

Testimony of Antonio Garcia
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Before the Senate Judiciary Committee
Examining Federal Sentencing for Crack and Powder Cocaine

Introduction

Chairman Durbin, Ranking Member Grassley, and Members of the Committee: Thank you for the opportunity to testify on the subject of “Examining Federal Sentencing for Crack and Powder Cocaine”. I am honored to appear before you today to offer my remarks. My testimony is not as a representative of the Office of National Drug Control Policy (ONDCP) or the High Intensity Drug Trafficking Areas (HIDTA) Program, but rather as a member of the law enforcement profession for the past forty-five years and as a member of the National HIDTA Directors Association.

The HIDTA Program is a program funded through the Office of National Drug Control Policy within the Executive Office of the President which provides funding assistance to Federal, state, local and tribal law enforcement agencies operating in areas determined to be critical drug-trafficking regions of the United States. The South Texas HIDTA is an alliance of 87 different law enforcement agencies working in close partnerships to promote and facilitate counterdrug investigations, information sharing, operational coordination and officer safety. It currently encompasses fifteen designated counties along the US/Mexico border and includes the cities of San Antonio in Bexar County and Austin in Travis County. The agencies involved recognize that our goal of “Disrupting the market for illegal drugs by dismantling or disrupting drug trafficking and/or money laundering organizations” is the best approach we can take to reduce the availability drugs to our communities.

I began my career in 1976 upon graduating from the Texas Department of Public Safety training academy. In 1979 I was assigned to the Narcotics Service, in which I served in various positions until my retirement as a Deputy Commander from that agency in 2007. I was then selected as the Executive Director for the New Mexico HIDTA and in the fall of 2008, I was selected as the Executive Director for the South Texas HIDTA. My experience in narcotics enforcement has been a long one, primarily along the US/Mexico border. Pressures that were brought to bear by US law enforcement against Colombian cartels both in Columbia and the Florida Gulf Coast areas drove them to establish partnerships with Mexican Drug Trafficking Organizations. The southwest border became the focal entry point of cocaine into the United States, so much so that in 1989 I was part of an investigation that resulted in the seizure of nine tons of 96% pure cocaine. At that time the street level consumption purity levels were no more than 30%, which meant that those nine tons would have been converted to 27 tons. That amount would have provided 24,516,000 doses of 30% cocaine powder to the citizens of this country.

With the abundance of cocaine availability, “crack” emerged as a new recreational drug at a lesser cost than powder cocaine. Pharmacological studies have shown that cocaine in its base form (crack), provides the user with almost instantaneous effects, but also lasts for a shorter period of time, leaving the user with a desire to search for that “high” again and again. When we in law enforcement first became aware of crack, it was being produced via the use of ethyl ether, which is very flammable.

We were faced with crack conversion sites that were dangerous to us because of their explosive and flammable nature. Soon a safer method of conversion began being used, the use of sodium bicarbonate (baking soda) to convert cocaine hydrochloride to cocaine base became the most common way of conversion.

The Southwest Border remains the source of ingress of cocaine into the United States, in 2019 and 2020, the El Paso Intelligence Center (EPIC) National Seizure System (NSS) reported a total of 125,569 kilograms seized by law enforcement agencies reporting their seizures, namely at the ports of entry, the areas between the ports of entry and the inland Border Patrol checkpoints. For the same timeframe, the HIDTA programs within designated counties in all four US/Mexico border states reported combined seizures of 68,376 kilograms. Many of us in the law enforcement community debate the percentage of drugs that we seize, with some believing we are seizing 10% while others believe we're seizing 20%. The truth of the matter is that "we don't know what we don't know". Suffice it to say that we are certain that not all drugs are being seized. We depend on the production estimates provided to us by the Drug Enforcement Administration (DEA), but they too do not have the complete picture of what is being produced in foreign countries, leaving us with an important intelligence gap.

According to the Drug Enforcement Administration Threat Assessment, Colombia remains the largest producer of cocaine that is exported to the United States. In 2015, Colombia halted the aerial spraying to eradicate coca fields, forcing Colombian authorities to manually eradicate these fields. This process is not only labor intensive, but dangerous and minimizes the overall effectiveness. As a result, production levels remain high. Since 2014 the Mexican military has located and destroyed three coca plantations within the states of Guerrero along the Pacific Coast and Chiapas on the border with Guatemala. The latest in Guerrero was in February, 2021. The yield of these fields would have provided very small amounts of cocaine and law enforcement analysts believe that this may be an indication that Mexican cartels are testing their ability to produce their own cocaine. The continual production of cocaine in Colombia, Peru, Bolivia and now possibly Mexico, increases the amount of cocaine that may be available for importation into the United States.

Unlike other parts of the nation, law enforcement agencies along the border cannot focus on any one single drug threat. Mexican Cartels or Transnational Criminal Organizations have morphed from polydrug traffickers smuggling all kinds of illicit drugs and pharmaceuticals, to poly-commodity criminal enterprises that includes smuggling of people and anything that will produce for them a profit. Several years ago, the Gulf Cartel smuggled stolen Mexican crude oil for sale on the black market in the United States.

Mexican cartels, specifically the Sinaloa Cartel, the Cartel de Jalisco Nueva Generación (CJNG), the Gulf Cartel and others continue to market their cocaine supplies to consumers in the United States. The battles among them for control of various border plazas remain violent, placing citizens on both sides of the border in harms way. Drug traffickers prey on young adults on the border to transport their illicit drugs to areas in the interior of the country.

The Domestic Highway Enforcement Initiative under the National HIDTA Program maintains a representation and partnerships with thousands of interdiction officers assigned to patrol the highways and interstates from the southwest border to other parts of the country. From calendar year 2018 through 2020, the number of yearly traffic stops have remained level at an average of 1,356 incidents

that involved the seizure of cocaine. Our partners in the US Coast Guard have also seen a continual number of cocaine seizures. During fiscal years 2019 and 2020, the Coast Guard seized 353 metric tons of cocaine in the Caribbean and off the Pacific coast from South America to Mexico. Although there is no way to accurately determine how much of those tons were destined for the United States, there is no doubt that many of them were destined to Mexico, which in turn would be smuggled into the US.

Officer safety remains our paramount concern. The increase in violence associated with drug trafficking is evident in some of the seizures that have been made by our interdiction officers across this country. In the years 2019 and 2020, interdiction officers reported the seizure of 3,710 weapons involved in the transportation of illicit drugs. For calendar year 2021, those officers have already reported 887 weapon seizures. Continual training of our officers in subjects such as interdiction, detection of concealed contraband, criminal indicators and crisis de-escalation remains critical in ensuring not only the safety of our officers, but the safety of the citizens that these traffickers prey upon.

Cocaine hydrochloride (HCl) purity in the US continues to remain at high levels, at an average of 83.8%. The remaining percentage is cutting agents that increase the weight and profit for cartels. Law enforcement data reveals that cocaine is increasingly becoming available mixed with fentanyl. In 2016, 60% of more than 1,500 drug submissions to the Drug Enforcement Administration, National Forensic Laboratory Information System involved the combination of fentanyl and cocaine. Of particular concern is the fact that cocaine is the main ingredient in crack cocaine. Fentanyl is stable up to 350°C; far higher than when crack cocaine is cooked at 100°C. We can infer fentanyl should not degrade during crack production.

The chemical properties of fentanyl and fentanyl citrate seem to indicate it is possible to heat up these materials for vaping or smoking; an uncommon but deadly practice. The addictive properties of the combination of fentanyl mixed with cocaine is understudied. It is unclear if the smoking of crack cocaine that was produced with cocaine containing fentanyl will cause the crack cocaine to be more addictive, or if it will increase the danger of overdose and death.

Law enforcement agencies that partner together through the HIDTA program understand that the illness of substance use disorder is one that cannot be curtailed by enforcement actions alone. Law enforcement long ago established partnerships with prevention, treatment, education, and the courts to work together to stem the tide of addiction and overdose. Our law enforcement partners agree that to protect our citizens from access to these illegal substances, we must target the predators that feed upon the innocence and gullibility of the public. Those predators are defined as the transnational criminal organizations, the cartels and the drug trafficking organizations that seek to profit from the sale of their poisons. Any change in our laws that minimizes the consequences of actions by these monsters gives the impression that our society is willing to tolerate the abuse of our public by individuals that care not who they hurt as long as there is a monetary gain for them. As this country continues to battle the opioid crisis, including the increase of synthetic drugs such as fentanyl, we cannot lose sight of the dangers posed by methamphetamine and cocaine.

HIDTA partners across the nation report an average cost of one kilogram of cocaine is \$29,436. Combining the 2019 and 2020 seizure weights reported above would equate to \$16,099,873,020 that law enforcement in the United States deprived the cartels of profits in the sale of cocaine.

The abuse of illicit drugs in the United States remains as one of the most important focal points for law enforcement across the nation. Leaders at all levels of the population must come together to continually advocate for the prevention of drug abuse if we hold to any hopes that our future generations will have the physical, mental and sociological strength to uphold the wellbeing of our great nation.

Thank you for the opportunity to testify before you and I welcome your questions.