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Congress of the United States
House of Representatives
Washington, DC 20515-5401

October 6, 2009

The Honorable R. Gil Kerlikowske
Office of National Drug Control Policy
Executive Office of the President
The White House
1600 Pennsylvania Ave., NW
Washington, DC 20500

Dear Director Kerlikowske:

Thank you for your letter of August 20, 2009 requesting input for President Obama's first *National Drug Control Strategy*. I am pleased to have this opportunity to offer my thoughts.

The recommendations below are based on my consultation with law enforcement officials in Puerto Rico, as well as my experience addressing drug-related crime during my tenure as the Attorney General of Puerto Rico.

1. Encourage alternatives to criminal prosecution and punishment in non-violent drug cases.

Wherever feasible, governments at all levels should seek alternatives to the prosecution and incarceration of non-violent drug offenders. Since 1990, drug offenders have accounted for more than 50% of all federal prisoners, costing the U.S. government more than \$2.9 billion in fiscal year 2008 alone. In Puerto Rico, over 80% of prison inmates are incarcerated because of a drug-related offense. In light of the significant taxpayer dollars being spent to imprison drug offenders, we should assess whether low-level offenders pose a risk to society commensurate with the resources required for their incarceration. Although individual circumstances will vary, common sense compels the conclusion that those who use or sell small quantities of drugs generally do not pose the same threat to society as those who traffic in larger quantities.

Although law enforcement officers are dedicated to protecting and serving their communities, many police departments measure the productivity of their officers on the basis of the number of arrests they make. This practice provides an incentive for officers to arrest as many offenders as possible, without regard to the benefit that inures to society as a result of those arrests. This point was corroborated by a former United States Attorney who testified at a recent hearing held by the House Judiciary Committee's Subcommittee on Crime, Terrorism, and Homeland

Security, of which I am a member. The former prosecutor stated that arresting street drug dealers is comparable in difficulty to “shooting fish in a barrel.”¹ Instead of rewarding officers and prosecutors for arresting and convicting low-level drug users and sellers, we should dedicate law enforcement resources to pursuing drug kingpins and others who inflict violence and significant harm on our communities.

2. Promote drug courts, needle exchange programs, drug treatment clinics, and other innovative approaches to combating drug abuse.

State and local governments around the country have successfully implemented innovative programs to address the root causes of drug addiction and drug-related crime. These programs can serve as models for other jurisdictions and should be supported at the federal level. Three in particular merit mention.

First, drug courts have been enormously successful in lowering crime and recidivism rates and reducing long-term costs by diverting non-violent, substance-abusing offenders from prison into treatment. Although the specifics of these programs vary by jurisdiction, they typically share many features in common. In general, the judges that preside over drug court proceedings monitor defendants’ progress with mandatory drug testing and prescribe sanctions and rewards in consultation with prosecutors, defense counsel, and treatment providers.

Puerto Rico has witnessed the benefits of drug courts. Since the program was established on the Island, over 9,000 individuals have participated in the nine courts in operation. According to a recent survey, participants had a recidivism rate of only 5% in their first year after graduating from the program—a figure significantly lower than the recidivism rate of 44% for the general offender population in the United States. Beyond Puerto Rico, the effectiveness of drug court programs in reducing drug abuse and drug-related crime is well-documented. According to a study conducted by your office: “A decade of research indicates that drug court reduces crime by lowering rearrest and conviction rates, improving substance abuse treatment outcomes, and reuniting families, and also produces measurable cost benefits.”²

Currently, drug courts are solely the creation of individual states and territories. In addition to supporting these courts through yearly appropriations, Congress should consider expanding the drug court model to the federal court system. To this end, I am exploring legislative options to establish federal drug courts as individual units within each federal judicial district, using the relationship between the federal bankruptcy courts and district courts as a model.

Needle exchange programs represent a second innovative program that is currently operating in certain states. These programs, which combine needle exchange services with comprehensive psychosocial support, have proven effective in reducing drug abuse. Needle exchange programs

¹ Unfairness in Federal Cocaine Sentencing: Is It Time to Crack the 100 to 1 Disparity?: Hearing Before the Subcomm. on Crime, Terrorism, and Homeland Security of the H. Comm. on the Judiciary, 111th Cong. (2009) (statement of Veronica F. Coleman-Davis, Former United States Attorney for the Western District of Tennessee).

² White House Office of National Drug Control Policy, *Drug Courts*, <http://www.whitehousedrugpolicy.gov/enforce/DrugCourt.html> (last visited Sept. 22, 2009).

are particularly important in areas such as Puerto Rico, where Hepatitis C affects one-third of Puerto Rican prisoners, and rates of HIV/AIDS among prisoners are triple the national average.

Third, drug treatment clinics play an important role in addressing substance abuse. Methadone maintenance treatment clinics serve an average of 231 patients each year, combining the stabilizing power of methadone with professional psychological support. Buprenorphine, another anti-opiate, has exhibited high success rates when administered in a clinic atmosphere.

Demand for such services in Puerto Rico is seven times higher than in the United States, evincing the need for increased funding to expand the number of treatment facilities on the Island. While the success rate of such programs depends heavily on the quality of psychological therapy provided, methadone clinics have been shown to reduce addiction in up to 70% of patients in the first year after treatment.

3. Focus international counter-trafficking efforts on closing trafficking routes through the Caribbean and undermining the financial infrastructure of the drug trade.

Attention and resources must continue to be devoted to the 42-million square mile transit zone between the Caribbean Sea and the Gulf of Mexico. Over the past several months, the United States and Mexico have invested significant law enforcement resources to address drug trafficking activity and related violence on the southwest border. As these efforts have made it more difficult to traffic drugs and contraband across the border, smugglers have increasingly turned to Puerto Rico and the other Caribbean islands as their preferred drug routes. According to the Consolidated Counterdrug Database, approximately 11% of the cocaine that enters the United States flows through the Caribbean Corridor. We can expect this figure to only rise as other trafficking routes are closed or restricted.

The immense coastlines of Puerto Rico and the other islands attract smugglers to the region and increase the challenge of implementing an effective counter-trafficking response. Vessels may legally cross into Puerto Rico at any location along its coastline, making it difficult to distinguish between smugglers and legitimate boating traffic. The recent arrest of ten American Airlines employees in Puerto Rico, charged with smuggling nearly \$20 million worth of cocaine on flights in and out of the Island, evidences the magnitude of illicit trafficking activity taking place within the Caribbean.

To effectively address the challenges posed by Caribbean drug traffickers, the federal government must continue to partner with state and local authorities to detect and interdict vessels and aircraft that seek to transport drugs through Puerto Rico. I understand that, in June, a Joint Strike Force was created between local and federal authorities. I have also been advised that your office's High Intensity Drug Trafficking Area for Puerto Rico has provided criminal intelligence to the local authorities of Puerto Rico to combat drug smuggling. Such coordination and intelligence gathering needs to be expanded to include other federal law enforcement agencies. In addition, Puerto Rico lacks the resources and equipment to provide the most effective surveillance, monitoring, and interdiction of drugs (and weapons) entering the Island. I have personally witnessed a significant reduction in the number of aircraft being used by the Department of Homeland Security's Caribbean Air and Marine Branch since the 1990s, which

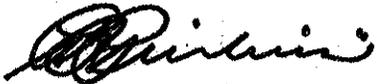
has hindered the organization's ability to effectively address narcotics smuggling. Similarly, the Puerto Rico Police Department and its counterparts at the local level would benefit greatly from enhanced training opportunities and from obtaining the latest technology, equipment, and vehicles to combat increasingly sophisticated criminal organizations.

Efforts to undermine the financial infrastructure of drug trafficking should also be a key component of the President's *Strategy*. International drug trading is a lucrative enterprise that generates between \$100 billion and \$1 trillion in profits each year. Because drug sales are often transacted in large sums of cash, disrupting the flow of bulk currency across borders is critical to limiting the ability of traffickers to complete sales. Programs such as the Puerto Rico/U.S. Virgin Islands Money Laundering Initiative, which seeks to prevent currency smuggling within the Caribbean, should continue to be fully supported.

* * *

I believe that a holistic approach to drug-related crime would lead to a reduction in both the demand for and supply of illegal drugs in the United States. I look forward to working with you to craft and implement an effective drug policy for our nation.

Sincerely,



Pedro R. Pierluisi
Member of Congress

cc: The Honorable Eric H. Holder, Jr., Attorney General