



DRUGS, LAW ENFORCEMENT AND FOREIGN POLICY (Senate - May 16, 1989)

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Mr. KERRY. Mr. President, recently the Foreign Relations Subcommittee on Terrorism, Narcotics and International Operations, which I chair, issued its report on 'Drugs, Law Enforcement and Foreign Policy,' chronicling the serious problems our Government has faced and continues to face in the war on drugs.

The report concluded that drugs are the No. 1 national security threat to the United States in this hemisphere. The evidence shows narcotics knows neither national boundaries nor ideology. The cartels have linked up with governments and terrorist movements alike throughout Latin America. The cartels and their networks must be understood for what they are--serious threats to the security of the United States at home and abroad and they must be treated as such.

The subcommittee also found that too often other foreign policy interests were permitted to sidetrack, disrupt, and undercut the war on drugs. As a result, our law enforcement personnel have been demoralized and our communities threatened. Again and again, we found agencies with foreign policy responsibilities failing to provide law enforcement with the information it needed to make arrests and otherwise enforce the law.

The subcommittee also found that United States law enforcement and foreign policy officials failed to address the drug issue for fear of jeopardizing the war on Nicaragua. This affected law enforcement in two areas especially--responding to the information on General Noriega's criminal empire, and responding to criminal activity related to the Contras.

The saga of General Noriega represents one of the great foreign policy failures of recent memory. Our decision to continue working with him long after our Government had extensive information regarding his drug trafficking has been a continuing betrayal of the public trust.

The subcommittee found that the secret Contra war provided numerous opportunities for drug traffickers to link up with the Contras, and they did. The subcommittee compiled an extensive record of these links, which have been significantly corroborated by documents obtained from law enforcement agencies.

Unfortunately, we found many examples of each of the above failures.

The subcommittee found cases in which high U.S. officials intervened to stop law enforcement operations aimed at nailing drug kingpins.

We found that a United States Ambassador to the Bahamas had shut down a Justice Department drug sting aimed at bringing down corrupt Bahamian Government officials.

We learned how high United States officials, including Lt. Col. Oliver North, went to the Justice Department to intercede on behalf of a man convicted of a narco-terrorist assassination plot against a Honduran President--because the man had been the administration's liaison to the Contras.

We were told by a former United States Ambassador to Costa Rica that a decision was made by the United States to 'put Noriega on the shelf' and take no action against his drug trafficking until the Sandinista government had been overthrown.

We were told by the head of the Drug Enforcement Agency that someone at the National Security Counsel leaked information on a DEA drug sting operation against the Sandinistas in order to influence a congressional vote on Contra aid, causing the operation to abort.

We also found out that the State Department chose four companies controlled by drug traffickers to provide assistance to the Contras. As a result, drug traffickers got funds out of the United States public treasury as part of our Contra humanitarian assistance program.

Finally, the report includes a summary of allegations that officials in the Justice Department sought to undermine and interfere with this investigation in 1986 because of concerns about its possible political impact. The charge came from a Federal prosecutor in Miami, Jeffrey Feldman, who was handling the investigation of weapons and Neutrality Act cases involving contra supporters.

According to prosecutor Feldman, Justice Department officials may have simultaneously interfered with a Federal grand jury in Miami, and with our congressional investigation in Washington, because of concerns about their impact on the Contra program.

These allegations raise very serious issues, which I understand are under investigation by the Independent Counsel.

These findings are significant, and I believe they deserve the serious attention of the Congress. I have already introduced legislation in response to a number of these findings, the 'International Narcotics and Terrorism Control Act of 1989,' S. 924, which is currently cosponsored by Senators **D'Amato, Adams, Moynihan, Cranston, Ford, Sanford, and DeConcini**, and on which I anticipate the Foreign Relations Committee will soon hold hearings.

I ask that the executive summary of the report entitled 'Drugs, Law Enforcement and Foreign Policy,' issued by the Subcommittee on Terrorism, Narcotics and International Operations be included in the **Record** at this point.

The summary follows:

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Executive Summary and Conclusions

'The American people must understand much better than they ever have in the past how (our) safety and that of our children is threatened by Latin drug conspiracies (which are) dramatically more successful at subversion in the United States than any that are centered in Moscow.'

That warning was delivered in Subcommittee testimony by General Paul C. Gorman, no retired and formerly head of U.S. Southern Command in Panama. Such a characterization, coming from an individual who served with such distinction in the United States Army, should not be taken lightly.

There should not be any doubt in anyone's mind that the United States is engaged in a war directed at our citizens--the old, the young, the rich, the poor. Each day, with what has become a numbing regularity, the American people are besieged with the news of the latest casualties in the drug war.

The Colombian drug cartels which control the cocaine industry constitute an unprecedented threat, in a non-traditional sense, to the national security of the United States. Well-armed and operating from secure foreign havens, the cartels are responsible for thousands of murders and drug-related

deaths in the United States each year. They exact enormous costs in terms of violence, lower economic productivity, and misery across the nation.

The American criminal justice system has been overwhelmed by the drug war. To date, most of the U.S. law enforcement efforts have been directed at the domestic drug distribution network. The result is a criminal justice system swamped with cases which cannot be processed fast enough, jails that are overflowing with prisoners, a greater influx of cocaine than when the war on drugs was declared in 1983, and a cheaper, higher quality product.

As a recent study sponsored by the Criminal Justice Section of the American Bar Association noted:

'A major problem reported by all criminal justice participants is the inability of the criminal justice system to control the drug problem . . . through the enforcement of the criminal law. Police, prosecutors and judges told the Committee that they have been unsuccessful in making a significant impact on the importation, sale and use of illegal drugs, despite devoting much of their resources to the arrest, prosecution and trial of drug offenders'.

Attempts to interdict the flow of drugs at the border, while important, has experienced only marginal success. According to U.S. officials in the vanguard of the war on drugs, at best, interdiction results in the seizures of only 15 percent of the illegal narcotics coming into the country. For the drug cartels, whose production capabilities stagger the imagination, a 15 percent loss rate is more than acceptable.

Demand reduction through education and rehabilitation are critical elements in the war on drugs. But most experts acknowledge that even this strategy will require a considerable period of time before major inroads are made into significantly reducing cocaine usage in this country.

The narcotics problem is a national security and foreign policy issue of significant proportions. The drug cartels are so large and powerful that they have undermined some governments and taken over others in our hemisphere. They work with revolutionaries and terrorists. They have demonstrated the power to corrupt military and civilian institutions alike. Their objectives seriously jeopardize U.S. foreign policy interests and objectives throughout Latin America and the Caribbean.

The Subcommittee investigation has led to the following conclusions and recommendations.

1 Subcommittee testimony of General Paul Gorman, Part 2, February 8, 1988, p. 27.

2 *Criminal Justice in Crisis. A Report to the American People and the American Bar on Criminal Justice in the United States*, American Bar Association, Criminal Justice Section, Washington, DC, November 1988, p. 5.

PAST FAILURES

In the past, the United States government has either failed to acknowledge, or underestimated, the seriousness of the emerging threat to national security posed by the drug cartels. The reasons for this failure should be examined by the Senate Select Committee on Intelligence, in concert with the Senate Committee on Foreign Relations, to determine what corrective steps should be taken.

In some instances, foreign policy consideration interfered with the U.S.'s ability to fight the war on drugs. Foreign policy priorities towards the Bahamas, Honduras, Nicaragua, and Panama at times delayed, halted, or interfered with U.S. law enforcement's efforts to keep narcotics out of the United States. In a few cases within the United States, drug traffickers sought to manipulate the U.S. judicial system by providing services in support of U.S. foreign policy, with varying results.

U.S. officials involved in Central America failed to address the drug issue for fear of jeopardizing the war efforts against Nicaragua.

The war against Nicaragua contributed to weakening an already inadequate law enforcement capability in the region which was exploited easily by a variety of mercenaries, pilots, and others involved in drug smuggling. The Subcommittee did not find that the Contra leaders personally were involved in drug trafficking. There was substantial evidence of drug smuggling through the war zones on the part of individual Contras, Contra suppliers, Contra pilots, mercenaries who worked with the Contras, and Contra supporters throughout the region.

The saga of Panama's General Manuel Antonio Noriega represents one of the most serious foreign policy failures for the United States. Throughout the 1970's and 1980's, Noriega was able to manipulate U.S. policy toward his country, while skillfully accumulating near-absolute power in Panama. It is clear that each U.S. government agency which had a relationship with Noriega turned a blind eye to his corruption and drug dealing, even as he was emerging as a key player on behalf of the Medellin cartel.

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POLICY AND PRIORITIES

International drug trafficking organizations are a threat to U.S. national security. Our government must first acknowledge that the activities of the drug cartels constitute a threat of such magnitude and then establish a more coherent and consistent strategy for dealing with the problem.

The threat posed by the drug cartels should be given a major priority in the bilateral agenda of the U.S. with a number of countries, including the Bahamas, Haiti, Colombia, Bolivia and Paraguay. It should be among the most important issues with a number of other countries, including Mexico and Honduras.

In order to signal to other countries the seriousness with which the United States regards the drug issue, the President should convene a summit meeting of Latin American leaders to begin developing a strategy to deal with this issue and related economic problems.

Narcotics law enforcement has often taken a back seat to other diplomatic and national security priorities. The war on drugs must not in the future be sacrificed to other foreign policy considerations.

ADMINISTRATIVE RECOMMENDATIONS

The Treasury Department should begin negotiations on gathering information on large foreign U.S. dollar deposits, as authorized by the 1988 Omnibus Drug Bill.

The State Department should make a special effort to control multiple entry visas from countries which are major drug transit countries or which harbor major drug organizations.

The Federal Aviation Administration should undertake a major effort to inspect hundreds of substandard aircraft, many of which are used for smuggling illegal narcotics. These aircraft are located throughout the United States, and those which do not meet FAA specifications should be grounded immediately.

Individuals who represent themselves as working for the CIA or other national security agencies of the United States Government, and who in fact do not, should be prosecuted promptly to the full extent of the law.

All U.S. law enforcement agencies should devote significantly greater attention to counter-intelligence in order to prevent drug traffickers from penetrating their operations.

The existing distrust among law enforcement agencies working on the drug problem and national security agencies must be resolved. Ways must be found to make it possible for law enforcement agencies to have access to national security intelligence information related to the drug threat.

Federal salaries of senior prosecutors and investigators must be raised and special Senior Executive Service positions created in order to encourage the most talented and experienced personnel to remain on the job.

SPECIFIC LEGISLATIVE RECOMMENDATIONS

The President should be given a series of optional sanctions to apply to major drug producing and drug-transit countries which have not fully cooperated with the U.S. in drug enforcement efforts. This would allow the President to certify a nation under the national security provision of 481(h)(2)(a)(i)(II), and thus avoid the mandatory sanctions contained in current law, while still giving him other optional sanctions. The proposed sanctions would include: prohibiting ships that have stopped at such a nation within 60 days from discharging passengers or cargo in the U.S.; denying landing rights in the U.S. to the national airlines of such a nation; subjecting goods and containers from any such nation to special inspections, quarantines, or other additional regulations to prevent them from being used to transport prohibited substances to the United States; denying or limiting non-immigrant visas to nationals of any such nation; eliminating Customs pre-clearance agreements with any such nation.

No government employee or official with responsibility for narcotics issues in either the Executive or Legislative branches of government should be permitted to represent a foreign government on narcotics matters for a period of three years after they leave. The penalties for violating such a prohibition should be the same as for violations of the Federal Regulation of Lobbying Act of 1946.

The Department of State should be required to notify the Congress within 10 days whenever it denies a request from law enforcement for reasons of national security or foreign policy. The notification should include a full description of the reasons for the refusal. Past decisions by the Department of State to end law enforcement operations on such grounds should have been subject to Congressional review; this provision would ensure that Congress remain in a position to exercise oversight over such decisions.

The Department of State should be prohibited from entering into contracts with any individual or company under indictment or convicted of any narcotics-related offenses, including money laundering. The Department should be required to institute procedures by which it would routinely check with the FBI, Customs and DEA to determine whether a company or individual is under investigation before the Department enters into any contract with the company or individual.

No U.S. intelligence agency should be permitted to make any payments to any person convicted of narcotics related offenses, except as authorized in writing by the Attorney General in connection with the investigation or prosecution of criminal activity.

The Neutrality Act should be amended to apply only to actions which are not specifically authorized by the State Department. Each such authorization would require prompt notification by the State Department to the House and Senate Foreign Affairs and Foreign Relations Committees, and Select Committees on Intelligence.

The annual drug certification report should be required to review links between international narcotics trafficking, money laundering and international terrorism (including guerrilla groups on the right and the left with regard to ideology.)

The National Director of Narcotics Policy should be required to report to the Congress on current U.S. federal personnel practices affecting all persons engaged in the war on drugs to determine whether adequate resources are being devoted to hiring, training, promotion, and retention of federal employees responsible for narcotics matters.

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