

Homeland Security Implications of the Opioid Crisis

Prepared Written Testimony and Statement

of

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Before

U.S. House of Representatives
Committee on Homeland Security

Subcommittee on Intelligence and Counterterrorism

and

Subcommittee on Border Security, Facilitation, and Operations

310 Cannon House Office Building

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 five 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 five 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 U.S.

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% in 2016 over 2015.

Investigations by my office have interdicted four tons of narcotics in the past five 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% of drugs we seized. By 2018, fentanyl was present in 40% 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 of 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 U.S. 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.

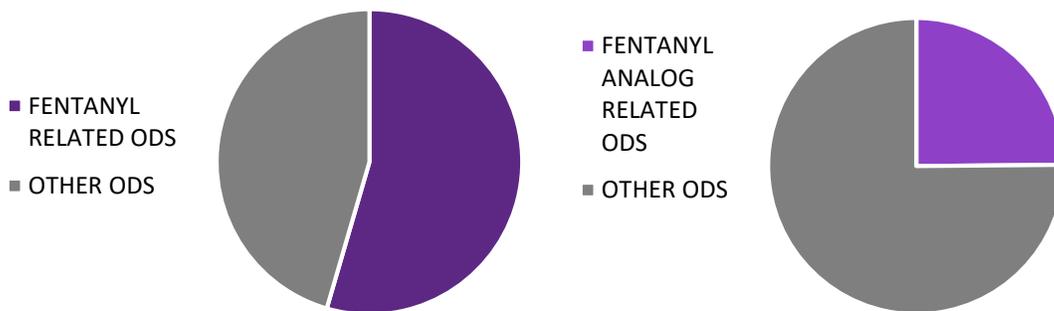
New Challenges Posed by Fentanyl Analogs

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% 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.

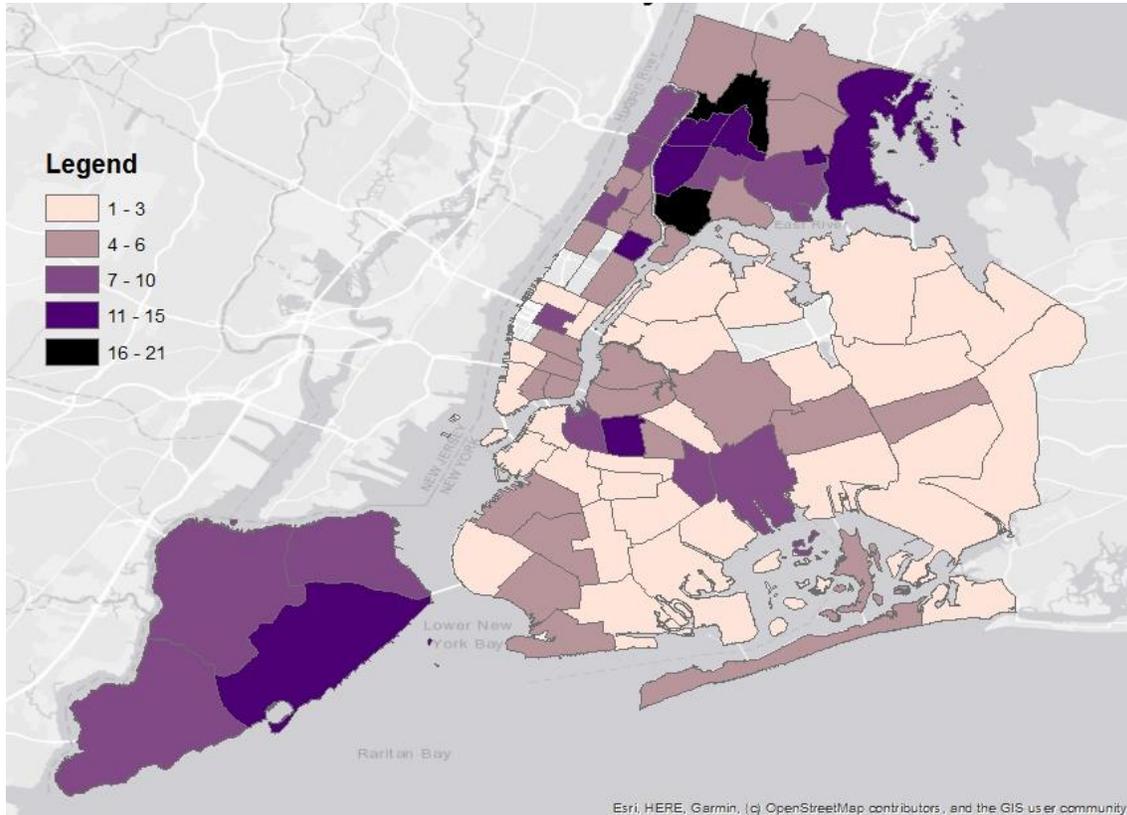
Earlier this week, my office announced a New York State Grand Jury Report on the subject of fentanyl analogs. The report built upon joint investigations with the NYPD, the DEA, the New York Drug Enforcement Task Force (NYDETF) and other partners. The Grand Jury heard evidence regarding lack of regulation 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 of 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 five 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.