



Department of Justice

STATEMENT OF
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ACTING ADMINISTRATOR
DRUG ENFORCEMENT ADMINISTRATION

BEFORE THE
SUBCOMMITTEE ON CRIME, TERRORISM,
HOMELAND SECURITY AND INVESTIGATIONS
COMMITTEE ON THE JUDICIARY
U.S. HOUSE OF REPRESENTATIVES

FOR A HEARING ON
OVERSIGHT OF THE DRUG ENFORCEMENT ADMINISTRATION

PRESENTED

APRIL 4, 2017

**Statement of
Chuck Rosenberg
Acting Administrator
Drug Enforcement Administration**

**Before the
Subcommittee on Crime, Terrorism, Homeland Security, and Investigations
Committee on the Judiciary
U.S. House of Representatives**

April 4, 2017

Chairman Gowdy, Ranking Member Jackson-Lee, and distinguished Members of the Judiciary Committee: On behalf of the nearly 9,000 employees of the Drug Enforcement Administration (“DEA”), thank you for the opportunity to be here today.

Our mission is to identify, investigate, disrupt, and dismantle drug trafficking organizations responsible for the production and distribution of illegal drugs. We are responsible for enforcing the Controlled Substances Act and work closely with our local, State, Federal, and our international counterparts to bring major drug traffickers like Joaquin “El Chapo” Guzman Loera to justice. Enforcement of our nation’s drug laws is, and always will be, our top priority. We strive faithfully to execute that mission with excellence and integrity at all levels and are continually looking for ways to further improve our operations.

In the past two years, I have visited approximately 98 DEA offices throughout the country. I have met and talked with many DEA employees at all levels, from Senior Executive Service (“SES”) managers at headquarters to new employees assigned to our field divisions. For the first time, we conducted a Leadership Engagement Survey, completed by more than 80 percent of our employees. More than 900 leaders received a detailed Leadership Profile that summarized their results across eight critical dimensions: integrity, planning and organization, leadership, communications, interpersonal skills, organizational awareness, adaptability, and problem solving. Through my visits around the country and this survey I have learned about what we do well, and areas where we can do much better. As a result, I have implemented a number of projects and initiatives, all geared towards improving the health of DEA and propelling us forward so we can counter the constantly evolving drug threat. I would like to tell you about a few of our efforts.

Our Projects and Initiatives

Core Values

We launched our Core Values program in November 2015. These values reflect what it means to be a DEA employee and how our personnel should conduct themselves in executing our mission. These values, which are posted in all DEA offices around the world, are

1. Dedication to upholding the Constitution of the United States and the Rule of Law.
2. Respect and compassion for those we protect and serve.
3. Faithful and effective service to our country and its citizens.
4. Devotion to our core mission of enforcing the nation's drug laws and enhancing public health, safety, and national security.
5. Uncompromising personal, professional, and institutional integrity.
6. Accountability to ourselves, our Agency, and those we serve.
7. Leadership and courage in our profession, communities, and lives.
8. Commitment to diversity and excellence.

We use these Core Values in connection with hiring and training for both new and current employees. They form the cornerstone for our Compliance Program, geared towards holding ourselves accountable and maintaining our integrity and reputation for future generations.

Implementation of a Compliance Program

We established a compliance office last year. Our chief compliance officer is a former Army officer who taught at West Point and helped run the Federal Bureau of Investigation's ("FBI") Office of Integrity and Compliance. Under her leadership, our office is providing a formal process for identifying, assessing, and mitigating risks across the organization. The program sets the stage for open and honest communication across all of DEA, so we can identify and mitigate our risks. The office also oversees our Policy Administration Section, charged with analyzing, centralizing, and updating policy across DEA. This section has been able to complete significant updates to our Agents Manual, which includes our Confidential Source policies.

Discipline Process

Our culture is a healthy and good one, and the vast majority of DEA employees perform their job to the highest standards of integrity, honesty, and ethical behavior. But we need to be able to respond to instances of misconduct effectively, efficiently, and transparently. Over the past two years, we have improved our ability to investigate allegations of misconduct. One of the largest hurdles was a lack of staffing within those offices charged with carrying out this important task.

Upon my arrival in May 2015, our Office of Professional Responsibility (“OPR”) had significant case backlogs and its staffing levels stood at approximately 50 percent. OPR is now staffed at 90 percent, an increase squarely aimed at creating more thorough, efficient, and accurate investigations. We also established processes designed to ensure that investigations are properly prioritized and progressing in a timely manner. Our Board of Professional Conduct, charged with reviewing all integrity and misconduct allegations investigated by OPR, is now also fully staffed and the number of Deciding Officials was raised from two to three. Through that effort, we have reduced the backlog of cases before the Board of Professional Conduct and before our Deciding Officials, significantly reducing case resolution timelines and allowing us to punish the most serious transgressions swiftly and fairly.

We also established a semi-annual “Transparency Report” that allows our employees to see the type and number of cases handled in our disciplinary system, as well as a sample of cases that we handle (stripped of personal information to protect employee privacy). This report, which we issued in June of last year and January of this year, serves as a reminder of rules and regulations and the consequences for violating those rules and regulations.

We worked closely with the Department of Justice (“DOJ”), Office of Professional Responsibility in revising and enhancing our discipline system. In that endeavor, we have baselined our penalties with other DOJ components and have revised and promulgated serious penalties for sexual harassment and sexual misconduct offenses.

Commitment to Leadership

In May 2015, we had more than two dozen vacant SES positions, many of which were unfilled for years, creating a senior leadership vacuum and a series of “acting” managers. We established an SES Advisory Board to help us vet, interview, and select the best possible candidates for our senior leadership positions. As of May 2016, for the first time in several years, all SES positions within the DEA were, and continue to be, filled.

Insider Threat Program

When I arrived at DEA, I learned that we had not yet established a formal insider threat and detection capability in support of DOJ’s Insider Threat Prevention and Detection Program (“ITPDP”) and as required by Executive Order 13587. Relying on guidance from our Justice Management Division, FBI, and the U.S. Marshals Service counterparts, we are building an Insider Threat Center designed to protect our networks. Last year, the National Insider Threat Task Force (“NITTF”) completed independent reassessments of our insider threat program and commended DEA for our commitment to the insider threat mission, our accomplishments to date in establishing and staffing an insider threat program, and, in particular, the progress we have made since the initial assessment. We still have a lot of work to do but we are making steady progress while at the same time, ensuring that the program has undergone adequate legal review.

Updating Wiretap Policies

We updated our wiretap policies, through the promulgation of a checklist required for all electronic intercept investigations – Federal and State. That checklist, in place since March 2016, improves how we conduct and manage our wiretaps in a number of areas, including a requirement of senior level field approval for all wiretaps, as well as senior headquarters’ oversight for sensitive cases. Our field division leaders must also determine that each proposed wiretap is in furtherance of the Division Enforcement Strategy and consult with the United States Attorney’s Office (“USAO”) about the case prior to using this investigative tool. The Checklist is fully deployed and has improved the efficiency and efficacy of our wiretap operations.

Countering the Opioid Abuse Crisis

Today, drug overdoses are the leading cause of injury-related death in the United States, eclipsing deaths from motor vehicle crashes or firearms.¹ During 2015, drug overdoses accounted for 52,404 U.S. deaths, including 33,091 (63.1%) that involved an opioid. In addition, 91 Americans die every day from an opioid overdose (that includes prescription opioids and heroin.)²

DEA’s 360 Strategy

To counter the opioid crisis, we initiated and continue to expand our 360 Strategy. The strategy leverages existing Federal, State, and local partnerships to address the problem on three different fronts: law enforcement, diversion control, and demand reduction. Our enforcement activities are directed at the violent cartels and drug trafficking gangs responsible for feeding the heroin and prescription drug epidemic in our communities. We are also enhancing our diversion control efforts and working with community partners for them to implement evidence-based programs and efforts designed to reduce demand and to prevent the same problems from resurfacing.

As part of DEA’s 360 Strategy, we recently partnered with Discovery Education, a division of Discovery Communications, to develop and distribute a prescription opioid and heroin education curriculum to middle and high school students, their teachers, and parents. We are calling it *Operation Prevention* and have started nationwide deployment of this program. Our goal is to educate kids about the true danger of prescription opioids and heroin, and to kick start conversations in the home and classroom. This award-winning program is available at no cost to schools nationwide and include resources such as standards-aligned lesson plans, interactive student activities, parent resources and more – all available through an online portal. *Operation Prevention* launched in November 2016 with a virtual field trip, viewed live

¹Centers for Disease Control and Prevention, Web-based Injury Statistics Query and Reporting System (“WISQARS”) [online], (2014), available at: <http://www.cdc.gov/injury/wisqars/fatal.html>.

² Rudd RA, Seth P, David F, Scholl L. Increases in Drug and Opioid-Involved Overdose Deaths — United States, 2010–2015. MMWR Morb Mortal Wkly Rep 2016;65:1445–1452. DOI: <http://dx.doi.org/10.15585/mmwr.mm655051e1>.

by more than 200,000 students, in all 50 States and in seven foreign countries. The program will run for at least three consecutive school years (through spring 2019) and will be free for all law enforcement, prevention, treatment, and community groups to use and distribute.

Reinstatement of DEA-led National Prescription Drug Take Back

To dispose of unused, unwanted, or expired prescription drugs that are highly susceptible to diversion and misuse, I reinstated our biannual National Drug Take Back Initiative. Since making that decision, we have held three Take Back events in September 2015, April 2016, and October 2016. During the most recent event in October, the public turned in 731,269 pounds — almost 366 tons — of medication to DEA and more than 4,000 of our community partners at almost 5,200 collection sites nationwide. Over the life of the program, 7.1 million pounds (more than 3,500 tons) of prescription drugs have been removed from medicine cabinets, kitchen drawers, and nightstands by citizens around the country. We intend to continue this program and have scheduled our next National Drug Take Back Initiative for April 29, 2017.

Reorganization of DEA's Office of Diversion Control

In 2016, we reorganized and elevated our Office of Diversion Control. It is now the Diversion Control Division (“DC”), headed by an Assistant Administrator and reporting directly to our Deputy Administrator. As our Nation struggles with epidemic levels of prescription drug abuse, this change reflects better the scale and scope of DC’s responsibilities as well as the complexity of its regulatory and enforcement work. DC is improving its communication and cooperation with its nearly 1.7 million registrants, who represent medical professionals, pharmaceutical drug manufacturers, and those in the drug supply chain. We work with our registrant population by (1) hosting Pharmacy Diversion Awareness Conferences (“PDACs”) throughout the country; (2) administering the Distributor Initiative Program with a goal of educating registrants on how to detect and guard against diversion activities; and (3) maintaining an open dialogue with various national associations such as the National Association of Boards of Pharmacy (“NABP”), American Medical Association (“AMA”), and other groups to address diversion problems and educate the medical community on improving prescribing practices.

Proposed Rule: Special Assistant United States Attorney Pilot Program

We continue to proactively pursue criminal and/or civil cases with United States Attorneys’ Offices across the country. DOJ recently announced settlements with two of the country’s largest distributors, Cardinal Health (\$34 million) and McKesson (\$150 million). These actions demonstrate that national pharmaceutical drug companies are not exempt from following the law. These actions demonstrate our commitment to holding all drug companies accountable when they violate the law and threaten public health and safety.

We are also exploring new opportunities to improve the civil and criminal prosecution of registrants who are operating outside the law. As part of this effort, on March 21, 2017, we published a Notice of Proposed Rulemaking to expand on already-recognized investigative activities funded by the Diversion Control Fee Account (“DCFA”) and allow us to hire attorneys in support of these activities. These Special Assistant United States Attorneys, hired by DEA and paid for by the DCFA, will be detailed to United States Attorney’s Offices in “hot spots” around the country to provide prosecutorial support to Federal criminal and civil diversion investigations.

Some Challenges Moving Forward

Hiring and Resource Allocation

To balance current and emerging drug threats against available resources, we implemented an internal review of our current staffing levels throughout our domestic field divisions, foreign country offices, and within various headquarters components to ensure proper resource allocation. Based on the results of this ongoing review, our staffing throughout 221 domestic offices in 21 Divisions and 92 foreign offices in 70 countries has been and will continue to be adjusted based on existing, emerging, and evolving threats in alignment with our priorities.

Drug Threat – Fentanyl

The illicit drug market is constantly evolving. We are increasingly encountering counterfeit prescription drugs laced with fentanyl and fentanyl derivatives, as well as heroin laced with fentanyl. Traffickers often use freight forwarders to mail fentanyl and fentanyl analogues from China. Several 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 makes it difficult for law enforcement to track these packages. Often, the package will intentionally have missing, incomplete, and/or inaccurate information.

According to our National Forensic Laboratory Information System (NFLIS), from January 2013 through December 2016, a total of 50,440 fentanyl reports were identified by Federal, State and local forensic laboratories.³ This drug, which is significantly more potent than street level heroin, presents a significant risk of overdose to users and to the law enforcement personnel who may come into contact with the substance during the course of their work.

³U.S. Department of Justice, Drug Enforcement Administration, National Forensic Laboratory Information System, actual data queried on March 22, 2017.

During 2016, there were 28,751 fentanyl reports compared to 1,041 reports in 2013, a more than twenty-five fold increase over the past four years⁴.

Conclusion

We are committed to enforcing our Nation's drug laws and working with our partners at all levels to protect the health and safety of the public. Thank you again for the opportunity to appear before the committee today. I look forward to answering your questions.

⁴U.S. Department of Justice, Drug Enforcement Administration, National Forensic Laboratory Information System, actual data queried on March 22, 2017.