



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, DC 20530

The Honorable Brett Guthrie
Chairman
Health Subcommittee
House Energy and Commerce Committee
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Guthrie:

Please find enclosed responses to questions arising from the appearance of the Associate Administrator, Business Operations, for the Drug Enforcement Administration, Jon C. DeLena, before the Committee on February 1, 2023, at a hearing titled "Lives Worth Living: Addressing the Fentanyl Crisis, Protecting Critical Lifelines, and Combatting Discrimination Against those with Disabilities." We apologize for our delay in providing these responses.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter. The Office of Management and Budget has advised us that there is no objection to the submission of this letter from the perspective of the Administration's program.

Sincerely,

A handwritten signature in blue ink, appearing to read "Slade Bond".

Slade Bond
Deputy Assistant Attorney General

Enclosure

cc:

The Honorable Anna Eshoo
Ranking Member
Health Subcommittee
House Energy and Commerce Committee
U.S. House of Representatives
Washington, DC 20515

FEB 05 2024

**House Energy and Commerce Committee
Health Subcommittee Legislative Hearing on
“Addressing the Fentanyl Crisis, Protecting Critical Lifelines, and
Combatting Discrimination Against Those with Disabilities”
February 1, 2023**

**Witness: Jon C. DeLena, Associate Administrator, Business Operation,
Drug Enforcement Administration**

The Honorable Cathy McMorris Rodgers

1. Has DEA identified any trends in illicit drug shipments? Is there international coordination to prevent fentanyl analogues and counterfeit drugs from crossing borders?

RESPONSE: The DEA has identified the Sinaloa Cartel and Jalisco New Generation Cartel (CJNG) as the two principal sources responsible for the vast amount of fentanyl killing Americans today. The DEA is laser focused on defeating both of these cartels. Indeed, these two cartels represent the single greatest threat to the health and safety of our communities.

To defeat the Sinaloa Cartel and CJNG, DEA is open to all forms of international cooperation, including the sharing of information on drug or chemical seizures and trafficker arrests; the shutting down of foreign-based clandestine labs; and the arrest and extradition of cartel members.

2. Understanding that most of the precursor chemicals needed to produce illicit fentanyl and fentanyl related substances come from China. Are there other countries who also supply these chemicals? Do the cartels in Mexico have the ability to produce these raw chemicals?

RESPONSE: As a global leader in pharmaceutical and chemical production, India has been a supplier of precursor chemicals as part of licit product supply chains, but there is little evidence to suggest Mexican cartels are acquiring their raw chemicals from India for the production of fentanyl. Data demonstrates that Mexican cartel interest in purchasing chemicals and precursor chemicals used for manufacturing fentanyl is not currently transitioning away from China.

In addition, Sinaloa Cartel and CJNG are producing some of the precursor chemicals used to manufacture fentanyl, including NPP, 4-ANPP, and 4-AP.

3. Transnational criminal organizations are adeptly shifting tactics to ensure that a steady supply of deadly drugs continues to flow into our communities.
 - a. Does DEA have a sense of how expansive the cartels are? For example, are drug dealers in our communities part of or associated with the cartels who are smuggling fentanyl and FRS into the U.S.?

RESPONSE: DEA has identified that the Sinaloa Cartel and CJNG are operating in all 50 states and in more than 50 countries around the world. These cartels are based in Mexico and

are responsible for the vast amount of fentanyl that is flooding into the United States and killing Americans. These two cartels, either directly or indirectly, supply fentanyl to nearly all of the dealers throughout the United States. For example, in May 2023, DEA announced the results of “Operation Last Mile,” a year-long national operation, targeting operatives, associates, and distributors affiliated with the Sinaloa Cartel and CJNG responsible for the last mile of fentanyl and methamphetamine distribution in the United States. “Operation Last Mile” resulted in the arrest of 3,337 associates of the Sinaloa Cartel and CJNG in the United States.

- b. Do the dealers in our communities know that street drugs like cocaine are adulterated with fentanyl / FRS?

RESPONSE: Yes.

4. What percent of DEA staff work in person five days per week? What percentage of meetings are held virtually versus in-person?

RESPONSE: On March 2022, DEA implemented a return to an in-office work posture. The worldwide footprint of the DEA includes nearly 10,000 employees working in 23 U.S. Divisions with 241 Domestic Offices and 93 Foreign Offices in 69 countries. This requires the agency to make decisions on the in-office presence regionally, by office, taking into consideration local COVID-19 community levels. Throughout the COVID-19 pandemic, much of DEA’s workforce, including Special Agents, Diversion Investigators, Forensic Chemists, Intel Specialists, Pilots, and Polygraphers continued to work in the office to support the DEA mission. Where it is conducive to offer workforce flexibilities, a hybrid approach with a mix of in-office and telework is used. Each regional Director determines the approach that can effectively support the DEA mission.

Moreover, during the COVID-19 pandemic, DEA strategically invested resources in technology tools and infrastructure that would permit employees to successfully execute the DEA mission outside of their regular workplace. These investments included video conferencing hardware, technology tools for all desktop and laptop computers, and upgrades to videoconferencing technology in meeting rooms to ensure effective communication in a hybrid work environment can be achieved. Such communication technology has enabled DEA to support effective hybrid work environments, when needed, and to stay competitive with the public and private sector.

The Honorable Michael Burgess (R-TX)

1. Do you believe that the southern border is secure?

RESPONSE: We respectfully defer to the Department of Homeland Security.

2. Is it possible that normal policies and procedures are not currently being enforced due to the record-breaking number of migrants coming into the country?

RESPONSE: We respectfully defer to the Department of Homeland Security border security.

3. What are the specific policies and procedures for agricultural products?

RESPONSE: We respectfully defer to the Department of Homeland Security and the Department of Agriculture border security and agriculture protection.

4. Could agricultural products and other specimens be of worry in the future?

RESPONSE: We respectfully defer to the Department of Homeland Security and the Department of Agriculture.

The Honorable Richard Hudson (R NC)

1. Mr. DeLena, you've had a lot of experience overseeing DEA operations. We see fentanyl seizures daily at the southern border...but how much fentanyl do you predict gets *through* to the U.S. from outside countries?

RESPONSE: From DEA's annual seizure data, we know that large amounts of fentanyl are entering the country. In 2022, through the hard work of our agents, DEA seized more than 59 million fentanyl-laced fake pills and more than 13,000 pounds of fentanyl powder. The 2022 seizures are equivalent to nearly 400 million lethal doses of fentanyl.

The Honorable Greg Pence (R IN)

The opioid and Fentanyl crisis is having a devastating impact on families across my district. State and local law enforcement agencies in Indiana's Sixth Congressional District are on the front lines, and they consistently communicate to me that they are overwhelmed by the illicit drugs flooding our community. According to the CDC, "there were an estimated 100,306 drug overdose deaths in the United States during the 12-month period ending in April 2021, an increase of 28.5% from the 78,056 deaths during the same period the year before." Our state and local partners need more resources to combat the ruthless cartels that are trafficking illicit drugs across our southern border and killing family members, friends, and neighbors in our communities.

1. How can federal law enforcement agencies, such as the DEA, leverage their resources to more closely coordinate with local law enforcement agencies to increase the detection and prevention of illicit drugs in Hoosier communities?

RESPONSE: DEA works very closely with our Indiana state and local law enforcement partners to investigate the most significant drug violators. We value these strong working relationships and have a shared mission of making our communities safer.

The foundation of our commitment to state and local partners is leveraging DEA's resources in joint-investigations. We deploy our resources while working side-by-side with our state and local law enforcement partners during joint-investigations or joint-enforcement operations.

Another centerpiece of collaboration with our state and local law enforcement partners is the DEA Task Force Officer (TFO) program. The TFO program combines the federal expertise of DEA with the investigative talent and detailed knowledge of the local community by state and local law enforcement officers to develop highly effective drug investigations. Currently, there are 54 TFOs representing 34 different Indiana law enforcement agencies assigned to eight DEA offices across the state of Indiana. These TFOs provide much needed reinforcement to many of DEA's priority initiatives, including combating the opioid epidemic and violent crime, and targeting Transnational Criminal Organizations.

DEA also participates in High Intensity Drug Trafficking Areas (HIDTA) groups that are located in Indianapolis, Evansville, Northwest Indiana, and Terre Haute. As recently as of June 22, 2023, DEA was involved in a joint investigation with the Bureau of Alcohol, Tobacco, and Firearms (ATF), Indiana State Police, and other local agencies that resulted in Federal charges for 19 individuals and the successful seizure of 320,000 Fentanyl pills, 117.9 pounds of methamphetamine, 113 firearms, 60 machinegun conversion devices, and more than \$521,000 in U.S. currency.

Moreover, the Indianapolis District Office has participated in Phase 1 and Phase 2 of Operation Overdrive. Operation Overdrive is DEA's data-driven and intelligence-led initiative aimed at reducing violence and drug poisoning deaths in communities with the highest rates of drug poisonings and drug-related violence. During those two phases,

Indianapolis DEA together with federal, state, and local law enforcement successfully seized fentanyl, methamphetamine, cocaine, and other substances, took 54 firearms off the streets, and arrested 43 people.

2. How do you think drug traffickers weigh the legal risks of using specific synthetic Fentanyl analogues and how can our federal law enforcement agencies best hold these criminals accountable for their actions?

RESPONSE: A top legislative priority of DEA is the permanent class-wide scheduling of fentanyl-related substances (FRS) as set out in the Administration’s 2021 recommendations to Congress, which were developed by DOJ, HHS, and ONDCP. Those recommendations also included additional public safety and public health provisions to combat the supply of illicit fentanyl and FRS and save lives. Class-wide scheduling of FRS has been effective to reduce the supply of new fentanyl-related substances. The Administration encourages Congress to pass all of its recommendations for a long-term, consensus approach to reduce the supply and availability of illicitly manufactured FRS, originally submitted to Congress in September 2021. On matters of criminal prosecution, DEA is a law enforcement agency and defers to the prosecutors and judges on criminal accountability.

The Honorable Robert Latta (R OH)

1. A new report has been released that shows 1 in 3 adults aged 18 to 25 suffered from a mental illness in the past year. However, through the successful rollout of telehealth services, many medications are now able to be prescribed to treat mental illness. Given the current mental health crisis in this country, what controlled medications will clinicians with the proposed Special Registration be permitted to prescribe through telehealth? More specifically, would there be any medications that are used to treat mental illness that would be excluded by the proposed Special Registration?

REPOSE: On March 1, 2023, DEA and the Department of Health and Human Services (HHS), published in the Federal Register two proposed rules: “Telemedicine prescribing of controlled substances when the practitioner and the patient have not had a prior in-person medical evaluation” (the General Telemedicine NPRM) and “Expansion of induction of buprenorphine via telemedicine encounter” (the Buprenorphine NPRM). These proposed rules were drafted to expand patient access to prescriptions for controlled medications through telemedicine encounters relative to the pre-COVID-19 Public Health Emergency landscape. In a footnote to the General Telemedicine NPRM, DEA described that the proposed regulations are consistent with, and would fulfill, the Special Registration mandate.

During the 30-day public comment period for the proposed rules, DEA received a record total of more than 38,000 comments. DEA takes these comments seriously and understands the importance of telemedicine for Americans across the country. Accordingly, DEA worked with HHS to temporarily extend the COVID-19 public health emergency telemedicine flexibilities that apply to prescribing controlled substances while the agencies work to find a way forward that will give Americans access to needed medications through telemedicine, with appropriate safeguards in place.

Under the extension, the public health emergency telemedicine flexibilities will remain in place until December 31, 2024.

2. Is there a timeline for the release of the Special Registration proposed rulemaking?

RESPONSE: DEA has worked with HHS to temporarily extend the COVID-19 public health emergency telemedicine flexibilities that apply to prescribing controlled substances while the agencies work to find a way forward that will give Americans access to needed medications through telemedicine, with appropriate safeguards in place.

Under the extension, the public health emergency telemedicine flexibilities will remain in place until December 31, 2024.

3. What happens if this proposed rule is not finalized by the Administration's expiration of the Public Health Emergency on May 11, 2023?

RESPONSE: DEA and HHS have temporarily extended the COVID-19 public health emergency telemedicine flexibilities while the agencies work to find a way forward that will give Americans access to needed medications through telemedicine, with appropriate safeguards in place.

Under the extension, the public health emergency telemedicine flexibilities for prescribing controlled substances will remain in place until December 31, 2024.

The Honorable Dan Crenshaw (R-TX)

1. How would the DEA respond to proposals of an expedited approval process for fentanyl-related treatments/Opioid Use Disorder treatments given the enormity of the fentanyl problem?

RESPONSE: Treating substance use disorder is a key part of DEA's core mission to protect public health and safety. Accordingly, DEA is committed to expanding access to medication for opioid use disorder (MOUD) to help those suffering from substance use disorder while maintaining effective controls against diversion. We welcome the opportunity to review any legislative proposals on this issue.

2. How important is additional funding for future fentanyl-related research to the work being done by DEA; and, if appropriated, how would they prioritize directing that funding?

RESPONSE: DEA strongly supports research into Schedule I substances, including fentanyl-related substances. Indeed, such research is critical to promote scientific progress, and to develop medicines that can improve health and save lives. Additional funding would continue to support and assist research into Schedule I substances that can lead to important medical breakthroughs in the future.

3. How could DEA imagine future fentanyl research (or a vaccine) being useful to their law enforcement efforts, particularly in border patrol and customs enforcement activities?

RESPONSE: The Department of Homeland Security is directly responsible for border security.

The Honorable Frank Pallone, Jr. (D-NJ)

1. Mr. DeLena, the DEA leads the federal government's enforcement of the Controlled Substances Act and plays a critical role in federal drug cases. How does the Administration's proposal address accountability for violating the law?

RESPONSE: DEA is a law enforcement agency. As such, we tenaciously pursue the criminals that threaten the safety and health of our communities. Once charges have been brought, it is ultimately the decision of prosecutors and judges to determine accountability for violating the law.

2. Approximately what percentage of illicit fentanyl is intercepted by law enforcement?

RESPONSE: In 2022, DEA seized more than 59 million fentanyl-laced fake pills and more than 13,000 pounds of fentanyl powder. The 2022 seizures are equivalent to nearly 400 million lethal doses of fentanyl.

3. Approximately what percentage of illicit fentanyl is seized at legal ports of entry?

RESPONSE: We defer to the U.S. Customs and Border Protection's Office of Field Operations which is responsible for border security at ports of entry.

4. Approximately what percentage of illicit fentanyl is seized between legal ports of entry?

RESPONSE: We defer to U.S. Customs and Border Protection, U.S. Border Patrol which is responsible for border security between ports of entry.

5. Approximately what percentage of illicit fentanyl is seized in the mail?

RESPONSE: DEA defers to the United States Postal Inspection Service for this response.

6. Of the amount of illicit fentanyl not seized, what is the most likely method of entry into the United States?

RESPONSE: Drug cartels use every possible means to get fentanyl into the United States, including using the postal system. However, most of the fentanyl entering the United States is likely brought in in vehicles, trucks, and other forms of transport that cross through ports of entry at the Southwest Border. The fentanyl is hidden inside of the voids of passenger and commercial vehicles and commingled with or disguised as legitimate commercial goods. Fentanyl also enters the United States away from ports of entry by, among other means, boats, private planes, illicit underground cross-border tunnels, and ATVs.

7. Is there any evidence that the majority of illicit fentanyl not seized by law enforcement enters the country on the backs of migrants crossing unlawfully between ports of entry?

RESPONSE: Drug cartels use every possible means to get fentanyl into the United States, including the postal system. However, most of the fentanyl entering the United States is likely brought in in vehicles, trucks, and other forms of transport that cross through ports of entry at the Southwest Border. The fentanyl is hidden inside of the voids of passenger and commercial vehicles and commingled with or disguised as legitimate commercial goods. To a much lesser extent, fentanyl also enters the United States away from ports of entry by, among other means, boats, private planes, illicit underground cross-border tunnels, and ATVs. DEA defers to the Department of Homeland Security for further information.