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BEFORE THE
UNITED STATES SENTENCING COMMISSION

FOR A PUBLIC HEARING ON FENTANYL AND SYNTHETIC
CANNABINOIDS

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INTRODUCTION

Judge Pryor and members of the Sentencing Commission, on behalf of the approximately 9,000 employees of the Drug Enforcement Administration (DEA), thank you for the opportunity to discuss the threat posed by fentanyl, fentanyl analogues, and synthetic cannabinoids.

Synthetic designer drugs, also known as New Psychoactive Substances (NPS), refer to man-made substances designed to mimic the effects of known licit and illicit controlled substances; these substances are oftentimes unscheduled and unregulated. There are a variety of synthetic designer drugs, which are categorized based on the types of controlled substances they are intended to mimic, namely cannabinoids, cathinones, hallucinogens and opioids. NPS continue to pose a nationwide threat to the United States, with overdoses and deaths continuing to occur. .

Synthetic Cannabinoids

Synthetic cannabinoids are dangerous substances that are marketed as a “legal high” and have adverse effects that are unpredictable in their psychological and physical impact on each individual. These substances are intended to mimic the effects of delta-9-tetrahydrocannabinol (“THC”), the primary psychoactive constituent in marijuana, but they are in general much more powerful and produce more severe effects. These substances are easily available through various outlets, from the Internet, convenience stores, gas stations, street dealers, and drug trafficking organizations. Anyone is easily able to order these substances directly to their doorstep without detection or purchase them locally with little scrutiny. These synthetic substances are transported into the United States in powder form via common carrier, processed, and then distributed throughout the country under various brand names.

Synthetic drugs in powder form are primarily synthesized in, and imported into the U.S. from, China. They are produced by foreign chemists, usually in powder form and without quality control. After entering the U.S., the substances are commonly mixed with plant material, acetone, color and flavoring to create most cannabinoid designer substances. They may also be mixed with other substances and placed in capsule, tablet, or powder forms. They are also supplied in liquid form for “vaping.” The substances are usually mixed, packaged, and then distributed in the U.S. under various brand names, such as K2 or Spice. The U.S. distributors of these substances can range from large scale multi-drug trafficking organizations to individuals who either package the substances for resale in small quantities or distribute the drugs in kilogram quantities. They engage in this activity for profit. For example, one kilogram of a

synthetic cannabinoid drug in powder form can be purchased from China for \$2,000 - \$5,000 per kilogram. When the substance is mixed with inert plant material and broken down into packages and sold for \$20 each at 1 to 2 grams per package, the traffickers can generate a substantial profit, in excess of \$250,000 per kilogram.

Fentanyl

DEA has become increasingly alarmed over the proliferation of illicit clandestinely produced fentanyl and its analogues. These substances have been added to heroin and other illicit substances and have also been encountered as counterfeit tablets resembling controlled prescription drugs. Clandestinely produced fentanyl and fentanyl analogues are potent synthetic opioids which present a serious risk of overdose and death by those who misuse these substances. The 2015 market for misused prescription pain relievers was 12.5 million people,¹ and if illicit fentanyl is introduced into even a small portion of that overall market, there is a risk that overdoses will increase. The high potency of fentanyl and its analogues makes it particularly dangerous for public safety personnel who encounter the substance during the course of their daily operations. Fentanyl and fentanyl analogues represent the deadly convergence of the synthetic drug threat and current national opioid epidemic. It should be noted that illicit clandestinely produced fentanyl is still the prevalent synthetic opioid encountered.

Fentanyl and Its Analogues (Synthetic Opioids)

Fentanyl is a Schedule II controlled substance produced in the United States, and it is approved for medical purposes. It is a potent and widely used analgesic opioid drug. It is also used for anesthesia purposes. As an analgesic, it is often used in opioid tolerant patients.

According to DEA investigations, illicit clandestinely produced fentanyl, fentanyl analogues, and their immediate precursors are often produced in China. Clandestinely produced fentanyl is also being produced in Mexico, but on a much smaller level. From China, these substances are shipped through mail carriers directly to the United States, or alternatively shipped directly to transnational criminal organizations (TCOs) in Mexico, Canada, and the Caribbean. Once there, fentanyl or its analogues are prepared to be mixed into the U.S. drug supply domestically, or pressed into a pill form, and then re-sold in the illicit U.S. market where demand for prescription opioids and heroin remain at epidemic proportions. Fentanyl has also been identified in samples of other drugs, such as cocaine, methamphetamine and marijuana.

Mexican TCOs and non-cartel affiliated individuals have seized upon this business opportunity because of the profit potential of synthetic opioids. Because of its low dosage range and high potency, one kilogram of fentanyl purchased in China for \$3,000 - \$5,200 can be pressed into a pill form containing 1.5 mg of fentanyl, and sold for \$10.00 on the illicit market, thus generating approximately \$6.6 million in revenue. A much greater profit of approximately \$10 million can be generated if the fentanyl is pressed into a pill form containing only 1.0 mg of fentanyl, and sold for \$10.00 on the illicit market.

¹ Center for Behavioral Health Statistics and Quality, *Results from the 2015 National Survey on Drug Use and Health*, Table 1.27A, (2016), retrieved from <http://www.samhsa.gov/data/>.

CURRENT CHALLENGES

Traffickers Adapting to the Law

Even though many fentanyl and NPS have been controlled in Schedule I or Schedule II of the Controlled Substances Act (“CSA”), new synthetic substances may be procured with relative ease. Over the past several years, DEA has identified numerous fentanyl-related substances and hundreds of designer drugs from at least eight different drug classes, the vast majority of which are manufactured in China.

Regarding NPS more broadly, clandestine chemists continue to provide retailers with chemicals that are not controlled in an effort to skirt laws and regulations. In fact, when DEA takes an action to temporarily schedule a substance, retailers often begin selling altered or different versions of their products with new, unregulated compounds in them. Manufacturers and distributors continually try to stay one step ahead of state or federal drug-specific banning or control actions by introducing and repackaging new synthetic drugs products that are not listed on any of the controlled substance schedules.

Encapsulating Machines, Pill Press Machines and the Internet

The tools needed to manufacture counterfeit pills containing fentanyl or fentanyl analogues are available online, and they are relatively inexpensive compared to other forms of drug production. Such easy and inexpensive access paves the way for non-cartel affiliated individuals to undertake fentanyl trafficking. Illicit fentanyl and fentanyl analogues are available for purchase online from anonymous “dark web” markets and even overtly-operated websites. The “dark web” forums have a number of fentanyl-related sites that vendors use to sell fentanyl and new emerging fentanyl analogues at relatively inexpensive prices. The products are shipped quickly and vendors can adapt to meet customer demands.

In some cases, traffickers have industrial pill presses shipped into the United States directly from China, India or Germany. They then operate those fentanyl pill press mills here in the United States. Industrial pill press machines are widely available on the open Internet. Current federal law requires notification be made to DEA of the imports, exports, or domestic sales of all pill press machines. Nonetheless, these machines are frequently shipped or sold without any notifications submitted to DEA.

Use of Freight Forwarders

Traffickers often use freight forwarders to mail synthetic drug compounds 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, if not impossible, for law enforcement to track these packages. Often, the package will intentionally have missing, incomplete, and/or inaccurate information.

CONCLUSION

Synthetic cannabinoids, and opioids, including synthetic opioids such as fentanyl and fentanyl analogues, will continue to pose a nationwide threat for the foreseeable future. Synthetic drug producers modify and experiment with chemical structures in search of new psychoactive substances. Once a new drug is formulated, the Internet and social media are used to market its arrival on the scene, allowing for its fast adoption and use. Due to the changing chemical structures of synthetic designer drugs, distributors are able to reap significant profits before legislative and regulatory controls of these specific psychoactive substances are implemented. The United States will likely continue to see overdoses and deaths as a result of synthetic drug use, although DEA and its federal, state, and local partners are working hard to reduce those numbers.

Additionally, the United States continues to be affected by a national opioid epidemic, which has been spurred, in part, by the rise of nonmedical prescription opioid use and the large number of people with active substance addictions who are not currently in treatment. It is likely that this demand will continue to be met in part by counterfeit prescription opioids which may be laced with fentanyl, fentanyl analogues, and other synthetic opioids (*e.g.*, U-47700), and that Mexican-based TCOs will push to expand their profits. Non-cartel affiliated groups are also rapidly entering this market. DEA will continue to address this threat by pursuing those who have brought tremendous harm to our communities. Additionally, DEA's Diversion Control Division will use all criminal and regulatory tools possible to identify, target, disrupt, and dismantle individuals and organizations responsible for the illicit distribution of pharmaceutical controlled substances in violation of the CSA. Working with DOJ and interagency partners, DEA will continue to engage our international counterparts, especially China and Mexico, both multilaterally and bilaterally. We look forward to working with the Commission on this important issue.