



Maricopa County Attorney

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Via email

November 18, 2015

Ron Johnson, Chairman
Thomas R. Carper, Ranking Member
United States Senate
Committee on Homeland Security and Governmental Affairs
Washington, DC 20510-6250

Re: Testimony of Maricopa County Attorney Bill Montgomery for hearing titled "America's Heroin Epidemic at the Border: Local, State, and Federal Law Enforcement Efforts to Combat Illicit Narcotic Trafficking" on Monday, November 23, 2015 at 9a.m. MST at the Historic Senate Chamber, Arizona State Capitol Museum, 3rd Floor, 1700 W. Washington Street, Phoenix, AZ 85007

Dear Chairman Johnson, Ranking Member Carper, ladies and gentlemen of the Committee,

Thank you for the invitation to testify here today. I am Bill Montgomery, the elected Maricopa County Attorney with felony prosecution responsibility on behalf of the 4.1 million people in my jurisdiction. As we sit here in this Historic Senate Chamber, command and control elements from the Sinaloa Cartel are moving heroin into and out of Maricopa County, which serves as the Sinaloa Cartel's distribution hub for their heroin trafficking operations in the United States. The market is proving so lucrative that the Cartel has also shifted some of their marijuana fields to poppy cultivation for increased heroin production and I must underscore that heroin is being trafficked into the United States. It is not being domestically produced.

The overall volume of drug trafficking is significant with Arizona, once again, the main thoroughfare for drug smuggling into the United States with Customs and Border Protection drug seizures in Arizona in FY 2014 amounting to nearly half of all southwest border seizures. For heroin in particular, we have seen a steady increase in Arizona port of entry seizures reported by Customs and Border Protection of 170% from 267 pounds seized in 2010 to 722 pounds in 2014. Select investigations just this year in Maricopa County have resulted in seizures of 131 pounds of heroin, 108 pounds of cocaine, 205 pounds of methamphetamine, and \$327,533.00 in US currency. The combined street value of the drugs seized is over \$3 million. Such heavy smuggling activity also has a direct impact on our prison population. As of October, 2015, 4,569, or 10.7% of Arizona's prison inmates, are criminal aliens and account for 29.2% of all inmates incarcerated for drug sales/trafficking convictions.

The broader impact to Arizona from heroin trafficking is also illustrated by the sharp increases in emergency department admissions for heroin. Specifically, we have seen a 103% increase in emergency department visits from 277 in 2009 to 561 in 2013. We have also seen an impact from heroin in the types of drug prosecutions undertaken in Maricopa County. Prosecutions for heroin related cases have increased 200% from 468 cases filed in 2009 to over 1400 in 2014. In terms of possession cases alone, the percent increase from 2009 to 2014 is 231%, and heroin possession cases accounted for 64.8% of all possession or use of narcotic drug cases in 2014. Our response as a state since 1996 to drug abuse has been to emphasize drug treatment first. Accordingly, no prison sentence is possible for the first two arrests and convictions even if previous opportunities for diversion or deferred prosecution have failed. We have also seen a corresponding 25% increase in the numbers of individuals offered diversion or deferred prosecution for using heroin. Successful completion of these treatment programs can result in no drug charges ever being filed or result in no felony conviction and cases dismissed with prejudice.

The increase in use of heroin also manifests itself in other areas of crime. We have seen heroin use reflected in cases of organized retail theft where individuals enter a supermarket and engage in mass shoplifting with shelves cleared of baby formula, deodorant, shaving cream or similar items. The items are then turned over to a middleman who in turn sells them for pennies on the dollar to a broker who, in turn, sells them to flea market vendors or neighborhood grocery stores for retail sales. The shoplifters are heroin addicts recruited with the promise of heroin or enough money to get their next fix as payment. These are our walking dead who are enslaved by their addiction and provide the labor for such organized criminal activity.

Despite the rapid growth in heroin cases, methamphetamine is still a scourge and, like heroin, is trafficked into Arizona. There is little domestic production as supplies now come from superlabs in Mexico as part of the Cartels line of products. In comparison to heroin, meth represents 52% of cases involving the sale or transportation of drugs, excluding marijuana, over twice the number of heroin cases at 25%. Meth sales out of fixed locations where drugs are brought for further distribution are 42% of sales, marijuana 40%, and heroin 10%. In contrast, street sales of meth represent 35% of our cases, heroin 23%, and marijuana 25%.

With respect to funding I receive from federal sources for drug related prosecutions, those monies come from our HIDTA and Byrne/Justice Assistance Grants (Byrne/JAG). HIDTA monies essentially cover 1 prosecutor position and have averaged approximately \$100,514 each of the last three years. Byrne/JAG monies for FY 2015 amount to \$550,840 for additional personnel expenditures and related expenses, including investigative positions in my Office that participate in task force operations. I would also note that Byrne/JAG monies have been steadily decreasing since at least 2010. Needless to say, these funds are not enough to handle the workload and so I use County general fund monies in my budget for the necessary additional prosecutor, paralegal, and legal support positions. Overall, my Drug Enforcement Bureau is staffed with 15 prosecutors plus one prosecutor-supervisor, 7 paralegals, and 5 legal assistant/specialist positions. I do not refuse to take cases from local, state, or federal agencies on the basis of lack of resources. Instead, I take the cases that are made in my jurisdiction and see to it that justice is done. Our unique proximity to the border and the activities of drug cartels require no less a commitment for law enforcement or my Office on behalf of Maricopa County.

As for improving coordination among local, state, and federal law enforcement, I must say that we work together well in and through HIDTA initiatives, local Task Force efforts, as well as in other daily law enforcement interactions serving a shared constituency and dedicated to enhancing public safety. What I would offer in the current environment is that the FBI should be resourced to assist in dealing with Mexican drug cartels and the problem should be treated as a national security issue. As stated in Congressional testimony on August 1, 2012, by Charles K. Edwards, the Acting Inspector General of DHS, "DTOs [Drug Trafficking Organizations] are becoming involved increasingly in systematic corruption of DHS employees to further alien and drug smuggling, including the smuggling of aliens from designated special interest countries likely to export terrorism." I would even go so far as to suggest making the Border Patrol a uniformed service akin to the Coast Guard with similar domestic law enforcement authority during peacetime as the Coast Guard wields and falling under the Department of Defense during time of war. Securing and protecting the territorial sovereignty of the United States of America from national security and transnational criminal threats along our nation's borders is directly charged to the federal government in our Constitution and Arizona has suffered long enough from the federal government's failure to act accordingly. Collecting information here today is an important part of carrying out congressional duties and responsibilities but it cannot stop with gathering info, either. And I urge this Committee to take the lead in directing resources to address the problem and not just place a salve on the symptoms. Thank you again for the opportunity to testify here today. I am prepared to address any questions.

Sincerely,



Bill Montgomery
Maricopa County Attorney