

Oversight and Investigations Subcommittee Hearing
**“A Threat to Every Community: Assessing the Safety, Health, and Economic
Consequences of President Biden’s Border Policies”**
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Statement for the Record

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Introduction

Chair Rodgers, Ranking Member Pallone, and Members of the Committee, thank you for the opportunity to provide this statement for the record.

I am Regina LaBelle, and I currently direct the Addiction and Public Policy Initiative at the O’Neill Institute for National and Global Health Law at Georgetown Law. We use the law and policy to promote access to quality addiction treatment, harm reduction, and recovery support services. In addition, I direct and teach in Georgetown University’s Master of Science in Addiction Policy & Practice program, a program training future addiction policy professionals.

In 2021, at the beginning of the Biden-Harris Administration, I was appointed Acting Director of the White House Office of National Drug Control Policy (ONDCP). I oversaw the development of this Administration’s first-year drug policy priorities.¹ During the Obama Administration, I served at ONDCP as Chief of Staff.

The Overdose Crisis

Our nation is amidst an unprecedented drug overdose crisis. In the 12-month period ending in July 2023, the Centers for Disease Control and Prevention (CDC) reported that 106,661 people died of a drug overdose.² This number does not begin to reflect the family members and communities left behind; each death is an unspeakable tragedy for our nation. Much more needs to be done to save lives and end this crisis.

¹ Executive Office of the President, *The Biden-Harris Administration’s Statement of Drug Policy Priorities for Year One* (2021) <https://www.whitehouse.gov/wp-content/uploads/2021/03/BidenHarris-Statement-of-Drug-Policy-Priorities-April-1.pdf>.

² FB Ahmad et al., *Provisional Drug Overdose Death Counts*, National Center for Health Statistics (2023), <https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm>.

I support Congressional action to create an orderly, humane immigration system; however, the migrant issues we see at the border today are not what is driving the overdose epidemic. Regardless of what Congress does to reform the nation's immigration laws, additional Congressional action is necessary to solve the overdose epidemic. Our nation desperately needs bipartisan action to address the underlying issues driving this crisis: the profits of transnational criminal organizations and untreated addiction.

Going After the Profits of Transnational Criminal Organizations

To solve this problem, it is critical that we look to the facts and the evidence, rather than the rhetoric. Illicit fentanyl in America today is manufactured largely from precursor chemicals sourced from the People's Republic of China; these chemicals are shipped to Mexico where drug cartels manufacture the illegal fentanyl that we see in America.³ Contrary to the rhetoric, the vast majority of illegal fentanyl is brought into the country by U.S. citizens,^{4 5} not undocumented immigrants. Additionally, the vast majority of illegal fentanyl is brought into the country through ports of entry—not between them. In fact, according to the Cato Institute⁶, just 0.02% of people arrested by Border Patrol for crossing the border illegally possessed any fentanyl at all.

Transnational criminal organizations operate across borders with sophisticated, international business operations. To promote the rule of law and reduce the profit flow from drug trafficking, the United States, together with its international partners, must follow the money.

This means targeting illicit financial transactions that support fentanyl trafficking. This includes investigating, prosecuting, and convicting money launderers who make the illicit drug trade and transnational criminal enterprises financially viable.

Ending Untreated Addiction

Promoting the rule of law and reducing profits from international drug trafficking is a piece of the solution, but building a public health infrastructure in the U.S. must be the centerpiece of our efforts. If every American with a substance use disorder received the care they need, there would be a dramatically smaller market for their illegal fentanyl. Yet according to a 2022 study, fewer than 28% of individuals with an opioid use disorder received treatment with medications for opioid use disorder (MOUD) within the last year.⁷

³ DEA Intelligence Report, *Fentanyl Flow in the United States*, January 2020, https://www.dea.gov/sites/default/files/2020-03/DEA_GOV_DIR-008-20%20Fentanyl%20Flow%20in%20the%20United%20States_0.pdf

⁴ United States Sentencing Commission Report, *Quick Facts on Fentanyl Trafficking Offenses*, (2021), https://www.uscc.gov/sites/default/files/pdf/research-and-publications/quick-facts/Fentanyl_FY21.pdf

⁵ *Socioeconomic risk factors for fatal opioid overdoses in the United States: Findings from the Mortality Disparities in American Communities Study (MDAC)*, January 2020, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6968850/>

⁶ Bier, David J., *Fentanyl Is Smuggled For U.S. Citizens by U.S. Citizens, Not Asylum Seekers*, (2022), <https://www.cato.org/blog/fentanyl-smuggled-us-citizens-us-citizens-not-asylum-seekers>

⁷ *Use of Medication for Opioid Use Disorder Among US Adolescents and Adults With Need for Opioid Treatment*, (2019), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8943638/>

At the O’Neill Institute for National and Global Health Law at Georgetown Law, we advocate for a public health approach to addressing substance use, one that spans the continuum of care. The continuum of care includes enhancing evidence-based prevention, improving harm reduction services to prevent risky substance use and reduce overdose deaths, increasing access to quality, evidence-based treatment by reducing barriers to treatment, and increasing access to recovery support services to sustain long-term recovery.

Congress can take action today across the continuum of care to save lives.

Prevention

One area requiring urgent attention is increasing rates of youth overdose deaths. Tragically, at a time of reduced youth substance use, we are seeing increasing mortality rates among adolescents.⁸ This same study also noted that, in 2022, 22 young people aged 14 to 18 died each week of a drug overdose. We must treat this issue as the urgent problem it is.

Congress should build on efforts by the Administration to educate young people about the consequences of purchasing what they think are prescription pills online, but are actually pressed pills containing fentanyl. We must also address untreated mental health conditions among adolescents, conditions that often cause young people to seek out pills online.

However, education alone is not enough.

Congress can finally take action to regulate the safety of online platforms. Reform to Section 230 is long overdue. While any reform must protect the First Amendment rights of individuals online, it is time for accountability.

Treatment

I applaud Congress for eliminating the “X-waiver” requirement for buprenorphine prescribing in the FY 2023 omnibus funding measure. This action will, over the long term, be a game changer for treatment access. Nevertheless, eliminating the X-waiver by itself is not enough to close the treatment gap, and buprenorphine is not the only medication for opioid use disorder.

We need broad access to addiction treatment immediately. Arbitrary federal barriers to care are costing American lives. Congress has the ability to take action in three areas:

First, improve access to all forms of medications for opioid use disorder, including methadone. At a time when upwards of 70% of all overdose deaths involve illicit fentanyl⁹ increased access

⁸ Friedman, Joseph, *The Overdose Crisis Among U.S. Adolescents*, 2024, https://www.nejm.org/doi/full/10.1056/NEJMp2312084?query=featured_secondary

⁹ Center for Disease Control and Prevention, *Drug Overdose Deaths*, 2021, <https://www.cdc.gov/drugoverdose/deaths/index.html>

to methadone treatment has become an urgent issue. Administrative actions were taken to ease access to methadone treatment during the COVID-19 public health emergency. These actions did not result in increased diversion of methadone, but did provide easier access for individuals with opioid use disorder.¹⁰ Fortunately, the Substance Abuse and Mental Health Services Administration (SAMHSA) has extended these flexibilities.¹¹ However, more can be done to improve access. For example, Congress is currently considering legislation (Modernizing Opioid Treatment Access Act (MOTAA))¹² that would allow doctors who are board certified in addiction medicine, to prescribe methadone and pharmacies to dispense it. Currently, methadone can only be dispensed at an opioid treatment program. It follows logically that access would improve given the limited number of opioid treatment programs nationwide, and the large number of pharmacies in the U.S.¹³

Second, more should be done to increase access to evidence-based treatment for people who are incarcerated, and upon reentry to the community. Congress is currently considering the Due Process Continuity of Care Act (DPCCA) and the Medicaid Re-Entry Act (MRA).^{14 15} The DPCCA would ensure that incarcerated people held pretrial do not lose Medicaid coverage because of an arrest. The MRA would allow Medicaid coverage for incarcerated individuals in the last 30 days prior to their release, thereby improving their access to evidence-based care leading up to and upon reentry. Improving access to evidence-based care in corrections and upon reentry is important given the heightened risk of overdose for individuals who leave jail. Research has shown that overdose is the leading cause of death among people leaving prison¹⁶, yet MOUD makes recently incarcerated individuals 85%¹⁷ less likely to die. By providing MOUD in corrections and upon reentry, we can help bend the curve of overdose deaths.

Third, Congress can take additional steps to ensure access to buprenorphine. As mentioned previously, removing the X-waiver requirement for buprenorphine prescribing was an important first step. More can be done now by making sure that pharmacies stock buprenorphine. Currently, only 57.9% of pharmacies even stock buprenorphine.¹⁸

¹⁰ Pew Charitable Trusts, *Study Shows Easing Access to Methadone Helps Patients with Opioid Use Disorder*, 2023,

¹¹ Substance Abuse and Mental Health Services Administration, *Methadone Take-Home Flexibilities Extension Guidance*, 2020, <https://www.samhsa.gov/medications-substance-use-disorders/statutes-regulations-guidelines/methadone-guidance>

¹² Modernizing Opioid Treatment Access Act of 2023, S.644, 118th Congress (2023).

¹³ Modernizing Opioid Treatment Access Act of 2023, S.644, 118th Congress (2023).

¹⁴ Due Process Continuity of Care Act of 2023, H.R. 3074, 118th Congress (2023).

¹⁵ Medicaid Reentry Act of 2023, H.R. 2400, 118th Congress (2023).

¹⁶ National Library of Medicine, *Clinical risk factors for death after release from prison in Washington State: A nested case control study*, 2017, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4834273/>

¹⁷ National Library of Medicine, *Does exposure to opioid substitution treatment in prison reduce the risk of death after release? A national prospective observational study in England*, 2017, <https://pubmed.ncbi.nlm.nih.gov/28160345/>

¹⁸ National Library of Medicine, *Pharmacy Availability of Buprenorphine for Opioid Use Disorder Treatment in the US*, 2023, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10220511/#:~:text=Only%2057.9%25%20of%20pharmacies%20reported,pharmacy%20chains%20in%20the%20US.>

Congress should clarify the DEA's Suspicious Orders Reports System (SORS). Too many distributors and pharmacies fear adverse law enforcement action if they dispense too much buprenorphine, and if MOTAA passes, the same will be true for methadone. Distributors and pharmacies should be incentivized to get this critical medication into the hands of patients who have been prescribed it.

Closing

By taking an all of the above approach, geared at enhancing the rule of law, tackling illicit finance, and building out a robust public health system, Congress can bend the curve of overdose deaths. These are not easy issues with simple answers. With record numbers of overdose deaths, the public is demanding action. We can continue to build on some of the important policy changes that have occurred and tackle both the international aspects of the issue, along with the domestic and community-based approaches that are necessary.

I, like many of you, know people who have been directly affected by this issue. They are calling out for all of us to work together so no one else has to suffer a loss.

Thank you for the opportunity to provide this statement for the record.