



**AMERICA'S INSATIABLE DEMAND FOR DRUGS:
THE PUBLIC HEALTH AND SAFETY IMPLICATIONS FOR OUR
UNSECURE BORDER**

**A Majority Staff Report of the
Committee on Homeland Security and Governmental Affairs
United States Senate
Senator Ron Johnson, Chairman**



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EXECUTIVE SUMMARY

The mission statement of the Senate Committee on Homeland Security and Governmental Affairs is to enhance the economic and national security of the United States. To improve our security, we first must properly define the problems we face. In doing so, it is important to focus on areas of agreement. In the 114th Congress, the Committee has convened hearings, roundtables, field hearings, and site visits all with the same goal in mind: to look for areas of agreement and lay out the realities confronting the nation.

The first area of broad agreement is the insecurity of our borders. Over the course of the Committee's 18 border-security-related hearings, many witnesses testified that our borders are not secure. President Clinton's drug czar testified that U.S. Customs and Border Protection (CBP) agents seize just five to ten percent of the illegal drugs smuggled across the border.¹ Meanwhile, the former Commander of Southern Command under President Obama emphasized that "an unlimited amount of drugs get into this country," that "tens of thousands of people [illegally] come into this country," and that "millions and millions of items of counterfeit industry type items like electronics get in."² These facts lead to the inevitable conclusion "that our border is not secure."³

Accepting this reality, one root cause for our insecure border is America's insatiable demand for drugs. Although it is hard to calculate how much profit the drug cartels generate from supplying drugs in the United States, it is clear that this figure is in the billions each year.⁴ Some experts estimate that Mexican transnational criminal organizations (TCOs), which represent the greatest criminal drug threat in the United States, generate somewhere between \$19 and \$29 billion per year in U.S. drug sales.⁵ In testimony before the Committee, one witness stated that "illicit trafficking is estimated to be a \$650 billion industry worldwide—larger than the GDP of all but 20 countries in the world."⁶

¹ *Securing the Border: Assessing the Impact of Transnational Crime: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2015) (statement of General Barry R. McCaffrey, USA (Ret.), Former Director of the Office of National Drug Control Policy (1996-2001)).

² *America's Insatiable Demand for Drugs: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of Gen. John F. Kelly, USMC (Ret.), Former Commander of the United States Southern Command (2012-2016)).

³ *Id.*

⁴ See United States of America-Mexico Bi-National Criminal Proceed Study, *Joint Message from Assistant Secretary John Morton, U.S. Immigration & Customs Enforcement, and Director Garyling G. Williams, DHS Office of Counternarcotic Enforcement*, available at <https://www.ice.gov/doclib/cornerstone/pdf/cps-study.pdf>.

⁵ *Id.*

⁶ *America's Insatiable Demand for Drugs: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of Gen. John F. Kelly, USMC (Ret.), Former Commander of the United States Southern Command (2012-2016)).



This profit is enough to motivate the cartels to find a way, any way, to penetrate our borders. Where fences exist, the cartels dig tunnels under them or fly ultralight aircraft over them.⁷ Where there is desert, backpackers carry loads across the border, endangering homes in rural border towns along the way.⁸ For the most part, the cartels simply drive across the border through legal ports of entry, creatively concealing drugs in spare tires, batteries, and hidden compartments.⁹

In November, the Committee’s majority staff released *The State of America’s Border Security*, which, among other things, found that the enormous profits generated by supplying America’s demand for drugs fuels widespread government corruption and violence south of the border.¹⁰ As outlined in the report, “As product moves through Central America the drug cartels have dramatically weakened the public institutions and rule of law within those nations. The resulting corruption and criminal impunity enjoyed by gangs and extortion racketeers have led to high murder rates, destroyed economic opportunity, and created significant incentives to migrate to America—the so called ‘push factors’ of illegal immigration.”¹¹

Once these drugs cross the border, they are sent to distribution hubs in such places as Phoenix, Arizona, or Chicago, Illinois.¹² From there, the drugs are further disseminated by street gangs into local communities throughout America.¹³ No community is left untouched from this sophisticated and fully integrated network,¹⁴ and the U.S. government—whether at a federal, state, or local level—has not been effective at stopping it.

After concluding that our borders are insecure and that a key driver of our insecure border is America’s insatiable demand for drugs, the Chairman focused on addressing this

⁷ See Phil Benson, *Suspected Drug Tunnel Found Near Nogales, AZ*, AZFAMILY.COM (Mar. 29, 2016), <http://www.azfamily.com/story/31593377/suspected-drug-tunnel-found-near-nogales-az>; see also Drug Enforcement Administration, DEA-DCT-DIR-008-16, *2015 National Drug Threat Assessment Summary* 3 (Oct. 2015), available at www.dea.gov/docs/2015%20NDTA%20Report.pdf.

⁸ See generally *Securing the Southwest Border: Perspectives from Beyond the Beltway: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2015).

⁹ Drug Enforcement Administration, DEA-DCT-DIR-008-16, *2015 National Drug Threat Assessment Summary* 43, 51 (Oct. 2015), available at www.dea.gov/docs/2015%20NDTA%20Report.pdf.

¹⁰ S. Comm. on Homeland Security & Governmental Affairs, *The State of America’s Border Security* (Nov. 23, 2015), available at <https://www.hsgac.senate.gov/media/majority-media/icymi-johnson-releases-border-report>; see also Idelfonso Ortiz, *2015: Another Year of Mexican Cartel Violence and Government Corruption*, BREITBART (Dec. 27, 2015), available at <http://www.breitbart.com/texas/2015/12/27/2015-another-year-mexican-cartel-violence-government-corruption>.

¹¹ S. Comm. on Homeland Security & Governmental Affairs, *The State of America’s Border Security* (Nov. 23, 2015), available at <https://www.hsgac.senate.gov/media/majority-media/icymi-johnson-releases-border-report>.

¹² Drug Enforcement Administration, DEA-DCT-DIR-008-16, *2015 National Drug Threat Assessment Summary* 3 (Oct. 2015), available at www.dea.gov/docs/2015%20NDTA%20Report.pdf.

¹³ *Id.*

¹⁴ *All Hands on Deck: Working Together to End the Trafficking and Abuse of Prescription Opioids, Heroin, and Fentanyl: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2015) (statement of John “Jack” Riley, Acting Deputy Administrator, Drug Enforcement Agency).



demand. The Committee convened a hearing on media campaigns and prevention,¹⁵ a hearing with the drug czar to discuss how the Obama Administration is prioritizing federal drug spending,¹⁶ and a roundtable to discuss alternative approaches to address drug demand and addiction in this country.¹⁷ Moreover, the Committee held four field hearings across the country—in New Hampshire,¹⁸ Arizona,¹⁹ Wisconsin,²⁰ and Ohio²¹—specifically focused on the opioid epidemic plaguing this nation.

The public health crisis associated with drug use is also undisputed. The Centers for Disease Control and Prevention (CDC) reported there were 47,055 drug overdose deaths in 2014—meaning, on average, 129 Americans died from a drug overdose each day.²² Of these deaths, 18,893 were associated with prescription opioids and 10,574 were attributed to heroin.²³ According to the Drug Enforcement Administration (DEA), “Drug overdose deaths have become the leading cause of injury deaths in the United States, surpassing the number of deaths by motor vehicle [accidents] and firearms every year since 2008.”²⁴

"We're going to lose 120 Americans today. We're going to lose 120 Americans every day until we move. We measure that statistic, but that's not a statistic. Those 120 are moms and dads and brothers and sisters and sons and daughters. That's what's got to stop." – Rob Brandt, Founder, Robby's Voice, Examining the Impact of the Opioid Epidemic in Ohio: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs.

¹⁵ *America's Insatiable Demand for Drugs: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016).

¹⁶ *America's Insatiable Demand for Drugs: Assessing the Federal Response: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016).

¹⁷ *America's Insatiable Demand for Drugs: Examining Alternative Approaches: Roundtable Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016).

¹⁸ *All Hands on Deck: Working Together to End the Trafficking and Abuse of Prescription Opioids, Heroin, and Fentanyl: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2015).

¹⁹ *America's Heroin Epidemic at the Border: Local, State, and Federal Law Enforcement Efforts to Combat Illicit Narcotic Trafficking: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2015).

²⁰ *Border Security and America's Heroin Epidemic: The Impact of the Trafficking and Abuse of Heroin and Prescription Opioids in Wisconsin: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016).

²¹ *Examining the Impact of the Opioid Epidemic in Ohio: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016).

²² Rudd et al., *Increases in Drug and Opioid Overdose Deaths—United States, 2000–2014*, MORBIDITY AND MORTALITY WEEKLY REPORT (Jan. 1, 2016), <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6450a3.htm>; see also Lenny Bernstein, *Deaths From Opioid Overdoses Set a Record in 2014*, WASH POST (Dec. 18, 2015), <https://www.washingtonpost.com/news/to-your-health/wp/2015/12/11/deaths-from-heroin-overdoses-surged-in-2014>.

²³ *Id.*

²⁴ Drug Enforcement Administration, DEA-DCT-DIR-008-16, *2015 National Drug Threat Assessment Summary* iii (Oct. 2015), www.dea.gov/docs/2015%20NDTA%20Report.pdf.



To address the drug crisis in this country, an estimated \$1 trillion has been spent on the “war on drugs” by federal, state, and local governments during the past 40 years.²⁵ Annually, on a federal level, the United States allocates approximately \$30 billion on drug control spending.²⁶

Despite this heavy investment, the number of illicit drug users has held steady over the years.²⁷ Data from the *2014 National Survey on Drug Use and Health* reports that every year from 2002 to 2013 there has been an increase in marijuana and heroin use, as well as steady rates of nonmedical pain reliever use.²⁸ As of 2014, there were an estimated 27 million illicit drug users.²⁹ According to testimony to the Committee, the majority of illicit drug use consists of marijuana use, and, to a lesser extent, prescription drugs, which can translate to between 22 to 24 million illicit drug users.³⁰ This leaves approximately three million people—or one percent of the U.S. population—who abuse “hard drugs,” such as cocaine, crack, meth, and heroin.³¹ This figure is important to understand as the United States looks for ways to prevent illicit use of hard drugs and to curb demand.

Moreover, the prevalence and purity of heroin has increased. Multiple witnesses testified in Committee hearings that heroin is increasingly more potent and less expensive today than ever before.³² For example, according to the Wisconsin Attorney General, heroin sold in Wisconsin

²⁵ Matt Sledge, *The Drug War and Mass Incarceration by the Numbers*, THE HUFFINGTON POST (Apr. 8, 2013), available at http://www.huffingtonpost.com/2013/04/08/drug-war-mass-incarceration_n_3034310.html.

²⁶ See, e.g., Executive Office of the President, Nat’l Drug Control Budget, *FY 2017 Funding Highlights* (Feb. 2016), available at https://www.whitehouse.gov/sites/default/files/ondcp/press-releases/fy_2017_budget_highlights.pdf; see also Executive Office of the President, *FY 2016 Budget and Performance Summary, Companion of the National Drug Control Strategy* (Nov. 2015), available at https://www.whitehouse.gov/sites/default/files/ondcp/policy-and-research/fy_2016_budget_summary.pdf.

²⁷ *America’s Insatiable Demand for Drugs: Assessing the Federal Response: Hearing Before the S. Comm on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of Hon. Michael P. Botticelli, Director, Office of National Drug Control Policy) (“the overall prevalence of drug use . . . has remained relatively stable over the years” and responding “Generally” to the question, “In general, the percentage of Americans using hard drugs has held pretty steady?”).

²⁸ *Increased Marijuana, Heroin Use Contribute to Highest Reported Illicit Drug Use in More Than a Decade*, American Society of Addiction Medicine (Sept. 10, 2015), available at <http://www.asam.org/magazine/read/article/2015/09/10/increased-marijuana-heroin-use-contribute-to-highest-reported-illicit-drug-use-in-more-than-a-decade>.

²⁹ Martha Mendoza, *U.S. Drug War Has Met None of Its Goals*, AP (May 13, 2010), http://www.nbcnews.com/id/37134751/ns/us_news-security/t/us-drug-war-has-met-none-its-goals/#.V3U54fkrJhF.

³⁰ *America’s Insatiable Demand for Drugs: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of Jonathan P. Caulkins, Ph.D., Stever Professor of Operations Research & Public Policy, Heinz College, Carnegie Mellon University).

³¹ *Id.*

³² *All Hands on Deck: Working Together to End the Trafficking and Abuse of Prescription Opioids, Heroin, and Fentanyl: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2015) (statement of John “Jack” Riley, Acting Deputy Administrator, Drug Enforcement Agency); *Border Security and America’s Heroin Epidemic: The Impact of the Trafficking and Abuse of Heroin and Prescription Opioids in Wisconsin: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of James Bohn, Executive Director, Wisconsin High Intensity Drug Trafficking Area (HIDTA) Program).



has increased from five percent in purity in the 1980s to now between 20 and 80 percent.³³ Meanwhile, the price of heroin has decreased from a nationwide average of \$3,260 per gram of pure heroin in 1981 to \$100 to \$150 per gram in Wisconsin today.³⁴ That can translate into as little as \$10 for one hit.

The ease with which a person with a substance use disorder can access heroin has led to an alarming rise in overdoses across the country. In Milwaukee County alone, 109 heroin-related overdose deaths were reported in 2015.³⁵ More recently, in August 2016, Milwaukee County reported 20 overdose deaths in the span of just two weeks.³⁶ This “unprecedented” death toll continues to rise as Mexican cartels begin to cut heroin with fentanyl, a synthetically produced opioid that is significantly stronger and more lethal than heroin.³⁷ According to one Committee witness, fentanyl may account for as many as 5,500 overdoses in 2014.³⁸

For these reasons, we can all agree that it is time to seriously reassess our strategies concerning America’s insatiable demand for drugs, our war on drugs, and the resulting lack of border security. This report highlights the Committee’s hearings on America’s insatiable demand for drugs, including the Committee’s four field hearings across the country. The report examines the effect that America’s insatiable demand for drugs has had on U.S. national and border security, closely scrutinizes the current opioid epidemic in the United States, and considers possible approaches to curb illicit drug use and addiction. At multiple Committee hearings, witnesses testified that an “all of the above” approach is needed—prevention, treatment, and law enforcement—to tackle this public health crisis. This report considers all of these approaches, as well as alternative approaches. While there is no silver bullet solution to curb the demand for drugs in this country, one thing is clear: our current approach is not working.

³³ *Id.* (statement of Brad Schimel, Attorney General, Department of Justice, State of Wisconsin).

³⁴ Drug Enforcement Administration, DEA-DCT-DIR-022-15, *2015 National Heroin Threat Assessment* (Apr. 2015), at 31 (on file with the Committee); *Border Security and America’s Heroin Epidemic: The Impact of the Trafficking and Abuse of Heroin and Prescription Opioids in Wisconsin: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of James Bohn, Executive Director, Wisconsin High Intensity Drug Trafficking Area (HIDTA) Program).

³⁵ *Id.*

³⁶ Crocker Stephenson, *Heroin Suspected in 20 Deaths in 2 Weeks*, MILWAUKEE JOURNAL SENTINEL (Aug. 12, 2016), <http://www.jsonline.com/story/news/crime/2016/08/11/fentanyl-deaths-spike/88580884/>.

³⁷ *Id.*

³⁸ *America’s Insatiable Demand for Drugs: Examining Alternative Approaches: Roundtable Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of David Murray, Hudson Institute).



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I. INTRODUCTION

America's so-called "war on drugs" began in 1971, when President Nixon stated that drug abuse is "public enemy number one."³⁹ President Nixon's efforts changed the complexion of drug policy in this country. Drug enforcement funding was increased and Congress enacted the Controlled Substances Act (CSA).⁴⁰ CSA placed drug regulation under federal jurisdiction and made a schedule system that classified drugs using the following criteria: "(1) how dangerous they are considered to be, (2) their potential for abuse and addiction, and (3) whether they have legitimate medical use."⁴¹

In 1973, Congress created the DEA and placed it within the Department of Justice (DOJ) to enforce the CSA.⁴² By 2014, the DEA budget had grown to \$2 billion and the agency employed more than 9,000 people.⁴³

In the 1980s, with the emerging problem of "crack" cocaine, President Reagan launched a renewed effort to combat drug use with a law enforcement response. Between 1980 and 1986, spending on drug enforcement tripled, and the number of people convicted of drug offenses more than doubled.⁴⁴ In 1984, Congress passed the Comprehensive Crime Control Act, which enhanced penalties for violations of the CSA and gave the Attorney General the authority to place substances on a temporary schedule.⁴⁵

Two years later, Congress passed the Anti-Drug Abuse Act of 1986, which established penalties for simple possession of a controlled substance and trafficking offenses.⁴⁶ The Anti-Drug Abuse Act of 1988 created the Office of National Drug Control Policy (ONDCP).⁴⁷ By 2015, ONDCP had 81 employees and provided funding for programs in 16 departments of the federal government with a total annual budget of \$26.3 billion.⁴⁸ Today, ONDCP "is responsible for: (1) developing a national drug control policy, (2) developing and applying specific goals and performance measurements to evaluate the effectiveness of national drug control policy and National Drug Control Program agencies' programs, (3) overseeing and coordinating the

³⁹ Richard Nixon, Remarks About an Intensified Program for Drug Abuse Prevention and Control (June 17, 1971), available at <http://www.presidency.ucsb.edu/ws/?pid=3047>.

⁴⁰ Pub. L. No. 91-513; see also Lisa N. Sacco, Cong. Research Serv., R43749, *Drug Enforcement in the United States: History, Policy, and Trends* (Oct. 2, 2014), available at <https://www.fas.org/sgp/crs/misc/R43749.pdf>.

⁴¹ *Id.*

⁴² *Id.*; see also Exec. Order No. 11727, 3 C.F.R. 785 (1971-1974).

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*; see also Pub. L. No. 98-473.

⁴⁶ *Id.*; see also Pub. L. No. 99-570.

⁴⁷ *Id.*; see also Pub. L. No. 100-690.

⁴⁸ Exec. Office of the President, National Drug Control Strategy: Budget and Performance Summary, FY 2016 (Nov. 2015), available at https://www.whitehouse.gov/sites/default/files/ondcp/policy-and-research/fy_2016_budget_summary.pdf.



implementation of the national drug control policy, and (4) assessing and certifying the adequacy of the budget for National Drug Control Programs.⁴⁹

In 2010, ONDCP developed a strategy with seven goals to reduce drug use by 2015. In 2013, the Government Accountability Office (GAO) reviewed the implementation of the strategy, assessed progress toward achieving the strategic goals, and reviewed the drug abuse and treatment programs.⁵⁰ GAO found that data was only available for five of the seven goals, with one showing progress, and four demonstrating no progress.⁵¹ GAO also reported that drug abuse prevention and treatment programs were scattered among 15 federal agencies, which could cause overlap and inefficiencies.⁵² In December 2015, GAO reported on the progress since the 2013 report, this time finding progress in one goal, no progress in three, and mixed results in three, with none of the strategic goals fully achieved.⁵³

“The War on Drugs has had a devastating impact on the world: murder and mayhem in Mexico, Central America, and so many other parts of the planet, a global black market estimated at 300 billion dollars a year... Meanwhile, there are just as many people using drugs as ever. It is our country’s history with alcohol prohibition and Al Capone, times 50.”
– Ethan Nadelmann, *Drug Policy Alliance*, America’s Insatiable Demand For Drugs: Examining Alternative Approaches: Roundtable Before the S. Comm. on Homeland Security & Governmental Affairs.

Today, opioids represent the country’s newest public health crisis. In July 2016, the House and Senate agreed to and passed the conference report to the Comprehensive Addiction and Recovery Act (CARA), to battle

the ongoing opioid epidemic. This legislation will expand the availability of naloxone to law enforcement and first responders, improve prescription drug monitoring programs, and allocate resources to treat people with substance use disorders who are incarcerated.⁵⁴ CARA provides more than \$400 million in grants through 2021 to be distributed through the Department of Health and Human Services (HHS) and the Substance Abuse and Mental Health Services Administration (SAMSHA), as well as more than \$500 million in grants to states, local governments, and/or Indian tribes through the DOJ.⁵⁵

⁴⁹ U.S. Gov’t Accountability Office, GAO-13-333, *Office of National Drug Control Policy: Office Could Better Identify Opportunities to Increase Program Coordination* (2013).

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ U.S. Gov’t Accountability Office, GAO-16-57T, *Office of National Drug Control Policy: Lack of Progress on Achieving National Strategy Goals* (2015).

⁵⁴ *Summaries for the Comprehensive Addiction and Recovery Act of 2016*, Govtrack.us, <https://www.govtrack.us/congress/bills/114/s524> (last visited Mar. 29, 2016).

⁵⁵ Congressional Budget Office, S. 524, *Comprehensive Addiction and Recovery Act of 2016* (Feb. 16, 2016), available at <https://www.cbo.gov/publication/51291>.



II. IMPACT ON NATIONAL AND BORDER SECURITY

America's insatiable demand for drugs has a direct effect on U.S. national and border security. In 2014, the DEA proclaimed that "[g]lobally, drug trafficking is not just a criminal issue, not just a health and safety issue, it's a national security issue. Addiction and abuse across the world is funding and fueling insurgents."⁵⁶ In the same year, the DEA estimated that nearly half of the foreign terrorist groups on the designated list have ties to drug trafficking.⁵⁷

Profits generated from drug sales are attractive funding sources for terrorist organizations.⁵⁸ In 2003, then-Assistant Director of the Federal Bureau of Investigation's (FBI) Office of Intelligence, Steven McCraw, testified before the Senate Judiciary Committee that "drug trafficking is a highly lucrative enterprise generating billions of dollars in profit that terrorist organizations can easily tap into."⁵⁹ More recently, the Obama Administration's National Security Council similarly reported a correlation between drug trafficking expansion and increases in crime and corruption.⁶⁰ According to the President's *Strategy to Combat Transnational Organized Crime*, "[t]he demand for illicit drugs, both in the United States and abroad, fuels the power, impunity, and violence of criminal organizations around the globe."⁶¹

The Revolutionary Armed Forces of Colombia (FARC), a group designated as a foreign terrorist organization by the State Department since 1997, relies heavily on taxing, producing, and trafficking illegal drugs to fund their militant operations.⁶² In 2012, Colombia's Defense Minister stated that Colombia's illegal drug market generated an estimated \$6 to \$7 billion annually, of which the FARC earned \$2.4 to \$3.5 billion.⁶³ Some experts argue that the number was exaggerated and it is more likely \$200 million to \$1 billion.⁶⁴ Nonetheless, FARC anti-

⁵⁶ Remi L. Roy, *How Lucrative Illegal Drug Trafficking Finances International Terrorist Organizations*, THE FIX (Oct. 26, 2014), <http://www.alternet.org/drugs/how-lucrative-illegal-drug-trafficking-finances-international-terrorist-organizations>.

⁵⁷ Drug Enforcement Administration, *DEA Programs: Money Laundering*, <https://www.dea.gov/ops/money.shtml> (last visited July 11, 2016).

⁵⁸ *Narco-Terrorism: International Drug Trafficking and Terrorism – A Dangerous Mix: Hearing Before the S. Comm. on the Judiciary*, 108th Cong. (2003) (statement of Steve McCraw, Assistant Director, Office for Intelligence, Federal Bureau of Investigation), available at http://www.judiciary.senate.gov/meetings/narco-terrorism-international-drug-trafficking-and-terrorism_-a-dangerous-mix.

⁵⁹ *Id.*

⁶⁰ Exec. Office of the President, *Strategy to Combat Transnational Organized Crime*, National Security Council (July 25, 2011), available at <https://www.whitehouse.gov/administration/eop/nsc/transnational-crime>.

⁶¹ *Id.*

⁶² John Otis, *The FARC and Colombia's Illegal Drug Trade*, Wilson Center (Nov. 2014), available at https://www.wilsoncenter.org/sites/default/files/Otis_FARCDrugTrade2014.pdf.

⁶³ *Id.*

⁶⁴ *Id.*



government operations and drug-related violence in Colombia destabilized the region, resulting in more than 200,000 deaths and the displacement of more than 5 million people since 1958.⁶⁵

Meanwhile, it is reported that Mexican drug cartels are taking in \$19 to \$29 billion per year from U.S. drug sales.⁶⁶ These criminal organizations represent a significant threat, because they control entire networks in Mexican border towns and are well connected within the United States.⁶⁷ According to the DEA, “Mexican transnational criminal organizations (TCOs) remain the greatest criminal drug threat to the United States; no other group can challenge them in the near term.”⁶⁸

As outlined in the majority staff report, *The State of America’s Border Security*, the profit to be gained by supplying drugs to America creates a huge incentive to penetrate our borders, no matter what defenses the United States erects.⁶⁹ The result has been a porous border, which is not only penetrated by drug trafficking organizations, but also by human smugglers and human traffickers.⁷⁰ The porous border imposes significant costs for the nation, public safety, and

“I would just simply say we think that an unlimited amount of drugs get into this country, in the hundreds of tons, not even counting marijuana; in the hundreds of tons of cocaine, heroin and methamphetamine. ***It gets in, no problem***; gets all the way to Portland, Maine as fast as it gets to San Diego. We know that tens of thousands of people come into this country; I’m not talking about the—kind of the economic people seeking a better life. I’m talking about sex workers and—and other people; ***they get here, no problem***. Millions and millions of items of counterfeit industrial type items like electronics get in... ***If all of that's getting in, no problem, then I would argue that our border is not secure.***” – Gen. John F. Kelly, USMC (Ret.), Former Commander of the United States Southern Command, America’s Insatiable Demand for Drugs: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs.

⁶⁵ *Id.*; see also Associated Press in Bogota, *Colombian Conflict Has Killed 220,000 in 55 Years, Commission Finds*, THE GUARDIAN (July 25, 2013), <http://www.theguardian.com/world/2013/jul/25/colombia-conflict-death-toll-commission>.

⁶⁶ United States of America-Mexico Bi-National Criminal Proceed Study, *Joint Message from Assistant Secretary John Morton, U.S. Immigration & Customs Enforcement, and Director Garyling G. Williams, DHS Office of Counternarcotic Enforcement*, available at <https://www.ice.gov/doclib/cornerstone/pdf/cps-study.pdf>.

⁶⁷ Christopher Woody, *2 of Mexico’s Most Powerful Cartels Are Clashing Just Across the U.S. Border*, BUSINESS INSIDER (Feb. 28, 2016), available at <http://www.businessinsider.com/cjng-and-sinaloa-cartel-violence-in-tijuana-2016-2>.

⁶⁸ Drug Enforcement Administration, DEA-DCT-DIR-008-16, *2015 National Drug Threat Assessment Summary v* (Oct. 2015), available at www.dea.gov/docs/2015%20NDTA%20Report.pdf.

⁶⁹ S. Comm. on Homeland Security & Governmental Affairs, *The State of America’s Border Security* (Nov. 23, 2015), available at <https://www.hsgac.senate.gov/media/majority-media/icymi-johnson-releases-border-report>.

⁷⁰ *Id.*



communities on the border that are directly affected by trafficking and migration.⁷¹

Further, the drug trade generates such high profits for criminal organizations that even when authorities suppress drugs and drug-trafficking in one area, the criminals are likely to move their operations to another area. According to a 2012 report from the UN Office on Drugs and Crime, when one country's drug control efforts are successful, other countries experience a rise in organized crime, black markets, and other problems associated with drugs and drug trafficking.⁷² This is known as the "balloon effect" and there are many examples of this phenomenon: "Peru and Bolivia to Colombia in the 1990s, the Netherlands Antilles to West Africa in the early 2000s, and Colombia and Mexico to El Salvador, Honduras, and Guatemala in the 2000s and 2010s."⁷³ In a span of ten years, the United States spent \$8 billion to assist Colombia in its drug war and ongoing conflict with the Revolutionary Armed Forces of Colombia, only to see drug-traffickers establish new routes in Ecuador and Venezuela.⁷⁴ On a congressional delegation trip to Honduras, Committee Members and staff were briefed on how the government is addressing the flow of drugs to the United States.⁷⁵ Given Honduras' limited resources to effectively curtail the flow of drugs, the government is focused on trying to *divert* the flow from its shores, rather than *stop* the flow altogether.⁷⁶

III. AMERICA'S OPIOID EPIDEMIC

Today, opioid abuse represents America's newest public health crisis. Prescription pain medication, heroin, and fentanyl are all "opioids" that share similar characteristics, attach to the same receptors, and produce similar effects on the human brain. Thus, those who become addicted to prescription drugs often satisfy their addiction by turning to heroin or fentanyl, which today are more readily available and offered at lower prices.

According to the National Institute on Drug Abuse (NIDA), current research "suggests that abuse of [prescription opioid pain medications] may open the door to heroin abuse."⁷⁷ NIDA further notes that "nearly half of young people who inject heroin surveyed in three recent

⁷¹ For example, the Tohono O'odham Nation is located at the Southern border of Arizona. The nation is affected by significant drug trafficking and migration activity. According to the Department of Homeland Security and Tohono O'odham Police Department, the Nation bears considerable costs associated with border crossings, including both financial costs for death investigations and removing abandoned property on the remote land as well as threats to public safety. Observations during staffdel to the Tohono O'odham Nation (July 2016) (Notes on file with the Committee).

⁷² United Nations Office of Drugs and Crime, *World Drug Report 2012*, available at https://www.unodc.org/documents/data-and-analysis/WDR2012/WDR_2012_web_small.pdf.

⁷³ German Lopez, *America Can End Its War on Drugs. Here's How.*, VOX (Apr. 25, 2016), <http://www.vox.com/2016/4/25/11445454/end-war-on-drugs>.

⁷⁴ *Id.*

⁷⁵ Observations during Johnson-Carper CODEL to Central America (Oct. 2015) (Notes on file with the Committee).

⁷⁶ *Id.*

⁷⁷ *DrugFacts: Heroin*, National Institute on Drug Abuse (Oct. 2014), <http://www.drugabuse.gov/publications/drugfacts/heroin>.



studies reported abusing prescription opioids before starting to use heroin.”⁷⁸ In testimony before the Committee, ONDCP Director Michael Botticelli testified that “four out of five newer users to heroin started by misusing prescription pain medication.”⁷⁹

NIDA found that individuals “reported taking up heroin because it is cheaper and easier to obtain than prescription drugs.”⁸⁰ For example, the DEA reports that in Nashville, Tennessee, where prescription opioid abusers are beginning to use heroin, a dosage unit of prescription opioids on the black market costs \$30 to \$80 as compared to \$10 to \$15 for a dosage unit of heroin.⁸¹

a. Prescription Opioids

Prescription opioids are Schedule II controlled substances,⁸² commonly referred to as “prescription painkillers,” and include drugs such as hydrocodone (Vicodin), oxycodone (OxyContin), and fentanyl (Duragesic).⁸³ Taken as prescribed, opioids can responsibly be used to manage pain safely and effectively.⁸⁴

Prescription opioids entered the U.S. market in the late 1990s and immediately took off. OxyContin sales have gone from \$45 million in 1996 to \$3.1 billion by 2010.⁸⁵

In 1995, the American Pain Society (APS) introduced the “Pain as the 5th Vital Sign” (P5VS) campaign.⁸⁶ According to the APS, pain management is a patient right and pain should

“[W]e all have to look at ourselves in the mirror and figure out when we became a culture that has to be pain free at all times.” – Carole Rendon, Acting U.S. Attorney, Northern District of Ohio, Examining the Impact of the Opioid Epidemic in Ohio: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs.

⁷⁸ *Id.*

⁷⁹ *America’s Insatiable Demand for Drugs: Assessing the Federal Response: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of Michael P. Botticelli, Director, Office of National Drug Control Policy).

⁸⁰ *DrugFacts: Heroin*, National Institute on Drug Abuse (Oct. 2014), <http://www.drugabuse.gov/publications/drugfacts/heroin>.

⁸¹ Drug Enforcement Administration, DEA-DCT-DIR-022-15, *2015 National Heroin Threat Assessment* (Apr. 2015), at 26 (on file with the Committee).

⁸² *Commonly Abused Drugs Charts: Prescription Opioids*, National Institute on Drug Abuse (last updated Mar. 2016), available at <http://www.drugabuse.gov/drugs-abuse/commonly-abused-drugs-charts#prescription-opioids>.

⁸³ *Prescription Drugs & Cold Medicines*, National Institute on Drug Abuse (last updated Mar. 2015), available at <http://www.drugabuse.gov/drugs-abuse/prescription-drugs-cold-medicines>.

⁸⁴ *Prescription Drug Abuse: What Are the Possible Consequences of Opioid Use and Abuse?*, National Institute on Drug Abuse (last updated Nov. 2014), available at <http://www.drugabuse.gov/publications/prescription-drugs-abuse-addiction/opioids/what-are-possible-consequences-opioid-use-abuse>.

⁸⁵ Mike Mariani, *How the American Opiate Epidemic Was Started by One Pharmaceutical Company*, THE WEEK (Mar. 4, 2015), available at <http://theweek.com/articles/541564/how-american-opiate-epidemic-started-by-pharmaceutical-company>.

⁸⁶ Karen Lafleur, RN, *Taking the Fifth (Vital Sign)*, THE MODERN MEDICINE NETWORK (July 1, 2004), <http://www.modernmedicine.com/modern-medicine/content/taking-fifth-vital-sign>.



be measured like blood pressure, heartbeat, and breathing.⁸⁷ Because there was no device to objectively measure pain, pain would be measured on a “1-10” scale by the patient. In 1998, the Department of Veterans Affairs (VA) made the P5VS part of its national pain management strategy.⁸⁸ In 2001, the Joint Commission on Accreditation of Health Care Organizations (JCAHO) issued new guidelines for patient pain management and reassured the public about the safety of opioids to treat pain.⁸⁹ By 2013, more than 200 million prescriptions were written for prescription opioids.⁹⁰

Today, NIDA reports that “[o]ver 2 million people in the United States suffer from substance use disorders related to prescription opioid pain relievers,” and that while the “causes

“Perhaps as far as what you could do for regulation of prescribers, [the PROP Act is] the single-most important piece of federal legislation reform that you could do.” – Timothy

Westlake, M.D., *Border Security and America’s Heroin Epidemic: The Impact of the Trafficking and Abuse of Heroin and Prescription Opioids in Wisconsin: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs.*

are complex . . . they include overprescription of pain medications.”⁹¹ To address this problem, on April 7, 2016, Chairman Johnson, along with Senators Manchin, Barrasso, and Blumenthal, introduced S. 2758, the Promoting Responsible Opioid Prescribing (PROP) Act to reduce the pressure doctors currently face that may lead to overprescribing.⁹² Specifically, the PROP Act prohibits pain management questions on patient surveys from being factored into Medicare reimbursement calculations.⁹³ In July 2016, HHS recognized the importance of this proposal and proposed to remove pain management questions from hospital payment calculations.

The tragic consequences of opioid abuse can be seen dramatically in Chairman Johnson’s investigation of the VA Medical Center in Tomah, Wisconsin (Tomah VAMC). In August 2014, U.S. Marine Corps veteran Jason Simcakoski passed away from “mixed drug toxicity” at the

⁸⁷ Leon Gussow, *The Money and Influence Behind “Pain as the Fifth Vital Sign,”* THE POISON REVIEW (Dec. 16, 2012), <http://www.thepoisonreview.com/2012/12/16/the-money-and-influence-behind-pain-as-a-fifth-vital-sign>.

⁸⁸ U.S. Dep’t of Veterans Affairs, VHA Pain Management, *available at* http://www.va.gov/PAINMANAGEMENT/VHA_Pain_Management_Strategy.asp; *see also* Richard A. Mularski, Foy White-Chu, Deborah Overbay, Lois Miller, Steven M. Asch, & Linda Ganzini, *Measuring Pain as the 5th Vital Sign Does Not Improve Quality of Pain Management*, 21 U.S. National Library of Medicine, National Institutes of Health (Jan. 2006), at 607-612.

⁸⁹ Ronald Hirsch, MD, *The Opioid Epidemic: It’s Time to Place Blame Where It Belongs*, KevinMD.com (Apr. 6, 2016), *available at* <http://www.kevinmd.com/blog/2016/04/the-opioid-epidemic-its-time-to-place-blame-where-it-belongs.html>.

⁹⁰ *DrugFacts: Prescription and Over-the-Counter Medications*, National Institute on Drug Abuse (last updated Dec. 2014), *available at* <http://www.drugabuse.gov/publications/drugfacts/prescription-over-counter-medications>.

⁹¹ *Id.*

⁹² S.2578, PROP ACT of 2016, 114th Cong. (2015-2016).

⁹³ *Id.*



facility.⁹⁴ At the time of his death, Simcakoski had over a dozen different drugs in his system.⁹⁵ Beginning in January 2015, Chairman Johnson conducted a lengthy investigation into allegations of opioid over-prescription and drug diversion at the Tomah VAMC.⁹⁶ The investigation showed that the facility had a reputation as a “big pill box” and was known in the community as “Candy Land.”⁹⁷ A subsequent VA review found that the facility prescribed opioids at a higher rate than the national average.⁹⁸ Because of Chairman Johnson’s investigation, the Tomah VAMC has changed its opioid prescription practices, decreasing the number of patients receiving opioids and benzodiazepines by 16 percent.⁹⁹

Unfortunately, the VA Medical Center in Milwaukee, Wisconsin has also suffered problems. Last November, a veteran died of a heroin overdose at the facility. Chairman Johnson immediately pushed for attention to this issue, which was provided in August 2016 when the Secretary of Veterans Affairs personally traveled to Milwaukee to tour the facility with the Chairman. The investigation into the death of the veteran is ongoing.

Finally, initial lawful and appropriate uses of prescription opioids can become illicit when the drugs are diverted or otherwise misused. This often occurs due to the highly addictive nature of opioids. To address the issue of diversion, in 2010, OxyContin was reformulated to make it more tamper-resistant and more difficult to abuse.¹⁰⁰ In addition, state governments are working to reduce potential drug misuse. In Wisconsin, the Heroin Opiate Prevention and Education (HOPE) agenda—a package of 17 bills signed into law—among other things, encourages local communities to set up drug disposal programs so that unwanted prescription drugs do not fall into the wrong hands.¹⁰¹

Greater awareness among prescribers and the public about the dangers of prescription opioid misuse and drug take-back initiatives have helped reduce prescription opioid diversion and abuse.¹⁰² According to Director Botticelli, positive testing for prescription pain medication

⁹⁴ Aaron Glanz, *Opiates Handed Out Like Candy to ‘Doped-up’ Veterans at Wisconsin VA*, REVEAL NEWS (Jan. 8, 2015).

⁹⁵ *Id.*

⁹⁶ See S. Comm. on Homeland Security & Governmental Affairs, *The Systemic Failures and Preventable Tragedies of the Tomah VA Medical Center* (May 31, 2016).

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Tomah VAMC: Examining Patient Care and Abuse of Authority: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of Sloan D. Gibson, Deputy Secretary, Veterans Affairs).

¹⁰⁰ Drug Enforcement Administration, DEA-DCT-DIR-022-15, *2015 National Heroin Threat Assessment* (Apr. 2015), at 27 (on file with the Committee).

¹⁰¹ *HOPE Agenda: Legislation*, Heroin, Opioid Prevention Education (HOPE) Agenda, available at <http://legis.wisconsin.gov/assembly/hope/legislation> (last visited Apr. 7, 2015).

¹⁰² Drug Enforcement Administration, DEA-DCT-DIR-022-15, *2015 National Heroin Threat Assessment* (Apr. 2015), at 27 (on file with the Committee).



has actually decreased.¹⁰³

b. Heroin

Heroin is a Schedule I opioid drug produced from morphine, which is a naturally occurring substance extracted from the seed of the Asian opium poppy plant.¹⁰⁴ It typically appears in one of three forms: white powder heroin, brown powder heroin, or black tar heroin.¹⁰⁵ Heroin is generally consumed either by inhalation (snorting or smoking) or by injection.¹⁰⁶

“Heroin is no longer someone else’s problem. It’s our problem. It’s America’s problem. And Arizona is the front door.”

–Arizona Governor Ducey,
America’s Heroin Epidemic at the Border:
Local, State, and Federal Law Enforcement
Efforts to Combat Illicit Narcotic Trafficking:
Hearing Before the S. Comm. on Homeland
Security & Governmental Affairs.

The effects of heroin use and dependency are serious and wide-ranging. According to NIDA, fatal overdose, spontaneous abortion, and infectious diseases are commonly associated with heroin abuse and chronic users can develop a number of health issues, including collapsed veins, infection of the heart lining and valves, abscesses, gastrointestinal issues, and liver or kidney disease.¹⁰⁷ Chronic users are generally in poor health and thereby susceptible to a number of additional health problems.¹⁰⁸ Heroin abuse during pregnancy can lead to neonatal abstinence syndrome (NAS) in which a baby is born physically addicted to heroin due to the mother’s use.¹⁰⁹

Mexico is the primary supplier of heroin to the United States and opium poppy cultivation in Mexico has dramatically increased in recent years.¹¹⁰ The profitability of such production and trafficking is astounding: a kilogram of heroin that can be produced in Mexico for around \$5,000 can be sold to dealers for as much as \$80,000.¹¹¹ According to General John F. Kelly, former Commander of U.S. Southern Command, “heroin often times provides greater return and less risk when compared to cocaine” as cartels are forced “to ship much larger

¹⁰³ *America’s Insatiable Demand for Drugs: Assessing the Federal Response: Hearing Before the S. Comm on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of Hon. Michael P. Botticelli, Director, Office of National Drug Control Policy).

¹⁰⁴ *Heroin*, National Institute on Drug Abuse (last updated Mar. 2015), <http://www.drugabuse.gov/drugs-abuse/heroin>.

¹⁰⁵ *Id.*

¹⁰⁶ Drug Enforcement Administration, DEA-DCT-DIR-022-15, *2015 National Heroin Threat Assessment* (Apr. 2015), at 24 (on file with the Committee).

¹⁰⁷ *DrugFacts: Heroin*, National Institute on Drug Abuse (last updated Oct. 2014), <http://www.drugabuse.gov/publications/drugfacts/heroin>.

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ Drug Enforcement Administration, DEA-DCT-DIR-022-15, *2015 National Heroin Threat Assessment* (Apr. 2015), at 24 (on file with the Committee).

¹¹¹ Todd C. Frankel, *Cheap Fix: Heroin’s Resurgence – Pellets, Planes, and the New Frontier*, WASH POST (Sept. 24, 2015), available at <http://www.washingtonpost.com/sf/national/2015/09/24/pellets-planes-and-the-new-frontier>.



volumes of cocaine to match the profits generated by heroin.”¹¹²

At the Committee’s field hearing in New Hampshire, the DEA witness testified that his agency has seen a 50 percent increase in poppy cultivation in Mexico, resulting in a corresponding increase in heroin production and trafficking.¹¹³ In just one year (from 2013 to 2014), opium poppy cultivation in Mexico increased from 11,000 hectares with an estimated pure potential production of 26 metric tons to 17,000 hectares with a potential production of 42 metric tons of pure heroin.¹¹⁴ This increase is attributed to reduced poppy eradication and Mexican organizations shifting their focus to heroin trafficking. The DEA estimates that poppy cultivation in Colombia remains limited.¹¹⁵

Historically, the heroin market in the United States has been divided along the Mississippi River: western markets used Mexican black tar or brown powder heroin and eastern markets used white powder heroin.¹¹⁶ The “largest, most lucrative heroin markets in the United States are the white powder markets in major eastern cities.”¹¹⁷

Heroin is most commonly brought to the United States over land across the southwest border (via Mexican cartels) or transported by couriers through commercial airlines (via Columbian cartels). In the 2000s, Mexican production of heroin increased while Colombian production of heroin decreased.¹¹⁸ At the same time that Mexican heroin production increased, Mexican traffickers began transporting Colombian heroin on behalf of Colombian traffickers. For these reasons, over the last fifteen years the amount of heroin seized at the southwest border has increased exponentially—from 846 kilograms in 2009 to 2,196 kilograms in 2013.¹¹⁹ Today, 78 to 84 percent of heroin interdictions in the United States occur at the

“I’ve been with the DEA almost 30 years, and I’ve got to tell you, I’ve never seen it this bad. – John Riley, Acting Deputy Administrator, Drug Enforcement Agency, All Hands on Deck: Working Together to End the Trafficking and Abuse of Prescription Opioids, Heroin, and Fentanyl: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs.

¹¹² *America’s Insatiable Demand for Drugs: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement for the record of Gen. John F. Kelly, USMC (Ret.), Former Commander of the United States Southern Command (2012-2016)).

¹¹³ *All Hands on Deck: Working Together to End the Trafficking and Abuse of Prescription Opioids, Heroin, and Fentanyl: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2015) (statement of John Riley, Acting Deputy Administrator, Drug Enforcement Administration).

¹¹⁴ Drug Enforcement Administration, DEA-DCT-DIR-022-15, *2015 National Heroin Threat Assessment* (Apr. 2015), at 51 (on file with the Committee).

¹¹⁵ *Id.*

¹¹⁶ *Id.* at vii.

¹¹⁷ *Id.*

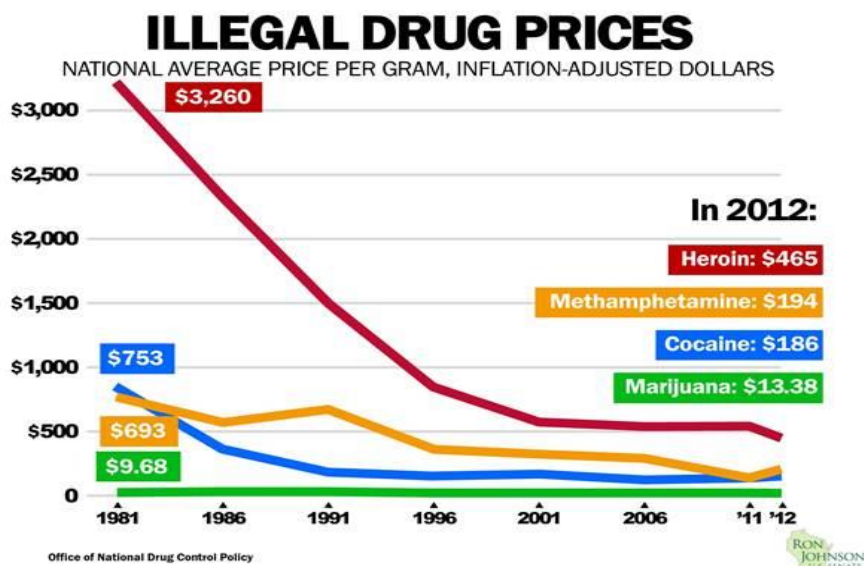
¹¹⁸ *Id.* at 15.

¹¹⁹ *All Hands on Deck: Working Together to End the Trafficking and Abuse of Prescription Opioids, Heroin, and Fentanyl: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2015) (statement of John Riley, Acting Deputy Administrator, Drug Enforcement Administration).



southwest border, largely at lawful ports of entry.¹²⁰

Wholesale quantities of pure heroin are typically smuggled into the United States and delivered to a “mill” location where they are broken down into smaller quantities and diluents or adulterants are added and repackaged for mid-level or retail sale, often by signature packaging or stamps as a marketing strategy by the distributor.¹²¹ Heroin is not produced in the United States, there are no known heroin processing labs in the United States, and there has never been a seizure of an opium-to-heroin laboratory in the United States.¹²²



As a result of the ease by which drug trafficking organizations (DTOs) can move heroin and other illicit narcotics across the southwest border, heroin available in the United States today is higher in purity and lower in price.¹²³ The DEA reports that in 1981, the retail level purity of heroin was 10 percent and by 1999 that had increased to 40 percent.¹²⁴ According to the Wisconsin Attorney General, heroin has increased from a purity level of five percent in the state of Wisconsin, to ranges today between 20 and 80 percent.¹²⁵ During this same time, the price of heroin has significantly dropped. In 1981, the average price per gram of pure heroin was \$3,260

¹²⁰ Information provided by U.S. Customs & Border Protection (Apr. 2016) (Notes on file with the Committee).

¹²¹ Drug Enforcement Administration, DEA-DCT-DIR-022-15, *2015 National Heroin Threat Assessment* (Apr. 2015), at 7 (on file with the Committee).

¹²² *Id.* at 5.

¹²³ *Border Security and America's Heroin Epidemic: The Impact of the Trafficking and Abuse of Heroin and Prescription Opioids in Wisconsin: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of Brad Schimel, Attorney General, Department of Justice, State of Wisconsin).

¹²⁴ Drug Enforcement Administration, DEA-DCT-DIR-022-15, *2015 National Heroin Threat Assessment* (Apr. 2015), at 1 (on file with the Committee).

¹²⁵ *Border Security and America's Heroin Epidemic: The Impact of the Trafficking and Abuse of Heroin and Prescription Opioids in Wisconsin: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of Brad Schimel, Attorney General, Department of Justice, State of Wisconsin).



(in 2012 U.S. dollars) and by 2012 the price per gram had decreased to \$465 (in 2012 U.S. dollars).¹²⁶ In Wisconsin, the price of heroin averages from a high of \$180 per gram to as little as \$100 per gram.¹²⁷ This can translate into \$10 for one hit.

Today, the falling price of heroin, the rising toxicity of the product, and the highly addictive nature of opioids that have been overprescribed to a generation of Americans has resulted in a public health crisis across this nation. Media reports state that there are currently 914,000 heroin users in the United States, a 145 percent increase from 2007.¹²⁸ In 2014, 10,574 people across the nation died from a heroin overdose, up from 8,257 in 2013.¹²⁹ According to a witness at the Committee's field hearing in Wisconsin, in 2015 "Milwaukee County alone reported 109 heroin-related overdose deaths," up from 31 in 2008.¹³⁰ Chairman Johnson has had the opportunity to meet with a number of Wisconsinites who have been impacted by heroin addiction through various events in the state, including the field hearing he convened in Pewaukee, Wisconsin. The Chairman has also traveled with Attorney General Schimel to promote how CARA, legislation Chairman Johnson supported, will provide needed resources to Wisconsin in order to address this epidemic.

c. Fentanyl

Fentanyl is a Schedule II synthetic opiate similar to, but more powerful than, morphine.¹³¹ It is used to treat patients with severe pain.¹³² Like heroin and other opioids, fentanyl binds to receptors in the brain, driving up dopamine levels and producing a state of euphoria and relaxation.¹³³ When prescribed by a physician to treat severe pain, fentanyl is generally administered via injection, patch, or lozenge. The type of fentanyl contributing to recent overdose deaths, however, is being produced in clandestine labs and mixed with—or

¹²⁶ Drug Enforcement Administration, DEA-DCT-DIR-022-15, *2015 National Heroin Threat Assessment* (Apr. 2015), at 1 (on file with the Committee).

¹²⁷ *Border Security and America's Heroin Epidemic: The Impact of the Trafficking and Abuse of Heroin and Prescription Opioids in Wisconsin: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of James Bohn, Executive Director, Wisconsin High Intensity Drug Trafficking Area (HIDTA) Program).

¹²⁸ *Did Painkiller Crackdown Cause Heroin Epidemic?*, U.S. National Library of Medicine (Jan. 13, 2016), available at https://www.nlm.nih.gov/medlineplus/news/fullstory_156675.html.

¹²⁹ Centers for Disease Control and Prevention, *Number and Age-Adjusted Rates of Drug-Poisoning Deaths Involving Opioid Analgesics and Heroin: United States, 2000-2014*, available at http://www.cdc.gov/nchs/data/health_policy/AADR_drug_poisoning_involving_OA_Heroin_US_2000-2014.pdf.

¹³⁰ *Border Security and America's Heroin Epidemic: The Impact of the Trafficking and Abuse of Heroin and Prescription Opioids in Wisconsin: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of James Bohn, Executive Director, Wisconsin High Intensity Drug Trafficking Area (HIDTA) Program).

¹³¹ *Fentanyl*, National Institute on Drug Abuse (last updated Dec. 2012), <http://www.drugabuse.gov/drugs-abuse/fentanyl>.

¹³² *Id.*

¹³³ *Id.*



passed off as—white powder heroin.¹³⁴

The DEA estimates that fentanyl is 25 to 40 times more potent than heroin,¹³⁵ which significantly increases the likelihood that even an experienced heroin user will overdose when switching to fentanyl for a “better” high or unknowingly using heroin that has been cut with fentanyl. According to the CDC, one gram of fentanyl can equal as much as 7,000 street doses of heroin.¹³⁶

Fentanyl is so potent that it can present a safety threat to law enforcement or others who come into contact with small amounts of it. In fact, at a recent Committee roundtable on international mail security, a representative from the DEA explained that canines are not trained to identify fentanyl because just sniffing the contents of fentanyl on the outside of a package would kill the dog.¹³⁷

In 2015, New Hampshire recorded 428 overdose deaths, a record, with almost two-thirds involving fentanyl.¹³⁸ Fentanyl has already been responsible for 30 deaths in Milwaukee County, Wisconsin in the first three months of 2016,¹³⁹ and recently there were 12 overdose deaths in just 5 days attributed to either heroin or fentanyl in Cuyahoga County, Ohio.¹⁴⁰

“The number of overdose deaths has continued to increase, particularly with the introduction of fentanyl, which has proven to be incredibly deadly. According to the Cuyahoga County Medical Examiner, while there were only five overdose deaths in 2013 involving fentanyl, in 2014 that number rose to 37, and in 2015 to 91 . . . In 2016, we have had 125 fatal overdoses from heroin and fentanyl in Cuyahoga County alone, and it is only April. We were overwhelmed by a death a day in the early part of the year. Then, in March, we started to see an average of two overdose deaths a day. The devastation is undeniable.” – Carole Rendon, Acting U.S. Attorney, Northern District of Ohio, Examining the Impact of the Opioid Epidemic in Ohio: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs.

¹³⁴ *Id.*

¹³⁵ Drug Enforcement Administration, DEA-DCT-DIR-022-15, *2015 National Heroin Threat Assessment* (Apr. 2015), at 31 (on file with the Committee).

¹³⁶ Centers for Disease Control and Prevention, *Nonpharmaceutical Fentanyl-Related Deaths— Multiple States, April 2005-March 2007*, <https://www.cdc.gov/mmwr/preview/mmwrhtml/mm5729a1.htm>.

¹³⁷ *Preventing Drug Trafficking Through International Mail: Roundtable Before the S. Comm on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of Joseph P. Murphy, Chief, International Postal Policy Unit, Office of Specialized and Technical Agencies, Bureau of International Organization Affairs, U.S. Department of State).

¹³⁸ Casey McDermott, *N.H. Medical Examiner: At Least 10 Drug Overdoses in 2016, 86 Cases Pending*, NEW HAMPSHIRE PUBLIC RADIO (Mar. 15, 2016), <http://nhpr.org/post/nh-medical-examiner-least-10-drug-overdoses-2016-86-cases-pending>.

¹³⁹ Crocker Stephenson, *Fentanyl-Related Deaths Spike to 30 in Milwaukee County in '16*, MILWAUKEE JOURNAL SENTINEL (Apr. 7, 2016), <http://www.jsonline.com/news/health/fentanyl-related-deaths-spike-to-30-in-milwaukee-county-in-16-b99701948z1-374873441.html>.

¹⁴⁰ *Preventing Drug Trafficking Through International Mail: Roundtable Before the S. Comm on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of Joseph P. Murphy, Special Agent in Charge, Special Operations Division, Drug Enforcement Agency, U.S. Department of Justice).



While pharmaceutical fentanyl is sometimes diverted for abuse, recent overdose deaths attributed to fentanyl are largely a result of clandestinely-produced fentanyl arriving from Mexico.¹⁴¹ According to the DEA, clandestinely-produced fentanyl is primarily produced in Mexican labs with analogues and precursors coming from China.¹⁴² The fentanyl produced in these Mexican labs is often mailed to the United States from China, smuggled into Mexico to be cut with heroin, and then trafficked back to the United States primarily in the same manner as heroin.¹⁴³ Drug traffickers “are able to hide the [fentanyl] shipments on mislabeled manifests in order to circumvent law enforcement,” limiting the interdiction of these illegal precursors to approximately one to three percent of all commercial cargo containers.¹⁴⁴

The Committee has sent oversight letters to the U.S. Postal Service, the Department of Homeland Security, and the Department of State inquiring how each agency is working to prevent fentanyl from entering the country through foreign mail.¹⁴⁵ In April 2016, the Committee held a roundtable with these agencies, as well as the DEA and the United Parcel Service, to examine drug trafficking through the mail.¹⁴⁶ At the roundtable, the participating agencies emphasized the need for foreign postal operators to share more advanced and electronic information on mail shipments entering the United States, similar to the advanced and electronic customs data submitted by international packages imported by private carriers.¹⁴⁷ According to CBP, this information is the key to more effective targeting of mail that may contain fentanyl and other drugs.¹⁴⁸

Continued oversight will be necessary, as the supply of fentanyl shows no sign of declining. As an example, in late 2015, federal authorities arrested multiple individuals in “Operation Denial” following the fentanyl overdose death of a teenager in North Dakota. One of the individuals arrested claimed to buy \$1.5 million worth of fentanyl citrate, delivered from

¹⁴¹ Drug Enforcement Administration, DEA-DCT-DIR-022-15, *2015 National Heroin Threat Assessment* (Apr. 2015), at 41 (on file with the Committee).

¹⁴² *Id.*

¹⁴³ *America’s Insatiable Demand for Drugs: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement for the record of Gen. John F. Kelly, USMC (Ret.), Former Commander of the United States Southern Command (2012-2016) (“Drug traffickers continue to coordinate illegal shipments of fentanyl and its precursors from China.”)).

¹⁴⁴ *Id.*

¹⁴⁵ Letter from Chairman Ron Johnson and Ranking Member Tom Carper, Senate Committee on Homeland Security & Governmental Affairs to Megan J. Brennan, Postmaster General, U.S. Postal Service (March 25, 2016); Letter from Chairman Ron Johnson and Ranking Member Tom Carper, Senate Committee on Homeland Security & Governmental Affairs to Secretary Jeh Johnson, U.S. Department of Homeland Security (March 25, 2016); Letter from Chairman Ron Johnson and Ranking Member Tom Carper, Senate Committee on Homeland Security & Governmental Affairs to Secretary John Kerry, U.S. State Department (March 25, 2016).

¹⁴⁶ *Preventing Drug Trafficking Through International Mail: Roundtable Before the S. Comm on Homeland Security & Governmental Affairs*, 114th Cong. (2016).

¹⁴⁷ *Id.*

¹⁴⁸ *Id.* (statement of Todd Owen, Executive Assistant Commissioner, Office of Operations, U.S. Customs & Border Protection, U.S. Department of Homeland Security).



China in FedEx packages, in one month alone.¹⁴⁹

In addition to being combined with heroin, fentanyl may also be manufactured into a pill form and sold as another prescription opiate, such as OxyContin or hydrocodone.¹⁵⁰ Individual drug dealers can order a pill press and fentanyl online and have it shipped directly to a U.S. address.¹⁵¹ American buyers take little risk in the delivery of the fentanyl, as the Chinese companies selling the fentanyl guarantee delivery and will resend the drugs if they are seized.¹⁵² Like with fentanyl-laced heroin, users may not be aware the pills contain the much stronger fentanyl, making the drugs even more deadly. On April 1, 2016, the DEA released a public safety report about counterfeit hydrocodone tablets that contained fentanyl.¹⁵³ Over 12 days, this batch of counterfeit pills resulted in 42 overdoses and 10 deaths.¹⁵⁴

IV. ADDRESSING AMERICA'S INSATIABLE DEMAND FOR DRUGS

The Administration's Fiscal Year (FY) 2017 budget requested \$31 billion for federal drug programs, a 25 percent increase since President Obama took office.¹⁵⁵ Funding for ONDCP, which provides funding for federal drug programs across the federal government, is divided into two categories: "demand reduction" for prevention and treatment, and "supply reduction" for global interdiction and law enforcement. In 2016, for the first time in ONDCP history, the funding request for demand reduction surpassed the funding request for supply reduction.¹⁵⁶

When President Obama took office in 2009, 60 percent of ONDCP funding was allocated to supply reduction.¹⁵⁷ For FY2017, 51 percent of funding is requested for demand reduction and 49 percent is requested for supply reduction.¹⁵⁸ The 2017 budget request also reduces

¹⁴⁹ Dave Kolpack (Associated Press), *Colombian National Linked to North Dakota Drug Overdoses*, HERALDNET (Sept. 14, 2015), <http://www.heraldnet.com/article/20150914/NEWS03/150919455>.

¹⁵⁰ Alex Zielinski, *America's Overdose Crisis Is Being Fueled by a Drug 50 Times More Potent than Heroin*, THINK PROGRESS (Apr. 6, 2016), <http://thinkprogress.org/health/2016/04/06/3766556/fentanyl-explainer>.

¹⁵¹ David Armstrong, 'Truly Terrifying': Chinese Suppliers Flood U.S. and Canada with Deadly Fentanyl, STAT (Apr. 5, 2015), <https://www.statnews.com/2016/04/05/fentanyl-traced-to-china/>.

¹⁵² *Id.*

¹⁵³ Public Safety Alert from Drug Enforcement Administration, *Counterfeit Hydrocodone Tablets Containing Fentanyl*, Drug Enforcement Administration (Apr. 1, 2016), available at <http://www.dea.gov/divisions/sf/2016/sf040116.shtml>.

¹⁵⁴ Alex Zielinski, *America's Overdose Crisis Is Being Fueled by a Drug 50 Times More Potent than Heroin*, Think Progress (Apr. 6, 2016), available at <http://thinkprogress.org/health/2016/04/06/3766556/fentanyl-explainer>.

¹⁵⁵ Tim Dickinson, *Why America Can't Quit the Drug War*, ROLLING STONE (May 5, 2016), <http://www.rollingstone.com/politics/news/why-america-cant-quit-the-drug-war-20160505>.

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ *America's Insatiable Demand for Drugs: Assessing the Federal Response: Hearing Before the S. Comm on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of Michael P. Botticelli, Director, Office of National Drug Control Policy).



international drug funding by \$952 million, downsizing the role of the State Department and Defense Department in drug eradication in countries like Mexico, Colombia, and Afghanistan.¹⁵⁹

This section considers funding priorities and approaches to prevention, treatment, and law enforcement, as well as alternative approaches to address drug addiction in this country.

a. Prevention

Prevention is perhaps the most important thing that can be done to address drug demand. According to testimony before the Committee, if we can prevent the experimentation of drugs by youth between the ages of 11 and 22—the age in which brain functions are forming—there is a high likelihood that we can prevent them from using drugs for life.¹⁶⁰

The United States has always had policies of prevention embedded into its national drug control strategy, with some approaches having more success than others.

“Prevention strikes at demand. It does not matter what the product is, if there are no buyers, the seller ultimately loses.” – Rob Brandt, Founder, Robby’s Voice

Examining the Impact of the Opioid Epidemic in Ohio: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs.

i. Just Say No

In the early 1980s, a young student in Oakland, California asked former First Lady Nancy Reagan, “What should I do if somebody offers me drugs?” Mrs. Reagan answered, “Well, you just say no.”¹⁶¹ The phrase caught on, and *Just Say No* groups were formed throughout the country.¹⁶² Students participated in community service activities and took pledges to refrain from trying drugs.¹⁶³ The campaign also featured a series of anti-drug media advertisements meant to educate youth on the dangers of drugs. One memorable television commercial featured an egg thrown into a hot frying pan and as the egg sizzled, the announcer intoned, “This is your

¹⁵⁹ Tim Dickinson, *Why America Can’t Quit the Drug War*, ROLLING STONE (May 5, 2016), <http://www.rollingstone.com/politics/news/why-america-cant-quit-the-drug-war-20160505> (“On the supply-reduction side, there has been reorganization. International funding has been slashed from \$2.5 billion in Obama’s first budget to \$1.6 billion in the current request. These cuts have downsized the role of the State Department and the Department of Defense in combating the international drug trade—reducing funding for drug eradication and military equipment in countries like Afghanistan, Colombia and Mexico. The DEA’s international footprint, in contrast, has grown slightly and now accounts for about one-sixth of the agency’s \$2.8 billion budget.”).

¹⁶⁰ *Id.*

¹⁶¹ *Just Say No 1982-1989*, The Ronald Reagan Presidential Foundation & Library, available at <https://www.reaganfoundation.org/ronald-reagan/nancy-reagan/her-causes/>.

¹⁶² *Id.*

¹⁶³ Joe Monzingo, Sonali Kohli, & Zahira Torres, *‘Just Say No’ Anti-Drug Campaign Helped Define Nancy Reagan’s Legacy*, LA TIMES (Mar. 7, 2016), <http://www.latimes.com/local/california/la-me-nancy-reagan-drugs-20160307-story.html>.



brain on drugs, any questions?”¹⁶⁴ At the height of the campaign, the *Just Say No* foundation had more than one million members in 12 countries.¹⁶⁵

The *Just Say No* campaign was routinely criticized for its simplistic message,¹⁶⁶ and many felt the drug problem required a more thorough approach to truly affect behavior.¹⁶⁷ The largest program operating at the time under the *Just Say No* campaign was the Drug Abuse Resistance Education (DARE) program.¹⁶⁸ According to an article in *Scientific American*, researchers found that the students enrolled in the DARE program were just as likely to use drugs as students who were not enrolled in the program.¹⁶⁹ Moreover, drug use among high school students was already declining before the campaign’s start. One study from 2015 showed that marijuana use reached its height in 1979, with 51 percent of high school seniors reporting to have smoked, as compared to 40 percent by the early 1980s.¹⁷⁰

In contrast, there were many positive developments attributed to this campaign. First, many people thought that Mrs. Reagan’s *Just Say No* campaign brought needed attention to an important issue. Ivy Cohen, president of the Just Say No Foundation for a decade, explained that “[w]ithout Nancy Reagan there would not have been the public climate to support drug abuse prevention.”¹⁷¹ Dr. Herbert Kleber, director emeritus of the Columbia University Division on Substance Abuse, succinctly stated: “My experience is *Just Say No* wasn’t terribly effective, but it was better than not doing it.”¹⁷²

ii. Office of Drug Control Policy Media Campaign

From 1998 to 2004, Congress appropriated more than \$1.2 billion to ONDCP for an anti-drug media campaign utilizing television, radio, and print.¹⁷³ The goals of the campaign were to “educate and enable America’s youth to reject illegal drugs; prevent youth from initiating the use

¹⁶⁴ Steve Smith, *This Is Your Brain on Drugs: How Drug Public Service Announcements Have Changed over the Years*, MEDICAL DAILY (Sept. 29, 2015), <http://www.medicaldaily.com/your-brain-drugs-how-drug-public-service-announcements-have-changed-over-years-354734>.

¹⁶⁵ Mark Stricherz, *What Ever Happened to ‘Just Say No’?*, THE ATLANTIC (Apr. 29 2014), <http://www.theatlantic.com/politics/archive/2014/04/ghost-of-just-say-no/361322>.

¹⁶⁶ Joe Monzingo, Sonali Kohli, & Zahira Torres, *‘Just Say No’ Anti-Drug Campaign Helped Define Nancy Reagan’s Legacy*, LA TIMES (Mar. 7, 2016), <http://www.latimes.com/local/california/la-me-nancy-reagan-drugs-20160307-story.html>.

¹⁶⁷ Carol Cone, *What Cause Movements Can Learn from ‘Just Say No’*, Campaign U.S. (Mar. 14, 2016), available at <http://www.campaignlive.com/article/cause-movements-learn-just-say-no/1387202>.

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

¹⁷⁰ Jacob Sullum, *The Darker Side of ‘Just Say No’*, Reason.com (Mar. 14, 2016), available at <http://reason.com/archives/2016/03/14/the-darker-side-of-just-say-no>.

¹⁷¹ Joe Monzingo et al., *‘Just Say No’ Anti-Drug Campaign Helped Define Nancy Reagan’s Legacy*, LA TIMES (Mar. 7, 2016), <http://www.latimes.com/local/california/la-me-nancy-reagan-drugs-20160307-story.html>.

¹⁷² *Id.*

¹⁷³ U.S. Gov’t Accountability Office, GAO-06-018, *ONDCP Media Campaign: Contractor’s National Evaluation Did Not Find That the Youth Anti-Drug Media Campaign Was Effective in Reducing Youth Drug Use* (2006).



of drugs, especially marijuana and inhalants; and convince occasional users of these and other drugs to stop using drugs.”¹⁷⁴

In 1999, ONDCP entered into an inter-agency agreement with NIDA to begin a long-term analysis of the effects of the media campaign. The contract was awarded to Westat, Inc. and the evaluation period occurred from 1999 to 2004.¹⁷⁵ Preliminary reports released in 2002 were unfavorable, and in 2004, Westat concluded that the media campaign was not effective in reducing youth drug use.¹⁷⁶ GAO examined the study and found that the methods used by Westat were scientifically sound and recommended that Congress reduce ONDCP’s media campaign funding.¹⁷⁷ When asked about this review at a Committee hearing, GAO testified that “in some groups when teenagers were exposed to the anti-drug message, they actually used drugs more frequently.”¹⁷⁸ Congress eventually eliminated funding for the media campaign in 2012.¹⁷⁹

iii. *The Truth Campaign*

Truth began in 2000 and was funded by tobacco companies as part of a multi-state court settlement in 1998. The settlement set aside \$1.5 billion to the Legacy Foundation for an anti-tobacco media campaign.¹⁸⁰ According to experts, any such public awareness effort would have to compete with the \$13 billion the tobacco industry spent each year in marketing, and the exposure of the average 14-year-old to more than \$20 billion worth of tobacco marketing from the age of six.¹⁸¹ To do so, the *Truth* campaign exploited the same research used to inform the advertising of the British-American Tobacco Company in the 1950s: meet the psychological needs of adolescents to take risks, rebel, fit in, remain independent, self-express, and be respected.¹⁸² The campaign sought to “out-brand” Big Tobacco and “un-sell” cigarettes.

Learning from the counterproductive tactics of past campaigns that sounded parental, the first *Truth* TV ad instead featured graphic and shocking images of teenagers dumping 1,200 body bags outside a tobacco company’s headquarters, representing the annual smoking death

¹⁷⁴ *Id.*

¹⁷⁵ *Id.*

¹⁷⁶ *Id.*

¹⁷⁷ *Id.*

¹⁷⁸ *America’s Insatiable Demand for Drugs: Assessing the Federal Response: Hearing Before the S. Comm on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of Diana C. Maurer, Director, Homeland Security and Justice, U.S. Government Accountability Office).

¹⁷⁹ *Budget Hearing – National Drug Control Policy: Hearing Before the H. Comm. on Appropriations, Sub. Comm. on Financial Services and General Government*, 112th Cong. (2012) (statement of R. Gil Kerlikowske, Director, National Drug Control Policy).

¹⁸⁰ Jeff Beer, *How the Truth Campaign Plans to End Youth Smoking Once and For All*, FAST COMPANY (Aug. 13, 2015), <http://www.fastcocreate.com/3049629/behind-the-brand/how-the-truth-campaign-plans-to-end-youth-smoking-once-and-for-all>.

¹⁸¹ Pete Favat & Bryan C. Price, *The Truth Campaign and the War of Ideas*, Combating Terrorism Center Sentinel (July 28, 2015), available at <https://www.ctc.usma.edu/posts/the-truth-campaign-and-the-war-of-ideas>.

¹⁸² *Id.*



toll. In a follow-on TV ad, 1,200 students wearing white numbered shirts stood outside a tobacco company’s headquarters and fell down “dead” simultaneously at a pre-determined time. In addition, print ads in skateboarding magazines encouraged guerilla marketing stunts that engaged youth in a grassroots campaign to expose the lies and manipulation of the tobacco industry in the days before social media.¹⁸³ The campaign was an immediate success, according to a study featured in the *American Journal of Public Health*: in 2000, there were 300,000 fewer smokers due to this initiative.¹⁸⁴

More recent studies have shown that *Truth* has lowered the teen smoking rate from 23 percent to 8 percent over the past 15 years.¹⁸⁵ According to Robin Koval, CEO of the Legacy Foundation, the *Truth* campaign was rebranded in 2015 as the *Truth Initiative*.¹⁸⁶ Despite the success of the *Truth* campaign, Koval stated the rebranding was necessary “in order to fight complacency.”¹⁸⁷ Today, “the organization is trying to tap the social power of the 92 percent of kids who don’t smoke cigarettes to get youth smoking down to zero.”¹⁸⁸ The revamped program still features ads with the “Truth Attitude” but will also focus on information and content that can be shared on social media.¹⁸⁹

iv. *Prevention and Education Campaigns Today*

While GAO recommended limiting appropriations for ONDCP’s previous anti-drug media campaign because it found that the campaign was not successful, it cautioned that such a finding “cannot be construed to mean that a media campaign that is configured differently from this one cannot work.”¹⁹⁰ Doubling down at a Committee hearing, GAO noted the success of campaigns designed to reduce the use of tobacco or encourage the use of seat belts, noting these to be “generational changes that require people to rethink the way they fundamentally approach things” and that “there may be things we can learn from those efforts that we could apply to the

“Marijuana is sort of similar to alcohol and tobacco in that it is consumed by a lot of people.... The other bin, the heroin, cocaine, meth, is 1 percent of the country that is completely dominating the consumption, and hence the cross-border flows. It's hard to reach the 1 percent with the media.” – Jonathan P. Caulkins, Carnegie Mellon University, America’s Insatiable Demand for Drugs: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs.

¹⁸³ *Id.*

¹⁸⁴ Kim Krisberg, *Anti-Smoking Campaign Lowers Youth Smoking Rates with "Truth" Funding Threatened*, Medscape (2005), available at <http://www.medscape.com/viewarticle/502009>.

¹⁸⁵ Jeff Beer, *How the Truth Campaign Plans to End Youth Smoking Once and For All*, Fast Company (Aug. 13, 2015), available at <http://www.fastcocreate.com/3049629/behind-the-brand/how-the-truth-campaign-plans-to-end-youth-smoking-once-and-for-all>.

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

¹⁸⁸ *Id.*

¹⁸⁹ *Id.*

¹⁹⁰ U.S. Gov’t Accountability Office, GAO-06-818, *ONDCP Media Campaign: Contractor’s National Evaluation Did Not Find That the Youth Anti-Drug Media Campaign Was Effective in Reducing Youth Drug Use* (2006).



drug problem in this country.”¹⁹¹ Today, various media campaigns educate children on the harms of drug use, as well as the link between prescription medications and heroin addiction.

After the preliminary findings from Westat’s evaluation, ONDCP launched a new initiative titled “Above the Influence” (ATI), which focused on the message that marijuana was inconsistent with a teen’s autonomy and the achievement of their goals.¹⁹² Studies showed that the ATI message was more effective in reaching teens and influencing behavior.¹⁹³ In 2010, the ATI program expanded its focus to include other drugs. An article in *Prevention Science* magazine in 2011 found that the “Above the Influence” campaign is trending towards positive impacts on attitudes and behavior¹⁹⁴ After congressional funding ceased, the non-profit organization, the Partnership for Drug-Free Kids, assumed control of the ATI initiative.¹⁹⁵ The Partnership for Drug-Free Kids generates funding through donations from individuals, foundations, and corporations, as well as government grant programs.¹⁹⁶ In 2014, the organization had an \$8.2 million operating budget and \$88.4 million for contributed services, media time, and air space.¹⁹⁷

“The average age of first use in Wisconsin is 12 years old. Kids need to hear clear and consistent prevention messages from 6th grade until 12th grade.” – Tyler Lybert, Your Choice-Live, Border Security and America’s Heroin Epidemic: The Impact of the Trafficking and Abuse of Heroin and Prescription Opioids in Wisconsin: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs.

Beyond media campaigns, through field hearings across the country, the Committee observed local advocates—oftentimes those directly affected by addiction—who have begun their own prevention and education campaigns. In Wisconsin, Tyler Lybert, who is in recovery after battling with addiction for 11 years, and his family, launched *Your Choice-Live*.¹⁹⁸ *Your*

¹⁹¹ *America’s Insatiable Demand for Drugs: Assessing the Federal Response: Hearing Before the S. Comm on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of Diana C. Maurer, Director, Homeland Security and Justice, U.S. Government Accountability Office).

¹⁹² *National Anti-Drug Campaign Succeeds in Lowering Marijuana Use, Study Suggests*, The Ohio State University, available at <http://researchnews.osu.edu/archive/aboveinfluence.htm> (last visited Mar. 28, 2016).

¹⁹³ *Id.*

¹⁹⁴ Michael D. Slater et al., *Assessing Media Campaigns Linking Marijuana Non-Use with Autonomy and Aspirations: “Be Under Your Own Influence” and ONDCP’s “Above the Influence,”* U.S. National Library of Medicine, National Institutes of Health (Mar. 2011), available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3042048>.

¹⁹⁵ Josie Feliz, *The Partnership at Drugfree.org to Lead above the Influence Campaign*, Partnership for Drug-Free Kids (Jul.16, 2013), available at <http://www.drugfree.org/newsroom/the-partnership-at-drugfree-org-to-lead-above-the-influence-campaign>.

¹⁹⁶ *FAQ: Where Does the Partnership Receive Its Funding?*, Partnership for Drug-Free Kids, available at <http://www.drugfree.org/about/faq/#q3> (last visited Mar. 29, 2016).

¹⁹⁷ *2014 Annual Report*, Partnership for Drug-Free Kids, available at <http://www.drugfree.org/2014-annual-report/financials> (last visited Mar. 29, 2016).

¹⁹⁸ *Border Security and America’s Heroin Epidemic: The Impact of the Trafficking and Abuse of Heroin and Prescription Opioids in Wisconsin: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016).



Choice-Live is a drug and alcohol awareness program with the mission of “reach[ing] our youth before the drugs do with the knowledge and skills to make the best choice, and the resolve to remain substance free.”¹⁹⁹ Tyler and his family travel across the state of Wisconsin, sharing Tyler’s struggles with addiction and emphasizing how his battle with addiction impacted the entire family.

Similarly, Lauri Badura, whose son died of a heroin overdose in 2014, founded the Saving Others for Archie foundation.²⁰⁰ She testified at the Committee’s field hearing in

“There’s a tremendous support community out there that doesn’t have licenses. They’re not clinicians; they’re people.”
– Doug Griffin, father of Courtney Griffin, *All Hands on Deck: Working Together to End the Trafficking and Abuse of Prescription Opioids, Heroin, and Fentanyl: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs.*

Wisconsin that she not only travels across the state of Wisconsin sharing her story, but she also serves as a resource to those people who feel they have nowhere else to turn.²⁰¹ “My commitment to all these people is unwavering,” she testified. “I talk to each and every person who calls me seeking help.”²⁰² Similarly, in New Hampshire, Doug Griffin, whose daughter, Courtney Griffin, died of an overdose in 2014, testified about the “tremendous support community” in his state, including his family’s church, which holds a service once a month for addicts and their families.²⁰³ Mr. Griffin stated that he, like Ms. Badura, now serves as a resource for others: “I’ll take anybody’s call any hour of the day.”²⁰⁴

Finally, in Ohio, Rob Brandt, who founded *Robby’s Voice* after his son died of a heroin overdose, testified during the Committee’s field hearing in Cleveland about the importance of comprehensive education and prevention.²⁰⁵ Specifically, Mr. Brandt advocated that prevention campaigns require science-based education from K-12 with different curriculum elements building off the student’s knowledge year after year.²⁰⁶ He also spoke to the importance of parental education, law enforcement education, and increased training at all levels to assist in understanding addiction and the critical nature of life-saving drugs like naloxone.²⁰⁷ Finally, Mr. Brandt called for an investment in communities to

¹⁹⁹ Your Choice, *About Us*, http://www.yourchoice-live.org/about_us (last visited Aug. 25, 2016).
²⁰⁰ *Border Security and America’s Heroin Epidemic: The Impact of the Trafficking and Abuse of Heroin and Prescription Opioids in Wisconsin: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of Lauri Badura, mother of Archie Badura).
²⁰¹ *Id.*
²⁰² *Id.*
²⁰³ *All Hands on Deck: Working Together to End the Trafficking and Abuse of Prescription Opioids, Heroin, and Fentanyl Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2015) (statement of Doug Griffin, father of Courtney Griffin).
²⁰⁴ *Id.*
²⁰⁵ *Examining the Impact of the Opioid Epidemic in Ohio: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of Rob Brandt, Founder, Robby’s Voice).
²⁰⁶ *Id.*
²⁰⁷ *Id.*



promote sustained recovery and a cohesive state and local strategy with leadership from the federal government.²⁰⁸

b. Treatment

In FY2017, for the first time, the Administration requested more money to support drug treatment and prevention programs than to address supply-reduction efforts.²⁰⁹ At \$31.1 billion, the FY2017 request represents a 70 percent increase in funding for drug treatment programs, with \$1 billion over two years to expand access to treatment and recovery support services for opioid addiction.²¹⁰

“Individuals with substance use disorders are not bad people trying to get good; instead, they are sick people trying to get well.” – Emily Metz, Program Coordinator, Project DAWN, Examining the Impact of the Opioid Epidemic in Ohio: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs.

Specifically, the Administration’s request will fund “\$920 million to support cooperative agreements with States to expand access to treatment for opioid use disorders;” “\$50 million to the National Health Service Corps to expand access to substance use disorder treatment providers;” and “\$30 million to evaluate the effectiveness of treatment programs employing medication-assisted treatment and to improve treatment for patients with opioid use disorder.”²¹¹

According to witness testimony, not enough people receive the treatment they need to address their addiction.²¹² Specifically, only about one or two people out of ten who have an opioid use disorder receive treatment.²¹³ Comparatively, while somewhere between 10 to 20 percent of people with substance use disorders receive treatment, the treatment rate for diabetes—which is of a similar prevalence—is around 80 to 85 percent.²¹⁴ According to SAMSHA, there are approximately half a million people who want treatment for their substance abuse disorders but cannot access it.²¹⁵ Robert Budsock, the President and CEO of *Integrity House*, a nonprofit addiction treatment program in New Jersey, testified to the Committee that,

²⁰⁸ *Id.*

²⁰⁹ *America’s Insatiable Demand for Drugs: Assessing the Federal Response: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of Michael P. Botticelli, Director, Office of National Drug Control Policy).

²¹⁰ *Id.*

²¹¹ *Id.*

²¹² *Id.* (statement of Kana Enomoto, Principal Deputy Administrator, Substance Abuse and Mental Health Services Administration, U.S. Department of Health and Human Services).

²¹³ *Id.*

²¹⁴ *Id.* (statement of Michael P. Botticelli, Director, Office of National Drug Control Policy).

²¹⁵ *Id.* (statement of Kana Enomoto, Principal Deputy Administrator, Substance Abuse & Mental Health Services Administration, U.S. Department of Health & Human Services).



as of May 20, 2016, his organization had a waiting list of 150 individuals with an average wait time of 8 to 12 weeks.²¹⁶

While access to treatment is important, the overall effectiveness of treatment also must be considered. Tyler Lybert, who currently is recovering from a substance use disorder, testified at the Committee's field hearing in Wisconsin that he tried various treatment options for years, with no results.²¹⁷ Other testimony suggests that success rates for treatment can be as low as one in ten or one in twenty.²¹⁸ Even Mr. Budsock testified that "the chronic nature of the disease means that relapsing back to drug use is not only possible, but also likely, with symptom reoccurrence rates similar to those for other well-characterized chronic medical-diseases."²¹⁹

The government's response to the low success rate of various treatment options discussed above is that "not all treatment is created equal."²²⁰ For example, very few treatment programs have incorporated medication-assisted treatment into their programs, which shows higher rates of success.²²¹ Moreover, the Administration believes that more treatment facilities should provide evidence-based services and interventions.²²²

Of course, treatment also differs for different addictions. For opioids, it is possible to maintain dependent users on a legally-supplied substitute opioid, such as methadone or buprenorphine, both of which work by binding to the same cell receptors as heroin to effectively wean an individual off of heroin by gradually reducing his or her craving.²²³ Naltrexone, which prevents heroin from having an effect by altogether blocking opioid receptors, is another medication-assisted treatment for heroin.²²⁴ Specifically, Vivitrol is a new form of injectable

²¹⁶ *America's Insatiable Demand for Drugs: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement for the record of Robert Budsock, President and Chief Executive Officer, Integrity House, Inc.).

²¹⁷ *Border Security and America's Heroin Epidemic: The Impact of the Trafficking and Abuse of Heroin and Prescription Opioids in Wisconsin: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of Tyler Lybert, Your Choice: Live)

²¹⁸ See generally *America's Insatiable Demand for Drugs: Assessing the Federal Response: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016).

²¹⁹ *America's Insatiable Demand for Drugs: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of Robert Budsock, President and Chief Executive Officer, Integrity House, Inc.).

²²⁰ *America's Insatiable Demand for Drugs: Assessing the Federal Response: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of Kana Enomoto, Principal Deputy Administrator, Substance Abuse & Mental Health Services Administration, U.S. Department of Health & Human Services).

²²¹ *Id.* (statement of Michael P. Botticelli, Director, Office of National Drug Control Policy).

²²² *Id.* (statement of Kana Enomoto, Principal Deputy Administrator, Substance Abuse & Mental Health Services Administration, U.S. Department of Health & Human Services).

²²³ *America's Insatiable Demand for Drugs: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of Jonathan P. Caulkins, Ph.D., Stever Professor of Operations Research & Public Policy, Heinz College, Carnegie Mellon University).

²²⁴ *DrugFacts: Heroin*, National Institute on Drug Abuse (last updated Oct. 2014), <http://www.drugabuse.gov/publications/drugfacts/heroin>.



naltrexone that blocks the effects of opioids, but the cost of Vivitrol can be quite expensive.²²⁵ Importantly, there is no known medication-assisted treatment option for other illicit drugs such as cocaine and meth.²²⁶ Any comprehensive strategy to address treatment must recognize and address this fact.

Finally, naloxone (Narcan) is an opioid overdose reversal tool.²²⁷ While it should not be viewed as a solution to addiction, it has saved lives from fatal overdose. As law-enforcement officers and/or firefighters are typically those who respond first to an overdose emergency, many state and local agencies are beginning to train first responders in the administration of Narcan. For example, as part of the HOPE agenda, in April 2014, the state of Wisconsin passed a law that required emergency medical technicians (EMTs) and allowed first responders such as firefighters and police officers to carry and administer Narcan.²²⁸ Further, as a result of the Committee’s field hearing in Wisconsin, CBP recently announced its plan to include the Milwaukee port of entry (POE) as a CBP location piloting the use of Narcan by CBP officers.²²⁹

c. Law Enforcement

While prevention and treatment are key legs to the stool, addressing supply-side policies must not be forgotten. As outlined in the majority staff report, *The State of America’s Border Security*:

Mexican [drug trafficking organizations] have become experts at evading the Border Patrol. According to General McCaffrey, former Director of the White House’s Office of National Drug Control Policy, the Border Patrol “seizes just 5-10 percent of the illegal drugs smuggled across the border.”

* * *

Between the POEs, smuggling groups use “an extensive system of scouts armed with radios, solar-powered radio repeaters, cellular phones, and weapons situated on high points along drug trafficking routes.” This type of structure provides

²²⁵ See generally *America’s Insatiable Demand for Drugs: Examining Alternative Approaches: Roundtable Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016).

²²⁶ See *id.* (statement of David Murray, Senior Fellow, Hudson Institute).

²²⁷ Drug Enforcement Administration, DEA-DCT-DIR-022-15, *2015 National Heroin Threat Assessment* (Apr. 2015), at 32 (on file with the Committee).

²²⁸ Press Release, Office of the Governor Scott Walker, Investing in Wisconsin’s Communities: Governor Scott Walker Signs H.O.P.E. Bills into Law (Apr. 7, 2014), available at <http://www.wisgov.state.wi.us/newsroom/press-release/investing-wisconsins-communities-governor-scott-walker-signs-hope-bills-law>.

²²⁹ *Border Security and America’s Heroin Epidemic: The Impact of the Trafficking and Abuse of Heroin and Prescription Opioids in Wisconsin: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of Gil Kerlikowske, Commissioner, U.S. Customs & Border Protection, U.S. Department of Homeland Security).



smugglers with a high level of situational awareness of law enforcement presence on both sides of the border.

At the POEs, cartels have begun smuggling drugs in smaller packages and using deep concealment to increase their likelihood of success. Officers at the Otay Mesa POE in the San Diego sector have found drugs hidden in batteries, gas tanks, jalapeno jars, and fire extinguishers. Media reports indicate cartels have concealed drugs in “frozen sharks, sprinkled on donuts, and crammed into cucumbers.”²³⁰

As noted, the increase in purity and decrease in price for a gram of heroin highlights the importance of enhancing supply interdiction. During one Committee hearing, the U.S. drug czar concurred, noting that a “comprehensive, multifaceted approach” that included prevention, treatment, supply reduction, international efforts, and domestic law enforcement, would be needed in order to tackle this problem.²³¹

“I would say particularly in terms of heroin interdiction that we have a lot more work to do. Part of the reason that we are seeing such a dramatic increase in heroin is around the dramatic increase in availability and lower price in many parts of the United States.” – Michael Botticelli, Director, Office of National Drug Control Policy, America’s Insatiable Demand for Drugs: Assessing the Federal Response: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs.

As to domestic law enforcement, according to a witness at the Committee’s field hearing in Arizona, during the same time period that the state of Arizona’s population doubled, the prison population increased 1,196 percent.²³² Arizona Governor Doug Ducey testified at this same hearing that 75 percent of inmates in Arizona’s prison system have a substance abuse problem.²³³

Today, treatment programs exist in prisons to rehabilitate those with substance use disorders. For example, the Residential Drug Abuse Treatment Program (RDAP) is a voluntary, 500-hour treatment program for federal prisoners with substance use disorders.²³⁴ To incentivize

²³⁰ S. Comm. on Homeland Security & Governmental Affairs, *The State of America’s Border Security* (Nov. 23, 2015), available at <https://www.hsgac.senate.gov/media/majority-media/icymi-johnson-releases-border-report> (internal citations omitted).

²³¹ *America’s Insatiable Demand for Drugs: Assessing the Federal Response: Hearing Before the S. Comm on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of Hon. Michael P. Botticelli, Director, Office of National Drug Control Policy).

²³² *America’s Heroin Epidemic at the Border: Local, State, and Federal Law Enforcement Efforts to Combat Illicit Narcotic Trafficking: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2015) (statement of Jeff Taylor, Member, Public Advisory Board/Public Policy, The Salvation Army).

²³³ *Id.* (statement of Douglas A. Ducey, Governor, State of Arizona)

²³⁴ U.S. Dep’t of Justice, Federal Bureau of Prisons, Psychology Treatment Programs (Mar. 16, 2009), available at https://www.bop.gov/policy/progstat/5330_011.pdf; see also *Oversight of the Bureau of Prisons: First-Hand*



inmate participation, federal law allows the Bureau of Prisons (BOP) to reduce the sentences of the graduates of the program for those convicted of “nonviolent” offenses by up to one year.²³⁵ According to the BOP, “[t]hose who complete [RDAP] are 16 percent less likely to recidivate, and 15 percent less likely to have a relapse in their substance use disorder use within 3 years after release.”²³⁶

Nevertheless, according to a Committee witness who served several prison sentences for his drug addiction, “[d]rug treatment in a prison environment is not nearly as effective as drug treatment out of the prison environment.”²³⁷ Instead, the witness promoted the program that he credits for saving his life, the Salvation Army Drug Treatment Facility, which allows inmates to be released 90 days prior to the termination of their sentence and places the individual “in a highly monitored drug treatment program.”²³⁸

According to the Arizona Department of Corrections, of the nearly 20,000 inmates that will be released this year, 77 percent are in need of substance abuse treatment.²³⁹ Programs such as the Offender Reentry Program provide screening, assessment, comprehensive treatment, and recovery support services to offenders reentering the community.²⁴⁰

d. Alternative Approaches

While prevention, treatment, and law enforcement are all important elements to addressing the drug epidemic in this country, the Committee also examined alternative approaches being deployed in other areas.

“We cannot incarcerate our way out of drug addiction. People are released with the same drug problem they were arrested with While incarcerated I learned how to manufacture crystal methamphetamine, a lot about identity theft, how to import and transport drugs, avoid canine detection, and was introduced to several high ranking drug cartel members. All while on a prison yard.” –Jeff Taylor, The Salvation Army, America’s Heroin Epidemic at the Border: Local, State, and Federal Law Enforcement Efforts to Combat Illicit Narcotic Trafficking: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs.

Accounts of Challenges Facing the Federal Prison System: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs, 114th Cong. (2015) (statement of Udi Ofer, Executive Director, ACLU of New Jersey).

²³⁵ *See id.*

²³⁶ *Id.* (statement of Charles Samuels, Jr., Director, Federal Bureau of Prisons, U.S. Department of Justice).

²³⁷ *America’s Heroin Epidemic at the Border: Local, State, and Federal Law Enforcement Efforts to Combat Illicit Narcotic Trafficking: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2015) (statement of Jeff Taylor, Member, Public Advisory Board/Public Policy, The Salvation Army).

²³⁸ *Id.*

²³⁹ *Id.*

²⁴⁰ *America’s Insatiable Demand for Drugs: Assessing the Federal Response: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of Kana Enomoto, Principal Deputy Administrator, Substance Abuse & Mental Health Services Administration, U.S. Department of Health & Human Services).



i. Decriminalization

Decriminalization of drugs is not legalization; drugs remain illegal but possession and use are punishable by a ticket or fine rather than criminal prosecution and the possibility of jail time.²⁴¹ The best example of a decriminalization framework and its outcomes is in the country of Portugal.²⁴²

A 50-year dictatorship in Portugal ended in the 1970s and with the new-found freedom, people began to experiment with drugs.²⁴³ In less than 20 years, the country was suffering from a severe heroin epidemic, with addicts numbering nearly one percent of the total population and HIV and hepatitis infections steadily climbing.²⁴⁴

“Efforts at controlling the illicit drug trade in the U.S. have by many accounts failed to produce measurable positive change, but we continue the same failed policies, hoping for a different result.” – Dr. Cheryl Heaton, Dean, College of Global Public Health, New York University, America’s Insatiable Demand for Drugs: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs.

In response to the crisis, the government assembled a team of experts, including social workers, medical doctors, psychiatrists, and judges.²⁴⁵ By 1998, the team developed a plan to decriminalize all drug use and focus on treatment and rehabilitation of addicts as opposed to punishment.²⁴⁶

The Portuguese Ministry of Health’s program, instituted in 2001, differs from others as it operates with no assistance from the criminal justice system.²⁴⁷ Although drugs are still illegal in Portugal, a greater emphasis is placed on rehabilitation.²⁴⁸ If the weight of confiscated drugs meets a certain threshold, the individual in question can be charged with

“drug trafficking.”²⁴⁹ However, if the quantity is lower than the pre-determined amount, the person is referred to the public health system where he or she reports to one of 18 commissions consisting of a panel of experts including a doctor, social worker, and teams “charged with developing an appropriate rehabilitative approach based on treatment.”²⁵⁰

²⁴¹ Dr. Carl Hart, *Congress Needs to Decriminalize All Drugs*, Dr.CarlHart.com, <http://www.drCarlhart.com/congress-needs-decriminalize-all-drugs> (last visited June 6, 2016).

²⁴² *Id.*

²⁴³ Lecia Bushak, *Portugal’s Drug Experiment: Tackling Heroin Addiction by Decriminalizing Drugs and Focusing on Health*, MEDICAL DAILY (Apr. 21, 2016), <http://www.medicaldaily.com/portugal-drug-experiment-heroin-decriminalizing-drugs-382598>.

²⁴⁴ *Id.*

²⁴⁵ *Id.*

²⁴⁶ *Id.*

²⁴⁷ *Id.*

²⁴⁸ *Id.*

²⁴⁹ *Id.*

²⁵⁰ *Id.*



In 2009, the Cato Institute published a report concluding that “[i]n certain key demographic segments, drug usage [in Portugal] has decreased in absolute terms in the decriminalization framework, even as usage across the [European Union] continues to increase, including in those states that continue to take the hardest line in criminalizing drug possession and usage.”²⁵¹ Moreover, the Drug Policy Alliance suggests that since decriminalization in Portugal, people arrested and incarcerated for drug use dropped by 60 percent, drug-induced deaths decreased from 80 in 2001 to just 16 in 2012, and new HIV cases declined from 1,575 new cases in 2000 to 78 new cases in 2013.²⁵²

However, Brendan Hughes, principal scientific analyst at the European Monitoring Centre for Drugs and Drug Addiction, stated in a recent media report, “[i]t’s difficult to say scientifically that the Portuguese system is wonderful and others are terrible.”²⁵³ Hughes explained that while more Portuguese heroin users are in treatment today, that is the case in all of Europe.²⁵⁴ Moreover, while the HIV rate has dropped in Portugal, it has also dropped in other countries.²⁵⁵ Similarly, deaths are decreasing in both Portugal and the European Union.²⁵⁶

According to the DEA, prohibition discourages people from experimenting with drugs and enforcing our drug laws affects demand, price, purity, and availability—ultimately keeping prices high and hard drugs scarce.²⁵⁷ Moreover, the DEA points out that decriminalization blurs the lines between what is legal and illegal and removes incentives provided by the criminal justice system and drug courts to bring those with substance use disorders into treatment.²⁵⁸ A witness emphasized this point at a Committee roundtable: “Not only are the incentives to remain ‘drug free’ weakened when drugs are readily and legally

“Every person with a substance abuse problem that I have talked to has said arrest was never a deterrent. The physical and psychological need for the substance was far stronger than any seemingly rational deterrent that the police posed.” – Chief Frederick Ryan, Chief of Policy, Arlington, Massachusetts,

America’s Insatiable Demand For Drugs: Examining Alternative Approaches: Roundtable Before the S. Comm. on Homeland Security & Governmental Affairs.

²⁵¹ Glenn Greenwald, *Drug Decriminalization in Portugal: Lessons for Creating Fair and Successful Drug Policies*, Cato Institute (2009), available at http://object.cato.org/sites/cato.org/files/pubs/pdf/greenwald_whitepaper.pdf.

²⁵² *Drug Decriminalization in Portugal: A Health-Centered Approach*, Drug Policy Alliance (Feb. 2015), https://www.drugpolicy.org/sites/default/files/DPA_Fact_Sheet_Portugal_Decriminalization_Feb2015.pdf.

²⁵³ Lecia Bushak, *Portugal’s Drug Experiment: Tackling Heroin Addiction by Decriminalizing Drugs and Focusing on Health*, MEDICAL DAILY (Apr. 21, 2016), <http://www.medicaldaily.com/portugal-drug-experiment-heroin-decriminalizing-drugs-382598>.

²⁵⁴ *Id.*

²⁵⁵ *Id.*

²⁵⁶ *Id.*

²⁵⁷ Drug Enforcement Administration, *Speaking Out Against Drug Legalization*, (2010) https://www.dea.gov/pr/multimedia-library/publications/speaking_out.pdf.

²⁵⁸ *Id.*



available, but decriminalization commonly leads to the removal of a law enforcement/judicial role in supporting treatment.”²⁵⁹

However, while not endorsing decriminalization, Chief Frederick Ryan, Chief of Police in Arlington, Massachusetts, emphasized to the Committee that “a strategy that relies largely on law enforcement and arrest, especially aimed at low end users, only fuels the epidemic and complicates the chances of long term recovery for people suffering from substance use disorders.”²⁶⁰ Instead, he advocated for strategies such as the Police Assisted Addiction Recovery Initiative (PAARI), in which officers who come into contact with someone using illicit drugs assists that person to enter treatment and recovery rather than arrest them.²⁶¹

ii. *Legalization*

Although marijuana is still considered a Schedule I drug and is illegal under federal law, 25 states and the District of Columbia have legalized it in some manner and 20 more states are considering legislation to legalize marijuana this year.²⁶² The states of Alaska, Colorado, Oregon, Washington, and the District of Columbia have gone a step further, legalizing marijuana for recreational use. Adults in Alaska can possess up to one ounce and have six plants. In Oregon, residents are allowed to keep eight ounces in their homes and carry up to one ounce on their person.²⁶³ Similar amounts are legal in Colorado and Washington.²⁶⁴

As more states have legalized marijuana, the drug’s potency has also increased.²⁶⁵ According to witness testimony, in 1980 the tetrahydrocannabinol (THC)—the main mind-altering ingredient found in marijuana—level in marijuana stood at three percent and increased steadily each year by about one percent.²⁶⁶ However, since the legalization of marijuana in Colorado, THC levels have reached 70 to 80 percent.²⁶⁷ While one witness asserted this high

²⁵⁹ *America’s Insatiable Demand for Drugs: Examining Alternative Approaches: Roundtable Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of David Murray, Senior Fellow, Hudson Institute).

²⁶⁰ *Id.* (statement of Frederick Ryan, Chief of Police, Arlington, Massachusetts).

²⁶¹ *Id.*

²⁶² *Here’s a Map of Every State and Their Marijuana Laws*, YAHOO NEWS (Feb. 1, 2016), <https://www.yahoo.com/news/heres-map-every-state-marijuana-224000007.html?ref=gs>; *Governing Data: State Marijuana Laws Map*, Governing.com, <http://www.governing.com/gov-data/state-marijuana-laws-map-medical-recreational.html> (last visited June 6, 2016); Curtis Silver, *Marijuana’s \$40 Billion Dollar Green Rush*, FORBES (June 2, 2016), <http://www.forbes.com/sites/curtissilver/2016/06/02/marijuanas-40-billion-dollar-green-rush/#41c4d1853097>.

²⁶³ *Id.*

²⁶⁴ *Id.*

²⁶⁵ *America’s Insatiable Demand for Drugs: Examining Alternative Approaches: Roundtable Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of David Murray, Senior Fellow, Hudson Institute); *Id.* (statement of Ethan Nadelmann, Executive Director, Drug Policy Alliance).

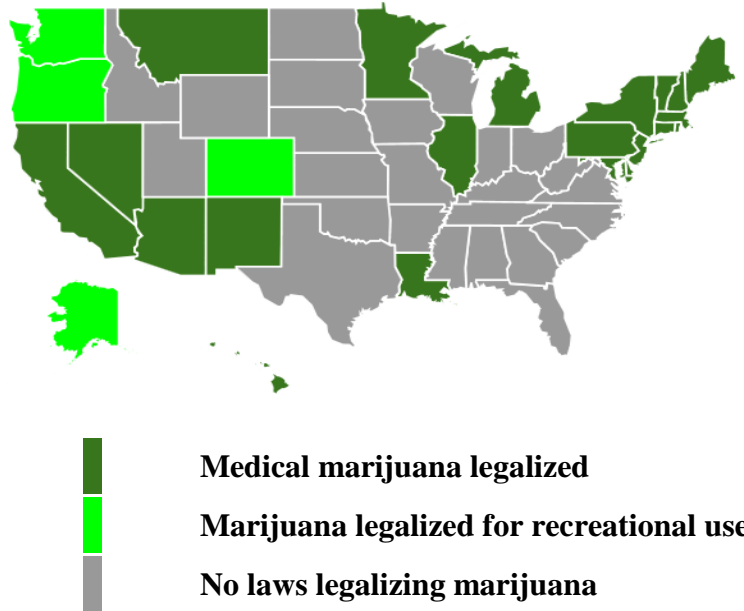
²⁶⁶ *Id.* (statement of David Murray, Senior Fellow, Hudson Institute).

²⁶⁷ *Id.*



THC level can increase the risk of dependency and addiction,²⁶⁸ another witness countered that high potency marijuana does not provide a higher high but instead means the user will smoke less.²⁶⁹

Marijuana Legalization Status²⁷⁰



Moreover, while some analysts estimate that taxes generated on nationwide legal marijuana sales would be approximately \$3 billion per year,²⁷¹ David Mineta, the former Deputy Director for Demand Reduction at ONDCP, argues that any tax revenue generated from drugs would not begin to cover the societal costs, such as health care and lost productivity.²⁷² For example, Mineta reports that in 2002, federal taxes collected on alcohol were \$8.3 billion but the cost of alcohol related problems to the U.S. economy was \$184 billion.²⁷³ Similarly, tobacco taxes were an estimated \$25 billion but the annual cost to society exceeded \$200 billion.²⁷⁴

²⁶⁸ *Id.*

²⁶⁹ *Id.* (statement of Ethan Nadelmann, Executive Director, Drug Policy Alliance).

²⁷⁰ *Governing Data: State Marijuana Laws Map*, Governing.com, <http://www.governing.com/gov-data/state-marijuana-laws-map-medical-recreational.html> (last visited June 6, 2016).

²⁷¹ Austin Smith, *4 Marijuana Stats That Will Blow You Away*, USA TODAY (May 19, 2016), available at <http://www.usatoday.com/story/sponsor-story/motley-fool/2016/05/17/motley-fool-marijuana-stats/84326712>.

²⁷² David Mineta, *Decriminalization Would Increase the Use and the Economic and Social Costs of Drugs*, AMERICAS QUARTERLY, available at <http://www.americasquarterly.org/node/1915> (last visited June 6, 2016).

²⁷³ *Id.*

²⁷⁴ *Id.*



Supporters of legalization also argue that marijuana legalization shifts policing resources toward more serious crimes as it eliminates the black market for marijuana.²⁷⁵ Specifically, in 2015, arrests for marijuana possession dropped 98 percent in Washington and 95 percent in Colorado.²⁷⁶ Nonetheless, according to Mark Vasquez, the Chief of Police of Erie, Colorado, “The black market is alive and well and will continue to thrive in Colorado” as prices on the black market continue to compete against higher prices in the “medical market.”²⁷⁷

Legalization of all drugs is perhaps the most controversial proposal to address the drug problem in the United States.²⁷⁸ Steve Rolles, a senior policy analyst at the Transform Drug Policy Foundation, suggests full legalization could be achieved by legalizing and then regulating different drugs based on their various danger levels:²⁷⁹

- **Medically supervised venues:** Drugs in this category (heroin) would only be allowed with a prescription and direct supervision of trained expert (doctor in controlled facility).
- **Pharmacies:** Drugs in this tier (MDMA, powder cocaine, or amphetamines) would only be dispensed through pharmacies with a prescription or over the counter.
- **Licensed sales:** Drugs in this classification (marijuana and stimulant-based drinks) would be dispensed by licensed, regulated vendors.
- **Licensed premises:** These regulated establishments would dispense drugs, such as smoked opium, psychedelics, or poppy tea, much like alcohol is sold in bars today.
- **Unlicensed sales:** Drugs in this category, such as coca tea, would be available similar to caffeine.²⁸⁰

Rolles makes a case for full legalization by offering two arguments. First, legalization would eliminate black market drug sales that fuel violence around the world.²⁸¹ Second, drug use could conceivably become safer as the drugs and the drug use locations (supervised injection facilities) are strictly regulated by the government.²⁸² He explains that drug legalization will not solve all drug-related issues but could improve them: “Legalization and regulation does not get rid of the drug problem. It doesn’t necessarily deal with addiction. It doesn’t stop people dying from drugs. But it may reduce harms; it may reduce deaths. It just won’t eliminate them.”²⁸³

²⁷⁵ Tom James, *The Failed Promise of Legal Pot*, THE ATLANTIC (May 9, 2016), available at http://www.theatlantic.com/politics/archive/2016/05/legal-pot-and-the-black-market/481506/?utm_source=yahoo.

²⁷⁶ *Id.*

²⁷⁷ *Id.*

²⁷⁸ German Lopez, *America Can End Its War on Drugs. Here’s How*, VOX (Apr. 25, 2016), <http://www.vox.com/2016/4/25/11445454/end-war-on-drugs>.

²⁷⁹ *Id.*

²⁸⁰ *Id.*

²⁸¹ *Id.*

²⁸² *Id.*

²⁸³ *Id.*



However, studies show that keeping drugs illegal has been instrumental in keeping “hard” drug prices high. In his testimony to the Committee, Jonathan Caulkins explained that “[w]ithin a regime that prohibits legal supply, the most effective way to reduce imports is through enforcement. Prohibition backed by a baseline level of enforcement drives up the prices of illegal drugs far, far beyond what they would be if drugs were legal... Cocaine, heroin, meth all cost [the] user many times their weight in gold.”²⁸⁴ Moreover, the idea that legalization would eliminate the “black market” is contested by Dr. David Murray who asserted in a recent Committee roundtable, “Colorado has now become a national as well as international center for drug smuggling.”²⁸⁵

iii. Supervised Injection Facilities

A Supervised Injection Facility (SIF), also known as a drug consumption facility or safe injection site, is a place where people can legally use illicit drugs under medical supervision.²⁸⁶ Today, there are approximately 100 supervised injection facilities across 66 cities and nine countries (Switzerland, the Netherlands, Germany, Spain, Norway, Luxembourg, Denmark, Australia, and Canada).²⁸⁷

In 2003, the first SIF opened in North America.²⁸⁸ Located in Vancouver, Canada, the Insite clinic hosts 600 to 900 users per day to inject heroin, cocaine, or methamphetamine.²⁸⁹ Clients are checked in by nurses, given sterile supplies, and are allowed to inject their drugs under the careful supervision of medical staff.²⁹⁰ Recently, Health Canada gave the Insite clinic a four-year exemption from drug laws.²⁹¹ Thomas Kerr, director of Urban Health Research Initiative at the British Columbia Centre for Excellence in HIV/AIDS, co-authored a study showing that overdose deaths in the area near Insite dropped 35 percent within two years of the clinic opening.²⁹² Kerr also noted more than 30 peer-reviewed studies that concluded that Insite

²⁸⁴ *America’s Insatiable Demand for Drugs: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of Jonathan P. Caulkins, Ph.D., Stever Professor of Operations Research & Public Policy, Heinz College, Carnegie Mellon University).

²⁸⁵ *America’s Insatiable Demand for Drugs: Examining Alternative Approaches: Roundtable Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of David Murray, Senior Fellow, Hudson Institute).

²⁸⁶ *Supervised Injection Facilities*, Drug Policy Alliance, <http://www.drugpolicy.org/supervised-injection-facilities>.

²⁸⁷ *Id.*

²⁸⁸ *Id.*

²⁸⁹ Douglas Quan, *Vancouver’s Supervised Injection Site, The First in North America, Opened 13 Years Ago. What’s Changed?*, THE NATIONAL POST OF CANADA (Mar. 20, 2016), <http://news.nationalpost.com/news/canada/vancouvers-safe-injection-site-the-first-in-north-america-opened-13-years-ago-whats-changed>.

²⁹⁰ *Id.*

²⁹¹ *Id.*

²⁹² Kerr T. et al, *Reduction in Overdose Mortality after the Opening of North America’s First Medically Supervised Safe Injecting Facility: A Retrospective Population Based Study*, THE LANCET (Apr. 18, 2011), <http://www.communityinsite.ca/injfacility.pdf>.



reduces the spread of disease and health care costs, provides access to addiction treatment programs, and prevents overdose deaths.²⁹³

Currently, there are no SIFs in the United States, but pilot programs are being considered in a few cities.²⁹⁴ According to the Drug Policy Alliance, the benefits of SIFs include counseling, sterile equipment, and access to medical care and information concerning the safety of drugs.²⁹⁵ As MacDonald told the Committee, “[w]ithout our treatment, [addicts’] only option would be illicit opioids through the narco-capitalist networks.”²⁹⁶

Those opposed to SIFs say that the government should not be facilitating drug use and these sites do nothing to help addicts end the addiction cycle or deter drug use.²⁹⁷ In response to a plan to open a clinic in Toronto, the Toronto Police Association argued “[w]e would rather see money being spent in getting people off drugs and getting them away from drugs, and drug treatment rather than these injection sites.”²⁹⁸ John Walter, former Director of ONDCP, likewise argues:

There are no “safe heroin injection sites.” The only “safe” approach to heroin is not to take it. For addicts, the humane public health response is to help them get and stay sober, or at the very least, opioid replacement therapy in sustained treatment. Any approach without these goals is cruel and dehumanizing—not healing, but perpetuating harm.²⁹⁹

The North American Opiate Medication Initiative (NAOMI) was the first clinical trial of prescription heroin in North America.³⁰⁰ The study took place in Vancouver and Montreal.³⁰¹ From 2005 to 2008, researchers tested the effects of diacetylmorphine, the active ingredient in

²⁹³ Dr. Thomas Kerr & Dr. Julio Montaner, *An Overview of Insite – 10 Years Later*, Vancouver Coastal Health (July 23, 2013), available at <http://supervisedinjection.vch.ca/media-centre/an-overview-of-insite---10-years-later>.

²⁹⁴ Lisa W. Foderaro, *Ithaca’s Anti-Heroin Plan: Open a Site to Shoot Heroin*, THE NEW YORK TIMES (Mar. 22, 2016), http://www.nytimes.com/2016/03/23/nyregion/fighting-heroin-ithaca-looks-to-injection-centers.html?_r=0.

²⁹⁵ *Supervised Injection Facilities*, Drug Policy Alliance, <http://www.drugpolicy.org/supervised-injection-facilities> (last visited June 6, 2016).

²⁹⁶ *America’s Insatiable Demand for Drugs: Examining Alternative Approaches: Roundtable Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of Scott MacDonald, Lead Physician, Providence Crosstown Clinic, Vancouver, British Columbia) (sic).

²⁹⁷ Wendy Stueck, *The Arguments For and Against Vancouver’s Supervised Injection Site*, THE GLOBE AND THE MAIL (May 11, 2011), <http://www.theglobeandmail.com/news/british-columbia/the-arguments-for-and-against-vancouvers-supervised-injection-site/article596153>.

²⁹⁸ *Toronto Police Publicly Opposed Supervised Injection Sites*, NEWS 1130 (Mar. 14, 2016), <http://www.news1130.com/2016/03/14/toronto-police-supervised-injection-sites/>.

²⁹⁹ John P. Walters, *Heroin Injection Sites Perpetuate Harm: Opposing View*, USA TODAY (May 16, 2016), <http://www.usatoday.com/story/opinion/2016/05/16/heroin-injection-sites-drug-control-editorials-debates/84455286/>.

³⁰⁰ *Result of North America’s First Heroin Study (NAOMI)*, Providence Health Care <http://www.providenceresearch.ca/naomi-study.html> (last visited June 7, 2016).

³⁰¹ *Id.*



heroin, and methadone on chronic heroin users who were not responsive to traditional treatments.³⁰² The study concluded that subjects given injectable diacetylmorphine stayed in treatment and reduced their use of illegal drugs with greater frequency than those treated with methadone.³⁰³ During the NAOMI study, a small number of the participants were given hydromorphone (HDM), a legal pain medication, which was found to be as effective as diacetylmorphine.³⁰⁴ This finding was the basis for the Study to Assess Longer-term Opioid Medication Effectiveness (SALOME).³⁰⁵ In 2015, SALOME concluded that HDM was equally as effective as diacetylmorphine in treating severe opioid addiction.³⁰⁶ Since HDM is legal, it could be used as an alternative treatment for heroin addiction.

V. CONCLUSION

There are no easy solutions to these complex problems. In the case of America's current drug epidemic, it is clear that the over-prescription of pain medications has led to an entire generation of people who have become addicted to and dependent on opioids. While the United States focused on access to prescription pain medications, we failed to address the underlying addiction of those relying on the medications. Recognizing a business opportunity, the Mexican cartels flooded the market with heroin. The result has been catastrophic. Those who thought they would never turn to heroin began buying this powerful drug, sometimes for as little as \$10 a hit. As the cartels competed for business by offering higher and higher purity levels, overdoses drastically increased, particularly when the cartels began cutting heroin with fentanyl.

“This problem knows no boundaries. All demographics of people are affected in one way or another, no matter their income, no matter their race, no matter whether they’re from an urban community or rural community.” – John Nygren, Wisconsin State Representative, District 89, Border Security and America's Heroin Epidemic: The Impact of the Trafficking and Abuse of Heroin and Prescription Opioids in Wisconsin: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs.

The good news, according to Director Botticelli, is that the reliance on prescription pain medication has declined.³⁰⁷ Unfortunately, there are laws on the books today that continue to encourage the over-prescription of pain medications. To eliminate this incentive, on April 7,

³⁰² *Id.*

³⁰³ *About SALOME*, Providence Health Care, <http://www.providencehealthcare.org/salome/about-us.html> (last visited June 6, 2016).

³⁰⁴ *Id.*

³⁰⁵ *Id.*

³⁰⁶ *SALOME: Outcomes*, Providence Health Care, <http://www.providencehealthcare.org/salome/outcomes.html> (last visited June 6, 2016).

³⁰⁷ *America's Insatiable Demand for Drugs: Assessing the Federal Response: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of Michael P. Botticelli, Director, Office of National Drug Control Policy).



2016, Chairman Johnson, along with Senators Manchin, Barrasso, and Blumenthal, introduced the Promoting Responsible Opioid Prescribing (PROP) Act, prohibiting pain management questions on patient surveys from being factored into Medicare reimbursement calculations. During the Committee’s field hearing in Wisconsin, Dr. Timothy Westlake, the Vice Chairman of the State of Wisconsin Medical Examining Board, testified that the PROP Act is “the single-most important piece of legislation reform that [policymakers] could do.”³⁰⁸ In July 2016, HHS announced its plan to implement the PROP Act.

To address the larger issue of America’s insatiable demand for drugs—whether cocaine use in the 1980s, methamphetamine use in the 1990s, or heroin and opioid use today—the United States must rethink its current strategy. At this juncture, it is far from clear whether the various approaches discussed in this report do more harm than good. However, what is clear is that our current approach to the war on drugs is not working. We have a responsibility to examine the impact of alternative approaches, no matter how controversial.

In 2014, each day an average of 129 Americans died of an overdose.³⁰⁹ One of those senseless losses was Lauri Badura’s son, Archie. During the Committee’s field hearing in Wisconsin, Committee Members had the opportunity to meet with Ms. Badura and learn about her son and his tragic death from a heroin overdose. In her testimony, Ms. Badura lamented the lack of outrage and attention being paid to this killer: “for moms and dads like us, we’ve lost our children to this opiate addiction and this epidemic. The lack of attention on this ridiculously large number of deaths, 47,000 in a single year, we do not always understand”³¹⁰

“I came from a good family. I married a beautiful, kind, and talented wife. Had a successful career, participated in varied philanthropic works and had acquired many other ‘things’ as symbols of financial and personal achievements. By every measure this country accepts as a gauge for success, I had it. Four years after leaving the [Wall Street] trading position I was living on the streets of Phoenix. I had lost everything to addiction. *Drug addiction does not discriminate. It can happen to anyone.*” –Jeff Taylor, The Salvation Army, America’s Heroin Epidemic at the Border: Local, State, and Federal Law Enforcement Efforts to Combat Illicit Narcotic Trafficking: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs.

³⁰⁸ *Border Security and America’s Heroin Epidemic: The Impact of the Trafficking and Abuse of Heroin and Prescription Opioids in Wisconsin: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of Timothy Westlake, Vice Chairman, State of Wisconsin Medical Examining Board, and Chairman, Controlled Substance Committee).

³⁰⁹ Rudd et al., *Increases in Drug and Opioid Overdose Deaths-United States, 2000-2014*, MORBIDITY AND MORTALITY WEEKLY REPORT (Jan. 1, 2016), <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6450a3.htm>.

³¹⁰ *Border Security and America’s Heroin Epidemic: The Impact of the Trafficking and Abuse of Heroin and Prescription Opioids in Wisconsin: Hearing Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of Lauri Badura, mother of Archie Badura).



It is vital that America as a whole shares the sense of urgency to resolve this public health crisis that is taking the lives of countless Americans and threatening the security of this nation. Much more must be done to address America's insatiable demand for drugs.



APPENDIX A: TABLES AND STATISTICS

Table 1: Federal Drug Control Spending by Agency (in Millions)

| | FY2015 Final | FY2016 Enacted | FY2017 Request |
|--|-----------------|-------------------|-------------------|
| Department of Agriculture | | | |
| U.S. Forest Service | 12.4 | 12.3 | 17.9 |
| Court Services and Offender Supervision Agency for the District of Columbia | 52.6 | 58.1 | 58.7 |
| Department of Defense | | | |
| Drug Interdiction and Counterdrug Activities/OPTEMPO | 1,409.3 | 1,343.3 | 1,222.0 |
| Defense Health Program | <u>73.5</u> | <u>75.5</u> | <u>75.5</u> |
| Total DoD | 1,482.8 | 1,418.8 | 1,297.5 |
| Department of Education | | | |
| Office of Elementary and Secondary Education | 50.2 | 50.1 | 50.1 |
| Federal Judiciary | 1,158.9 | 1,210.6 | 1,246.7 |
| Department of Health and Human Services | | | |
| Administration for Children and Families | 18.6 | 18.5 | 60.0 |
| Centers for Disease Control and Prevention | 20.0 | 75.6 | 85.6 |
| Centers for Medicare & Medicaid Services ² | 8,230.0 | 8,760.0 | 9,140.0 |
| Health Resources and Services Administration | 27.8 | 129.0 | 164.0 |
| Indian Health Service | 111.3 | 114.7 | 140.9 |
| National Institute on Alcohol Abuse and Alcoholism | 59.5 | 54.2 | 54.2 |
| National Institute on Drug Abuse | 1,015.7 | 1,050.6 | 1,050.6 |
| Substance Abuse and Mental Health Services Administration ³ | <u>2,460.4</u> | <u>2,512.2</u> | <u>2,986.0</u> |
| Total Health and Human Services | 11,943.3 | 12,714.7 | 13,681.3 |
| Department of Homeland Security | | | |
| Customs and Border Protection | 2,423.0 | 2,664.9 | 2,655.7 |
| Federal Emergency Management Agency | 8.3 | 8.3 | 6.2 |
| Federal Law Enforcement Training Center | 46.8 | 44.1 | 43.6 |
| Immigration and Customs Enforcement | 467.9 | 485.8 | 527.0 |
| United States Coast Guard | <u>1,265.7</u> | <u>1,616.1</u> | <u>1,269.0</u> |
| Total Homeland Security | 4,211.5 | 4,819.1 | 4,501.6 |
| Department of Housing and Urban Development | | | |
| Community Planning and Development | 463.5 | 486.9 | 589.1 |
| Department of the Interior | | | |
| Bureau of Indian Affairs | 9.7 | 9.7 | 9.7 |
| Bureau of Land Management | 5.1 | 5.1 | 5.1 |
| National Park Service | <u>3.3</u> | <u>3.3</u> | <u>3.3</u> |
| Total Interior | 18.1 | 18.1 | 18.1 |



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| | FY2015 Final | FY2016 Enacted | FY2017 Request |
|---|-------------------|-------------------|-------------------|
| Department of Justice | | | |
| Assets Forfeiture Fund | 284.1 | 238.7 | 243.1 |
| Bureau of Prisons | 3,491.0 | 3,672.4 | 3,491.8 |
| Criminal Division | 40.0 | 39.0 | 39.9 |
| Drug Enforcement Administration | 2,373.1 | 2,426.5 | 2,485.6 |
| Organized Crime Drug Enforcement Task Force Program | 507.2 | 512.0 | 522.1 |
| Office of Justice Programs | 260.9 | 280.2 | 275.6 |
| U.S. Attorneys | 76.8 | 72.6 | 75.9 |
| U.S. Marshals Service | 270.4 | 278.1 | 289.9 |
| U.S. Marshals Service - Federal Prisoner Detention | <u>498.0</u> | <u>510.0</u> | <u>505.5</u> |
| Total Justice | 7,801.7 | 8,029.6 | 7,929.4 |
| Department of Labor | | | |
| Employment and Training Administration | 6.0 | 6.0 | 6.0 |
| Office of National Drug Control Policy | | | |
| High Intensity Drug Trafficking Areas | 245.0 | 250.0 | 196.4 |
| Other Federal Drug Control Programs | 107.2 | 109.8 | 98.5 |
| Salaries and Expenses | <u>22.6</u> | <u>20.0</u> | <u>19.3</u> |
| Total ONDCP | 374.8 | 379.9 | 314.2 |
| Department of State⁴ | | | |
| Bureau of International Narcotics and Law Enforcement Affairs | 446.1 | 434.7 | 382.4 |
| United States Agency for International Development | <u>95.5</u> | <u>136.2</u> | <u>131.9</u> |
| Total State | 541.6 | 570.8 | 514.3 |
| Department of Transportation | | | |
| Federal Aviation Administration | 30.7 | 31.5 | 31.6 |
| National Highway Traffic Safety Administration | <u>2.7</u> | <u>11.5</u> | <u>11.5</u> |
| Total Transportation | 33.4 | 43.0 | 43.1 |
| Department of the Treasury | | | |
| Internal Revenue Service | 60.3 | 60.3 | 95.8 |
| Department of Veterans Affairs | | | |
| Veterans Health Administrations | 671.8 | 682.4 | 707.6 |
| | \$28,882.9 | \$30,560.8 | \$31,071.4 |

¹Detail may not add due to rounding.

²The estimates for the CMS reflect Medicaid and Medicare benefit outlays for substance use disorder treatment; they do not reflect budget authority. The estimates were developed by the CMS Office of the Actuary.

³Includes budget authority and funding through evaluation set-aside authorized by Section 241 of the Public Health Service (PHS) Act.

⁴The FY 2016 funding level represents the FY 2016 President's Budget request.

⁵VA Medical Care receives advance appropriations; FY 2016 funding was provided in the Consolidated Appropriations Act, 2014 (Public Law No: 113-76).



Table 2: Historical Federal Drug Control Spending (Budget Authority in Millions)³¹¹

| | FY2008 Final | FY2009 Final | FY2010 Final | FY2011 Final | FY2012 Final | FY2013 Final | FY 2014 Final | FY2015 Final | FY2016 Enacted | FY2017 Request |
|-------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|------------------------------|--------------------------|---------------------------|---------------------------|
| Treatment | 6,725.1 | 7,208.7 | 7,544.5 | 7,659.7 | 7,848.3 | 7,888.6 | 9,481.8 | 12,543.1 | 13,248.6 | 14,281.6 |
| Prevention | 1,848.1 | 1,961.0 | 1,573.4 | 1,483.9 | 1,346.2 | 1,274.9 | 1,316.9 | 1,341.5 | 1,496.2 | 1,544.7 |
| Total Demand Reduction | 8,573.2 39.3% | 9,169.7 36.9% | 9,117.9 37.0% | 9,143.5 37.5% | 9,194.4 37.5% | 9,163.5 38.5% | 10,798.7 42.0% | 13,884.6 48.1% | 14,744.8 48.2% | 15,826.3 50.9% |
| Domestic Law Enforcement | 8,293.9 | 9,463.0 | 9,245.5 | 9,217.3 | 9,439.5 | 8,857.0 | 9,348.8 | 9,394.5 | 9,699.1 | 9,525.5 |
| Interdiction | 2,968.7 | 3,699.2 | 3,662.4 | 3,977.1 | 4,036.5 | 3,940.6 | 3,948.5 | 3,960.9 | 4,479.9 | 4,138.5 |
| International | 1,998.5 | 2,532.6 | 2,595.0 | 2,027.6 | 1,833.7 | 1,848.5 | 1,637.1 | 1,643.0 | 1,637.0 | 1,581.1 |
| Total Supply Reduction | 13,261.1 60.7% | 15,694.9 63.1% | 15,502.9 63.0% | 15,221.9 62.5% | 15,309.7 62.5% | 14,646.1 61.5% | 14,934.4 58.0% | 14,998.3 51.9% | 15,816.1 51.8% | 15,245.1 49.1% |

Table 3: U.S. Border Patrol Drug Seizures by Fiscal Year³¹²

| Fiscal Year | Marijuana (lbs.) | Cocaine (lbs.) | Heroin (lbs.) | Methamphetamine (lbs.) |
|--------------------|-------------------------|-----------------------|----------------------|-------------------------------|
| FY2012 | 2,299,864 | 12,161 | 430 | 3,715 |
| FY2013 | 2,430,123 | 4,696 | 576 | 3,580 |
| FY2014 | 1,922,545 | 4,554 | 606 | 3,930 |
| FY2015 | 1,538,307 | 11,220 | 517 | 6,443 |

Table 4: Office of Field Operations Drug Seizures by Fiscal Year³¹³

| Fiscal Year | Marijuana (lbs.) | Cocaine (lbs.) | Heroin (lbs.) | Methamphetamine (lbs.) |
|--------------------|-------------------------|-----------------------|----------------------|-------------------------------|
| FY2012 | 522,640 | 45,267 | 3,779 | 11,039 |
| FY2013 | 477,070 | 38,929 | 4,248 | 17,021 |
| FY2014 | 437,944 | 41,326 | 4,300 | 19,273 |
| FY2015 | 602,743 | 38,218 | 5,509 | 25,581 |

³¹¹ Exec. Office of the President, National Drug Control Budget, FY 2017 Funding Highlights (Feb. 2016) https://www.whitehouse.gov/sites/default/files/ondcp/press-releases/fy_2017_budget_highlights.pdf.

³¹² Information provided by U.S. Customs & Border Protection (Feb. 2016) (Notes on file with the Committee).

³¹³ Information provided by U.S. Customs & Border Protection (Mar. 2016) (Notes on file with the Committee).



Table 5: Mexican Poppy and Heroin Production by Fiscal Year³¹⁴

| | 2011 | 2012 | 2013 | 2014 | 2015 |
|--|--------|--------|--------|--------|--------|
| Hectares under cultivation | 12,000 | 10,500 | 11,000 | 17,000 | 28,000 |
| Potential pure production (metric tons) | 30 | 26 | 26 | 42 | 70 |

Table 6: Heroin Overdose Deaths in the U.S. by Fiscal Year³¹⁵

| 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 |
|-------|-------|--------|-------|-------|-------|--------|
| 3,041 | 3,278 | 3,0363 | 4,397 | 5,925 | 8,257 | 10,574 |

Table 7: Fentanyl Encounters in the U.S. by Fiscal Year³¹⁶

| 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 |
|------|------|------|------|------|-------|--------|
| 584 | 640 | 624 | 644 | 934 | 7,864 | 13,001 |

Table 8: Estimated Drug Expenditures in the U.S. (in billions)³¹⁷

| DRUG | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 |
|------------------|------|------|------|------|------|------|------|------|------|------|------|
| Cocaine | \$55 | \$49 | \$45 | \$43 | \$44 | \$44 | \$43 | \$39 | \$34 | \$31 | \$28 |
| Heroin | \$23 | \$23 | \$22 | \$23 | \$23 | \$22 | \$21 | \$21 | \$23 | \$26 | \$27 |
| Marijuana | \$22 | \$24 | \$30 | \$30 | \$31 | \$30 | \$30 | \$30 | \$32 | \$35 | \$41 |
| Meth | \$8 | \$11 | \$15 | \$17 | \$20 | \$23 | \$22 | \$20 | \$16 | \$15 | \$13 |

³¹⁴ *America's Insatiable Demand for Drugs: Examining Alternative Approaches: Roundtable Before the S. Comm. on Homeland Security & Governmental Affairs*, 114th Cong. (2016) (statement of David Murray, Hudson Institute).

³¹⁵ Centers for Disease Control and Prevention, *Number and Age-Adjusted Rates of Drug-Poisoning Deaths Involving Opioid Analgesics and Heroin: United States, 2000-2014*, available at http://www.cdc.gov/nchs/data/health_policy/AADR_drug_poisoning_involving_OA_Heroin_US_2000-2014.pdf.

³¹⁶ Information provided by U.S. Drug Enforcement Administration (June 2016) (Notes on file with the Committee).

³¹⁷ Exec. Office of the President, *What America's Users Spend on Illegal Drugs: 2000-2010* (Feb. 2014) https://www.whitehouse.gov/sites/default/files/ondcp/policy-and-research/wausid_results_report.pdf.



APPENDIX B: CHAIRMAN’S FINDINGS OF FACT FROM COMMITTEE HEARINGS AND ROUNDTABLES

March 17, 2015 — *Securing the Southwest Border: Perspectives from Beyond the Beltway*

- Four out of five witnesses testified that the southwest border is not secure.
- Chris Cabrera, a Border Patrol agent in the Rio Grande Valley sector, testified that Border Patrol agents have “a lot of problems” accessing Federal lands and Native American Reservations, which drug smugglers and coyotes use to their advantage. According to Cabrera, smugglers “know exactly what we can and cannot do, where we can and cannot go, and they exploit it.”
- Cochise County, Arizona, Sheriff Mark Dannels confirmed that due to limited resources, some local jurisdictions along the border will not prosecute smugglers possessing less than 500 pounds of marijuana. Sheriff Dannels also testified that drug traffickers often use teenagers to smuggle drugs, as it is unlikely that minors will be prosecuted.

March 24, 2015 — *Securing the Border: Understanding the Presence of Transnational Crime*

- According to former drug czar General Barry McCaffrey, the U.S. is only interdicting 5 to 10 percent of illegal drugs crossing our southwest border.

July 15, 2015 — *Securing the Border: Understanding Threats and Strategies for the Maritime Border*

- The maritime border constitutes the United States’ longest border, and yet we have very little domain awareness of this environment.
- According to the U.S. Coast Guard, it only interdicts 11 to 18 percent of the estimated drug flow entering the United States from our maritime borders.

September 14, 2015 — *All Hands on Deck: Working Together to End the Trafficking and Abuse of Prescription Opioids, Heroin, and Fentanyl* (Manchester, New Hampshire)

- Heroin is not produced in America but instead is manufactured outside the country and smuggled across the U.S. border via Mexican Cartels, particularly the Sinaloa Cartel.
- According to the DEA, “[t]he growing relationship between Mexican-based drug cartels and domestic street gangs, coupled with . . . an unlimited supply of illegal guns, has really created the perfect storm for law enforcement.”
- Witnesses concluded that ultimately we must target criminal organizations, not people with substance use disorders.

November 23, 2015 — *America’s Heroin Epidemic at the Border: Local, State, and Federal Law Enforcement Efforts to Combat Illicit Narcotic Trafficking* (Phoenix, Arizona)

- According to the Arizona HIDTA, “Arizona is a primary entry point, trafficking corridor and distribution hub for drugs transported from Mexico to the United States by the Sinaloa Cartel.”



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- Mexican DTOs are highly sophisticated—an Arizona sheriff testified that “[a]side from the normal use of human backpackers (mules), clandestine tunnels, and vehicles, the trafficking organizations have resorted to the use of ultra-light aircraft which cannot be detected by normal radar, cloned vehicles appearing to be law enforcement or other legitimate companies, and most recently the use of catapults which hurl bundles of marijuana into the U.S. to awaiting co-conspirators.”

April 13, 2016 — *America’s Insatiable Demand for Drugs*

- According to General Kelly, the former Commander of the U.S. Southern Command, our borders are not secure. General Kelly also testified that the United States has visibility of 90 percent of the production and flow of illicit narcotics coming into the country.
- John Caulkins, a professor at Carnegie Mellon University, estimated the U.S. drug market to be \$100 billion a year at retail level, with most of the price increase occurring inside the country. At the border, the drug market is closer to \$10 billion a year.
- While marijuana is a mass-marketed drug, “hard drugs” such as heroin, cocaine, and meth are used by only one percent of the U.S. population.
- Cheryl Heaton, former President and CEO of Legacy, the leading Foundation dedicated to tobacco control, explained that the *Truth* ads were not targeting existing users but were focused on preventing people from ever using cigarettes.
- Members questioned what the gateway drug to harder drug use was. Witnesses stated that some marijuana consumed today is much more potent than marijuana used in the 1970s.

April 15, 2016 — *Border Security and America’s Heroin Epidemic: The Impact of the Trafficking and Abuse of Heroin and Prescription Opioids in Wisconsin* (Pewaukee, Wisconsin)

- According to the Wisconsin HIDTA, in Milwaukee County, 109 heroin-related overdose deaths were reported in 2015.
- Statistics suggest that treatment is often only effective 10 to 20 percent of the time.
- The average age to begin drug use is 11 to 12-years-old.
- Dr. Timothy Westlake criticized the pain-scale system that could incentivize doctors to over-prescribe pain medications. He endorsed the PROP Act, sponsored by Chairman Johnson, which would prohibit pain management questions on patient surveys from being factored into Medicare reimbursement calculations.
- America’s insecure borders directly impact Wisconsin, according to the Wisconsin Attorney General, who testified that in the 1980s the purity of heroin was around 5 percent. Today, because it is so easy to transport heroin into the country, the purity can range from 20 percent to 80 percent.

April 19, 2016 — *Preventing Drug Trafficking Through International Mail* (public roundtable)

- According to the DEA, the abuse of fentanyl is the next step in the evolution of heroin and opioid addiction, which is primarily produced in China and easy to conceal/ship to the United States.



- The DEA explained that fentanyl does not require traffickers to own large swaths of land to grow poppies; instead traffickers can order it on the Internet, ship it to the United States, export it to Mexico, then cut it with heroin, to later be smuggled back to the United States in its new form.
- Canines are not trained to fentanyl, as just sniffing fentanyl could kill the dog.

April 22, 2016 — *Examining the Impact of the Opioid Epidemic in Ohio* (Cleveland, Ohio)

- A comprehensive approach will be needed in order to effectively respond to America’s increasing demand for drugs.
- “Changing prescribing practices alone also will not cure the problem,” noted the Acting U.S. Attorney for the Northern District of Ohio.
- Ohio has become a case-study in the evolutionary nature of opioid addiction. According to the Medical Examiner of Cuyahoga County, Ohio’s largest county, there were 5 overdose deaths in 2013 involving fentanyl, 37 overdose deaths in 2014, and 91 in 2015.

May 17, 2016 — *America’s Insatiable Demand for Drugs: Assessing the Federal Response*

- GAO has found that ONDCP and federal agencies have made mixed progress toward achieving the goals articulated in the 2010 National Drug Control Strategy. As of May 2016, none of the goals in the Strategy have been fully achieved.
- Federal drug control spending increased from \$21.7 billion in FY2007 to approximately \$30.6 billion in allocated funding in FY2016. Although total federal drug control spending increased from FY2007 through FY2016, spending on supply reduction programs, such as domestic law enforcement, interdiction, and international programs remained relatively constant at \$13.3 billion in FY2007 and \$15.8 billion in FY2016.
- SAMHSA initiatives to address the opioid epidemic include: (1) improving opioid prescribing practices; (2) increasing the use of naloxone; and (3) expanding the use of medication-assisted treatment (MAT) and recovery support services for individuals with an opioid use disorder.

June 15, 2016 — *America’s Insatiable Demand for Drugs: Examining Alternative Approaches* (public roundtable)

- The issue of stigma is preventing people from seeking treatment. Not only is there a stigma with the use of illicit drugs, there is also a stigma with certain treatment options.
- A treatment center in Canada is experimenting with prescribing diacetylmorphine, the active ingredient in heroin, as well as hydromorphone and methadone, synthetically produced opioids.
- Use of prescription pain medication is declining; however, an entire generation has become addicted to prescription pain medication and is now turning to heroin, which is stronger today than it has ever been, as cartels cut heroin with fentanyl.
- According to one witness: when researchers asked people addicted to heroin what is the toughest drug to quit, most said cigarettes.
- Witnesses debated merits of decriminalization, legalization, and safe injection facilities.

