



United States General Accounting Office
Washington, DC 20548

General Government Division

June 26, 2000

The Honorable Ben Nighthorse Campbell
Chairman
The Honorable Bryon L. Dorgan
Ranking Minority Member
Subcommittee on Treasury and General Government
Committee on Appropriations
United States Senate

The Honorable Jim Kolbe
Chairman
The Honorable Steny H. Hoyer
Ranking Minority Member
Subcommittee on Treasury, Postal Service,
and General Government
Committee on Appropriations
House of Representatives

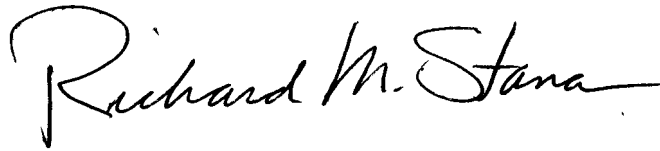
Subject: PricewaterhouseCoopers' Review of the Office of National Drug Control Policy

Enclosed is the final report by PricewaterhouseCoopers LLP on the performance, efficiency, and effectiveness of the Office of National Drug Control Policy's (ONDCP) operations. Senate Conference Report 106-87 directed GAO to contract with an independent entity for the purpose of conducting a management review of ONDCP's operations. In this regard, we developed a scope of work that addressed the management concerns raised by the conferees and identified in the conference report; specifically:

“The review should include, but not be limited to, a review of the agency's (1) execution of its statutory responsibilities; (2) organizational planning, management, budgeting, accounting and financial reporting systems; and (3) human resource management to include a review of staff hiring and retention.”

We performed the administrative duties necessary to award and monitor the contract, and ensured that the contractor deliverables were responsive to the scope of the contract. As directed by the conferees, we also consulted with the Committees on Appropriations on the parameters of this review.

PricewaterhouseCoopers was selected in a competitive process to perform this review, and they met the terms contained in the contract statement of work. The findings and conclusions expressed in their report are solely those of PricewaterhouseCoopers. Please contact me or Weldon McPhail on (202) 512-8777 if you or your staff have any questions about the management of this effort. Questions regarding the findings or conclusions of the report should be directed to PricewaterhouseCoopers' Michael Cosgrove on (703) 633-4000.

A handwritten signature in black ink that reads "Richard M. Stana". The signature is written in a cursive style with a long horizontal stroke at the end.

Richard M. Stana
Associate Director, Administration
of Justice Issues

Enclosure

Management Review of the
Office of National Drug Control Policy
Final Report to the
U.S. General Accounting Office

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Mr. Weldon McPhail
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U.S. General Accounting Office
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June 23, 2000

**Re: Management Review of the Office of National Drug Control Policy
Final Report to the U.S. General Accounting Office
Statement of Work Solicitation Number OAM-N-2000-0012**

Dear Mr. McPhail:

Enclosed is the Final Report. It contains the results of your requested high-level assessment of the Office of National Drug Control Policy's human resource management, organizational planning and management, and internal financial control systems.

Our project team conducted this review over a three-month period, working closely with staff from ONDCP and GAO. We acknowledge and appreciate the assistance we received from both organizations.

Sincerely yours,



Paul R. Lawrence
Partner

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EXECUTIVE SUMMARY

In consultation with Congress, the General Accounting Office (GAO) has contracted with PricewaterhouseCoopers, L.L.P. to conduct a comprehensive evaluation of the performance, efficiency, and effectiveness of the Office of National Drug Control Policy (ONDCP). Referring to the contract Statement of Work, GAO specifically requires an assessment of:

1. whether ONDCP performs its statutory and regulatory responsibilities in an efficient, effective, and results-oriented manner;
2. whether ONDCP optimizes human resources in fulfilling its primary objectives of policy, anti-drug program coordination, and compliance; and
3. whether ONDCP's internal control systems are strategically deployed to enhance business processes throughout the organization.

The primary outcome of this assessment will appraise and identify opportunities for enhancing ONDCP's effectiveness in executing its statutory responsibilities and its current management structure's ability to achieve mission results. This will be accomplished through improvements in human resource management, organizational planning, management, and performance measures related to operational planning and financial and human resource management.

OUR FINDINGS

1. With regard to whether ONDCP performs its statutory and regulatory responsibilities in an efficient, effective, and results-oriented manner, it is our opinion that ONDCP is results-oriented and effective in performing its responsibilities externally, but inefficient with regard to internal operations.

In general, the project team found that ONDCP has a clearly defined external mission, associated goals, specific impact targets, and a performance tracking method for Drug Control Program agency performance. In their most recent publication of the 2000 Annual Report of the National Drug Control Strategy, ONDCP reports that drug use in targeted impact areas has declined and that attitudes against drug use have increased, according to Health and Human Services (HHS) and other relevant data sources.

ONDCP lacks, however, the same set of goals, targets, and measurements associated with its internal operations. The framework that has been effectively used to develop goals, targets, and performance tracking for the Drug Control Program agencies as a whole could be used to develop internal metrics for how ONDCP achieves its unique objectives of policy, coordination, and compliance. Documentation relevant to the internal operations of the components and functional offices and performance of the organization itself was not available. Recruitment and retention issues have also been problematic for

ONDCP, and the efficient continuity of the organization beyond the current directorship is an issue.

The organization could become more effective and results-oriented internally by addressing the following performance management issues:

- develop goals, objectives, and performance measures of effectiveness for the internal processes and objectives of ONDCP. It would make good business sense to establish internal performance measures for the organization's primary objectives.¹

The organization could become more efficient and effective by addressing the following human resource management issues:

- ensure that the Office of Administration is allocated sufficient Full-Time Equivalents (FTE) commensurate with its size and workload in order to address human resource and retention issues;
- institute a formal exit interview practice;
- take measures to address retention issues;
- target individuals with appropriate skill sets and compatible work ethics during recruiting;
- manage the expectations of potential employees during the recruiting process;
- institute career development practices within ONDCP for civilian employees;
- provide training opportunities for civilians and ensure that opportunities to apply the training are made available within the organization;
- evaluate the ONDCP-specific guideline regarding GS-14 to GS-15 promotion for its impact on the retention of GS-14 career civilians; and
- evaluate the practice of filling supervisory GS-15-equivalent positions with military detailees for its impact on the promotion and retention of GS-14 career civilians.

These initiatives should contribute significantly to improvements in efficiency and effectiveness internally, with recruitment, retention, and continuity being of primary importance.

2. With regard to whether ONDCP optimizes human resources in fulfilling its primary objectives of policy, anti-drug program coordination, and compliance, it is our opinion that human resources are not being optimized toward accomplishing those objectives. We determined, however, that ONDCP's inability to sustain support for the primary objectives is a result of increases in the workload associated with new program requirements, the Director's priorities, and ONDCP's inability to maintain its knowledge

¹In a response to a draft version of this report, ONDCP stated on page 9 of its letter dated June 7, 2000 (see Appendix F) that the project team "erred in asserting that ONDCP lacks internal targets and measures." ONDCP stated that it had provided a GPRA-compliant Performance Report to OMB in calendar year 1999. The project team requested a copy of the Performance Report but had not received it by the time this report was released. The external Performance Measures of Effectiveness (PME) documents are on ONDCP's website, but the above referenced Performance Report is not available via the internet.

base by retaining staff. The organization could make progress toward optimizing human resources by addressing the following issues:

- address the human resource and retention issues previously discussed; and
 - evaluate the pace of the Director's Schedule in consideration of its impact on the operational tempo of ONDCP, the retention of employees and the organization's capability to support its primary objectives of policy, coordination, and compliance.
3. With regard to whether ONDCP's internal control systems are strategically deployed to enhance business processes throughout the organization, it is our opinion that there is an overall low to medium risk that the organization is not adhering to sound and prudent internal financial controls. There is, however, an area that should warrant further attention. There is a potential internal control risk arising from inadequate matching of increased responsibilities and workload with the required investment in the financial management infrastructure. The significant implications of not mitigating the risk of a breakdown in the management, supervisory, and personnel internal controls are:
- a lack of quality assurance over work products due to time pressures;
 - inappropriate levels of authority, delegation, and decision-making, given underlying roles, responsibilities, and competencies; and
 - a decline in customer service from the Financial Management Office (FMO).

We would classify this as a medium risk. Should the investment not be made, however, the result would be increased exposure and a greater likelihood of breakdown in this area of internal control.

Although it was not explicitly requested in the Statement of Work, the project team evaluated the organization for continuity and institutionalization beyond the tenure of the current Administration. As an official of the United States Government, the Director of ONDCP is a steward of the public trust. It is incumbent upon the Director, therefore, to provide for the institutionalization and continuity of the organization beyond his or her tenure. In the course of this evaluation, the project team identified issues that raise concerns about the future continuity of ONDCP: 1) authority is centralized and a significant amount of institutional knowledge resides with the current Director; 2) the knowledge base has been eroded by recruitment and retention problems in recent years; 3) relative to its size, an inordinate number of leadership and professional staff positions (up to 38%) may be vulnerable in calendar year 2000; and 4) ONDCP-specific written guidance addressing the activities within the components and functional offices that would contribute to the continuity of the organization appears to be largely absent.

The organization could avoid continuity problems in the future by addressing the following issues, in addition to those discussed previously:

- institute succession planning to ensure a smooth transition in the event that the Director becomes incapacitated;
- clarify the authority, responsibility, and reporting structure with regard to the Deputy Director and the Chief of Staff;
- address chain of command issues to be consistent with good organizational management;
- fill the component Deputy Director positions; and
- develop written policy and procedures for component and functional office activities to ensure continuity of the organization beyond the tenure of the current Directorship.

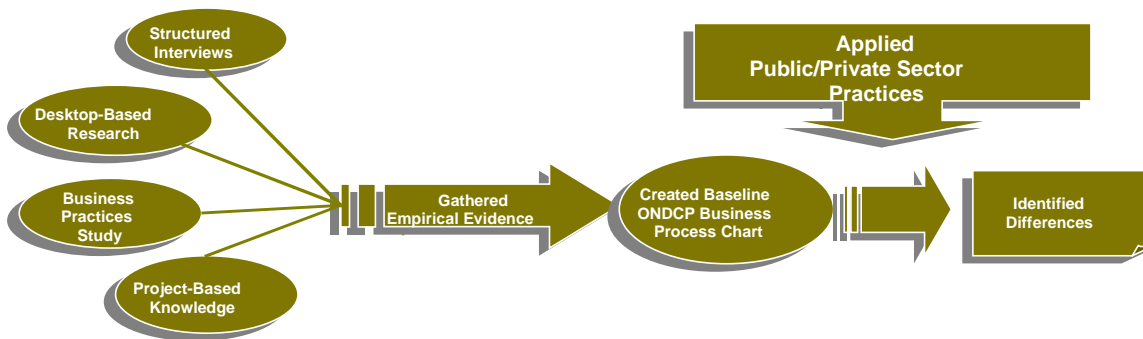
In summary, we have observed that although the organization is generally sophisticated, there is a shortage of investment and staff resources to accomplish all of the activities and objectives imposed by Congress, the Director, and the legislative charter. The shortage is equally attributable to the increase in workload associated with new activities, supporting the Director's priorities, and the inability of the organization to recruit and retain qualified staff.

A draft version of this report was provided to ONDCP for comment prior to the formal release of the document.

The ONDCP response letter is included in its entirety in Appendix F. Factual corrections to text and clarifications were addressed in footnotes where appropriate throughout the document.

1.0 OUR APPROACH

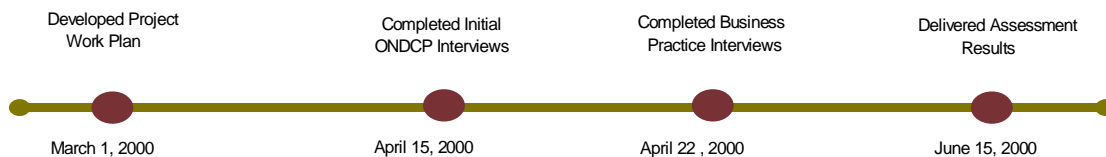
The PricewaterhouseCoopers project team developed a high-level understanding of the internal and external business processes at ONDCP. In doing so, the team conducted approximately 25 structured interviews with key personnel² and stakeholders, using a broad-based interview guide. The guide was prepared after the team had extensively reviewed GAO reports, Congressional hearings, ONDCP documents, and other reports. We also conducted web-based research into departments and agencies relevant to the drug control program processes. Based on this information, the team developed a baseline of the existing internal and external processes and structures within ONDCP.



Second, we researched other business models in the private and public sectors. Our goal was to identify organizations with similar characteristics or business processes for comparison of practices.³ The team researched and benchmarked practices in both the federal, commercial, non-governmental, and non-profit arenas. We interviewed representatives from relevant external organizations such as America’s Promise, Office of the United States Trade Representative (USTR), the American Heart Association, and others. With external interviews completed, we sketched and mapped other business practices and structures based on our findings.

Third, we evaluated the current ONDCP structure and business practices against other structures and practices in order to identify and address differences. Our timeline for conducting the interviews and delivering the final report is represented graphically below:

Our Timeline



² A list of ONDCP personnel interviewed is included in Appendix A.

³ A list of organizations interviewed and researched during the business practices review is included in Appendix B.

2.0 WHAT WE HAVE OBSERVED

2.1 IN GENERAL, ONDCP IS A SOPHISTICATED ORGANIZATION OPERATING FROM A PROCESS PERSPECTIVE....

According to the FY98 reauthorization legislation, there is established in the Executive Office of the President (EOP) an Office of National Drug Control Policy, which shall –

- develop national drug control policy;
- coordinate and oversee the implementation of that national drug control policy;
- assess and certify the adequacy of national drug control programs and the budget for those programs; and
- evaluate the effectiveness of the national drug control programs.

Its primary objectives are policy, anti-drug program coordination, and compliance. For the most part, the project team found that ONDCP is a sophisticated organization. It has a clearly defined external mission and associated goals that are highly visible on walls around the office. ONDCP operates as a sophisticated organization in that it is structured in components according to its business processes and coordination responsibilities, rather than according to responsibilities by function (personnel services, financial services, etc.). It is organized as directed by the 1998 reauthorization legislation according to the following business processes: Demand Reduction, Supply Reduction and Domestic Law Enforcement (Bureau of State and Local Affairs). There is also a fourth main component that handles the coordination of Drug Control Program agency programs, budgets, and external performance metrics.⁴ In addition, all of the activities within the components and functional offices appear to be congruent with their respective component or office mission and there appears to be significant commitment from the leadership for activities and initiatives.

In order to evaluate whether ONDCP is results-oriented and effective, the project team assessed whether the organization has a clear and targeted mission, a strategy, objectives, requirements, performance measurements, and a method to assess performance. In order to determine whether ONDCP is efficient, the project team assessed whether the organization has sufficient capacity to meet its objectives and whether the resources have been deployed appropriately.

External Mission

In terms of its external, mission-oriented performance, ONDCP has been successful in developing goals, objectives, and performance impact targets and in tracking progress against them. It has developed an annual National Drug Control Strategy that discusses

⁴ The Counter-Drug Technology Assessment Center operates according to a legislative charter with its own independent budget.

the overall goals of the Drug Control Program agencies over a ten-year time period. The goals have been translated into objectives, which can be easily mapped onto the business processes of the ONDCP organization. Moreover, the goals are visible on walls throughout the office and all of the above information is available via their website. In their most recent evaluation,⁵ ONDCP reports that drug use in targeted impact areas has declined and that attitudes against drug use have increased, according to Health and Human Services (HHS) and other relevant data sources. An example of ONDCP's performance measurements for certain operations, such as the High Intensity Drug Trafficking Areas (HIDTA) program, is presented below:⁶

GOAL 2, OBJECTIVE 2: IMPROVE THE ABILITY OF HIDTAS TO COUNTER DRUG-TRAFFICKING

TARGETS

1. HIDTA Development -- Each HIDTA will improve the scope and efficiency of the HIDTA Program by the progressive adoption of the National HIDTA Developmental Standards at the rate of at least 10 percent per annum, reaching the 90 percent level by 2007.
2. Drug trafficking organizations in HIDTAs -- By 2002, increase the proportion of drug trafficking organizations disrupted or dismantled as identified in HIDTA threat assessments by 15 percent above the proportion in the 1997 base year. By 2007, increase the proportion disrupted or dismantled to 30 percent above base year ratio.
3. Drug-related violent crime in HIDTAs -- By 2002, reduce by 20 percent the rate of drug related homicides, robberies, rapes, and assaults in HIDTAs as compared to the 1996 base year. By 2007 reduce specified drug-related crimes in HIDTAs by 40 percent.

MEASURES

1. The percentage of HIDTAs that meet or exceed the established milestones for the National HIDTA Developmental Standards as developed and distributed in the 1998 HIDTA Program guidance.

Reporting agencies: each HIDTA, Drug Enforcement Agency (DEA), FBI.
2. Proportion of identified drug trafficking organizations disrupted or dismantled by or within HIDTAs.

Reporting agencies: DEA, Defense, State FBI, U.S. Customs, Treasury.
3. Reported rate of homicides, robberies, rapes, and assaults in HIDTAs that are associated with distribution, sale, or consumption of illicit drugs as measured by available crime indicators.

Reporting agencies: each HIDTA, DEA, Justice, FBI, Treasury.

Similar targets and performance measures are set for other ONDCP operational programs such as the Media Campaign, Drug-Free Communities, and the Counter-Drug Technology Assessment Center (CTAC).

⁵ 2000 Annual Report on the National Drug Control Strategy

⁶ Excerpt taken from 1998 – 2007 Performance Measures of Effectiveness

Internal Operations and Structure

While the staff members of ONDCP have been successful in measuring the performance of external operations, they have not been as successful in terms of monitoring internal, process-oriented performance measurements. Documentation relevant to the internal performance of the organization was not available, and there are no set performance measurements for internal primary objectives. Although ONDCP has mission statements and position descriptions dated May 1996, few policy or procedural documents regarding the operations of the components or functional offices were available.⁷ Those that were available were created at the initiative of individual managers. Where basic ONDCP documentation does exist, it is not current. The mission statement and position description document for the organization has not been updated since May 1996 when the organization had approximately 40 persons on the payroll (although abbreviated mission descriptions for each office dated 1998 are on the website). In addition, the organizational charts that were provided in March 2000 were still “proposed,” were inconsistent with each other, and did not reflect the reality of current operations.

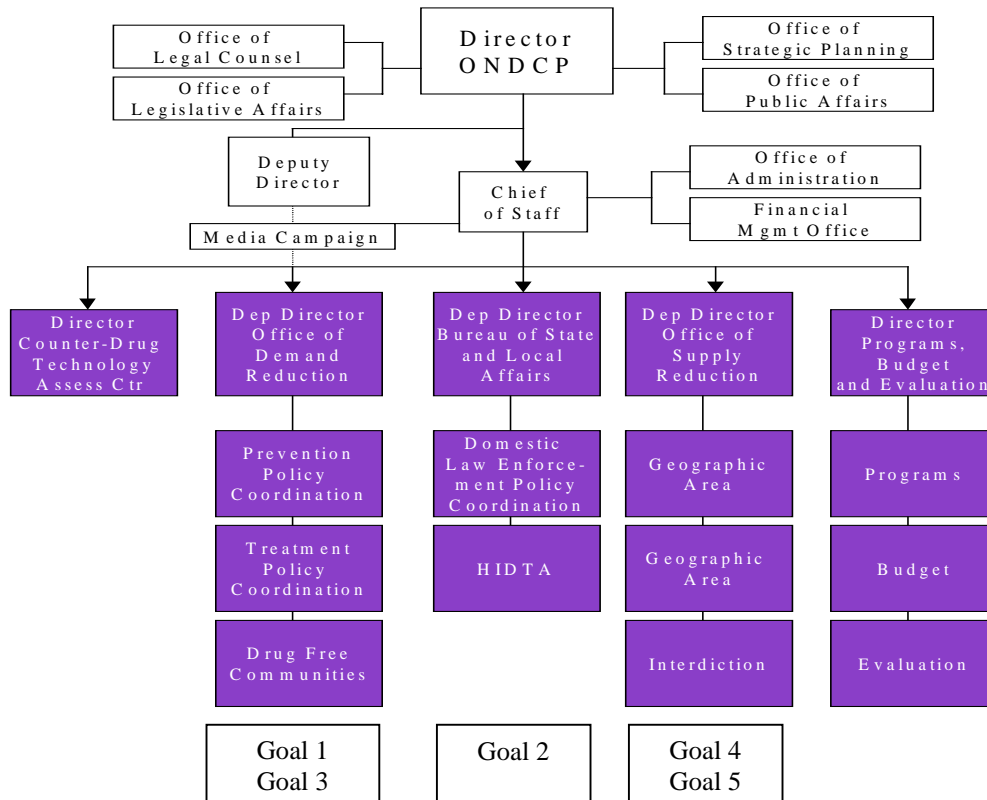
ONDCP does, however, operate within a sophisticated structure. In evaluating management, an organizational analyst checks to see whether the organization is structured to achieve the desired results. Most organizations have at least two requirements. First, an organization will have an idea generation or consensus building requirement. This is most effectively handled with a team-based structure. Second, an organization will have a final decision making and arbitration requirement, which is most effectively handled by a streamlined chain of command structure. In evaluating ONDCP specifically, the project team found that both the command structure and the consensus building team structure with relevant activities exists within the organization.

The project team also found that, according to the organizational charts, each process component has a civilian leader at its head, rather than a team or committee of leaders. It is important that final decision-making be consolidated into one position so that an individual can be held appropriately accountable for results.

A graphical representation of our understanding of the structure of ONDCP is presented in Figure 1. The shaded areas represent components that execute the core business processes of the organization. The non-shaded areas represent the functional offices that support the Director and the core components as needed. The boxes below each component office show how each of the goals as outlined in the Strategic Plan lines up with a specific process.

⁷ Policy, procedure, and guidance documents exist within the Office of Administration regarding facilities and maintenance, security, contracts, and other areas pertinent to office and facilities administration. Policy, procedure and guidance documents regarding organizations within the Executive Office of the President are available through the Office of Legal Counsel.

Figure 1: Our Understanding of the Current ONDCP Structure



- Goal 1: Reduce drug use by young people.
- Goal 2: Target domestic sources of illegal drugs and crime associated with criminal enterprises.
- Goal 3: Make treatment available to chronic users.
- Goal 4: Interdict the flow of drugs at our borders.
- Goal 5: Target international sources of illegal drugs and crime associated with criminal enterprises.

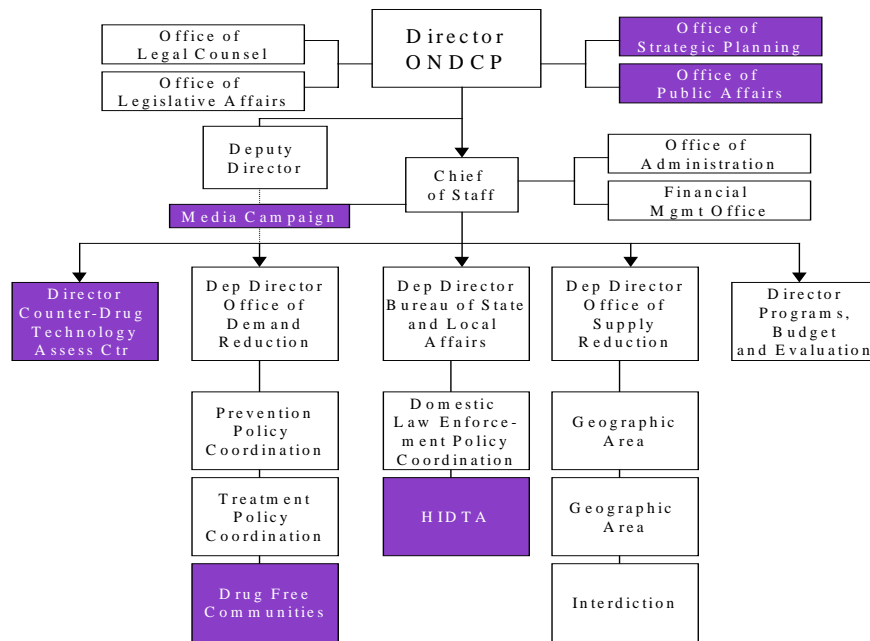
2.2 ...BUT THE INCREASING WORKLOAD AND INABILITY TO RETAIN PERSONNEL IS SIGNIFICANTLY HINDERING PERFORMANCE.

Over the last four years, ONDCP has acquired or experienced an increase in operational program activities to include the National Youth Anti-Drug Media Campaign, the Drug Free Communities program, and the HIDTA program. While it is logical to place new initiatives and growing programs under the close purview of a strong and committed leader, the addition of operational programs without an associated FTE allowance has added a dimension of overload and complexity to the organization. Given that ONDCP's operational programs call for individuals with a different set of skills, mindset, and

competencies than those required for coordination activities, ONDCP has attempted to balance the mix of active, operational types with more passive, consensus builders.

The chart in Figure 2 highlights the offices or components that are conducting operational activities and have experienced a significant increase in the scope of their operational requirements. Those increases have resulted either from a redirection of effort based on the priorities of the Director when he took over in 1996 or at the direction of Congress from 1997 to the present.

Figure 2: ONDCP Offices Conducting Operational Activities



- High Intensity Drug Trafficking Areas (HIDTA) Program** provides additional Federal funds to areas within the United States which exhibit serious drug trafficking problems and harmfully impact other areas of the country. Law enforcement organizations within these areas assess drug trafficking problems and design specific initiatives to reduce or eliminate the production, manufacture, transportation, distribution, and chronic use of illegal drugs and money laundering. Since 1990, 31 areas within the United States have been designated as HIDTAs.
- National Youth Anti-Drug Media Campaign (Media Campaign)** is an initiative to encourage kids to stay drug-free. The Campaign targets youth ages 9 to 18, especially vulnerable middle-school adolescents, their parents, and other adults who influence the choices that young people make. To get the word out across every economic and cultural boundary, the Campaign uses a mix of modern communications techniques -- from advertising and public relations to interactive media -- and all possible venues -- from television programs to after-school activities -- to educate and empower young people to reject illicit drugs.

- **Drug-Free Communities Grant Program** is designed to strengthen community-based coalition efforts to reduce youth substance abuse. The program enables these coalitions to enhance collaboration and coordination in an effort to target the use of illegal drugs, as well as the underage use of alcohol and tobacco. The program is administered by the Justice Department's Office of Juvenile Justice and Delinquency Prevention (OJJDP) with an interagency agreement with ONDCP. Through a competitive review process, ONDCP and OJJDP select new grantees to receive awards of up to \$100,000 for a one-year period.
- **Counter-Drug Technology Assessment Center (CTAC)** is the central counter-drug enforcement research and development organization of the U.S. Government. It develops and implements the National Counter-Drug Enforcement Research and Development Strategy, which identifies and defines the scientific and technological needs of Federal, state, and local drug enforcement agencies. CTAC is also responsible for conducting research and development activities related to drug abuse, addiction, and rehabilitation.
- **The Director's Schedule (Office of Strategic Planning and Office of Public Affairs)** is the calendar of events that documents the Director's participation at all policy-related meetings, event appearances, speeches, print interviews, television appearances, general office responsibilities, personal appointments, and travel. In 1996, the Director structured ONDCP to handle its primary objectives of policy, coordination, and compliance and to coordinate his external appearance schedule. At the behest of the Administration, the Director created an internal apparatus so that he could use the "bully pulpit" to raise the awareness of the American public to the dangers of drug use.⁸ The project team estimated that the Director's schedule requires the effort of up to 17 FTE⁹ and draws on the staff resources of the policy and coordination components.

⁸ On page 1 of ONDCP's response to a draft version of this document, ONDCP indicated that the project team did not recognize "a major ONDCP responsibility" of "policy articulation" which was defined as "the important ONDCP mission of explaining policy to other governments, elected officials at the federal, state, and local level, opinion leaders, the private for-profit and non-profit sectors and the public."

ONDCP cited legislative citation 21 USC 1703, which outlines the 15 responsibilities of the Director, ONDCP (See Appendix G for full text of legislation). Section (a) (11) states that the Director "may serve as a spokesman for the Administration on drug issues." Of the 15 responsibilities outlined in that section, 13 paragraphs direct that the Director "shall" conduct functions whereas 2 paragraphs indicate that the Director "may" conduct functions. Consequently, the "shall" functions are probably of higher priority than the "may" functions on the scale of a Director's responsibilities.

ONDCP also referenced 21 USC 1705, pertaining to the development and submission of the National Drug Control Strategy (See Appendix G). Section (a)(3) states that the Director shall consult with, rather than "explain to" (from the ONDCP text), heads of Drug Control Program agencies, Congress, state and local officials, private citizens and organizations with expertise and experience in demand and supply reduction and appropriate representatives of foreign governments. The legislation does not mandate the Director to explain drug control policy to "opinion leaders" or to "the public."

⁹ The 17 FTE estimated for the Director's Schedule include 1 FTE from the Office of the Director, 5 FTE from the Office of Strategic Planning, 7 FTE from the Office of Public Affairs, ½ FTE handling travel from the Office of Administration, ½ FTE from the Office of Legislative Affairs, and ¾ FTE from each of the four main components. Component support was based on the formula that one hour in the Director's Schedule requires approximately 8 hours of component staff support, as estimated by ONDCP leadership.

Over the past three years, the program and operational workload at ONDCP has increased substantially with Congress creating or increasing requirements associated with mandated programs. For example, the HIDTA program has grown from 15 to 31 areas over the past four years. These operational programs require a substantial number of FTE, leaving fewer to handle the primary policy, coordination, and compliance responsibilities. The project team isolated the number of existing FTE associated with each of the operational programs and developed the following estimates:

Media Campaign	7 FTE	from Demand Reduction
Drug Free Communities	2 FTE	from Demand Reduction
HIDTA	5 FTE	from State and Local Affairs
Director’s Schedule	17 FTE	from various offices

We then backed out the number of existing FTE left to support the primary objectives based on information from ONDCP organizational charts:

Office of Demand Reduction	16 FTE
Bureau of State and Local Affairs	9 FTE
Office of Supply Reduction	24 FTE
Programs, Budget and Evaluation	22 FTE

ONDCP employees indicated in the interviews that although policy, coordination, and compliance activities do occur, staff members generally do not have an appropriate amount of time to properly plan and execute efficient and successful meetings.¹⁰ This is particularly apparent in the Bureau of State and Local Affairs which has 50% of the staff resources of other components, but has a most challenging coordination objective of encouraging private sector and local community initiatives. Staff resources across ONDCP have been stretched thin, and the workload and operational tempo of the organization is exceedingly high in all areas. In our opinion, most of the offices within ONDCP operate in the face of the following trade-off: either the policy, coordination, and compliance activities do not get adequately planned for or the staff is burdened by the fast pace and exceedingly long working hours. Many times, they operate under both conditions.

In summary, we have observed that although the organization is sophisticated and accomplished, there is a shortage of investment and staff resources resulting in an inability to meet all of the objectives and priorities of the Congress, the Director, and the

On page 10 of ONDCP’s response, ONDCP states that “the conclusion that 20 FTEs support the Director’s schedule is wrong.” The project team has reviewed the activities of the Office of Strategic Planning and has revised the number of FTE dedicated from that office to supporting the Director’s Schedule from 7 to 5 FTE. Upon revision, the total number supporting the Director’s Schedule should be 17 FTE.

¹⁰ On page 4 of ONDCP’s response, ONDCP indicated that “the failure to reflect our agency’s extensive consensus building activities creates the erroneous impression that this essential business practice is not followed by ONDCP.” The project team agrees that the consensus building activities are extensive and essential and we re-iterate the need for an appropriate allocation of time for planning and executing efficient and successful consensus building meetings.

legislative charter. This inability can be attributed to the increase in workload associated with supporting the Director's priorities, new activities, and the inability of the organization to recruit and retain qualified staff.

3.0 THE INSTITUTIONALIZATION OF ONDCP

In the course of this evaluation, the project team encountered issues that raised concern about the future continuity of ONDCP, which will be discussed throughout the remainder of this report. There were four main findings that caused us to raise the issue of the adequate institutionalization of the ONDCP organization: 1) authority is centralized and a significant amount of institutional knowledge resides with the current Director; 2) turnover has been high and the knowledge base has been eroded by recruitment and retention problems in recent years; 3) relative to its size, an inordinate number of leadership and professional staff positions, up to 38%, may be vulnerable during calendar year 2000;¹¹ and 4) ONDCP-specific written guidance regarding the operations of the components and functional offices that would contribute to the continuity of the organization appears to be largely absent.

3.1 AUTHORITY IS CENTRALIZED AND THE LINES OF AUTHORITY ARE UNCLEAR

3.1.1 (a) Authority has been centralized in the Office of the Director

While it is within the purview of the Director to consolidate and centralize authority within ONDCP, it is an unusual business practice for Presidentially-appointed and Senate-confirmed (PAS) Deputies to serve without some measure of autonomy. In many organizations, it is common practice that Deputy, Under, and Assistant Secretaries have some autonomous authority and responsibility, subject to the advice and consent of the Secretary or equivalent, for specific areas and objectives.¹²

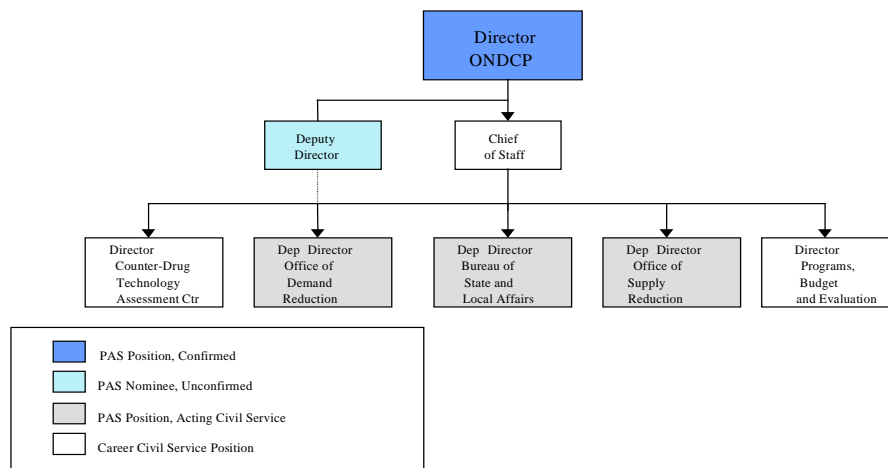
¹¹ The 38% noted above equates to 59 FTE divided by the base number 154 FTE. The 59 FTE include: 6 civilian employees and 6 military detailees who have already turned over this calendar year as of April 2000, the 17 PAS and Schedule C employees who are vulnerable in the 2000 election cycle, and the 30 military detailee positions whose retention is subject to the consent of the next Director, ONDCP. On page 2 of the ONDCP response, ONDCP indicated that "the report's discussion of a 'vulnerability of leadership' misses key aspects of the nature of federal executive leadership." The project team respects the breadth of expertise of the career professionals who may continue to serve within ONDCP beyond the current Directorship. It is our opinion, however, that the erosion of depth within the knowledge base resulting from turnover in the past few years has placed ONDCP in a relatively weak knowledge position. It is also our opinion that the potential loss to the depth of the knowledge base during calendar year 2000 would not be adequately offset, from an efficiency perspective, by the breadth of knowledge retained by the eight key professional staff employees mentioned in the ONDCP response.

¹² Source: Interview with Dr. Archie D. Barrett, lead negotiator for the House of Representatives on the Goldwater-Nichols Department of Defense Reorganization Act of 1986.

PricewaterhouseCoopers requested the most recent mission and position descriptions for each component, office, bureau and branch within ONDCP. Careful reading of these documents indicates that the primary function of the staff, from Deputy Director to policy analyst, is to assist and advise the Director in carrying out the responsibilities and objectives required of ONDCP (See Appendix H).

During the interviews with ONDCP staff, we confirmed that management authority for all ONDCP responsibilities and objectives resides with the Director and that he exercises direct oversight over, and decision-making for, the vast majority of personnel actions and day-to-day activities. The Director oversees the organization with the day-to-day assistance of the Chief of Staff (See Figure 3).¹³ The Deputy Director of ONDCP, a physician, works primarily with the Office of Demand Reduction and conducts outreach and coordination activities with members of the scientific and medical communities.

Figure 3: Organizational Structure
Deputy Director Positions Not Confirmed
(Actual State of ONDCP 2000)



Authority centralization at ONDCP is further compounded by the fact that the Deputy Director positions have remained largely vacant during the current Director’s four-year tenure. As of May 1, 2000, the component Deputy Director positions have been vacant for 112 out of a total of 153 months, a 73% vacancy rate. The Deputy Director for Demand Reduction has never been filled during this Directorship and ONDCP leadership does not expect any of the vacancies to be filled during the remaining months of the current Administration.

¹³ On page 5 of the ONDCP response, ONDCP indicated that because the Director’s Schedule shows that the Director spends only 8% of his time on internal matters, he is not the internal manager of the organization. Our interviews indicated that according to the views of the majority of ONDCP staff members, the Director, with assistance from the Chief of Staff, has significant direct oversight of internal matters. It is our opinion that internal matters as a whole are not being adequately attended to (i.e., the hours represented by the 8% may also represent a large part of the total time spent handling internal matters). This assertion would be supported by the fact that many of the project team’s human resource suggestions have been endorsed by ONDCP.

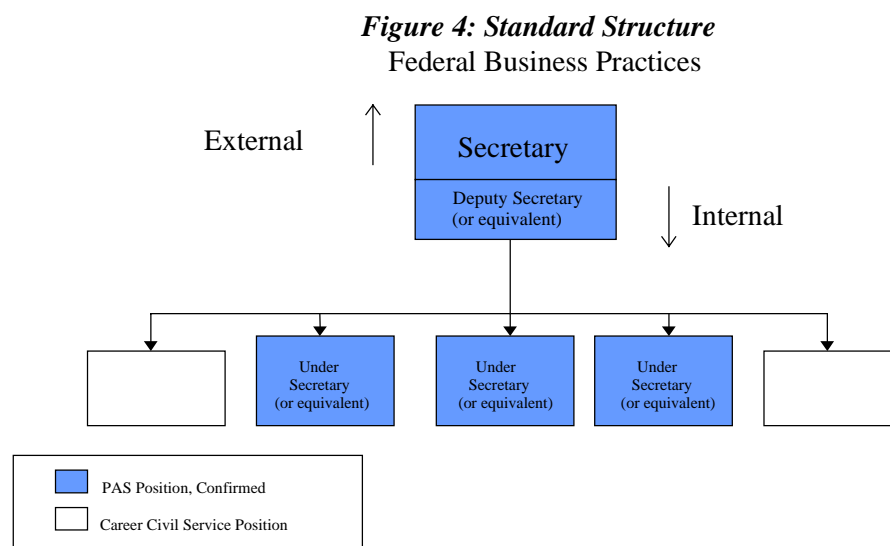
The implication associated with the above findings is that, as a result of the consolidation of authority, a significant amount of institutional knowledge resides with the current Director. Unless that knowledge is transferred to documentation and managed within the organization, the Director will take that knowledge out of the organization when he concludes his term.

3.1.1 (b) The chain of command can be confusing¹⁴

In reviewing the current ONDCP organization and comparing it with the FY98 legislation, we found that the structure that has been implemented is a modified version of the structure as described in the FY98 legislation.¹⁵ The implemented structure is generally inconsistent with accepted practices of good organizational management. Management science identifies important practices in order to ensure clarity, consistency, and continuity of management operations regardless of changing variables, conditions or personalities. Organizational design emphasizes those management principles that favor clarity with regard to authority, responsibility, accountability, and capacity for duties and functions performed by individuals.

Other Business Practices—Roles and Lines of Authority

During the course of our research, we found that the leadership of the other federal departments and organizations tends to operate within a structure illustrated in the graphic image in Figure 4. The Secretary or equivalent focuses “upwards and outwards” in line with negotiating policy, maintaining a public image, or delivering a specific message.



¹⁴ This heading was clarified in response to ONDCP’s comment (page 4) regarding the clarity of this section.

¹⁵ The Constitution gives the Congress the authority and responsibility to organize the Executive Branch, including the Departments and Officers thereof. United States Constitution-Article 1, Section 8, Clause 18.

In order to handle the external schedule, to keep the organization operating effectively, and to maintain an appropriate chain of command, the Secretary or equivalent has a designated PAS position or equivalent as the “internal manager” responsible for the day-to-day decision making on operational issues. Several organizations such as the Department of Health and Human Services (HHS), the Department of Agriculture, and the Department of Defense (DoD) have this management structure in place (See related textbox to follow). Table 1 below outlines the organizations we spoke with, the leadership positions, and their respective roles:

Table 1: Organizations Researched for Leadership Characteristics

Organization	Internal Manager	External Manager
Department of Health and Human Services	Deputy Secretary	Secretary
Department of Agriculture	Deputy Secretary	Secretary
Bureau of Alcohol, Tobacco, and Firearms	Deputy Director	Director
Department of Defense	Deputy Secretary	Secretary
UK Anti-Drug Coordinator Unit	Director	Coordinator
Office of National Drug Control Policy	Director	Director

**Leading the Department of Health and Human Services:
A Conversation with Secretary Donna Shalala and Deputy Secretary Kevin Thurm**

The Deputy Secretary of HHS, Kevin Thurm explained his roles and responsibilities this way:

“In doing the job that I have now, I had the great advantage of having served as the chief of staff of the department. First, the Deputy Secretary must be in line with what the Secretary wants in that role. While there are some standard things that Deputy Secretaries do, it becomes pretty clear that the position is to fill the role the Secretary wants. The two of you must be able to communicate effectively with each other about what the role is.

Second, as I think is the case in most departments, the Deputy Secretary is the chief operating officer and is essentially in charge of day-to-day decision making on management issues. The job is also to work closely on policy issues through the Department and to work closely with the chief of staff and executive secretary on these issues. My colleagues and I decide when these policy issues need to come to the Secretary’s attention.

Third, based on the priorities that have been identified by the President, Vice President, and the Secretary, the Deputy Secretary has to make sure these priorities are focused on and develop processes for making sure that progress happens. I also run quarterly meetings on the Secretary’s initiatives that cross-cut the department.

Finally, I want to stress that continuity matters and Secretary’s Shalala’s staying power has mattered a lot in the effective management of the department. The Secretary has recruited excellent people and insisted that we work together and that there would be consequences for people who didn’t play by the rules. This is really important, and I think that my colleagues within the department have really stepped up to the tone set by the Secretary’s leadership.”

PwC Endowment for the Business of Government Seminar, Fall 1999.

Based on our interviews at ONDCP, we determined that the current implementation is inconsistent with other federal business practices. The Chief of Staff, rather than the Deputy Director of ONDCP, serves as the chief operating officer of ONDCP (See Figure 6). The Chief of Staff has been inserted into the chain of command as a conduit between the Director and the component Deputy Directors and has oversight responsibility for the

Figure 5: Standard Organizational Structure

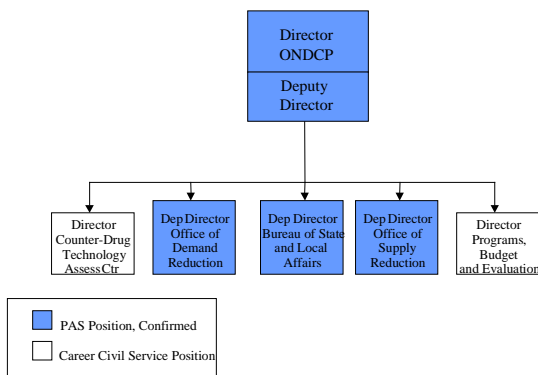
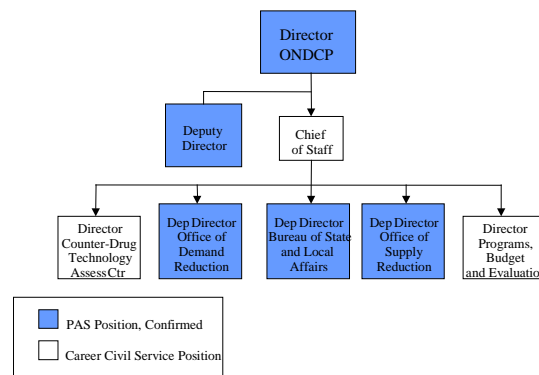


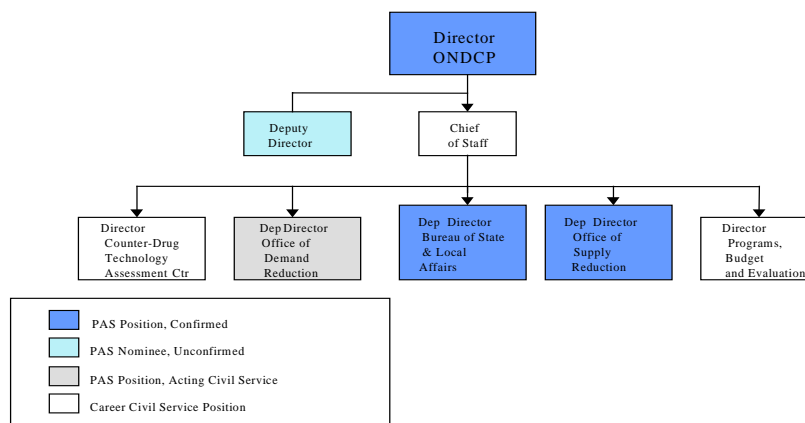
Figure 6: Current Implementation of the ONDCP Structure



rest of the staff members. The Chief of Staff is operating in that position at the behest of the Director and serves as the day-to-day internal officer of the organization. During interviews, several ONDCP staff members responded affirmatively to a direct inquiry regarding whether they perceived that the Chief of Staff exercised significant influence over the confirmed Deputy Directors.

With the existing ONDCP structure, as in Figure 6, the chain of command down from the Director is divided and, as a result, can become complicated and confusing. In 1998, for example, ONDCP had two confirmed component Deputy Directors reporting through the Chief of Staff, an SES position, to the Director (see Figure 7). The organization also had

Figure 7: Organizational Structure with Two PAS Positions Confirmed (Actual State of ONDCP 1998)



an unconfirmed Deputy Director of ONDCP. Under this scenario, it was confusing to other agency counterparts, and to ONDCP employees, as to who officially could represent and negotiate on behalf of the organization: the unconfirmed Deputy Director, the confirmed component Deputy Directors, or the Chief of Staff.

3.1.1 (c) The managerial role of the Deputy Director of ONDCP is unclear

We were unable to clearly determine the managerial role of the Deputy Director of ONDCP.¹⁶ The ONDCP mission and position descriptions have not been updated since May 1996 and do not address the PAS Deputy Director of ONDCP position. It has been an evolving role for the current acting occupant, a physician, as his management skills and knowledge base have developed.¹⁷ We understand that the Deputy Director serves as the external intermediary with the medical community on demand reduction-related issues and has been assigned special projects where his medical expertise and skill set are required. We also understand that lately he has taken on more of an intermediary role between the Office of Demand Reduction and the Director.¹⁸ (The Deputy Director has significantly fewer interactions with the Bureau of State and Local Affairs and the Office of Supply Reduction.) ONDCP has compensated for the absence of a Deputy Director for Demand Reduction by having the Deputy Director of ONDCP take on some of the demand reduction-related activities.

The absence of a clearly defined managerial role and area of responsibility for the Deputy Director of ONDCP has contributed to the confusing chain of command that exists today. Because the Acting Deputy Director of ONDCP is on detail from the National Institute of Health and not confirmed, it is unclear who would take over the current Director's authority were he to become incapacitated. Succession is not clear, which does not bode well for the institutionalization or continuity of the organization.

¹⁶ On page 6 of the ONDCP response, ONDCP indicates that the statement "that the Deputy Director position lacks 'a clearly defined role and area of responsibility' is not borne out." In the response, however, ONDCP does not clearly define a managerial role or area of responsibility for the Deputy Director of ONDCP. ONDCP states that the Deputy Director's role is to fill the role the Director wants and to work closely on issues with the Chief of Staff, executive secretary and with others throughout ONDCP (consistent with the text box description of the Deputy Secretary's role at HHS). The HHS text box goes on in the following paragraph, however, to quote the Deputy Secretary of HHS explaining his role more explicitly as the chief operating officer of the organization: "...as I think is the case in most departments, the Deputy Secretary is the chief operating officer and is essentially in charge of day-to-day decision making on management issues."

¹⁷ On page 5 of the ONDCP response, ONDCP states that "this statement does not accurately reflect the history and role of the Deputy Director." The original text is based on information gathered in interviews conducted during the course of the review.

¹⁸ On page 6 of the ONDCP response, ONDCP indicated that the Deputy Director of ONDCP has not been delegated an intermediary oversight role between the Office of Demand Reduction and the Director. The project team acknowledges the contradiction. The project team has rephrased this sentence to more accurately reflect what was conveyed to us during our interviews.

The organization could avoid continuity problems in the future by addressing the following issues:

- institute succession planning to ensure a smooth transition in the event that the Director becomes incapacitated;
- clarify the authority, responsibility and reporting structure with regard to the Deputy Director and the Chief of Staff;
- address chain of command issues so as to be consistent with good organizational management; and
- fill the component Deputy Director positions.

3.1.1 (d) ONDCP has had difficulty recruiting and retaining component Deputy Directors

ONDCP has been less than effective at recruiting and retaining individuals in the component Deputy Directorships. In order to understand why, the project team attempted to identify possible disincentives for individuals in those positions.

3.1.1 (e) What are the explanations for the difficulty in recruiting and retaining component Deputy Directors?

During interviews, ONDCP leadership suggested that there were two reasons why the PAS positions remained vacant for extended periods. First, Congress had not acted to confirm the PAS position nominees that had been put forth. Second, physicians were unlikely to serve in policy-making positions, as suggested in the FY98 legislation for the Deputy Director for Demand Reduction, for compensation reasons.

We gathered information on confirmation statistics from other relevant sources in an effort to verify these reasons. We researched previous ONDCP Directorships to see if it had been particularly difficult as a rule to recruit and retain within ONDCP. If previous Directors had had difficulty filling positions, then we could establish that there may be something inherent in the nature of the mission or the organization that tends to affect recruitment and retention of Deputy Directors.

Table 2: ONDCP History of Filled Deputy Director Positions

<i>Director</i>	<i>Number of component Deputy PAS positions</i>	<i>Number of filled PAS positions</i>	<i>Time Frame</i>	<i>Filled at End of Term</i>
Bennett	Three	Three	2 years	Three
Martinez	Three	Two	2 years	Two
Brown	Three	Two	2 years	Two
McCaffrey	Three	Two	4 years	Zero*

* Projected

Since previous Directors were able to recruit and retain component Deputy Directors and since the mission and fundamental structure of the organization has remained constant, we concluded that it is improbable that there is something inherent in the nature of ONDCP that is causing problems in this area.

We also researched the current Office of the United States Trade Representative (USTR) to see if an EOP agency of similar size has had trouble getting PAS positions confirmed with the current political constitution of the Executive and Legislative branches. If the USTR was also found to have had difficulty confirming PAS nominees, we could establish that the inherently political nature of the confirmation process, with the Executive and Legislative branches headed by different political parties, could have contributed to the inability of ONDCP to confirm PAS nominees. Our interviews with USTR indicated that they have not had the same difficulty confirming PAS nominees. USTR has all three of their PAS deputy positions confirmed and currently filled.

Table 3: USTR Filled PAS Positions

<i>Organization</i>	<i>Number of component Deputy PAS positions</i>	<i>Number of filled PAS positions</i>	<i>Currently Filled</i>
Office of U.S. Trade Representative (USTR)	Three	Three	Three

Finally, we researched other health-related organizations to see if it has been difficult to attract and retain physicians in policy-oriented positions. If other health-related organizations have had difficulty recruiting physicians for PAS and/or policy-making positions, then we could establish that physicians as a whole are unlikely to be attracted to policy-oriented positions.

Table 4: Health Organizations with PAS Positions

<i>Organization</i>	<i>Number of component Deputy PAS positions</i>	<i>Number of filled PAS positions</i>	<i>Currently Filled</i>
Food and Drug Administration (FDA)	Four	Three	Three
US Surgeon General	At Least Two	At Least Two	At Least Two

Our research indicated that physicians have been confirmed in the Office of the U.S. Surgeon General and the Food and Drug Administration. These medical physicians provide scientific and medically-based health policy analysis. Many of the other organizations we researched and interviewed, such as the American Heart Association,

rely on medical and scientific experts when making policy decisions. The following chart presents a list of policy organizations and how they employ medical physicians.

Table 5: Health and Policy Organizations with Medical Physicians

<i>Organization</i>	<i>Medical Physicians</i>
U.S. Surgeon General	Employs medical physicians throughout the organization
Department of Health and Human Services	33% (20,345 medical physicians in a 61,654 employee organization)
Food and Drug Administration Agency	3.3% (300 medical physicians in a 9,000 employee organization)
American Heart Association	The majority of the organization consists of medical physicians in policy and upper level positions
Office of National Drug Control Policy	Employs one medical physician

In sum, we were unable to verify ONDCP’s explanations for the absence of confirmed Deputy Directors. Information gathered from interviews indicated that the lack of autonomy and confusing chain of command issues may have contributed.

3.1.1 (f) How would the presence of component Deputy Directors affect ONDCP?

The project team considered how the presence of Deputy Directors would impact ONDCP. Acting Deputy Directors serve at the pleasure of the Director, but confirmed Deputy Directors can only be dismissed by the President or impeached by Congress. Consequently, the authorities of confirmed Deputy Directors would serve as “checks and balances” with regard to the authority of the Director. With official representatives acting on behalf of the organization and accountable to Congress and to the President, the Director would probably have to engage in more consensus building activities and more debate in order to get “buy-in” for his or her objectives. This would also help to ensure that the message being delivered by ONDCP was the fully discussed message representing the fully vetted opinion of the Drug Control Program community.

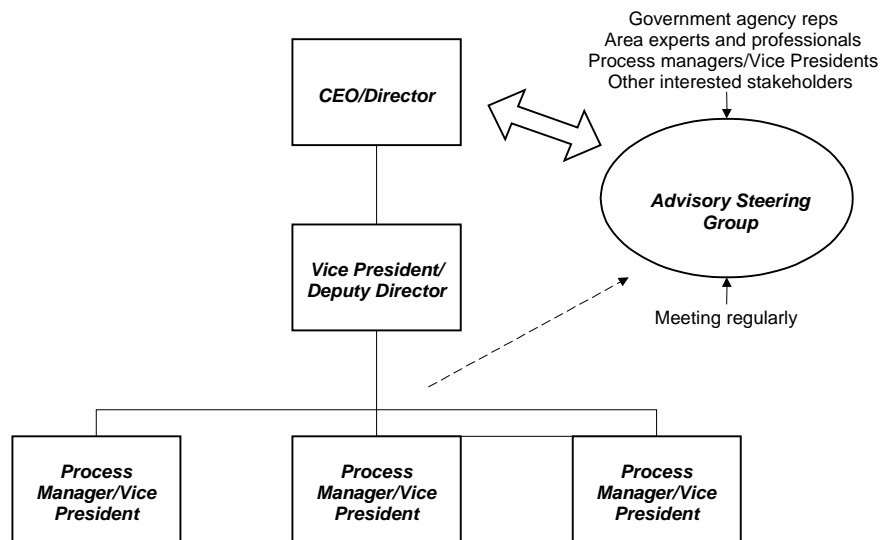
The existence of confirmed Deputy Directors would also offset the centralization of the knowledge base. With several confirmed Deputies working toward the objectives of the organization, the “portfolio” of procedural and historical knowledge of the organization would be diversified among several individuals and there would be less risk to the overall continuity and long-term benefit of the organization.

3.1.1 (g) Other Relevant Business Practices – Senior Advisory Steering Group

We researched and interviewed individuals at other organizations that are involved in a social mission in order to gain insights as to how they conduct their operations. Most had some type of established senior advisory steering group to assist in policy formulation

and implementation.¹⁹ This type of forum provides for teaming and consensus building, which is important when developing policy so that all areas of expertise and knowledge are considered. Although ONDCP relies heavily on advisory groups for policy development at the senior management level, the project team did not find evidence of a senior advisory steering group that regularly meets with the Director. Examples of this senior advisory steering group function exist in the American Heart Association, American Medical Association, Food and Drug Administration, America’s Promise, and the United Kingdom Anti-Drug Coordinator Unit. These groups generally consist of a committee of CEO/Director level peers from other government agencies, area experts and professionals, process managers, and other interested stakeholders. The senior advisory steering group meets according to a set schedule in order to conduct professional debate on issues. Once a consensus is developed, the designated Director or CEO makes a final decision. The diagram in Figure 8 illustrates the characteristics of the senior advisory steering group and the persons involved in the process.

Figure 8: Typical Advisory Steering Group



One specific example of this advisory group function is implemented at the United Kingdom Anti-Drug Coordinator Unit, where a Strategic Steering Group meets regularly to help the Coordinator assess overall progress in implementing the strategy. This group includes senior officials from within the government, individuals from independent bodies, professional drug agencies, local governments, businesses, and Drug Action Teams. By working through policy issues with an advisory group, the organization maximizes its chances of obtaining a fully vetted and consensus-based policy.

¹⁹ In a response to a draft version of this report, ONDCP indicated that “the report does not reflect ONDCP’s reliance on policy advisory groups.” The project team acknowledges that ONDCP has several advisory groups with which it consults on various issues. The example discussed in this section pertains to an established senior policy advisory group or steering committee that would meet regularly to consult with and to advise the Director, ONDCP on the overall priorities and strategies committed to by ONDCP.

3.2 ONDCP’S TURNOVER HAS BEEN VERY HIGH

ONDCP has experienced high turnover during the current directorship. Our review has revealed several situations that have characterized the current Director’s tenure. First, ONDCP has not been able to meet its 154 FTE ceiling (124 FTE + 30 military detailee positions).²⁰ Second, the agency has been unsuccessful in hiring and retaining staff resources. And third, Congress has not supported requests for additional FTE funding. As a result, ONDCP has performed its duties with a number of unfilled positions, vacancies, and high turnover. In our opinion, the Director’s leadership style, the heavy workload associated with increasing program area responsibilities, the lack of an adequate number of personnel to handle ONDCP’s responsibilities, and the lack of attention to human resource practices has resulted in personnel turnover. ONDCP’s aggregate and yearly turnover statistics are presented in the sections that follow.

3.2.1 Turnover Rates

Table 6: ONDCP Civilian Turnover Aggregate Statistics

<i>ONDCP Civilian Turnover Statistics</i>	<i>Aggregate Results</i>
104 of 154 positions	68% turnover
2 of 5 authorized PAS positions,	40% turnover
11 of 15 authorized Career SES and Non-Career SES positions	73% turnover
61 of 104 authorized Career Status, Schedule A's and Schedule C's	59% turnover

Table 7: ONDCP Military Turnover Aggregate Statistics

<i>ONDCP Military Turnover Statistics</i>	<i>Aggregate Results</i>
30 of 30 authorized military detailee positions (as per DoD arrangement)	100% turnover

Using ONDCP personnel data and internal organizational charts, our project team determined the effects on the agency of the actual turnover from calendar year 1998 to the present and of the potential calendar year 2000 turnover. The turnover has occurred in both civilian and military detailee positions of significant influence. As a result, the actual turnover that ONDCP has experienced from 1998 to 1999 combined with this year’s potential turnover from the 2000 election raises the issue of the knowledge base and knowledge retention in light of the coming period of transition.

²⁰ The project team included the 30 military detailees in our analysis because these individuals are in positions of significant influence and authority and their recruitment and retention has a direct impact on the knowledge base and continuity of the organization. They perform duties and functions essential to the operations of ONDCP. Most of the military detailees are colonel and lieutenant colonel level and are nestled within the leadership of many of the components and offices.

3.2.1 (a) ONDCP Calendar Year 1998 Turnover

22 civilian and 10 military detailee positions turned over in calendar year 1998. Based on the number of authorized 154 positions, ONDCP experienced a turnover rate of 21%. ONDCP did not meet its authorized FTE ceiling in 1998.

Table 8: 1998 Turnover Positions

<i>Component Office</i>	<i>Turnover Positions</i>	<i>Total Office Positions²¹</i>	<i>Turnover Rate</i>
Public Affairs Office	5	7	71%
Office of Legislative Affairs	4	6	67%
Office of Programs, Budget, Research & Evaluation	7	23	30%

3.2.1 (b) ONDCP Calendar Year 1999 Turnover

31 civilian and 10 military detailee positions turned over in calendar year 1999. Based on the number of authorized 154 positions, ONDCP experienced a turnover rate of 27%. Still, ONDCP did not meet its authorized FTE ceiling in 1999. The areas of overall high impact in 1999 included the following:

Table 9: 1999 Turnover Positions

<i>Component Office</i>	<i>Turnover Positions</i>	<i>Total Office Positions²²</i>	<i>Turnover Rate</i>
Director's Office	5	7	71%
Office of Legislative Affairs	4	6	67%
Public Affairs Office	4	7	57%
Office of Legal Counsel	4	7	57%
Office of Programs, Budget, Research & Evaluation	9	23	39%
Office of Supply Reduction	9	23	36%

3.2.1 (c) ONDCP Calendar Year 2000 Actual Turnover and Potential Turnover Associated with the 2000 Election

As of April 20, 2000, 6 civilian and 6 military detailee positions turned over in this calendar year. In addition, 17 filled political positions are vulnerable in this year's election. Political positions that are vulnerable in a change of administration include all Presidential Appointee Schedules (PAS), Non-Career Senior Executive Service (NC SES), and Schedule C's (SC).

²¹ The total number of component office positions was determined from ONDCP's organizational chart dated 3/3/2000. If the number of component office positions changed in this year, the overall turnover rates could be adjusted.

²² Ibid.

With a change of administration, ONDCP's next director could decide to eliminate the 30 authorized military detailee positions. Thus, **30 filled military detailee** positions²³ may be vulnerable in the coming election year as well. Because the military detailees are in positions of significant influence, their loss would be detrimental to the organization's knowledge base. Based on the ceiling of 154 authorized FTE, ONDCP could potentially experience a combined (actual and potential) turnover rate of **38%** in this calendar year. As of April 20, 2000, ONDCP had not met its authorized FTE ceiling.

The areas of potentially high impact (combined actual and potential turnover based on 154 FTE capacity) are graphically presented below:

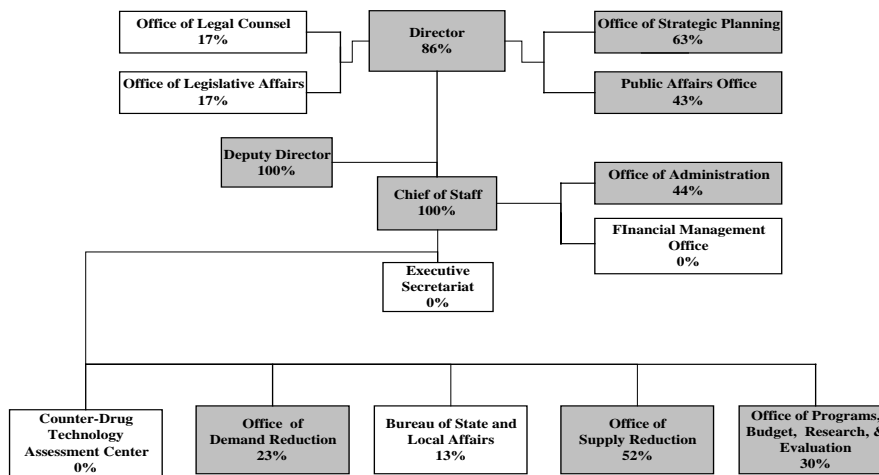
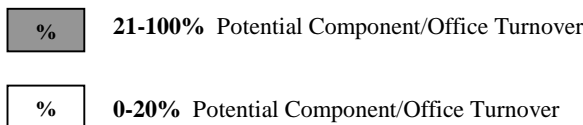


Figure 9: ONDCP Actual and Potential Turnover for Calendar Year 2000
Percentage Impact on Component Offices,²⁴ Based on 154 FTE Full Capacity



On the next several pages, we have provided charts that show which positions turned over in calendar years 1998 and 1999, and the actual and potential turnover for calendar year 2000. The summary chart of the 1999 and 2000 data demonstrates that the knowledge bases for most of the offices within ONDCP have been seriously weakened or are vulnerable with the coming election.

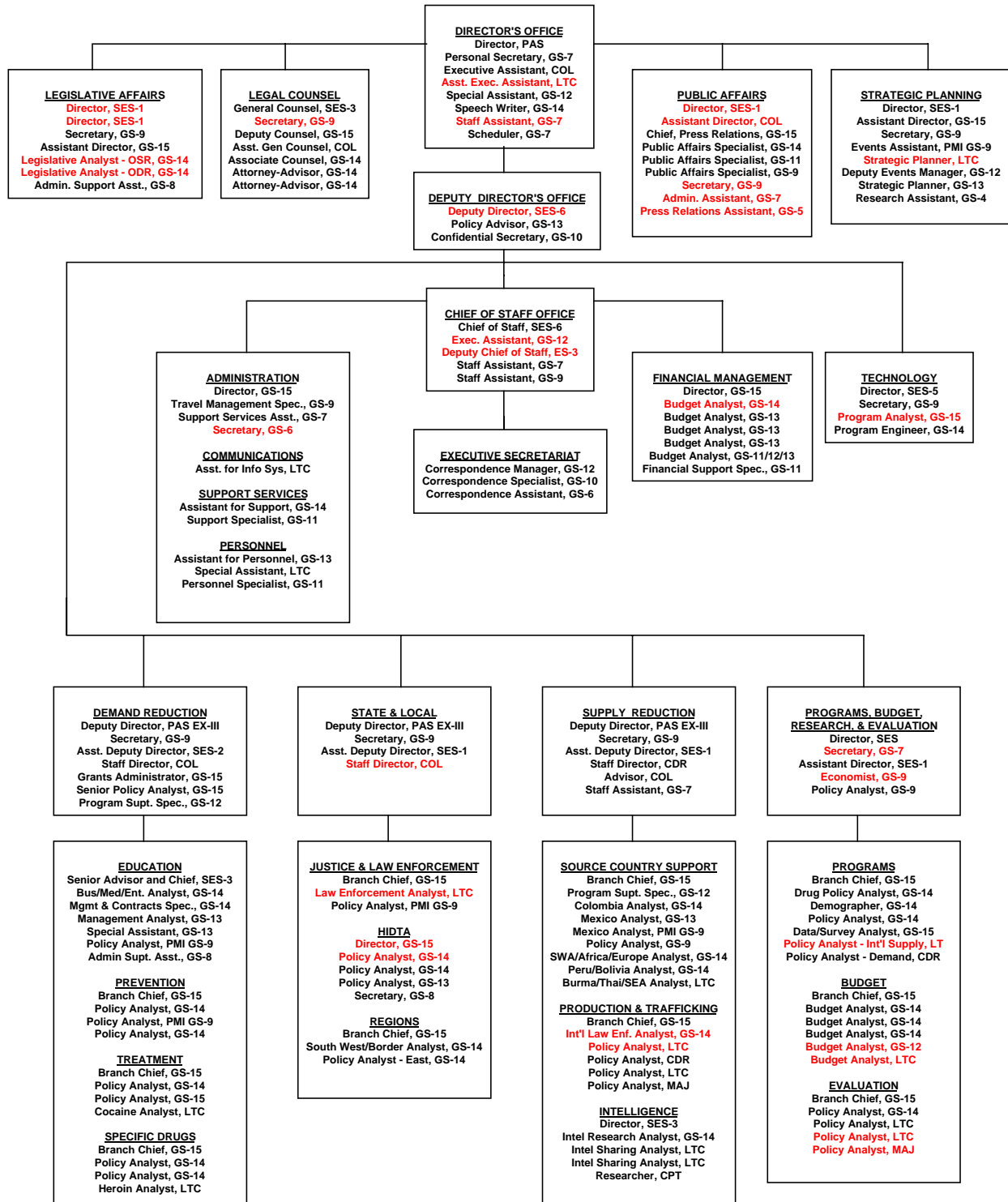
²³ The total number of component office positions was based on ONDCP's organizational chart dated 3/3/2000. If the number of component office positions changed in this year, the overall turnover rates could be adjusted.

²⁴ Ibid.

ONDCP CALENDAR YEAR 1998 TURNOVER

Turnover positions are presented in **red text**.

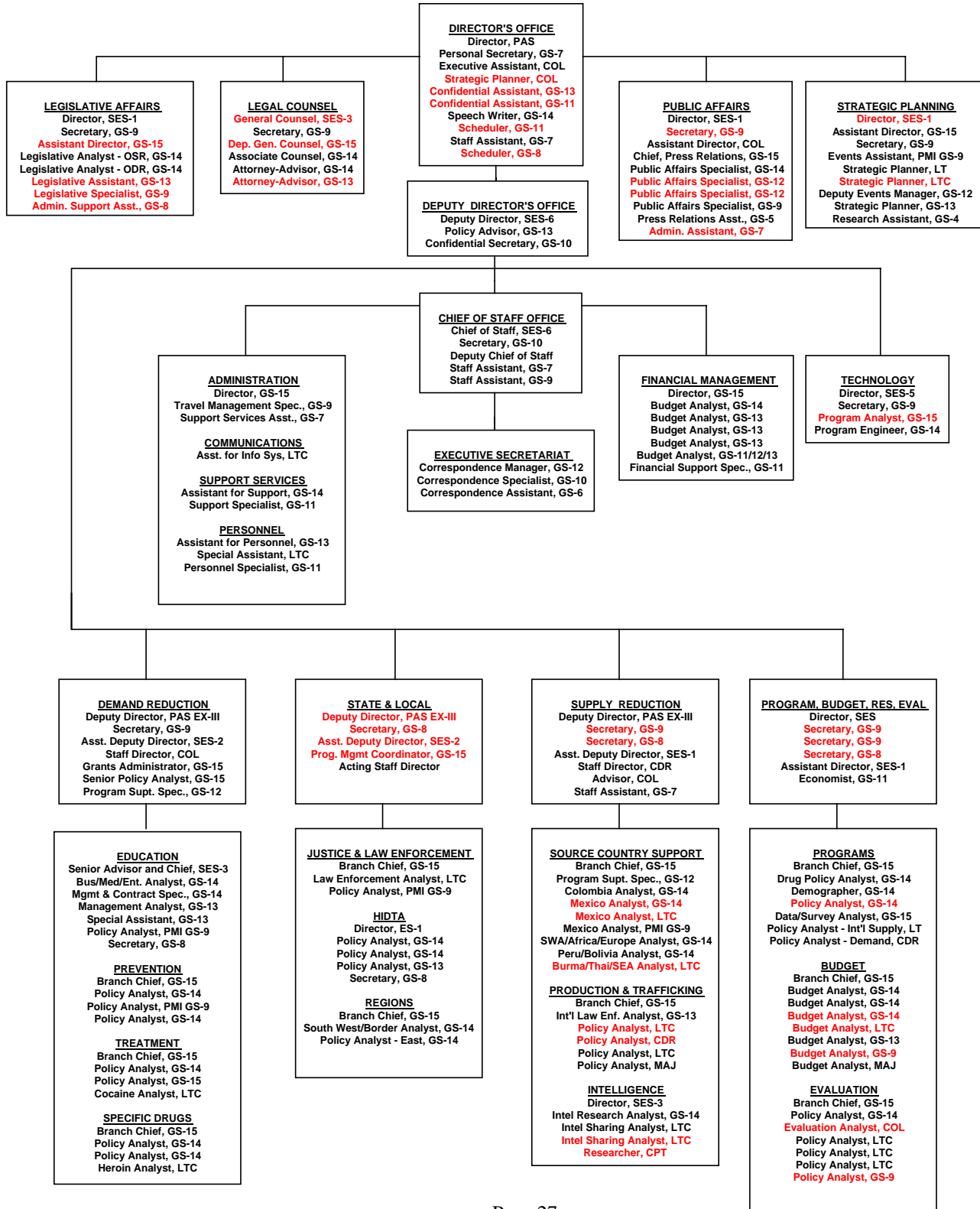
1998 Turnover
22 civilians
10 military detailees
21% turnover rate



ONDCP CALENDAR YEAR 1999 TURNOVER

Turnover positions are presented in **red text**.

1999 Turnover
31 civilians
10 military detailees
27% turnover rate



ONDCP CALENDAR YEAR 2000 ACTUAL AND POTENTIAL TURNOVER

Turnover positions are presented in **red text**.

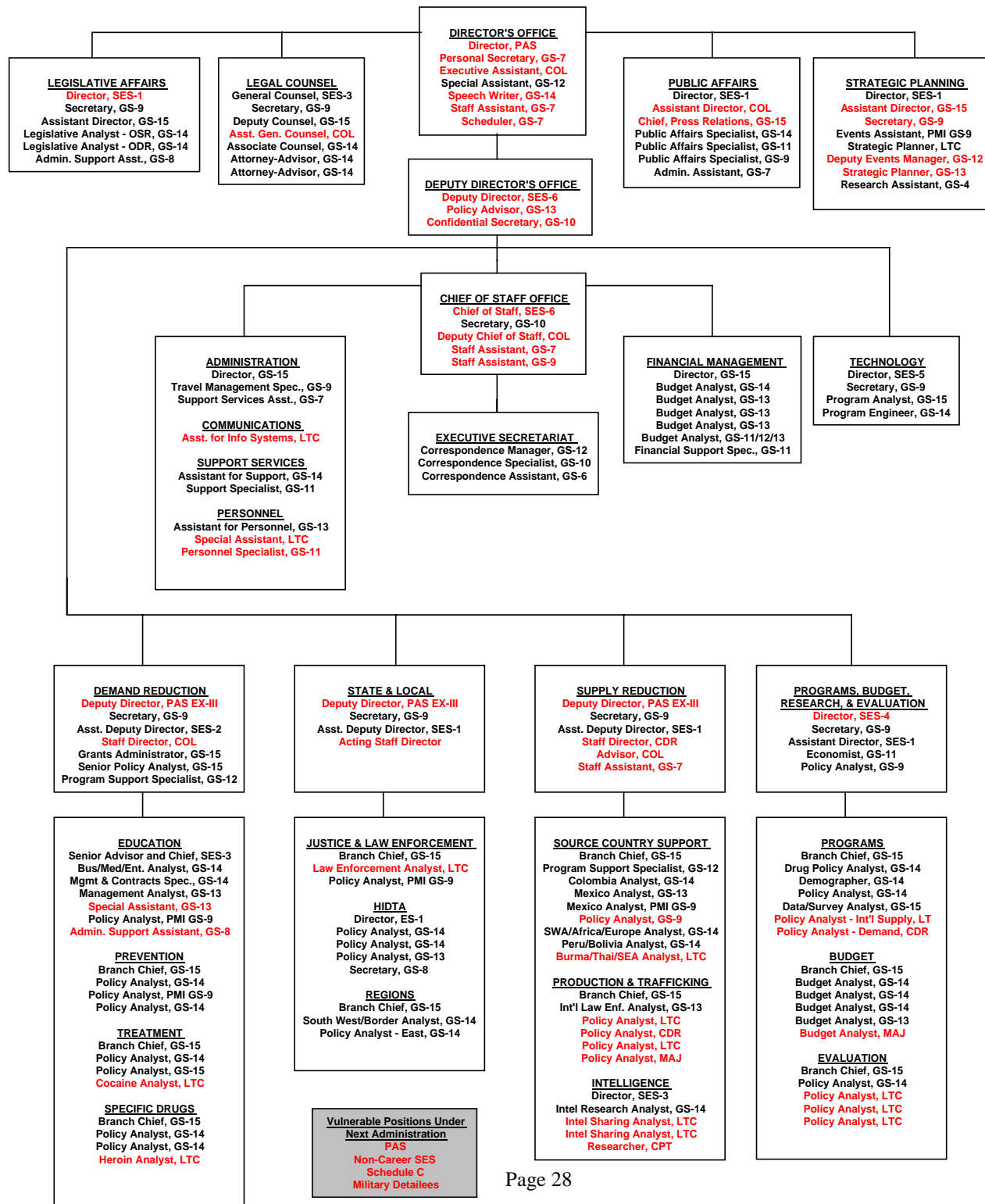
2000 Actual Turnover*

6 civilian
6 military detailees

2000 Potential Turnover

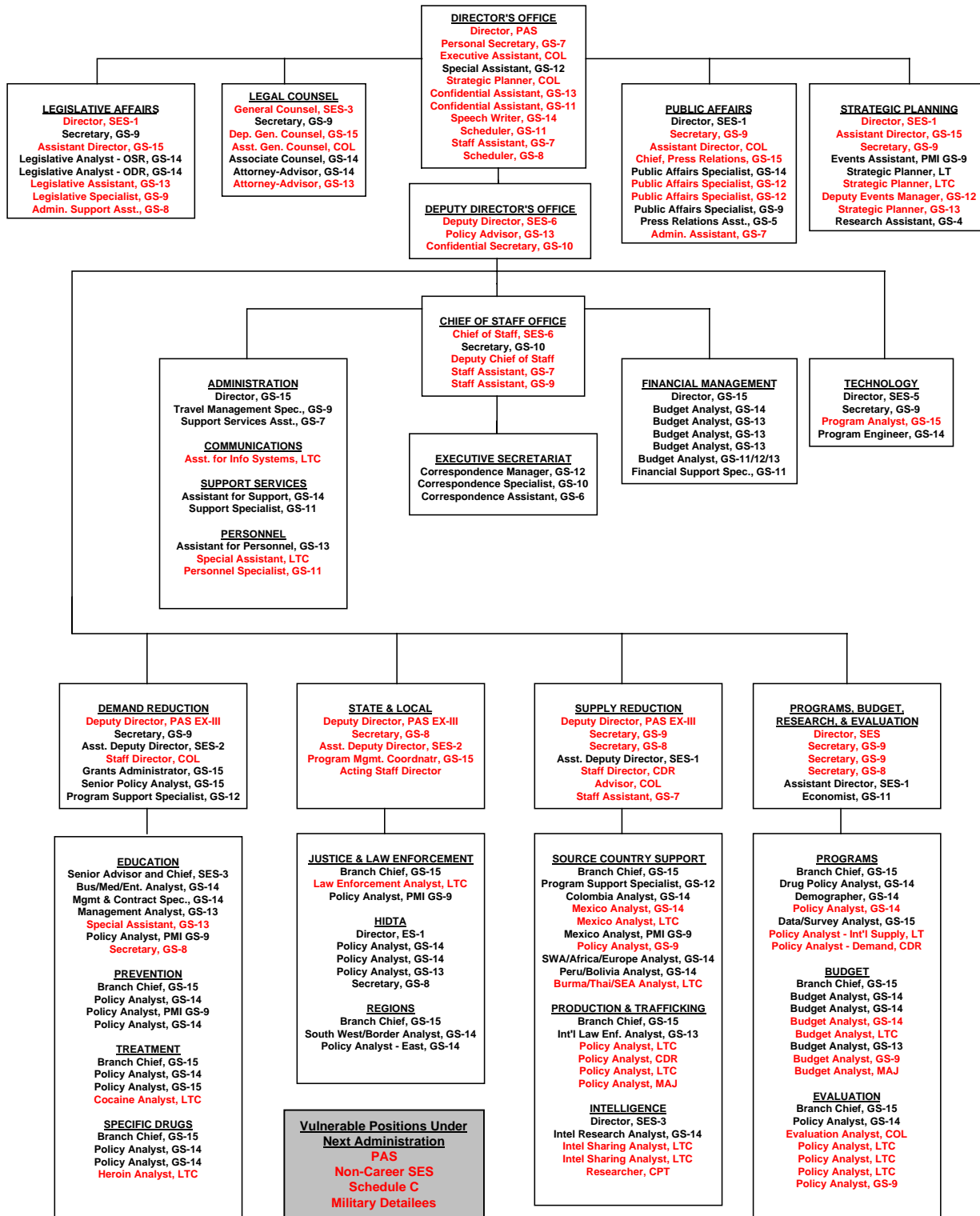
17 filled political
30 military detailees
38% combined turnover rate

* During the time of this review



ONDCP COMBINED CALENDAR YEARS 1999 AND 2000 ACTUAL AND POTENTIAL TURNOVER

Turnover positions are presented in **red text**.



3.2.1 (d) Reasons for Turnover

ONDCP, as a federal agency governed by the procedures and practices of the EOP, is expected to experience normal turnover of approximately 21%.²⁵ Some turnover is expected due to the political nature of some of the higher level positions. Given ONDCP's high actual turnover rates across all status positions, however, the project team attempted to identify issues of concern that should be addressed.

ONDCP does not conduct formal exit interviews with departing staff. When staff members leave the agency, they complete a checklist of administrative procedures. No formal documentation is made concerning their experiences, reasons for leaving, or future endeavors. Assuming that departing staff would candidly discuss issues or concerns, ONDCP cannot effectively evaluate its internal performance without a formal record of exit interviews. Assumptions can be made, but without formal interviews, ONDCP cannot identify or directly address the retention and turnover issues that impact its knowledge base.

Our research indicates that exit interviews are commonplace within the private sector, nonprofit, and social mission organizations. Particularly in the private sector, exit interviews are one of the primary vehicles by which an organization can assess its employee satisfaction and make necessary adjustments. In most private sector organizations, human resources staff members collect exit interview data to determine consistent themes to address. Unique, isolated issues are also considered, as required.

Thus, exit interviews are highly recommended for any place of employment. Employees often discuss the issues that influence their decision to leave. Some common themes are listed below.

- Inadequate career development
- Promotion ceilings
- Inadequate training
- Lack of staff appreciation
- Difficult work environment
- Non-competitive compensation
- Excessive workload
- Unpleasant working relationships with management and/or peers
- Pursuit of better opportunities

Human resources subject matter experts use exit interviews as issue-identifiers. Ultimately, exit interview data that leads to organizational improvements often positively influences retention and turnover rates.

²⁵ Attrition data collected from Office of Personnel Management's *Employment Trend Report* dated November 1998.

Our interviews with ONDCP staff suggested three primary reasons for the agency's turnover: (1) leadership style, (2) heavy workload, and (3) career development and promotion issues for civilians. The interviews yielded the following:

Leadership Style: “He’s difficult to work for”²⁶

- The current Director’s leadership style has been described as aggressive, high-pressure, and military-oriented. Under the current directorship, a military structure has been imposed on a previously civilian culture. As incompatibilities have developed, people have made the decision to leave.
- The Director drives himself, the organization, and its people to meet his exceedingly high expectations. Consequently, the pace is relentless, high-pressured, and expedient in nature.
- The professional debate among ONDCP experts is primarily paper-based and, according to some staff members, can be somewhat restrictive. Individuals expressed concern that a substantial reliance on written communication poses a disincentive to freely debating contentious issues since written information can be attributed directly. It may also be time consuming. The primarily paper-based system could make for an intellectually restricted environment for credentialed professionals who are accustomed to free and open oral debate of the issues.²⁷
- The leadership is focused on “the mission and the budget,”²⁸ with little attention given directly to the organization’s people. According to the Director’s schedule, he spends approximately 8% of his non-office time on internal matters.²⁹

Our general finding is that work-style conflicts, high stress levels, and demanding conditions have yielded a difficult work environment.

Operational tempo/workload is extremely high

ONDCP’s workload has increased substantially, with the addition and/or growth of the HIDTA, Media Campaign, and Drug Free Communities programs. ONDCP was expected to staff these programs by recruiting within the authorized 124 FTE civilian ceiling. The workload situation has become problematic, given the unfilled positions associated with the recruitment and retention problems.³⁰

²⁶ General comment from ONDCP staff members.

²⁷ On page 1 of the ONDCP response, ONDCP indicated that the report displays a misunderstanding of the requirement for transparency in government. The project team recognizes that ONDCP is required to comply with the Administrative Procedures Act and the Records Management by Federal Agencies Act. It is our opinion, however, that the primary reliance on written communication with few forums for verbal debate “could” contribute to a restricted environment, particularly with staff members under pressures of expediency and aware of confidentiality issues and subpoenas at the highest levels of government.

²⁸ Barry McCaffrey, Director, ONDCP during interview at ONDCP.

²⁹ Scheduling meetings, senior staff meetings, and personnel interviews (see Table 11).

³⁰ On page 8 of the ONDCP response, ONDCP states that “recruitment has not been problematic for ONDCP” and that the assertion is unsubstantiated. The project team supports the original statement that recruitment and retention have been issues for ONDCP. Identifying and recruiting appropriate candidates

- The HIDTA program has grown from 15 to 31 programs in the last four years and has been staffed with 5 FTE (originally from the Bureau of State and Local Affairs) and 2 Budget Analysts. The budget analysts have been required to handle the 100% increase in HIDTA budget activities.
- The Media Campaign, ONDCP's multi-million dollar operational program, has been staffed with 7 FTE (originally in Demand Reduction) to execute the agency's largest program.
- The Director's Schedule utilizes up to 17 FTE for development, strategy, planning, and execution of activities. The Director's Schedule involves FTE drawn from the component and policy offices, causing additional workload for those components that are responsible for ONDCP's primary objectives.

ONDCP has requested additional FTE to support the increase in operational program requirements in an effort to maintain its ability to meet coordination and compliance objectives and to support the Director's Schedule. Out of concern that the authorized 124 civilian FTE ceiling has never been met and given the agency's recruitment and retention problems, Congress has rejected the FTE requests. ONDCP has absorbed the increase in operational activities with the existing FTE, without changing the level of effort dedicated to supporting the Director's priorities. Thus, the general operational tempo and per capita workload of the organization is very high as the employees take on additional responsibilities.

Career development, organizational development, promotion, and training opportunities are limited

Career Development: There is no standard career development strategy or program for ONDCP civilian staff to advance within the federal system. Although we found that there are some individual efforts by well-intentioned managers to create staff development opportunities, there is no consistent, centralized career development strategy within the agency. Few component or office heads have been able to provide federal career-related incentives, such as training, to their staff. Monetary incentives are distributed for excellent performance, but the awards are relatively small.

Organizational Development: Our interviews also revealed that there is no current documentation of component office mission statements and position descriptions,³¹ leading to the conclusion that there may be little formal organizational development planning taking place. Without a formal development plan for the overall internal organization, it would be impossible for individual staff members to visualize, let alone achieve, career development objectives. And because there is little attention from the leadership, organizational planning and career development practices are being sidelined.

who will remain in positions for a significant period of time is an important part of the retention strategy of an organization.

³¹ The only documents made available in this review were position descriptions and office mission statements last updated in May 1996.

Promotion Opportunities: Because ONDCP is a small, specialized agency with specific areas of expertise, there are relatively few promotion opportunities.³² It is difficult for staff members to move within the agency, due to the specialized nature of the work. But there are also other internal promotion impediments, such as the ONDCP-specific GS-14 policy that does not allow a GS-15 promotion unless the position involves a supervisory role. Thus, ONDCP has lost civilian staff to other federal agencies offering GS-15 opportunities that do not require supervisory roles. Further complicating the situation and limiting promotion opportunities for GS-14 individuals may be the fact that many of the GS-15 equivalent supervisory duties and functions are currently being carried out by Lieutenant Colonel and Colonel level military detailees (See also Appendix I, reference to interview with Director McCaffrey in the June 2000 issue of *The Reserve Officer Magazine*).³³

ONDCP's policy and program coordination work also requires individuals with advanced training and experience. The size and structure of the agency creates another promotion ceiling for GS-15 individuals due to the limited number of SES positions available.

Training: There are also very limited training opportunities for career civilian staff. The FY 1996 training budget was approximately \$30,000, and has not increased significantly over the past four years with the increase from 40 to 124 FTE. The training budget allocation is devoted primarily to educational programs for senior leadership, such as the \$7,000 senior executive course at Harvard University. The remaining budget pool does not provide adequate training funds for ONDCP's support staff, analysts, and managers. Without training opportunities in management or relevant areas of specialization, career civilian staff have limited opportunities to advance toward personal and professional development objectives.

These issues of career development, organizational development, promotions and training do not affect the military detailees. The Department of Defense handles standard human resource management practices such as career development, personal development, and training for all military members.

³² On page 8 of ONDCP's response, ONDCP states that "the report erroneously states that 'there are relatively few promotion opportunities' within the agency." In the following paragraph of ONDCP's response, ONDCP also states that as a small agency of 124 FTE, ONDCP cannot offer the same diversity of professional opportunities that larger federal agencies and departments do. The project team supports the original statement, consistent with ONDCP's response, that because ONDCP is a small, specialized agency with specific areas of expertise, there are "relatively" few promotion opportunities.

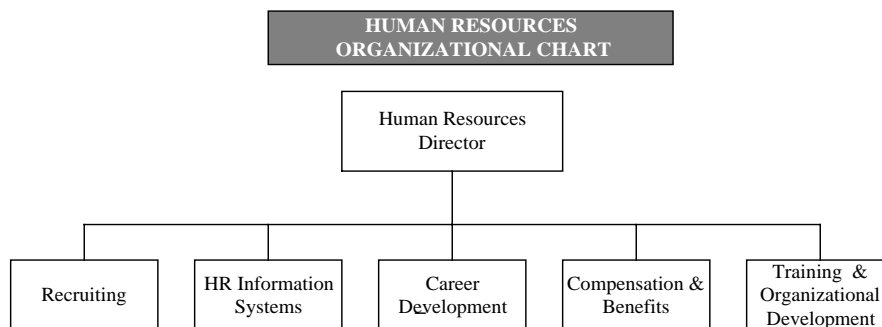
³³ On page 8 of ONDCP's response, ONDCP states that "the report inaccurately characterizes military detailees as impediments to promotion" since military detailees do not occupy civilian FTE positions. The project team supports the original statement based on interviews and on information gathered from extensive research into the Director McCaffrey's public record (See Appendix I, reference to an interview with Director McCaffrey in the June 2000 issue of *The Reserve Officer Magazine*). Military detailees perform important supervisory functions and other significant duties that contribute to the ongoing operations of ONDCP. The majority of these supervisory functions and duties would be performed by civilian employees, either through increased operational tempo or increased staff resources, were the arrangement for 30 military detailees to be terminated. If the civilian employees were performing the supervisory functions, then there would be more opportunities for civilians to be promoted into supervisory positions under the existing policy.

3.2.1 (e) Human Resource Business Practices

The ONDCP personnel group is currently staffed with one FTE responsible for all of the agency's human resources activities.³⁴ Although there are shared responsibilities with the Executive Office of the President,³⁵ this single individual must attend to all ONDCP-specific areas of human resource management including the hiring strategy, payroll, security clearances and work authorization, organizational planning, and employee relations. Those areas require significant time and resources. Consequently, other pro-active human resource management areas such as career development, retention strategy, etc. have been neglected.

Human resource management is commonly organized around five process areas: recruiting, HR information systems, career development, compensation and benefits (operations), and training/organizational development. A graphical illustration is presented in Figure 10. Each of these process areas are staffed with sufficient resources to develop, coordinate, and execute personnel issues, policies, and programs that support an organization's people.

Figure 10: Typical Human Resources Organizational Chart



Organizations of 100 to 150 employees generally have an HR staff of between 2 to 4 people. In those organizations with few resources, there are several HR processes that can be outsourced, such as recruiting, HR information systems, and compensation and benefits (operations). According to HR subject matter experts, the two key areas that

³⁴ On page 7 of the ONDCP response, ONDCP indicated that the personnel office has currently assigned two FTE to the agency's civilian personnel activities. Although ONDCP may have assigned two FTE to the office, ONDCP had only one individual serving in the office during the term of this review.

³⁵ On page 7 of the ONDCP response, ONDCP asserts that the review team had failed to note that the Executive Office of the President (EOP) supports ONDCP in certain human resource practices. The project team acknowledges that ONDCP has, on a case by case basis, outsourced certain human resource activities associated with recruiting and HR systems to EOP. The project team supports the original statement, acknowledging a partnership with EOP. This statement also highlights the fact that human resource activities that should remain resident within ONDCP were being handled by one individual during the period of this review. As a result, the more pro-active HR activities, such as Career and Organizational Development, were not being attended to because there was not enough staff support.

must remain resident are career development and training and organizational development. HR experts indicate that these areas are organization-specific, and require an organization's internal leadership and management to make decisions regarding its planning and execution, and the resulting overall retention strategy.

Recruitment, training and career development, and compensation/benefits are seen as key contributors to staff retention and succession planning. Business practices indicate that the relationship between recruiting, training, and compensation/promotion must be consistent and effective.

Recruiting is a joint effort among human resources and business units. Expectations management is important for both the organization and the recruiting candidates. The identification of specific skill sets based on the organization's planning and development is also vital to the success of recruiting and retention strategies.

Training serves as an incentive for people to stay in an organization, particularly if the training is connected to an individual's career and personal interests and addresses internal promotion opportunities. Organizations must ensure that opportunities are given to staff to use the training. Investing resources into training must be coupled with a strategy for retaining and recruiting staff and with career development strategies.

Subject matter experts also indicate that compensation and benefits are very important. Among the social mission organizations, compensation is a minor influence on turnover because individuals are primarily attracted to the nature of the work. However, other benefits and incentives such as monetary and personal recognition, training, forms of staff appreciation, vacation, management awards, and challenging assignments are important to the organization's retention strategy. If all of these areas are addressed, then organizations usually experience low turnover and high-quality employee satisfaction.

A graphical illustration that compares ONDCP's human resources practices to other organizations' business practices is presented below:

Table 10: Human Resource Practices in Organizations Interviewed

	<i>ONDCP</i>	<i>GE</i>	<i>PwC</i>	<i>AMA</i>	<i>AHA</i>	<i>AP</i>
Training	•	•	•		•	
Career Development		•	•	•	•	•
Recruiting Success		•	•	•	•	•
Organizational Planning		•	•	•	•	•
Retention Strategy		•	•	•	•	•
Compensation/Benefits	•	•	•	•	•	•

ONDCP = Office of National Drug Control Policy
GE = General Electric
PwC = PricewaterhouseCoopers
AMA = American Medical Association
AHA = American Heart Association
AP = America's Promise

3.2.1 (f) Other Relevant Business Practices – Leadership Style

We found that leadership style and personality are key influences on overall culture, particularly in organizations with a social mission. In a general sense, the leader sets the “tone” for the workplace through his or her interaction with staff and the development of internal policy. Over time, staff tend to align themselves with the beliefs and actions of the leader, effectively shifting the culture of the organization to mirror the strong characteristics of its leader. Those individuals with beliefs or behaviors at odds with the leadership tend to seek other opportunities.

Organizations with a social or vocational mission, like America’s Promise, Office of National AIDS Policy, and the Food and Drug Administration are often led by a public “personality” or strong figure. Other successful organizations, like General Electric, have well-known, charismatic leaders. In researching these organizations, we identified several consistent characteristics:

- At America’s Promise, General Colin Powell has created a culture that mirrors many private sector firms. There are no military detailees in the organization and few individuals that have recently separated from the Armed Forces. At America’s Promise, members of the leadership are in continuous verbal dialogue with staff to enhance the performance of the organization. The entire leadership of America’s Promise, including General Powell, tends to be hands-on and interactive with staff, but does not micromanage individuals who have been delegated some form of autonomy in carrying out their respective responsibilities.
- The AIDS Czar Director, Sandra Thurman has a small office of five staff members, so a rather informal organizational and leadership style is in place. This office does not have authority over any of the departments or agencies it works with. Consequently, Director Thurman relies solely on her ability to foster positive working relationships with departments and agencies involved in the AIDS prevention initiative.
- At General Electric (GE), CEO Jack Welch emphasizes decentralization of power and the creation of autonomy for manager level staff. His belief is that this practice encourages professional debate and discussion within the organization, and provides the latitude for managers to proactively search for solutions to client needs. An example of this is a program called the “Workout Process.” This program consists of hundreds of employees bringing up issues with senior leadership in the attempt to identify and eliminate unneeded processes and tasks remaining from previous years, when management had more layers. The workout team meets outside of its normal work environment to discuss the issues and develop recommendations. Team recommendations are presented to responsible managers, who must accept or reject the proposal on the spot.

3.2.1 (g) The Director's Schedule

ONDCP's operational tempo and workload are largely influenced by the leadership's activity level, commonly referred to as "The Director's Schedule." The Director's Schedule documents trips, events, media affairs, congressional testimony, office time, other appointments, and meetings with drug, community relations, law enforcement, and government experts.

As stated earlier in this report, the current Director secured an FTE authorization of 124 positions plus 30 military detailees when he took over in 1996. The Director structured the organization to handle ONDCP's primary objectives of policy, coordination, and compliance and to coordinate his external schedule. At the behest of the Administration, the Director created a process within ONDCP to handle his external schedule so that he could use the "bully pulpit" to raise the awareness of the American public to the dangers of drug use.

ONDCP is the fourth most often mentioned Cabinet office in the news media³⁶ and the current Director is a well-known figure internationally. Our purpose in presenting the information in this section is only to create transparency with regard to the existence of this event-based apparatus and to clarify the number of resources that a media presence of this nature and magnitude requires.

The Director's Schedule involves up to 17 FTE,³⁷ including effort from several of the component groups. The FTE assist in areas of policy and product (message) development, strategy and long range planning, internal and external coordination, event planning and advance work, communications with Congressional district offices and news affiliates, correspondence with the local print media, and general administration (travel, security, etc).

Using the Director's calendar, we analyzed the activities to examine the amount of time allocated to specific activities on his schedule. Although the information is not conclusive, it provides a useful indicator of how the Director spends his time and how much effort must be devoted to creating a sustained media presence. We recognized during our review that the Director spends a significant amount of time in his office reviewing and studying material. We focused the analysis, however, on activities with external stakeholders such as the media, physicians and medical experts, law enforcement experts, and federal, state, local, and international government officials. Using data from six randomly selected months between November 1998 and November 1999, we extrapolated to one year of time and evaluated the following: activity type, number of activity occurrences, activity's total hours, average time (in minutes) per activity occurrence, activity 's percent of total work time, and activity's percent of total non-office time.

³⁶ According to ONDCP's Office of Public Affairs, the ONDCP ranks fourth behind the Department of Defense, the Department of State, and the Department of Justice.

³⁷ See Footnote 10.

Based on the results of our analysis, we estimated that the Director spends an average of 54% of his non-office time involved in Media/Event affairs,³⁸ 8% in meetings with medical/drug experts and on drug issues,³⁹ 14% in meetings with government leaders, 3% in meetings regarding community relations, and 6% in meetings with law enforcement experts.⁴⁰

Annually, the Director spends approximately:

- 560 hrs. at approximately 650 Media Events, Appearances, Speeches, or on Media Issues;⁴¹
- 110 hrs. at approximately 160 meetings with Medical/Drug Experts or on Drug Issues;
- 35 hrs. at approximately 45 meetings for Community Relations; and
- 60 hrs. at approximately 50 meetings with Law Enforcement.

A representative table of our analysis is presented below with the full detail available in Appendix J.

Table 11: Director’s Activity Time

<i>Scheduling Category (Activity Type)</i>	<i>Number of Activities (Blocks of Time)</i>	<i>Estimated Hours</i>	<i>Average Time (Min) Per Activity</i>	<i>Percentage of Total Work Time</i>	<i>Percentage of Non-Office Time</i>
Office Time+	644	569	53	35%	----
Scheduling Meetings	26	28	65	2%	3%
Senior Staff Time/Meetings	72	64	53	4%	6%
Budget Meetings	18	10	32	1%	1%
Personnel Interviews	34	27	48	2%	3%
IPR*- Drug Issues	42	25	35	2%	2%
IPR - Media/Events	206	147	43	9%	14%
Media Affairs/Events/Trips	434	413	57	26%	40%
Meetings: Government Leaders	164	144	53	9%	14%
Meetings: Community Relations	42	36	52	2%	3%
Meetings: Medical/Drug Experts	118	87	44	5%	8%
Meetings: Law Enforcement Experts	48	61	76	4%	6%
Total		1611		100%	100%

⁺ Time spent reviewing and studying material.

^{*} Interim Progress Review – military term, ONDCP interviews.

³⁸ This number represents media interviews, speeches and appearances that do not involve dialogue with event representatives or experts (40%), and preparation for Media/Events (14%). On page 11 of the ONDCP response, ONDCP states that “the assertion that 54 percent of the Director’s non-office activities are media events is absurd.” The project team emphasizes that the original text refers to “Media/Events,” rather than “media events.” The project team also supports its original statement based on the minute by minute analysis of the Director’s Schedule calendar.

³⁹ This number is the sum of "IPR-Drug Issues" and "Meetings: Medical/Drug Experts" (see Table 11).

⁴⁰ This analysis does not include travel time to and from events, which is also significant.

⁴¹ Appearances and speaking engagements that did not involve dialogue with event representatives or experts were included in this category.

Analysis of Media/Events and Policy Affairs

Using the Director's calendar, we categorized and charted the Media/Events activities to examine the average time allocated to specific Media/Event categories on the schedule: type of activity, number of occurrences, activity's total hours, and average number of minutes per occurrence (see Table 12).

Based on our analysis, the Director makes an estimated 386 public appearances per year, via addresses/remarks/speeches and media interviews/tapings/videos. He spends an estimated 290 hours at these public appearances.⁴² The Director also attends approximately 90 media-related meetings/briefings/working meals, spending an additional 120 hours per year.

Table 12: Director's Media/Event Schedule

<i>Media Affairs Category (Activity Type)</i>	<i>Number of Events/Activities</i>	<i>Estimated Hours</i>	<i>Percent of Time/Category</i>	<i>Average Time (Min/Event)</i>
Address/Remarks/Speech	118	162	29%	82
Interviews/Tapings/Videos	268	129	23%	29
Sub-Total	386	290	-----	-----
Meetings/Briefings/Working Meals	70	93	16%	80
Attends/Visits	20	28	5%	85
Sub-Total	90	121	-----	-----
IPR* - Media/Events	206	147	26%	43
Total—Media Affairs	682	560	100%	-----
Percentage of Total Time	54%			

* Interim Progress Review – military term, ONDCP interviews

The Director also attends approximately 250 drug-related (medical/drug, IPR's, community relations, law enforcement) meetings, at approximately 210 hours per year. We understand that the Acting Deputy Director of ONDCP handles many medically-oriented and scientifically-oriented meetings and public appearances as well.⁴³

⁴² This does not include travel time to and from events.

⁴³ The Deputy Director's schedule, which is significant but not listed here, is also supported by the staff.

A representative table of our analysis is presented below.

Table 13: Policy-Related Affairs

<i>Policy-Related Affairs Category (Activity Type)</i>	<i>Number of Activities</i>	<i>Estimated Hours</i>	<i>Percent of Time/Category</i>	<i>Average Time (Min/Activity)</i>
Senior Staff Time/Meetings	72	64	15%	53
Budget Meetings	18	10	2%	31
Meetings: Government Leaders	164	144	34%	52
IPR* - Drug Issues	42	25	6%	35
Meetings: Community Relations	42	36	8%	51
Meetings: Medical/Drug Experts	118	87	20%	44
Meetings: Law Enforcement Experts	48	61	14%	76
Subtotal	250	209	-----	-----
Total—Policy Related	504	427	100%	-----
Percentage of Total Time	43%			

* Interim Progress Review – military term, ONDCP interviews

The activities that support the Director’s Schedule constitute an operational business process with a level of effort that may not have been readily transparent to external stakeholders. With significant resources dedicated to supporting this schedule and with the addition of programmatic charges by Congress in recent years, there has been an erosion in ONDCP’s ability to efficiently conduct its primary objectives of policy, coordination, and compliance.

3.3 FORMAL GUIDANCE TO GOVERN THE COMPONENTS AND OFFICES BEYOND THE CURRENT ONDCP DIRECTORSHIP WAS NOT AVAILABLE

Given that authority and institutional knowledge are concentrated centrally with the current Director and that the depth of the knowledge base appears to be weakened and vulnerable, the project team attempted to address the issue of the continuity of ONDCP beyond the current Directorship. As an official of the United States Government, the Director of ONDCP is a steward of the public trust. It is incumbent upon the Director, therefore, to provide for the institutionalization and continuity of the organization beyond his or her tenure. We requested formal documentation that would give guidance on the operations and activities of the components and functional offices of the organization beyond its current term.

3.3.1 ONDCP-Specific written policies and procedures were not available

The project team requested ONDCP-specific written policies and procedures that would give guidance on component and functional office activities. These documents would provide guidance in order to avoid conflicts of interest and would serve to govern the organization beyond the current Directorship. In response to the original request, we were informed that specific policies and procedures for these areas are not available.⁴⁴ (In ONDCP's response to this report, ONDCP clarified that they do have ethics materials and that they closely follow EOP guidance.) The main document that outlines the missions, position descriptions, and responsibilities of the entities within ONDCP has not been formally updated since May 1996 when ONDCP had approximately 40 individuals on the payroll.

It is essential for organizations to have standardized policy and procedure documents to ensure the integrity, viability, and continuity of the organization. These documents include, for example, staff and process manuals, position descriptions, office descriptions, office codes of conduct, and regulation documents. Without written policies and procedures that would preserve and manage the knowledge of the organization, an effective transition under the next Directorship is not assured.

3.3.2 The Organization Charts provided are temporary and in conflict with each other

The purpose of organizational structure in business operations is to create an environment that supports the staff members' efficient execution of the mission and of the core business processes. Without a rigorous understanding of how misalignments in an organization's structure can produce unintended disincentives to achieving desired behaviors, agency and department heads could inadvertently sabotage their own efforts toward efficiently executing the mission. If, for example, an individual has a confusing chain of command that causes her to have burdensome reporting requirements, she may become disgruntled or may not be able to complete all of her other responsibilities. Establishing the correct organizational setting becomes very important to the optimal execution of service delivery.

Organizations use charts to clearly communicate authorities, responsibilities, and reporting structures to internal and external stakeholders. We requested a copy of ONDCP's organizational chart. We were provided with three distinct versions of the ONDCP "Proposed" Organization Chart that were dated within weeks of each other: February and March 2000.⁴⁵ All three charts conflict with reality and with each other.

⁴⁴ On page 9 of the ONDCP response, ONDCP states that the conclusion referenced above "is wrong." The project team formally requested access to ONDCP-specific policies and procedures governing the organization during the week of April 17, 2000. The project team was informed that ONDCP-specific procedures and policies do not exist.

⁴⁵ Original versions of ONDCP Organization Charts are included in Appendix C.

The existence of several conflicting charts communicates confusion to all stakeholders. Inconsistent communication tools are likely indicators that there are situations where resources are not being fully optimized.

3.3.3 Other Relevant Business Practices - Policies and Procedures.

All the organizations we interviewed had some type of internal policy and procedure document. Examples of staff manuals and regulation documents can be found at the FDA and at America's Promise. The staff manual guides describe the business processes of the organization and the specific offices. FDA's regulation guides, for example, include a Compliance Policy Guide which standardizes the way FDA issues regulatory guidance across the agency and a Good Practice Policy which gives the inspectors a checklist of instructions they should follow when inspecting food and drug organizations. These internal policies must be consistent with the external policy guidance that they hand over to their inspectors and inspected companies so that regulations are completed according to policy.

3.4 SUMMARY OF HR AND ORGANIZATIONAL ANALYSIS

In summary we have observed that although the organization is generally sophisticated and accomplished, there is a shortage of investment and staff resources to accomplish all of the activities and objectives imposed upon it by the Congress, the Director, and the legislative charter. The shortage is equally attributable to the increase in workload associated with new activities, supporting the Director's priorities, and the inability of the organization to recruit and retain qualified staff.

In the course of this evaluation, the project team identified the following issues that raise a concern about the future continuity of ONDCP: 1) authority is centralized and a significant amount of institutional knowledge resides with the current Director; 2) the knowledge base has been eroded by recruitment and retention problems in recent years; 3) relative to its size, an inordinate number of leadership and professional staff positions (up to 38%) may be vulnerable in calendar year 2000; and 4) ONDCP-specific written guidance addressing the activities within the components and functional offices that would contribute to the continuity of the organization appears to be largely absent.

4.0 BUDGETING, ACCOUNTING, AND FINANCIAL REPORTING SYSTEMS AND INTERNAL CONTROLS

As part of this review, the project team was asked to provide organizational solutions and recommendations for improving the performance, efficiency, and effectiveness of ONDCP's internal controls. In the course of our review, the project team conducted a number of interviews with key financial management personnel and also with key stakeholders. We complemented the interviews with general and web-based research. The combination of interviews and research provided a foundation for the determination of our findings. In addition, we also developed our approach based on the findings, recommendations, and conclusions drawn from other areas of the management review.

In looking at internal financial controls, we focused on the following areas:

- the risk of a breakdown in internal financial controls within ONDCP;
- levels of discretionary and non-discretionary operational budgetary funding;
- impact of the progressive increase in workload and operational tempo on the Financial Management Office (FMO); and
- potential for improvement through reengineering working practices and introducing new technology.

4.1 INTERNAL CONTROL RISK

To evaluate the risk of a breakdown in internal financial controls within ONDCP the project team challenged the roles, responsibilities, and ways of working against an internal controls framework. This framework consists of six key internal controls that we would expect to be in place in the financial office of any organization. The framework and our findings are presented in the Summary Analysis of ONDCP Internal Financial Control Risks in Appendix D.

ONDCP outsources many of its financial operational activities, such as procurement and payment of vendors, contract management, and payroll. ONDCP employs the Administration Office of the EOP (AOEOP) for reviewing and processing financial transactions. In addition, ONDCP uses the contracting capabilities of the Department of Health and Human Services (HHS) for large and complex Media Campaign contracts.⁴⁶

⁴⁶ Please note that a review of internal financial controls of AOEOP or HHS has not been undertaken as it is outside of the scope of this management review.

ONDCP still has approval authority over these contracts because the Director approves every initiative. In addition, there is a management and contract specialist who acts as a liaison between HHS and other contractors involved in the Media Campaign. Therefore, ONDCP has oversight control over the actual execution of these contracts. ONDCP recognizes the limitations of its own organization and the capabilities of others, and by outsourcing these activities, ONDCP brings inherent strength in internal financial controls.

As can be seen from the review of internal controls, on the whole ONDCP appears to be at a low to medium risk of any breach in confidence that the organization is not adhering to sound and prudent internal financial controls. We believe, however, that there is an area that should warrant further attention. There is a potential internal control risk arising from not adequately matching the increased responsibilities and workload with the required investment in the financial management infrastructure. The potential implications of not mitigating the risk of a breakdown in the management, supervisory, and personnel internal controls are:

- Lack of quality assurance over work products due to time pressures;
- Inappropriate levels of authority, delegation, and decision-making, given underlying roles, responsibilities, and competencies; and
- A decline in customer service from the FMO.

We classified this as a medium risk. Should the investment not be made, however, there would be increased exposure and a greater likelihood of a breakdown in this area.

4.2 DISCRETIONARY AND NON-DISCRETIONARY FUNDING AVAILABLE TO THE DIRECTOR AND ONDCP SENIOR MANAGEMENT

We have provided an analysis of the discretionary funding available to the Director and his senior management team. This analysis is detailed in Table 14 below.

*Table 14: Analysis of Discretionary and Non-discretionary Funding*⁴⁷

<i>Budget Line Item</i>	<i>Discretionary \$million</i>	<i>Non-Discretionary \$million</i>	<i>Notes</i>
Personal Services		10.40	\$0.5 million was reprogrammed to Other Services because not able to fill all 124 FTE positions
Travel and Transportation of Things	0.72		
Rents, Comm., & Utilities		2.54	
Printing & Reproduction	0.45		
Other Services	4.71		Used \$0.5 million for contractual services procured from HHS
Supplies, Materials and Equipment		0.30	
Model State Drug Law		1.00	
Policy Research		1.10	
CTAC		29.00	Mandated by Congress, and “passed though” by ONDCP
HIDTA program		186.50	Mandated by Congress, and “passed through” by ONDCP
Special Forfeiture Fund (Media Campaign funds)		216.50	Mandated by Congress, and “passed though” by ONDCP

1999 Total Budget*	5.88	447.34
Re-programming Total	0.50	(0.50)
Percentage of Total Budget	1.4%	98.6%

* Budget numbers in table may be rounded.

⁴⁷ Based upon the FY 1999 Budget Submission.

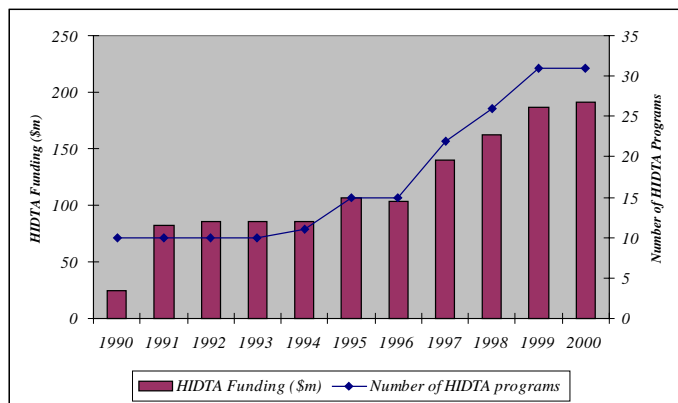
Table 14 show that less than 2% of the current funding is discretionary. In addition, the absolute monetary value is nominal at \$6.4 million per annum -- miniscule against the annual cost of the entire federal government. The low dollar value of discretionary funds, combined with our analysis indicating that there is a low to medium risk of a breach in financial internal controls provided us with enough evidence to support our findings. The project team then redirected the focus of the review to the assessment of other areas of management.

4.3 THE IMPACT OF THE PROGRESSIVE INCREASE IN WORKLOAD AND OPERATIONAL TEMPO WITHIN THE FINANCIAL MANAGEMENT OFFICE

The HIDTA program has received additional funding over the last several years through the approval of Congress. This increase in funding generated additional workload. The increase in program workload has not been matched with an investment in the FMO infrastructure; thus, the workload has been handled through an increase in the “operational tempo” of the organization in order to gain more results from existing resources.

As can be seen from the graph in Figure 11, the level of funding for the HIDTA program has increased significantly since the appointment of the current Director. The number of HDTAs has more than doubled from 15 in 1996 to 31 in 2000, with funding rising from \$102.9m to \$191.2m in the same period.

Figure 11: Graph Showing the HIDTA Funding Levels and Number of Programs Over Time



Significantly, the number of FMO staff assigned to manage the program has remained constant at two people.

Over the last four years, two staff members have been managing approximately 1,400 individual HIDTA budgets, requiring preparation and validation, maintenance, reprogramming, and financial reporting. Their only functional support comes from the Florida HIDTA Center, which submits invoices for all HIDTA purchases. One FMO staff member at ONDCP must still review the purchase invoices and send them to the EOP Office of Administration for payment processing. The workload associated with the manual processes has increased by a significant factor, with the more than doubling of the number of HDTAs. ONDCP has not recruited additional staff or developed enabling technologies to support the increase in workload.

4.4 POTENTIAL FOR IMPROVEMENT BY REENGINEERING WORKING PRACTICES AND INTRODUCING NEW TECHNOLOGY.

In our review the project team identified potential weaknesses in internal controls, generally centered on a lack of investment in the FMO infrastructure to meet the increase in workload. To address these weaknesses, and to mitigate further risk, ONDCP could reengineer working practices and introduce new technology. The HIDTA program can be used as an example to illustrate these opportunities.

4.4.1 Reengineering ways of working

The FMO is required to assist the HIDTA funding recipients in preparing detailed budgets. The FMO is also required to monitor any subsequent reprogramming of these budgets. Any simple reprogramming which merely moves funds from one object class to another within that individual HIDTA is approved by the appropriate HIDTA Director. The approved reprogramming is then submitted for the ONDCP HIDTA Program Office to review and for the FMO staff to process the reprogramming transaction. A more complex reprogramming involving movement of funds between initiatives and/or agencies (to include reprogramming of funds from federal budgets to grants, from grants to grants, or from federal budgets to federal budgets) requires approval of the appropriate HIDTA Director and/or HIDTA Executive Committee, the ONDCP HIDTA Director, and the FMO staff, who in turn must process the reprogramming transaction. To date, there have been a total of 2,000 reprogramming transactions.

The constant reprogramming of funds drives the workload through the maintenance and update of the budget. The success and growth of the HIDTA program requires complementing growth of business practices and adequate oversight. Reengineering ways of working could relieve unnecessary workload for the FMO. For example, devolving control and delegating processing for simple reprogramming within the HDTAs to the HIDTA Directors and regional staff could result in a potential reduction in the workload burden of the FMO, and could also make the HIDTA Directors more accountable and empowered in applying their funds, measuring outcomes, and reporting budget adjustments.

4.4.2 Investing in technology

Accounting and budgeting for the growing number of geographically dispersed HDTAs are supported by a Microsoft Access database. The characteristics and attributes of user requirements for fiscal control, program management, and information reporting lend themselves to improvement through new technology. For example, a web-based budgeting system could support real-time HIDTA program management, providing improved inherent internal financial controls, and providing the visibility of program information for users and management alike.

Little effort is needed to discover opportunities for improvement through reengineering working practices and introducing new technology. It must be stressed that these

opportunities have also been recognized by the FMO. The ability of the FMO to capitalize on these opportunities, however, is being hindered by the day-to-day operational tempo and the lack of investment funding.

*Appendix A: ONDCP Employees Interviewed**

Title, Office
Director
Deputy Director
Chief of Staff
Deputy Chief of Staff
Assistant for Personnel
Asst. Deputy Director, Bureau of State and Local Affairs
Acting Deputy Director, Supply Reduction
Asst. Deputy Director, Demand Reduction
General Counsel, Office of Legal Counsel
Acting Director, Office of Programs, Budget, Research & Evaluation
Director, Financial Management Office
Director, Counter-Drug Technology Assessment Center
Director, Office of Legislative Affairs
Director, Office of Intelligence
Senior Advisor & Chief, Media Campaign
Director, Office of Administration
Acting Director, Office of Public Affairs
Director, Office of Strategic Planning
Asst. Director, Office of Public Affairs
Executive Assistant to the Director
Budget Analyst, Financial Management Office
Budget Analyst, Financial Management Office
Budget Analyst, Financial Management Office
Budget Analyst, Financial Management Office
Branch Chief, Production & Trafficking

* Participation in the interview phase of the project does not indicate knowledge or concurrence with the information presented in this report.

Appendix B: The External Organizations Researched and/or Interviewed in the Public and Private Sector*

Senior manager interviews with the following organizations:

United Kingdom Anti-Drug Coordinator Unit
Office of National AIDS Policy
America’s Promise
American Heart Association
American Medical Association
Food and Drug Administration
Bureau of Alcohol, Tobacco, and Firearms
General Electric
PwC Human Resources
Office of U.S. Trade Representatives

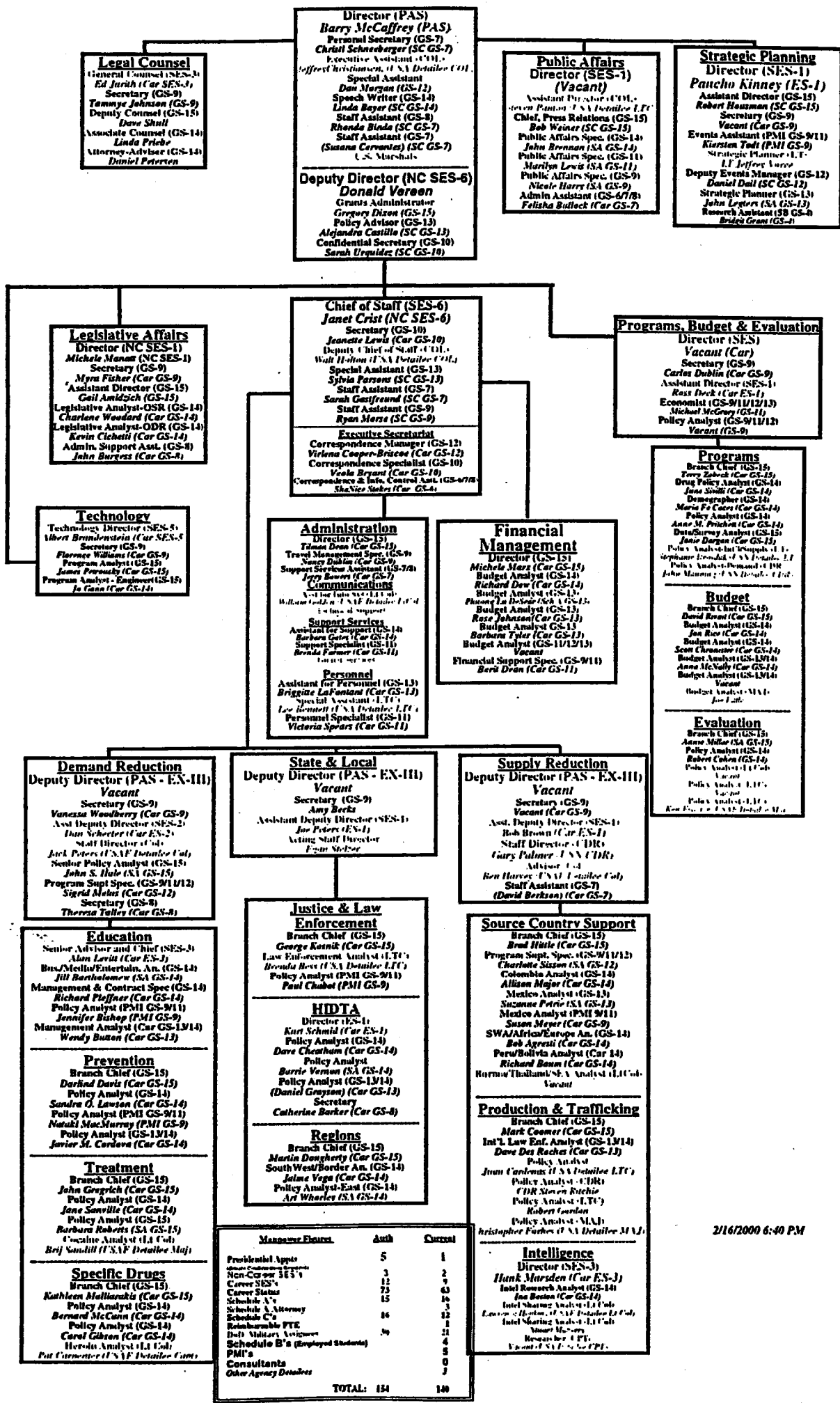
Research on the following organizations:

Business Software Alliance
Immigration and Naturalization Service
US Conference of Mayors
US Surgeon General
Department of Defense - Legislative Affairs
Health and Human Services

* Participation in the interview phase of the project does not indicate knowledge or concurrence with the information presented in this report.

Appendix C: Three Original Versions of ONDCP Organization Charts

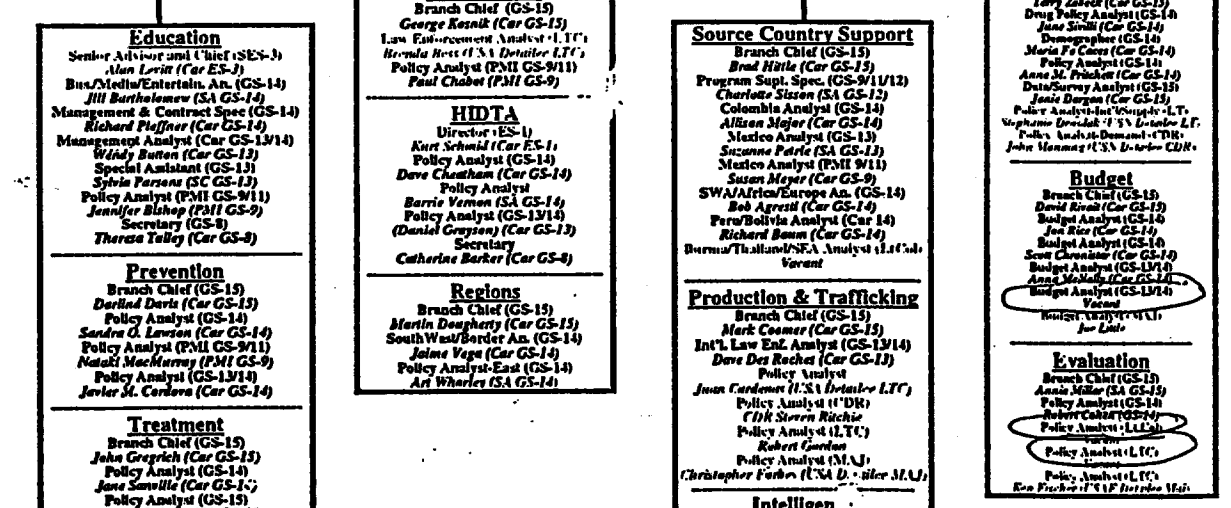
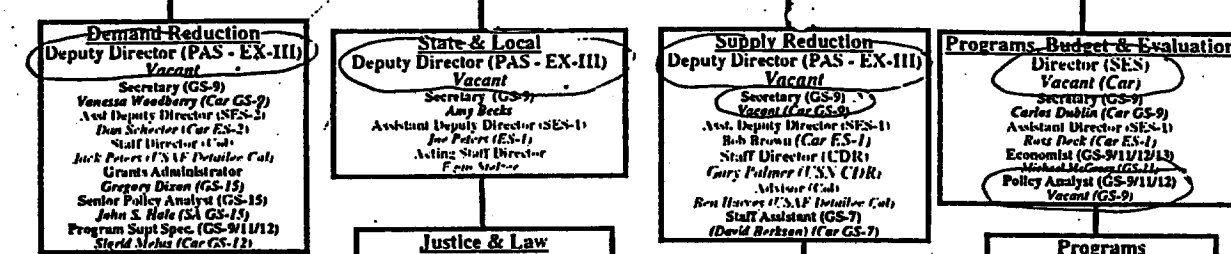
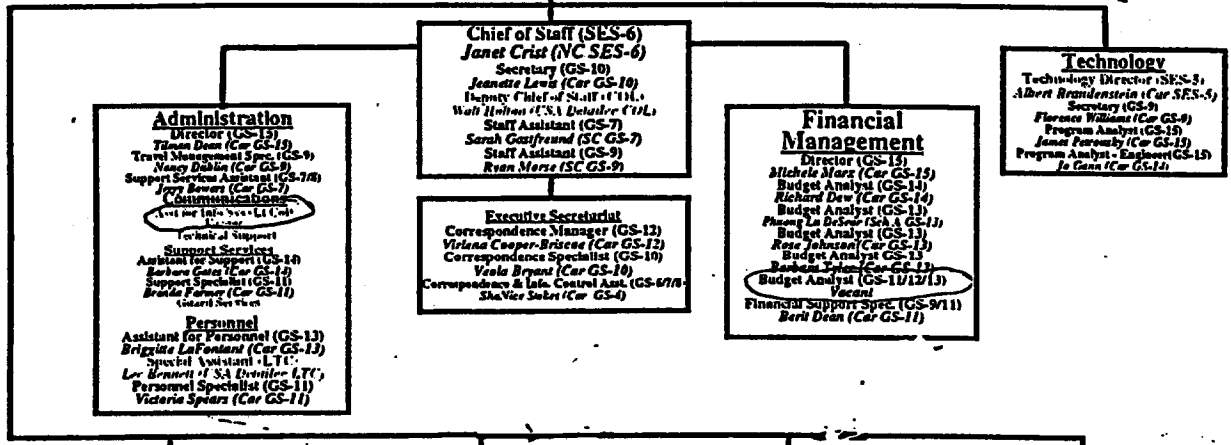
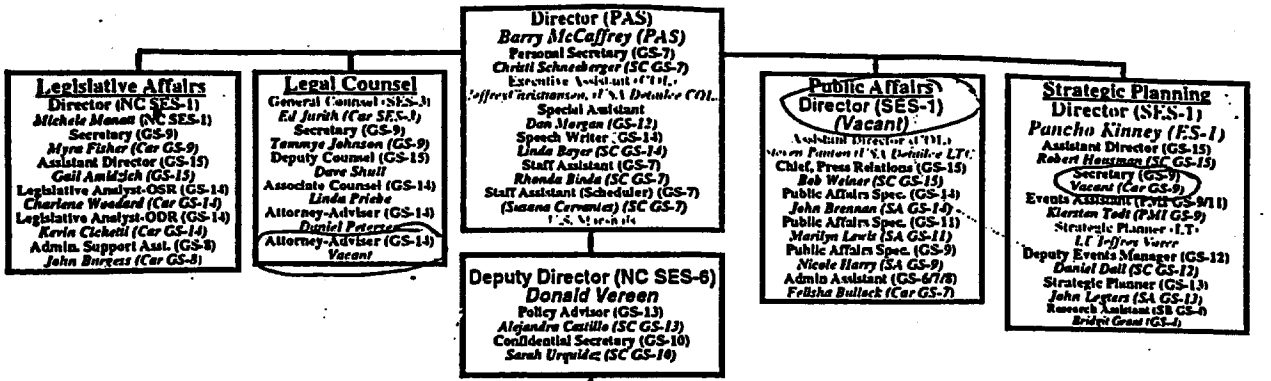
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Managerial Hours	Staff	Current
Presidential Appointments	5	1
Non-Career SES's	3	2
Career SES's	12	7
Career Staff	73	43
Schedule A's	15	16
Schedule C's	3	3
Reimbursable PTE	16	12
Intl. Voluntary Assignees	30	21
Schedule B's (Employed Students)	4	4
PMI's	8	8
Consultants	0	0
Other Agency Detachees	0	0
TOTAL:	154	140

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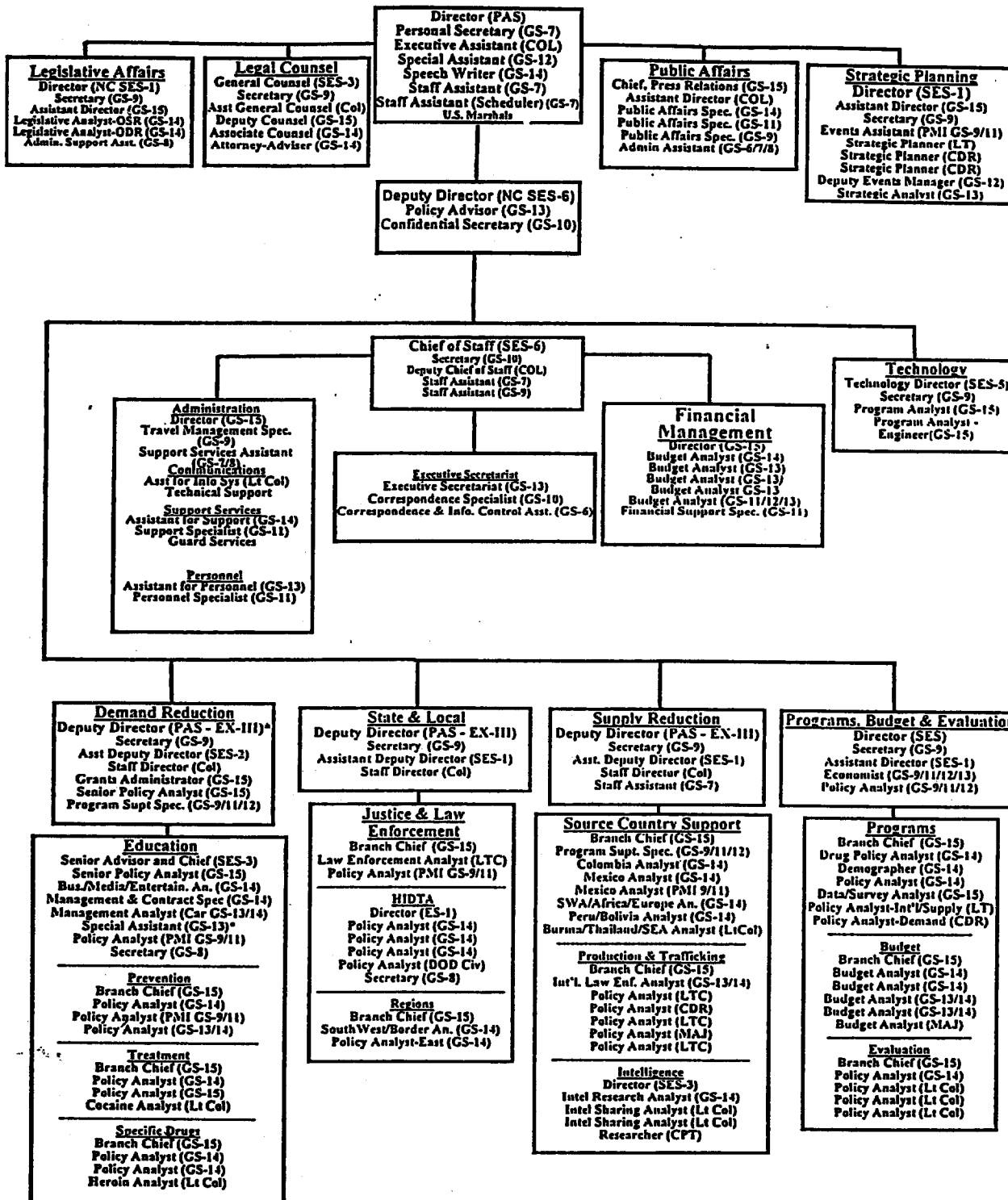
PROPOSED ONDCP ORGANIZATION



Management Focus	Auth	Current
Presidential Appnt	5	1
Non-Executive SES's	3	2
Career SES's	12	9
Career Status	23	23
Schedule A's	15	15
Schedule A Attorney	1	1
Schedule C's	16	12
Rehabilitable FTE	1	1
D-D Military Appointment	24	21
Schedule B's (employed Status)	4	8
PMT's	0	0
Consultants	0	0
Other Agency Detachees	0	0
TOTAL:	154	140

PROPOSED ONDCP ORGANIZATION

3/3/2000



Appendix D: Summary Analysis of ONDCP Internal Financial Control Risk

Internal control	Internal control description	What we observed	Evaluation of risk
<i>Segregation of duties</i>	Clear segregation of duties for all areas of the financial management cycle; for example, procurement and vendor payment authority are separate within the organization.	<ul style="list-style-type: none"> ▪ There are clear segregation of duties within the Financial Management Office (FMO) and also within the infrastructure of ONDCP, particularly between the Office of Administration and the FMO. 	Very Low
<i>Organizational</i>	Clear roles and responsibilities within the organization, with segregated organizational duties; for example, financial management of programs is separate from program management.	<ul style="list-style-type: none"> ▪ Within ONDCP, the FMO is a separate organizational entity, reporting directly to the Director. ▪ In addition, as ONDCP is an EOP agency, there is an additional reporting requirement to EOP financial management staff. ▪ EOP Financial Management staff ensure that financial and contractual transactions are not considered improper or unethical, and that they will pass “the Washington Post test.” ▪ The recent centralization of FMO staff has removed staff from the day-to-day contact with the management of the programs. While this may improve segregation of duty internal control, it otherwise decreases organizational oversight. 	Low to medium, but see observations on Personnel controls

Internal control	<i>Internal control description</i>	<i>What we observed</i>	<i>Evaluation of risk</i>
<i>Authorization</i>	All transactions are subject to the correct and proper level of authorization; for example, procurement approval limits are in place and adhered to.	<ul style="list-style-type: none"> ▪ All financial transactions, including budget preparation and execution, and procurement and payment of suppliers are authorized both internally within ONDCP and also by EOP staff members. ▪ Budget preparation, major contracts, and other significant financial transactions by size or content are all subject to sign-off by the Director. 	Very low
<i>Accounting</i>	Accounting controls are in place; for example, general ledger and cash accounts are reconciled on a timely and periodic basis.	<ul style="list-style-type: none"> ▪ EOP maintains the financial systems. ▪ Internal budgeting and accounting systems for the HIDTA program, for example, are reliant upon either manual processes or unsophisticated automation through Access databases. ▪ While the Access databases may be considered “fit for purpose,” the FMO has not received the required investment in Information Technology for custom systems to support program delivery, or for the use of web-based solutions that would improve operations and customer service of the HIDTA program. 	Medium

Internal control	<i>Internal control description</i>	<i>What we observed</i>	<i>Evaluation of risk</i>
<i>Management, Supervisory, and Personnel</i>	Competent and experienced staff members are performing financial management activities. Staff members are subject to appropriate levels of management and supervision; for example, managers are providing quality assurance over financial management work products.	<ul style="list-style-type: none"> ▪ The staff members in the FMO are experienced and competent to perform their duties, based on their length of service and qualifications. ▪ The HIDTA Program has received an increase in funding, through the approval by Congress. This increase in funding generates additional workload. ▪ Increased program workload has not been matched with an investment in the FMO infrastructure, rather the workload has been absorbed by an increased “operational tempo” in order to gain more results from existing resources. 	Medium
<i>Physical</i>	All assets are protected securely	<ul style="list-style-type: none"> ▪ Not applicable 	Not applicable

Appendix E: U.S. Department of Justice Office of Legal Counsel

Memorandum for Agency General Counsels
Re: General Guidance on the Federal Vacancies Reform Act of 1998
March 22, 1999

Please see the pages to follow



U.S. Department of Justice
Office of Legal Counsel

Office of the Deputy Assistant Attorney General

Washington, D.C. 20530

March 22, 1999

MEMORANDUM FOR AGENCY GENERAL COUNSELS

From: Beth Nolan *Beth Nolan*
Deputy Assistant Attorney General

Re: General guidance on the Federal Vacancies Reform Act of 1998

On October 21, 1998, the Federal Vacancies Reform Act of 1998 ("Vacancies Reform Act" or "Act") was signed into law.¹ The Vacancies Reform Act replaces the old Vacancies Act and alters the way in which vacancies in presidentially appointed, Senate-confirmed offices within the executive branch may be filled on a temporary basis. The following Q&As are intended to provide general guidance on the Vacancies Reform Act. If you have questions about this guidance or specific questions about the application of the Act, please contact Jeff Singdahlsen, Attorney-Adviser, at (202) 514-1858.

Table of Subject Areas Covered by these Questions and Answers:

What is the effective date of the Act?	Q1
How does the Act treat vacancies that arose before the effective date?	Q2
What constitutes a vacancy?	Q3
Which offices are covered by the Act?	Q4 - Q9
Who can serve as an acting officer?	Q10 - Q21
What are the time limits on an acting officer's service?	Q22 - Q38
What enforcement provisions apply under the Act?	Q39 - Q49
What are the reporting requirements under the Act?	Q50 - Q53

¹ See Pub. L. No. 105-277, Div. C, tit. I, § 151, 1998 U.S.C.A.N. (112 Stat. 2681-701) (to be codified at 5 U.S.C. §§ 3345-49d). For ease of reference, further citation to the Vacancies Reform Act will refer only to the section at which the provision is to be codified.

- Q1. When did the Vacancies Reform Act become effective?**
A. The Vacancies Reform Act took effect on November 20, 1998.
- Q2. Does the Vacancies Reform Act affect offices that became vacant before November 20, 1998?**
A. For offices that became vacant before November 20, 1998, the only provision of the Vacancies Reform Act that applies is the limitation on how long someone may serve in an acting capacity for that office. Further, that time limit is the only part of the Act that applies even if no one is designated to perform the duties of the office on a temporary basis until after November 20, 1998, as long as the office was vacant before that date. (For a more complete discussion of the Vacancies Reform Act's application to offices that became vacant before November 20, 1998, including the calculation of the time limits that apply to acting officers filling those offices, see Memorandum for Agency General Counsels, from Beth Nolan, Deputy Assistant Attorney General, Office of Legal Counsel, Re: Initial Guidance on the Federal Vacancies Reform Act of 1998 (Nov. 13, 1998).)

In contrast, the full scope of the Vacancies Reform Act applies to an office that becomes vacant on or after November 20, 1998, including the Act's restrictions on who may serve in an acting capacity and on which duties of the office may be performed by someone other than an acting officer serving in conformity with the Act.

- Q3. When does an office become "vacant" for purposes of the Vacancies Reform Act?**
A. Under the Vacancies Reform Act, a vacancy arises when a relevant officer "dies, resigns, or is otherwise unable to perform the functions and duties of the office." The full range of what would constitute being "otherwise unable to perform the functions and duties of the office" is unspecified in the Act, except that the Act provides that "the expiration of a term of office is an inability to perform the functions and duties of such office." (5 U.S.C. § 3345(c)(2)) In floor debate, Senators said, by way of example, that an officer would be "otherwise unable to perform the functions and duties of the office" if he or she were fired; imprisoned, or sick. See 144 Cong. Rec. S12,823 (daily ed. Oct. 21, 1998) (statement of Sen. Thompson); *id.* at S12,824 (statement of Sen. Byrd). The Office of Legal Counsel can assist you with any questions about whether an office is vacant for purposes of the Act.
- Q4. Which offices are covered by the Vacancies Reform Act?**
A. Generally, the Vacancies Reform Act applies to any office within an Executive agency to which appointment is required to be made by the President, by and with the advice and consent of the Senate (a "PAS position"). The Act, however, excludes from its coverage a few specified offices. The Act also recognizes that a number of PAS positions are covered by other statutes that specifically address how the office is to be filled on a temporary basis. See Questions 6-8 for a discussion of the PAS positions

expressly excluded from coverage by the Act and of the statutes that continue to apply to filling certain vacant PAS positions on a temporary basis.

- Q5. What is an "Executive agency" within the meaning of the Vacancies Reform Act?
- A. In short, "Executive agency" as used in the Vacancies Reform Act includes almost the entire executive branch. Under the Vacancies Reform Act, Executive agency has the same meaning given to that term in 5 U.S.C. § 105 (1994), except that the Act also expressly includes within the definition of Executive agency the Executive Office of the President and expressly excludes from that definition the General Accounting Office. Section 105 of Title 5 defines "Executive agency" to mean "an Executive department, a Government corporation, and an independent establishment." The "Executive departments" are listed in 5 U.S.C. § 101 (1994 & Supp. II 1996); "Government corporation" is defined in 5 U.S.C. § 103 (1994) as "a corporation owned or controlled by the Government of the United States"; and "independent establishment" is defined in 5 U.S.C. § 104 (1994), in relevant part, as "an establishment in the executive branch (other than the United States Postal Service or the Postal Rate Commission) which is not an Executive department, military department, Government corporation, or part thereof, or part of an independent establishment."²
- Q6. Are there executive-branch PAS positions that are not covered by the Vacancies Reform Act?
- A. Yes, the Vacancies Reform Act expressly excludes certain offices from coverage under the Act. The Act does not apply to any PAS who is (1) a member of a "board, commission, or similar entity that is composed of multiple members and governs an independent establishment or Government corporation;" (2) a "commissioner of the Federal Energy Regulatory Commission;" (3) a "member of the Surface Transportation Board;" or (4) a judge on "a court constituted under article I of the United States Constitution." (5 U.S.C. § 3349c)
- Q7. If a position meets the definition of a covered office under the Vacancies Reform Act, is the Act necessarily the exclusive means of temporarily filling the vacancy?
- A. The Vacancies Reform Act was intended in most cases to be the exclusive means for filling a vacant executive-branch PAS position (i.e., having a person designated as the "Acting" officer). The Act also recognizes, however, the continued applicability of certain other mechanisms for filling PAS positions on a temporary basis. In particular, the Act expressly recognizes that a PAS position may be filled temporarily through

² Although the military departments are defined separately in 5 U.S.C. § 102 (1994), the Committee Report indicates that they are nonetheless intended to be covered by the Act. See S. Rep. 105-250, at 12 (1998) ("Because the Department of Defense is a department within the meaning of 5 U.S.C. § 101, the military departments, which are located in the Department of Defense, are also covered by this Act . . .").

(a) a recess appointment and (b) a statutory provision that "expressly [i] authorizes the President, a court, or the head of an Executive department, to designate an officer or employee to perform the functions and duties of a specified office temporarily in an acting capacity; or [ii] designates an officer or employee to perform the functions and duties of a specified office temporarily in an acting capacity." (5 U.S.C. § 3347(a)) In addition, § 3349b of the Act provides that the Act does not alter the application of a statute that authorizes a person to continue to serve in any office - (1) after the expiration of the term for which that person is appointed; and (2) until a successor is appointed or a specified period of time has expired." (5 U.S.C. § 3349b) The Act makes clear, however, that an agency's organic statute does not provide authorization for filling PAS positions on a temporary basis. See Question 9.

Q8. Is there a list of the statutes that continue to authorize the temporary filling of a vacant PAS position?

A. The Report of the Committee on Governmental Affairs, United States Senate, reporting out the Vacancies Reform Act lists forty such statutes. See S. Rep. 105-250, at 16-17. This list is not comprehensive, however, and each Executive agency will need to determine which statutes apply to its PAS positions. OLC can assist you with any questions about the continued applicability of specific statutes.

Q9. May Executive agencies continue to rely on their organic authorities to designate acting officers for positions covered by the Vacancies Reform Act?

A. No. The Vacancies Reform Act provides that "[a]ny statutory provision providing general authority to the head of an Executive agency . . . to delegate duties statutorily vested in that agency head to, or to reassign duties among, officers or employees of such Executive agency, is not" the type of statutory provision that remains a separate, viable authority for filling a vacant PAS positions on a temporary basis. (5 U.S.C. § 3347(b))

Q10. Who may serve in an acting capacity for a vacant executive-branch PAS position under the Vacancies Reform Act?

A. There are generally three categories of people who may serve in an acting capacity for vacant PAS positions under the Vacancies Reform Act: (1) first assistants to the respective vacant offices, (2) PAS officers designated by the President, and (3) certain senior agency employees designated by the President. (5 U.S.C. § 3345(a))

Q11. Who is the first assistant to the office?

A. The Vacancies Reform Act does not define the term "first assistant." The Committee Report, however, indicates that establishing first assistants by statute or by regulation would be sufficient under the Act. See S. Rep. 105-250, at 12. There is also some support for a broader definition of a first assistant. See 144 Cong. Rec. S11,037 (daily ed. Sept. 28, 1998) (statement of Sen. Lieberman) (identifying first assistant as "a term of art that generally refers to the top deputy" to the position). At a minimum, a

designation of a first assistant by statute, or by regulation where no statutory first assistant exists, should be adequate to establish a first assistant for purposes of the Vacancies Reform Act. Others not designated by statute or regulation also may qualify as first assistants under the Act, but there is less explicit support in the legislative history for this proposition.

Q12. How does the first assistant begin to serve as an acting officer for a vacant position?

A. Under the terms of the Vacancies Reform Act, if there is a first assistant to the vacant office, that first assistant begins to serve as the acting officer immediately and automatically upon the occurrence of the vacancy. (5 U.S.C. § 3345(a)(1))

Q13. If someone is designated to be first assistant after the vacancy occurs, does that person still become the acting officer by virtue of being the first assistant?

A. While the Vacancies Reform Act does not expressly address this question, we believe that the better understanding is that you must be the first assistant when the vacancy occurs in order to be the acting officer by virtue of being the first assistant. While someone who is not the acting officer when the vacancy occurs would not qualify to be the acting officer by virtue of being the first assistant, the President may still designate that person to serve as the acting officer if he or she meets the qualifications for serving as an acting officer under a different provision of the Act. See Questions 17-20.

Q14. Are there limitations on the ability of a first assistant to serve in an acting capacity?

A. In addition to the time limit on the length of service of an acting officer, see Question 23, the Vacancies Reform Act also limits a first assistant's ability to be the nominee for the office and, at the same time, to continue to serve as the acting officer for that office. If the President nominates the first assistant for the vacant office, the first assistant may continue to serve as the acting officer for that position only if (1) the first assistant served as first assistant for at least ninety days (they need not be consecutive days) during the 365-day period that preceded the beginning of the vacancy, or (2) the office of first assistant is itself a PAS position and the Senate approved the appointment of that first assistant to the first assistant's position. (5 U.S.C. § 3345(b))

Q15. Does this limitation on the ability to be both the nominee and the acting officer apply only to first assistants, or does it also apply to persons who qualify to serve as an acting officer under other provisions of the Vacancies Reform Act?

A. The limitation on the ability to be the nominee for the vacant position and to serve as the acting officer applies only to persons who serve as acting officers by virtue of having been the first assistant to the office. If someone is serving in an acting capacity on another basis, i.e., as a PAS or a senior agency employee designated by the President, this particular limitation does not apply. However, because senior agency employees may not be designated by the President unless they have served in the

agency for ninety days within the year preceding the vacancy, *see* Question 20, a similar time limitation in fact applies to anyone who is not already in a PAS position.

- Q16. If the first assistant also qualifies to serve in an acting capacity under another provision of the Vacancies Reform Act, does the limitation on the ability to be both the nominee and the acting officer apply?
- A. If the first assistant also qualifies to serve in an acting capacity under another category, he or she may be designated under that category. Accordingly, if the first assistant meets the requirements to be an acting officer based on his or her status as a senior agency employee, the first assistant could be nominated for the position and continue to serve in an acting capacity as long as the President made the required designation for that senior agency employee to serve as the acting officer. (As noted above and discussed in more detail in Question 20, the requirements for a senior agency employee to serve as an acting officer include that the employee have served within the agency for at least ninety days in the year preceding the vacancy.)
- Q17. How does a PAS officer come to serve as an acting officer for a vacant position?
- A. A PAS officer may begin serving as an acting officer for a vacant position only upon direction from the President (and only the President) that that PAS officer is to perform the functions and duties of the vacant office in an acting capacity. (5 U.S.C. § 3345(a)(2))
- Q18. Does the Vacancies Reform Act impose any limitations on which PAS officers the President may designate to serve in an acting capacity for a vacant office?
- A. The Vacancies Reform Act does not impose any limitations on which PAS officers the President may designate. There are no length of service requirements, and the PAS officer need not be from the same agency as that in which the vacancy arose.
- Q19. How does a senior agency employee come to serve as an acting officer for a vacant position?
- A. As with PAS officers, certain senior agency employees (*see* Question 20) may begin to serve as the acting officer for a vacant position upon a directive from the President (and only the President) instructing that senior agency employee to perform the functions and duties of the vacant office in an acting capacity. (5 U.S.C. § 3345(a)(3))
- Q20. Does the Vacancies Reform Act impose any limitations on which senior agency employees the President may designate to serve as acting officers?
- A. Yes, the Vacancies Reform Act imposes a number of limitations on which senior agency employees the President may designate. First, the senior agency employee must be from the same Executive agency as the one in which the vacancy occurs. (5 U.S.C. § 3345(a)(3)(A)) Second, the senior agency employee must have served in a position within that Executive agency for not less than ninety days during the 365 days

preceding the vacancy. (Id.) Third, the rate of pay for the position in which the senior agency employee served must be at least GS-15, step 1. (5 U.S.C. § 3345(a)(3)(B))

• Q21. Are there any other categories of persons qualified to serve in an acting capacity under the Vacancies Reform Act?

A. Yes, with regard to PAS positions that are filled for a term set by statute and are located in an Executive department (a narrower category than Executive agencies – see Question 5), the Vacancies Reform Act also provides for a fourth category of persons who may serve in an acting capacity. For such an office, the President (and only the President) may direct the officer whose term is expiring to continue to serve in that office if that officer is nominated for an additional term to the same office without a break in service. (5 U.S.C. § 3345(c)(1))

Q22. Does the Vacancies Reform Act impose the same time limits on officers who continue to serve once their terms have expired as apply under the Act to the categories of acting officers?

A. No, the Act sets out an additional limitation on how long such an officer may continue to serve. In addition to being subject to the general time limits of the Vacancies Reform Act, the Act also provides that the carry-over officer may no longer continue to serve on a temporary basis once the officer's nomination is either confirmed or rejected by the Senate.

More generally, although the Vacancies Reform Act does not impose such a limitation on other acting officers who are nominated to fill the vacant position in which they are serving in an acting capacity, a similar limitation likely will apply to any such officer as a practical matter. Congress routinely passes an appropriations rider prohibiting the use of appropriated funds to pay someone for filling a position for which that person was nominated if the Senate has voted to reject the nomination. See, e.g., Section 610 of the Treasury and General Government Appropriations Act, 1999, Pub. L. No. 105-277, Div. A, § 101(h), 1998 U.S.C.C.A.N. (112 Stat. 2681-___, 2681-___) 549, 590 (1998).

Q23. Generally, for how long may a vacant office be filled on an acting basis under the Vacancies Reform Act?

A. The Vacancies Reform Act does not provide for a static, set number of days during which an acting officer may serve. Instead, the Vacancies Reform Act's limitation on the length of service involves a series of interrelated provisions tied to the submission of a nomination for the vacant position. These provisions permit an acting officer to serve for a 210-day period prior to the submission of a nomination. Once a nomination is submitted, the acting official may continue to serve until the Senate takes action on the nomination or the nomination is withdrawn. If the first nomination is rejected or returned by the Senate, or withdrawn by the President, a new 210-day period of service

begins. Once a second nomination is submitted, an acting officer again may continue to serve as long as the nomination is pending in the Senate. If the second nomination also is rejected, returned, or withdrawn, then a final 210-day period begins to run. The submission of a third nomination does not suspend the running of this final 210-day period; once those 210 days have run, the functions and duties of the vacant office may no longer be performed by an acting officer. (5 U.S.C. § 3346) See questions 25-38 below for a more detailed discussion of how the time limits are calculated under the Vacancies Reform Act.

Q24. Are there vacancies to which these time limits do not apply?

A. Yes, the time limits of the Vacancies Reform Act do not apply to vacancies caused by sickness. In the case of a PAS who is unable to perform the functions and duties of the office because he or she is sick, the acting officer may continue to serve until the sick PAS officer recovers, at which point the PAS officer again resumes performing the functions and duties of the office. (5 U.S.C. § 3346(a))³

Q25. If the President does not submit a nomination for the vacant position, how long may an acting officer perform the functions and duties of the office?

A. If the President does not submit a nomination, an acting officer may serve in an acting capacity during an initial 210-day period. (5 U.S.C. § 3346(a)(1)) Under various provisions of the Act, the length of this initial period may be adjusted in a number of ways. See Questions 27 and 36-38 discussing possible adjustments to this period.

Q26. From what date do you begin calculating the initial 210-day period?

A. The Vacancies Reform Act clarifies prior law, making it clear that the time limit begins to run on the date the vacancy occurs, rather than on the date the acting officer begins performing the functions and duties of the office. (5 U.S.C. § 3346(a)(1))

Q27. Are there situations in which the time limit will be calculated beginning on a date other than the date the vacancy occurred?

A. Yes, the Vacancies Reform Act provides that "[i]f a vacancy occurs during an adjournment of the Congress sine die, the 210-day [initial limit] shall begin on the date that the Senate first reconvenes." (5 U.S.C. § 3346(c)) So for example, the Congress adjourned sine die on October 21, 1998. See 144 Cong. Rec. H11,704, S12,810, S12,979 (daily ed. Oct. 21, 1998). The Senate did not reconvene until January 6, 1999. As a result, for a vacancy that occurred prior to January 6, 1999, the initial 210-day period during which an acting officer may serve in the absence of a nomination

³ See Questions 6 and 7, as well, regarding vacancies that are not governed exclusively by the Vacancies Reform Act.

began to run on January 6, 1999, and will continue for a 210-day period ending at the end of the day on August 3, 1999.⁴

The Vacancies Reform Act also includes a special provision that adjusts the beginning dates for vacancies at the start of a new President's first administration to account for the increased difficulty and time required to nominate PAS officers at the beginning of a new administration. See Question 38 for a detailed discussion of that provision.

Q28. How is the time limit affected when the President submits a nomination to fill the vacant office?

A. Once the President submits a nomination to fill the vacant office, an acting officer may continue to serve in an acting capacity while the nomination is pending before the Senate. (5 U.S.C. § 3346(b)) A nomination remains pending before the Senate until the nomination is confirmed, the nomination is withdrawn by the President, or the nomination is rejected or returned by the Senate.

Q29. What is meant by the Senate's "rejection" of the nomination?

A. The Senate "rejects" a nomination only when the full Senate votes on and disapproves a nomination. A determination by a committee that it will not report the nomination out for a vote of the full Senate or a determination of the Senate otherwise not to vote on the nomination does not constitute a rejection of the nomination. See Intrasession Recess Appointments, 13 Op. O.L.C. 271, 274-75 (1989).

Q30. What is meant by the Senate's "return" of the nomination?

A. "Return" takes its meaning from Senate Rule XXXI, which provides in relevant part that "if the Senate shall adjourn or take a recess for more than thirty days, all nominations pending and not finally acted upon at the time of taking such adjournment or recess shall be returned by the Secretary to the President, and shall not again be considered unless they shall again be made to the Senate by the President." Standing Rules of the Senate, <<http://www.senate.gov/~rules/srules.htm>> ; see also S. Rep. 105-250, at 15. Nominations left pending at the time of a recess in excess of thirty days and at the end of the first session of a Congress frequently are not returned, but are instead held over pursuant to unanimous consent of the Senate. All nominations left pending at the end of a Congress, however, are returned pursuant to Senate Rule XXXI.

⁴ If August 3, 1999 is a day on which the Senate is not in session, the period of service may be extended. See Questions 36-37.

- Q31. How is the time limit affected if a nomination is submitted after the 210-day period has expired?**
- A.** The Vacancies Reform Act incorporates a spring-back provision, which permits the acting officer to begin performing the functions and duties of the vacant office again upon the submission of a nomination, even if the 210-day period expired before that nomination was submitted. If the 210-day limitation period expires before the President has submitted a nomination, the restrictions in § 3348 of the Act, which bar anyone from serving in an acting capacity, become operative. (See Questions 39-49 for a discussion of these restrictions.) If thereafter the President submits a nomination, an acting officer is again able to perform the functions and duties of the office as of the date the nomination is submitted. (5 U.S.C. § 3346(a)(2))
- Q32. What happens if the first nomination is rejected or returned by the Senate or is withdrawn by the President?**
- A.** If the first nomination is rejected, returned, or withdrawn, a new 210-day period during which an acting official may serve begins to run on the date that the nomination is rejected, returned, or withdrawn. This is a new, full 210 days, and the period is not affected by the length of time an acting official served before the first nomination was submitted or by the length of time the first nomination was pending before the Senate. (5 U.S.C. § 3346(b)(1)).
- Q33. How is the time limit affected by the submission of a second nomination to fill the vacant position?**
- A.** The effect of the submission of a second nomination is the same as that of the first nomination. Once the President submits a second nomination, an acting officer may continue to serve in an acting capacity while the second nomination is pending before the Senate. Further, the spring-back provision discussed in Question 31 also applies to the submission of a second nomination. (5 U.S.C. §§ 3346(a)(2), (b)(2))
- Q34. What happens if the second nomination is rejected or returned by the Senate or is withdrawn by the President?**
- A.** If the second nomination is rejected, returned, or withdrawn, a new (and final) 210-day period begins to run on the date that that nomination is withdrawn, rejected, or returned. This is again a new, full 210 days, and the period is not affected by the length of time an acting official served before the second nomination was submitted or the length of time the second nomination was pending before the Senate. (5 U.S.C. § 3346(b)(2)(B))
- Q35. What effect does the submission of a third nomination have on the time limit?**
- A.** The submission of a third nomination will not suspend or otherwise affect the running of the 210-day limit. The 210-day period that begins upon the rejection, return, or withdrawal of a second nomination is final; once that 210-day period ends, the bar in § 3348 of the Act on serving in an acting capacity takes effect.

Q36. What happens if a 210-day period ends on a date when the Senate is not in session?

A. The Vacancies Reform Act provides for the time period to be extended when the last day of any 210-day period is "a day on which the Senate is not in session." In this circumstance, the last day of the period is deemed to be the second day the Senate is next in session and receiving nominations. (5 U.S.C. § 3348(c))

Q37. Is there any other provision that would activate the spring-back provision while the Senate is recessed or adjourned?

A. The Vacancies Reform Act also includes a provision that would allow the President, in circumstances in which the Senate is recessed or adjourned for more than fifteen days, to provide the Senate with written notice of an intent to nominate and, by providing that notice, to trigger the spring-back provision. (5 U.S.C. § 3349d)

Q38. Does the Vacancies Reform Act include any provision to account for the increased difficulty and time that may be involved in nominating PAS officers at the beginning of a new administration?

A. The Vacancies Reform Act includes a specific provision that adjusts the calculation of time limits to provide extra time for a new administration to submit nominations for PAS positions. Specifically, the Act provides that for any vacancy existing at any point during a sixty-day period beginning on the date the oath of office is taken by a new President (i.e., a President who was not the President immediately before taking the oath of office) the vacancy shall be deemed, for purposes of calculating the time limit, to have arisen either (i) ninety days after the date the oath of office was taken or (ii) ninety days after the date the vacancy occurred, whichever is later. Thus, even if an office became vacant well before the new President takes office, the time limit begins anew, and an extra ninety days is added on to what is deemed to be the first 210-day period. (5 U.S.C. § 3349a)

Q39. What are the effects under the Vacancies Reform Act of the time limit expiring or there otherwise being no one qualified to serve in an acting capacity?

A. Unless there is a person qualified to serve in an acting capacity under the Vacancies Reform Act, i.e., there is a person who meets the requirements of an acting officer under § 3345, and the time limit for serving has not expired, (i) no one may serve as the "acting officer" and (ii) no one other than the head of the Executive agency may perform any "function or duty" of the vacant office. (5 U.S.C. § 3348(b)). (See Question 43 discussing what is a "function or duty" of the office under this section.)

Q40. If the position of head of the Executive agency is vacant, may the acting head perform a function or duty of a vacant office for which there is no qualified acting officer?

A. A properly serving acting head of an agency may perform a function or duty of a vacant office.

Q41. What is the effect of someone other than a qualified acting officer or the head of the Executive agency performing a function or duty of the office?

- A. Under the enforcement provisions set out in § 3348 of the Vacancies Reform Act, an "action" taken in the performance of a "function or duty" of a vacant office to which the Act applies shall have no force or effect unless it was performed either by someone qualified to serve as an acting officer or by the head of the Executive agency. (5 U.S.C. § 3348(d)(1)) Further, the Act expressly provides that an action that has no force or effect under this provision cannot later be ratified. (5 U.S.C. § 3348(d)(2)) While the effect of the enforcement provisions is severe, the breadth of conduct to which the provisions apply is expressly limited by the definition of "function or duty."**

Q42. How is an "action" defined under the Vacancies Reform Act?

- A. "Action" is defined under the Vacancies Reform Act by reference to the definition of "agency action" in 5 U.S.C. § 551(13) (1994). Agency action is defined in § 551(13) as "includ[ing] the whole or a part of an agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure to act." (5 U.S.C. § 3348(a)(1))**

Q43. How is a "function or duty" of the office defined under the Vacancies Reform Act?

- A. For purposes of § 3348, a "function or duty" is defined as any function or duty of the PAS office that is required by statute or regulation to be performed exclusively by the holder of that office. (5 U.S.C. § 3348(a)(2)) See Question 48 discussing the practical scope of the definition of "function or duty."**

Q44. May an agency revise its regulations to make what had been an exclusive function or duty under its regulations non-exclusive?

- A. Yes, the Vacancies Reform Act anticipates that Executive agencies may revise some of their regulations to eliminate a requirement under the regulation that a function be performed exclusively by the PAS officer. The Act, however, also includes a look-back provision that delays the effectiveness of such a revision for purposes of the Vacancies Reform Act. Under the definition, a function or duty will be treated as exclusive if, at any time during the 180 days preceding the date on which the vacancy occurred, the regulation provided that the duty or function was to be performed exclusively by the applicable officer. (5 U.S.C. § 3348(a)(2)(B)(ii))**

Q45. Does such a look-back provision also apply to the revision of statutes imposing exclusive duties on officers?

- A. No, there is no similar look-back provision for statutes. If a statute is amended to eliminate an exclusive performance requirement, either by eliminating a restriction on the ability to delegate the function or by reassigning the function to another officer, that change will eliminate the exclusivity requirement under the Vacancies Reform Act without any delay. Similarly, if a regulation is revised because of a change in the**

underlying statutory authority, there is no delay imposed by the Act on the elimination of a requirement that the function be performed exclusively by the PAS officer.

Q46. What if Congress imposes an exclusivity requirement on an office after a vacancy arises?

A. Such a statutory imposition of an exclusive function or duty on an office is effective as soon as the new statutory provision itself becomes effective, even if the statute is not enacted until after the vacancy.

Q47. What oversight mechanisms exist to ensure agency compliance with the Act and application of the enforcement provisions?

A. The Act has a number of mechanisms to ensure agency compliance with the law. Executive agencies, of course, are expected to ensure that they are in compliance with the Act. The Act also establishes a reporting procedure under which events that trigger application of the Act and its enforcement provisions are reported to the General Accounting Office ("GAO") and to each House of Congress to assist their oversight of compliance. See Questions 50-53. Congress also expected that private parties would, through litigation challenging agency actions, provide an additional mechanism to ensure compliance. See S. Rep. 105-250, at 19-20 ("The Committee expects that litigants with standing to challenge purported agency actions taken in violation of these provisions will raise noncompliance with this legislation in a judicial proceeding challenging the lawfulness of the agency action.").

Q48. Do the enforcement provisions of the Vacancies Reform Act mean that unless there is a properly serving acting officer nothing the PAS officer did may be performed by anyone other than the head of the Executive agency?

A. No, Congress understood that there would be occasions when the time limits would expire or when there would, for a period, be no one qualified to serve in an acting capacity. Congress also understood that if everything the PAS officer may have done in the performance of his or her duties had to be performed by the head of the Executive agency, the business of the government could be seriously impaired. See S. Rep. 105-250, at 30-31 (Additional Views). As a result, Congress delimited which functions could be performed only by a qualified acting officer or the head of the Executive agency, defining them as only those functions or duties assigned exclusively to the PAS officer by statute or regulation. Most, and in many cases all, the responsibilities performed by a PAS officer will not be exclusive, and the Act permits non-exclusive responsibilities to be delegated to other appropriate officers and employees in the agency.

Q49. Are there PAS offices that are covered by the Vacancies Reform Act, but to which the enforcement provisions do not apply?

A. Yes, the Vacancies Reform Act sets out a list of offices to which the enforcement provisions of § 3348 do not apply. These offices are: (1) the General Counsel of the

National Labor Relations Board, (2) the General Counsel of the Federal Labor Relations Authority, (3) any Inspector General appointed by the President, by and with the advice and consent of the Senate, (4) any Chief Financial Officer appointed by the President, by and with the advice and consent of the Senate, and (5) any office of an Executive agency for which there is a statutory provision that expressly prohibits the head of the Executive agency from performing the functions and duties of the office. (5 U.S.C. § 3348(e))

Q50. What reporting requirements does the Vacancies Reform Act impose on agencies?

A. The Vacancies Reform Act requires the head of each Executive agency to provide notification of (i) a vacancy covered by the Act, (ii) the date on which the vacancy occurred, (iii) the name of any person serving in an acting capacity in connection with such a vacancy, (iv) the date that person began serving in an acting capacity, (v) the name of any person nominated to fill the vacancy, (vi) the date on which the nomination is submitted, and (vii) the date of any rejection, withdrawal, or return of the nomination. (5 U.S.C. § 3349(a))

Q51. When must the report of each of these occurrences be provided?

A. The report is to be provided "immediately upon the occurrence" of each of these events.

Q52. To whom should the reporting information described above be provided?

A. Each Executive agency is to provide the required information to the Office of Presidential Personnel. The Office of Presidential Personnel, in turn, will provide the information to the Office of Management and Budget, which will be responsible for providing the report to GAO and to each House of Congress.

Q53. Why is this information being reported to GAO?

A. The information is provided to GAO to permit GAO to supervise compliance with the Act. If GAO determines that an acting officer is serving beyond the time limit allowed under the Vacancies Reform Act, it is to report that determination to relevant congressional committees, the President, and the Office of Personnel Management. (5 U.S.C. § 3349(b))

Appendix F: ONDCP's Response Letter to a Preliminary Draft of the Report

Please see the pages to follow



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF NATIONAL DRUG CONTROL POLICY
Washington, D. C. 20503

June 7, 2000

Mr. Paul Lawrence
PricewaterhouseCoopers LLP
1616 N. Fort Myer Drive
Arlington, VA 22209-3195

Dear Mr. Lawrence:

We have carefully reviewed the draft of PricewaterhouseCoopers LLP's (PWC) management review of the Office of National Drug Control Policy's (ONDCP) internal operations. We appreciate the good-faith efforts of the management review team to thoroughly examine our agency's processes. We find the differentiation of our external mission and the internal procedures that support it to be a useful analytical approach. We will implement the several solid suggestions in order to improve internal effectiveness.

There are some areas, though, where we believe the draft document contains errors of fact, serious omissions, or contradictions. In our view, the project team's reliance on comparisons of ONDCP to non-analogous organizations is spurious. Collectively, these defects undermine the project team's assertion that it "developed a high-level understanding of the internal and external business processes in ONDCP" (p. 5). The three-month review would be strengthened and, indeed more useful, were those errors to be corrected and the report amplified. Specific comments follow.

- **A major ONDCP responsibility – policy articulation – is not recognized.** The report properly recognizes ONDCP's requirements to: develop national drug control policy; coordinate and oversee its implementation; assess and certify adequacy of national drug control programs; and evaluate programmatic effectiveness. However, the report's authors did not recognize the important ONDCP mission of explaining policy to other governments, elected officials at the federal, state, and local level, opinion leaders, the private for-profit and non-profit sectors, and the public. 21 USC 1703 (11); 21 USC 1705 (a)(3). The report addresses this major responsibility in passing (p. 11) "[A]t the behest of the Administration, the Director created an internal apparatus so that he could use the 'bully pulpit' to raise awareness of the American public to the dangers of drug use." This core ONDCP function is trivialized by its subordination to a category of activities that are inappropriately described as "The Director's Schedule."
- **The report displays a misunderstanding of the requirement for transparency in government.**
 - **PWC criticizes the ONDCP communication system for being "primarily paper based and, as such, can be subject to a Freedom of Information Act request."** The Review concludes that the "paper-based system could make for an intellectually restricted environment for credentialed professionals who are used to free and open oral debate of the issues."

This comment ignores the fact that ONDCP is required to generate and maintain written records to provide evidence of agency action pursuant to the Administrative Procedures Act, 5 USC 706(2)(A); and to comply with the Records Management by Federal Agencies Act 44 USC 3101. The latter statute requires that "[t]he head of each Federal agency shall make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency..." Additionally, ONDCP is required to comply with EOP records management policies and procedures.

PWC's comment that ONDCP's paper-based decision making system is a "disincentive to freely debating contentious issues since written information can be attributed directly" and creates an "intellectually restricted environment" shows a lack of understanding of the Freedom of Information Act (FOIA).

As PWC points out, ONDCP's employees are "credentialed professionals." They have no fear in expressing their policy views and arguments orally and in writing. The American public should expect no less. Moreover, documents that debate issues and present policy options for the Director to consider are *predecisional* in nature and not subject to FOIA disclosure, 5 USC 522(b)(5). This exemption to FOIA disclosure is to insure the free and open debate that PWC envisions and that does occur at ONDCP. Only records or communications that are the basis for the agency's final determination must be disclosed under FOIA.

- **The report's discussion of a "vulnerability of leadership" misses key aspects of the nature of federal executive leadership.**
 - **PWC claims an inordinate (up to 38%) number of leadership and professional staff positions may be vulnerable in the 2000 election cycle.** This assertion demonstrates a lack of appreciation by PWC of the depth of experience of the ONDCP professional staff, the history of presidential transitions, and the strong bipartisan commitment to the goals and objectives of the *National Drug Control Strategy*.

First, the career professional staff of ONDCP brings to bear many years of drug control policy experience and has served in current and similar professional drug policy positions for many years. The General Counsel, the Assistant Deputy Director for Demand Reduction, the Assistant Deputy Director for Supply Reduction, the Assistant Deputy Director for State and Local Affairs, the Director of the Counter-Drug Assessment Center (CTAC), the High Intensity Drug Trafficking Areas (HIDTA) Director, Director of the Drug-Free Communities Program, Assistant Director of the Office of Programs, Budget, Research, and Evaluations, among others, together have many years of experience in drug policy formulation during recent administrations.

Second, the *1999 National Drug Control Strategy* and the recent *2000 Annual Report* represent a broad array of policy ideas and considerations that have been in formulation over the last twenty years. The Anti-Drug Abuse Act of 1988 mandated that ONDCP be the policy agency that tied the different aspects of drug control into a coherent whole.

Under Director McCaffrey's leadership these policy thrusts have been brought together in a comprehensive approach that is supported by defined goals, objectives, and a performance measurement system.

Third, the *National Drug Control Strategy* has strong bipartisan support in the Congress. The endorsement by the Congress of key agency initiatives as the National Youth Anti-Drug Media Campaign, the HIDTA and CTAC programs, the Administration's drug control assistance package for Colombia, anti-doping in international athletic competition, and the Drug-Free Communities Program are just a few examples of deep bipartisan support for the goals and objectives of the *Strategy*.

Fourth, ONDCP is not unlike other agencies in the Executive Branch that will see their politically appointed leadership vulnerable to replacement following a presidential election. Moreover, ONDCP's personnel structure has fundamentally changed under Director McCaffrey's leadership. The agency was in the past criticized for being a repository of political appointees. Currently, the number of PAS and Schedule C appointees total just 15.6 percent of the agency's strength (24 out of 154 positions). In fact, most of the Schedule C employees support the agency's leadership structure. This allows senior political appointees the prerogative to appoint individuals to positions requiring special confidence. The inevitable turnover associated with a change of administration will be offset by the strength of experience of the drug policy professionals who will remain to support the new administration.

To conclude, ONDCP faces no crisis or vulnerability in leadership as a change in administrations approaches. A cadre of dedicated professionals who are implementing a well-developed strategy that enjoys bipartisan support will ably ensure a smooth transition to a new administration.

- **The discussion of policy formulation groups fails to mention ONDCP's substantial activities in this area.**
 - **The failure to reflect our agency's extensive consensus building activities creates the erroneous impression that this essential business practice is not followed by ONDCP.** The *National Drug Control Strategy* is fundamentally a consensus document developed through an extensive consensus building process. Each year, it is formally submitted by ONDCP for approval through Office of Management and Budget's interagency clearance process.
 - **ONDCP's compliance with a critical statutory requirement to conduct extensive consultation is not reflected by the report.** All aspects of federal drug control policy are formulated and implemented through a detailed consultation process that is described in Chapter VI of the annual ONDCP report to Congress. In fact, the ONDCP Reauthorization Act of 1998 mandates this requirement. This process, which is coordinated by the Office of Strategic Planning, involves consultation with Congress; coordination with fifty-two federal drug-control program agencies involved with drug prevention, education, treatment, law enforcement, corrections, and interdiction; the

chairing of interagency working groups that meet at regularly scheduled times; consultation with state and local officials. ONDCP works closely with organizations such as the National Governor's Association, U.S. Conference of Mayors, and National Association of Counties); and consultation with private citizens and organizations (we regularly interact with community coalitions, chambers of commerce, opinion leaders, associations from the entertainment industry and the medical and legal professions, non-governmental organizations, and religious institutions. The omission of this crucial element of the policy formulation process is particularly striking given that the consensus building process was described to the management review team and that an extensive list of stakeholders was also provided.

- **The report does not reflect ONDCP's reliance on policy advisory groups.** The PricewaterhouseCoopers project team cites the UK-Anti-Drug Coordinator Unit as an entity that "maximizes its chances of obtaining a fully vetted and consensus-based policy" by working through advisory groups and steering groups (p. 27). By failing to note ONDCP's extensive activities in this area, the report suggests fault.

In all aspects of federal drug control policy, ONDCP depends on policy advisory groups to orient its major operational activities. For example, the activities of each regional HIDTA are oriented by mandated policy formulation groups, the Drug-Free Community Program is guided by a statutory advisory committee, and the National Youth Anti-Drug Media Campaign is guided by scientific and research groups.

In the critical area of performance measurement, ONDCP has established a Drug Control Research, Data, and Evaluation Committee, consisting of nationally renowned experts to advise the agency. A Subcommittee on Data Research, and Interagency Coordination supports this committee. To support Goal 1 of the *Strategy*, ONDCP is establishing a Parents' Advisory Committee. Policies in support of Goal 4 of the *Strategy* are developed in conjunction with the U.S. Interdiction Coordinator and an advisory group known as The Interdiction Committee. This committee meets on a quarterly basis. ONDCP builds domestic policy consensus through the President's Council on Counter-Narcotics. An example of a mechanism for building international policy consensus is the U.S. – Mexico High Level Contact Group on Drug Control. This group has steered the development of a multi-faceted binational strategy and supporting performance measures of effectiveness system.

- **The management review team makes contradictory statements about ONDCP's lines of authority.**
- **PWC appears to have reached conflicting conclusions about ONDCP's chain of command.** PWC at one point asserts that the ONDCP Chief of Staff does not have adequate authority to oversee ONDCP. Without elaborating on that statement, the report in Table 1 (Page 19) claims that the Director serves as both the Internal and External Manager of ONDCP. Yet, the report then goes on to state, conversely, that component PAS Deputy Directors report to the Director through the Chief of Staff (Page 20). The report later states that the Director has "little attention given directly to the organization's

people". PWC calculates that the Director spends only "8% of his time on internal matters" (Page 36). This calculation of the Director's schedule belies the assertion that he is the internal manager of ONDCP. That function is properly delegated by the Director to the Chief of Staff. The Chief of Staff carries out that responsibility in consultation with appropriate senior staff.

In fact, ONDCP's managerial structure is organized pursuant to its 1998 Reauthorization statute. The Director is responsible to the President "in the establishment of policies, goal, objectives and priorities of the National Drug Control Strategy, 21 USC 1703 (b)(1). The Deputy Directors for Supply Reduction, Demand Reduction, and State and Local Affairs are responsible for activities defined in the statute, 21 USC 1701. The Deputy Directors, as in other Federal agencies, report to the Director as the head of the Office, 21 USC 1702 (b)(1).

The Chief of Staff is designated by the Director, pursuant to his authority, to "select, appoint, employ, and fix compensations of such officers and employees of the Office as may be necessary to carry out the functions of the Office." The role of the Chief of Staff is to manage the internal operations of ONDCP. The Chief of Staff has not directed the activities of the PAS appointed Deputy Directors. As explained to PWC staff on May 26, 2000 the Director utilizes the Chief of Staff to communicate his policies and priorities for the goals and objectives of the agency to deputy directors. This is commonplace throughout Executive Branch agencies. However, deputies report their activities only to the Director. The Chief of Staff does not direct their duties. The Chief of Staff's responsibility of assuring efficient administration requires staff work to be transmitted to the Director through her office to the Director. This again, is a standard organizational procedure and does not equate to command authority.

- **The report inaccurately addresses the status of the Deputy Director, the Federal Vacancies Reform Act of 1998, and the hiring of Mr. Tom Umberg as a consultant.**
- **The PWC review team raises a number of issues regarding the position of the Deputy Director, including whether ONDCP has violated the Federal Vacancies Reform Act of 1998 because of the involvement of the current Deputy Director in demand reduction-related activities.**

The report notes that the role of the Deputy Director of ONDCP is unclear (3.1.1 (c)). Commenting on the position the report states, "It has been an evolving role for the current acting incumbent, a physician, as his management skills and knowledge base have developed." This statement does not accurately reflect the history and role of the Deputy Director position.

First, the current Deputy Director is not an "acting incumbent" as the project team asserts. A distinction must be made between the statutorily created position and the position currently occupied by Dr. Vereen, which was created by Director McCaffrey as part of his statutory authority to "appoint such other officers and employees of the office." This position was created in 1996 to assist the Director in the overall

management of ONDCP and implementation of the *National Drug Control Strategy*. In ONDCP's 1998 Reauthorization, the Administration requested the creation of a PAS deputy position, similar to that presently occupied by Dr. Vereen. The President, in fact, nominated Dr. Vereen, for the statutory position in November 1999. His nomination is still pending before the Senate Judiciary Committee.

The statement in the PWC draft report that the Deputy Director position lacks "a clearly defined role and area of responsibility" is not borne out (p.15). Yet, Congress understood the Administration's rationale in requesting this PAS position and subsequently authorized it. In fact, ONDCP's statutory PAS Deputy Director position is similar to that of the Deputy Secretary of HHS that is so favorably referred to by PWC in section 3.1.1(b). As expressed by HHS Deputy Secretary Kevin Thurm, "... it becomes pretty clear that the position is to fill the role the Secretary wants ... The job is also to work closely on policy issues through the Department and to work closely with the chief of staff and executive secretary on these issues." This is the clearly defined role of the Deputy Director, ONDCP. It is unclear to ONDCP why essentially similar positions are viewed differently by the PWC management review team.

The apparent PWC lack of understanding of the role played by the Deputy Director is further evidenced by the seriously mistaken allegation that "ONDCP may not be in compliance with the Vacancies Reform Act of 1998..." (p. 15). The report reaches this erroneous conclusion noting that the current Deputy Director "has been delegated an intermediary oversight role between the Office of Demand Reduction and the Director." It claims that the Deputy Director has very few interactions with the Office of Supply Reduction and State and Local Affairs and may be performing functions and duties that could be exclusive to the Deputy Director for Demand Reduction. This conclusion is not the case and misinterprets the scope of the Vacancies Reform Act in law.

The Deputy Director works with all ONDCP components in carrying out his primary duty to assist the Director in the implementation of the *National Drug Control Strategy*. For example, the Director has worked closely with the Offices of Supply Reduction and Strategic Planning on the development of the Administration's international sports anti-doping program. He has also worked with the Office of State and Local Affairs on the Administration's response to state medical marijuana initiatives; the offices of Legislative Affairs and Legal Affairs on legislative oversight of the National Youth Anti-Drug Media Campaign; and the Office of Legal Counsel on ONDCP's initiative with the Government of the District of Columbia and other non-demand reduction matters.

- **PWC misconstrues the Vacancies Reform Act.** In the absence of a Deputy Director for Demand Reduction, the Director directs the agency's demand reduction functions through the Assistant Deputy Director for Demand Reduction, a career SES employee. The activities of Deputy Director Vereen that are performed in coordination with that career official are at the Director's behest.

Neither of the two actions cited by PWC, i.e., meeting with the Surgeon General twice in six months on drug treatment issues, and a meeting with the Assistant Secretary of Defense for Health Affairs rises to the level of a "function" or "duty" covered by the Vacancies Reform Act. The act specifically describes an agency action as "the whole or a part of an agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure to act." 5 U.S.C.551 (13). A function or duty is defined as that required by statute or regulation to be performed exclusively by the holder of that office. 5 U.S.C, 3348(a)(1). Neither of the activities pointed to by PWC rises to the level of an agency action or a function or duty of an office covered by the Vacancies Reform Act. Rather, these are generic activities engaged in almost daily by senior career and political officials of ONDCP pursuant to the agency's authority to implement the *National Drug Control Strategy*.

- **The PWC report improperly faults ONDCP for employing former Deputy Director for Supply Reduction Thomas Umberg as a consultant for 180 days prior to his confirmation to the PAS position, citing a supposed inconsistency with Department of Defense guidance.** Mr. Umberg's consultant agreement with ONDCP is customary for various Executive Branch appointees whose nominations are pending before the Senate. It was in compliance with regulations utilized by the Executive Office of the President, 5 CFR 304-102. ONDCP's hiring of Mr. Umberg must be measured against OPM regulations implemented by EOP, not Department of Defense regulations.
- **The report contains substantial errors in its discussion of human resources management.**
 - **The strength and scope of activities of ONDCP's human resources management team is misrepresented.** The report states that "the ONDCP personnel group is currently staffed with one (1) FTE responsible for all of the agency's human resources activities (p. 38). ONDCP allocated three full-time personnel experts to human resource management tasks while the agency was expanding from 44 FTEs to 154 FTEs. Prior to Director McCaffrey's appointment as ONDCP Director, the agency had no individuals dedicated to these essential functions. The personnel office currently has not assigned only one (1), but two (2) FTEs to the agency's civilian personnel activities. Additionally, the Deputy Chief of Staff dedicates approximately 25 percent of his time to personnel issues. The Deputy Chief of Staff and the Director's Executive Assistant are responsible for personnel issues related to military detailees.
 - **As a component of the Executive Office of the President (EOP), ONDCP's human resources team is extensively supported by the larger HR resources of the EOP.** Many of the functions traditionally performed by HR staff – recruiting, HR information systems, career development, compensation & benefits, training & organizational development – are supported extensively by the EOP's Office of Administration and Office of Personnel Management. Additionally, HR needs of ONDCP's 30 military detailees are supported by Department of Defense personnel systems. We find it odd that the review team would note that small organizations "outsource" HR processes, yet fail to

note that this prudent business practice is a central element of ONDCP's HR management approach.

We are confident that the allocation of two FTEs to address human resource issues is appropriate given the size of the agency and the extensive outsourcing of support functions. Indeed, this allocation is in line with the observation of the review team that "organizations of 100 to 150 employees generally have an HR staff of between 2-4 people." (p. 39).

- **Recruitment has not been "problematic" for ONDCP.** On the contrary, ONDCP has successfully recruited against numerous FTEs, filling more than one hundred new civilian and military positions since 1996. In 1999, we hired 36 FTEs. ONDCP's recruitment and hiring is conducted in full compliance with all OPM regulations and procedures. The assertion that ONDCP has "been unsuccessful in hiring ... staff resources" (p. 28) is unsubstantiated.
- **ONDCP's turnover rates are similar to those of other agencies within the Executive Office of the President.** The EOP's attrition rate for calendar year 1998 was 20.99 percent.* The report notes that 22 of ONDCP's civilian positions had turnover in 1998. This equates to a 16 percent civilian turnover rate – below the EOP average.
- **The report erroneously states that "there are relatively few promotion opportunities" within the agency (p. 37).** The management review team has not recognized ONDCP's extensive and successful efforts to reward high-performance and promote from within. In the past four years, 39 employees have been promoted. Four senior managers were promoted to career SES level. Eleven policy analysts were promoted to mid-level management positions at the GS-13 or 14 level. Twenty-four administrative staff members in grades GS-7 through GS-13 were advanced. A 31.45 percent rate of promotion clearly reflects substantial promotion opportunities.

We understand that the ONDCP policy that limits opportunities for promotion to GS-15 for certain positions may have contributed to the departure of individuals to GS-15 positions elsewhere. In fact, we have created opportunities for promotion for GS-14s by creating additional branch chief positions. We remain convinced that it is important that the agency's grade structure not become top heavy. We also understand that as a small agency (just 124 FTEs), ONDCP cannot offer the same diversity of professional opportunities that larger federal agencies and departments do.

- **The report inaccurately characterizes military detailees as impediments to promotion (p. 37-38).** Military detailees do not occupy civilian FTE positions. Thus they are not impediments to promotion.

* Attrition data collected from OPM's *Employment Trend Report* dated Nov 98.

- **The conclusion that “documentation relevant to the internal operations of the components and functional offices and performance of the organization itself is largely absent” (p. 1) is wrong.**

- **The assertion that ONDCP lacks “written policies and procedures” (p. 45) is inaccurate.** The report specifically compares ONDCP to America’s Promise which “gives their employees written handbooks detailing the code of conduct in the office and consequences for action.” PWC spent approximately two hours with ONDCP’s General Counsel, who also serves as the agency’s designated ethics officer (DAEO). At no time during this interview was the General Counsel asked by PWC about nature and scope of ONDCP’s ethics program for its employees. In short, PWC unfavorably compares ONDCP to another entity without first obtaining a factual basis for comparison.

Had PWC inquired about guidance on codes of conduct, we would have informed the review team that all ONDCP employees receive a briefing on the Standards of Ethical Conduct for Employees of the Executive Branch at employee orientation. Pursuant to ethics regulations, all employees participate in at least one ethics training session during the year. Over the course of the year the DAEO supplements ethics guidance with materials that address issues such as obligations under the Hatch Act, gifts from outside sources (particularly during the holiday season), and other timely matters. In addition, ONDCP’s public and confidential financial disclosure system is rigorously maintained and current. In fact ONDCP was awarded an Outstanding Ethics Program Award from the US Office of Government Ethics in September 1997.

Additionally, over 70 directives that have been issued by Executive Office of the President are maintained and followed by ONDCP to assure organizational continuity. Furthermore, all employees have access to online policies and procedures maintained on the EOP website. ONDCP has also established electronic standard forms for quick reference by employees and has standardized internal management procedures to assure operational continuity. ONDCP’s electronic tracking procedures are being emulated throughout the EOP.

- **The project team erred in asserting that ONDCP lacks internal targets and measures.** The report states: “Although the Executive Office of the President is exempt from Government Performance and Results Act (GPRA) requirements, it would make good business sense to establish internal performance measures for the organization’s primary objectives” (p. 2). This statement is factually incorrect.

The fact is that ONDCP has formal GPRA-compliant Performance Plans that do enumerate the organization’s primary objectives and, further, establish performance measures for them. In calendar year 1999 ONDCP submitted its first GPRA-compliant Performance Report to OMB as part of this process. It is surprising to us that the PricewaterhouseCoopers review team completely missed this fact.

- **There are significant contradictions within the discussion of ONDCP's internal operations.** The report asserts that ONDCP is inefficient with regard to internal operations. The draft report cites examples of dated or absent policy or procedural documentation, especially within functional. However, the draft report notes (p. 6) that ONDCP's components are structured around business processes and coordination responsibilities, rather than by function.

In addition, the report notes that ONDCP employs the two key requirements necessary for achieving desired results: (1) an idea generation or consensus building mechanism - including teamwork, and (2) a final decision-making and arbitration mechanism. While ONDCP may lack formal policy or procedural documentation for some internal operations, its fundamental structure both establishes and enforces an unmistakable and formal internal policy procedure.

Justifying the assertion that internal operations are inefficient due to the absence of formal policy/procedural documentation while also noting that the key requirements for achieving desired results are employed is contradictory.

- **The report mischaracterizes the activities of the Director.**
 - **The bundling of critical agency activities under the title "The Director's Schedule" is misleading.** The Director's schedule is designed to promote the agency's core functions and the goals and objectives of the *National Drug Control Strategy*. When he is meeting, for example, with leaders of a community anti-drug coalition in Beaverton, Oregon, or Vallejo, California, supporting staff are engaged in a core ONDCP external activity - promoting coalitions. Thus support of the Director's involvement in any aspect of drug-control policy should not be considered as an activity that detracts from an individual's ability to focus on policy responsibilities.
 - **The conclusion that 20 FTEs support the Director's schedule is wrong.** PWC's assertion that the Office of Strategic Planning commits most of its FTEs to support the "Director's Media Schedule" (p.11) underscores this error. Among the Office of Strategic Planning's (OSP) extensive responsibilities are the development of the annual report to Congress on the National Drug Control Strategy (a process that requires the 100 percent commitment of 5 FTEs for four months each year), coordination of a national statutorily-directed consultation process, policy formulation (FTEs assigned to OSP are engaged in a broad array of policy issues including: oversight and management of the media campaign; development of policies to break the cycle of drugs and crime; coordination of administration positions; development of international consensus on doping and sports; and strategic communications). These activities are designed to support the development, articulation, and implementation of policies and programs that support the *National Drug Control Strategy*. The project team's categorization of the activities of the seven FTEs assigned to the Office of Public Affairs is similarly flawed.

- **The assertion that 54 percent of the Director's non-office activities are media events is absurd.** All the Director's activities are designed to accomplish the agency's overarching goal of reducing drug abuse and its consequences in America. Many (e.g. visits to drug treatment facilities, meetings with community coalitions, congressional hearings, international diplomacy, and addresses to organizations) are conducted in the public eye. Most should not be described as media events. The ONDCP Director is, without a doubt, a very visible public figure. This is the result of the policy prominence of drug issues, his professional accomplishments, standing as a non-political leader, and energy. The prominence of ONDCP also reflects on the substantive work of its professional staff.

Blending the Director's schedule with events and media, as the report does, makes it impossible to account for resources correctly and does a disservice to the purposes of the Director's events. Supporting the Director in execution of the office's mission is exactly what the staff is supposed to do. Each of the Director's activities is targeted to assist a very substantive portion of our goals and objectives.

It would do little good for the Director to engage in activities that further the nation's drug reduction goals without openness to the press that will inform the nation of those activities. The democratic concepts of accountability and transparency both require it. Additionally, the agency is very mindful of previous congressional complaints that the Administration had been "AWOL" in the area of drug control early in its term and determined to respond to constituent demands that their extensive efforts in the areas of prevention, treatment, enforcement, and interdiction be publicly recognized. Instead of degrading the Director's unquestioned personal commitment to his duties, the report should recognize that his unparalleled success in raising public awareness of the threats posed by drug abuse is motivating parents, teachers, business and community leaders – indeed Americans from every walk of life – to become involved in effective drug control efforts.

- **Despite these extensive concerns with specific assertions and conclusions of the PricewaterhouseCoopers' project team, ONDCP intends to act on the many constructive suggestions contained in the report.**
 - **We will formalize exit briefings to address employment practices and other issues.** We agree with PWC that departing staff members should be given the opportunity to candidly express their perceptions of the agency and provide suggestions for improvement.
 - **We will review career development practices to expand training opportunities for staff.** We agree that we are investing insufficiently in this vital area.
 - **We agree with the assessment that ONDCP lacks sufficient FTE relative to its mission.** We recognize that the agency's turnover rate has made it difficult for us to substantiate to Congress the requirement for additional FTEs. As the project team notes, the shortage of FTEs does create risk in the areas of financial management and

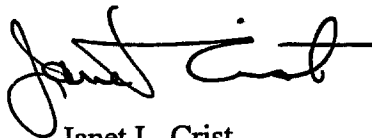
June 7, 2000

programmatic oversight. The final report will be useful to the Congress in understanding the human resource challenges facing ONDCP.

- **We will update organizational documents in anticipation of a leadership transition.** Continuity through the imminent change of administration is a top ONDCP objective. Capturing internal procedures in agency-wide and department-specific written Standard Operating Procedures is important in this regard. We would note that internal procedures of small agencies follow the prerogatives of new political appointees.
- **We will continue to closely monitor our Financial Management Office.** We recognize that the rapid expansion of ONDCP programs can stress this small unit and take pride in their outstanding performance. We take seriously the conclusion that "there is an overall low to medium risk that the organization is not adhering to sound internal financial concerns."

We would be happy to discuss any of these points with you and to work together to assure that the report accurately reflects our current performance and offers meaningful suggestions for improvements. We look forward to your response.

Sincerely,



Janet L. Crist
Chief of Staff

*Appendix G: Legislative Citations***21 USC SEC. 1703. APPOINTMENT AND DUTIES OF DIRECTOR AND DEPUTY DIRECTORS**

(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 responsibilities 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 non-governmental 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.

21 USC SEC. 1705. DEVELOPMENT, SUBMISSION, IMPLEMENTATION, AND ASSESSMENT OF NATIONAL DRUG CONTROL STRATEGY

- (a) Timing, contents, and process for development and submission of National Drug Control Strategy
 - (3) Process for development and submission
 - (A) Consultation
In developing and effectively implementing the National Drug Control Strategy, the Director -
 - (i) shall consult with -
 - (I) the heads of the National Drug Control Program agencies;
 - (II) Congress;
 - (III) State and local officials;
 - (IV) private citizens and organizations with experience and expertise in demand reduction;
 - (V) private citizens and organizations with experience and expertise in supply reduction; and
 - (VI) appropriate representatives of foreign governments;
 - (ii) with the concurrence of the Attorney General, may require the El Paso Intelligence Center to undertake specific tasks or projects to implement the National Drug Control Strategy; and
 - (iii) with the concurrence of the Director of Central Intelligence and the Attorney General, may request that the National Drug Intelligence Center undertake specific tasks or projects to implement the National Drug Control Strategy.

5 CFR Sec. 304.102 PERSONNEL CHAPTER I--OFFICE OF PERSONNEL MANAGEMENT PART 304--EXPERT AND CONSULTANT APPOINTMENTS

Table of Contents

Definitions. For purposes of this part:

- (a) An agency is an executive department, a military department, or an independent agency.
- (b) A consultant is a person who can provide valuable and pertinent advice generally drawn from a high degree of broad administrative, professional, or technical knowledge or experience. When an agency requires public advisory participation, a consultant also may be a person who is affected by a particular program and can provide useful views from personal experience.
- (c) A consultant position is one that requires providing advice, views, opinions, alternatives, or recommendations on a temporary and/or intermittent basis on issues, problems, or questions presented by a Federal official.

- (d) An expert is a person who is specially qualified by education and experience to perform difficult and challenging tasks in a particular field beyond the usual range of achievement of competent persons in that field. An expert is regarded by other persons in the field as an authority or practitioner of unusual competence and skill in a professional, scientific, technical or other activity.
- (e) An expert position is one that requires the services of a specialist with skills superior to those of others in the same profession, occupation, or activity to perform work on a temporary and/or intermittent basis assigned by a Federal official. For example, a microbial contamination specialist may apply new test methods to identify bacteria on products, a computer scientist may adapt advanced methods to develop a complex software system, or a plate maker may engrave a novel design.
- (f) Intermittent employment, as defined in part 340, subpart D, of this chapter, means employment without a regularly scheduled tour of duty.
- (g) Temporary employment means employment not to exceed 1 year. An expert or consultant serving under a temporary appointment may have a full-time, part-time, seasonal, or intermittent work schedule.
- (h) Employment without compensation means unpaid service that is provided at the agency's request and is to perform duties that are unclassified. It is not volunteer service.

Appendix H: ONDCP Mission Statements and Position Descriptions

- Office of the Director, ONDCP Mission Statement, May 1996: The Director of the Office of National Drug Control Policy is charged with formulating, evaluating, coordinating, and overseeing both international and domestic anti-drug abuse functions by all Executive Branch agencies, and ensuring that such functions sustain and complement State and local anti-drug abuse efforts.
- Director, ONDCP Position Description, May 1996: The Director of ONDCP is a member of the President's Cabinet, the National Security Council, and is the principal Administration and national spokesperson on illicit drug use and related issues. The Director's role is to create a national understanding of the nature of the threat from illicit drug use and the importance of resisting drug abuse and its consequences at all levels of society. The Director also serves as the "drug issues advocate" within the Federal government, developing collaborative, bipartisan relationships with the Cabinet, members of Congress, and Washington interagency community. Additionally, the Director coordinates and oversees other national drug control program agencies, reviews and certifies agencies' drug control budgets, and serves as Chair of ONDCP's Research, Data, and Evaluation Advisory Committee.
- Office of Demand Reduction, ONDCP Mission Statement, May 1996: The Office of Demand Reduction, ONDCP, is responsible for advising the Director of ONDCP on policies and programs to reduce the demand for drugs and ensuring the implementation of the demand-related portions of the National Drug Control Strategy. In carrying out this responsibility, the office advises the Director, ONDCP, on policies, objectives, and priorities pertaining to demand reduction...
- Deputy Director of Demand Reduction, ONDCP Position Description, May 1996: As Deputy Director of Demand Reduction, ONDCP, the incumbent is a principal assistant to the Director, ONDCP, responsible for overseeing the demand policy requirements and analysis and the formulation of demand reduction issues in the government-wide National Drug Control Strategy... The incumbent is charged with assisting the Director, ONDCP with providing the executive direction required for organizing and overseeing the activities of the Office of Demand Reduction.

Appendix I: Excerpt from The Retired Officer Association (TROA) Magazine, June 2000, Vol. LVI. No. 6, “Soldiering On: General Barry McCaffrey Talks with Tom Philpott”

(TROA:) Was there a national drug strategy before you took over?

(Director McCaffrey:) Interesting question. One thing I bring to this job is planning. I was the Army’s strategic planner, the joint strategic planner, Gen. [Colin] Powell’s National Security Council guy. So I had intellectual tools you get from DoD where you organize one of the world’s largest activities. I knew I had to have a strategy. Turns out there was one, but I’d never heard of it even as a cinc. It was an annual document, a throwaway. We said, “No, we’ve got to have a strategy.” We also demanded, and got written into law, a requirement for me to produce each year a five-year budget estimate for programs. And we had the law rewritten to demand that I create performance measures of effectiveness. Now we’re building a database to measure how programs are achieving their purpose.

(TROA:) You also beefed up the staff.

(Director McCaffrey:) I said to the secretary of Defense, “I’m not going over there if you don’t give me 30 military detailees.” I needed some planners. Now, the staff directors of the four major subcomponents of the [ONDCP] are all full colonels. My deputy chief of staff was a full colonel. The intelligence officer and some planners are military. This tiny number of military officers gave a very different tempo and discipline [to] what was essentially a dispirited, undermanned, confused group of civilians.

(TROA:) Will that military element be perpetuated?

(Director McCaffrey:) It darn sure better be. There’s a billion dollars of DoD money involved, out of \$19.2 billion overall. There are national security aspects to it. The National Guard, the Air Force and Navy, Army Special Forces, our intelligence system are all part of this effort. So there’s certainly room for the small number of very talented, dedicated military officers.

Appendix J: Full Breakdown of the Director's Schedule

Please see the page to follow

ANALYSIS OF THE DIRECTOR'S SCHEDULE*

Total Minutes By Activity

Office Time	Meetings		PAS only Meetings	Budget Meeting	Personnel Intvws	IPR Drug Issue	IPR Event/Media	Events/Media (Remarks, Intvws)	Govt Leaders (federal/int'l)	Meeting		TOTAL MINUTES
	Scheduling Meetings	Senior Staff Staff Time								Community Relations	Medical/Drug Experts	
November	180	405	0	0	375	90	480	1605	240	285	320	6895
December	175	310	0	45	15	115	645	1675	1185	145	525	8110
1999												
January	90	300	0	120	135	375	665	1330	795	145	315	8745
March	150	430	0	0	135	50	765	3395	585	105	445	9210
May	100	315	0	105	90	30	1065	2005	635	60	415	7520
June	150	160	0	15	60	75	795	2470	880	345	585	7810
TOTAL	17055	1920	0	285	810	735	4415	12380	4320	1085	2605	48250
Total %s	35%	4%	0%	1%	2%	2%	9%	26%	9%	2%	5%	4%
Total - OT	3%	6%	0%	1%	3%	2%	14%	40%	14%	3%	8%	6%

Number of Occurrences By Activity

Office Time	Meetings		PAS only Meetings	Budget Meeting	Personnel Intvws	IPR Drug Issue	IPR Event/Media	Events/Media (Remarks, Intvws)	Govt Leaders (federal/int'l)	Meeting		TOTAL
	Scheduling Meetings	Senior Staff Staff Time								Community Relations	Medical/Drug Experts	
Occurrences	13	36	0	9	17	21	103	217	82	21	59	924
Total Minutes	17055	1920	0	285	810	735	4415	12380	4320	1085	2605	48250
Avg. Time (Min)	53	53	0	32	48	35	43	57	53	52	44	52
TOTAL	644	72	0	18	34	42	206	434	164	42	118	1848
Occurrences	34110	3840	0	570	1620	1470	8630	24760	8640	2170	5210	96590
Total %s	3%	4%	0%	1%	2%	2%	9%	26%	9%	2%	5%	4%
Total - OT	3%	6%	0%	1%	3%	2%	14%	40%	14%	3%	8%	6%
Estimated Hours	28	64	0	10	27	25	147	413	144	36	87	1610

Analysis of Events/Media

Events/Media Category	6-MONTHS ESTIMATES		1-YEAR ESTIMATES	
	Number of Occurrences**	Total Minutes	Number of Occurrences**	Total Average Time (Min)
Address/Remark	59	4865	118	9730
Intvws/Vid/Media	134	3875	268	7750
Meeting/Briefing	35	2795	70	5590
Attend	10	845	20	1690
IPRs	103	4415	206	8530
TOTALS	341	16795	682	33590
			49	560

* Based on random sample of six (6) months
 ** Blocks of time