

Questions for the Record
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Committee on Energy and Commerce
Subcommittee on Oversight and Investigations
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“Oversight of Federal Efforts to Combat the Spread of Illicit Fentanyl”
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Questions from Rep. Pallone, Jr.

- 1. Please explain how the United States Drug Enforcement Administration (DEA) is addressing the use of the Dark Net to facilitate fentanyl purchases, including by responding to the following:**

Response:

The DEA has established or contributes to several initiatives that address the dark net; specifically fentanyl distribution. These initiatives include the Cyber Support Section (CSS), the Virtual Currency Initiative (VCI), National Cyber Investigative Joint Task Force (NCIJTF) and the Joint Criminal Opioid and Dark Net Enforcement Team (JCODE). The CSS provides processes that enable investigators to thoroughly investigate vendors on the dark net selling narcotics to include fentanyl. These processes include: training on establishing an operational plan to investigate vendors; ability to purchase evidence, such as controlled substances, paraphernalia, and merchandise used in the manufacturing of controlled substances like pill presses, utilizing virtual currency; support in utilizing appropriate methods in identifying vendors; and search warrant and seizure support. The VCI provides the ability to leverage money laundering schemes utilized by the vendors in order to fully disrupt this nefarious activity. Since dark net vendors utilize virtual currency, schemes are deployed to launder the illicit funds. DEA is also a participating member of JCODE, a program designed to disrupt and dismantle dark net illicit marketplaces facilitating the distribution of fentanyl and other opioids. JCODE is led by the FBI and coordinated through the DEA-led Special Operations Division (SOD) with participation from several federal law enforcement partner agencies to launch a coordinated government effort to attack dark net marketplaces.

- a. Whether DEA routinely shares information regarding Dark Net purchases with other agencies, including whether and in what circumstances DEA shares information with U.S. Customs and Border Protection (CBP) so that**

CBP can use this information to target and interdict fentanyl shipments through its automated targeting tool; and

Response:

CBP is a participating member of JCODE. DEA routinely provides CBP with information regarding trafficker identities, shipping methodologies, and locations through the JCODE process. Furthermore, the deconfliction, coordination, and sharing of information among the interagency partners continues throughout the investigative process through JCODE and SOD. Additionally, a CBP representative from the CBP-National Targeting Center is also assigned to DEA SOD to facilitate the exchange of intelligence and investigative collaboration between CBP and interagency that are represented at SOD. DEA participates on the National Cyber Investigative Joint Task Force (NCIJTF) which also has a representative from CBP. Many of the dark net market monikers and virtual currency addresses are exploited and shared in and by the NCIJTF. DEA also shares physical addresses, shipment methods, and routes with its interagency partners.

- b. Whether DEA conducts controlled buys on the Dark Net mainly for individual prosecutions, or whether it systemically uses this data to disrupt the marketplace, such as by using credit card information or shipping information to identify and eliminate the means and incentives to traffic fentanyl.**

Response:

DEA conducts controlled buys for individual investigations and prosecutions. It also exploits cash out methods utilized by vendors to support the overarching goal of disrupting and dismantling dark net marketplaces. Evidence obtained from individual buys will be used by the prosecution to prove the totality and depth of culpability against marketplace administrator(s). DEA takes a holistic approach to targeting the entire chain of bad actors utilizing the dark net to purchase and distribute controlled substances, including fentanyl. DEA targets the administrators, moderators, and individual buyers and sellers. Targeting just one part of this chain will only result in the criminal activity moving to another dark net marketplace. Gathering evidence and intelligence regarding means and methodology is just as important as securing specific seizures, arrests, and prosecutions.

National Targeting Center-Cargo Division currently has a representative that reports to JCODE on a routine basis to facilitate the exchange of information. A DEA representative assigned to the Office of Diversion Control is imbedded with the CBP-NTC facilitate the exchange of intelligence and investigative collaboration between CBP and interagency that are represented at SOD.

Questions from Rep. Guthrie

2. What has been the impact of the temporary emergency scheduling of all fentanyl-related substances as Schedule I drugs since February 2018?

Response:

In recognition of the heretofore unseen escalation in opioid-related overdoses, on February 6, 2018, DEA used its authority under Section 201 of the Controlled Substances Act (CSA) to place all non-scheduled fentanyl-related substances into Schedule I *temporarily*, on an emergency basis, for two years to combat the practice of unscrupulous chemists altering fentanyl-related substances to circumnavigate existing law. The positive effects in the two years since implementation are significant. The class control has substantially slowed the rate at which new fentanyl-related substances are introduced to, and are encountered in, the illicit market. Prior to this action, DEA observed a rapid and continuous emergence of new fentanyl-related substances each time it scheduled a specific fentanyl-related substance. Under the temporary emergency scheduling order, there is little incentive for drug trafficking organizations to invent new substances in the fentanyl family for the purpose of evading DEA's control. Specifically, DEA laboratories have not encountered any new fentanyl analogue substances through fiscal year (FY) 2019. Additionally, in the two years since temporary scheduling, DEA has permanently scheduled seven fentanyl-related substances and is currently working with our colleagues at the Department of Health and Human Services (HHS) to schedule 12 more.

Congress has extended this temporary order by an additional 15 months so the temporary order controlling fentanyl-related substances in the United States will now expire on May 6, 2021, without any further action. At that time, any substance that meets the definition of a fentanyl-related substance will no longer be expressly identified as subject to regulatory control under the CSA, except for substances that DEA has identified and for which DEA has requested HHS to prepare a scientific and medical evaluation and to make a scheduling recommendation. At that point, DEA expects the renewed emergence of new fentanyl-related substances on the illicit market consistent with previous attempts to circumvent largely reactive, substance-specific control measures. DEA looks forward to continuing its work with Congress and its interagency partners to find a permanent solution to this fentanyl crisis.

The Department of Justice and DEA have worked closely with the Government of China and Chinese law enforcement to bring attention to and help combat the rise of illicit fentanyl and fentanyl-related substances. Engagement between the President and his Chinese counterpart led China to control fentanyl-related substances as a class effective May 1, 2019.

3. What are the justifications for making the temporary emergency scheduling permanent?

Response:

As stated above, the temporary class control has substantially slowed the rate at which new fentanyl-related substances are introduced to, and are encountered in, the illicit market. However, it will expire on May 6, 2021, and at that time, any substance that meets the definition of a fentanyl-related substance will no longer be expressly identified as subject to regulatory control under the CSA, except for substances that DEA has identified and for which DEA has requested HHS to prepare a scientific and medical evaluation and to make a scheduling recommendation. At that point, should the temporary ban on non-scheduled fentanyl-related substances expire, DEA expects the renewed emergence of new fentanyl-related substances on the illicit market consistent with previous attempts to circumvent largely reactive, substance-specific control measures. Prosecution and enforcement with respect to conduct involving these substances, when possible, would rely on the Controlled Substance Analogue Enforcement Act of 1986. The applicable law and required elements of proof, coupled with the frequent “battle of experts,” make Analogue Act prosecutions time-consuming and resource-intensive for investigators, drug testing laboratories, prosecutors, and the entire judicial system.

4. The United States-China Economic and Security Review Commission stated in a November 2018 report that “China remains the largest source of illicit fentanyl and fentanyl-like substances in the United States.” However, numerous federal officials and drug agents have said Mexican groups are behind the bulk of the fentanyl arriving in the United States. What is your professional judgment as to which country is the largest source of illicit fentanyl coming into the United States?

Response:

Illicit fentanyl, fentanyl-related substances, and their immediate precursors historically were often produced in China. Current reporting indicates production of illicit fentanyl substances has now shifted to Mexico and other countries. From China, these substances were shipped primarily through express consignment carriers or international mail directly to the United States. These substances were moved via the mail system in small quantities yet are highly potent. Alternatively, fentanyl and fentanyl-related substances, and their precursors, are also shipped directly to transnational criminal organizations (TCO) in Mexico, Canada, and the Caribbean. Once in the Western Hemisphere, fentanyl and fentanyl-like substances are prepared to be mixed into the heroin supply, or pressed into a pill form, and then smuggled into the U.S. market by TCOs. These shipments of fentanyl and fentanyl-related substances seized by law enforcement primarily on the southwest border are larger in volume than those smuggled directly from China; however, they typically range from five percent to 10 percent fentanyl purity.

DEA has worked closely with China to bring attention to and help combat the rise of illicit fentanyl and fentanyl-related substances being smuggled out of China. After the President engaged directly with his counterpart on this topic, on April 1, 2019, China announced the class-wide control of fentanyl-related substances effective May 1, 2019.

- 5. In October 2017, the U.S. Department of Justice announced the first indictments against Chinese nationals who were manufacturers and distributors of fentanyl. Even though there is little prospect that the Chinese nationals will ever be in an American courtroom, what is the purpose and impact of indicting Chinese nationals for illicit fentanyl trafficking?**

Response:

There is no extradition treaty between the United States and China; however, DEA has engaged with its Chinese counterparts for over thirty years by providing investigative and intelligence information on a near daily basis. Since the onset of the opioid epidemic in the U.S., DEA and the Department of Justice have engaged with the Chinese Ministry of Public Security and the Narcotics Control Board regarding the manufacturing and distribution of fentanyl and fentanyl-related substances, as well as other new psychoactive substances (NPS) inside China. Chinese law regarding the chemical composition of fentanyl-related substances and other NPS varies and, at times, some of these substances fall outside the control of Chinese law. When a substance falls within the control of Chinese law, the Ministry of Public Security and the Narcotics Control Bureau have demonstrated the ability to identify, investigate and enforce their own laws. Once an investigation is concluded, the likelihood of conviction and sentencing is very high. Although the U.S. may not be able to extradite Chinese fugitives for prosecution in the U.S., the indictment of Chinese nationals serves to highlight the public health concerns associated with the flow of illicit opioids from China into the United States. Moreover, we are able to effectively seize and forfeit assets associated with narcotics trafficking by pursuing administrative or civil forfeiture against the property, when criminal prosecutions of fugitives are not possible. The loss of funds and real property often have a significant negative impact on drug trafficking organizations.

- 6. How many different fentanyl analogues have been identified as coming from China?**

Response:

Fentanyl analogues cannot be expressly sourced as coming from China. What can be said is that whether via mail or through Mexico, China is the principal source country of fentanyl-related substances, their precursors, and other synthetic opioids, producing most illicit fentanyl and fentanyl analogues reaching U.S. users. DEA works closely with China to bring attention to and help combat the rise of illicit fentanyl, fentanyl analogues, and their precursors. Because of the President's direct engagement with his Chinese counterpart, on April 1, 2019, China announced the class-wide control of fentanyl-related substances effective May 1, 2019.

This is a promising development; however, as increased regulatory controls are effective in China, Mexican TCOs are filling the void. As a result, DEA is continuing to see a shift from the shipment from China into Mexico of precursor chemicals for the production of fentanyl and fentanyl-related substances to the manufacturing of precursor chemicals within Mexico itself. However, the uncontrolled pre-precursors used to make fentanyl precursors are predominantly originating in China. This is an alarming development.

7. What are some of the common ways in which fentanyl is trafficked from China to the United States?

Response:

According to CBP data, the number of direct fentanyl seizures coming from China has dropped dramatically since the May 1, 2019 Chinese class scheduling. While it is true that fentanyl is shipped into Mexico from China, in the last 12 months we have also seen numerous fentanyl synthesis production labs and processing facilities seized in Mexico. The intelligence indicates a shift in production to Mexico, for the U.S. illicit market.

8. Do you agree with the Wilson Center Mexico Institute report that the key fentanyl trafficking route in Mexico is through the Baja-California border area? Do you agree with the Wilson Center Mexico Institute report that fentanyl is not a priority for Mexican law enforcement?

Response:

Mexican TCOs continue to control lucrative smuggling corridors, primarily across the Southwest Border including the Baja-California border area, and maintain the greatest drug trafficking influence in the United States, with continued signs of growth. They continue to manage the effective use of compartmentalizing information in furtherance of expanding their criminal influence by engaging in business alliances with other TCOs, including working with independent TCOs, and work in conjunction with Mexican transportation groups, transnational gangs, U.S.-based street gangs, prison gangs, and Asian money laundering organizations.

Based on DEA investigative reporting and available seizure data, the Baja-California corridor continues to be a major trafficking route for fentanyl entering the United States; however, there have been seizures of fentanyl and fentanyl-laced counterfeit pills in the Arizona-New Mexico corridor, and to a lesser extent in western and eastern Texas border corridors.

Since publication of the Wilson Center report, recent high-level bilateral exchanges between DEA and the government of Mexico (GOM) have occurred, and senior Mexican law enforcement officials now acknowledge the threat fentanyl manufacturing and distribution poses in both countries. These Mexican officials have stated that addressing the growing fentanyl threat in Mexico is a priority for their agencies. In 2019, parallel criminal investigations between the DEA and Mexican law enforcement agencies have led to the seizure or dismantling of at least three laboratories in Mexico that were either actively synthesizing fentanyl or were capable of producing fentanyl. During the same time frame, there have been multiple seizures of counterfeit pill operations in Mexico. Current DEA investigative reporting has identified at least five additional suspected fentanyl laboratories in Mexico, which are being investigated with Mexican law enforcement counterparts for future enforcement operations. DEA and Mexican law enforcement capabilities include gathering evidence, seizing drugs, sharing information and intelligence, as well as extraditing individuals to face prosecution in United States courts. Combatting TCOs is a priority for DEA. The DEA has been supported by Mexican law

enforcement for well over three decades. In Mexico, DEA currently has 11 offices, staffed by one hundred seven (107) positions including Special Agents, Intelligence Analysts, Diversion Investigators and administrative staff. In Mexico, DEA continues to synchronize and expand capabilities to combat the growing epidemic. DEA has developed a bilateral opioid (heroin/fentanyl) strategy for intelligence sharing, coordination of investigations, training, increased sharing of forensic information, and the control of precursor chemicals. DEA participates in the North American Drug Dialogue, which focusses on addressing strategic-level drug policies of interest to the U.S., Mexico, and Canada to attack the production, trafficking, consumption and misuse of illicit narcotics in North America. DEA will continue to aggressively pursue criminals trafficking in illicit drugs. Targeting the world's most dangerous drug traffickers and their criminal organizations is a dynamic and evolving mission, and with it comes myriad challenges, including understanding the geopolitical influences in countries such as Mexico.

9. Could Mexico increase its capacity to detect and test for fentanyl and its analogues at its laboratories?

Response:

DEA has worked closely with Mexico's federal laboratories and believes they are currently equipped with instrumentation found in most forensic laboratories that would allow for the identification of controlled substances to include fentanyl and any fentanyl-related compounds. DEA has had very limited interaction with other laboratories in Mexico and cannot comment regarding their analytical capabilities or instrumentation.

10. Is there a problem with Mexican law enforcement providing the U.S. Drug Enforcement Administration (DEA) with access to inspections of seized laboratories and chemicals? If so, what can be done to address this problem?

Response:

DEA continually works with the GOM to expand its intelligence-sharing network tied to parallel investigations through various programs. The GOM currently has over a 100-person vetted Sensitive Investigative Unit team working with the Federal Police, which has given the GOM and DEA valuable insights into TCOs operating in Mexico. Additionally, DEA has been proactive in sharing information and improving awareness regarding the dangers posed by fentanyl. This proactive stance has further strengthened DEA's relationship with the GOM and has increased interest in additional opportunities for cooperation, including access to seized labs and chemicals.

11. How many fentanyl synthesis labs are believed to exist in Mexico?

Response:

It is impossible to know how many fentanyl synthesis laboratories are active in Mexico given the clandestine nature of this activity and the fact that fentanyl production facilities are

easily concealed in urban or rural settings. In 2019, parallel criminal investigations between the DEA and Mexican law enforcement agencies have led to the seizure or dismantling of at least three laboratories in Mexico that were either actively synthesizing fentanyl or were capable of producing fentanyl. During the same time frame, there have been multiple seizures of counterfeit pill operations in Mexico. Current DEA investigative reporting has identified at least five additional suspected fentanyl laboratories in Mexico, which are being investigated with Mexican law enforcement counterparts for future enforcement operations. As DEA and Mexican law enforcement information-sharing and investigative coordination continues to expand, it is expected the number of fentanyl synthesis laboratories identified in Mexico will increase substantially.

12. What are some of the common ways in which fentanyl is trafficked from Mexico into the United States?

Response:

The most common way fentanyl is smuggled into the U.S. from Mexico is via Mexican TCOs over the Southwest land border. Chinese-origin fentanyl and fentanyl precursor chemicals are smuggled into Mexico, where Mexican TCOs will synthesize the precursor chemicals and manufacture fentanyl. TCOs will often press fentanyl into pill form to make it appear as a medication. These counterfeit medications can take the form of popular brand name opioids like OxyContin and Vicodin. While unsuspecting users may think they are ingesting these legitimate medications they are, in fact, consuming fentanyl.

13. How much of a threat does illicit fentanyl trafficking from Canada pose to the United States? What is being done to monitor and respond to this threat?

Response:

Illicit fentanyl trafficking from Canada continues to pose a serious threat to the United States. In response to this threat, the Drug Enforcement Administration works closely with its Canadian law enforcement partners, identifying and targeting individuals and organizations involved in the illicit importation or exportation of fentanyl and other synthetic opioids. The DEA has identified several Canada-based dark web drug trafficking organizations (DTOs), to include DTOs responsible for the distribution of fentanyl and other synthetic opioids to customers and consumers in the United States. Despite the recent efforts by some dark web administrators to ban the sale of fentanyl, vendors continue to sell the drug, often marketing it under different names in order to circumvent marketplace restrictions. Similarly, within Canada, authorities have identified an increased use of fentanyl and fentanyl analogues as adulterants or ingredients in a number of different street-level drugs and counterfeit controlled prescription drugs (CPDs). For this reason, the cross-border trafficking of fentanyl-laced drugs poses a significant threat to users in the United States.

Although restrictions have been put in place to curb production, China remains the primary source country for the fentanyl and fentanyl analogues smuggled into Canada. The DEA works closely with its Canadian partners to identify large-scale and wholesale fentanyl

suppliers from China and other countries around the world. Facing enhanced scrutiny from law enforcement and postal authorities, there are indications that large-scale fentanyl suppliers are increasingly illicitly trans-shipping their drugs through “low risk” countries, oftentimes in Europe, where the drugs are then forwarded to Canada or the United States with fake country-of-origin designations. Similarly, traffickers in Canada are increasingly using traditional letter mail to ship powder fentanyl to customers in Canada and the United States. To this point, seizures of powder fentanyl in letter mail increased significantly over the first half of 2019, with authorities assessing that dark web vendors are increasingly using the method to ship fentanyl to their customers. Because letter mail provides law enforcement authorities with limited tracking options, combined with the sheer volume of letter mail moving through the system, traffickers may increasingly opt to send powder fentanyl via letter mail, believing the method poses a lower risk of apprehension or detection. This shift raises additional concerns regarding the safety of postal employees and others, given the potential for contamination of other letter mail. Such trends also highlight the importance of bilateral cooperation and information sharing between DEA and Canadian law enforcement partners, in order to combat the current fentanyl threat.

14. If the Chinese scheduling of fentanyl is effective, is there a concern that there will be more fentanyl analogues and fentanyl precursors manufactured and illicitly sourced in the United States?

Response:

DEA has not seen any indication that widespread manufacturing of illicit fentanyl or fentanyl precursors is occurring in the United States. DEA is concerned that as China becomes more effective in restricting fentanyl and fentanyl-related substances, the United States will start to see other countries, such as India, Mexico, Singapore and some European countries, producing illicit fentanyl-related substances to fill the international demand for these substances.

15. What role do gangs from the Dominican Republic play in fentanyl trafficking?

Response:

The Dominican Republic is a major transit point for illicit narcotics in the Caribbean region. Although Dominican TCOs have historically worked with Venezuelan and Colombian TCOs, there has been a significant increase in coordination with Mexican TCOs. These Dominican TCOs are working with Mexican TCOs to smuggle heroin and fentanyl into the United States via the Southwest Border. Once inside the United States, Dominican TCOs coordinate the transportation and distribution of these drugs throughout the eastern United States, particularly in the northeast.

16. Is there reason to believe that there is illicit fentanyl trafficking in Russia and the Ukraine?

Response:

TCOs operate around the world and will always work to exploit the most vulnerable of communities. Russia and Ukraine like all nations are not immune from the fentanyl crisis and from the activities of TCOs.

17. It is my understanding that there are two primary methods to synthesize fentanyl: the Janssen method and the Siegfried method. The DEA has stated that the Janssen method is difficult to perform and is beyond the rudimentary skills of most clandestine laboratory operators. In the 2018 Drug Threat Assessment, DEA stated that clandestinely produced fentanyl is synthesized using the Siegfried method, as it is simpler for drug trafficking organizations to follow the steps involved. However, the DEA's January 2019 Fentanyl Signature Profiling Program using new techniques was able to analyze many more fentanyl samples and found that the Janssen method was the predominant synthetic route. What are the possible implications of this finding?

Response:

Historically, it has been accepted that the Siegfried method was the most predominant route of clandestinely producing fentanyl, since it is generally easier to acquire the necessary precursors and equipment; hence, the generality made in the 2018 National Drug Threat Assessment. However, a newly implemented methodology developed by DEA researchers in about November 2018 has allowed the identification of the fentanyl synthesis route over 65 percent of the time; whereas the older method could only determine the route one percent of the time. The results, therefore, were not considered a surprise; since DEA had been unable to determine definitively the synthetic route for the majority of samples prior to the development of this new methodology. Given that DEA has only been acquiring this enhanced data for the past year, we are cautious to draw conclusions from this data regarding the skill of the operator or the availability of precursor chemicals. The prevalence of the Janssen method does not necessarily mean that skilled clandestine operators are producing the fentanyl. While this is a possible conclusion, it is also possible that skilled processors have provided training to less-skilled clandestine laboratory operators who routinely perform the necessary tasks. DEA will continue to evaluate the profiling data from the analysis of seized fentanyl to discern any changes in the synthetic route or precursors employed.

18. Drug traffickers often use freight forwarders to ship fentanyl and fentanyl analogues from China. Such multiple transfers of custody make it difficult for law enforcement to track these packages. Are changes in the law needed to combat the problem of freight forwarding of fentanyl in the mail? If so, what are some suggestions to do so?

Response:

DTOs and TCOs attempt to conceal the origin and contents of packages containing illicit narcotics in a variety of ways. These DTOs and TCOs have often used freight forwarders to ship fentanyl and fentanyl related substances from China. DEA investigations have revealed that the original supplier will provide the package to a freight forwarding company or individual, who transfers it to another freight forwarder, who then takes custody and presents the package to customs for export. The combination of a chain of freight forwarders and multiple transfers of custody, combined with intentionally missing, incomplete, or inaccurate information, make detection and tracking extremely difficult. DEA does not believe there is a single nor simple domestic solution to this problem, because in many cases the freight forward system utilized is based out of China and presents jurisdictional difficulties for the U.S. Government. Furthermore, validation of information entered in the system by a foreign entity, including language translation, abbreviations, and other relevant consignor/consignee information, contribute to the difficulty. DEA would defer to USPS on suggested legislative ideas to assist in tracking packages.

19. What are the Organized Crime Drug Enforcement Task Forces (OCDETF)?

Response:

The OCDETF program was established in 1982 to conduct comprehensive, multilevel attacks on major drug trafficking and money laundering organizations. OCDETF is a partnership that brings together the combined expertise and unique abilities of federal, state, and local enforcement agencies. The principal mission of the OCDETF program is to identify, disrupt, dismantle and prosecute high-level members of drug trafficking, weapons trafficking, and money laundering organizations and enterprises.

20. How is OCDETF important in the effort combat illicit fentanyl trafficking?

Response:

The OCDETF program helps to dismantle major drug trafficking organizations and operations. This program has achieved many successes over the years, and has helped to disrupt the flow of drugs into the U.S. The greater the success of the OCDETF program the greater the positive impact in disrupting the supply of fentanyl into the U.S.

21. Many of the fentanyl sources operate on the dark web and use bitcoin for financing. Are DEA or Homeland Security Investigations (HSI) seeing any evidence that credit card companies, consignment carriers, or domain registrars are accepting bitcoin as payment?

Response:

Yes, DEA has seen this; however, it should be noted that if credit card companies, consignment carriers, or domain registrars are accepting bitcoin as payment, it is not necessarily indicative of being involved in illicit activity.

22. Are credit card companies, consignment carriers, and internet service providers (ISP) helping law enforcement to combat fentanyl trafficking on the dark web?

Response:

Domestic credit card companies, consignment carriers, and ISPs respond to legal process by law enforcement.

23. How have the dark web and crypto currency complicated attempts to target and shut down these supply chains? What is being done to overcome these difficulties?

Response:

In some cases, crypto-currency offers individuals pseudo-anonymity. Agents have experienced success in identifying the users behind the cryptocurrency addresses through serving legal process to cryptocurrency exchangers, and using analytical tools and previously seized dark net market data maintained by law enforcement.

24. How can data collection be improved to bolster your agency's intelligence and ability to interdict packages or seize narcotics, such as fentanyl?

Response:

DEA uses a variety of tools to collect data and intelligence to further criminal investigations. One such tool that is crucial for DEA's success is court-ordered lawful interception of electronic communications. DTOs and TCOs are increasingly utilizing encrypted applications to communicate. End-to-end encryption utilized on popular applications such as WhatsApp and Signal does not provide for lawful access to the content of communications, despite lawful authority such as a wiretap order to obtain that evidence. The majority of DEA investigations encounter DTO members utilizing end-to-end encrypted applications. DEA investigations reveal that utilization of end-to-end encrypted applications is occurring in both domestic and foreign DTOs and at all levels of the DTO hierarchy from cartel heads to local United States-based distributors. It is now extremely difficult for DEA to obtain lawful access to electronic evidence and intelligence necessary to investigate threats to public safety. In order for

DEA's data and intelligence collection to improve, DEA needs the capability to intercept communications over applications that employ end-to-end encryption.

25. Are labs at DEA, U.S. Customs and Border Protection (CBP), and FDA coordinating on fentanyl research and sharing fentanyl samples for each agency's specialized testing?

Response:

DEA conducts fentanyl-related research with other federal agencies that are focused on increasing the government's ability to detect illicit fentanyl shipments. DEA also routinely analyzes CBP seizures from the Southwest Border. These samples provide intelligence regarding the major sources of fentanyl to the United States and these conclusions are often compared and contrasted with similar information generated by CBP. DEA and CBP coordinate with FDA as relevant.

CBP strengthened its partnership with other federal agencies such as the U.S. Food and Drug Administration (FDA) and the U.S. Postal Inspection Service (USPIS), as well as worked closely with our counterparts in source countries such as China and Mexico to thwart the opioid supply chain. The deployment of CBP scientists to ports of entry allowed for real time analysis and scientific support, and an increase in the sharing of actionable intelligence, particularly as it relates to source countries, has helped inform targeting efforts.

26. CBP's written testimony mentions pollen testing and analysis is being conducted by CBP's Laboratories and Scientific Services scientists to geolocate illicit opioid shipments. Are labs at other agencies working on testing techniques that could help geolocate illicit fentanyl shipments?

Response:

DEA has attempted to identify analytical techniques for geo-sourcing fentanyl; however, since fentanyl is a synthetic drug, it does not contain markers that can aid in determining the origin or trafficking patterns of a seizure. Consequently, DEA has provided other material to CBP to perform pollen analysis on select drug seizures.

One capability CBP is using to close intelligence gaps related to the opioid supply chain is palynology, more commonly referred to as pollen analysis. Pollen analysis is conducted by CBP's Laboratories and Scientific Services (LSS) scientists on illicit narcotic shipments that have been seized by CBP Officers and Border Patrol Agents at the border. The pollen testing has been used to determine the origin of illicit opioid shipments which has been used to help identify transit routes of illicit opioids. CBP has developed intelligence products based on the pollen analysis and shared it with relevant partners.

27. Could federal labs work to complement each other’s effort to enhance geolocation of illicit fentanyl shipments?

Response:

Yes, and they do. To date, DEA has provided CBP a few seizure samples for pollen analysis.

Law enforcement collaboration and information-sharing is an essential tool to effectively produce actionable intelligence that can assist CBP and our partners identify targets and interdict illicit opioids from entering the country. Critical data points include accurate seizure data from all operational components and confirmed laboratory test results, particularly as it relates to fentanyl and its analogues. Part of the challenge is insuring there are consistent data reporting processes across the board, and that confirmed laboratory test results are captured in databases.

Questions from Rep. Burgess, M.D. (R-TX)

28. I have reviewed a document published by the Drug Enforcement Administration’s Diversion Control Division listing the DEA “cases against doctors”. I was surprised to see that this list, despite going back to the early 2000s, is only 174 pages long. There are a few years that peaked, but it seems like the numbers have generally been low. Can you explain the trends of investigations of physician registrants that resulted in the arrest and prosecution of the registrant?

<u>Year</u>	<u># Cases Against Doctors¹</u>
2000	25
2001	23
2002	66
2003	35
2004	74
2005	40
2006	32
2007	42
2008	24
2009	26
2010	25
2011	70
2012	44
2013	31
2014	21
2015	37

¹ United States, Drug Enforcement Agency, Diversion Control Division. Cases Against Doctors, available at <https://apps2.deadiversion.usdoj.gov/CasesAgainstDoctors/spring/main?execution=e1s1>.

2016	28
2017	47
2018	40
2019 (as of June 13)	14

Response:

The DEA uses its very limited resources to target the most egregious offenders. Some years doctors may be among the most serious offenders more than other years. The DEA must focus its limited resources to have the greatest impact to help preserve the public health and safety. It should also be noted that State prosecutions and DEA administrative actions result in the removal of numerous physicians' and other registrants' authority to dispense controlled substances.

Questions from Rep. Brooks (R-IN)

29. What is the availability of Narcan for all your law enforcement employees?

Response:

Narcan is available for all DEA employees.