



U.S. Immigration and Customs Enforcement

STATEMENT

OF

DEREK BENNER
DEPUTY EXECUTIVE ASSOCIATE DIRECTOR
HOMELAND SECURITY INVESTIGATIONS

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
DEPARTMENT OF HOMELAND SECURITY

REGARDING A HEARING ON

The Role of DHS in Stopping the Flow of Opioids & Other Dangerous Drugs

BEFORE THE

UNITED STATES SENATE
COMMITTEE ON APPROPRIATIONS
Subcommittee on Homeland Security

Wednesday, May 16, 2018
192 Dirksen Senate Office Building

Chairwoman Capito, Ranking Member Tester, and distinguished members:

Thank you for the opportunity to appear before you today to discuss U.S. Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI) activities to combat drug flows, and the efforts of HSI to target, investigate, disrupt, dismantle and bring to justice the criminal elements responsible for the manufacturing, smuggling, and distribution of dangerous and illicit drugs.

As the largest investigative agency within the U.S. Department of Homeland Security (DHS), HSI investigates and enforces more than 400 federal criminal statutes to include the Immigration and Nationality Act (Title 8), U.S. customs laws (Title 19), general federal crimes (Title 18), and the Controlled Substances Act (Title 21). HSI special agents use this authority to investigate all types of cross-border criminal activity and work in close coordination with U.S. Customs and Border Protection (CBP), the Drug Enforcement Administration (DEA), as well as other federal, state, and local law enforcement agencies in a unified effort, to target Transnational Criminal Organizations (TCOs) that are supplying narcotics to the United States.

Today, I would like to highlight our efforts to combat international drug trafficking coming into the United States.

Smuggling Trends along the Southwest Border

As many of the members of this Subcommittee know firsthand, the Southwest border is a very diverse environment. Along the nearly 2,000 miles of border, there is a maritime boundary along the Gulf of Mexico and the Pacific Ocean that transitions to vast land border areas that include rivers, rural agricultural lands and densely populated urban areas. In response to these vastly different areas, the cartels adapt their smuggling methods and cargo to the environment. In recognition of the significant threat that smuggling along the Southwest border presents to our homeland, 25% of HSI's special agents are assigned to our offices along the Southwest border.

Mexico is a major source and transit country for illicit drugs destined for the U.S., to include marijuana, cocaine, methamphetamine, heroin and, more recently, fentanyl. Intelligence, gathered in part through successful investigations, confirm that Mexico is not only a source country for the production of fentanyl, it is also a transit country for fentanyl originating from Asia. Mexican distribution networks are responsible for fentanyl transiting from Mexico into interior states such as Ohio, which has witnessed a significant increase in overdose deaths. One National Center for Health Statistics report shows a 41 percent increase in overdose deaths in Ohio in just one year (2016-17). Trends indicate that the potency of fentanyl is what has caused this significant increase in overdose deaths.

Because of Mexico's dominant role as either a source or transit point for illicit drugs destined for the U.S., it has also become a primary destination for the illicit proceeds that the cartels earn from the distribution networks in the U.S. Mexican cartels use a variety of techniques to

repatriate illicit proceeds, from bulk cash smuggling to sophisticated trade-based money laundering schemes. Many of the more complex techniques rely on third party money launderers and corrupt financial institutions.

To give you a sense of the variety of smuggling challenges that we collectively face, it is important to start by talking about the specific drug threats, smuggling methods and modes used across the spectrum of the Southwest border.

Heroin

Mexico has become the largest source of heroin consumed in the United States, and the 2016 National Drug Threat Assessment found that Mexican cartels produced 70 metric tons of heroin annually. The purity of Mexican-produced heroin has also increased over time, making it more marketable because it can be smoked or snorted as well as injected intravenously. HSI offices in Ohio have witnessed an increase of heroin/fentanyl-related overdoses since approximately 2015.

Fentanyl

The Mexican cartels have quickly added fentanyl to their smuggled drugs in response to the explosion of opiate abuse in the United States. We have seen Mexico as both a producer and transit point for fentanyl destined for U.S. markets. In some cases, fentanyl is seized in mixed contraband loads with heroin or methamphetamine, reinforcing the poly-drug nature of the cartels. While U.S. law enforcement continues to assess how much of the fentanyl market in the United States is supported by Mexican-sourced fentanyl, the size of individual seizures and the proximity of Mexico to the U.S. drug market is a troubling sign.

Methamphetamine

The majority of methamphetamine consumed in the United States is now produced in Mexico using precursor chemicals from Asia. Methamphetamine is almost exclusively seized in non-factory compartments of POVs. The second most common method of smuggling methamphetamine is by pedestrians who secret it on their bodies or within body cavities. Methamphetamine is seized in both crystalline and liquid forms.

Cocaine

Mexico is a transit country for South American-sourced cocaine. Cocaine is almost exclusively seized at ports of entry (POEs) in non-factory compartments of privately owned vehicles (POVs). Alternatively, the cocaine may be deeply concealed within commercial conveyances and cargo shipments.

Marijuana

The Mexican cartels cultivate marijuana and Mexico is the largest foreign supplier of illegal marijuana to the U.S. drug market. DHS agencies seize the largest quantities of marijuana as it is

being smuggled between the POEs, including through tunnels. When marijuana is seized at U.S. POEs it is most often found concealed among commercial cargo shipments.

Southwest Border Smuggling Methods and Related Challenges

Recognizing that the border in Southern California is different than the border in Arizona, New Mexico, and Texas, the cartels adapt their smuggling methods to suit a specific area. The unifying goal of all smugglers is to try to blend into normal traffic in a given area to avoid law enforcement attention. On a daily basis, the cartels conduct surveillance of law enforcement operations along the border, principally focusing on CBP operations at and between the POEs. As the Department changes its tactics and techniques, or introduces new technology and infrastructure, the cartels adapt their operations and probe our border security to determine the best way to accomplish their goals.

Land Ports of Entry

At POEs along the Southwest land border, smugglers use a wide variety of tactics and techniques for concealing drugs. Our special agents work every day with CBP officers from the Office of Field Operations to identify, seize, and investigate drug smuggling organizations that attempt to exploit POEs to introduce drugs into the United States. Within the POE environment there are three distinct threat areas exploited by the cartels: Pedestrians, POVs, and Commercial Cargo. Pedestrians are primarily used to smuggle cocaine, heroin, and methamphetamine on or within their bodies. POVs are used to smuggle cocaine, heroin, fentanyl, methamphetamine, and marijuana; often using deep concealment methods like non-factory compartments, gas tanks and other voids. At Commercial POEs, the cartels utilize commercial tractor trailers to commingle narcotics with legitimate commercial goods, or to conceal the narcotics within the tractor trailers themselves.

The cartels also use spotters/scouts and counter-surveillance techniques both at and between the POEs to increase their chances of success in smuggling ventures. Spotters/scouts watch and report on border law enforcement activities.

Between the Ports of Entry

The cartels use the areas between the POEs primarily to smuggle marijuana in bulk. In these areas, the cartels use a variety of techniques that are tailored to the terrain and other environmental factors. For example, in Texas, the Rio Grande River creates a natural barrier that poses unique challenges for the U.S. Border Patrol.

Outside of urban areas along the land border, one tactic used by the cartels is vehicle incursions, or “drive-throughs,” whereby smugglers breach the border by either going over or through border fences. Smugglers move vehicles over the fence using ramps or, on more rare occasions, lift vehicles over the fence using cranes. Going through the fence involves cutting fence panels and lifting them up, or creating a gate in the fence allowing a vehicle to pass through. Vehicle incursions often rely on networks of scouts that are staged on the area’s highest points to warn them of U.S. Border Patrol or other law enforcement presence.

In areas where the cartels cannot conduct vehicle incursions, they have experimented with ways to throw or launch marijuana bundles over the fence to co-conspirators waiting in the United States. Recently, we have seen cartel attempts to use air or propane cannons to launch bundles of marijuana weighing more than a hundred pounds over the border fence.

Another tactic cartels use in remote areas between the POEs is to have backpackers carry bundles of marijuana on their backs using improvised backpacks made of burlap or other materials. Backpackers often travel in groups and have been known to travel for days before getting to pre-designated locations, where they are picked up by other members of the organization in the United States.

Smuggling by general aviation aircraft from Mexico has not been a significant threat since the late 1990’s. However, in the last decade we have seen the cartels experiment with the use of ultralight aircraft to smuggle marijuana in Arizona and Eastern California. More recently we have also seen the cartels experiment with the use of small recreational drones to smuggle very small quantities of drugs, often just a couple of pounds.

In 1990, the first cross-border tunnel was discovered in Douglas, Arizona. Since that time more than 194 tunnels (both completed and in progress) have been located along the Southwest border, primarily in Arizona and Southern California. The discovery of illicit subterranean tunnels is evidence that smugglers are moving away from traditional smuggling techniques due to enhanced law enforcement efforts. In recognition of the significant smuggling threat present in Arizona and San Diego, HSI leads two Tunnel Task Forces in San Diego and Nogales under the auspices of the Border Enforcement Security Task Force (BEST) Program, described in more detail below.

Other Smuggling Environments

Maritime Smuggling

As infrastructure, technology, and staffing have been added to the Southwest border, we have seen an increase in maritime smuggling of marijuana and other drugs from Mexico to California coastal areas north of San Diego. The cartels use pleasure boats or small commercial fishing vessels known as “Pangas” that can achieve relatively high speeds under the cover of darkness to attempt to evade detection by CBP and U.S. Coast Guard (USCG) surface patrol vessels and

patrol aircraft. Additionally, significant maritime smuggling activity occurs daily throughout the Caribbean, with watercraft coming from Columbia and Central America. GPS technology is being used by smugglers who are now able to drop drug loads overboard and have others retrieve the load days later, in a different location, by following the GPS tracker placed in the load.

International Airport Smuggling

HSI has recognized the continued threat of illicit exploitation that the international airports pose for law enforcement. International airports serve as a hub for illicit money movement, including the smuggling of bulk cash, preloaded cash cards, and e-commerce, as well as contraband smuggling.

International Mail Facilities

TCOs have long realized the vulnerability of the mail and express consignment systems, and exploit the great volumes of mail entering the United States as a means to further their criminal activity. Moreover, purchasers of contraband can access open source and dark web marketplaces for synthetic drugs where they can easily be purchased online, and then shipped into the United States, sometimes directly to the end user. As stated above, much of the fentanyl that is smuggled into the United States is mixed with other narcotics and shipped from Mexico. Fentanyl is also being smuggled into the United States from China through our international mail facilities and express consignment hubs.

HSI's Lines of Effort

TCOs (to include drug trafficking organizations) in some respects, operate like any large for-profit business. They try to stay ahead of their competitors, they remain nimble in an ever-changing environment and they are always looking for ways to move their product in a more efficient and expedited manner with minimal loss. However, TCOs, unlike legitimate large businesses, are not constrained by laws or borders. They diversify their techniques, and consistently search for innovative ways to remain undetected by law enforcement to exploit the trade, travel, and financial systems of the United States.

The fight does not and should not begin at the border. HSI's approach is to push our borders out and address the threat in sync with our international and domestic footprints. This allows us to do more work overseas before the problem reaches our border by dismantling illicit pathways, and by investigating and seeking prosecution of foreign organizational members in their homeland, when practical.

On the international front, HSI leverages its Transnational Criminal Investigative Units (TCIUs) who work hand in hand with our special agents assigned to international posts. HSI TCIUs are comprised of foreign law enforcement officials and prosecutors who undergo strict vetting, and receive formal law enforcement training at the Federal Law Enforcement Training Center (FLETC) in Glynco, Georgia. Currently, HSI has 12 TCIUs operating throughout the Western Hemisphere, Europe, Africa, and Southeast Asia.

Border Enforcement Security Taskforces (BEST) are HSI's primary platform to investigate smuggling domestically. HSI currently operates BESTs in 62 locations throughout the United States, leveraging the participation of more than 1,000 federal, state, local, and foreign law enforcement agents and officers, who representing over 100 law enforcement agencies jointly conducting complex criminal investigations. These 62 BESTs are strategically situated at POEs, international airports, seaports and embedded at international mail facilities which allows for collaboration in conducting intelligence-driven investigations aimed at identifying, disrupting, and dismantling TCOs that operate in the air, land, and sea environments.

By incorporating a National Case Model concept and having our domestic and international offices working seamlessly together, with our respective federal, state, local, and international law enforcement partners, we can facilitate real time information exchange, operational activities, and rapid bilateral investigations to dismantle these organizations. The National Case Model is an innovative approach to dismantling and preventing the reconstitution of the top criminal networks impacting the national security of the homeland. It is essential because, as stated above, these criminal networks are not limited by international boundaries, prosecutorial jurisdictions, agency missions, and unit operations areas; and, as a result, the criminal networks are linked to dozens of U.S. and foreign partner investigations, cases, operations, prosecutions, seizures, and apprehensions. Countering these complex transnational criminal networks requires a centralized management framework that unifies the efforts and objectives of investigative, law enforcement, criminal justice and other government agencies. It also requires disciplined case management procedures, consolidated funding and accounting, and cross-functional, cross-programmatic and cross-domain support. Furthermore, it must transcend localized mindsets, discourage tunnel vision, and recognize that dismantling the entire criminal network is a higher public interest than arresting and prosecuting locally targeted individuals.

In October of 2017, President Trump signed an order declaring the opioid crisis a national public health emergency. Due to its variable changing potency, fentanyl and its analogs have been attributed to most of the overdose related deaths in the U.S. Fentanyl is being smuggled into the U.S. by air, land, and sea. To highlight the rapid popularity of this drug, in FY 2015, HSI seized approximately 69 lbs. of fentanyl. Fast forward two years, in FY 2017, HSI seized over 2,400 lbs. of fentanyl. Although it's primarily produced in China, we are seeing it being smuggled into the U.S. from Mexico in record numbers. As previously stated, the fentanyl coming from Mexico is typically combined with other narcotics. Mexico is not the only threat though, as it is also coming direct from China in its pure form. The primary concerns with pure fentanyl is the

fact that it has varying potency, and exposure to a miniscule amount can result in death. There are several cities throughout the country that are seeing this drug in both forms and people are dying as a result.

In response to the opioid national emergency, BESTs embedded at international mail and express consignment carrier facilities specifically target opioid shipments on a daily basis, attempting controlled deliveries of intercepted packages that contain fentanyl or other illicit substances. Controlled deliveries are highly effective means of identifying end-users, establishing probable cause, and ultimately disrupting and dismantling domestic and regional smugglers and distributors. As a result, HSI has achieved a number of successes through joint efforts at the local, national and international level.

Just over two years ago, medics responded to a 911 call in Grand Forks, North Dakota for an all too common opioid overdose death. HSI responded to the call for help from our local police partners in aggressively investigating the source of the fentanyl, which was eventually determined to cause not only this death, but numerous others. Utilizing our extensive resources and international reach, HSI, along with its law enforcement partners, began a complex and aggressive investigation resulting in identifying the movement of fentanyl through distributors, pill pressers and smugglers and identifying the original source in China. Federal indictments, arrests, and seizures have followed, with extensive coordination through HSI International offices and foreign partners in Panama, Colombia, Canada, and China. Members of this fentanyl smuggling organization span across the U.S. and the world.

Recently, an investigation into fentanyl smuggling from China was conducted by HSI offices in Guangzhou, China and New Orleans, Louisiana. HSI worked closely with the Chinese Narcotics Control Bureau (NCB) targeting the “Diana” Fentanyl TCO. The information shared by HSI prompted Chinese authorities to conduct enforcement actions across multiple Chinese provinces and influenced needed changes in Chinese laws governing narcotics enforcement. At a press conference in Beijing in December 2017, the Chinese Narcotics Control Commission announced changes to the narcotics control list. During his speech, NCB Deputy Director General Deng Ming referenced the joint HSI/NCB investigation of the Diana Fentanyl TCO as a contributor to this law change. Additionally, U.S. Department of Justice legal representatives in Beijing report that the Chinese Narcotics Control Commission considers this a “signature case” that significantly helped escalate the Chinese Government’s understanding of the fentanyl export problem.

HSI agents and our BEST teams work tirelessly to disrupt the movement of opioids and fentanyl into the U.S. from our Southern border. We develop information and gather intelligence, leading to operational action related to the smuggling activities of cartels and other TCOs. Within the last few months, one HSI enforcement action resulted in the seizure of 34 lbs. of a substance containing fentanyl, smuggled from Mexico, at a southern Arizona home. The case is ongoing.

Another ongoing 2018 HSI case, based in California and Ohio, has resulted in arrests, seizures and significant information regarding a large fentanyl production lab in Mexico.

HSI leverages its expertise in the financial and cyber realm to propel our investigations. HSI's Cyber Division provides significant and essential support and assistance to field cyber investigations targeting darknet illicit marketplaces, where fentanyl and chemical precursors proliferate. As criminal activity, and especially the trade of illicit opioids, continues to migrate to the online world, HSI faces growing demand for cyber investigative assistance. For example, in 2014, HSI conducted only 37 cybercrime investigations (not including child exploitation violations). By 2015, that number approached 100 such investigations. Today, HSI has over 600 open cybercrime investigations, including over 100 specifically targeting dark net illicit markets – most of which involve narcotics smuggling. In the last year alone, the Cyber Division has observed a 500% increase in requests for field support. Recognizing the need to proactively target online fentanyl trafficking, the HSI Cyber Division is identifying ongoing investigations and facilitating the coordination of online undercover operations conducted in furtherance of dark-net illicit marketplaces. Additionally, the Cyber Division is aiding with the development and management of online undercover personas in furtherance of online undercover operations and collaborates with joint agency strategies in taking down online sources of opioids.

In addition to significant opioid related investigations, HSI initiated a dark-net and virtual currencies training program for federal, state and local law enforcement agencies. The objective behind this training is to share HSI's cutting edge technology and experience to train other law enforcement personnel and thus making them a significant force multiplier to combat this national crisis. Since October 2017, HSI has provided this training to over 1,500 federal, state, and local law enforcement officers throughout the United States with a focus on cities that are being impacted the most by opioids.

Identifying, analyzing, and investigating the payment systems that facilitate the purchase and smuggling is critical to the disruption and dismantlement of networks that smuggle contraband like cocaine and opioids to the U.S. HSI conducts proactive investigations that focus on the two key payment systems which support illicit procurement of narcotics: money service businesses (MSBs) and digital currencies. Generally, drugs purchased on the “indexed” internet are paid for through licensed mainstream MSBs. On dark-net marketplaces and other “unindexed” websites, purchases are often paid with digital currencies such as Bitcoin or Monero, among many others. In support of its diverse financial investigative efforts, HSI uses undercover techniques to infiltrate and exploit peer-to-peer cryptocurrency exchangers who typically launder proceeds for criminal networks engaged in or supporting dark net marketplaces. Furthermore, HSI leverages complex blockchain exploitation tools to analyze the digital currency transactions and identify transactors.

To continue long term strategies to dismantle TCOs, HSI trains investigators from national and international agencies in cryptocurrency investigations to deter organizations from laundering

proceeds or using cryptocurrencies to fund the purchase of narcotics. Also, HSI created the Money Service Business Initiative to enable the application of advanced data analytics across large amounts of MSB data to isolate criminal networks, highlight suspicious transactions indicative of illicit activity, and provide predictive intelligence. The power of this type of advanced analytics truly shines when MSB data integrated with additional government data holdings, open source and social media information, and communication records such as phone toll records, IP activity records, email search warrants, and Title III wire intercepts.

HSI participates at CBP's National Targeting Center (NTC) through the NTC – Investigations (NTC-I) program, which leverages intelligence gathered during HSI investigations and exploits it using CBP holdings to target the flow of drugs into the United States. The NTC-I works to share information between CBP and HSI entities world-wide.

HSI has assigned special agents to work within the NTC Cargo (NTC-C) Narcotics Division. These special agents are charged with serving as liaisons between the NTC and HSI personnel in both domestic and international posts. HSI investigative case data is fused with CBP targeting information to bolster investigations targeting smuggling & trafficking organizations.

NTC-I conducts post seizure analysis based on HSI seizures in the field and CBP seizures at the ports of entry. The analysis is critical to identifying networks that transport drugs like heroin and illicit fentanyl-related substances into and throughout the United States. A key component of the post seizure analysis is the financial investigation. The NTC-I focuses on the financial element of the smuggling organization by exploiting information gathered from multiple financial databases.

Strategic Placement of HSI Personnel

The FY 2018 DHS Appropriations Act funded 60 new domestic special agent positions and 5 international positions for HSI. In preparation for potential additional investigative resources, HSI developed a Resource Prioritization module as part of the larger Workload Staffing Model (WSM). This WSM module allows HSI leadership to use standardized output and efficiency metrics derived from aggregated Investigative Case Management data to inform resource deployment determinations with the intention of maximizing enforcement activities in HSI strategic priority mission areas. The HSI priority mission areas for placement of these new positions include gang enforcement, fentanyl/opioid enforcement and trade-fraud enforcement. Using data from the WSM, HSI will deploy 17 of the 60 new positions to the front lines to combat opioid trafficking. The results of the WSM indicate that these positions would have the most impact in the "Rust Belt" and the northeastern part of the United States, which happen to be the areas hardest hit by the opioid epidemic. With the potential addition of 300 domestic special agent positions requested in the FY 2019 President's Budget request, HSI leadership is preparing to use the same data driven methods to make resource deployment determinations for up to 68 field agents for fentanyl/opioid enforcement activities. In addition, HSI would like to increase

our international footprint to conduct even more collaborative investigative work down range and eliminate these organizations before their product reaches our borders.

HSI recognizes that we must be more sophisticated in obtaining the right technology and personnel to combat these ever evolving TCOs. The FY 2019 President's Budget also calls for the hiring of 212 mission support personnel for HSI. The role of mission support in law enforcement has changed. If approved, HSI will continue to increase analytical support by augmenting its intelligent footprint. To further promote innovation and stay ahead of our adversaries in this cyber centric time, HSI will also seek to hire cyber investigators and data scientists.

Successful Collaboration

There is no single entity or single solution that can stop the flow of dangerous illicit drugs into the United States or keep them from harming the American public. Tackling this complex threat involves a united, comprehensive strategy and an aggressive approach by multiple entities across all levels of government. HSI will continue to work with our federal, state, local and international partners to improve the efficiency of information sharing and operational coordination to address the challenges and threats posed by illicit narcotic smuggling in every environment.

Conclusion

Thank you again for the opportunity to appear before you today and for your continued support of HSI and its law enforcement mission. HSI is committed to stemming cross-border criminal organizations through the various efforts I have discussed today. I appreciate your interest in these important issues.

I would be pleased to answer any questions you may have.