RESPECT TO THE NATIONAL DRUG CONTROL PROGRAM. (a) *Budget Matters.* (1) In addition to the budgetary authorities and responsibilities provided to the Director by statute, [former] 21 U.S.C. 1502, for those agency budget requests that are not certified as adequate to implement the objectives of the National Drug Control Strategy, the Director shall include in such certifications initiatives or funding levels that would make such requests adequate.

(2) The Director shall provide, by July 1 of each year, budget recommendations to the heads of departments and agencies with responsibilities under the National Drug Control Program. The recommendations shall apply to the second following fiscal year and address funding priorities developed in the annual National Drug Control Strategy.

(b) *Measurement of National Drug Control Strategy Outcomes.* (1) The National Drug Control Strategy shall include long-range goals for reducing drug use and the consequences of drug use in the United States, including burdens on hospital emergency rooms, drug use among arrestees, the extent of drug-related crime, high school dropout rates, the number of infants exposed annually to illicit drugs in utero, national drug abuse treatment capacity, and the annual national health care costs of drug use.

(2) The National Drug Control Strategy shall also include an assessment of the quality of techniques and instruments to measure current drug use and supply and demand reduction activities, and the adequacy of the coverage of existing national drug use instruments and techniques to measure the total illicit drug user population and groups at-risk for drug use.

(3) The Director shall coordinate an effort among the relevant drug control program agencies to assess the quality, access, management, effectiveness, and standards of accountability of drug abuse treatment, prevention, education, and other demand reduction activities.

(c) *Provision of Reports.* To the extent permitted by law, heads of departments and agencies with responsibilities under the National Drug Control Program shall make available to the Office of National Drug Control Policy, appropriate statistics, studies, and reports, pertaining to Federal drug abuse control.

WILLIAM J. CLINTON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1702, 1705, 1706, 1707, 1710 of this title.

§ 1704. Coordination with National Drug Control Program agencies in demand reduction, supply reduction, and State and local affairs

(a) Access to information

(1) In general

Upon the request of the Director, the head of any National Drug Control Program agency