

House Committee on the Judiciary Hearing: Challenges and Solutions in the Opioid Abuse Crisis
Tuesday, May 8, 2018, 10:00am – 2:00pm
2141 Rayburn House Office Building, Washington, D.C.

For a webcast of the hearing and full witness testimony, see [here](#).

Witnesses:

Panel 1:

Robert Patterson, Acting Administrator, Drug Enforcement Administration

Panel 2:

Dr. Timothy Westlake M.D., Hartland, Wisconsin

J. Spencer Morgan III, Commonwealth's Attorney, Accomack County, Virginia

Kristen Holman, Lynchburg, Virginia

Dr. Josiah Rich M.D., Providence, Rhode Island

Chairman and Ranking Member Opening Statements

Chairman Bob Goodlatte (R-VA-6) opened by saying that America is in the middle of an epidemic that we have never seen before and the opioid crisis knows no bounds, with more than 64,000 Americans dying from drug overdose in 2016. The sharpest increase occurred related to synthetic opioids, 20,000 overdose deaths. In 2018, more than 2 million Americans will suffer from addiction from prescriptions or illegal opioids. Over the past two years Congress and the House Judiciary Committee have passed several bills to address this crisis: The Comprehensive Addiction Recovery Act (CARA) enacted in 2016, and the Stop the Importation and Trafficking of Synthetic Analogues Act ([H.R. 2851](#)), approved by the House Judiciary Committee in July 2017.

Ranking Member Jerrold Nadler (D-NY-10) said U.S. drug overdoses are the leading cause of accidental deaths with opioids being involved in 2/3 of overdose deaths, and half of deaths related to opioids have been prescription. He said we need to focus treating and preventing misuse and understand what does and doesn't work. When we addressed problems with the crack/cocaine epidemic, we focused on incarceration and criminal punishment and that was wrong. We should not focus on that for opioids. President Trump and Jeff Sessions should not focus on the death penalty for offenders and need to focus on polices and treatments that works, and support efforts at the local level such as Law Enforcement Assistance Diversion (LEAD).

Witness Opening Statement

Mr. Rob Patterson said the opioid crisis has been fueled in part by changes in prescribing practices and that more than 3 million Americans use opioids. Addressing these problems involves enforcement, education and treatment. DEA enforcement has involved criminal, civil and administrative tools and has established 77 tactical diversion squads and 2 mobile teams focused on curbing diversion. We share data and information with other agencies and have seen a decrease in prescribing opioids. Changing the chemical substance of the drugs is creating problems, and enforcement is DEA's main mission, yet education is also important and DEA provides year-round training.

Question and Answer

Chairman Goodlatte expressed concerned about the opioids in West Virginia crossing the borders into Virginia and asked why DEA has had failures in addressing this problem.

Mr. Patterson, the DEA now knows how to use the various data sets (HHS, DEA) and determine outliers and figure out where opioids are on the streets. Prescription Drug Monitoring Program's (PDMP) data is key.

Chairman Goodlatte, DOJ highlighted DEA's use of drug quota, please explain what DEA is doing.

Mr. Patterson, Quota is a delicate balance. In the past, DEA bumped drug quota up to ensure there would be full access to manufacturers. The more you allow manufacturers to produce the more incentive they have to sell additional product, which then drives more users. This is on the prescribing side, but also deals with looking at other data sets.

Rep. Jerrold Nadler (D-NY 10): In February 2018, DOJ announced the emergency schedule of all fentanyl. This means that Federal Agents can take swift action in prosecuting opioid traffickers. Has this emergency schedule lead to easier enforcement of fentanyl?

Mr. Patterson: Yes. This is an aggressive use of scheduling on the fentanyl class. When we talk about HHS wanting to do research, we wanted to see if anyone was looking at this class of fentanyl and that answer was no. Since February 2018, I am not aware of anyone wanting to do research on this existing class of fentanyl. This comes down to the ability to charge criminal activity.

Rep. Nadler, should drug manufacturers have more of a role in ensuring compliance?

Mr. Patterson: Absolutely. DEA makes sure manufacturers are informed, and we want to work with them.

Nadler: What is the DEA budget for FY2018? And what part of that is used to address opioids?

Patterson: \$2.2B budget. Not sure how much is used for opioids.

Rep. Jim Sesenbrenner (R-WI-5) asked, does the DEA support my fentanyl analogues legislation?

Mr. Patterson: We have emergency schedule of the entire class of fentanyl analogues, and we need a legislative fix that will keep this remaining in Schedule I. At the end of February in three years, we need a legislative fix.

Rep. Zoe Lofgren (D-CA-19) said she was concerned about manufacturers, overprescribing and companies profiting off addiction. She asked, what's DEA's strategy to address this problem?

Mr. Patterson: We have an education campaign, we also work with industry. We have a take-back program.

Rep. Tom Marino (R-PA-10), discussed concerns with Endurance Patient Access and Effecting Drug Enforcement Act and asked detailed questions about changing language from probable cause to foreseeable risk.

Mr. Patterson, DEA supports probable cause.

Rep. Steve Cohen (D-TN-9), asked, do you believe marijuana should be a Schedule I drug?

Mr. Patterson: Marijuana remains a schedule I drug because of the science. FDA does its eight-factor analysis and DEA does its review.

Rep. Cohen: Do you personally think it should be a Schedule I drug?

Mr. Patterson, the DEA's biggest priorities are opioids, methamphetamine, and cocaine that's now on a resurgence. However, I think we are going down a bad path on marijuana, there are high THC levels and implications for children using marijuana.

Rep. Ron DeSantis (R-FL-6), What is the driving force of the opioid crisis? It seems prescriptions are down on some of the pain killers. Is this a problem on the prescription side or street drug side?

Mr. Patterson: We have crossed the path of where the illicit or prescription side is now the leading problem. Fentanyl and heroin are now our problem and we have a massive drug problem. The user population is driving this, 3 million plus people. There are cartels that are willing to fill this space. We have a huge meth problem, we have a big drug abuse problem in the US, and it is coming from southern border and China.

Rep. DeSantis: We had a bill the President signed to have the Post Office try to intercept this stuff. Have you seen the Postal Service stop these drugs due to this bill?

Mr. Patterson: Not sure about that particular legislation, but the Postal Service has taken great steps in gathering data. But we have a volume problem (dealing with packages coming from China).

Rep. Sheila Jackson Lee (D-TX-18), asked about how DEA holds people accountable and what the consequences for distributors who fail to report unusual signs and drug abuses.

Mr. Patterson: The consequences tend to be fines. DEA needs to do a better job at holding people accountable.

Rep. Louie Gohmert (R-TX-1), I went to the jungles of Columbia, and I was told that the cocaine was moved through fast boats. Have we curbed the cocaine coming from Columbia?

Mr. Patterson: There is a real issue with the production of cocaine in Columbia and the development from Revolutionary Armed Forces of Colombia (FARC).

Rep. Gohmert: How much help do drones provide?

Mr. Patterson: We work well with U.S. Customs and Border Protection (CBP). We would pass actionable intel to CBP for them to action on the border security.

Rep. Hank Johnson (D-GA-4), Of the 64,000 overdose deaths, how much is for fentanyl, heroin, opioids and marijuana? (His other questions were focused on marijuana and similar to Rep. Cohen's questions). Reps. Cohen and Johnson think the science is wrong on marijuana.

Mr. Patterson, 20,000 deaths are from fentanyl. Not sure on the others.

Mr. Patterson: We have a substance misuse in the country and doesn't like to compare one drug against another.

Rep. Karen Handel (R-GA-6), Questions focused on neo-natal care. She also asked Mr. Patterson, if you could have two pieces of legislation today dealing with additional resources, what would they be?

Mr. Patterson: Stop the Importation and Trafficking of Synthetic Analogues Act (SISTA), and dealing with fentanyl issue.

Rep. Eric Swalwell (D-CA-15), What can we do to help teenagers with awareness, dealing with opioid abuse? Swalwell is also concerned about college-age students.

Mr. Patterson, we need to deal with education before high school. DEA has a program called Operational Prevention in schools, and marijuana seems to be a problem with this age group.

Rep. Ted Lieu (D-CA-33), asked about drugs crossing state boundaries and how DEA tracks this effort. Should we be creating a national database?

Mr. Patterson, supports a national PDMP database. He said he would probably best come directed from legislation and the inability for states to see patterns is a problem.

Rep. Andy Biggs (R-AZ-5) asked how fentanyl and other drugs are coming into US.

Mr. Patterson, the bulk of drugs is coming across southern border, and smaller packages are coming from China.

Rep. Biggs, asked about actions in China.

Mr. Patterson, DEA personnel in China share intelligence. Need to understand things from a chemistry side, and trying to schedule the various analogues. The way we scheduled fentanyl the way we did was to help with the chemistry. There has been seizures made in China. We need to get more resources to China, we have limited personnel there. We need to take the play book we learn from China, how to work the chemicals, and take it to India and other countries.

Rep. Karen Bass (D-CA-37), This problem has not existed forever. Before the drugs are distributed to the pharmacies, what relationships does DEA have with drug manufacturers?

Mr. Patterson: This is where the rubber meets the road. We can fight this downstream (with doctors and pharmacies), but you have to levitate this conversation back to prescribing practices.

Rep. Bass: Does DEA put pressure on companies who make the drugs?

Mr. Patterson: Under quotas we do. Prescribing practices cannot be driven by industry, but need to be driven by doctors and the need. Needs to change the prescribing practices.

Rep. Pramila Jayapal (D-WA-7), mentioned how Seattle launched Law Enforcement Assisted Diversion (LEAD) and highlighted the success of this program. She indicated that building a border wall would not solve the problem. She asked about ports of entry and how the drugs are coming in.

Mr. Patterson, the bulk coming from Mexico are coming through ports of entry.

Rep. Jayapal, do you support more money and resources for the USCG to help address this issue?

Mr. Patterson: Yes.

Rep. David Cicilline (D-RI-1), how is DEA bringing regulations into alignment with the 2016 CARA legislation and when we might expect those regulations to be promulgated and updated?

Mr. Patterson: States in a lot of cases have already taken this on their own backs of fixing the state laws for much smaller initial prescriptions. And this is something that we obviously still owe related to our regulations in this space. It's critically important.

Panel 2:

Dr. Timothy Westlake M.D., Hartland, Wisconsin, I have worked for nearly two decades as an emergency physician battling the opioid epidemic and serve on the Wisconsin Medical Examining Board and Controlled Substance Board. I am the physician architect of the Wisconsin prescription opioid reform strategy and have become a subject matter expert on opioid scheduling. We need more judicious prescribing practices. We are doing this in Wisconsin -- not with top down mandates, but through education and partnerships.

J. Spencer Morgan III, Commonwealth's Attorney, Accomack County, Virginia, He addressed several issues concerning opioid addiction and the increased amounts of heroin, fentanyl, and carfentanil in Accomack County from the perspective of a local prosecutor.

Kristen Holman, Lynchburg, Virginia, lost her brother to synthetic opioids that were delivered to him in the mail from China.

Dr. Josiah Rich M.D., Providence, Rhode Island, helps people treat people with opioid use disorder in the community and who are incarcerated. He discussed the challenges of treating people with opioid use disorder and problems with detox.