

Chairman Gregg Harper
Opening Statement
“The DEA’s Role in Combating the Opioid Epidemic.”
March 20, 2018

Today the Subcommittee on Oversight and Investigations convenes a hearing on the Drug Enforcement Administration’s (DEA) role in combating the opioid epidemic. The opioid crisis is a top priority of the nation and of this Committee. Opioid-related overdoses killed more than 42,000 people in 2016--115 deaths each day. An estimated 2.1 million people have an opioid use disorder.

Since our earliest hearings in 2012, this Subcommittee has been investigating various aspects of the opioid epidemic. In May 2017, the Committee opened a bipartisan investigation into allegations of “opioid-dumping,” a term to describe inordinate volumes of opioids shipped by wholesale drug distributors to pharmacies located in rural communities, such as those in West Virginia. From press reports and this investigation, we have learned of opioid shipments in West Virginia that shock the conscience:

- Over 10 years, 20.8 million opioids were shipped to pharmacies in the town of Williamson, home to approximately 3,000 people.
- Another 9 million opioids were distributed in just two years to a single pharmacy in Kermit, West Virginia, population 406.
- Between 2007 and 2012, drug distributors shipped more than 780 million hydrocodone and oxycodone pills in West Virginia.

These troubling examples raise serious questions about compliance with the Controlled Substances Act, administered by the DEA.

The CSA was enacted through this Committee in 1970. This law established schedules of controlled substances and provided the authority for the DEA to register entities engaged in the manufacture, distribution, or dispensation of controlled substances. The CSA was designed to combat diversion by providing for a closed system of drug distribution, in which all legitimate handlers of controlled substances must obtain a DEA registration, and as a condition of maintaining such registration, must take reasonable steps to ensure their registration is not being used as a source of diversion. The DEA regulations specifically require all distributors to report suspicious orders of controlled substances, in addition to the statutory responsibility to exercise due diligence to avoid filling suspicious orders.

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This hearing has two goals. First, the Subcommittee seeks to determine how the DEA could have done better to detect and investigate suspicious orders of opioids, such as massive amounts of opioids shipped to West Virginia. The DEA has acknowledged to the Committee that it could have done better in spotting and investigating suspicious opioid shipments. What were the deficiencies, and has DEA addressed them? DEA has a comprehensive electronic database containing specific information at the pharmacy level. Could DEA use that database more effectively to investigate diversion and to facilitate compliance for the regulated industry?

The second goal is to find out whether the current DEA law enforcement approach is adequately protecting public safety. DEA statistics reveal a sharp decline since 2012 in certain DEA enforcement actions, Immediate Suspension Orders (ISOs) and Orders to Show Cause (OTSCs). The number of ISOs issued by the DEA plummeted, from 65 in 2011 to just six last year. Former DEA officials alleged in the Washington Post and on CBS “60 Minutes,” that the DEA’s Office of Chief Counsel imposed evidentiary obstacles and delays for ISO and OTSC submissions from the DEA field. The conflict between the DEA lawyers and the DEA investigators allegedly resulted in experienced DEA personnel leaving the agency and a loss of morale.

The goal of laws regulating controlled substances is to strike the right balance between the public interest in legitimate patients obtaining medications in a timely manner against another weighty public interest in preventing the illegal diversion of prescription drugs, particularly given the rampant and deadly opioid epidemic throughout the nation. Our investigation is intended to assist the Committee’s continuing legislative effort to strike the right balance.

It is unfortunate that it’s been a battle to get information out of the DEA. We have made recent progress with the DEA, but at this time our investigation still does not have the full picture. DEA has made some commitments that should hopefully help the Committee gain the information it needs, and we expect the DEA to honor these commitments.

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I welcome today’s witness, DEA Acting Administrator Robert Patterson. We have serious concerns about policy to discuss, but we are steadfast in our support and salute the dedicated workforce at the DEA. We need an effective DEA in this crisis.

I also want to thank the Minority for their partnership and hard work in this investigation. I now yield to my friend, the Ranking Member, Ms. DeGette.