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Department of Justice

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STATEMENT

OF

LEON B. KELLNER
UNITED STATES ATTORNEY
SOUTHERN DISTRICT OF FLORIDA

BEFORE

THE

SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL
HOUSE OF REPRESENTATIVES

CONCERNING

PANAMA AND DRUG-TRAFFICKING

ON

NCJRS

MARCH 16, 1988

APR 5 1988

ACQUISITIONS

Mr. Chairman and Members of the Select Committee

I want to thank you for inviting me to testify today concerning the international narcotics problem.

The narcotics problem is, far and away, the most serious crime problem facing this country today. Studies have shown that drug abuse and drug trafficking lay at the heart of much of the violent crime being committed in our major metropolitan areas. In the past month, because of indictments returned in the Southern District of Florida and through testimony at Congressional hearings, it is acknowledged that the narcotics problem is not simply a domestic problem but one of international magnitude. Those of us who enforce the law in the Southern District of Florida daily see the international dimensions of the problem.

The Southern District of Florida sits astride the major cocaine importation route into the United States. In the last fiscal year law enforcement in South Florida seized in excess of 30 tons of cocaine. This amount represents 62% of the amount seized in the United States. It is an unfortunate fact that even with the concerted efforts of federal law enforcement agencies in cooperation with local and state authorities, the Southern District of Florida continues to be the number one entry point for cocaine entering this country.

The seizures made in the Southern District of Florida are many times the quantity seized anywhere else in the country. Cocaine seizures in excess of one thousand pounds in our District are not uncommon. For example, in the past year we have seized

individual shipments of 8000 pounds (the largest recorded seizure), 6000 pounds and two of 3000 pounds. Moreover, the largest single cocaine seizure in the history of Chicago, 5000 pounds, was the result of a controlled delivery from Miami. The drugs are smuggled in every conceivable fashion -- by private plane and boat, commercial fishing vessels, containerized cargo, commercial aircraft and body carriers through Miami International Airport. The methods are limited only by the smuggler's creativity. We have found cocaine disguised as yams, in hollowed out furniture, behind false walls in containers, mixed in with cut flowers and in false compartments specifically constructed for smuggling. Over 90% of the narcotics cases brought in the Southern District of Florida involve quantities in excess of that required for the imposition of minimum mandatory sentences. Over the past four years we have indicted more drug defendants than any district in the United States.

For the most part, the persons hired to transport the drugs and arrested through our interdiction efforts are not the owners of the drugs nor the recipients. We recognized that indicting the mules, drug pilots, sea captains and crewmen was not enough. These defendants can be easily replaced.

As a result, we developed a strategy of focusing our investigative efforts on the foreign criminal organizations supplying cocaine and the corrupt officials who protect the shipments. In August, 1986 a Miami federal grand jury identified and indicted the members of the Medellin Cartel who we believe are responsible for the majority of cocaine entering the United

States. The indictment graphically details how the Cartel operates:

"The Cartel operated to coordinate and consolidate production, distribution, and importation of cocaine into the United States. Through the Cartel, major cocaine organizations were able to pool resources, including raw materials, clandestine cocaine conversion laboratories, aircraft, vessels, transportation facilities, distribution networks, and cocaine to facilitate narcotics trafficking."

The indictment also describes the methods the Cartel uses to protect its business:

"To protect its business operations and enforce its mandates, the Cartel corrupted public officials of foreign governments and utilized force and violence, including threats to, physical assaults on, and murders of informants, discordant employees, and opponents of the Cartel."

During the past five years we have indicted and convicted public officials from a number of Caribbean Basin countries for participating in the transportation of cocaine into the United States. These cases, which are listed below, graphically illustrate that the corruption problem is widespread:

(1) In United States v. Luis Arce Gomez, et al., Luis Arce Gomez, a colonel in the Bolivian Army and the Minister of Interior, Justice and Immigration, together with a number of other Bolivian government officials and other defendants were charged with violations of United States narcotics laws. The indictment alleges that Arce organized a protection racket requiring cocaine traffickers to pay monies to permit the distribution and exportation of cocaine to the United States. None of the former Bolivian officials have been apprehended. At one point, Arce was arrested in Argentina but was subsequently released.

(2) In United States v. Jamie Guillot-Lara, et al., four Cuban officials and other defendants were charged with violations of United States narcotics laws. Among the charged officials were the Ambassador to Colombia from the government of Cuba, the Minister-Counselor of the Cuban Embassy in Colombia, the President of the Cuban Institute of Friendship with the People, a Cuban Government agency, and the Vice-Admiral of the Cuban Navy. The indictment charged that quantities of marijuana and methaqualone were transshipped from Colombia through Cuba to the United States with the assistance of the four named Cuban officials. A number of defendants were arrested and convicted but the Cuban officials have not been apprehended.

(3) In United States v. Sammy L. Miller, et al., Sammy L. Miller, Chairman of the National Progressive Committee, a civic and political organization in the Bahamas, John Rolle, a senior official of the Bahamas Immigration Department and a third

individual were charged with violations of United States narcotics laws in connection with a scheme to import 800 pounds of cocaine from the Bahamas to the United States. The indictment charged that Miller and Rolle solicited and received cash payments totalling \$100,000 in return for providing a safe, protected haven in the Bahamas to utilize as a drug smuggling base to import narcotics into the United States. The defendants, Miller and Rolle, were convicted after a trial.

(4) In United States v. Norman Saunders, et al., three officials of the Turks and Caicos government were charged along with another individual with violations of the United States narcotics laws in connection with a scheme to utilize the Turks and Caicos Islands as a transshipment and refueling point for cocaine laden aircraft flying from Columbia to the United States in return for payoffs to a variety of officials including themselves. The officials charged in the indictment were the Chief Minister of the Turks and Caicos Islands, the Minister of Commerce and Development and a member of the legislature. These officials were subsequently tried and convicted.

(5) In United States v. Fred Alfred Strachan, among the 17 defendants charged were two Bahamian officials -- an Immigration official and a Customs official. They were charged with accepting payments to assist the importation of cocaine to the United States through the Bahamas. They agreed to falsify immigration and customs documents, not check the identification of people who were part of the cocaine smuggling ring who traveled to the Bahamas, and not search the vessels used by the

cocaine smuggling ring. Ten defendants have been arrested and are pending trial. The remaining seven, including the Bahamian officials, are fugitives.

(6) In United States v. Etienne Boeren-Veen, et al, Etienne Boeren-Veen, identified as a "Commander of the Army" of Suriname, was charged, along with two other individuals with violations of United States narcotics laws. In this case, the defendants, in return for payment of \$1 million per shipment fee, offered and promoted the use of Suriname as a protected haven for drug smuggling operations and as a base to land and refuel aircraft to be used in smuggling cocaine into the United States. The defendants were tried and convicted.

(7) In United States v. Manuel Antonio Noriega, et al., Manuel Antonio Noriega was charged along with fifteen other defendants with violations of United States narcotics laws. Noriega was charged with exploiting his official position as head of the intelligence section of the Panamanian National Guard and later as Commander-in-Chief of the Defense Forces of the Republic of Panama to receive payoffs for assisting and protecting international narcotics traffickers. This case is currently pending.

(8) In United States v. Jean Claude Paul, et al., Jean Claude Paul, a Colonel in the Haitian Army, was charged along with two other individuals, with violations of United States narcotics laws, in connection with a scheme to provide a protected airfield to transport cocaine owned by Paul and others from Haiti, through the Bahamas to the United States. This case is currently pending.

These indictments show that the problem of narcotics related corruption extends far beyond any one country. We have indicted corrupt officials from many of the major cocaine transshipment countries in the Western hemisphere.

I would be remiss if I did not also point out that this country has suffered from the corrupting influence of narcotics trafficking. In the past few years, federal law enforcement in the Southern District of Florida has indicted and convicted, among others, (i) the Deputy Chief of Police of the Key West Police Force for providing protection for narcotics shipments smuggled through Key West, (ii) three members of the North Bay Village Police Force for providing protection to a narcotics shipment, (iii) fifteen former City of Miami Police officers for stealing and distributing hundreds of kilograms of cocaine, as well as agents and officers of the DEA, Customs, FBI and Coast Guard for providing confidential information to traffickers as well as trafficking themselves.

Turning to your letter requesting my appearance today, you asked that I "clarify exactly how these [Noriega] indictments came about; [and] when the allegations became evidence".

I am limited in my answers concerning the Noriega indictment because first it is currently pending and second because the Southern District of Florida was responsible for only one of the indictments. Within these constraints and utilizing material already in the public record, I will try to describe how the case against General Noriega was put together. I can say without qualification that the investigation resulting in the

Noriega indictment was initiated and pursued without any consideration whatsoever to factors extraneous to law enforcement.

The Noriega investigation was conducted by agents of the Drug Enforcement Administration and began with a separate investigation having nothing whatsoever to do with Panama. The Drug Enforcement Administration was conducting an undercover investigation, utilizing an agent in an undercover role and a confidential informant. Undercover operations have proven to be a valuable law enforcement tool and many of the indictments detailed in my testimony are the result of successful DEA undercover operations.

During the course of the undercover operation, DEA agents received information about narcotics being smuggled into the United States through Texas to South Florida. DEA successfully placed a transponder on one of the suspected drug planes enabling DEA to seize the plane carrying a 900 kilogram shipment after it landed on a highway under construction on September 23, 1985. During the course of this investigation, it was learned that certain of the suspects had close ties to Panamanian government officials including General Noriega. As a result of the DEA investigative efforts, eight persons were indicted for smuggling this shipment into the United States. Among the eight was the pilot, Anthony Azpruia, a former captain in the Panamanian Defense Forces, and Floyd Carlton-Caceres. Seven of the defendants were arrested, plead guilty and cooperated. Only Floyd Carlton-Caceres was a fugitive. The former Panamanian

officer, Azpruia, told the agents and our prosecutor about allegations concerning the involvement of Panamanian officials in narcotics trafficking. However, the information he provided was hearsay. We learned that it was Floyd Carlton-Caceres who had the first hand knowledge. Shortly after the indictment, Carlton became aware that Federal law enforcement agents were seeking his return to stand trial in the Southern District of Florida and he approached the United States Embassy with a deal. The deal, in essence, was that in return for a dismissal of the outstanding charges, he would provide information about General Noriega, but would not testify in a United States Court. This arrangement was rejected for two reasons - (1) Carlton was not willing to testify and, as a result, the information he would provide could not be used to obtain indictments and (2) dismissal of all charges was unacceptable. Similar proposals are routinely rejected.

However, both the DEA agents working the case and my office recognized that Carlton was essential to any investigation of Noriega that could ultimately lead to criminal charges and so we continued to seek ways to have Carlton returned to the Southern District of Florida to stand trial on the pending charges. Ultimately, with the assistance of other defendants in the original case who had agreed to cooperate, Carlton was lured to Costa Rica where he was arrested and, after extensive court proceedings, he was extradited in December 1986, to the Southern District of Florida to stand trial. As the trial date approached in June 1987, a plea bargain was struck which provided that

Carlton was to cooperate with federal law enforcement agencies and testify at before grand jury and at trial. In return, he was allowed to plead to one conspiracy count whereby he faces a maximum exposure of twenty years imprisonment. By proceeding in this manner we obtained the results we wanted - the conviction and incarceration of a cocaine trafficker and his useful cooperation which resulted in the indictment charging Noriega. Thereafter, from June 1987 through February 1988, when the indictment was returned, the investigation proceeded with the collection of evidence, obtaining additional witnesses and insuring that there was a prosecutable case to present to the grand jury.

With respect to the second question - "when and why it was decided to reverse the strategy of closing an ear to 'rumors' and of cooperating with Noriega for the sale of our 'national interests'", I can only answer from my limited perspective of first being an Assistant United States Attorney and then United States Attorney for the Southern District of Florida. I am not privy to the global policy discussions and strategic decisions made in Washington.

From my perspective there never was a strategy of closing an ear to the "rumors". On the contrary, as the cases I described earlier show, whenever this office developed credible information involving a foreign official it has been actively pursued irrespective of the person's position on the political or ideological spectrum. We have indicted officials from the Bahamas, Bolivia and a colony of Great Britain, our allies, and

we have indicted officials from Cuba, with whom we have no diplomatic relations. Unfortunately, drug trafficking and the corruption spawned by narcotics proceeds cuts across political ideology and is reduced to the common denominator of the extraordinary dollars that can be made. The Noriega indictment began, as many investigations do, from fragmented pieces of information that were ultimately developed into a prosecutable case. This happened through a combination of hard work by the DEA agents, patience and, of course, a little bit of luck. If I had to point to a single key factor that ultimately led to the indictment, it would be the cooperation of the Costa Rican authorities. Not only did they aggressively litigate the extradition proceedings against Carlton, but they fully cooperated and coordinated a continuing investigation that resulted in the indictment of two Costa Rican officials who are being prosecuted by the Costa Rican authorities.

There is, however, a world of difference between rumor and the kind of hard evidence necessary to present to a grand jury for the return of an indictment. Moreover, the evidence must be admissible at trial. Because of my obligations as United States Attorney and my assistants' obligations, we cannot indict on rumor and suspicion. We can only act on the legally sufficient evidence developed during the course of an investigation. I may believe that a person is guilty of trafficking in narcotics but my belief is inconsequential. More importantly, for me to express my beliefs would be reckless and irresponsible. The only

way I comment on accusations of criminal conduct is through indictments and the evidence presented in a Court.

Hence, at least insofar as the United States Attorney's Office for the Southern District of Florida is concerned, the only strategy we had and continue to have is to develop legally sufficient evidence that would support an indictment and be admissible at trial.

In my testimony today, I have described a bleak picture of narcotics corruption in this country and elsewhere. It would be unfair to conclude my testimony without mentioning the hard working men and women in law enforcement who daily put their lives on the line enforcing the narcotics laws. All of us are deeply troubled by the damage narcotics trafficking is causing in this country and the other countries. It is truly a national security as well as a national health problem which should be the number one priority. I have testified today about the supply side of the problem because that is my job - prosecuting those persons who smuggle drugs into the United States. It is clear to me that dealing with the supply problem, either through interdiction or prosecution, is not sufficient. The plain fact is that this country is the largest consumer of narcotics in the world. I have read numerous articles, editorials and op-ed columns bemoaning the fact that since 1981 more than \$21 billion of federal funds has been spent on the narcotics problem which is nowhere near being solved. This amount is a mere pittance compared to the federal government's annual trillion dollar

budget. This is especially true considering the damage narcotics is causing domestically and internationally.

We must develop the national resolve to do whatever is necessary to cope with this crisis.

This means, domestically, developing an effective drug education program that should be mandatory in every school, increasing our drug awareness programs for adults, and increasing our enforcement of the drug laws. Internationally, we must place the narcotics problem at the top of our agenda with foreign countries consistent with our domestic priority by demanding that other governments stop providing safe haven for traffickers and enforce their own laws against narcotics trafficking. We must be prepared to view as a hostile act the refusal of any country to honor these legitimate requests. Most importantly, we must allocate sufficient resources to effectuate these goals.

In conclusion, I believe that whatever we do, whatever changes in strategy are made, the problem is not going to go away overnight. Our efforts will take many years before we can claim success. In the meantime, we must persevere and continue to work on both the supply and demand sides. We cannot give up.

Again, thank you for inviting me to testify today and I would be happy to answer any questions you may have.