



TESTIMONY OF

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For a Hearing

BEFORE

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

ON

“Stop the Importation and Trafficking of Synthetic Analogues Act”

June 27, 2017
Washington, D.C.

Introduction

Chairman Gowdy, Ranking Member Jackson Lee, and distinguished Members of Subcommittee. Thank you for the opportunity to appear today to discuss the role of U.S. Customs and Border Protection (CBP) in combating the flow of dangerous synthetic drugs, including synthetic opioids such as fentanyl, into the United States.

As America's unified border agency, CBP plays a critical role in the Nation's efforts to keep dangerous synthetic drugs out of the hands of the American public. Interdicting drugs at and in between our Ports of Entry (POEs), leveraging targeting and intelligence-driven strategies, and working with our partners to combat Drug Trafficking Organizations (DTOs) are key components of our multi-layered, risk-based approach to enhance the security of our borders. This layered approach reduces our reliance on any single point or program and extends our zone of security outward ensuring our physical border is not the first or last line of defense, but one of several.

Synthetic Drug Trends, Interdictions, and Challenges

Several different types of illicit synthetic drugs, also called "designer drugs" are currently being sold to end-users in the United States, including synthetic cannabinoids,¹ synthetic cathinones,² and synthetic opioids such as fentanyl. Interdicting illicit synthetic drugs is both challenging and complex. Illicit synthetic opioids in particular present very real health and safety risks to law enforcement personnel and first responders, as well as to end users. In its pure powder form, fentanyl is approximately 50-100 times more potent in its intensity, speed of action, and effect on organs than morphine, and, at first glance, it is often mistaken for other drugs which appear as white powders such as cocaine or heroin.

The majority of illicit synthetic drugs trafficked into the United States are produced in other countries and are principally smuggled through international mail facilities, express consignment carrier facilities, or through POEs along the Southern land border. In Fiscal Year (FY) 2016, CBP officers and agents seized or disrupted more than 3.3 million pounds of narcotics across the country,³ including approximately 46,000 pounds of methamphetamine, approximately 200,000 pounds of cocaine, and approximately 4,800 pounds of heroin. CBP seizures of fentanyl, the most frequently seized synthetic opioid, remain relatively small compared to heroin, but have significantly increased over the past three years, from approximately two pounds seized in FY 2013 to approximately 440 pounds seized in FY 2016. While fentanyl is the most frequently-seized synthetic opioid, CBP has also encountered various types of fentanyl analogues.⁴

¹ Synthetic cannabinoids are drugs that do not contain marijuana but are pharmacologically similar to tetrahydrocannabinol. (<https://www.cdc.gov/mmwr/volumes/65/wr/mm6527a2.htm>)

² Synthetic cathinones, more commonly known as "bath salts," are synthetic drugs chemically related to cathinone, a stimulant found in the khat plant. (<https://www.drugabuse.gov/publications/drugfacts/synthetic-cathinones-bath-salts>)

³ FY 2016 Border Security Report, U.S. Customs and Border Protection, <https://www.cbp.gov/sites/default/files/assets/documents/2016-Dec/CBP-fy2016-border-security-report.pdf>

⁴ These include: acetylfentanyl, butyrylfentanyl, beta-hydroxythiofentanyl, para-fluorobutyrylfentanyl, pentanoylfentanyl, alpha-methyl acetylfentanyl, para-fluoroisobutyrylfentanyl, para-fluorofentanyl, carfentanil, furanylfentanyl, and most recently benzodioxolefentanyl, acrylfentanyl, and methoxyacetylfentanyl. Also, CBP's Laboratories and Scientific Services Directorate (LSSD) has presumptively identified n-hexanoyl fentanyl and benzoyl fentanyl, and are working diligently to confirm these new substances.

Additionally, CBP interdicted approximately 2,660 pounds of synthetic cannabinoids in FY 2015; approximately 1,214 pounds in FY 2016; and approximately 834 pounds to date in FY 2017. Between April 2016 and April 2017 CBP encountered 38 unique cathinones and 29 unique cannabinoids.

One way in which illicit synthetic drugs enter the United States is through online purchases which are delivered to domestic purchasers via U.S. mail or express consignment couriers. DTOs and individuals purchase illicit synthetic drugs online. DTOs and individuals can also access open source and dark web marketplaces for the tools needed for manufacturing synthetic drugs. In the case of fentanyl, powdered fentanyl, pill presses, and binding agents can be purchased online and then shipped into the United States, primarily using the U.S. Mail or express consignment couriers. We assess these transactions made over both the open and dark webs and comprised of smaller quantities of fentanyl (less than one kilogram) will likely continue in FY 2017. Based on increased flow and improved detection capabilities, CBP anticipates that illicit synthetic opioid seizures will rise over FY 2017.

U.S. law enforcement suspects that there are also some clandestine fentanyl production labs in Mexico that likely obtain precursor chemicals from China. Synthetic opioids such as fentanyl are sometimes mixed into heroin to increase drug potency. Synthetic opioids mixed with adulterants are also sold to U.S. end users. These practices stretch the product of DTOs, increasing profits. The practice also increases the safety risk to heroin users, who are sold heroin of unpredictable strengths and compositions. Along the Southwest border, the practice of mixing synthetic opioids into heroin makes it more challenging for CBP to accurately quantify how much synthetic opioid is seized at the border.

In the mail and express consignment environments, DTOs and individual purchasers move synthetic drugs such as fentanyl in small quantities to try to evade detection, making targeting a challenge in both the mail and express consignment environments.⁵ In the express consignment environment, shipments are processed at 26 facilities located throughout the United States. Prior to arrival of the express parcels, CBP reviews the manifest information transmitted by the express consignment operators and targets those packages requiring examination. All parcels presented to CBP for examination are subjected to Non-Intrusive Inspection (NII) to include X-Ray and Radiation Portal Monitoring. CBP operates in all 26 facilities nationwide.

CBP also operates within nine major International Mail Facilities (IMF), inspecting international mail arriving from more than 180 countries. In the mail environment, the lack of advanced manifest data which would aid in targeting shipments, and the sheer volume of mail and the hazardous nature of various types of synthetic drugs, present challenges to interdicting synthetic opioids. The processing of inbound international mail is primarily manual, requiring CBP Officers to sort through large bags or bins of parcels.

Despite these challenges, CBP Officers continue to utilize experience and trained intuition to target suspect packages for inspection. On April 20, 2017, CBP Officers working at the IMF in

⁵ CBP's Laboratories and Scientific Services Directorate (LSSD) has observed the range of synthetic cathinone and cannabinoid samples to be as small as one gram to as large as one kg, with the typical sample weight around 250 – 500 grams.

Chicago, Illinois intercepted a package from China destined for LaFayette, Indiana that was not manifested and had no declared value. CBP Officers selected the package for further examination due to prior seizures utilizing similar packaging. A physical examination of the package revealed 2.27 pounds of a fentanyl analogue. CBP has also worked in coordination with local police departments, as in the case of a man arrested in Rohnert Park, California in late 2016 for collecting a package shipped internationally through the mail containing \$30,000 worth of MDMA, also called Ecstasy or Molly.⁶

In the land border environment, CBP uses the same drug-interdiction methodology to seize illicit synthetic drugs arriving from Mexico as it uses to detect other illicit drugs. However, the detection of illicit synthetic drugs in particular remains challenging. Just as the illicit drug manufacturers seek to outpace the law with new drug analogues, new drug analogues can come and go faster than the canine training needed to detect these emerging drugs.

CBP Resources and Capabilities to Detect, Target and Interdict Fentanyl

CBP, with the support of Congress, has made significant investments and improvements in our drug detection technology and targeting capabilities. These resources, along with enhanced information sharing and partnerships, are critical components of CBP's ability to identify and deter the entry of dangerous illicit drugs in all operational environments.

CBP's National Targeting Center (NTC)

Global trade and travel continue to increase in pace, and threats to the United States and our allies continue to evolve. Adversaries are always attempting to exploit vulnerabilities in global travel and supply chains. The NTC is the entity within CBP where advance data and access to law enforcement and intelligence records converge to facilitate the targeting of those travelers and items of cargo which pose the highest risk to our security- in all modes of inbound transportation. The NTC employs a layered enforcement strategy taking in large amounts of data and using sophisticated targeting tools and subject matter expertise to analyze, assess, and segment risk at every stage in the trade and travel life cycles. As the focal point of that strategy, the NTC leverages classified, law enforcement, commercial, and open-source information in unique, proactive ways to identify high-risk travelers and shipments at the earliest possible point prior to arrival in the United States.

CBP's NTC – Cargo (NTC-C) Narcotics Targeting team addresses illicit narcotics smuggling on a global scale through an aggressive targeting and analysis program, identifying narcotics smuggling schemes. NTC-C leads CBP efforts to identify and respond to global trends and patterns in the narcotics trade. NTC-C narcotics analysts have identified numerous smuggling trends and combatted DTOs by successfully identifying shipments of drugs, pill presses, and precursor chemicals.⁷

⁶ Per <http://www.sfchronicle.com/crime/article/Rohnert-Park-man-busted-in-club-drug-smuggling-10623082.php?ipid=gsa-sfgate-result>

⁷ The two main materials that are used to produce fentanyl, NPP and ANPP, are federally regulated. However, other precursor chemicals used to produce fentanyl are currently non-regulated and have legitimate uses. CBP has the

To bolster its targeting mission, the dedicated men and women of the NTC collaborate with critical partners on a daily basis including U.S. Immigration and Customs Enforcement – Homeland Security Investigations (ICE-HSI), the Drug Enforcement Administration (DEA), the Federal Bureau of Investigation, the Food and Drug Administration Office of Criminal Investigations (FDA/OCI), other members of the Intelligence Community, and the United States Postal Inspection Service (USPIS). Moreover, NTC works in close coordination with several pertinent taskforces including the Organized Crime Drug Enforcement Task Forces (OCDETF), the High Intensity Drug Trafficking Areas, and the Joint Interagency Task Force-West, as well as the Department’s Joint Task Force-West and Joint Task Force–Investigations.

Non-Intrusive Inspection Equipment

At our nation’s POEs CBP’s Office of Field Operations (OFO) utilizes technology, such as NII x-ray and gamma ray imaging systems and Fourier Transform Infrared Spectroscopy (FT-IR) equipment to detect the illegal transit of synthetic drugs hidden on people, in cargo containers, and in other conveyances entering through POEs, and at international mail and express consignment carrier facilities. Since September 11, 2001, NII technology has been a cornerstone of the CBP multi-layered enforcement strategy. As of May 1, 2017, 304 Large-Scale (LS) NII systems have been deployed to, and in between, our POEs. In FY 2016, LS-NII systems were used to conduct more than 6.5 million examinations resulting in more than 2,600 seizures and over 163,128 kilograms (359,636 pounds) of seized narcotics.⁸

Advance Information, Targeting, and Information Sharing

Substantive and timely information sharing is critical in targeting and interdicting shipments as well as individuals who move drugs and illicit merchandise from the POEs to their destinations throughout the United States. CBP contributes to the whole-of-government effort to identify and disrupt sophisticated routes and networks used by DTOs for the smuggling of illicit drugs by sharing critical information on individuals and cargo with investigative and intelligence partner agencies.

authority to seize precursor chemicals if they can be identified as having illicit end-uses, including the production of illicit drugs. CBP targets precursor chemicals transiting the United States with destinations to Mexico and other countries. When these shipments are identified through interagency collaboration as having illicit end-uses, the shipments are offloaded for further inspection and enforcement action by external agencies such as the DEA and ICE-HSI.

In addition to targeting illicit substances directly, CBP targets related equipment such as pill presses and tablet machines. DEA regulates pill press/tablet machines. Additionally there is an ICE-HSI Special Agent assigned to the DEA Special Operations Division (SOD) who oversees the investigations of pill press/tablet machine imports being diverted for illicit uses. The Diversion Coordinator works closely with the NTC to identify and target individuals importing and diverting pill press/tablet machines to produce fentanyl and other synthetic drugs. In FY 2014, 24 pill press/tablet machines were seized by CBP, and the number increased to 51 in FY 2015 and 58 in FY 2016.

⁸ Recent specific examples include: On May 8, 2017, CBP Officers at the Port of San Ysidro, California, discovered 23.99 pounds of fentanyl and 23.90 pounds of methamphetamine concealed in the spare tire of a privately owned vehicle. On April 26, 2017, CBP Officers at the Port of Nogales, Arizona, seized 23.15 pounds of fentanyl concealed within the dashboard of a privately owned vehicle.

An important element of CBP's layered security strategy is obtaining advance information to help identify shipments that are potentially at a higher risk of containing contraband. Under the *Security and Accountability for Every Port Act* or *SAFE Port Act of 2006*, (Pub. L. No. 109-347), CBP has the legal authority to collect key air and maritime cargo data elements provided by air, sea, and land commercial transport companies (carriers) — including express consignment carriers and importers. This information is automatically fed into CBP's Automated Targeting System, an intranet-based enforcement and decision support system that compares cargo and conveyance information against intelligence and other enforcement data.

CBP is working to implement the same effective module in the international mail environment. USPS receives mail from more than 180 countries, the vast majority of which arrives via commercial air or surface transportation. As discussed above, inbound international mail inspections are largely conducted by hand. The international mail system is not integrated and there are few opportunities for foreign postal administrations to provide advance manifest data to USPS (which may then be passed on to CBP).

Hence within the mail environment, CBP Officers must rely on intelligence, selectivity, risk management, and physical or X-ray examinations to carry out their enforcement mission. CBP and the USPS have been conducting an advance data pilot on express mail and e-packets from some countries. CBP and USPS continue to work together to improve this metric to meet both agencies' performance expectations, and CBP continues to work with the USPS and the Universal Postal Union to address the issue of electronic advanced data.⁹

Because of the complex tracking used by express consignment carriers, when CBP identifies a high risk shipment in the express consignment environment, it has the ability to place an electronic hold and to notify the carriers that a particular parcel needs to be presented to CBP for inspection. The major international air shipping carriers have a tracking number system that allows them to pull these parcels for inspection when they are scanned into the computer system as arriving at their particular air hubs.

⁹ 49 U.S.C. 44901(a) states: "The Under Secretary of Transportation for Security shall provide for the screening of all passengers and property, including United States mail, cargo, carry-on and checked baggage, and other articles, that will be carried aboard a passenger aircraft." Under 49 U.S.C. 1540.5, "Cargo means property tendered for air transportation accounted for on an air waybill. All accompanied commercial courier consignments whether or not accounted for on an air waybill, are also classified as cargo. Aircraft operator security programs further define the term "cargo." Under this TSA regulation, international mail destined for the United States is considered air cargo and, as a result, is subject to all existing security controls. These security controls, which include screening for explosives and other unauthorized incendiary items in accordance with TSA regulations and security program requirements, are applied outside the United States prior to transporting international mail on aircraft regulated by TSA. These requirements are not dependent on advance electronic manifest data, as provided by express consignment operators and other participants in the Air Cargo Advance Screening (ACAS) pilot program.

Upon arrival in the United States, all international mail requested for inspection by CBP is turned over to CBP by USPS. CBP screens all international mail for radiological threats, x-rays all international mail packages presented by USPS, and physically examines those deemed to be high-risk. Although this process is largely manual and labor intensive, CBP is able to identify items that pose a risk to homeland security and public safety while facilitating legitimate mail.

Laboratory Testing

Due to the risk of unintentional exposure and subsequent hazardous drug absorption and/or inhalation, the confirmatory testing for the presence of synthetic opioids such as fentanyl is best executed in a laboratory by trained scientists and technicians. Expedited analysis can have a turnaround time of a day or two; the turnaround time for non-expedited samples can be up to two months.¹⁰ CBP's Laboratories and Scientific Services Directorate (LSSD) has the necessary laboratory technology and resources to test for synthetic opioids such as fentanyl and its analogues.

CBP's most effective means of performing illicit synthetic drug detection in the field is its triage program which utilizes ruggedized FTIR equipment whose data is transmitted to scientific personnel to provide presumptive results within one business day. LSSD is working to expand the field testing program, along with the scientific assets and personnel who are able to provide real-time chemical composition determinations.¹¹

The composition and size of smuggled packages seized at the Land Ports of Entry (LPOE) are different than those seized in transit through that mail. The narcotics seized through the mail usually have a purity greater than 90 percent with the exception of two drug classes: naturally occurring drugs¹² and certain forms of steroids. In contrast, the purity of seizures along the Southwest border, and particularly of synthetic opioids, average about seven percent controlled substance content due to the DTO practice of mixing synthetic opioids with other substances.

Additionally, DTOs continually adjust their operations to circumvent detection and interdiction by law enforcement, quickly taking advantage of technological and scientific advancements and improving fabrication and concealment techniques. Smugglers use a wide variety of tactics and techniques for concealing drugs. CBP Officers regularly find drugs concealed in body cavities, taped to bodies (body carriers), hidden inside vehicle seat cushions, gas tanks, dash boards, tires, packaged food, household and hygiene products, in checked luggage, and concealed in construction materials on commercial trucks.

Accordingly, different techniques and instrumentation are used to detect illicit drugs at the different venues. When illicit drugs are seized from the mail, the data is transmitted to LSSD for interpretation, without the instrument providing an analysis directly to the Officer, while at the LPOEs, the instruments provides a read-out to the Officer and Agents. Recently deployed field instrumentation may be tried such as Gemini or TruNarc instruments; the instrument will make its best guess as to the identification of the product. The low purity levels of synthetic opioids found along the Southwest border, the detection limits of the instruments, and the instrument's ability to correctly interpret chemical spectra at these low levels, all add to the difficulty of detecting

¹⁰ Routine samples are treated as non-expedited. Samples that are treated as expedited are samples that are destined for controlled deliveries, have an impending court date, person or persons under arrest or detention, or are otherwise deemed a priority.

¹¹ LSSD has provided triage on 5,299 submissions during FY 2015, and 8,384 submissions for FY 2016. Since the inception of the program, LSSD has triaged 20,158 submissions within a business day and has generated many controlled deliveries because of the rapid turnaround.

¹² Examples include marijuana, khat, and psilocybin.

synthetic opioids in this environment. As such, the best way to combat the ever-changing designer drug industry is LSSD's Field Triage Infrared Reachback program. When any synthetic opioids are detected by the FTIR reachback program, LSSD notifies key CBP personnel at the NTC-C as well as the liaisons with DEA's Special Operations Division, so they can generate near real-time intelligence and see if controlled deliveries can be executed.

Canines

Canine operations are an invaluable component of CBP's counternarcotic operations. CBP deploys approximately 1,227 Concealed Human and Narcotic Detection Canine teams at and between our Nation's POEs. Synthetic opioids in particular present unique challenges to canine teams due to the potency of the drug and the associated danger to the health and safety of the canines and their handlers. Thus, CBP's LSSD has been conducting special research to determine the detection and identification of signature odor profiles for fentanyl compounds. The relevant CBP components are working together to conduct a pilot course to assess the feasibility of safely and effectively adding fentanyl as a trained odor to OFO's deployed narcotic detection canine teams. The project will continue through the remainder of FY 2017, with evaluations conducted at scheduled benchmarks.

Operational Coordination

CBP works extensively with our Federal, state, local, tribal, and international partners and provides critical capabilities toward the whole-of-government approach to address drug trafficking and other transnational threats at POEs and along the Southwest border, Northern border, and coastal approaches. Our targeting, detection, and interdiction efforts are enhanced through special joint operations and task forces conducted under the auspices of multi-agency enforcement teams, including OCDETF, the High Intensity Drug Trafficking Areas, and the Joint Interagency Task Force-West, as well as the Department's Joint Task Force-West and Joint Task Force—Investigations. These teams are composed of representatives from international and federal law enforcement agencies who work together with state, local, and tribal agencies to target drug and transnational criminal activity, including investigations involving national security and organized crime. Additionally, CBP participates in DOJ's Nationwide Deconfliction System operated by DEA, conducting interagency deconfliction and coordination, and is the 2nd most prolific user among all federal agencies. We noted some of NTC's key partnerships above, and, of note, as of April 2017, the NTC has two permanent USPIS employees working within the NTC narcotic targeting units under a recent Memorandum of Understanding (MOU).

CBP continues to collaborate and strengthen ties with investigative partners from the USPS, ICE, FDA/OCI, and DEA. CBP is sharing information with these agencies and conducting joint enforcement initiatives including intelligence-driven special operations designed to identify and disrupt drug smuggling at the border. CBP is also working with the Heroin and Fentanyl Working Group at the DEA Special Operations Division, alongside ICE-HSI, and at the El Paso Intelligence Center to link drug seizures to international and domestic distribution networks.

For example, in January 2017, CBP Officers at the John F. Kennedy (JFK) International Airport IMF partnered with ICE-HSI, DEA, U.S. Food and Drug Administration, U.S. Fish and Wildlife Service, and the U.S. Consumer Product Safety Commission to launch "Operation Mail Flex."

This five-day joint operation targeted and interdicted illicit fentanyl and other opioids shipments that posed a health and safety risk to consumers. Operation Mail Flex focused on express mail originating in China and Hong Kong. This successful operation resulted in the seizure of 2.4 kilograms (5.31 pounds) of fentanyl and 134 other controlled substances. It also resulted in the seizure of 1,297 non-compliant imports and provided law enforcement officers with the opportunity to conduct eight controlled deliveries to unsuspecting drug smugglers.

DTOs are known to use legitimate commercial modes of travel and transport to smuggle drugs and other illicit goods. Therefore, CBP also partners with the private sector to provide anti-drug smuggling training to carriers to assist CBP with stopping the flow of illicit drugs; to deter smugglers from using commercial carriers to smuggle drugs; and to provide carriers with the incentive to improve their security and drug smuggling awareness. Participating carriers sign agreements stating that the carrier will exercise the highest degree of care and diligence in securing their facilities and conveyances, while CBP agrees to conduct site surveys, make recommendations, and provide training.

Officer Safety

Fentanyl presents a significant safety threat to CBP Officers. Explicit instructions, including guidance to canine handlers, have been distributed to the field regarding the safe handling of fentanyl. Additionally, in response to the upsurge in the use of heroin (which is increasingly cut with fentanyl) across the nation and increased seizures at POEs in October 2015, CBP completed Phase 1 of a pilot program to train and equip CBP Officers with naloxone, a potentially life-saving drug for the treatment of opioid overdoses. During Phase I, CBP Officers, at seven participating POEs¹³ received training on recognizing the signs and symptoms of an opioid overdose, administering naloxone, and were certified as CPR instructors. In February 2016, CBP initiated Phase 2 of the Naloxone Initiative Pilot Program, expanding the pilot to an additional eight POEs and deploying 602 dual-dose Narcan Nasal Spray® kits to the field.¹⁴ The naloxone program has also expanded to LSSD to help protect its scientists both in its main and satellite laboratories. CBP was the first Federal law enforcement agency to implement such a program.

Conclusion

There is no single entity or single solution that can stop the flow of dangerous synthetic drugs into the United States or out of the hands of the American public. Tackling this complex threat involves a united, comprehensive strategy and an aggressive approach by multiple entities – from law enforcement, science, medicine, education, social work, and the public health sector – across all levels of government. With continued support from Congress, CBP, in coordination with our partners, will continue to refine and further enhance the effectiveness of our detection and interdiction capabilities to combat transnational threats and the entry of fentanyl and other dangerous synthetic drugs into the United States. We will continue to work with our federal, state,

¹³ Phase 1 Naloxone Pilot Program POEs include El Paso; Laredo; Fort Lauderdale International Airport; John K. Kennedy International Airport; San Luis: San Ysidro; and Seattle/Blaine.

¹⁴ Phase 2 Naloxone Pilot Program POEs include Miami Int'l/Miami Seaport; Boston; Buffalo; Detroit; Newark; Chicago; Houston Int'l/Houston Seaport; and Dallas.

local, and tribal law enforcement partners to improve the efficiency of information sharing, guide strategies, identify trafficking patterns and trends, develop tactics, and execute operations to address the challenges and threats posed by DTOs to the safety and security of the American people. CBP will also continue to work with USPS and USPIA to improve interdiction in the mail environment through improved advanced data, and other security best practices at the nation's IMFs.

Chairman Gowdy, Ranking Member Jackson Lee, and distinguished Members of Subcommittee, thank you for the opportunity to testify today. I look forward to your questions.