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HOMELAND SECURITY IMPLICATIONS OF THE OPIOID CRISIS

JOINT HEARING

BEFORE THE

SUBCOMMITTEE ON INTELLIGENCE AND COUNTERTERRORISM

AND THE

SUBCOMMITTEE ON BORDER SECURITY, FACILITATION, AND OPERATIONS, HOUSE OF REPRESENTATIVES

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HOMELAND SECURITY IMPLICATIONS OF THE OPIOID CRISIS

Thursday, July 25, 2019

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON INTELLIGENCE AND COUNTERTERRORISM, AND THE
SUBCOMMITTEE ON BORDER SECURITY, FACILITATION, AND OPERATIONS,
COMMITTEE ON HOMELAND SECURITY,
Washington, DC.

The subcommittees met, pursuant to notice, at 10:06 a.m., in room 310, Cannon House Office Building, Hon. Max Rose [Chairman of the Subcommittee on Intelligence and Counterterrorism] presiding.

Present from the Subcommittee on Intelligence and Counterterrorism: Representatives Rose, Langevin, Slotkin, Walker, and Green.

Present from the Subcommittee on Border Security, Facilitation, and Operations: Representatives Rice, Payne, Correa, Torres Small, Clarke, Higgins, and Guest.

Also present: Representatives Underwood and Trone.

Mr. ROSE. OK. The Subcommittee on Intelligence and Counterterrorism and the Subcommittee on Border Security, Facilitation, and Operations will come to order.

Today, the subcommittees I just mentioned are meeting to examine homeland security implications of America's unprecedented opioid epidemic.

We look forward to the witnesses discussing the flow of illicit fentanyl into the United States, including China and Mexico's role; the role of the Department of Homeland Security and its partners in combating that flow; and how to best mitigate this threat.

I think we would all agree, at this point, that this is a quintessentially nonpartisan issue of public health and National security of critical, critical importance. I certainly see in my own district where we have young people dying every week, growing rates, from fentanyl-laced heroin. I have spoken to too many mothers and fathers who have had to bury their child.

Now, it is our responsibility to do everything we can to save lives. I believe that is our greatest responsibility here in these hallowed halls.

Yes, we are seeing progress. For perspective, in New York City, the Centers for Disease Control indicates that in a 12-year span, from 2000 to 2012, fentanyl was identified in 2 percent of all drug

overdose deaths. Sadly, by 2016, that number had risen to 44 percent.

What is critical, as we look at this on a high level, is we have to make sure that we are not just fighting the last war. So much of our focus here in Congress when it comes to the opioid epidemic is on prescription pills. That focus is justified, but as we see more and more fentanyl in our streets and it being harder and harder to get pills, more people will be moving to fentanyl-laced products.

We have to get to the source of this. That source, as I said, is clearly China and then Mexico thereafter.

As we consider this, though, it is critical to make two last points. The first is that it is critical that we use all the tools at our disposal: Intelligence gathering but also the operations centered around CBP at our ports of entry as well as our major airports.

But we do all this with the understanding that no one here is seeking to criminalize this public health crisis. We are not seeking to make the same mistakes that we did a generation ago. But we do understand that law enforcement plays a critical role that cannot be ignored. This is, as I said, a critical homeland security issue.

I am concerned, though, that we have not been taking this seriously enough. A recent DHS Office of Inspector General report from last September indicates DHS's Customs and Border Protection's mail inspection process needs improvement at JFK International Airport. Dealers on the dark web are already taking advantage of security gaps highlighted in this OIG report, and they are doing it flagrantly with a wanton disregard for our law enforcement officials, so much so that they even offer free return service if the first order doesn't work out.

Equally concerning is last week's management alert indicating CBP did not adequately protect employees from possible fentanyl exposure. Accidental inhalation or physical contact with fentanyl is deadly.

Folks, we have to fix this. We have to continue to be better here. I think we all have to come to the understanding that this fight is not going away. So one central question I will have today is, how do we build inflexibility into our systems? How do we continue to look down the road and adapt to future ways in which these horrific organizations, these transnational criminal organizations, these pharmaceutical companies overseas continue to think of new and innovate ways to kill our kids?

[The statement of Chairman Rose follows:]

STATEMENT OF CHAIRMAN MAX ROSE

JULY 25, 2019

Today, the Subcommittee on Intelligence and Counterterrorism, and the Subcommittee on Border Security, Facilitation, and Operations are meeting to examine the homeland security implications of America's unprecedented opioid epidemic. We look forward to the witnesses discussing the flow of illicit fentanyl into the United States, including China and Mexico's role; the role of the Department of Homeland Security and its partners in combating that flow, and how to best mitigate this threat. I believe we can all agree that we have an opioid crisis in our country. Nothing about this is partisan and I know we can come together, Democrats and Republicans, to fight fentanyl and end this epidemic. While news that drug overdose deaths are on the decline is welcoming, the overall rate of overdose deaths linked to fentanyl continues to rise.

My district has been one of the epicenters of the epidemic. I've spoken to too many mothers and fathers who have had to bury their child. So, are we seeing progress? Yes, but nowhere near enough. For perspective, New York City, the Center for Disease Control indicates that in a 12-year span, from 2000 to 2012, fentanyl was identified in 2 percent of all drug overdose deaths. Sadly, by 2016, that number rose to 44 percent. And by 2017, 57 percent of all deaths that resulted from drug overdose had fentanyl involved. Nearly 1,500 lives gone. From 2 percent of overdose deaths to over half of all overdose deaths in just 5 years—that is shocking. Much of the fentanyl seized in New York City is produced by Mexican cartels, which acquire chemical precursors from China, the world's largest producer of illicit fentanyl. New York City is not an outlier here. Fentanyl and its analogues are devastating communities throughout this country.

Just last year, 48,000 overdose deaths involved an opioid, and nearly 32,000 of which involved fentanyl or a similar drug. Most of that illicit fentanyl from China arrives via cargo ship and international mail. Illicit fentanyl seized from international mail facilities in the United States coming from China is over 90 percent pure. For perspective on the lethality of illicit fentanyl, it is 80 to 100 times stronger than morphine and 30 to 50 times more potent than heroin. All it takes is 2 milligrams to kill most people. That's about the equivalent of a single grain of rice. And once exposed, it could kill in minutes. And that is just fentanyl, there are other forms of the drug that are far more deadly. Congress has been working hard to address this crisis. Earlier this year I introduced legislation, The Fentanyl Sanctions Act, that will impose sanctions on manufacturers who provide fentanyl to traffickers. And it gives more tools and resources to law enforcement go after illicit fentanyl traffickers in China, Mexico, and other countries. This bill passed with bipartisan support in the House of Representatives and the Senate. And I look forward to the President signing it into law soon.

The days when a country could pump our streets full of illicit drugs and chemicals and face no consequences are over. I'm also proud to be co-leading the Joint Task Force to Combat Opioid Trafficking Act with my good friend Congressman Jim Langevin. This bipartisan bill will establish a Joint Task Force at the Department of Homeland Security to stop the inflow of fentanyl and other illicit opioids into the United States. This critical bill also encourages the Department of Homeland Security to be innovative and think outside the box to fight drug trafficking—including by looking at new ways to take advantage of public-private partnerships when carrying out this mission. Officials at the local, State, and Federal levels have also been working hard to address this crisis, and I applaud them for their efforts.

In March of this year, the Drug Enforcement Administration and local law enforcement disrupted a fentanyl mill in Westchester, New York, seizing 5 kilograms of fentanyl, or enough to kill nearly 2 million people. However, I am concerned about a recent DHS Office of Inspector General report from last September which indicates DHS's Custom and Border Protection's mail inspection process needs improvement at JFK International Airport in New York City. With much of the illicit fentanyl arriving via international mail from China, this is concerning. Already, dealers on the dark web take advantage of the existing security gaps highlighted in the OIG report. They guarantee delivery of their illicit fentanyl and even offer replacing orders that do not arrive. Equally concerning is last week's Management Alert indicating CBP did not adequately protect employees from possible fentanyl exposure. Accidental inhalation or physical contact of fentanyl is deadly. We need to protect those tasked to protect America and ensure CBP has the adequate equipment, training, and policies to ensure a safe work environment.

Mr. ROSE. With that, I thank the witnesses and Members for being here, and I now recognize the Ranking Member of the subcommittee, Mr. Walker, for an opening statement.

Mr. WALKER. I want to thank Chairman Rose and Chairwoman Rice and Ranking Member Higgins for holding this important joint hearing on the opioid crisis, which knows, as we all understand, no social status and has no party affiliation.

I look forward to hearing from our distinguished panel today on the ways we can assist in their on-going efforts in combating this ever-present crisis.

Today, we hope to gain insight in how the Department of Homeland Security is supporting our State and local agencies who are

working on the front lines to identify and treat the on-going opioid crisis.

Back in 2017, I went on a 2-day, 7-stop opioid crisis tour across North Carolina to try and grasp or better understand the full scope of what we were seeing as the, and rightly named, opioid epidemic. I received a first-hand account of the realities, the burdens, and struggles my fellow North Carolinians face every day. As a former minister, I can tell you first-hand accounts, being at the hospital and other places, and seeing the detriment that it has created for so many families.

In my Congressional district, deaths related to fentanyl increased 195 percent in just 1 year alone, between 2016 and 2017, real numbers that went from 64 fatalities to 189 fatalities. Across North Carolina, it is rare for a day to go by without the news of an arrest for an opioid distribution, reports of overdose deaths, or first responders providing life-saving critical aid.

I want to highlight the work at the Guilford County—that is our home county there in North Carolina—Emergency Services, specifically led by Director Jim Albright. They have partnered with a number of State and local agencies to develop the Guilford County Solution to the Opioid Problem.

GCSTOP works to provide rapid response services to individuals who have overdosed or are at risk of overdosing. From March 2018 to April 2019, 13 months, GCSTOP administered 1,661 doses of naloxone, performed 447 rescues from overdose, and provided treatment to 157 patients. I am greatly encouraged by this effort and am interested to hear from the witnesses today if they have recommendations on how to duplicate programs like GCSTOP across the country.

I want to especially thank Deputy Chief James Hinson of the Greensboro, North Carolina, Police Department for testifying today. Your testimony will offer us an on-the-ground perspective on what local police are dealing with every day related to opioids.

The successes that Chief Wayne Scott, my friend, and Deputy Chief Hinson and all of the Greensboro Police Department have accomplished has really been nothing short of incredible.

I have enjoyed working with you in the past, and I am proud the committee will be able to hear your first-hand account on what you and the Department have done to help our home State.

Today's hearing is an opportunity to better understand the threat facing law enforcement and communities across the United States. As legislators, we must continue to work in a bipartisan fashion to address the opioid crisis. I look forward to the panel's insight as to what is working well and recommendations for what could be done better.

I want to thank all the witnesses for appearing here today, and I yield back the balance of my time.

[The statement of Ranking Member Walker follows:]

STATEMENT OF RANKING MEMBER MARK WALKER

I want to thank Chairman Rose, Chairwoman Rice, and Ranking Member Higgins, for holding this important joint hearing on the opioid crisis, which knows no social status and has no party affiliation. I look forward to hearing from our distinguished panel on ways we can assist in their on-going efforts in combating this crisis.

Today, we hope to gain insight in how the Department of Homeland Security is supporting our State and local agencies who are working on the front lines to identify and treat the on-going opioid crisis.

Back in 2017, I went on a 2-day, 7-stop opioid crisis tour across North Carolina to better understand the full scope of the opioid epidemic. I received a first-hand account of the realities, burdens, and struggles my fellow North Carolinians face every day. In my Congressional District, deaths related to fentanyl increased 195 percent between 2016 and 2017 from 64 fatalities to 189 fatalities. Across North Carolina, it is rare for a day to go by without news of an arrest for opioid distribution, reports of overdose deaths, or first responders providing critical life-saving aid.

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Today's hearing is an opportunity to better understand the threat facing law enforcement and communities across the United States. As legislators, we must continue to work in a bipartisan fashion to address the opioid crisis. I look forward to the panel's insight as to what is working well and recommendations for what work could be done better.

I want to thank all the witnesses for appearing here today and I yield back the balance of my time.

Mr. ROSE. Thank you, Ranking Member.

I now recognize the Chairwoman of the Border Security, Facilitation, and Operations Subcommittee, Miss Rice, for an opening statement.

Miss RICE. Thank you, Mr. Chairman.

Good morning. As Chairman Rose has said, today, our subcommittees are examining the challenges we face in addressing one of the most severe health crises in our Nation's history.

Last year alone, more than 48,000 people in the United States died as a result of an opioid overdose, with fentanyl and other synthetic opioids claiming the vast majority of the victims, nearly 40,000 in total.

These numbers emphasize a critical fact: We are currently in a new phase, a third wave, of the devastating opioid crisis, one characterized by dangerous and deadly synthetic opioids known as fentanyl analogues. Today, we are here to learn what innovative solutions can be used to address this crisis.

The third wave of the opioid crisis is distinct from earlier phases of the epidemic, which were characterized by prescription drug abuse and a surge in heroin addiction that overwhelmed public health officials. As destructive as the earlier stages were, the challenges we are now facing are far greater and more vexing than ever, and they demand an aggressive, bipartisan solution.

As we all know, the prescription opioids that began this epidemic were produced and, for a time, obtained legally. The heroin epidemic that followed was primarily imported into the United States along traditional narcotics routes. However, traffickers in fentanyl

and other synthetics are exploiting an entirely different model. Based on recent data, the majority of synthetic opioids originate in labs in China and often enter our country through the U.S. postal system.

Furthermore, these substances can be ordered through dark-web e-commerce sites and arrive at mailing facilities in small, untraceable quantities. Because synthetics are difficult to detect using existing technology, it is extraordinarily hard to stop their distribution once they reach our mail facilities.

It has become frustratingly apparent that we cannot tackle this problem using existing technology and law enforcement strategies. Effective solutions must be bold and innovative. First, we need to eliminate manufacturing centers for synthetic opioids, and, second, we need to prevent their movement through the international mail system.

While successfully achieving these goals will take broad collaboration across government agencies, this committee has already taken a significant and, I am happy to say, a bipartisan step forward.

Last week, we passed out of committee the Joint Task Force to Combat Opioid Trafficking Act, sponsored by Mr. Langevin. This vital piece of legislation was passed by bipartisan consensus in the 115th Congress before stalling in the Senate. It is essential that we now support its passage on the House floor and work with our colleagues in the Senate to ensure that it passes there as well.

This important bill authorizes collaboration with the private sector on this challenge, allowing the new DHS joint task force to work with the private companies whose activities are being exploited by traffickers. Improved screening procedures, greater targeting of suspicious senders, and better information-sharing processes can all help our law enforcement agencies in interdicting fentanyl analogues before they reach our borders.

Although our priority must be stopping synthetic opioids, we must also ensure the safety of DHS law enforcement personnel. A recent management alert issued by the DHS inspector general identified significant failures on the part of CBP to protect its front-line personnel tasked with handling and storing seized fentanyl and fentanyl analogues. Specifically, numerous CBP facilities failed to keep naloxone, an effective antidote to fentanyl, readily available in storage vaults and other locations where agents interact with fentanyl.

DHS must have efficient methods for protecting its personnel from accidental contact with fentanyl, and Congress must conduct sufficient oversight to ensure that these protective steps are being taken at all facilities.

With the goals in mind, I welcome the witnesses who have joined us here today. You all are experts in the field of narcotics interdiction and law enforcement, and I look forward to hearing your testimony.

Thank you, Mr. Chairman.

[The statement of Miss Rice follows:]

STATEMENT OF CHAIRWOMAN KATHLEEN RICE

JULY 25, 2019

Today our subcommittees are examining the challenges we face in addressing one of the most severe health crises in our Nation's history. Last year alone, more than 48,000 people in the United States died as a result of an opioid overdose, with fentanyl and other synthetic opioids claiming the vast majority of the victims . . . nearly 40,000 in total. These numbers emphasize a critical fact: We are currently in a new phase—a third wave—of the devastating opioid crisis, one characterized by dangerous and deadly synthetic opioids, known as fentanyl analogues.

Today, we are here to learn what innovative solutions can be used to address this crisis. The third wave of the opioids crisis is distinct from earlier phases of the epidemic, which were characterized by prescription drug abuse and a surge in heroin addiction that overwhelmed public health officials. As destructive as the earlier stages were, the challenges we are now facing are far greater and more vexing than ever. And they demand an aggressive bipartisan solution. As we all know, the prescription opioids that began this epidemic were produced and, for a time, obtained legally. And the heroin epidemic that followed was primarily imported into United States along traditional narcotics routes.

However, traffickers in fentanyl and other synthetics are exploiting an entirely different model. Based on recent data, the majority of synthetic opioids originate in labs in China and often enter our country through the U.S. postal system. Furthermore, these substances can be ordered through dark web e-commerce sites and arrive at mailing facilities in small, untraceable quantities. Because synthetics are difficult to detect using existing technology, it is extraordinarily hard to stop their distribution once they reach our mail facilities. It has become frustratingly apparent that we cannot tackle his problem using existing technology and law enforcement strategies. Effective solutions must be bold and innovative. First, we need to eliminate manufacturing centers for synthetic opioids and second, we need to prevent their movement through the international mail system.

While successfully achieving these goals will take broad collaboration across Government agencies, this committee has already taken a significant—and I am happy to say a bipartisan—step forward. Last week we passed out of committee the Joint Task Force to Combat Opioid Trafficking Act, sponsored by Mr. Langevin. This vital piece of legislation was passed by bipartisan consensus in the 115th Congress, before stalling in the Senate. It is essential that we now support its passage on the House floor and work with our colleagues in the Senate to ensure that it passes there as well. This important bill authorizes collaboration with the private sector on this challenge, allowing the new DHS Joint Task Force to work with the private companies whose activities are being exploited by traffickers. Improved screening procedures, greater targeting of suspicious senders, and better information-sharing processes can all help our law enforcement agencies in interdicting fentanyl analogues before they reach our borders.

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Mr. ROSE. Thank you, Madam Chairwoman.

I now recognize the Ranking Member of the subcommittee, Mr. Higgins, for an opening statement.

Mr. HIGGINS. Thank you, Mr. Chairman. I thank you, Chairman Rose and Chairwoman Rice, for calling this hearing today.

The opioid crisis is a symptom of a cultural crisis in our country. We have created—we have allowed to manifest a culture of dependency in America.

I grew up on a horse ranch, raised and trained horses, and injuries were common. My father was a hard and tough man, born in 1922 in the era after World War I. We had a suture kit on the horse ranch. When the horses got cut sometimes, we would sew them up.

We used that kit on ourselves too. I remember my father sewing up his left hand one time and remarking to me—I was helping him—he was glad he got his left hand busted because he didn't think he could do the suturing with his left hand if he had busted his right hand.

We have moved from an America that was made up of very hard, tough men and women to a country that is addicted to painkillers. It is an incredible transformation from the America that we once knew.

Fentanyl, 2017, 28,000 deaths, because Americans are addicted to opioids. More than 130 Americans die every day after overdosing on opioids. In my home State of Louisiana, 400 lives were lost last year alone.

Addiction doesn't always start with substance abuse. Many Americans become hooked after receiving a prescription for temporary pain relief. This requires a deep look in the mirror for all America.

Once a prescription expires, some turn to the streets. Others become addicted and even overdose when illegal drugs they buy on the street are, unbeknownst to them, laced with fentanyl, an opioid maybe 100 times stronger than morphine. I have never seen anything like it.

The pandemic has also affected innocent newborn children. A study published in the Journal of Addiction Medicine shows a 500 percent increase in the number of children that are addicted to opioids at birth in the United States. Our young ones in the womb are being born addicted at an alarming rate because of this culture of dependency and weakness we have allowed to manifest in our country.

We need to get these drugs off the street. They are coming from China and Mexico; we know it. This is why it was courageous for Chairman Rose and Chairwoman Rice to combine these subcommittee endeavors to look at this thing hard. Today, we have the opportunity to hear more about the impact of opioids on our communities and the gaps in our enforcement capability.

Fentanyl and other synthetic opioids are being produced mostly, as we said, in China and in Mexico. Most opioids enter the United States through the mail or concealed within vehicles or cargo coming through ports of entry. We have 328 ports of entry in America; we have to get traffic through there. These drugs are also coming across in backpacks on the backs of illegal immigrants, cartel drug runners crossing between ports of entry.

The fast movement of commerce that powers our economy through the ports of entry require Customs and Border Protection to X-ray just a fraction. They utilize canine drug-sniffing dogs for just a portion of the mail and packages, the vehicles and trucks that enter our international mail facilities and cross the border every day.

To combat this, we have to enhance security capabilities at our international mail facilities and our ports of entry. We must increase the detection capabilities of law enforcement on every level. Action to address this crisis will require Federal, State, local, and Tribal governments to work together.

Finally, we have to hit the cartels. If you are listening, cartels, and I am sure you are, you have very expensive attorneys, American-educated attorneys. We are paying attention to what you are doing in our country, and we are going to hit back.

Further resources need to be dedicated to our law enforcement agencies that investigate money laundering, bulk cash smuggling, and other methods that are used by drug cartels to conceal cash. American cash-flowing south; fentanyl death flowing north. We are going to stand together and fight this.

I look forward to your testimony. I thank you for being here. I again thank the Chairwoman and Chairman for holding this hearing today.

[The statement of Ranking Member Higgins follows:]

STATEMENT OF RANKING MEMBER CLAY HIGGINS

Thank you Chairman Rose and Chairwoman Rice for calling this hearing today.

More than 130 Americans die every day after overdosing on opioids. In my home State of Louisiana 400 lives were lost just last year alone.

Addiction does not always start with illicit substance abuse, many Americans become hooked after receiving a prescription for temporary pain relief. Once their prescription expires, some turn to the streets. Others become addicted and even overdose when illegal drugs they buy on the street are, unbeknownst to them, laced with fentanyl, an opioid about 100 times stronger than morphine.

The pandemic has also affected innocent newborn children. A study published in the Journal of Addiction Medicine shows more than a 500 percent increase in the number of children that are addicted to opioids at birth in the United States. This equates to an addicted child born every 15 minutes.

We need to get these drugs off the street and find Constitutionally-sound legal ways to lower prescription practices. Today we have the opportunity to hear more about the impact of opioids on our communities and the gaps in our enforcement capability.

Synthetic opioids such as fentanyl are being produced illegally in large quantities, mostly in China, but also increasingly in Mexico. Most opioids enter the United States through the mail, concealed within vehicles or cargo coming through the ports of entry, and in backpacks of cartel drug runners.

To ensure the speedy movement of commerce that powers our economy, Customs and Border Protection can only X-ray or utilize drug-sniffing dogs for a fraction of the mail, packages, vehicles, and trucks that enter our international mail facilities and cross the border every day.

To combat this, we must enhance security capabilities at our international mail facilities, ports of entry, and along the border.

In addition, we must increase the detection capabilities of law enforcement, on every level. Action to address this crisis will require Federal, State, local, and Tribal governments to work together.

Finally, we must hit the cartels. Further resources need to be dedicated to our law enforcement agencies that investigate money laundering, bulk cash smuggling, and other methods that are used by drug cartels to conceal cash.

I look forward to the testimony from our witnesses today, thank you for being here, and I yield back.

Mr. ROSE. Thank you, Ranking Member Higgins. I definitely do support this idea that this is something we can work together on. There are lives on the line.

Before we continue, I do ask unanimous consent that the gentleman from Maryland, Mr. Trone, be permitted to sit and question the witnesses at today's joint subcommittee hearing.

Without objection, so ordered.

Other Members of the committee are reminded that, under the committee rules, opening statements may be submitted for the record.

I welcome our panel of witnesses here today.

Our first witness is Ms. Sondra McCauley, assistant inspector general for Audits, U.S. Department of Homeland Security. Ms. McCauley has been an auditor since 1985 and is an experienced inspector general with a demonstrated history of serving in the government administration industry.

Next we are joined by Ms. Bridget Brennan, special narcotics prosecutor for the city of New York, the best city in America. Ms. Brennan is the first woman to hold this position and has been serving in the Office of the Special Narcotics Prosecutor since 1992. Her office plays an important role in developing innovative strategies to stem the flow of drugs into New York City.

Next we have Dr. Bryce Pardo, associate policy researcher, RAND Corporation. Dr. Pardo has over 10 years of experience working with National, State, and local governments in crime and drug policy. Prior to RAND Corporation, he served as a legislative and policy analyst at the Inter-American Drug Abuse Control Commission within the Organization of American States.

Last we have James Edward Hinson, Jr., deputy chief, Greensboro Police Department. Deputy Chief Hinson has been a part of the Greensboro Police Department since 1991. He previously served as commander of Eastern Division and executive officer of the Special Operations Division in District 1 and 3.

Without objection, the witnesses' full statements will be inserted in the record. I now ask each witness to summarize his or her statement for 5 minutes, beginning with Ms. McCauley.

STATEMENT OF SONDRA MC CAULEY, ASSISTANT INSPECTOR GENERAL FOR AUDITS, U.S. DEPARTMENT OF HOMELAND SECURITY

Ms. MCCAULEY. Chairman Rose, Chairwoman Rice, Ranking Members Walker and Higgins, and members of the subcommittees, thank you for inviting me to discuss CBP's challenges in interdicting illegal drugs at our Nation's ports of entry.

Opioids such as fentanyl are a huge problem. In 2016, more people in the U.S. died from opioids than from traffic accidents.

Airports are a major entry point for illegal drugs. In September 2018, we reported on CBP mail inspections at JFK Airport, the largest of nine international mail facilities Nation-wide. JFK processes over half of the hundreds of millions of pieces of mail arriving annually. CBP makes subjective and risk-based determinations on what to inspect. It also uses a decision support tool, the Automated Targeting System, known as ATS, to identify mail posing a high risk of containing contraband.

We identified several deficiencies in the mail inspection processes we examined at JFK.

First, CBP did not inspect all inbound international mail. It had inadequate canine teams trained to detect narcotics, outdated X-ray devices to examine mail, and outdated guidance that did not address inspections for fentanyl.

Second, given the large volume, CBP did not inventory all mail selected for inspection. As a result, CBP could not ensure the Postal Service provided all mail required and also could not ensure that all mail selected was actually inspected.

Third, the ATS pilot for targeting high-risk mail had limited impact. Not all foreign post offices provided data on inbound mail for input to ATS. Though ATS was intended to help identify high-risk mail, CBP used ATS to target only 0.01 percent of the mail at JFK each day. Even at this low percentage, Postal Service could not locate and hand over to CBP all requested mail. Postal Service staff had to search through large bags for the targeted items.

Fourth, CBP's chemical analysis process was problematic. Officers had to open and insert a handheld device into each suspicious package to read the chemical makeup. If the reading indicated a prohibited item, officers took a second digital reading and sent it to the labs for diagnosis. CBP could only send the labs what lab staff could turn around in 24 hours.

Fifth, CBP officers did not track or physically safeguard suspicious packages. Officers placed them on carts that were relocated to a secure room. After extracting small test samples, the packages remained open, in piles with other packages, and were not placed in evidence bags until test results were received. Officers also did not always input required data into test case files.

Last, suspicious packages were not secured from loss or damage. JFK lacked physical barriers to separate Postal Service and CBP operations. Cleared mail and suspicious mail remained in open carts side-by-side in the same area.

CBP concurred with all 9 of our report recommendations and agreed to take correction actions. Eight of our 9 recommendations remain open.

Last week, we issued a management alert to notify CBP of the urgent need to protect its employees from the dangers of fentanyl. Seven vaults for storing seized assets that we visit lacked ways to protect CBP staff from opioid exposure.

Even in small quantities, opioids can cause death by slowing and eventually stopping a person's breathing. When available, the drug naloxone can be administered to treat opioid overdose and prevent brain injury or death. However, 2 of the 7 vaults contained fentanyl but did not also have naloxone available. The other 5 vaults had it in lockboxes with codes.

One of the 2 vaults with naloxone held the largest seizure of fentanyl in CBP history, as well as the lockbox code taped to the wall. Staff could not remember the code for the other vault.

These issues occurred because of outdated CBP policy that lacked standard practices for handling fentanyl. While CBP personnel usually take some precautions, training is not required. CBP is now taking corrective action to address these issues.

Finally, we now have several related audits on-going to determine whether DHS effectively transports, stores, and destroys seized illicit drugs; examine CBP's use of drug interdiction technology at ports of entry; and follow up on physical security and mail inspection processes at JFK.

Mr. Chairman and Ms. Chairman, this concludes my testimony. I look forward to further discussing these issues with you and other Members of the subcommittees.

[The prepared statement of Ms. McCauley follows:]

PREPARED STATEMENT OF SONDRA MCCAULEY

JULY 25, 2019

Chairman Rose, Chairwoman Rice, Ranking Members Walker and Higgins, and Members of the subcommittees, thank you for inviting me to testify today about fentanyl and the challenges the U.S. Customs and Border Protection (CBP) faces in its efforts to interdict this dangerous substance at our Nation's ports of entry and multiple mail facilities.

Imports of opioids such as fentanyl are a tremendous problem in the United States. In 2016, more people died from opioid-related causes than traffic accidents.

OPIOID DEATHS BY COMPARISON

Year	Opioids	Traffic Accidents
2015	33,000	35,485
2016	42,249	37,461

Source: Office of Inspector General (OIG)-developed, based on web-based information from the Centers for Disease Control, White House, and National Highway Traffic Safety Administration.

These illegal drugs have a devastating impact on the Nation's population, tearing apart families and communities. Therefore, the White House has declared the opioid epidemic a Nation-wide public health emergency that requires the mobilization of Government, local community, and private organizations.

Given CBP's front-line responsibility to secure the Nation's borders from imports of illegal drugs and contraband, the component plays a major role in helping to end the opioid crisis. Recognizing that airports are a major entry point for illegal drug imports, Congress has held multiple hearings on the threats inherent in arriving international air mail. At a May 2017 hearing, CBP's Executive Assistant Commissioner for the Office of Operations Support stated:

"The majority of U.S. trafficked illicit fentanyl is produced in other countries such as China, and is principally smuggled through international mail facilities, express consignment carrier facilities (e.g., FedEx and UPS), or through POEs [ports of entry] along the Southern land border."

Today my testimony will focus on the results of 2 audits recently conducted by the Department of Homeland Security Office of Inspector General (OIG). In September 2018, we reported that CBP had ineffective processes and IT security controls to support air mail inspection operations at John F. Kennedy International Airport (JFK).[1] Additionally, as a result of an on-going audit of CBP's storage of seized drugs, last week we issued a management alert detailing CBP's inadequate protection of its staff from powerful synthetic opioids.[2] The results of both reports are discussed further in my testimony.

CBP'S INTERNATIONAL AIR MAIL INSPECTION IS NOT EFFECTIVE TO STOP ILLEGAL DRUGS FROM ENTERING THE UNITED STATES

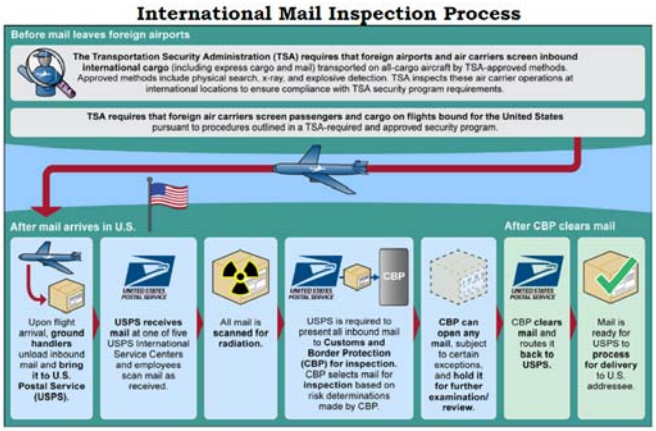
With limited exceptions, all inbound international air mail is subject to CBP inspection.[3] The Transportation Security Administration requires that foreign airports and air carriers initially screen international cargo headed to the United States. Then, when a flight lands, ground handlers at the airport provide all mail to the United States via the United States Postal Service (USPS), which transports the

[1] *CBP's International Mail Inspection Processes Need Improvement at JFK International Airport (Redacted),* OIG–18–83 (September 2018).

[2] *Management Alert—CBP Did Not Adequately Protect Employees from Possible Fentanyl Exposure,* OIG–19–53.

[3] CBP does not inspect mail believed to contain only documents for U.S. Government officials or mail addressed to Ambassadors of foreign countries.

mail through a CBP radiation scanning portal for preliminary examination. CBP officials make subjective as well as risk-based determinations as to what portion of the mail to select for further inspection. For example, CBP officials at JFK use knowledge gained from past experience to identify arriving international mail that may contain illegal or prohibited items. When, upon CBP examination, a mail article is found to contain prohibited material, the article is subject to seizure and forfeiture.



Source: Government Accountability Office (GAO), *Costs and Benefits of Using Electronic Data to Screen Mail Need to Be Assessed*, GAO-17-606, August 2, 2017

Our audit focused on CBP's air mail inspection processes at the John F. Kennedy International Airport (JFK) airport. The USPS International Service Center at JFK is the largest of 9 USPS facilities Nation-wide that receive and process incoming international mail. In fiscal year 2016, USPS recorded an inbound international mail volume at JFK that constituted more than half of the hundreds of millions of pieces of international mail arriving annually at all international mail facilities. Given its inability to inspect the total volume of international mail arriving at the airport daily, CBP requires by memorandum of understanding that USPS provide for inspection specific subsets of the international mail that arrives daily at JFK.[4]

CBP officials treat the various categories of international mail (First Class, Registered Mail, Express Mail, and Priority Parcel) differently based on their experience and perceptions of potential risk. Additionally, beginning in July 2014, CBP piloted, to a limited extent, the use of the Automated Targeting System (ATS) to help identify mail at JFK that may pose a high risk of containing narcotics or other contraband. ATS is a decision support tool that compares traveler, cargo, and conveyance information against law enforcement, intelligence, and other enforcement data using risk-based scenarios and assessments.

Of the mail selected for inspection, CBP screens and physically examines packages deemed to be high-risk. If a problem is found, mail is held for secondary inspection (i.e., manual inspection and chemical analysis, as appropriate). During secondary inspection, CBP determines whether the package should be seized or returned to USPS for processing. If illegal drugs or contraband are discovered, CBP must maintain documentation pertaining to the mail seizure and preserve the integrity of the item to the extent possible.

DEFICIENCIES IN CBP'S INTERNATIONAL MAIL INSPECTION PROCESS

We identified a number of deficiencies in CBP's inspection processes at JFK that inhibit CBP's ability to prevent illegal drugs and contraband from entering the country, including: (1) CBP does not inspect all international mail selected for inspection; (2) CBP does not inventory all mail selected for inspection; (3) the ATS pilot for targeting mail has limited impact; and, (4) CBP's chemical analysis process for detecting illegal opioids in arriving air mail is problematic.

[4] "Memorandum of Understanding Between the U.S. Department of Homeland Security, U.S. Customs and Border Protection and the U.S. Postal Service Regarding Cooperation in the Inspection of Goods Imported or Exported Through the Post," September 1, 2017.

1. CBP Does Not Inspect All International Mail

CBP does not inspect all international mail selected for inspection for a number of reasons. For example, CBP did not have an adequate number of canine teams trained to detect narcotics. Further, CBP's inspection of international mail was limited because CBP staff did not have the equipment needed to inspect the hundreds of thousands of pieces of international air mail that arrive at JFK each day. CBP has limited, outdated X-ray devices at JFK that officers use daily to examine only a portion of the incoming mail, one piece at a time. According to the memorandum of agreement with USPS, CBP requests that USPS provide mail packages based, for example, on knowledge and experience regarding whether that the country is a primary source of illegal drug smuggling to the United States.

Moreover, CBP staff told us that certain items arriving from China may be considered high-risk. Despite the large volume and high-risk nature, CBP largely overlooks these items because of a lack of guidance. Although the nature of international mail has changed significantly, CBP has not updated its *International Mail Operations and Enforcement Handbook* since August 2001. CBP also has not updated the guidance to identify new illegal substances such as fentanyl arriving in international mail.

2. CBP Does Not Inventory Mail Selected for Inspection

CBP does not keep record of mail selected for inspection, asserting that the large volume of daily arriving air mail and the labor-intensive process of examining selected mail piece-by-piece do not lend themselves to inventory. Without an inventory, CBP could not ensure that USPS provided all the mail it requested for inspection purposes. We determined that USPS scans and inventories all mail it provides to and receives from CBP. However, CBP has no agreement with USPS to leverage this inventory to keep an account of the mail it selects for inspection. CBP's *International Mail Operations and Enforcement Handbook* also does not require staff to maintain an inventory of the mail they X-ray.

CBP also lacks a process to substantiate that all mail selected for inspection is actually inspected. Without an inventory process, CBP has no means of ensuring it inspects all the high-risk mail it selects for examination and therefore might be allowing prohibited items to be delivered undetected. CBP officials asserted they inspected all international air mail that they requested of USPS; however, CBP had no means of proving this assertion.

3. ATS Pilot Had Limited Impact on the Inspection Process

The ATS pilot for targeting mail has had limited impact due to USPS's difficulty in locating the mail targeted for inspection. ATS is intended to help CBP identify mail that might pose a high risk of containing narcotics or other contraband, but CBP used this system to target only 0.01 percent of the packages arriving each day at JFK. This was based on an agreement between USPS and CBP as to what USPS could reasonably provide to CBP on a daily basis. Even with targeting set at this low percentage, USPS is not able to physically locate and hand over all requested items to CBP. Searching through hundreds of thousands of pieces of mail each day to identify the targeted ones is a huge, labor-intensive process. Instead, if the targeted mail is in a large bag, USPS will provide the entire bag to CBP. CBP officers must then search through the bag to locate the targeted item, in addition to carrying out their routine inspection responsibilities.

The limited targeting is also due to a lack of advance data on inbound mail for input to ATS to support the mail targeting process. Specifically, the data CBP uses for targeting comes from foreign post offices that provide the data to USPS in advance of the mail being transported. Not all foreign post offices provide sufficient data for use in ATS for targeting purposes. Further, the USPS does not have agreements with all foreign post offices (e.g., China) to provide this data in advance.

4. CBP's Chemical Analysis Process Is Problematic

CBP's chemical analysis process for detecting illegal opioids in arriving suspicious air mail is problematic because of inadequate equipment and processes and potential hazards to workers. This process entails CBP officers opening the mail and inserting a hand-held device in a suspicious package to get a preliminary reading of the chemical makeup of the contents. If the reading indicates a potential prohibited item, the officers take a small sample and use a separate chemical analysis device to get a second digital reading of the chemical composition of the sample. Officers then forward the digital reading to CBP's Laboratories and Scientific Services Directorate for additional remote diagnostics. If the results conclusively indicate a prohibited item, CBP officers seize the item and prevent its import to the United States.

CBP ENFORCEMENT BLITZ HAS HELPED DETERMINE EXTENT OF AIR MAIL DRUG SMUGGLING PROBLEM

CBP managers may conduct enforcement "blitzes"—periodic, short-term offensive operations—to determine the risks inherent in specific classes or subsets of arriving international mail. CBP managers determine the selection criteria for such blitzes. The blitzes can help validate existing presumptions regarding mail provided by USPS and identify additional areas to focus enforcement or revenue activities.

In January 2017, CBP conducted a 5-day blitz, Operation Mail Flex, to verify that USPS was being used to mail opioids to the United States. For this operation, CBP targeted a specific subset of arriving mail: Express mail from China and Hong Kong. From Operation Mail Flex, CBP estimated the number of pieces of express mail that arrived at JFK from just those 2 countries. CBP randomly examined pieces of the mail and seized 43 percent of the express mail packages included in its review. The seized packages included fentanyl shipments that collectively totaled 5.31 pounds. We can conclude that if CBP had examined the remaining universe of mail, it might have discovered and seized a higher number of packages possibly containing additional pounds of fentanyl.

Although the results of Operation Mail Flex have largely been helpful in estimating the extent of illegal imports in express mail from China and Hong Kong, they have been inadequate in identifying other threats. To more fully understand the extent of the problem, CBP would need to regularly perform and document blitz operations on additional mail. CBP would then be better able to prioritize and apply its limited resources toward inspecting the types of international mail that likely contain the highest number of illegal opioids.

To address these deficiencies, we recommended that:

- The Executive Assistant Commissioners for Field Operations and Operations Support conduct an analysis to determine the additional staff, canines, X-ray scanning machines, and hand-held chemical analysis devices needed to adequately address the threat from opioids arriving daily in the large volume of international mail.
- The Executive Assistant Commissioners for Field Operations and Operations Support assign and dedicate canine teams as appropriate to detect opioids at the international mail facility on a daily basis.
- The Assistant Commissioner for the Office of Information and Technology (OIT) and the Executive Assistant Commissioners for Field Operations and Operations Support jointly document arriving international air mail received from USPS, scanned by CBP, and returned to USPS.
- The Executive Assistant Commissioners for Field Operations and Operations Support update CBP's *International Mail Operations and Enforcement Handbook* to reflect all types of arriving international mail.
- The Executive Assistant Commissioners for Field Operations and Operations Support perform and document periodic "Mail Flex" operations, including use of canine teams, to better determine the size and scope of the threat inherent in specific classes of mail and from specific countries.

CBP concurred with these recommendations and planned to take a number of steps to address these issues. For example, CBP planned to conduct a cost-benefit analysis to determine the staff levels, canine teams, and technology needed to address the threat of illicit opioids in international mail at the JFK International Mail Facility (IMF). CBP also replaced all X-ray machines as of November 2017. CBP also planned to revise the International Mail Operations and Enforcement Handbook to reflect the current operational conditions in relation to arriving international mail.

INTERNATIONAL AIR MAIL SUSPECTED OF CONTAINING CONTRABAND IS NOT INVENTORIED OR PHYSICALLY CONTROLLED

Despite mail handling requirements, CBP officers responsible for inspecting arriving international air mail identify, but do not track or physically safeguard, packages suspected of containing contraband. CBP provides overarching guidance for its airmail inspection processes[5] and standards that CBP personnel must follow when initiating and handling seized mail.[6] According to CBP's *International Mail Oper-*

[5] *International Mail Operations and Enforcement Handbook,* and *Seized Asset Management and Enforcement Procedures Handbook.*

[6] U.S. Customs and Border Protection, Office of Field Operations, Fines, Penalties & Forfeitures Division, *Seized Asset Management and Enforcement Procedures Handbook,* U.S. CBP, HB 4400–01B, July 2011.

ations and Enforcement Handbook, and *Seized Asset Management and Enforcement Procedures Handbook*, mail items should be secured, any suspicious substance must be positively identified, and the substance must be extracted from its conveyance, weighed or counted, and placed in a seizure bag. Also, according to CBP's *Seized Asset Management and Enforcement Procedures Handbook* timely input of data into CBP's Seized Assets and Case Management System (SEACATS) is critical.

However, CBP does not track a suspicious package until several days after the package is initially held for further review. Specifically, upon identifying a suspicious package, CBP officers place it on a cart that is subsequently relocated to a secure room. Officers take a small sample of the contents of the package, place it in a Fourier-Transform Infrared and Raman device for analysis, and submit the resulting report to CBP's lab for verification of the chemical contents. Given lab staffing constraints, at the time of our audit, CBP officers could only send a limited number of samples a day for chemical verification—the amount that available lab officials could typically turn around in a 24-hour period.

Not until the CBP lab provides positive confirmation of prohibited chemical contents is the suspicious package considered to warrant formal mail seizure. CBP officers still have additional time to input data on the seized asset into SEACATS. With this data input, the officers can begin to track the item.

CBP officials do not physically control all mail suspected, but not yet confirmed, of containing contraband. During the entire process leading up to asset seizure and SEACATS data input, the suspicious package is not physically secured. The package remains open, stowed on a cart amid piles of other packages. The open mail package also is not placed in an evidence bag to secure the contents prior to formal seizure.

Further, during the process leading up to asset seizure and SEACATS data input, the suspicious package is not secured from potential loss or damage to its contents. The physical layout of the JFK IMF inhibits CBP's ability to demonstrate that an identifiable person always has physical custody of suspicious mail. Specifically, the JFK IMF is a large, old, shared facility that has not been retrofitted with physical barriers to compartmentalize USPS and CBP operations. Similarly, there are no physical control points to separate international mail "cleared" by CBP for delivery from "suspect mail" held for secondary inspection. The mail that USPS initially provides for inspection, as well as mail that CBP clears and returns to USPS, is stored in open carts at the JFK IMF side-by-side in the same area.

Due to outdated equipment, CBP officials do not always include required documentation in the SEACATS case files on seized assets. The International Mail Operations and Enforcement Handbook requires X-rays of seized packages, which are needed to document the contents of the unopened package. However, according to the officers, outdated X-ray machines were in use at the time of our July 2017 site visit.

To address these deficiencies, we recommended that:

- The Assistant Commissioner for the OIT and the Executive Assistant Commissioners for Field Operations and Operations Support jointly establish adequate internal control processes, including maintaining inventories and physically securing suspicious mail that may be seized following additional review.
- The Executive Assistant Commissioners for Field Operations and Operations Support jointly update the *Seized Asset Management and Enforcement Procedure Handbook* and the *International Mail Operations and Enforcement Handbook* to outline all of the precautions necessary to safeguard suspicious mail prior to formal seizure.

CBP concurred with these recommendations and planned to take a number of steps to address these issues. For example, CBP planned to develop an automated technical solution to maintain an accurate inventory of segregated international mail items that are subject for further scrutiny but not yet seized. CBP also planned to revise the *International Mail Operations and Enforcement Handbook* and the *Seized Asset Management and Enforcement Procedure Handbook*.

CBP has already taken action to close 1 of the total 9 recommendations in our report. We are in the process of reviewing the actions CBP has taken to implement the other 8 recommendations.

CBP LACKS NECESSARY PRECAUTIONS TO PROTECT ITS STAFF FROM FENTANYL

Last week, we issued a management alert notifying CBP about an issue requiring immediate attention. During an on-going audit of CBP's storage of seized drugs we visited 7 permanent vaults and determined that the component does not adequately protect its staff from the dangers of accidental exposure to powerful synthetic

opioids,[7] such as fentanyl, because CBP has not always made available naloxone, a medication for treating narcotic overdose. OFO officials could not explain why OFO does not by policy require naloxone to treat staff in case of potentially lethal exposure. Officials also could not explain why they sometimes stored naloxone in lock-boxes at vaults, which are secure facilities.

Specifically, 7 permanent vaults we visited during fieldwork were missing the necessary precautions to protect CBP staff (i.e., Office of Field Operations (OFO) Seized Property Specialists) from opioids such as fentanyl. Two of the vaults did not have naloxone. The other 5 vaults contained naloxone, but 2 of the 5 had the medication locked in boxes with codes. One of the 2 vaults with naloxone in a lock-box also contained the largest recent seizure of fentanyl in CBP history. At that vault, staff had taped a piece of paper bearing the code to this vault on the wall next to the lock-box. However, when asked to open the lock-box at the other vault, staff could not do so because they could not remember the code. If actually exposed to fentanyl, a person could die without prompt access to naloxone.

This lack of access to naloxone occurred because CBP does not have an official policy with required standard practices for handling fentanyl and safeguarding personnel against exposure. Although SPS's use CBP's *Seized Asset Management and Enforcement Procedures Handbook* to guide daily vault operations, the handbook was last updated in July 2011 and it does not include specific procedures for managing fentanyl. OFO also does not require mandatory training for its staff who typically come into contact with fentanyl so they understand the hazards and the methods to combat accidental exposure. OFO personnel typically take some precautionary measures when seizing suspected fentanyl, such as wearing personal protective equipment; not disturbing packaging and sending fentanyl to a laboratory for testing; and double bagging, sealing, and clearly labeling seized property. However, lacking updated guidance and training, some CBP offices have established their own practices for handling fentanyl.

As of April 2019, CBP had stored about 3,500 pounds of fentanyl—up from 70 pounds in 2015, and OFO may store fentanyl in its permanent vaults for up to 60 days and, in cases of prosecution, for years. Without easy access to naloxone in case of exposure, CBP is unnecessarily jeopardizing the lives, health, and safety of its staff. CBP's lack of guidance and training on safely handling fentanyl further increases the risk of injury or death to its employees.

We recommended that CBP include guidance in its handbook for handling and storing opioids, which at a minimum should include a requirement to make naloxone available to all employees and training in administering naloxone. CBP concurred with our recommendation and issued a memo on June 24, 2019, directing that all OFO permanent vaults be equipped with naloxone nasal spray kits and lock boxes and that SPS's be trained on the proper usage of the spray, an understanding of fentanyl, and methods to combat accidental exposure. We consider these actions responsive to the recommendation and will close the recommendation after CBP confirms distribution of materials to all 62 vaults, confirms personnel have received training, includes training at the Federal Law Enforcement Training Centers as part of the seized property basic course, and updates guidance in its handbook.

ON-GOING OIG WORK RELATED TO INTERDICTION OF DANGEROUS SUBSTANCES

The OIG has a number of on-going audits related to the Department's ability to interdict dangerous substances, like fentanyl. We will be reporting on these issues later this year. These audits include:

- An on-going audit to determine whether DHS effectively transports, stores, and destroys seized illicit drugs.
- Two audits covering the Department's drug interdiction technology. In the first audit, we are assessing to what extent CBP's Office of Field Operations uses small-scale chemical screening devices at ports of entry to identify fentanyl and other illicit narcotics. In the second audit, we will determine to what extent the Department ensures components are coordinating the procurement and use of small-scale drug interdiction technology.
- Our office is also conducting a follow-up audit of CBP's physical security and international mail inspection processes at JFK to determine whether CBP air mail inspection processes at JFK are adequate and to identify impediments to effective screening, tracking, and safeguarding of incoming mail.

Mr. Chairman and Ms. Chairwoman, this concludes my testimony. I am happy to answer any questions you or other Members of the subcommittees may have.

[7] Examples of opioids include heroin, morphine, oxycodone, and fentanyl.

Mr. ROSE. Thank you for your testimony, Ms. McCauley.

Before we continue, I do ask unanimous consent that the gentlelady from Illinois, Ms. Underwood, a Member of the committee, be permitted to sit and question the witnesses at today's joint subcommittee hearing.

Without objection, so ordered.

I now recognize Ms. Brennan to summarize her statement for 5 minutes.

Thank you again.

STATEMENT OF BRIDGET G. BRENNAN, SPECIAL NARCOTICS PROSECUTOR FOR THE CITY OF NEW YORK

Ms. BRENNAN. Good morning. And thank you, Chairman Rose, Ranking Member Walker, Chairwoman Rice, and Members of the Subcommittees on Intelligence and Counterterrorism and Border Security, Facilitation, and Operations, for inviting me to this critically important hearing. It is critically important because of the devastating impact of fentanyl on New York City and on our country.

I am New York City's special narcotics prosecutor. My office is unique in its exclusive focus on felony narcotics prosecution in the 5 boroughs of New York City. I am appointed by the city's 5 elected DAs and prosecute cases under New York State law.

As head of the office for more than 20 years, I have grappled with each phase of the opioid crisis, from the overprescribing of pain medication to surging supplies of heroin, lethal fentanyl, and now fentanyl analogues.

New York is a major regional narcotics trafficking hub, and so my office targets the importation and distribution of fentanyl, heroin, cocaine, and addictive pills. We work with local, State, and Federal law enforcement partners to reduce the supply of drugs at the highest levels.

The many sources of deadly opioids paired with escalating volume and toxicity present daunting challenges. Mexican cartels manufacture the fentanyl using chemical components obtained from Chinese laboratories. Chinese labs are also primarily responsible for the manufacturing of fentanyl analogues.

Local prosecutors cannot effectively address this issue alone. We rely on Federal leadership and strategies to prevent the lethal drugs from saturating our vulnerable communities. I commend the bipartisan efforts of this House committee to hold governments which regulate producers of fentanyl responsible for the deaths of tens of thousands of Americans each year.

A decade ago, as the prescription opioid epidemic emerged in New York, we observed a simultaneous rise in large-scale heroin packaging operations in the Bronx and Upper Manhattan. Heroin sold on the streets was purer and more plentiful than ever before. We began to intercept truckloads containing heroin. Intelligence linked these shipments to Mexico-based operations.

Soon, in 2016, bulk shipments of illicit fentanyl began turning up alongside those loads of heroin. Local drug networks had not requested the fentanyl and were not necessarily aware they were receiving it.

At the street level, cheap fentanyl was sold interchangeably with more expensive heroin, driving up profits. Overdose deaths skyrocketed in New York City, increasing by 51 percent 2016 over 2015. Last year, nearly 1,500 people died of drug overdose, more than half with fentanyl and fentanyl analogues as contributing factors.

Investigations by my office have interdicted 4 tons of narcotics in the past 5 years, and fentanyl has grown from a sliver of our drug seizures to a significant portion. In our single largest fentanyl interdiction, my office, the DEA, and the New York City Police Department seized 213 pounds of narcotics in a nondescript Queens apartment building, including 140 pounds of fentanyl. A married couple linked to a Mexican source of supply was prosecuted.

Fentanyl and fentanyl analogues have thoroughly saturated the black market for drugs, mixed into heroin, cocaine, and other substances or pressed into counterfeit prescription pills. And that source has spread around the East Coast into Ohio and Pennsylvania.

The influx of fentanyl analogues is the next wave in this epidemic. Thus far, roughly 900 people have died of overdoses involving analogues in New York City since the beginning of 2017. These deaths have steadily increased.

Yet the majority of fentanyl analogues are unregulated in New York State. More than a dozen different types have been identified in the city, and most trace back to China. Most are sold on the dark web and shipped in small packages through parcel delivery services and the U.S. mail, as you have heard. We have also seized analogues that are mixed into shipments from Mexico, but that is few and far between.

Given the piecemeal nature of our regulation in New York State, it is increasingly difficult for law enforcement to seize the dangerous compounds and disrupt organizations dealing them. My office is unable to obtain search warrants or make arrests in cases involving uncontrolled fentanyl analogues, even when deaths have resulted.

Our police labs and medical examiners also struggle to detect analogues. This week, we announced a grand jury report on the subject of analogues which recommended that New York State adopt the Federal emergency schedule-type provision, which is now being considered by Congress.

Leveraging our relationships to shut down the supply chain for these dangerous substances before they ever reach our soil must be a priority. We must do all we can to protect vulnerable people suffering from addiction from ever-more-lethal substances on the black market.

Thank you for the opportunity to testify today. I look forward to answering your questions and to future collaboration on this urgent problem. Thank you.

[The prepared statement of Ms. Brennan follows:]

PREPARED STATEMENT OF BRIDGET G. BRENNAN

JULY 25, 2019

INTRODUCTION

Thank you, Chairman Rose, Ranking Member Walker, and the Subcommittee on Intelligence and Counterterrorism, Chairwoman Rice, Ranking Member Higgins, and the Subcommittee on Border Security, Facilitation, and Operations for inviting me to testify at this critically important hearing.

My name is Bridget Brennan and I am special narcotics prosecutor for the city of New York. The Office of the Special Narcotics Prosecutor (SNP) is unique in its exclusive focus on felony narcotics in the 5 counties that comprise New York City. Narcotics smuggled into New York City are distributed throughout the East Coast and as far west as Pennsylvania and Ohio. As a result we target the importation and both regional and local distribution of fentanyl, heroin, cocaine, addictive pills, and related crimes. We work with local, State, and Federal law enforcement and prosecute cases under New York State law. I am appointed by the city's 5 elected district attorneys.

As head of the office for more than 20 years, I have grappled with each phase of the opioid crisis, first the overprescribing of opioid medications, then importation of heroin in volume and purity never seen before, next the emergence of lethal fentanyl and finally the proliferation of fentanyl analogs. Our goal is to reduce the supply of deadly drugs at the top of the distribution chain. My office embraces a strategic supply reduction approach and has long been a proponent of prevention and treatment as an alternative to incarceration.

Only the first wave of the crisis, the flood of addictive prescription drugs, involved drugs manufactured in the United States. Considering the many sources of deadly narcotics drugs, and the escalating volume and toxicity of opioids, our work has been challenging. Facing foreign sources of supply and unprecedented volume, a local prosecutor cannot effectively address this crisis without substantial assistance and from the Federal Government.

I commend the bipartisan efforts of the Committee on Homeland Security to hold the governments which regulate suppliers of lethal fentanyl and fentanyl analogs accountable for the deaths of tens of thousands of Americans each year. I welcome the opportunity to describe the difficulties we face trying to prevent the distribution of fentanyl and analogs, and how you can assist us.

FENTANYL AND THE ROLE OF MEXICO AND CHINA

I will describe our experience with fentanyl and fentanyl analogs, which we have observed enter the United States from different countries and via different transport routes.

Mexican cartels manufacture illicit fentanyl using chemical components obtained from Chinese laboratories. Chinese laboratories are also primarily responsible for the manufacturing of fentanyl analogs, which are similar to fentanyl but with slightly modified chemical compositions. Some fentanyl analogs are considerably more potent than fentanyl. Opportunistic drug producers profit from an unprecedented epidemic of opioid addiction in the United States.

A decade ago, when my office first saw the prescription opioid epidemic emerge in New York City, we observed a simultaneous rise in the number of large-scale heroin packaging operations in the Bronx and Upper Manhattan. They were situated in inconspicuous apartment buildings, employed shifts of workers around the clock, and packaged tens of thousands of tiny envelopes of heroin for distribution throughout the region. We began intercepting truckloads containing dozens of kilograms of heroin in the greater metropolitan area. Intelligence linked these shipments to Mexico-based organizations. The heroin mills were run by local criminal organizations.

In 2016, bulk shipments of illicit fentanyl began turning up in tractor trailers and packaging mills controlled by the same criminal organizations, mixed in with loads of heroin. Local drug distributors had not requested fentanyl, and were not necessarily aware they were receiving it. Fentanyl is 50 times more potent than heroin, so one kilogram can produce many more bags for individual sale. It is cheaper and easier to produce than heroin because it is a chemically-based synthetic, unlike heroin which is organic. Sold interchangeably with more expensive heroin at the street level, the profit margin for fentanyl is substantially higher than heroin. Because it is also more lethal, and often mixed in with heroin and other drugs, overdose deaths have skyrocketed in New York City, increasing by 51 percent in 2016 over 2015.

Investigations by my office have interdicted 4 tons of narcotics in the past 5 years, and we have seen fentanyl grow from a sliver of our drug seizures to a significant

portion. In 2016, fentanyl accounted for just 2 percent of drugs we seized. By 2018, fentanyl was present in 40 percent of narcotics recovered. It should be noted that we rarely, interdict medicinal fentanyl manufactured in the United States. We have seized hundreds of pounds of illicit fentanyl in recent years, and most can be traced back to Mexico.

To give you an idea of what we see, I will describe our single largest interdiction of fentanyl. In August 2017, my office, the U.S. Drug Enforcement Administration (DEA) and the New York City Police Department (NYPD) seized the largest amount of fentanyl recovered in the United States at that time (since surpassed by U.S. Customs and Border Protection in Arizona). A total of 97 kilograms of narcotics (213 pounds) were stashed in a inconspicuous apartment in Kew Gardens, Queens, including 64 kilograms of fentanyl (over 140 pounds) and quantities of heroin, cocaine, and other substances. A married couple linked to a Mexican source of supply was prosecuted.



In 2017, an investigation by SNP, DEA and NYPD uncovered more than 200 pounds of narcotics, including 140 pounds of fentanyl, stashed in an apartment in Kew Gardens, Queens. This was the nation's largest fentanyl seizure at the time.

At present, fentanyl has thoroughly saturated the black market for drugs in New York City. More often than not, drug users in New York City are unaware of the contents of the narcotics they are purchasing. Fentanyl and fentanyl analogs are mixed into heroin, cocaine, and other substances, or pressed into counterfeit prescription pills and sold as oxycodone and Xanax.

The bulk of the fentanyl we see in New York City is transported in vehicles across the Southwest Border, and cross-country to New York City or the surrounding area. The further fentanyl gets from its source, the more integrated it becomes in local black markets, and the greater the risk of overdose and death. We need your help to prevent it from ever reaching us. I urge the Committee on Homeland Security to support effective measures to prevent precursor chemicals from China or other countries, which are necessary to manufacture fentanyl, from being obtained in Mexico. I further urge the committee to support adequate resources to allow for better detection of fentanyl concealed in vehicles at border crossings into the United States.

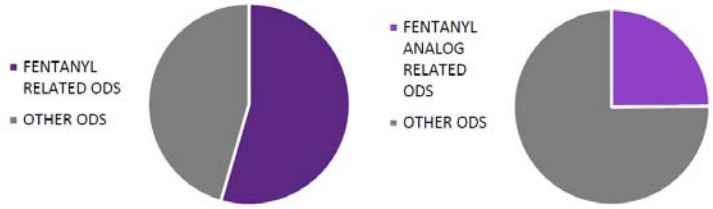
NEW CHALLENGES POSED BY FENTANYL ANALOGS

An influx of fentanyl analogs is the latest wave in the opioid epidemic. Fentanyl analogs are readily available through the Dark Web and are sold by street-level dealers. Unlike fentanyl and heroin, fentanyl analogs are typically shipped in small packages via international parcel delivery services and the U.S. Mail, passing through John F. Kennedy International Airport and other busy transshipment points. More than a dozen different analogs have been identified in New York City, and most are traced back to China, although they may be shipped to a distributor intermediary in another country before reaching the United States.

We have most frequently seen a pattern of low-level narcotics organizations obtaining the analogs and selling them alone mixed with a dilutant, or selling them mixed with heroin or fentanyl. We have also seized analogs alongside fentanyl and heroin in shipments transported overland from Mexico.

The analogs are typically much higher in purity than bulk fentanyl coming from Mexico. As a result, not only can a minute amount cause death, but police laboratories and medical examiners must recalibrate their equipment and obtain new standards for comparison to detect these substances which appear in extremely low concentrations. This pertains to laboratory tests involving drugs seized in investigations as well as post-mortem investigations by coroners and medical examiners.

Proportion of Fentanyl & Fentanyl Analogs Found in All New York City Overdose Deaths, 2018



In 2018, 56% of all overdose deaths included fentanyl and/or fentanyl analogs

Approximately 900 people died of overdoses involving fentanyl analogs in New York City since the beginning of 2017. Fentanyl analogs are currently present in approximately 40 percent of all overdose deaths resulting from a non-prescription opioid. These deaths have been steadily increasing.

Yet the majority of fentanyl analogs are legal to possess and sell in New York State, where regulation has been piecemeal. As a result, foreign laboratories need only tweak the chemical composition to create new analogs and evade enforcement.

The results are predictable. In 2018, the New York State Legislature proscribed certain synthetic opioids, including the analog acetyl fentanyl, which is responsible for the highest number of deaths. However, new variations continue to emerge. For example, since the fall of 2018 valeryl fentanyl has been linked to dozens of fatalities, yet still remains legal to possess.

Currently, if unregulated, it is difficult for local law enforcement agencies to intercept these dangerous compounds and disrupt organizations dealing them. My office is unable to obtain search warrants or make arrests in cases involving uncontrolled fentanyl analogs, even when deaths have resulted, unless controlled substances are also involved.

Earlier this week, my office announced a New York State Grand Jury Report on the subject of fentanyl analogs. The report built upon joint investigations with the NYPD, the DEA, the New York Drug Enforcement Task Force (NYDETF) and other partners. The Grand Jury heard evidence regarding lack of regulation of these substances and the overdoses and deaths associated with them. The Report (attached to my testimony) recommends that the New York State Legislature prohibit all fentanyl analogs and recommends that additional funding be allocated for police labs and the offices of medical examiners.

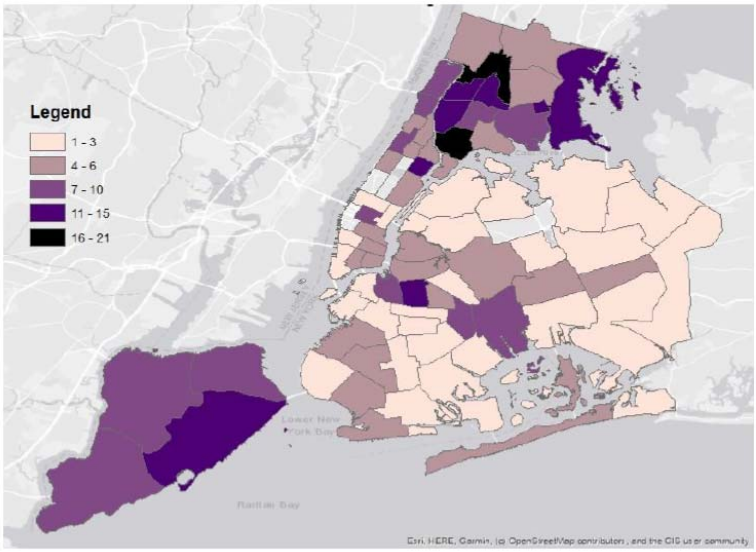
I urge Congress to pass legislation permanently banning all fentanyl analogs, which are currently the subject of an emergency order set to expire in February 2020. States are reliant upon the Federal Government to effectively control the influx of these dangerous substances from foreign sources. I am hopeful that if Congress permanently bans all forms of fentanyl analogs on the Federal level, States, including New York, will follow suit.

CONCLUSION

Sadly, overdose is the leading cause of accidental death across the country. In New York City, overdoses claim more lives than homicides and car crashes combined. Overdose killed more than 6,000 people in the past 5 years in the city, with

the current rate just below 1,500 deaths per year. Fentanyl and fentanyl analogs are now involved in well over half of these deaths. While overdose rates are stabilizing Nationally, the lethal toll remains unacceptably high and some of our most vulnerable communities have not seen their overdose rates decline.

New York City Overdose Deaths Involving Fentanyl Analogs: Precinct Map, 2018



All of the fentanyl and analogs which are responsible for a high percentage of deaths are smuggled into the United States from countries with whom we have robust trade relationships. Additional resources for border interdictions are crucial. Leveraging our relationships to shut down the supply chain for these dangerous substances before they ever reach our soil should be a priority. We must do all we can to protect vulnerable people suffering from addiction from the ever more lethal substances on the black market.

Thank you for the opportunity to testify today. I look forward to answering your questions and to future collaborations with Members of the Subcommittee on Intelligence and Counterterrorism and the Subcommittee on Border Security, Facilitation, and Operations to address this urgent problem.

ATTACHMENT.—NEW YORK STATE GRAND JURY REPORT

THE GRAND JURY OF THE SUPREME COURT
OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

REPORT OF THE GRAND JURY
OF THE SUPREME COURT
STATE OF NEW YORK
FIRST JUDICIAL DISTRICT
CRIMINAL PROCEDURAL LAW
SECTION 190.85 SUBDIVISION (1)(c)

BRIDGET G. BRENNAN
SPECIAL NARCOTICS PROSECUTOR
CITY OF NEW YORK

EXECUTIVE SUMMARY

Fentanyl analogs are potent synthetic opioids that operate essentially like fentanyl with only slight chemical deviations from the base compound. Recently, fentanyl analogs have become more prevalent throughout New York City, while most are not illegal substances under New York law. They have contributed to hundreds of overdose deaths in New York City alone, and the numbers continue to rise.

Fentanyl analogs are packaged and sold just like heroin or fentanyl, although they cost less to acquire, leading to higher profits for dealers. Because most analogs are currently legal in this state, it is extremely difficult for law enforcement agencies to intercept these dangerous compounds or disrupt the organizations that are dealing them.

The New York City Police Department Laboratory ("the Police Lab") has found fentanyl analogs to be present in seized evidence submitted to it in ever-increasing numbers. The Police Lab has attempted to better identify fentanyl analogs in recovered evidence, but its efforts are hampered by the lack of specialized equipment and standards for comparative analysis, as well as the fact that these drugs are not illegal in this state.

The Office of the Chief Medical Examiner ("OCME") has tracked the harmful effects of these drugs. Through post mortem analysis of overdose deaths in New York City, it has found an increasing number of deaths from overdose to be attributable to fentanyl analogs that are not illegal in New York. Post mortem detection of fentanyl analogs is made difficult by the very low concentrations of these drugs that can cause death, which in turn may cause overdose deaths to in fact be under-reported.

In 2018, our legislature proscribed certain synthetic opioids - including one fentanyl analog, acetyl fentanyl - but the vast majority of fentanyl analogs remain legal substances. The

OCME continues to register increases in fentanyl analog related overdoses, while the NYPD lab continues to see an increase in seized fentanyl analogs. However, these agencies lack the resources to fully combat this crisis. Only if all fentanyl analogs are made illegal in New York State can we ensure that the public safety risk these drugs present will be abated.

It is therefore recommended the New York State Legislature proscribe all fentanyl analogs as Schedule I drugs under New York's Public Health Law. It is also recommended that the New York State Legislature allocate additional funding for laboratories conducting analyses for controlled substances, including police labs and the offices of medical examiners.

After considering evidence before it and legal instruction from the Office of the Special Narcotics Prosecutor, the Grand Jury[1] hereby submits a report, pursuant to Criminal Procedure Law §190.85(1)(c) "[p]roposing recommendations for legislative, executive or administrative action in the public interest based upon stated findings".

INTRODUCTION

In recent years, potent and harmful substances collectively referred to as fentanyl analogs have appeared on the streets of New York City. Fentanyl analogs are synthetic opioids that have the basic structure of fentanyl and mimic the pharmacological effects of fentanyl with slight changes to their molecular makeup, which make each variation a unique substance. While most known fentanyl analogs are not currently controlled in New York State, they have contributed to hundreds of overdose deaths since 2016, and the number continues to rise. Fentanyl analogs are sold in the same manner as illicit drugs, often in conjunction with other opioids such as heroin or fentanyl. Seizures of fentanyl analogs, whether the only opioid present or mixed with other illicit drugs, have steadily increased since 2016 and have been seized in every borough in New York City.

In New York City, the Office of the Chief Medical Examiner (hereinafter the "OCME") conducts independent investigations using advanced forensic science in the service of families, communities and the criminal justice system. The OCME strives to provide answers for those affected by sudden and traumatic loss, and helps protect public health. The Grand Jury heard testimony from the OCME regarding the effect fentanyl analogs have on the body, the increasing extent to which they have contributed to overdose deaths in New York City and the challenges the OCME has faced conducting analyses of fentanyl analogs in post mortem investigations.

[1] The Grand Jury was impaneled by the Honorable Abraham Clott upon application of the Special Narcotics Prosecutor Bridget G. Brennan on January 17, 2019, and extended on January 24, 2019 to a term ending May 30, 2019.

The Grand Jury also heard testimony from witnesses from the New York City Police Department Laboratory (hereinafter "the Police Lab"). Among the responsibilities of the Police Lab are providing a full range of laboratory services, including identifying suspected illegal substances in connection with arrests and investigations, and providing expert analysis and witness testimony in connection with criminal prosecutions. Witnesses from the Police Lab testified regarding the increased number and volume of fentanyl analogs recovered from illicit drug distribution rings, and difficulties the Police Lab faces identifying and analyzing fentanyl analogs.

The Grand Jury received testimony from witnesses familiar with how fentanyl analogs are sold in New York City, listened to numerous recorded conversations and reviewed hundreds of communications regarding the methods of obtaining, distributing, packaging and selling these substances. The Grand Jury also heard testimony from undercover police officers involved in purchasing fentanyl analogs, detectives and police officers from the New York Police Department, and Special Agents from the Drug Enforcement Administration involved in investigating the organizations responsible for selling them.

FENTANYL ANALOGS HAVE CONTRIBUTED TO HUNDREDS OF OVERDOSE DEATHS IN NEW YORK CITY

The Grand Jury heard testimony that fentanyl analogs have contributed to hundreds of overdose deaths in New York City in recent years, and that the number of fentanyl-analog-involved overdose deaths in New York City has been increasing steadily. More than ten distinct types of fentanyl analogs have been identified as factors in overdose deaths in New York City since 2016, usually in combination with heroin, fentanyl, or other fentanyl analogs. Acetyl Fentanyl, which is one of a limited number of synthetic opioids proscribed by the New York

State Public Health Law,[2] has been the most prevalent fentanyl analog connected to overdose deaths since 2017. Fluoroisobutryl Fentanyl (FIBF) is the second most common analog contributing to overdose deaths since 2017 and is not proscribed in New York. The involvement of other fentanyl analogs in deaths has been episodic. Unique and unregulated fentanyl analogs, previously not identified in forensic toxicology reports, emerged as contributing to New York City overdose deaths as recently as 2018, while others previously identified in forensic toxicology analysis, have disappeared. For example, while Furanyl Fentanyl was the third most common analog contributing to overdose deaths in 2017, it was not identified as one of the top five in 2018 or 2019. Valeryl Fentanyl, on the other hand, was rarely identified if ever as contributing to New York City overdose deaths through the first half of 2018. But beginning in July 2018, Valeryl Fentanyl became one of the most frequently identified fentanyl analogs factoring in overdose deaths in New York City. The constant temporal and regional fluctuation of fentanyl analogs presents challenges for forensic toxicology in New York City and across the state.

The Grand Jury learned that fentanyl analogs, which have no legitimate medical use, generally have the same effects on the body as fentanyl, heroin and other opioids, but the intensity of these effects varies widely depending upon the analog's structure and composition. Some fentanyl analogs are similar to fentanyl in potency, while others can be as much as a hundred to a thousand times more potent. Fentanyl analogs, like other opioids, are depressants, which suppress bodily functions, including respiration, and can lead to death. Because many fentanyl analogs are highly potent, a minute amount can have a devastating effect upon the body.

The Grand Jury learned that fentanyl analogs pose unique challenges to the work of the OCME due to their chemical makeup. Because they are so potent, fentanyl analogs tend to

[2] Acetyl Fentanyl was controlled by New York State effective July 2018.

appear in low concentration in bodily fluids and tissues examined by the OCME, sometimes in ten to twenty times lower concentrations than the concentrations of other opioids detected in the samples examined during forensic toxicology analysis. Detection of comparatively low concentrations of fentanyl analogs is made even more difficult due to the body's metabolizing process, during which consumed substances are broken down and diluted. Instruments which have long been successfully utilized to identify toxic substances which appear in higher concentrations are not as effective when a toxic substance presents in such low concentrations. The difficulty in detection of substances in very low concentrations may lead to underreporting of analogs contributing to death, and make it difficult to fully assess the impact of analogs on the overdose epidemic.

FENTANYL ANALOGS ARE TRAFFICKED IN THE SAME MANNER AS ILLEGAL DRUGS

The Grand Jury heard evidence regarding organizations involved in the sale of fentanyl analogs that fluctuate between mixing analogs with illegal drugs, such as cocaine and heroin, and producing mixtures which contain only unregulated analogs. Illicit narcotic distributors thus appear to alter the composition of black market drugs in response to market demands and shifting supply, resulting in a highly unpredictable product.

The packaging of analogs can leave a buyer unaware as to its actual contents. Whether fentanyl analogs are mixed only with inactive dilutants, or combined with heroin or fentanyl, the packaging and method of sale is indistinguishable. They are all sold in glassine envelopes or ziplock bags. The markings and color on packaging bear no relationship to its contents, although there was evidence that sellers and buyers may be aware of differences between fentanyl and heroin, particularly with regard to taste and effect upon the user. This uncertainty with respect to

the type of substance trafficked presents a serious public health risk. Substance users may be aware of their level of tolerance for heroin or fentanyl, but a substance which contains a highly potent fentanyl analog puts substance users at greater risk for accidental overdose.

This fluctuation and uncertainty regarding the substances being sold also presents significant challenges for law enforcement. Many fentanyl analogs are not controlled in New York State and thus are not illegal to possess or sell despite their lethal potential. An arrest of an individual transporting unregulated fentanyl analogs cannot be prosecuted, even when that individual plays a significant role in a narcotics distribution organization. For example, the Grand Jury heard evidence of a street level organization whose members were selling both illegal drugs and fentanyl analogs and were transporting both heroin and fentanyl mixed with analogs, as well as unregulated fentanyl analogs which were not mixed with other narcotic drugs. More than twenty-five arrests of members and associates of this organization were dismissed and sealed during the course of the investigation due to the lack of a New York State controlled substance being present in the substance seized. The dismissals impeded the investigation and identification of the source of the dangerous substances. For example, the Grand Jury heard testimony concerning an incident in which Furanyl Fentanyl was recovered at the scene of an overdose death; however, because the recovered drug was not an illegal substance, the progress of the investigation into its source was slowed.

Important tools like search warrants, wiretaps, and arrests are unavailable if the substance being distributed is not regulated in New York State. Eavesdropping warrants under Article 700 of the New York State Criminal Procedure Law (wiretaps) may only be utilized when there is probable cause to believe that a particular person has committed or is about to commit a "designated offense". A "designated offense" defined in Article 700 requires that the offense be

one specified in the New York State Penal Law. While the sale of controlled substances, including heroin, cocaine, and fentanyl, are "designated offenses" pursuant to Article 700, the sale of most fentanyl analogs is unregulated. Similarly, a search warrant issued under Article 690 of the Criminal Procedure Law requires that property subject to seizure be stolen, unlawfully possessed, used or possessed to commit or conceal the commission of an offense against the law of this state, or constitutes evidence that tends to demonstrate that an offense was committed in this state. Because unregulated fentanyl analogs are not controlled substances in New York State, the sale or possession of them does not constitute an offense under Article 690 and therefore law enforcement cannot apply for search warrants in the investigation of drug trafficking organizations where only unregulated fentanyl analogs have been identified.

This also prevents law enforcement from acting quickly to protect the public by dismantling identified organizations whose activities are resulting in overdoses. For example, the Grand Jury heard evidence about an organization which was involved in the sale of fentanyl analogs for more than two years, and two overdoses appeared to be related to its activity. No investigative steps could be initiated related to unregulated analogs, which were sold at the early stages of the investigation. Only when analogs mixed with heroin were recovered, was law enforcement able to intervene effectively.

The Grand Jury also heard evidence regarding the lucrative nature of the sale of unregulated fentanyl analogs–whether sold alone or mixed with heroin or other illegal drugs. The Grand Jury learned that analogs allow dealers to earn higher profits because their wholesale costs for analogs are lower while the potency of the product is higher. The Grand Jury furthermore heard evidence of luxury items purchased with analog trafficking proceeds, and significant amounts of trafficking proceeds confiscated.

To protect their contraband and profits, the Grand Jury learned that some organizations involved in the sale of fentanyl analogs utilize violence and institute security measures. For example, the Grand Jury heard that an organization selling fentanyl analogs maintained loaded firearms and ammunition in stash apartments with reinforced doors, which were used to prepare and package drugs for sale. This organization conducted counter-surveillance to prevent anyone outside the organization from entering the stash apartment and disrupting the flow of customers. The Grand Jury also heard evidence that members of another organization engaged in retaliatory violence and threats after the suspected theft of a portion of the organization's inventory.

Furthermore, the Grand Jury learned that organizations which are trafficking in fentanyl analogs—like many drug organizations that deal in other narcotic drugs—are also engaged in other criminal activities. For example, the Grand Jury learned that the members of one organization selling fentanyl analogs were involved in forgery, credit card fraud and money laundering.

SEIZURES OF FENTANYL ANALOGS HAVE INCREASED IN NEW YORK CITY

The Grand Jury heard testimony from witnesses from the Police Lab describing increased presence of fentanyl analogs in exhibits examined in the past three years, fluctuations in type of fentanyl analogs and the challenges in analyzing and identifying the many distinct fentanyl analogs.

The Police Lab began tracking presence of fentanyl analogs in substances recovered and referred for analysis in March 2016. This timeframe corresponds to OCME findings of higher incidence of analogs present in toxicology related to overdose deaths. That month, there were

thirteen invoices[3] submitted to the Police Lab with substances which contained indications of fentanyl analogs[4]. Since then, that number has increased steadily. For example, in the month of January 2019, approximately 139 invoices were analyzed by the Police Lab where the presence of fentanyl analogs was indicated. Since 2016, substances with fentanyl analogs indicated have been seized in every borough in New York City. While each borough saw increases in the amount of invoices with fentanyl analogs indicated between 2016 and 2017, the largest increases were in Brooklyn South and the Bronx. In 2018, the Bronx saw a significant increase over 2017 in the number of invoices where fentanyl analogs were indicated and had the most such invoices in the City (more than 250).

The number of variations of fentanyl analogs which have been seized in New York City has also increased over time with new analogs appearing every year since 2016. In 2016, there were five distinct fentanyl analogs indicated in substances tested by the Police Lab, including Acetyl Fentanyl, Fluorobutyryl Fentanyl (FIBF) and Furanyl Fentanyl. In 2017, there were six new fentanyl analogs indicated, including Desopropionyl Fluorofentanyl and Methoxyacetylfentanyl, in addition to the continued appearance of the five analogs from 2016 for a total of eleven distinct types of fentanyl analogs indicated. That number increased to fourteen distinct analogs indicated in 2018 with six new fentanyl analogs indicated including Valeryl Fentanyl, in addition to eight that continued to appear from 2017. In the first quarter of 2019, twelve different analogs have been indicated including Fluoro Furanyl Fentanyl, an analog never seen before. Of all of these, only Acetyl Fentanyl is an illegal substance in New York.

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[3] Substances seized by members of the New York City Police Department (NYPD) are submitted to the Police Lab with an "invoice" each of which has a unique number which allows the NYPD to track the seizure.
[4] The Police Lab analyzes approximately 33% of invoices received. In 2018, the lab received approximately 84,000 invoices containing suspected drug seizures and analyzed approximately 34,000. The numbers cited herein are based on those invoices analyzed.

Acetyl Fentanyl, Fluorobutryl Fentanyl (FIBF) and Furanyl Fentanyl, each of which were first indicated by the Police Lab in 2016, have been the three most frequently seized fentanyl analogs indicated by Police Lab analysis in the past three years. The frequency of detection of each has fluctuated over time in different ways, which suggests a fluid and rapidly changing market for fentanyl analogs. Acetyl Fentanyl began rising rapidly in 2017 from less than ten invoices in June to over 50 in December. It continued to rise in 2018 and 2019 to over 70 invoices in December 2018. Those numbers correspond with the OCME forensic toxicology data which show that Acetyl Fentanyl was the number one analog which has contributed to overdose deaths consistently from 2017 through the first quarter of 2019. The number of invoices containing Fluorobutryl Fentanyl (FIBF) has fluctuated over time, peaking at over 50 invoices in August 2017 but has remained consistently over 20 per month to the present. Correspondingly, Fluoroisobutryl Fentanyl has been the number two analog which has contributed to overdose deaths as examined by the OCME since 2017. Furanyl Fentanyl, on the other hand, peaked with over 70 invoices in January 2017 and then declined over the next 12 months to less than 10 invoices in December 2017 where it has remained since. Correspondingly, OCME data shows that Furanyl Fentanyl was the second highest analog listed as contributing to overdose fatalities in 2017 but was not even among the top five in 2018 or 2019.

Examining fentanyl analogs through both the lens of the toxicology lab at the OCME as well as the controlled substances analysis section of the Police Lab, clearly suggests a correlative relationship between the timing and frequency with which a particular fentanyl analog is seized from the streets of the New York City and the extent to which it is contributing to overdose deaths. For example, Valeryl Fentanyl, which was first seized by law enforcement as indicated

by the Police Lab in 2018 has been one of the most frequently involved fentanyl analogs in overdose deaths in New York City since July of that year.

The Grand Jury heard evidence that communication between the Police Lab and the forensic toxicology lab at the OCME as well as other labs throughout the state with respect to new and prevalent fentanyl analogs seized is critical in helping the OCME to identify analogs which may have contributed to a particular overdose fatality or series of overdoses. Given the challenges faced by the OCME, as outlined above, with respect to identifying compounds in low concentrations, intelligence from the Police Lab and other labs throughout the state regarding what analogs have been identified is critical in assisting the OCME in their work.

However, in spite of the importance of the Police Lab identifying fentanyl analogs quickly, the Grand Jury heard testimony regarding significant challenges the Police Lab, like the OCME, experiences in testing and identifying fentanyl analogs. Currently, the Lab only is able to "indicate" that a fentanyl analog is present in a substance but not "identify" it. A substance is "indicated" but not "identified" when the substances do not meet the parameters set by the Police Lab for identification. In order to definitively identify a particular substance, and meet statutory requirements for criminal prosecution, the Police Lab relies on certified "standards" or reference materials obtained from a reputable supplier which are compared to the results from their instrumentation for the unknown substance seized. Because the molecular structure of fentanyl analogs changes frequently, the Police Lab frequently does not possess the standard for a specific analog. The standard must be ordered at considerable cost in order to conclusively identify newly identified analogs. The Police Lab has also faced additional challenges in positively identifying fentanyl analogs due to limiting factors in their methodology and instrumentalities,

which make it difficult to differentiate between related substances due to the similarity in structure and composition.

Additionally, since many fentanyl analogs are highly potent and frequently mixed with other substances, the analogs may appear in very low concentrations. As was the case with the OCME, substances in low concentrations pose particular challenges for criminalists at the Police Lab conducting analysis. In those cases, criminalists must re-run the sample at a higher concentration in order to positively identify it. This adds considerably to the time it takes to complete analyses thus reducing the available staffing and efficiency of the Police Lab. Better or different instruments than currently utilized at the Police Lab would assist in reducing the amount of analysis that must occur when samples contain potent analogs in low concentrations.

In view of the increasing degree to which fentanyl analogs are contributing to overdose deaths in New York City, the increase in the amount of fentanyl analogs seized and the challenges faced by law enforcement in combating the problem, the Grand Jury has chosen to propose reforms it believes will address the issues raised herein. The Grand Jury therefore proposes the following recommendations.

RECOMMENDATION ONE

The New York State Legislature should pass legislation that prohibits both the sale and possession of any fentanyl analog. Given the rapid fluctuation in types of fentanyl analogs, the legislature should take notice of the ease with which the chemical composition of fentanyl can be tweaked. New analogs have appeared in increasing numbers every year since 2016. Accordingly, it is inadequate for our laws to merely proscribe the handful of fentanyl analogs

currently prohibited in New York State.[3] Any legislation must cover new fentanyl analogs that merely reflect small changes to fentanyl's molecular composition. Given the demonstrated lethal potential of fentanyl and its analogs, they should be statutorily defined by their basic molecular structure and all should be proscribed.

Fentanyl analogs are being trafficked by organizations also involved in the sale of illegal drugs. These organizations sometimes sell pure fentanyl analogs and other times mix other drugs such as heroin and fentanyl with fentanyl analogs. The inability to distinguish between substances which are illegal and those which are not during the course of an investigation into a drug trafficking organization undermines law enforcement ability to effectively protect the public. Interception of dangerous substances prior to their distribution to those customers who are at serious risk of addiction, overdose or death, requires legal process such as search warrants, electronic eavesdropping warrants, arrests and indictments. Proactive prevention measures are severely limited if the underlying conduct is not proscribed by law. In addition, diversion of substance users into court-mandated treatment programs is not possible if the drug being possessed is an unregulated analog. Given the increasing number of fentanyl analogs being seized and their association with increased overdose deaths, it follows that if law enforcement cannot disrupt the distribution of fentanyl analogs, more will make their way to our communities and more overdoses will occur.

The Grand Jury recommends that the legislature make all fentanyl analogs a proscribed Schedule I drug under the New York State Public Health Law.

[3] Current schedule I illegal substances are enumerated in the New York State Public Health Law § 3306.

RECOMMENDATION TWO

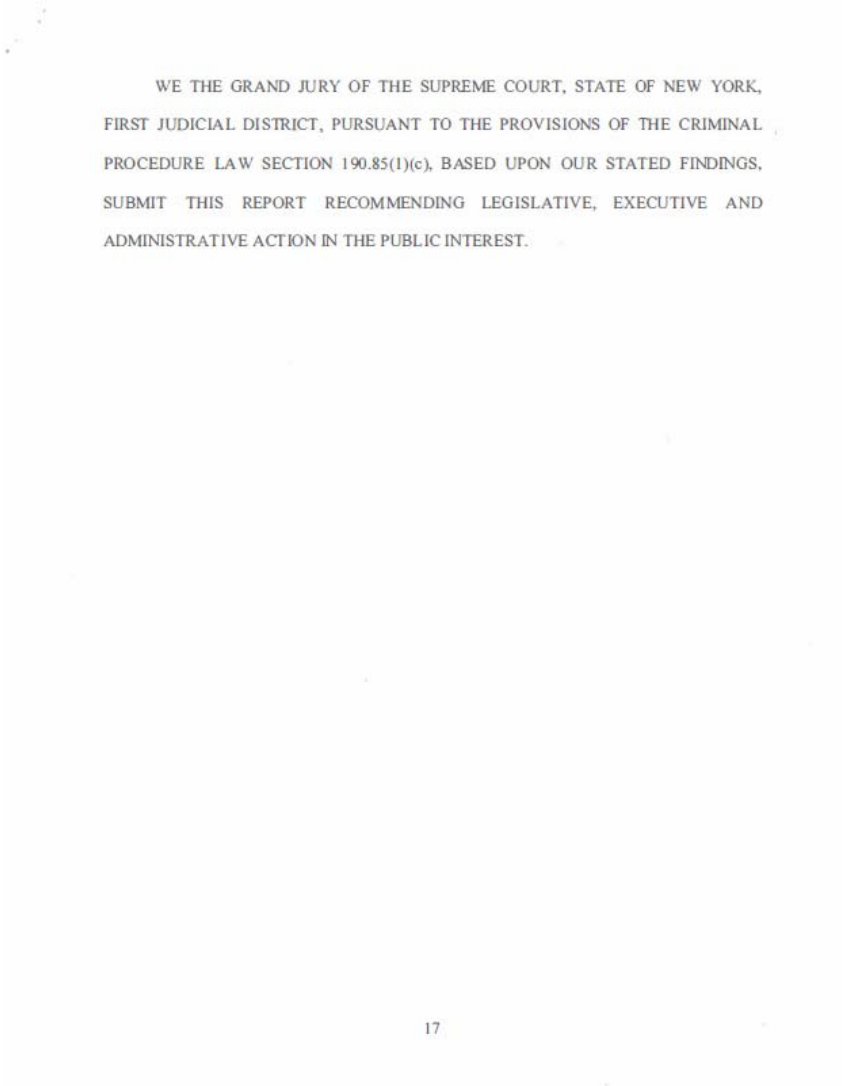
The legislature should allocate additional funding for laboratories conducting controlled substance analyses for law enforcement, including the Police Lab and the OCME Lab, as well as labs doing similar analysis located throughout the state. The Grand Jury heard about the challenges posed by the testing of fentanyl analogs and the importance of laboratories being able to positively identify these dangerous substances.

Additional funding would allow the purchase of additional standards for both already identified analogs, as well as new analogs as they emerge on the black market. Funding would also allow the purchase of updated instruments and technology to improve laboratory testing. Critical information could then be provided to law enforcement and public health partners who are working to stem the tide of the overdose epidemic.

More accurate information about submitted drug samples would assist law enforcement in their investigations of those individuals who are trafficking dangerous substances. Identification of the seized substances would allow law enforcement to better trace the distribution of these substances by specific drug organizations, and more quickly identify the source of supply. More accurate potency and purity information would increase law enforcement safety by providing timely information to members of law enforcement working in undercover capacities, or involved in the confiscation and analysis of contraband.

Accurate information about emerging analog trafficking and use trends across our state helps law enforcement, first responders, medical professionals, public health professionals and substance abuse treatment professionals to better respond to this crisis and supports the goal of decreasing overdose deaths.

Finally, additional funding should be directed towards increasing community awareness about the dangers of fentanyl analogs and the high risk of overdose. While communities across the state continue to battle this opioid epidemic, it is crucial that individuals – particularly those in communities hardest hit by the proliferation of these analogs – receive up to date information about the volatility of drug mixtures and unpredictability of an unknown mixture's effect, as well as information about treatment options available for those battling substance use.



WE THE GRAND JURY OF THE SUPREME COURT, STATE OF NEW YORK, FIRST JUDICIAL DISTRICT, PURSUANT TO THE PROVISIONS OF THE CRIMINAL PROCEDURE LAW SECTION 190.85(1)(c), BASED UPON OUR STATED FINDINGS, SUBMIT THIS REPORT RECOMMENDING LEGISLATIVE, EXECUTIVE AND ADMINISTRATIVE ACTION IN THE PUBLIC INTEREST.

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Mr. ROSE. Thank you for your testimony, Ms. Brennan.

I now recognize Dr. Pardo to summarize his statement for 5 minutes.

STATEMENT OF BRYCE PARDO, PH.D., ASSOCIATE POLICY RESEARCHER, RAND CORPORATION

Mr. PARDO. Chairs Rose and Rice, Ranking Members Walker and Higgins, and other distinguished Members of the subcommittees, thank you very much for the opportunity to testify before you today.

For 30 years, the RAND Drug Policy Research Center has worked to help decision makers in the United States and through-

out the world understand and address issues involving alcohol and other drugs.

I was asked to speak to you about the on-going developments related to the illicit importation and supply of synthetic opioids. First, I will briefly describe the emergence of these drugs. I will then focus on elements related to their supply. Finally, I will conclude with some policy options aimed at the challenges that they pose.

The opioid crisis was initially fueled by oversupply of prescription painkillers. Yet, according to provisional mortality data, by 2018, synthetic opioids such as fentanyl were involved in approximately two-thirds of the almost 50,000 opioid overdose deaths that year and are now twice as prevalent as fatal overdoses involving heroin or prescription opioids.

Initially sold mixed with powered heroin and later pressed into counterfeit prescription tablets, exposing many unsuspecting individuals, synthetic opioids may now be entering non-opioid drug markets. While half of the heroin-involved deaths in 2017 included synthetic opioids, approximately an equal share of fatal cocaine overdoses did as well.

An examination of available data shows that this problem is geographically concentrated in the Eastern half of the United States. The 10 States with the highest synthetic opioid overdose deaths in 2017 compromised 12 percent of the country's population yet made up 35 percent of all reported fatal overdoses involving synthetic opioids. This concentration suggests that the overdose crisis could get worse should these substances reach major illicit opioid markets west of the Mississippi River.

The upward trend in overdoses is mirrored by supply-side indicators. The number of fentanyl seizures submitted by State and local authorities jumped from about 1,000 in 2013 to more than 59,000 in 2017. Similarly, Customs and Border Protection seized nearly 1,000 kilograms of fentanyl in fiscal year 2018, up from just 1 kilogram in fiscal year 2013.

Those seizures of drugs containing fentanyl near or at the Southwest Border significantly outweighed those at mail or express consignment carrier facilities. Calculations in my written statement show that, after adjusting for purity, the majority of fentanyl seized by CBP arrives by air, mostly originating from China. Mexico is a source of illicitly imported fentanyl, yet many of the precursors or finished products trafficked by these groups also originate in China.

China is an important source of many legitimate chemicals and pharmaceutical inputs. Today, it is the world's largest exporter of active pharmaceutical ingredients and a leading exporter of chemicals for industrial and commercial use. However, economic growth in these sectors has outpaced the central government's ability to monitor producers.

As detailed in my written statement, there are several factors that allow manufacturers to operate with impunity. First, regulatory design and enforcement is scattered across a handful of agencies, creating gaps in oversight. Second, misaligned incentives between those who write the rules and those who enforce them allow for regulatory capture and corruption. Third, the central gov-

ernment's enforcement capacity is inadequate relative to the number of producers and distributors. Such conditions create a favorable environment for firms to operate in illegal margins, allowing them to produce and export synthetic drugs to global markets.

Considering the future, there are several things that Congress and Federal authorities could do. However, given the scope of this problem and the new challenges it presents, Congress must look beyond available drug policy tools.

First, given the lack of information about supply and demand, there is dire need to improve how agencies collect and analyze drug market indicators such as prevalence, overdoses, and drug seizures. Our drug policy data collection and analysis systems are not well-suited to these new drugs. This is crucial, considering the need for early warning systems, to safeguard communities that have not been exposed to synthetic opioids.

Second, Congress could continue to encourage Federal authorities to work with Chinese counterparts to strengthen that country's regulatory and enforcement capabilities. This includes constructively engaging China at relevant multilateral institutions, building greater bilateral research and technical exchanges, and streamlining information sharing. Congress could consider appropriating additional resources to U.S. authorities to that end.

Third, there is need to better understand and target producers, importers, and high-level distributors both in the United States and in China. Building cases and sharing actual information with Chinese authorities are needed to effectively prosecute those who flaunt Chinese law. Greater research is needed to understand decision-making and operational processes of importers so as to disrupt and detour on-line sourcing and distribution by individuals in the United States.

Last and most importantly, there is need to strengthen Federal, State, and local efforts aimed at reducing overdoses and demand for opioids. This includes expanding pharmacological treatments covered by private and public health insurance, subsidizing the cost of medication therapies for those who cannot afford them, and reviewing and reducing regulatory barriers on their provision.

The arrival of illicitly-manufactured synthetic opioids creates uncertainty in illicit drug markets, raising the risk of overdose. These substances are changing the drug policy landscape and stretching our ability to respond effectively. Decision makers will need to consider new challenges presented by fentanyl in order to stem the rising tide in overdoses.

Thank you, and I look forward to questions.

[The prepared statement of Mr. Pardo follows:]

PREPARED STATEMENT OF BRYCE PARDO[1] [2]

JULY 25, 2019

Chairman Rose, Chairwoman Rice, Ranking Member Walker, Ranking Member Higgins, and other distinguished Members of the Subcommittee on Intelligence and Counterterrorism and Subcommittee on Border Security, Facilitation, and Operations, thank you very much for the opportunity to testify before you today. For 30 years, the RAND Drug Policy Research Center has worked to help decision makers in the United States and throughout the world address issues involving alcohol and other drugs. The center brings an objective and data-driven perspective to this often emotional and fractious policy arena. I was asked to speak to you today about on-going developments related to the current opioid crisis in the United States, focusing on some of the research we at RAND are doing to better understand the illicit supply of fentanyl and other synthetic opioids.

The introduction of illicitly-manufactured synthetic opioids to U.S. drug markets presents new challenges for contemporary drug policy. The potency of synthetic opioids raises the risk to those who use drugs and challenges first responders. In addition, the development of novel opioids that fall outside existing drug controls impedes regulatory efforts, and the ability with which these substances can be produced and shipped with ease complicates traditional supply reduction efforts.

Today, I will begin briefly describing our country's on-going opioid overdose crisis. Understanding recent developments and the shifting supply of opioids is critical to developing effective policy responses. I will then describe the emergence of synthetic opioids and the harms they generate. Given the topic of this hearing, I will focus most of my testimony on illicit imports of fentanyl and other synthetic opioids. Although most of these substances reportedly come from China and Mexico, many aspects of supply and distribution remain unclear. That said, China's export-led economic strategy and lack of regulatory oversight have created favorable conditions for the mass production and exportation of inexpensive synthetic opioids and related chemicals. Similarly, Mexican drug trafficking organizations might view fentanyl as an attractive, cheaper alternative to heroin. I conclude with some policy options going forward, aimed at the new challenges posed by these substances.

ARRIVAL OF SYNTHETIC OPIOIDS TO ILLICIT MARKETS

The drivers behind overdose deaths in the United States have changed in the last 10 years. Although the overdose crisis was initially fueled by oversupply of prescription painkillers, such as oxycodone and hydrocodone, by 2018, synthetic opioids, such as fentanyl, were involved in approximately two-thirds of all opioid overdose deaths.[3] While diversion of prescription fentanyl, such as transdermal patches and transmucosal lozenges, has been documented,[4] today's problem largely comes from illicitly manufactured synthetic opioid powders, particularly fentanyl.[5] Unlike traditional street-sourced opioids, such as heroin or diverted prescription painkillers, synthetic opioids are often much more potent. Some of these chemicals are active in the tens of micrograms,[6] making precise dosing very difficult without sophisticated equipment. As fentanyl permeates U.S. markets, so does the risk of fatal overdose.

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[1] The opinions and conclusions expressed in this testimony are the author's alone and should not be interpreted as representing those of the RAND Corporation or any of the sponsors of its research.

[2] The RAND Corporation is a research organization that develops solutions to public policy challenges to help make communities throughout the world safer and more secure, healthier, and more prosperous. RAND is nonprofit, nonpartisan, and committed to the public interest.

[3] F.B. Ahmad, L.A. Escobedo, L.M. Rossen, M.R. Spencer, M. Warner, and P. Sutton, "Provisional Drug Overdose Death Counts," National Center for Health Statistics, 2019. As of July 19, 2019: *https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm*.

[4] J. Kuhlman, R. McCaulley, T.J. Valouch, and G.S. Behonick, "Fentanyl Use, Misuse, and Abuse: A Summary of 23 Postmortem Cases, Journal of Analytical Toxicology, Vol. 27, No. 7, 2003, pp. 499–504.

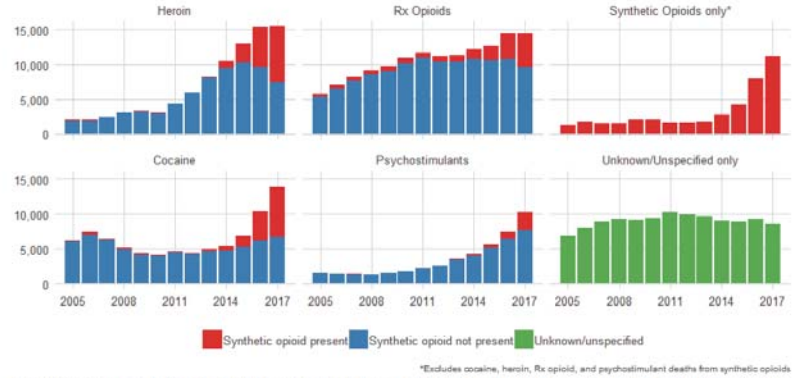
[5] M. Spencer, M. Warner, B.A. Bastian, J.P. Trinidad, and H. Hedegaard, "Drug Overdose Deaths Involving Fentanyl," National Vital Statistics Reports, Vol. 68, No. 3, 2019; Drug Enforcement Administration (DEA), 2018 National Drug Threat Assessment, Springfield, Va., DEA–DCT–DIR–032–18, October 2018b; R. Matthew Gladden, Pedro Martinez, and Puja Seth, "Fentanyl Law Enforcement Submissions and Increases in Synthetic Opioid-Involved Overdose Deaths—27 States, 2013–2014," Morbidity and Mortality Weekly Report, Vol. 65, No. 33, 2016, pp. 837–843.

[6] According to the European Monitoring Centre for Drugs and Drug Addiction, the lethal dose of ingested fentanyl for those without opioid tolerance is approximately 2 milligrams (2,000 micrograms), roughly the amount of 2 grains of salt. See European Monitoring Centre for Drugs and Drug Addiction, "Fentanyl Drug Profile," webpage, 2015. As of July 19, 2019: *http://*

Provisional numbers from the Centers for Disease Control and Prevention demonstrate a slowdown in total overdose deaths in recent years. Still, today's drug overdose crisis, which now claims some 70,000 lives a year, surpasses major public health epidemics of prior generations, including the HIV/AIDS epidemic, which peaked at 50,000 deaths a year in the mid–1990's.[7] And while the annual number of opioid-involved deaths remained steady at just under 50,000 in each 2017 and 2018,[8] the majority of these deaths involved synthetic opioids. In 2018 this amounted to double the number of overdoses from heroin or prescription opioids.[9] Overall, overdose deaths involving synthetic opioids have jumped tenfold between 2013 and 2018.

In addition, overdose figures and law enforcement reports suggest that synthetic opioids, initially sold as powdered heroin or prescription tablets, may be entering non-opioid drug markets.[10] While half of heroin-involved deaths in 2017 included synthetic opioids, approximately an equal share of fatal cocaine overdoses did as well. Figure 1 shows national trends regarding the presence of synthetic opioids among fatal overdoses across several drug categories.

Figure 1. U.S. Drug Overdose Death Count by Year and by Drug Category



SOURCE: Data are deidentified public-use Multiple Cause of Death certificate files produced by the National Center for Health Statistics, 2005–2017.

Examination of overdose fatalities by State shows that the synthetic opioid problem is concentrated in the eastern half of the United States.[11] The 10 States with highest synthetic opioid overdose death rates in 2017 contain only 12 percent of the country's population yet comprised 35 percent of the 28,500 fatal overdoses involving synthetic opioids. Ohio's share alone was almost 12.5 percent, although the State only has about 3.5 percent of the country's total population.

In several acutely affected States, fatal overdoses involving heroin free of synthetic opioids have continued to decline, only to be replaced by a rising number of overdoses involving synthetic opioids. For example, in Ohio, the total number of deaths mentioning heroin actually fell in 2017, for the first time since 2009; few heroin overdose deaths in Ohio do not involve synthetic opioids as well. In New Hampshire, only one-quarter of heroin overdoses do not involve synthetic opioids and total heroin overdoses have fallen dramatically, suggesting that illicit drug markets in that State may be far along in the transition to fentanyl or other synthetic opioids.

An examination of State-level drug seizures shows similar spatial and temporal patterns. In States acutely affected by synthetic opioids, law enforcement seizures

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www.emcdda.europa.eu/publications/drug-profiles/fentanyl#pharmacology. Transdermal patches containing fentanyl release 12.5 to 100 micrograms per hour, depending on the prescription.

[7] Holly Hedegaard, Arialdi M. Minio, and Margaret Warner, "Drug Overdose Deaths in the United States 1999–2017," NHCS Data Brief, No. 329, November 2018. As of July 19, 2019: *https://www.cdc.gov/nchs/data/databriefs/db329-h.pdf* Centers for Disease Control and Prevention, "Thirty Years of HIV—1981–2011," *Morbidity and Mortality Weekly Report,* Vol. 60, No. 21, June 3 2011.

[8] Ahmad et al., 2019.

[9] Ahmad et al., 2019.

[10] DEA, Special Testing and Research Laboratory, *Emerging Threat Report, Annual 2017,* Springfield, Va., 2018a.

[11] Michael Zoorob, "Fentanyl Shock: The Changing Geography of Overdose in the United States," International Journal of Drug Policy, Vol. 70, 2019, pp. 40–46.

of heroin have been declining since around 2014. The same cannot be said for seizures of fentanyl and related substances. An examination of data from U.S. Drug Enforcement Administration's National Forensic Laboratory Information System (NFLIS) through 2017 suggests that several regional markets appear to be transitioning toward synthetic opioids and away from heroin. The overdose crisis could worsen if synthetic opioids enter major illicit opioid markets west of the Mississippi river.[12]

SHIFTING SUPPLY OF SYNTHETIC OPIOIDS

The country's upward trend in synthetic opioid overdoses is mirrored by the trend in drug seizures. U.S. Customs and Border Protection (CBP) seized approximately 1 kilogram of fentanyl in fiscal year 2013; by fiscal year 2018, CBP seized nearly 1,000 kilograms.[13] Likewise, reports from NFLIS show a sharp increase in the number of seizures containing fentanyl or fentanyl analogues submitted by State and local drug laboratories. Although these increases may be partially explained by changes in law enforcement procedures or priorities, the number of fentanyl seizures submitted to NFLIS also jumped from about 1,000 in 2013 to more than 59,000 in 2017.[14] State-level analysis shows a strong correlation between the number of law enforcement drug seizure exhibits containing fentanyl or fentanyl analogues and reported synthetic opioid overdose deaths.[15]

In addition to the rise in reports of fentanyl seized in domestic drug markets, DEA has noted increases in the number of novel synthetic opioids. According to DEA's *Emerging Threat Reports,* 10 synthetic opioids were seized and identified for the first time in 2017, followed by 7 in 2018.[16] These chemicals were previously unknown in U.S. drug markets. Even though producers continue to manufacture new substances and the overall mix of analogues found in markets changes over time, fentanyl remains the dominant synthetic opioid reported in seizure reports and overdose death certificates.

This is not the first time the United States has experienced an outbreak of illicitly manufactured fentanyl in drug markets. During a brief period in the mid-2000's, illicitly manufactured fentanyl appeared in major heroin markets in the Midwest and mid-Atlantic, claiming about 1,000 lives.[17] Federal and local response was swift, expanding access to naloxone and seizing product from the street. In May 2006, Mexican law enforcement and the DEA identified and closed the illicit manufacturing operation in Toluca, Mexico.[18] Illicitly manufactured fentanyl would not return to drug markets until late 2013.

However, much has changed since the closure of the lab in Toluca. Law enforcement in the United States and Canada report that most synthetic opioids and precursors originate not from a single clandestine source, but from what could be many semi-legitimate manufacturers and vendors, most of whom are in China.[19] Chinese suppliers ship these substances via the international postal system and private express consignment carriers, such as FedEx and DHL, as well as by cargo.[20] Accord-

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[12] For example, recent spikes in fentanyl-involved overdose deaths in San Francsisco, California may be an early indicator of such expansion. See Erin Allday, "Fentanyl Rising as Killer in San Francisco—57 Dead in a Year," San Franscisco Chronicle, June 23, 2019. As of July 19, 2019: *https://www.sfchronicle.com/health/article/Fentanyl-rising-as-killer-in-San-Francisco-57-14030821.php?psid=dlc8z*.

[13] U.S. Customs and Border Protection, *CBP Enforcement Statistics,* Washington, DC, 2019. These seizures are not adjusted for purity and reflect the gross total weight. It is important to adjust seizures for purity, as Federal law enforcement has noted the disparity in purity of seizures originating from China, which are nearly pure, versus those originating from Mexico, which are often of low purity.

[14] DEA. 2018b.

[15] Zoorob, 2019.

[16] DEA, Special Testing and Research Laboratory, 2018a; DEA, Special Testing and Research Laboratory, 2019.

[17] Centers for Disease Control and Prevention, "Nonpharmaceutical Fentanyl-Related Deaths—Multiple States, April 2005–March 2007," *Morbidity and Mortality Weekly Report,* Vol. 57, No. 29, July 25, 2008.

[18] DEA, National Drug Intelligence Center, *Fentanyl: Situation Report,* Springfield, Va., SR–000001, June 5, 2006.

[19] C. Bairns, "Charges to Be Laid Involving Fentanyl Shipments from China: RCMP," *Globe and Mail,* September 18, 2017; U.S. Drug Enforcement Administration, *Counterfeit Prescription Pills Containing Fentanyls: A Global Threat,* Springfield, Va., 2016.

[20] U.S. Senate, Committee on Homeland Security and Governmental Affairs, Permanent Subcommittee on Investigations, Combatting the Opioid Crisis: Exploiting Vulnerabilities in International Mail, Washington, DC, 2018; CBP, "Philadelphia CBP Seizes Nearly $1.7 Million in Fentanyl Shipped from China," press release, June 28, 2018. As of July 19, 2019: *https://www.cbp.gov/newsroom/local-media-release/philadelphia-cbp-seizes-nearly-17-million-fentanyl-shipped-china*.

ing to DEA, Mexican drug traffickers are another major source.[21] Given that drug trafficking organizations in Mexico have a history of importing methamphetamine precursors from China,[22] it would appear that they are doing the same with fentanyl and fentanyl precursors. Regardless of their source, nearly all of today's illicitly manufactured synthetic opioids are imported. DEA last reported a seizure of a clandestine fentanyl laboratory in the United States almost 15 years ago.[23]

Seizure data at ports of entry offer some insights into the dimensions of illicit imports. CBP reports seizing synthetic opioids, including fentanyl, at land points of entry and checkpoints on the Southwest Border, as well as at mail and express consignment facilities and other air ports of entry. Table 1 shows that in fiscal year 2018, seizures of fentanyl near or at the border ports of entry significantly outweighed those at mail and express consignment carrier facilities. However, after adjusting for purity, almost 70 percent of fentanyl seized by CBP in fiscal year 2018 arrived by air, mostly at mail and express consignment carrier facilities. Analysis of fiscal year 2017 seizure data reports a similar breakdown.[24] Law enforcement and Congressional investigations have suggested that many of the packages at mail and express consignment facilities originate from China.[25] If CBP seizures represent the true nature of trafficking patterns, then these preliminary calculations support law enforcement's conclusion that China is an important source country of illicitly manufactured synthetic opioids.

TABLE 1.—CBP SEIZURES OF FENTANYL IN FISCAL YEAR 2018 BY MODE OF TRANSPORT

Mode of Transport	Weight (kg)	Estimated Purity-Adjusted Weight (kg)	Seizure Incidents	Average Weight of Seizure (gross kg)
Land (mostly Southwest Border)	654.00	49.05	182	3.59
Border Checkpoints (Border Patrol) ..	176.36	13.23	.....	.....
Express consignment	52.62	47.36	76	0.69
Mail	61.72	55.55	455	0.14
Air (other)	50.06	45.05	2	25.03
Total	994.76	210.24	715	.....

Source: CBP, *Strategy to Combat Opioids,* Washington, DC, 2019; DEA, *National Drug Threat Assessment,* Springfield, Va., 2017.

Note: According to DEA, the purity of fentanyl arriving at mail and express consignment facilities is often 90 percent or more, while seizures at the Southwest Border are reportedly 5 to 10 percent pure; here we use the midpoint of 7.5 percent.

The smuggling of synthetic opioids from China may be evolving. In late June 2018, CBP at the Philadelphia port of entry seized 50 kilograms of 4-fluoroisobutyryl fentanyl hidden in barrels of iron oxide in an air shipment from China.[26] CBP noted that the shipment was high purity, which would make this seizure one of the largest to originate from China and perhaps the largest single seizure of a fentanyl-like substance.

China: A Source of New Drugs and Chemical Precursors

The manufacture of many of these new drugs and precursors is linked to China's large and underregulated chemical and pharmaceutical sectors. China is a leading exporter of active pharmaceutical ingredients and chemicals that can be used in the production of controlled substances and other medications. These include methamphetamine precursors and cocaine reagents, such as ephedrine, pseudoephedrine,

[21] DEA, 2018b.

[22] S. O'Connor, *Meth Precursor Chemicals from China: Implications for the United States,* Washington, DC: U.S.-China Economic and Security Review Commission, 2016.

[23] DEA, 2006.

[24] Bryce Pardo, *Evolution of the U.S. Overdose Crisis: Understanding China's Role in the Production and Supply of Synthetic Opioids.* Santa Monica, Calif.: RAND Corporation, CT–497, 2018. As of July 19, 2019: *https://www.rand.org/pubs/testimonies/CT497.html*.

[25] U.S. Senate, Committee on Homeland Security and Governmental Affairs, Permanent Subcommittee on Investigations, 2018; T. Owen, testimony before the U.S. Senate Committee on Homeland Security and Governmental Affairs, January 25, 2018.

[26] CBP, 2018.

and potassium permanganate.[27] To avoid detection by customs authorities, Chinese producers or distributors often use technically legal workarounds and, when necessary, outright deception. It has been reported that Chinese traffickers and chemical exporters will mislabel shipments, modify chemicals, or ship pre-precursors that fall outside international controls.[28]

Lack of international control manifested by the U.N. system of drug conventions has allowed Chinese manufacturers to export fentanyl precursors. Although they have been scheduled in the United States for over a decade, N-Phenethyl-4-piperidinone (NPP) and 4-anilino-Nphenethylpiperidine (4–ANPP) were not subject to international controls until October 2017.[29] In late 2016, the U.S. Department of State identified nearly 260 producers of these precursors, more than half of which were in China.[30] These chemicals were finally scheduled in China early last year.[31] Previously, there was little scrutiny on their manufacture, and producers faced little, if any, reporting requirements or production and exporting restrictions.

Much like circumvention of precursor regulations, Chinese manufacturers often synthesize new substances that fall outside National and international laws, including drugs that mimic the effects of cannabis, stimulants, benzodiazepines, and opioids. To stem the growing production of uncontrolled and novel psychoactives, the Chinese government has added new chemicals to national drug schedules. In late 2015, China added 116 new substances, including 38 synthetic cannabinoids, 26 synthetic cathinones (e.g., "bath salts"), 23 phenethylamines (e.g., MDMA analogues), and 6 synthetic opioids to its drug control laws.[32] Since then, China has scheduled additional fentanyl analogues as U.S. and Canadian law enforcement bring them to the attention of Chinese authorities.[33] In January 2017, China's Ministry of Public Security listed 4 additional synthetic opioids, including the highly potent carfentanil.[34] This was followed 6 months later with 4 new substances, including 2 non-fentanyl synthetic opioids, U–47700 and MT–45.[35] Most recently, the Chinese government, at the request of the U.S. Government, has adopted a generic ban on all substances that are "structurally related to fentanyl;" the ban went into effect in May of this year.[36]

Alhough China has made efforts to control fentanyl and fentanyl analogues, many of these chemicals continue to show up in drug seizures at ports of entry and in domestic drug markets. The ease of ordering these substances on-line and having them shipped directly to the United States hampers supply reduction efforts.[37] Chinese chemical and pharmaceutical firms openly advertise these substances on English-language websites accessible by a simple internet search. Vendors will sometimes purposefully conceal shipments through freight forwarding systems, mislabel packages, or route them through a third country to conceal efforts to trace packages to their original source.[38]

In addition to the supply of synthetic opioids and their chemical inputs, U.S. and Canadian law enforcement have also seized industrial-grade press machines, dies,

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[27] O'Connor, 2016; U.S. Department of State, *International Narcotics Control Strategy Report,* Washington, DC, 2017.

[28] O'Connor, 2016.

[29] International Narcotics Control Board, "INCB: Scheduling of Fentanyl Precursors Comes into Force," October 18, 2017.

[30] J. Whalen, "U.S. Seeks Curb on Chemicals Used to Make Fentanyl, a Powerful Opioid," Wall Street Journal, October 14, 2016.

[31] DEA, "China Announces Scheduling Controls on Two Fentanyl Precursor Chemicals," press release, January 5, 2018. As of July 19, 2019: *https://www.dea.gov/press-releases/2018/01/05/china-announces-scheduling-controls-two-fentanyl-precursor-chemicals*.

[32] United Nations Office on Drugs and Crime Early Warning Advisory on New Psycoactive Substances, "China Announces Controls over 116 New Psychoactive Substances," press release, October 2015. As of July 19, 2019: *https://www.unodc.org/LSS/Announcement/Details/83b02e73-4896-4ed5-944c-51a7646647aa*.

[33] U.S. Drug Enforcement Administration, 2018; Royal Canadian Mounted Police, "RCMP and Chinese Ministry of Public Security Commit to Combat the Flow of Fentanyl into Canada," November 16, 2016. As of July 19, 2019: *http://www.rcmp-grc.gc.ca/en/news/2016/24/rcmp-and-chinese-ministry-public-safety-commit-combat-the-flow-fentanyl-canada*.

[34] Chinese Ministry of Public Security, "Notice on Inclusion of Four Fentanyl Substances, Such as Fentanyl, in the Supplement to the Catalog of Nonmedical Narcotic Drugs and Psychotropic Substances Control," March 1, 2017.

[35] DEA, "China Announces Scheduling Controls of New Psychoactive Substances/Fentanyl-Class Substances," June 19, 2017.

[36] Liu Yuejin, "SCIO Briefing on Fentanyl-Related Substances Control," webpage, April 2, 2019. As of July 19, 2019: *http://www.china.org.cn/china/2019-04/02/content__74637197.htm*.

[37] U.S. Senate, Committee on Homeland Security and Governmental Affairs, Permanent Subcommittee on Investigations, 2018.

[38] U.S. Senate, Committee on Homeland Security and Governmental Affairs, Permanent Subcommittee on Investigations, 2018.

and stamps imported from China that are used in the manufacture of counterfeit prescription tablets.[39] According to the DEA, drug distributors in the United States use imported powder formulations of synthetic opioids and press machines to manufacture counterfeit tablets.[40] The distribution of fake tablets is of great concern because they resemble regulated products of known dose and consistency. They might also appeal to a broader population of individuals who do not inject drugs or are averse to using heroin.

Other Sources of Synthetic Opioids

Mexico is another important source of illicit fentanyl destined for U.S. drug markets. Drug trafficking organizations in that country have long supplied much of the heroin that is used in the United States. In recent years, there has been a noticeable increase in the amount of fentanyl seized at the U.S.-Mexico border by U.S. law enforcement and Mexican authorities.[41] The DEA has noted that Mexican drug trafficking organizations are importing fentanyl and fentanyl precursors from China. Drug traffickers are smuggling powder fentanyl alongside heroin or pressing it into counterfeit tablets made to look like genuine pharmaceutical-grade products.[42] Synthetic opioids, which can be readily made in a lab, are attractive alternatives to poppy-based heroin, which is susceptible to blight, drought, eradication, and labor shortages. Also, the very high potency-to-weight ratio of fentanyl makes it ideal for smuggling.

Since late 2017, 5 clandestine labs have been seized in Mexico. Most were in densely-populated residential areas in such major cities as Mexicali and Mexico City.[43] The scale and access of chemical precursors and pill press machines from China, combined with easier synthesis techniques allows for the minimally trained to manufacture fentanyl virtually anywhere—making supply disruption more challenging.

The DEA also notes Canada as another source of fentanyl.[44] Parts of that country are also experiencing a surge in synthetic opioid overdoses, much like the United States. Rather than a source of production of synthetic opioids, Canada may serve as a transshipment point. DEA notes that synthetic opioids are imported from China into Canada, where they are pressed into counterfeit tablets, some of which are smuggled into the United States.[45]

India is another country with a robust pharmaceutical industry which faces limited regulatory oversight.[46] It is unclear to what extent Indian-sourced fentanyl is arriving in the United States, but in 2018, Indian authorities reported two relatively large seizures of fentanyl destined for North America.[47]

Currently, U.S. authorities believe China to be the primary source for fentanyl, fentanyl analogues, precursor chemicals, and press machines used in the manufacture of counterfeit tablets. As such, I turn to China's chemical and pharmaceutical industries.

CHINA'S INDUSTRY GROWTH AND REGULATORY DEFICIENCIES

Although the Chinese central government has taken steps to control new chemicals and precursors, the problem persists. Regulatory capacity in China is inad-

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[39] DEA, 2018b; Royal Canadian Mounted Police. "RCMP Arrest Opioid Drug Trafficker," press release, December 6, 2018. As of July 19, 2019: *http://www.rcmp-grc.gc.ca/en/news/2018/rcmp-arrest-opioid-drug-trafficker* DEA, *Counterfeit Prescription Pills Containing Fentanyls: A Global Threat,* Springfield, Va., July 2016. As of July 19, 2019: *https://content.govdelivery.com/attachments/USDOJDEA/2016/07/22/fileattachments/590360/fentanyl%2Bpills%2Breport.pdf*.

[40] DEA, 2016.

[41] CBP, 2019; J. Nacar, "Fentanilo Tiene Sus Epicentros en BC y CDMX," *Eje Central.* February 9, 2019.

[42] DEA, 2016.

[43] DEA, 2018b; "PGR Asegura Supuesto Laboratorio de Fentanilo en CDMX," El Financiero, December 12, 2018; "Aseguran en Culiacán, Sinaloa Presunto Laboratorio de Fentanilo," El Debate, April 11, 2019; PGR. Comunicado DPE/6719/17. Inicia PGR investigación por aseguramiento de laboratorio clandestino en Sinaloa. November 23, 2017. "Médico Búlgaro, Exmilitar, Kulkin Tenía, en un Cuartito de Mexicali, Laboratorio 'AAA' de Fentanilo," *Que Hacer Politico,* September 18, 2018.

[44] DEA, 2018b.

[45] DEA, 2016.

[46] India Brand Equity Foundation, "Indian Pharmaceuticals Industry Analysis," May 2019. A. Altstedter and A. Edney, "Culture of 'Bending Rules' in India Challenges U.S. Drug Agency," Bloomberg, January 31, 2019.

[47] "Three, Including Mexican National, Held with Drugs Worth Rs 100 Cr in Madhya Pradesh," *Business Standard,* September 28, 2018; D. Singh, "Mumbai: Anti-Narcotics Cell Seizes Drug Worth Rs 1000 Crore," *India Today,* December 28, 2018.

equate to police the country's expansive pharmaceutical and chemical industries. Unauthorized manufacture and handling of fentanyl is prohibited in China, but not fentanyl itself. In fact, the country legitimately produces fentanyl for medical purposes.[48] And fentanyl remains the most common synthetic opioid reported in overdose deaths and drug seizures in the United States, suggesting inadequate regulatory capacity and enforcement on the part of Chinese authorities.

Government-led market reforms in the past 30 years have helped China become a global manufacturing center driven by exports. The expansion of e-commerce and inexpensive shipping have made global trade cheaper and more convenient. Together, these phenomena helped make many of China's industries important links in international supply chains. The same is true for its expansive pharmaceutical and chemical industries.

Today, China's pharmaceutical industry counts some 5,000 manufacturers that produce more than 2,000 products, with an annual production capacity of more than 2 million tons, making the country the single largest exporter of active pharmaceutical ingredients (APIs) in the world.[49] According to the World Health Organization (WHO), China's pharmaceutical industry is now the second-largest in the world, with recent annual sales revenues of more than $100 billion.[50]

In addition to its pharmaceutical industry, the Department of State estimates that China could have as many as 400,000 chemical manufacturers or distributors, some of which are operating without legal approval.[51] These firms produce tons of chemicals each week intended for industrial and commercial use.[52] One private-sector analysis estimates that China's chemical industry has grown by an annual average of 9 percent in recent years and made up 3 percent of the national economy in 2016, generating more than $100 billion in profits that year.[53]

Rapid commercial growth brought on by market reforms has outpaced the capacity and design of China's regulatory regime.[54] Regulatory gaps and bureaucratic fragmentation continue to hamper China's ability to oversee its pharmaceutical and chemical industries. In the past decade, the China Food and Drug Administration (CFDA) has made efforts to adopt better enforcement and production guidelines, including good manufacturing practices (GMPs). The GMP standards cover most basic aspects of manufacturing, including environmental protections, sanitary working conditions, product testing and tracking, and record keeping.[55]

However, the division of regulatory design and enforcement responsibilities among national governmental entities is a commonly-noted problem. Lack of coordination and competing regulatory oversight create opportunities for some firms to hide unregulated activities in plain sight. According to one report written by staff of the U.S.-China Economic and Security Review Commission, at one time there were 8 governmental entities involved in promulgating and enforcing production and export requirements for pharmaceuticals or chemicals.[56]

In addition to the patchwork of responsible agencies, competing incentives between levels of government impede enforcement. Provincial authorities protect, promote, and sometimes manage local economies and industries.[57] Although the central government, through the CFDA, designs rules to govern GMP standards, it relies on provincial governments to enforce them. According to the WHO, provincial governments are mainly tasked with inspecting and certifying companies for GMP approval.[58] This division in regulatory design and enforcement generates opportunities for regulatory capture, nonenforcement, or outright corruption when the economic incentives of provincial governments misalign with those of good governance.

Beyond gaps in regulatory design and misaligned incentives, the government's regulatory capacity is limited. The division in enforcement strategy, in which the CFDA inspects only a subset of manufacturers, leaving the rest up to provincial au-

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[48] W. Zheng, "China's Fentanyl Firms Back Crackdown on Opioid," *South China Morning Post,* December 3, 2018.

[49] World Health Organization, *China Policies to Promote Local Production of Pharmaceutical Products and Protect Public Health,* 2017.

[50] World Health Organization, 2017.

[51] U.S. Department of State, *International Narcotics Control Strategy Report,* Washington, DC: Bureau of International Narcotics and Law Enforcement Affairs, 2014; U.S. Department of State, *International Narcotics Control Strategy Report,* Washington, DC: Bureau of International Narcotics and Law Enforcement Affairs, 2015.

[52] O'Connor, 2016.

[53] Atradius, "Market Monitor: Focus on Chemicals Performance and Outlook," 2017.

[54] Li and Sun, 2014; World Health Organization, 2017.

[55] World Health Organization, 2017.

[56] O'Connor, 2017.

[57] T. Gong, "Corruption and Local Governance: The Double Identity of Chinese Local Governments in Market Reform," *Pacific Review,* Vol. 19, No. 1, 2006, pp. 85–102.

[58] World Health Organization, 2017.

thorities, may reflect this limitation. The CFDA and other regulators are unable to effectively inspect and police the large number of pharmaceutical manufacturers. The WHO notes that, although the CFDA is attempting to hire more inspectors, its efforts are complicated by lack of time and resources; private industry salaries are highly competitive, complicating efforts to retain qualified staff.[59]

Data from the CFDA show that regulators are increasing the number of inspections, yet gaps remain. Annual reports indicate an increase in inspected firms and applicants from 698 in 2015 to 751 in 2017, although there was a dip in inspections in 2016.[60] The number of CFDA inspectors has remained around 2,000 over the same period; however, regulators have shifted focus to GMP certification inspections away from other forms of inspections, such as preapproval and overseas inspections. These regulatory efforts, which have traditionally been assigned to provincial governments, more than doubled, from just over 200 in 2015 and 2016 to 428 in 2017.[61] The number of unannounced inspections remained steady over this period, while those that included international inspectors (such as the U.S. Food and Drug Administration [FDA]) modestly increased in recent years.

Of the 428 GMP inspections carried out in 2017, 37 firms or applicants did not pass, and one-quarter were issued warning letters for violations. According to the most recent CFDA annual report, 15 firms that manufacture narcotic or psychotropic drugs, precursors, or pharmaceuticals were inspected that year; 3 did not pass inspection for failure to properly handle mailing and transportation certificates or failure to control samples.[62] These numbers suggest that regulators are inspecting a small share of companies and that a sizable portion of manufacturers of controlled substances inspected in 2017 failed inspection for improper handling and transport.

The situation is similar for China's chemical regulators, which cannot adequately enforce regulations on all manufacturers and distributors.[63] Regulatory gaps have led to a large increase in the number of unlicensed or "semi-legitimate" chemical manufacturers or distributors.[64] There are reports that use of shell facilities and weak oversight lets some chemical and pharmaceutical manufacturers avoid scrutiny, allowing companies to produce and sell beyond their legal limits.[65] In 2007, industry insiders estimated that uncertified chemical manufacturers produced half of the APIs sold in China, with most exported to foreign markets.[66] It is unclear how many uncertified manufacturers are supplying international API markets today or how many synthetic opioids or other precursors are produced and exported via shell entities. The Department of State also points to insufficient regulatory oversight and corruption of local government officials as explanations behind illicit drug and chemical production.[67]

Chinese authorities recognize these problems, and the government has made some efforts to expel corrupt officials. In 2015, President Xi Jinping demanded that authorities increase penalties and stiffen drug regulation.[68] In March 2018, the central government proposed another reorganization of the CFDA, combining it with other regulatory entities.[69] Industry observers suggest that this reorganization is intended to extend the agency's regulatory reach and reduce gaps in oversight.[70]

POTENTIAL POLICY RESPONSES

Congress and Federal authorities have several existing options to combat the synthetic opioid crisis. However, given the scope of this problem and the new challenges it presents, Congress and executive agencies must look beyond available drug policy tools.

First, given the lack of information about supply and demand, there is dire need to improve how agencies collect and analyze drug market indicators. Greater effort

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[59] World Health Organization, 2017.

[60] CFDA, Center for Food and Drug Inspection, *Annual Report of Drug Inspection 2015,* 2016; CFDA, Center for Food and Drug Inspection, *Annual Report of Drug Inspection 2016,* 2017; CFDA, Center for Food and Drug Inspection, *Annual Report of Drug Inspection 2017,* 2018.

[61] CFDA, Center for Food and Drug Inspection, 2016, 2017, 2018.

[62] CFDA, Center for Food and Drug Inspection, 2018.

[63] O'Connor, 2017.

[64] O'Connor, 2016.

[65] O'Connor, 2016.

[66] W. Bogdanich, "Chinese Chemicals Flow Unchecked onto World Drug Market," *New York Times,* October 31, 2007.

[67] U.S. Department of State, 2017.

[68] World Health Organization, 2017.

[69] Xinhua News Agency, "Explanation of the State Council's Institutional Reform Plan," March 14, 2018.

[70] A. Liu, "China Creates New Drug Regulator in Biggest Government Overhaul in Years," FiercePharma, March 13, 2018.

and resources are needed to improve measurement and analysis of seizures and overdoses, which are likely to be undercounted because of the novelty of analogues.[71] Most of our drug policy data collection and analysis systems are inadequate to accurately estimate the number of drug-using individuals that are at risk of exposure to fentanyl or assess the arrival of synthetic opioids in a locality. Congress could direct Federal authorities to reintroduce expanded data collection systems, such as the Arrestee Drug Abuse Monitoring Program (ADAM) and the Drug Abuse Warning Network (DAWN) or other novel analysis methods, such as wastewater testing, which can be used to enhance measures of prevalence of use estimates as well serve as early warning systems to alert to the arrival of synthetic opioids in a market. Given how fast new substances emerge, we need to improve measurement and reduce data lags. This is crucial, considering the need for early warning systems to safeguard communities that have not yet been exposed to synthetic opioids. Additionally, more research is needed to understand the decision-making and operational processes of mid- and high-level importers so as to better craft policy responses to disrupt and deter on-line sourcing and distribution from individuals in the United States.

Second, Congress could encourage Federal authorities to work with Chinese counterparts to strengthen the country's regulatory and enforcement capabilities. In the short term, China needs to be approached as a steward of the international system and a global partner in protecting the public against the harms from drugs. This includes constructively engaging China and other partner countries at relevant multilateral institutions. In the medium term, efforts could be made to enhance joint partnerships in other areas of drug policy. The DEA has opened a new office in Guangzhou, yet greater collaboration is needed. For example, the problems of methamphetamine misuse in China may give way to enhanced U.S.-Chinese research into improved treatments and responses or joint law enforcement investigations that result in disruption of supply. In the long term, Congress could encourage U.S. regulators to engage with Chinese authorities to improve joint monitoring and evaluation efforts of regulation violations, as well as aid the CFDA hire, train, and retain qualified personnel. Congress could also consider appropriating additional resources to aid U.S. authorities that work with international partners and direct the FDA, DEA, Department of Homeland Security, and Department of State to improve interagency coordination and cooperation on synthetic opioids with Chinese counterparts.

Third, there is a need to better understand and target producers, importers, and high-level distributors both in the United States and in China. The supply of synthetic opioids deviates from the traditional paradigm of plant-based drugs. Synthetic opioids are advertised and sold on the internet and often distributed via the postal system. This presents a challenge but also an opportunity to U.S. law enforcement in gathering evidence and informing threat detection. Additional resources and innovative thinking will be needed; Congress may consider strengthening cyber-intelligence gathering efforts already under way, such as the Department of Justice's Joint Criminal Opioid Darknet Enforcement team, or encourage new efforts aimed at producers and vendors that operate outside of the darknet. Additionally, enhancing DEA's ability to chemically analyze fentanyl seizures, through its existing Fentanyl Signature Profiling Program, might offer insights into illicit manufacture. With additional tools, resources, and a greater understanding of the problem, law enforcement might be able to rapidly build cases against importers as well as quickly share actionable information and intelligence with Chinese authorities to effectively prosecute producers and distributors that flaunt Chinese laws.

Last and most importantly, we need to strengthen Federal efforts aimed at reducing demand for opioids and overdose risk. Demand reduction could lessen economic incentives for drug dealers and save the lives of those suffering from opioid-use disorder. Demand reduction for opioids includes improving access to existing and proven therapies, such as methadone and buprenorphine. Some steps that Congress could take are encouraging the expansion of pharmacological treatments covered by private and public insurance, subsidizing the cost of medication treatments to those who cannot afford them, and reviewing and reducing regulatory barriers on their provision. Congress could also direct Federal health authorities, such as the FDA, to assess additional innovative and evidence-informed medication treatments.[72]

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[71] C. J. Ruhm, "Corrected US Opioid-Involved Drug Poisoning Deaths and Mortality Rates, 1999–2015," *Addiction,* Vol. 113, No. 7, 2018.

[72] There have been several randomized control trials examining the efficacy of other agonist therapies, including injectable hydromorphone and diacetylmorphine when treating those who have not benefited from routine treatments like methadone, see Beau Kilmer, Jirka Taylor, Jonathan P. Caulkins, Pam A. Mueller, Allison J. Ober, Bryce Pardo, Rosanna Smart, Lucy Strang, Peter H. Reuter, *Considering Heroin-Assisted Treatment and Supervised Drug Consumption*

While expanding access to treatment may take time, greater efforts are immediately needed to reduce overdose risk. Increasing the availability of naloxone is one possible short-term, life-saving intervention. Recent analysis has found that direct dispensing of naloxone by pharmacists is associated with reductions in fatal overdoses.[73] Congress could look to reduce barriers to access to naloxone or subsidize its provision. Additionally, expanding access to interventions aimed at informing those who use drugs, especially stimulants, about the presence of synthetic opioids might be worth exploring. This could entail developing and disseminating tools, like test strips, aimed at detecting the presence of fentanyl or other synthetic opioids.

The arrival of illicitly-manufactured synthetic opioids creates uncertainty in illicit drug markets, raising the risk of overdose. These substances are changing the drug policy landscape and stretching our ability to respond effectively. Decision makers will need to consider the new challenges presented by fentanyl and related substances to stem the rising trend in overdoses.

Mr. ROSE. Thank you for your testimony.

I now recognize Mr. Hinson to summarize his statement for 5 minutes.

STATEMENT OF JAMES EDWARD HINSON, JR., DEPUTY CHIEF, INVESTIGATIVE BUREAU COMMANDER, GREENSBORO POLICE DEPARTMENT

Mr. HINSON. Good morning, Chairman Max Rose, Ranking Member Mark Walker, Chairwoman Kathleen Rice, Ranking Member Clay Higgins, and Members of the subcommittee. Thank you for the opportunity to testify before you today.

It is an honor to speak on behalf of the many dedicated professionals at the Greensboro Police Department, Chief Wayne Scott, City Manager David Parrish, and Assistant Manager over Public Safety Nathaniel Davis.

As deputy chief, I currently serve as the bureau commander of the Investigative Bureau. I have had the honor of serving this agency for over 28 years and have served in various functions, including but not limited to Special Operations Division and the Patrol Bureau commander.

The Greensboro Police Department is located in North Carolina. It is compromised of 667 officers and 101 non-sworn employees. The city has a population of over 290,000 citizens. The mission of our agency is: Partnering to fight crime for a safer Greensboro.

I come before you today to discuss the opioid crisis. Eighty percent of all heroin users have started with prescription opioids. Seventy percent of all those who have received treatment for heroin addiction have relapsed. The age range most affected by heroin overdose is 25 years of age to 54 years of age.

There has been a 500 percent increase in overdose calls since 2014 for the Greensboro Police Department. In 2018, the Greensboro Police Department responded to 67 heroin deaths, 418 overdose calls. In 2019, our agency responded to 56 heroin deaths and 319 overdose calls. In 2018, the Vice/Narcotics Division seized over 1,366 grams of heroin. In 2019, from January through June, we have seized 8,478 grams of heroin.

Sites in the United States, Santa Monica, Calif.: RAND Corporation, 2018. As of July 19, 2019: *https://www.rand.org/pubs/research_reports/RR2693.html.*

[73] R. Abouk, R.L. Pacula, and D. Powell, "Association Between State Laws Facilitating Pharmacy Distribution of Naloxone and Risk of Fatal Overdose," *JAMA Internal Medicine,* Vol. 179, No. 6, 2019, pp. 805–811.

Greensboro police officers are assigned as task force officers for short durations during their tenure. The officers are assigned to local, State, and Federal agencies for the purpose of providing coordinated investigative and enforcement functions.

Federal law enforcement agencies tend to have a small number of special agents assigned to their field offices and rely on the assistance of local law enforcement agencies and TFOs to assist in accomplishing their missions. Task force officers have the ability to initiate Federal investigations, to include serving as sworn officers on a Federal warrant, Federal indictments, and Federal court orders.

Drug Enforcement Administration and Homeland Security investigations coordinate with the Greensboro Police Department through Vice/Narcotics Division. Federal Bureau of Investigations-Counterterrorism and United States Secret Service coordinate with our agency through our Criminal Investigations Division.

The detectives in the Vice/Narcotics Division utilize fusion centers, such as the El Paso Information Center, on a weekly basis, especially in the realm of interdiction. The information-sharing center allows the detectives to quickly run information they are gathering and make a rapid determination if the subjects of the investigation are involved with large-scale investigations that are ongoing by other agencies.

The Greensboro Police Department utilizes a small group of detectives assigned to Vice/Narcotics Division and are cross-designated as Federal task force officers with Homeland Security. These detectives are designed to identify, infiltrate, disrupt, dismantle narcotics trafficking and bulk currency smuggling organizations operating within our city.

The Greensboro Police Department has assisted the DEA with providing statistical data regarding arrests and seizures in our area, which ultimately led to this area being classified as a High-Intensity Drug Trafficking Area initiative.

November 2018, the interdiction group noticed a pattern of packages being shipped through the United States Postal Service. Through investigative methods, the group developed sufficient information to initiate a phone wire case on a particular group of individuals trafficking heroin and cocaine.

After 6 months of the investigation, utilizing resources from the United States Postal Service, the DEA, and the North Carolina State Bureau of Investigation to conduct this investigation, the group was able to arrest 16 individuals and seize 4 kilograms of heroin, 1.5 kilograms of cocaine, 1.5 pounds of marijuana, 8 firearms, and over $128,000 in cash. This was very significant for our city.

The opioid crisis has left few untouched, with Americans dying every day from the opioid overdose. During my 28 years of service, I have witnessed families being destroyed, from children being born with neonatal abstinence syndrome or experiencing trauma as a result of a parent or family member's addiction.

Families are being ripped apart because of the opioid crisis, resulting in higher criminal activity. Partnering law enforcement agencies are implementing solutions and addressing the problem

through comprehensive approaches that include but are not limited to educational seminars.

I thank you for the opportunity to testify before this committee today.

[The prepared statement of Mr. Hinson follows:]

PREPARED STATEMENT OF JAMES EDWARD HINSON, JR.

JULY 25, 2019

Good morning, Chairman Max Rose, Ranking Member Mark Walker, Chairwoman Kathleen Rice, Ranking Member Clay Higgins, and Members of the subcommittee. Thank you for the opportunity to testify before you today. It is an honor to speak on behalf of the many dedicated professionals at the Greensboro Police Department (GPD), Chief Wayne Scott, City Manager David Parrish, and Assistant City Manager over Public Safety Nathaniel Davis. As deputy chief, I currently serve as the Bureau Commander of the Investigative Bureau of the Greensboro Police Department. I'd had the honor of serving this agency for 28 years and have served in various functions, included but not limited to the Special Operations Division, and as patrol bureau commander.

The Greensboro Police Department is located in North Carolina and is comprised of 667 officers and 101 non-sworn employees. Our city has a population of over 290,000 citizens. The mission of our agency is, Partnering to fight crime for a safer Greensboro. Our vision states as the following: The Greensboro Police Department will be a National model for exceptional policing, through our commitment to excellence, selfless public service, and effective community partnerships. I come before you today to discuss the opioid crisis.

OPIOID CRISIS

An opioid is a prescribed controlled substance commonly used for pain management. With overuse or experimentation, anyone can become addicted. This addiction can drive users to heroin.

Heroin is an illegal opioid and is typically injected into the blood stream. It often replaces prescription opioids due to availability and cost. Heroin can also be laced with a deadly drug call Fentanyl. Fentanyl can increase the overall potency that will often result in a stronger high.

Fentanyl is a potent synthetic opioid pain reliever. It is impossible to measure the difference between a lethal or effective dose outside a laboratory, this drug is deadly. Fentanyl can be disguised as heroin to unsuspected individuals. Some individuals will gain access to Fentanyl and sell it as a very potent Heroin. This is where the majority of overdose deaths occur due to the unfamiliarity with the drug they are actually using.

- 80 percent of all Heroin users have started with prescription opioids.
- 70 percent of all those who have received treatment for Heroin addiction have relapsed.
- The age range most affected by Heroin overdoses is: 25 years of age to 54 years of age.
- There has been a 500 percent increase in overdose calls since 2014 for the Greensboro Police Department.

In 2018, the Greensboro Police Department responded to 67 Heroin deaths and a total of 418 overdose calls for service. In 2019, the Greensboro Police Department has responded to 56 Heroin deaths and a total of 319 overdose calls for service.

During my 28 years of service I have witness families being destroyed by this deadly drug often referred to as "Opioids" or "Heroin", due to overdose or criminal activity leading to incarceration or death.

In 2018 the Vice Narcotics Division of the Greensboro Police Department has seized over 1,366.65 grams of Heroin and in 2019 from January through June there have been 8,478.80 grams of Heroin seized.

Enforcement and Partnerships

The Greensboro Police Department employs full-time, sworn police officers who are designated and assigned as Task Force Officers for short durations during their tenure. These Greensboro Police Officers are assigned to local, State, and Federal agencies for the purpose of providing coordinated investigative and enforcement functions and interoperability. This allows the Greensboro Police Department to maintain an on-going and effective relationship with Federal agencies operating within the same jurisdiction.

Federal Law Enforcement Agencies tend to have a small number of Special Agents assigned to their field offices and rely on the assistance of local Law Enforcement Agencies and Task Force Officers to assist in accomplishing their agencies mission. Having Task Force Officers assigned to these agencies provides the ability to more effectively identify persons and businesses that conduct illegal activities that would otherwise go undetected.

Officers have the ability to initiate Federal Investigations to include serving as an Affiant on a Federal Warrant, Federal Indictments, and Federal Court Orders. This allows the local government agency the ability to adopt local cases for Federal prosecution.

Drug Enforcement Administration (DEA) and Homeland Security Investigations (HSI) coordinate with the Greensboro Police Department through the Vice/Narcotics Division. Federal Bureau of Investigations (FBI) Counter-Terrorism and United States Secret Service (USSS) coordinate with our agency through the Criminal Investigations Division.

These partnerships allow investigations through the Vice/Narcotics Division with the United States Postal Inspection and with the NC State Bureau of Investigation (SBI). Most large-scale investigations in our agency involve the cooperation of one or all of the aforementioned agencies. These programs have proven to be beneficial to both the Greensboro Police Department and Federal agencies for years.

Currently the Greensboro Police Department has 5 Vice-Narcotics Detectives that are designated as Federal Task Force Officers with Homeland Security. The primary nature of investigations initiated by Homeland Security and Task Force Officers include financial crimes, gangs, narcotics smuggling/trafficking, and weapons violations.

The Detectives in the Vice/Narcotic Division utilize Fusion Centers such as the El Paso Information Center (EPIC) on a weekly basis, especially in the realm of interdiction. The information-sharing centers allow the detectives to quickly run information they are gathering and make a rapid determination if the subjects of the investigation are involved with large-scale investigations that are on-going by other agencies. This way the detectives can make contact with the agency currently investigating and maybe able to assist them with gathering information to further their investigation.

The Greensboro Police Department utilizes a small group in the Vice/Narcotics Division with an Interdiction Initiative. This group is specifically designed to identify, infiltrate, disrupt, and dismantle narcotics trafficking and bulk currency smuggling (narcotics proceeds) organizations operating in the city of Greensboro that utilize legitimate businesses to illegally import and transport narcotics and the proceeds from this criminal activity into and out of Greensboro on both National and international levels.

The Greensboro Police Department assisted the DEA with providing statistical data on arrests and seizures in our area which ultimately led to this area being classified as a High-Intensity Drug Trafficking Area initiative. Since being formed, the Investigative Interdiction Unit has been very successful in their approach to the detection and arrest of narcotics traffickers who utilize area hotels, motels, shipping corporations, and storage facilities.

During the month of November 2018, the Interdiction group noticed a pattern of packages being shipped through the United States Postal Service. The interdiction group works closely with the Postal Inspector in the Greensboro area and began an investigation. Through investigative methods, the group developed sufficient information to initiate a Title III (Phone wire) case on a specific group of individuals trafficking heroin and cocaine into the area.

The group utilized resources from the USPS, DEA, and NC SBI to conduct the investigation. After 6 months of investigation, the group was able to arrest 16 individuals and seize 4 kilograms of heroin, 1.5 kilograms of cocaine, 1.5 pounds of marijuana, 8 firearms, and $128,250.00 cash. This is a significant outcome for our area especially in combating the opioid epidemic.

In summation, this opioid crisis has left few untouched, with Americans dying every day from opioid overdose. Families are impacted from children being born with neonatal abstinence syndrome or children experiencing trauma as a result of a parent or family member's addiction.

Families are being ripped apart because of the opioid's crisis resulting in higher criminal activity. Partnering law enforcement agencies are implementing solutions and addressing the problem through comprehensive approaches that include but are not limited to educational seminars.

I thank you for this opportunity to testify before this subcommittee.

Mr. ROSE. Thank you for your testimony.

I thank all the witnesses for their testimony.

I will remind each Member that he or she will have 5 minutes to question the panel.

I will now recognize myself for questions.

To begin, Ms. McCauley, you had mentioned that at Kennedy Airport specifically we are looking at 0.01 percent of mail being screened. Would it be, then—could we surmise that less than 1 percent of the fentanyl coming into that airport is seized?

Ms. MCCAULEY. I wouldn't be able to make that calculation, but I would say that they are not screening and identifying everything.

Mr. ROSE. OK.

Ms. MCCAULEY. I should indicate that the 0.01 percent, that is what is targeted, in terms of the amount of mail that they are looking at. CBP has an agreement with the Postal Service that they can also select other mail based on subjective assessment as well as risk-based assessments apart from ATS.

Mr. ROSE. Now, you made a series of recommendations. Have those been adopted in the roughly 6 months or more since your report came out?

Ms. MCCAULEY. No. Those recommendations are still open at this point. One recommendation is closed, but it was on unrelated issues involving some information technology servers and——

Mr. ROSE. So fentanyl is coming into our country through—50 percent of our international mail comes to Kennedy.

Ms. MCCAULEY. Yes.

Mr. ROSE. You made a series of recommendations. If adopted, they would have saved lives. Those recommendations are still open?

Ms. MCCAULEY. They are still open. We have a follow-up team out at JFK, and they are looking to see what more——

Mr. ROSE. We wonder why people hate government. A year. Recommendations still open. Canine teams, technology, resources.

Ms. MCCAULEY. Yes.

Mr. ROSE. They have not shown any sense of urgency to adopt these. Is that correct?

Ms. MCCAULEY. Our teams that are on the ground now are looking into these issues. They are seeing some improvement. They are going to be reporting out this fall in terms of——

Mr. ROSE. Some improvement. Are they adopting the recommendations, ma'am?

Ms. MCCAULEY. Some improvement, yes——

Mr. ROSE. I will make sure to pass on that next time I have to go to a funeral from someone who has overdosed from fentanyl-laced heroin.

Ms. Brennan, I want to get an understanding of how fentanyl is coming into New York City. It is coming in through Kennedy. How else is it coming?

Ms. BRENNAN. Well, there are two ways. Bulk fentanyl tends to come in overland from across the Southwest Border. Often it is mixed into loads of heroin. So if we seize a truck or a car that is carrying a very large load—100 pounds, 50 kilos, whatever—some of those kilos might be fentanyl, some might be heroin.

Mr. ROSE. OK. But how is the pure fentanyl getting to Mexico?

Ms. BRENNAN. The pure fentanyl, as far as I know, there are two different methods. To a certain extent, the fentanyl itself is transported from China. Also the precursor chemicals are coming into Mexico, and then they are producing it there.

Mr. ROSE. OK. Thank you.

Ms. McCauley, there was an interesting note that I saw in your report saying that our targeting system relies on getting advance data from foreign countries.

Ms. MCCAULEY. That is correct.

Mr. ROSE. But that means we need to have an agreement with foreign postal offices to do so. Do we right now have an agreement with China to get advance data on inbound mail?

Ms. MCCAULEY. It is my understanding that we don't have an agreement with China.

Mr. ROSE. Have we approached China to try to institute that agreement?

Ms. MCCAULEY. I don't know that——

Mr. ROSE. OK. You can count that we are going to track that down.

Dr. Pardo, I want to look to the future a little bit here. Does China right now have a monopoly on the production of fentanyl?

Mr. PARDO. In terms of the illicit production of fentanyl, according to law enforcement, the bulk majority that we are seizing is coming from China. That said, I mean, this stuff can be made very easily elsewhere.

Mr. ROSE. Has China done enough to crack down?

Mr. PARDO. China has responded in some ways. They have controlled new chemicals at our behest. Most recently, they have adopted a generic ban on all fentanyl-related structures. We don't know what the impact of that will be. It will take time in order to ascertain how effective that is.

But, nonetheless, fentanyl itself is still predominant in drug seizures and overdose deaths. Fentanyl is a medication. Fentanyl is produced legitimately in China as well.

Mr. ROSE. Is there the potential for fentanyl to also be weaponized? I know that we saw this in 2002 when the Russians attempted to overtake an area where hostages were held and they used a derivative of fentanyl.

Mr. PARDO. Yes, that is one recent event in which fentanyl-related analogues were used in kind of a weaponized system. To my knowledge, I am not aware of anybody doing that, but that is not something I have researched.

Mr. ROSE. OK.

What other countries should we look at as potential places where fentanyl could be produced on their own?

Mr. PARDO. So, beyond Mexico and China right now, which are the largest exporters to the United States, according to law enforcement data, India is on the horizon. Late last year, there were two substantial seizures of fentanyl that were inbound, leaving India, inbound to North America, destination unknown. But that is the next place where it could go. India has a substantial pharmaceutical industry and lacks resources to police it.

Mr. ROSE. Thank you for your time and your answers.

I now recognize Ranking Member Walker.

Mr. WALKER. Thank you, Mr. Chairman. Excellent questions there.

Deputy Chief Hinson, the numbers you stated in your testimony, if I am reading this correctly, are very eye-opening to just how bad the crisis is throughout the country. I think the one number that stood out or popped to me was that, if I get this correctly, in the past 5 years, the Greensboro Police Department has seen a 500 percent increase in 9–1–1 calls related to overdoses related to opioids.

Is that number accurate? Did I get that correctly?

Mr. HINSON. Yes, sir. That is correct.

Mr. WALKER. My question, then, is, how does your department handle this increased workload when you are seeing those kinds of spikes?

Mr. HINSON. Well, the first thing, we are going to make sure that we send out our officers with the appropriate staffing level. I would just also say this. We can't measure the dedication that our professionals have. They go out each and every day, and they answer the calls for service. They do that with a high level of just dedication to get that done.

But, also, we look at their training component as well. We make sure that our officers are trained properly so that they can go out and respond to these calls on a daily basis.

They do it very well. They do it in such a way that we are trying to save lives. In order to do that, we have to continue to try to educate our community about the dangers of opioids.

Mr. WALKER. Speaking of dedicated professionals, you are closing in on three decades. What trends have you noticed in drug trafficking, including types of drugs, volumes, the origins? Can you elaborate on that a little bit?

Mr. HINSON. Well, I can talk about that just a little bit. But the trends are—we are seeing a lot of drugs coming from Mexico into our community, and other countries as well—Thailand, Turkey.

What we are trying to do is to continue to work with the DEA, the FBI, and Homeland Security, because without those particular agencies, we would not be as successful as we are. Our task force officers are working with them daily, weekly, gathering intel, and this intel proves to be invaluable, because we are able to identify individuals, groups that are bringing these drugs into our community.

As I stated before in my testimony, we arrested 16 individuals as a result of a wire case. That initiated from packages being brought into the Postal Service system, and once those were detected, we were able to begin an investigation, and it was pretty far-reaching. As a result of that, we were able to take a large quantity of drugs off of the street.

Again, it is all about accountability. We have to continue to be proactive, and we have to hold these individuals accountable that are bringing these dangerous drugs into our community. Not only—once we make those charges, we are looking for prosecution to the fullest extent of the law.

Mr. WALKER. OK. Well, then let me ask that. It leads to my next question. You guys are obviously on the front line. What Federal-

level support do you need to go after these guys and the root systems?

You mentioned several countries there, other foreign countries, that are arriving with these substances in Greensboro. What do you need from the Federal level?

Mr. HINSON. I would say right now, sir, everything is going fine. Our communication is great. Anytime that we need anything from any one of those agencies, they are there to assist us. We are there to assist them. We have a great working relationship, a great partnership, and it has proven to be very productive.

Mr. WALKER. Unpack that a little bit for me. Talk about the relationships that you guys have with the DHS, the FBI, the DOJ. Can you paint us a little picture there?

Mr. HINSON. Well, we have task force officers that are assigned to each one of those agencies, and they work very closely with those agencies. They take that information and they bring it back to our agency, and we kind of peel back that information, so to speak. Then we continue to work together by identifying those individuals that are bringing drugs into our community.

The identification piece is very important, because without the exchange of communication with these particular agencies, we would not be able to identify these individuals. Once we identify those, then we put parameters and operations in place so we can make arrests.

Mr. WALKER. You are seeing some success in combating this. Talk to me——

Mr. HINSON. Yes, sir.

Mr. WALKER [continuing]. About a program—and I have 40 seconds left. Just talk to me a little bit about something specifically that you feel like is the reason that you guys are—you still have a long way to go, but are starting to get a handle on this.

Mr. HINSON. Well, I will just say, one particular program that we have initiated to specifically try to save lives is our Vice/Narcotic detectives, they are making contact with overdose victims each and every day.

We are not doing that to do that in such a way to belittle them. We are doing that in such a way to let them know that, if they need help, we are there to help them. We can refer them to various treatment centers. But we can also obtain information from them that could lead to further arrests.

So that has proven to be very, very beneficial, and just working with the other agencies in our community. I believe that it is all about building a foundation. Continuing to build that strong foundation, we can definitely make some strides as it relates to the opioid crisis.

Mr. WALKER. Deputy Chief Hinson, your service is making this country better. I just want to say thank you.

Mr. HINSON. Thank you.

Mr. WALKER. I yield back.

Mr. ROSE. Thank you, Ranking Member Walker.

I now recognize Chairwoman Rice from the great State of New York.

Miss RICE. Thank you, Mr. Chairman.

Ms. Brennan, I would like to start with you. You mentioned the dark web. If we look back at the history of the dark web vis-á-vis drug sales, so it starts with the Silk Road, which was the original Darknet market which came on-line in 2011 and only sold, I think at that time, some psychedelic mushrooms and stuff like that.

So when that was taken down in 2013, it was believed, after the takedown and the jailing of the founder, that that was going to serve as a deterrent to future imitators. But fast-forward to 2017, we had the takedown of two of the biggest successors of Silk Road, AlphaBay and Hansa market. At that time, there was 5 times as much traffic happening on the Darknet as there had been at the time of the takedown of the Silk Road at its peak. The Wall Street Market shut down in May of this year had, I believe, one-seventh as many vendors as AlphaBay. So we have seen kind-of this up, down, kind-of like that.

Now, I know that in early 2018, when the FBI created the Joint Criminal Opioid Darknet Enforcement team, or J–CODE, this was specifically meant to address this kind of stuff from the Darknet. You also had the Justice Department focusing on techniques that create distrust on the dark web for buyers by convincing them that sellers are actually giving info to law enforcement.

So kind-of with that backdrop, can you just talk about your experience dealing with this whole dark web, just expound on that a little bit more, and what your experiences working with the Federal authorities are, and any thoughts you have on how we can address? Because the web, the internet is not going away, so we have to figure out a way to stay on top of that.

Ms. BRENNAN. I think you have hit on a key point.

The dark web, what we see is a source usually of fentanyl analogues, which are little tweaks on the fentanyl molecule, often unregulated, that come in in very high concentrations. Those are the ones we see coming through JFK, through all kinds of different services that you can access on the dark web, offering such things as a free product in case the initial one becomes seized. Often the payment is in bitcoins.

For all those reasons, it is very, very difficult to track. The entrepreneurs on the web are far more advanced, usually, than our investigative staff. It is hard to get the kind of expertise at the kind of salary that we are able to pay to really penetrate this web.

I think you have hit on one of our key challenges, particularly with the onslaught of things coming in through these shipments through JFK. You can get an analogue that contains enough to kill many people in a greeting card. I mean, it is just a tiny package because it is a tiny, concentrated amount.

So I think we need to continue our coordinated efforts in this regard. Any support that can be added to our efforts would be greatly appreciated. We need these combined task force, because there is a lot of knowledge in the various agencies, Federal agencies in particular. Working with local prosecutors or local police forces, I think it can really advance on this.

Miss RICE. So in your opinion, who do you think, what agency, if one exists, has that kind of expertise that you are talking about that your specific agency is lacking because of whatever it is, the salary limits or——

Ms. BRENNAN. Well, the FBI has been leading the way on many of these efforts. His has significant resources and significant intelligence.

I don't think there is any one source. What I have seen is—actually, it is individual. There are unique individuals who are absolutely committed to enforcement and like doing this work. So I can't pinpoint any one agency, although I do believe the FBI is taking the lead.

Miss RICE. So this committee is also focused on analyzing bitcoin, which is this kind-of new—we have to figure out what to do in that space as well.

But I want to commend you, because you and I go back a long way from when I was DA in my home county, and you have always been such a fierce advocate for just aggressive techniques and cooperating with other agencies. I think that is in large part why you have been as effective as you have been.

So I want to thank you. It is good to see you here in the District of Columbia.

Ms. BRENNAN. Thank you very much.

Miss RICE. I just have one additional quick question for Mr. Pardo.

You talked about drug policy data collection. How can we do it better?

Mr. PARDO. So right now we are limited in terms of understanding what or how these markets are transitioning away from heroin toward fentanyl. There are data lags in overdose deaths, in seizure data. We really don't know what is going on today given that what the CDC is putting out is 2 years later. We have data now in 2018. The lags are really kind-of what is bothering here.

In addition to that, the other limitation is that we don't know what we are measuring given that these new analogues don't exist, there is no referent in order to test them.

So using the mass spectrometry to actually understand what are in the seizures, we are doing the appropriate toxicological screens to determine whether or not that individual consumed carfentanyl or some sort of other analogue is important. That will allow us to better understand how these substances are moving from markets to markets.

Miss RICE. We have to focus on that. I would like to continue this conversation with you after this, because that is the key. You have to have the data to understand where to go in the future.

Thank you very much, Mr. Chairman.

Thank you to everyone here.

Mr. ROSE. Thank you, Madam Chairwoman.

I would also like to acknowledge on behalf of the committee your extensive work over the course of your career in this field as a prosecutor and also as a legislator.

With that, we now recognize Ranking Member Higgins from the great State of Louisiana.

Mr. HIGGINS. Thank you, Mr. Chairman.

Mr. Chairman, according to the DEA, China is the main source of both illicit manufacturing of pure fentanyl as well as the precursors that are being shipped to other countries like Mexico for manufacturing of fentanyl.

Fentanyl is illicitly manufactured in China and either shipped directly into the United States or processed at clandestine labs in Mexico primarily and smuggled by drug cartels into the United States.

The STOP Act passed in the 115th Congress requires advanced electronic data for all international mail shipments entering the United States to help identify suspicious packages.

Ms. McCauley, that is a phenomenal amount of mail to check electronically. Would you agree it is a tremendous task we are asking our professionals to accomplish?

Ms. MCCAULEY. Yes.

Mr. HIGGINS. Dr. Pardo, let me ask you about technology that you, perhaps, know of, sir. To the best of your knowledge, is there a commercially available technology that exists right now that could move us closer to 100 percent scanning at our mail facilities?

Mr. PARDO. One hundred percent? Probably not. There are enhanced mass spectrometry handheld machines, infrared spectrometry, that allow for kind-of quick detection, that allow for a line operator to scan a package and determine what powder is in that package.

That said, the problem with the analogues is that it only tests against the known universe of chemicals. The chemical that is designed last week, we don't know about it yet. So that machine is not going to detect it. So that is a new challenge that we are facing, and there are really no solutions right now.

Mr. HIGGINS. So slight changes in the formulation can prevent detection of the——

Mr. PARDO. It makes it much harder to detect, yes.

Mr. HIGGINS. Right. That makes sense.

Well, medical studies concur that a lethal dosage of pure fentanyl can be as low as 250 micrograms. Just to put that in perspective for America, that is less than a grain of sand.

Mr. Hinson, thank you for your service, my thin blue line brother.

I would like to ask you. You had referred to an investigation that yielded results and made arrests and seized some drugs. Congratulations.

Are you aware of international cooperative detective work that can help our Postal Service, our incoming inspection endeavors, to catch incoming shipments? Is there a cooperative effort internationally that you are aware of from the street level that exists or that can be enhanced?

Mr. HINSON. Well, I would just speak what our agency is doing, sir.

We do have an outstanding relationship with the Postal Service inspection. We frequently utilize our canine to go and visit——

Mr. HIGGINS. Isn't fentanyl, in its purest form, dangerous for canines?

Mr. HINSON. Sir?

Mr. HIGGINS. Isn't fentanyl, it is dangerous for canines, is it not?

Mr. HINSON. Yes, sir.

Mr. HIGGINS. We are going to try and help America understand how dangerous this stuff is.

Mr. HINSON. OK. All right.

Mr. HIGGINS. To inhale a grain of sand is pretty easy, for anybody who has been to the beach.

Mr. HINSON. Yes, sir.

Mr. HIGGINS. So when a police officer finds a suspicious package that we suspect might be fentanyl, it is almost like discovering a bomb in the trunk of a car, is it not? You have got to be very careful with it.

Mr. HINSON. You have to be very careful, sir, and use caution.

Mr. HIGGINS. So large seizures of drugs, when America reads about that in the newspaper, so many tons of drugs seized in a truck on a highway or a boat coming into port, what America doesn't know generally is that is because of detective work. That is not blind luck. There is some work that was done that was tracking that vehicle or that boat.

Mr. HINSON. Yes, sir.

Mr. HIGGINS. Then the investigation, you had reasonable suspicion based upon the detective work, and, bam, you seize the drugs.

Is there a cooperative effort like that for fentanyl, for any panelist, can you answer this, at the international level regarding tracking incoming fentanyl in its purest form into our country?

Mr. HINSON. Well, I will say this. The work that we do, of course, is on a local level, and our partnerships with the various Federal agencies allow us to also look at other international components of this, drugs coming in from Mexico, Thailand, Turkey, or whatever the case way be. So oftentimes, once we make these arrests local, we will again get additional information of the source of the original——

Mr. HIGGINS. You will feed that to your partners?

Mr. HINSON. Sir?

Mr. HIGGINS. You will feed that data to your partners?

Mr. HINSON. Yes, sir. We will feed that.

Mr. HIGGINS. In the interest of time, Mr. Chairman, Dr. Pardo perhaps can answer the question, and I will yield after.

Mr. ROSE. Of course.

Mr. PARDO. In terms of the international law enforcement and supply reduction efforts, there are multilateral institutions. The International Narcotics Control Board is one of them. They do try to take in information in terms of seizures in order to allow other law enforcement agencies across the globe understand what is been seized where, in order to really help with the metrics, the risk metrics.

The World Customs Organization may also be one additional multilateral organization that could be helpful in terms of sharing information about what is being seized where.

Mr. HIGGINS. I thank you all for being here today.

Mr. Chairman, I yield. My time has expired.

Mr. ROSE. Thank you, Ranking Member Higgins.

The Chair now recognizes Mr. Correa from California.

Mr. CORREA. Thank you, Mr. Chairman.

First of all, I want to thank all the witnesses for being here today and the good work you do for our citizens.

Chief Hinson, I just want to say that I agree with you. I think all of us have been touched by this scourge in our society. My boy

played Little League a number of years ago, and one of his good friends, a star pitcher, we thought was going to be the next major leaguer. You know what? He is very much addicted to the scourge.

Tragedy after tragedy in our communities, and every day I pray that my kids are not victims. It touches all of us.

As I listened to the discussion here, I am reminded of the history of addiction and the situation we have today. Prescription drugs right now in California, the No. 1 killer, overdoses in California. Of course, ever increasing, of course, is synthetic opioids.

To think about the history, 30, 40 years ago most of the drugs coming into this country were through the Caribbean. A lot of drugs coming through the Caribbean. We were very successful in interdicting those drugs. The shift of trade went inland. So you had Central America and Mexico now being the main area of trade, destabilize those countries where there are drug dollars and a lot of scourge.

We are very good now. We are kind-of clamping down on that. According to my Coast Guard information officers, now most of the trade is beginning to emerge in the eastern seaboard. Now you begin to have not 1 or 2 pounds, but thousands of pounds, thousands of pounds coming in through the eastern seaboard, cocaine laced with fentanyl.

One of you just mentioned India is the next place that is emerging. Canada, I notice in this information.

So I almost feel like we are fighting a fight that we continue. Every time we bottle something up, we have got the internet that pops up. You have bitcoin that pops up.

So my question to all of you is, how do we work with Nancy Reagan, who said just say no? How do we as a Federal Government help you at the local level generate educate our kids so they just say no?

Those kids out in the street, I don't think recognize the dangers, or adults, like Mr. Higgins said, where a culture that maybe is changing just too much too fast.

How do we work with you in those local community groups, churches, schools, to begin to again emphasize we have to say no?

Ms. BRENNAN. May I?

Mr. CORREA. Yes, please. It is a question to all of you.

Ms. BRENNAN. What I would like to just point you to and suggest that you deeply explore is some of those communities where we are seeing progress. In Staten Island, Chair Rose was just in Staten Island a couple weeks ago where Staten Island was announcing a 40 percent decrease in overdose deaths and in naloxone use over the last 6 months, the past 6 months of this year. Long Island has reported significant decreases both in overdose and in naloxone use.

There are pockets across the country where we are seeing success. The only thing that I have been able to see is a concerted effort kind-of throwing everything we have got at this problem.

I suggest that if we can really drill down into those programs, the DAs in both Staten Island and Nassau County and Suffolk County have run very effective that is going on across the United States, Dayton, Ohio, has reported great success, if we can drill down and take a look at what is working and then try to match it up to other communities that are similar, we might see success.

Mr. CORREA. Chairman, I am running out of time. But I think that is what we need to do, is try to find those model programs that are working and duplicate them across the country. Because, again, these drugs pose such danger to our front-line officers, men and women, whether it is the airports, on the streets, when they come in contact with this scourge.

I think we have just got to figure out how to double down, as you said, Ms. Brennan, and make sure kids know the dangers.

Mr. Pardo.

Mr. HINSON. I will be quick.

I will just say this. I think we have to have those conversations with our kids at a very early age and to let them know the dangers of this and to continue to work with various programs, such as the Guilford County solution to the opioid problem, partnering with them. They have advocates that will go out and make contact with individuals who are suffering from the opioid crisis.

Because many times many of these individuals feel as though they are alone and no one wants to walk with them down this road of recovery. But you have many agencies that are willing to do this.

I think that it is very important that we continue to work with those agencies and support those agencies, because we definitely can't arrest our way out of this situation, but we can definitely work with the many partners to make a difference.

Mr. ROSE. Thank you, Mr. Correa.

Ms. Brennan, thank you for noting the incredible success we have had on Staten Island. I believe what—I know what has been accomplished on Staten Island is that they have figured out how to build a structure whereby the key partners are regularly gathering around a table and it has become operationalized, law enforcement, hospitals, social service providers, district attorney, EMS, nonprofit sector, faith-based institutions. It is not just a one-off press opportunity. We are seeing the numbers.

But I would also like to say that as these grant programs begin to still proliferate, and they rightfully should, and we are building up these systems, it only shines a light on how important fentanyl is. Because the issue with fentanyl is that people are not getting a second chance. We are not getting that opportunity to bring people into recovery. We are not getting that opportunity to integrate people into programs that we know work. It kills them right away.

What we see right now, to put it into the plainest terms for the American people, is one nation, China, producing something that is killing over 30,000 Americans a year, 30,000 Americans a year, produced by one country. If that doesn't shock our consciousness, I don't know what does.

With that, I would like to recognize Mr. Guest from Missouri.

Mr. GUEST. Thank you, Mr. Chairman.

To our witnesses——

Mr. ROSE. Mississippi. Mississippi. I am an ignorant New Yorker. My mistake.

Mr. GUEST. To our witnesses, I want to thank you for being here today. I want to thank you for playing such an important role in an epidemic that we see touch all corners of our country.

Dr. Pardo, I want to ask you a couple questions. From your report, I see on page 4, you give some statistics there. Actually then

continuing over on page 6 there is a table. But on page 4 of your report, that you note that the Customs and Border Protection agency in 2013 seized approximately 1 kilogram of fentanyl. Then we see 5 years later, in 2018, we see that number has jumped to 1,000 kilograms. So within a 5-year window we see a 1,000 percent increase as far as seizures along our Southwest Border.

Then in 2018, we see here on the table that you have included in your testimony, on page 6, that there was a total of roughly 994 kilograms that were seized. Of that, 85 percent, roughly, comes across our Southwest Border.

Then you continue on, on page 8. You state in here, in recent years, there has been a noticeable increase in the amount of fentanyl seized at the U.S. border by law enforcement and Mexican authorities. Mexican drug trafficking organizations are importing fentanyl and precursors from China. Then you even go on later, and you talk about clandestine laboratories that have been seized in Mexico.

So, in addition to China, which is where I understand a large amount of the fentanyl is produced or where the chemicals or precursors are produced, it seems like we are seeing a growing role in Mexico's importation, illegally, of course, of fentanyl.

So my question to you, Dr. Pardo, is what can we do, in addition to working with law enforcement authorities in China, what can we do to work with our partners in Mexico to try to stem Mexico as being a distribution center of fentanyl where we know that that fentanyl, once it enters the United States, is then shipped across our country?

Mr. PARDO. That is a good question.

Mexico seems to be kind-of not as a big of a problem as China. But that said, we do have good working relationships with Mexico. We have had decades of collaborative drug interdiction efforts with joint—with the Marines down there, with DEA here.

That said, this is novel. This is new. The challenge that is posed by fentanyl is such that a cartel really could cut a lot of the cost, operating cost, moving away from poppy, which takes 3 months to harvest, which requires labor, which you have to rely on enough sun and water to generate enough harvest. You can produce synthetic opioids pretty much anywhere in a couple of days in a lab in, say, Mexico City.

So that really changes the way we need to think about this problem in terms of supply interdiction. It is going to take more intelligence gathering. It is going to take kind-of innovative thinking in terms of working with our partners down there and trying to understand how the sourcing works, how these distribution channels work, who is doing what.

I think the long-term prospects of poppy declines in Mexico is a real potential. If the cartels see this as one way to really boost profits, which it definitely is, then Mexico might no longer be a poppy-producing country. It might be that you see more synthetic opioids coming from that country.

Mr. GUEST. Just as we have seen Mexican drug cartels many years ago began moving into the production of methamphetamine, do you see a model or a situation in which Mexico at some point could be really just as big a threat as China in the fact that they

would be able to synthetically produce that, they would be able to produce it much closer to our communities, and then use the established drug cartels to then smuggle the fentanyl in, as they are doing now and as they have done with methamphetamine and cocaine and marijuana before that?

Mr. PARDO. It is possible long-term. The difference, though, right now is that it doesn't seem that there are a lot of analogues coming out of Mexico. The analogue generation seems to be part of China, given that there is a large pharmaceutical industry, capable individuals with the knowledge to develop these new substances.

It doesn't seem like Mexico has learned that yet. They are producing fentanyl, just classic old fentanyl.

So that does change some of the kind-of risk problems. Since carfentanyl is much more potent then fentanyl, it can shipped by mail very easily. So the challenges from China are a little bit different.

That said, the long-term prospects of Mexican cartels being able to learn the synthesis methods for carfentanyl or other opioids are there. I mean, it just makes enough research to do it.

That said, it doesn't have as large of a pharmaceutical industry as China, so it might not ever really get to that point where it becomes as large. But the long-term prospects are something to consider.

Mr. GUEST. Dr. Pardo, I am over time, but I want to ask one quick question, and then I will yield back.

What can we do to better secure our border to stop the flow, not just the fentanyl but other illegal drugs from coming into our country?

Mr. PARDO. That is going to be a challenge. It always has been a challenge with cocaine and heroin.

Efforts by CBP have been Herculean in many respects. They do see a lot of product, especially given that these are points of transit. A lot of trade happens through this border.

It is going to be increasingly difficult given the potency of these substances. It just makes it easier to conceal a smaller amount of the same morphine milligram equivalent over the border.

Mr. GUEST. Mr. Chairman, I yield back. I apologize for going over my time.

Mr. ROSE. I apologize for messing up which State you are from, so I guess we are even.

I now recognize Ms. Clarke from Brooklyn.

Ms. CLARKE. Thank you very much, Mr. Chairman. I thank our Chairpeople, our Ranking Members of this very important hearing. I want to thank our expert panelists today.

We know that the opioid crisis is devastating our Nation, including our beloved New York City, where both the Chairman and I hail from. In 2017, there were 3,224 opioid overdose deaths in New York State. That is a rate of 16.1 deaths per 100,000, higher than the National average of 14.6 deaths. That is why I fought hard for a comprehensive approach to this challenge.

In the last Congress, I joined with my colleague Representative Adam Kinzinger of Illinois to introduce the Opioid Addiction Action Plan Act. My bill required the Center for Medicare and Medicaid Services to create a comprehensive strategy to combat the crisis,

including a plan to reduce the cost of opioid overdose reversal drugs. Thanks to my role on the Energy and Commerce Committee, my bill was signed into law last October as part of the SUPPORT for Patients Communities Act.

But DHS also has a critical role to play in tackling the crisis. At the end of the day, CBP is charged with stopping the flow of deadly fentanyl from China, which arrives by mail in airplanes. Meanwhile, our Coast Guard is tasked with preventing the illicit import of opioids by sea. DHS must give this crisis the priority it demands until the flow of opioids is ended.

So my question is to you, first of all, Ms. Brennan. You said in your testimony that only the first wave of the crisis, the flood of addictive prescriptive drugs, involved drugs manufactured in the United States. The newest threats, from Chinese fentanyl to synthetics, often come from abroad.

Given New York City's role as a hub of global commerce and international travel, we serve as a key entry point for many opioids. What Federal resources would help our city's facilities, such as the international mail terminal and JFK, better prevent opioid importation?

I want to extend that to you as well, Ms. McCauley.

Ms. BRENNAN. From our local perspective, we do work closely with CBP and with Homeland Security Investigations sometimes. Usually we are working the cases backward. We find the analogues on the street. We find out who is supplying them. We realize that the supply is coming in through the mail. Then we try to contact CBP to match up the person who is receiving with whatever package is coming in.

These are teensy packages. It comes in in what purports to be a package of lingerie or a greeting card, because the concentrations are so high that the amount coming in can be very, very small.

So literally for CBP, I do think it is like looking for a needle in a haystack. But they have had significant outreach efforts with us most recently. We have had several meetings with them and with Homeland Security Investigations to try to tighten up our partnership and for us to understand our access to them. That has been very helpful.

The DEA is extraordinary. They, too, have been working very hard to penetrate the dark web, which is where this originates. So I think strengthening all those partnerships and supplying adequate resources.

Each of these new fentanyl analogues has a new structure. Because they are in such higher concentrations, it takes a significant amount of time to identify them. So the CBP's guidelines don't fit with the amount of time it takes.

So I think we can do some tweaking there. But many of our partnerships are very, very strong, and I commend the excellent work they do.

Ms. CLARKE. Ms. McCauley, your observations?

Ms. MCCAULEY. We haven't done any work in that area in terms of CBP outreach to local communities, so I couldn't speak to that.

Ms. CLARKE. What about your observations just in terms of the port of entry in terms of your interactions? Are there interactions with CBP?

Ms. MCCAULEY. I am not——

Ms. CLARKE. So the airports, are you seeing any collaboration there with respect to——

Ms. MCCAULEY. No, we did not look at that as part of our audits.

Ms. CLARKE. OK. Very well.

Ms. Brennan, the opioid crisis is a homeland security challenge, but foremost it is a public health crisis. We must ensure our criminal justice system treats it as such as we have had some challenges in the past.

As a prosecutor, could you discuss the historical mistake of treating users like criminals rather than victims in need of treatment, particularly when they hail from communities of color?

Ms. BRENNAN. First of all, I could not agree with you more. You are absolutely right. I do think that law enforcement has certainly embraced that.

Historically, you are completely accurate in that addiction was viewed as a failing, and people who were addicted to drugs were not viewed as having a disease but were viewed as criminal. That was a mistake with a cascade of consequences that we are still living with.

But that having been said, I think if you look at—what I am familiar with is New York City. The change in strategy, we focus at the top of the supply chain. We try to take off the most dangerous drugs, those that are causing death. We work to rehabilitate those people whose crimes are caused by their addiction and to get out a very clear prevention message.

So I think our strategies are different, but I certainly acknowledge the problem that you have recognized.

Ms. CLARKE. Thank you very much, Mr. Chairman. I yield back. I thank you for your testimony and your dedication and service.

Mr. ROSE. Thank you, Ms. Clarke.

I would now like to recognize Mr. Langevin from the great State of Rhode Island.

Mr. LANGEVIN. Thank you, Mr. Chairman.

I want to thank our panel of witnesses for being here today.

Dealing with the opioid issue is obviously both a National security concern, it is a public health concern, it transcends many levels and can affect almost anyone from any type of background. It really knows no boundaries.

It is certainly disturbing that this is something that we have seen in all of our communities. My home State of Rhode Island has been affected by the overdose issue. What is scary is that becoming addicted to opioids can, in fact, happen just through using regular opioids for legitimate purposes. Based on your chemical makeup, someone can get addicted very quickly, even after a very short time.

It is even more disturbing, though, if these opioids being smuggled into the country are being done with a coordinated intent, if that is what it comes down to, of trying to get this into our communities and a number of people that affected and killed.

If this is something, a targeted coordinated effort, whether it is smugglers or something that is nation-state-related, it is disturbing. It has all of our attention. We have to double down and

make sure that we combat this with all the tools and resources we have at our disposal.

So, Ms. McCauley, I want to start with you. I want to address a gap that I have seen and that the Joint Task Force to Combat Opioid Trafficking Act, which I introduced with Chairman Rose, Mr. King, and Mr. McCaul, is intended to address.

So in your experience examining CBP mail screening operations, how is information from other law enforcement agencies fed into their processes? In other words, if Deputy Chief Hinson's department finds a pattern in mail that they have received, what processes exist to feed that information back into international mail screening guidelines?

Ms. MCCAULEY. I can say that CBP uses its Automated Targeting System to target high-risk mail coming into the country. The ATS is a—it is a decision support system that ingests data from foreign airports about the mail that is coming in inbound to the country and that data is matched against criminal as well as law enforcement and intelligence databases using risk-based scenarios to see where the highest risks are. So that is the main way in which that type of information is used.

Mr. LANGEVIN. But, again, if you see a pattern somewhere else, how is then that information fed back into the system so it is more widely dispersed? Is it a good two-way information sharing? It is one thing to be told what to look for, but when you see a pattern somewhere else, how do you make sure the left hand knows what the right hand is doing and that information is then fed back into the system?

Ms. MCCAULEY. I haven't heard of it being used in that way, no.

Mr. LANGEVIN. Well, it should be, but OK.

Well, I encourage your colleagues in the Office of Inspector General to continue to examine these information-sharing efforts. I believe that the Joint Task Force to Combat Opioid Trafficking Act that we have introduced is an important step in improving linkages between disparate components of the Department and other Federal, State, and local entities.

But I welcome any additional suggestions you may have. If there is anything you want to share with us, you can get back to us on that.

Dr. Pardo if I could, staying on the topic of information for a minute. Based on your research, how would information gleaned from dark websites, either by law enforcement agencies or the intelligence community, regarding opioid trafficking make its way to DHS elements responsible for interdicting these illicit drugs? Can these links be strengthened?

Mr. PARDO. That is a very good question.

We don't quite know how the distribution works. In my mind, there could be several typologies of distribution. You could have an individual who is in Ohio who imports a kilogram of fentanyl over the Surface Web and then distributes it through the Darknet. That could happening. I think that might be happening. But we don't quite know. We need more research here.

All that said, there had been indictments, unsealed indictments, of Chinese vendors on the Surface Web discussing the fact they might be warehousing product here. They send a bulk shipment of

fentanyl through cargo, mislabeled as some sort of other chemical, and it arrives in a facility here. Then an order is put on-line to a user or to a buyer here domestically. That shipment is then sent from a warehousing facility here in the United States, not from China.

So that poses an additional challenge because it is already past Customs. It has cleared CBP's remit, so now it is something of USPIS.

So there needs to be kind-of greater awareness and strengthening across all levels of Federal and State law enforcement.

In addition to that, you could use other kind-of metrics to inform this. You could use overdose deaths. If we could reduce the lag in overdose deaths and understand who is dying when and where in kind-of a point of time, an immediate point of time, you could then quickly kind-of determine, OK, which packages need to be screened to these ZIP Codes given that we are seeing elevated overdose deaths in the ZIP Codes.

There are things that we need to do beyond this. Wastewater testing might be an additional tool that warrants investigation. Since individuals don't know what they are consuming, we just can look at what is being—every time someone flushes the toilet, we can determine what metabolites are in that water source in the sewer and then actually determine, OK, yes, we are seeing carfentanyl showing up in Dayton, Ohio, we need to then really be worried about it.

Shortening that time span between what is reported publicly in the data and what is happening on the ground will save lives.

Mr. LANGEVIN. Well, I think it is important to have that holistic view of information sharing and get a better understanding of how this is getting into our country. Then also what we can do to make sure that we are strengthening the links in terms of information sharing.

So thank you, and I yield back.

Mr. ROSE. Thank you, sir.

I now recognize Mr. Payne from New Jersey.

Mr. PAYNE. Thank you, Mr. Chairman.

Just a general question, anyone on the panel can answer. What are the most common routes of trafficking fentanyl into the United States? How does the United States respond? I apologize if this has already been referenced, but I would really like to know that. Anyone can weigh in.

Ms. BRENNAN. I will just talk about the roots that we see in New York City. We get very large shipments, and the very large shipments of fentanyl come in across the Southwest Border, typically over land routes into New York.

The fentanyl analogues, which are more concentrated and more potent, there are just little changes on the fentanyl molecule, but those we see tend to be available often over the dark web. They come in in the major packaging centers, package centers at JFK, where there are hundreds of thousands of packages coming in each day, and they are in much smaller quantities.

That is the kind-of overall arching picture that we see.

Mr. PAYNE. Is it more difficult being able to identify it because of the smaller packages?

Ms. BRENNAN. Absolutely. It really is. It is a smaller package, and there are hundreds of thousands of packages coming in.

So it also gets into the supply chain, the distribution chain, in a much more diffuse way. So there are lots of different criminal organizations which may access it that way.

If you have large amounts coming in, it is generally going to be delivered to criminal organizations that have the wherewithal to pay for it and then distribute it. So it is much more concentrated and much easier to cut off.

Mr. PAYNE. You said that one of the major routes is the Southwest Border. Are the illicit synthetic opioids a major stream of revenue for the Mexican cartels?

Ms. BRENNAN. Well, definitely. The drugs that we are seizing are coming from the Mexican cartels.

Mr. PAYNE. OK.

Well, Mr. Chairman, in the interest of time, I will yield back. Thank you very much for the panel's witnesses here today.

Mr. ROSE. Thank you, Mr. Payne.

Dr. Pardo, just a quick thing. You had mentioned that there was—or in your testimony—that there was a previous influx of fentanyl in the early 21st Century, and we stopped that. Could you just speak to that very quickly?

Mr. PARDO. Sure. So in our research, we have documented that we are aware of 4 previous outbreaks of fentanyl in the United States going back as early as 1979. The most recent was the 2005 to 2007 outbreak, lasted 2 years, coming from Mexico, one lab in Mexico.

Federal response was very quick. Naloxone was provided to users on the street. DEA worked very aggressively to find the source, worked with Mexican counterparts to identify the lab and shut it down.

The difference between all prior outbreaks and today's is that it was a single source, a single chemist. Today it is atomized. There are multiple sources in China, many firms. I mean, they have thousands of pharmaceutical firms, chemical firms. It is going to be very difficult to——

Mr. ROSE. You think that there are thousands of Chinese pharmaceutical firms that are taking part in this?

Mr. PARDO. Legitimate pharmaceutical firms, yes. China recognizes about 5,000 active pharmaceutical ingredient manufacturers. Of those, we don't know how many are producing fentanyl either off book or illegitimately.

Mr. ROSE. OK. Thank you.

With that, the Chair now recognizes Ms. Underwood from Illinois.

Ms. UNDERWOOD. Thank you, Chairman Rose.

In the United States, nearly 130 people die from opioid-related fatalities each day. In Illinois alone, from 2014 to 2017, opioid related deaths rose from 127 to 1,187 per year. A majority of the opioid fatalities in our country are linked to synthetic opioids like fentanyl.

These statistics are incredibly alarming. Confronting this epidemic means stopping the flow of synthetic opioids entering the United States from China and other countries. To do this, it is crit-

ical that the Department of Homeland Security is directing its resources strategically to the areas where most of these drugs are coming in.

Ms. McCauley, according to the 2018 National Drug Threat Assessment, a majority of illicit opioids intercepted, including fentanyl and heroin, are seized by Customs and Border Protection at legal ports of entry.

Can you give us more details on how exactly the opioids being seized are coming into our country? Because it seems that the majority are being mailed, is that through personal mail or commercial shipments?

Ms. MCCAULEY. We haven't focused on the drugs that are coming in over the ports of entry, over the land ports of entry. We have done our work focused on JFK mail, the international mail that is coming in there, and that is what we are seeing is the foremost problem now. We have some on-going work to look at the ports of entry at the land border.

But, yes, the mail coming through JFK is a big problem. A lot more needs to be done in terms of applying the resources that are needed to interdict, to identify that mail, and then intercept it to keep it from getting into the mainstream.

Ms. UNDERWOOD. In your experience, is it personal mail or is it commercial shipments?

Ms. MCCAULEY. We haven't looked at commercial shipments. We mainly looked at the mail that is coming through the U.S. Postal Service.

Ms. UNDERWOOD. I see.

Ms. MCCAULEY. Yes.

Ms. UNDERWOOD. Can anyone else speak to ports of entry on this panel?

Mr. PARDO. So according to CBP seizure data, the bulk majority of fentanyl that arrives, by weight, comes over the Southwest Border. However, the purity of what is being seized there is very, very low versus the purity seized at ports of entry in the mail facilities or the express consignment facilities is very, very high, about 90 percent above. So after adjusting for purity, the bulk majority of fentanyl seized is coming by mail or express consignment.

That said, as Ms. McCauley has noted, JFK is a large hub, and we do receive a lot of inbound packages from China. So it does seem to stand that it is coming—a large portion is coming from China by mail.

Ms. UNDERWOOD. Right. So with the proportion of the seizures, does that same logic hold? The majority of the seizures are coming by mail and not from ports of entry?

Mr. PARDO. That is the difficult thing using seizure data to really inform this. You don't know what you are not catching. But what we are catching is—that shows that China is a large supplier.

Ms. UNDERWOOD. OK.

What resources, Ms. McCauley, are needed to effectively apprehend the large share of illicit opioid being trafficked through the mail?

Ms. MCCAULEY. CBP uses a number of methods to screen for mail, to inspect for—I am sorry—to inspect for illegal drug shipments. It uses canine teams. We saw that at JFK Airport. They

had a limited number of canine teams to help in terms of the inspections.

They also had a limited number of outdated X-ray machines to do the screening. They typically had to do manual screening. That is piece by piece, to actually pick up the pieces of mail. If you see pictures of the volume of mail that is coming in, that is quite a task.

They also do chemical analysis using the handheld screeners. Even those, we saw that they not always have the most up-to-date technology.

So on all 4 scores, in technology, canine teams—and I forget to mention staffing as well. They didn't have adequate personnel there to help with the screening process. So they could do a whole lot in terms of improving in that area.

Ms. UNDERWOOD. Right. As we understand from your report and your testimony here today, it is really a multifactorial process to do the screening of the mail effectively. So we need to make sure that CBP has enough resources to do that to protect the American people.

In both the 2018 OIG report and in your testimony, Ms. McCauley, OIG has recommended that CBP conduct an analysis to determine what resources are needed to address deficiencies while inspecting the international mail.

But it is really disconcerting to me that OIG has recommended that the CBP conduct this assessment twice in different reports. There have been two separate recommendations. Yet CBP has failed to follow through. So do you happen to know when CBP plans to conduct this analysis?

Ms. MCCAULEY. We are looking at CBP again in terms of the mail process up at JFK Airport, and we are following up on that information in terms of where they are in addressing our recommendations. We will be reporting out this fall.

Ms. UNDERWOOD. Good. Well, we will look forward to seeing that.

In your 2018 report, it recommended that CBP update the *Mail Operations and Enforcement Handbook,* and they haven't done that as well.

So just from where we sit, right, it is very challenging recognizing this threat and an agency not following through. I am a member of the Freshmen Working Group on Addiction, you heard from Mr. Trone earlier today, and look forward to working with all our other colleagues to address this issue and advance legislation.

With that, Mr. Chairman, I yield back. Thank you.

Mr. ROSE. Thank you.

Just to close out, speaking of Mr. Trone, who has, I think, extraordinarily effectively led this freshman task force on addiction, I would like to just ask 2 questions on his behalf.

Dr. Pardo, first of all, what are the dangers that we start to see domestic production of these synthetics such as fentanyl?

Mr. PARDO. So domestic production of fentanyl was a problem. It was a problem up until 2005. I don't think you are going to see domestic production of fentanyl for a long time given its price. Nobody in the United States is going to stick their neck out for $5,000 a kilo. It is just too cheap coming from China.

Mr. ROSE. Great. Thank you.

Ms. Brennan, as well as Dr. Pardo, what examples are we seeing as best practices from a law enforcement perspective? I know we touched on dealing with this as a health crisis. But from a law enforcement perspective, domestically as well as world-wide, surely the United States is not the only country having to deal with this crisis?

Ms. BRENNAN. The crisis in the United States is more significant than anywhere else, much more significant. The consumption of opioids by the United States, even legal opioids, is tremendous compared—I believe the next largest consumer is Canada, and it is far lower.

So the only other country that I am aware of that is suffering this kind of addiction issue would be Canada, and their source of supply and many of their issues kind-of mirror ours.

So we are in a very challenging situation right now in terms of drugs coming in from many different sources, actually. We still have legal prescription drugs fueling some of our epidemic. It is just—it is a big challenge for us.

In terms of best practices, I think law enforcement, at least I can speak in New York City, the approach is to focus on the top of the distribution chain, focus on those drugs that are killing people, and make that your top priority. It is about protecting lives. We also focus on those organizations that are involved in violence in terms of their drug trafficking.

So those are our top priorities, because the main goal with regard to drug enforcement really is saving lives.

Mr. ROSE. Great.

Mr. PARDO. In terms of best practices, we need to start thinking outside the box. As prosecutor Brennan noted, Canada is kind of the next case study. It is the most approximate in terms of what we are seeing, especially in British Columbia and Vancouver.

There are some Nordic countries who are suffering this. Estonia has had a fentanyl market for almost 20 years. We think that that will be the case here in the United States. New Hampshire is far along in the transition to fentanyl. We do not foresee heroin coming back. We think that fentanyl will be around to stay. So we need to really start——

Mr. ROSE. Pure or——

Mr. PARDO. Well, I mean, what is offered on the streets is generally not pure fentanyl. It is usually pressed with some other power or some other filler, because it is just too small to handle. You need something else.

But thinking about kind-of the future, we really need to start thinking outside the box. I mean, yes, more of the same might help with some things. But we really need to start thinking about investigations more on-line, trying to intel—using intelligence to really understand how these networks work, trying to understand how dealers are making the decision to import fentanyl or what analogue they are deciding to input, how do they determine how to cut it, with what, how do they press it into tablets, what machinery are they using.

I mean, a lot of the machinery that is coming from China—a lot of the pill press machines that are being used to manufacturer tablets here are coming from China as well.

So kind-of going back to your earlier question, we don't see synthesis here. We do see manufactured tablets here. The illicit, the counterfeit tablets. So that is something we need greater research and investigation on, working with collaborative efforts in Europe, working with law enforcement agencies and customs agencies there who have seen this stuff before, who are working—you know, doing the same—fighting the same problem. We need more efforts internationally to collaborate with this problem.

Mr. ROSE. Great.

All right. Well, thank you again.

With that, I thank the witnesses for their valuable testimony and the Members for their questions.

The Members of the committee may have additional questions for the witnesses, and we ask that you respond expeditiously in writing to those questions.

Pursuant to committee rule VII(D), the hearing record will be open for 10 days.

Without objection, the subcommittees stand adjourned.

[Whereupon, at 11:51 a.m., the subcommittees were adjourned.]

APPENDIX

QUESTIONS FROM CHAIRMAN THOMPSON FOR SONDRA MCCAULEY

Question 1. Each new phase of the opioid epidemic has caught the country unprepared: If fentanyl analogues do indeed represent a "Fourth Wave" of the crisis, what do you expect to be the most glaring weakness of our current interdiction capability?

Answer. The Department of Homeland Security Office of Inspector General has focused our oversight work on the interdiction capabilities at John F. Kennedy (JFK) airport, the Nation's largest international mail hub. U.S. Customs and Border Protection's (CBP) limited mail screening practices at JFK airport is the most glaring weakness identified in our office's work in the 2018 audit, "CBP's International Mail Inspection Processes Need Improvement at JFK International Airport".

OIG will continue to provide effective oversight in this critical area. In addition to our on-going follow-up audit related to CBP air mail inspection processes at JFK, our office is also considering work to determine the status of inspections at Express Consignment Centers, such as those run by FedEx, DHL, and United Parcel Service.

Question 2. Have the re-assignments of Office of Field Operations Officers to Border Patrol duties degraded the ability of ports of entry to identify and seize fentanyl and other narcotics?

Answer. The Office of Inspector General has not completed any audit work related to re-assignments of Office of Field Operations Officers to Border Patrol duties so I am unable to offer an opinion on whether it affects drug interdiction efforts at the ports of entry. CBP informed us there has only been one re-assignment from the JFK International Mail Facility (IMF); however, we have not determined the impact of this re-assignment.

QUESTION FROM CHAIRMAN THOMPSON FOR BRIDGET G. BRENNAN

Question. Each new phase of the opioid epidemic has caught the country unprepared: If fentanyl analogues do indeed represent a "Fourth Wave" of the crisis, what do you expect to be the most glaring weakness of our current interdiction capability?

Answer. Response was not received at the time of publication.

QUESTIONS FROM CHAIRMAN BENNIE G. THOMPSON FOR BRYCE PARDO

Question 1. Have you seen any indication of other emerging opioid threats aside from fentanyl's? For example, chemical producers may shift synthesis to non-fentanyl-based opioids to avoid scheduling.[1] Additionally, what recommendations would you propose to combat this? What are you currently doing to combat these new novel opioids?

Answer. An examination of Federal and State law enforcement drug seizures suggests that the nature of the supply of synthetic opioids changes from year to year. Although fentanyl dominates these seizure counts, the emergence (and sometimes decline) of other fentanyl analogs (e.g., acrylfentanyl, carfentanil, 4-fluoroisobutyryl fentanyl) and non-fentanyl synthetic opioids (e.g., U–4770, AH–7921) is documented. Similarly, on-line vendor websites offer variations of nonfentanyl synthetic opioids, such as the U-series or AH-series, and their various analogs.

While a generic control (i.e., a blanket ban on all fentanyl-related structures) might help to future-proof drug control efforts aimed at fentanyl, it might also encourage chemists to move to non-fentanyl synthetic opioids. Although employed in parts of Europe, generic controls are relatively new and untested in the United States. That said, reducing the number of chemicals that are introduced to U.S.

[1] Karen Steward, Identifying Novel Opioid Agonists From Metabolites, TECHNOLOGY NETWORKS, August 2, 2019, *https://www.technologynetworks.com/applied-sciences/blog/identifying-novel-opioid-agonists-from-metabolites-322453.*

drug markets could help reduce product variability that increases risks that result in overdose.

Apart from generic controls, which focus on the chemical composition of the substance in question, alternative approaches may be warranted. Other countries have attempted, with mixed results,[2] to control emerging substances based on their intended pharmacological effect. In some cases, a substance is subject to control if it has an effect or binds to a certain receptor in the central nervous system. This approach, circumscribed to a handful of structural classes, was introduced in the United States under the Synthetic Drug Abuse Prevention Act of 2012. The law added "cannabimimetic agents" to Schedule I of the Controlled Substances Act and defined them as any substance that is a "cannabinoid receptor type 1 (CB1) agonist as demonstrated by binding studies and functional assays within five structural classes."

Question 2. Have the re-assignments of Office of Field Operations Officers to Border Patrol duties degraded the ability of ports of entry to identify and seize fentanyl and other narcotics?

Answer. I cannot speak to personnel decisions made by Customs and Border Protection, and my research has not examined the specific impacts of such decisions. But, in the abstract, any decision to reallocate resources comes with a trade-off. Good policy making recognizes and is explicit about such trade-offs.

In general, reassigning personnel from one port of entry to another may affect the number or quantity of fentanyl or other narcotics seized. In my written testimony, I present Customs and Border Protection seizure data for fentanyl for fiscal year 2018, noting the amounts and estimated purity across various types of ports of entry. Based on these data—which may not be representative of supply routes [3]—the majority of pure fentanyl seized (i.e., adjusted for purity) comes by air to mail and express consignment carrier facilities.

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[2] Although blanket controls recently adopted in the United Kingdom were used to bring a wide range of new psychoactives under scheduling, the country faced substantial problems operationalizing enforcement and bringing cases to trial. Early assessments by the government point to mixed results (see U.K. Home Office, *Review of the Psychoactive Substances Act 2016,* London, November 2018).

[3] Peter Reuter, "Seizures of Drugs," in Jane Smith and Bob Johnson, eds., *Encyclopedia of Drugs and Alcohol,* New York: MacMillan, 1995.