

**H.R. 2851, STOP THE IMPORTATION AND  
TRAFFICKING OF SYNTHETIC ANALOGUES  
ACT OF 2017**

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**HEARING**  
BEFORE THE  
SUBCOMMITTEE ON CRIME, TERRORISM,  
HOMELAND SECURITY, AND INVESTIGATIONS  
OF THE  
COMMITTEE ON THE JUDICIARY  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED FIFTEENTH CONGRESS  
FIRST SESSION

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**TUESDAY, JUNE 27, 2017**

HOUSE OF REPRESENTATIVES

SUBCOMMITTEE ON CRIME, TERRORISM,  
HOMELAND SECURITY, AND INVESTIGATIONS

COMMITTEE ON THE JUDICIARY

*Washington, DC*

The subcommittee met, pursuant to call, at 11:16 a.m., in Room 2141, Rayburn House Office Building, Hon. Louie Gohmert [vice chairman of the subcommittee] presiding.

Present: Representatives Gohmert, Goodlatte, Chabot, Ratcliffe, Roby, Gowdy, Jackson Lee, Conyers, Deutch, Jeffries, and Lieu.

Staff Present: Anthony Angeli, Counsel; Scott Johnson, Clerk; Mauri Gray, Minority Counsel, Minority Crime Detailee; Joe Graupensperger, Minority Chief Counsel, Subcommittee on Crime, Terrorism, Homeland Security, and Investigations; Veronica Eligan, Minority Professional Staff Member; and Monalisa Dugue, Minority Deputy Chief Counsel for Subcommittee on Crime, Terrorism, Homeland Security, and Investigations.

Mr. GOHMERT. I apologize for the delay in markup in another room and a lot of breathing room here. But I do not want that, in any way, to make you think we do not appreciate the importance of you, your position, and your testimony. So, we will get the ranking member, and we will be ready to start. Are we okay if we start?

All right, we have the ranking member of the full committee. So, at this time, the Subcommittee on Crime, Terrorism, Homeland Security, and Investigations will come to order. Without objection, the chair is authorized to declare recesses of the subcommittee at any time. We welcome everyone to today's hearing on H.R. 2851, and I will now recognize myself for an opening statement.

Today's hearing concerns a critical issue: Criminal drug traffickers and importers are able to circumvent the current Federal law by modifying a single atom or molecule of a currently controlled substance in a laboratory. They create a substance that is technically lawful, but often highly dangerous, addictive, and even deadly. These synthetic analogues are being trafficked into the United States, often from China or Mexico, and pose a grave threat to the health and safety of our own Americans.

Synthetic drugs have caused a public health epidemic in the United States. Uncontrolled synthetic analogues have come to represent the deadly convergence of the synthetic drug problem with the opioid epidemic. The human toll and the financial costs are staggering: 52,000 Americans died in 2015 from drug overdoses. That is 144 people per day. For those who overdose, they present themselves in emergency rooms with a variety of issues, many with dangerously high body temperatures.

Doctors must rely on their experience of treating other patients with similar symptoms because, frequently, there are no tests to detect the particular type of synthetic drug the patient overdosed on. Hospital admissions can last days or even weeks in an intensive care unit, spending huge amounts of limited resources of our hospitals and healthcare systems.

And then there is the personal toll. Last year, this committee heard from Devin and Veronica Eckhardt, who lost their son to one dose of the synthetic drug "spice." On a Saturday night on July 2014, Connor Eckhardt smoked a synthetic drug and did not feel well, so he laid down to sleep it off. He never woke up. Five days later, doctors declared Connor, age 19, braindead. After his organs were donated, Connor was removed from life support.

The National Institute of Drug Abuse has declared synthetic drugs a serious public health risk. Manufacturers and retailers of synthetic drugs disingenuously label them as, "Not for human consumption," to obey Federal law. They do not identify the particular drugs they are peddling, nor is there any quality control over the dosage or the adulterants in the package. All of this is done in the name of greed.

Neither the products nor their active ingredients have been approved by the FDA for human consumption or for use in legitimate medical treatment, causing the purchaser to play Russian roulette with their lives. Synthetic drug users also place others at risk. Some become violent while under the influence, while other abusers, who drive after using these drugs, place themselves and others in danger.

The U.S. has faced situations like this before, and we have always responded firmly and decisively. The change to the Controlled Substances Act contained in H.R. 2851 represents that decisive response. Federal law, meant to protect Americans, can no longer be outpaced by resourceful criminals, whose sole motive is greed, at the expense of families and even human lives. I thank the witnesses for appearing here before the subcommittee today and look forward to their participation. At this time, I recognize the ranking member for an opening statement.

Mr. CONYERS. Thank you, Chairman Gohmert. And welcome to our witnesses. We look forward to your testimony. I am grateful that each of you has taken time to participate in this extremely important conversation about a crucial subject: synthetic drug legislation, specifically H.R. 2851.

I recognize that analogues to some synthetic drugs are dangerous and are harming our citizens, particularly young people. Some of these modified, man-made substances are more potent, more dangerous, and, oftentimes, more deadly than the substances they are designed to mimic. However, in responding to the dangers these

drugs pose, I want to caution my colleagues to be very careful in developing any legislation. While we will more fully explore these issues today, quite frankly, I am concerned that H.R. 2851 is a well-intentioned but flawed bill and raises several concerns that I intend to discuss with you today.

First, this bill is overbroad in the new authorities it would grant to the Attorney General. While much of the conversation surrounding synthetic analogues focuses on the chemistry of the substances from the process of manufacturing them to their effects on the human body, H.R. 2851 would eliminate vital scientific and medical evaluations normally undertaken by the Department of Health and Human Services and the Food and Drug Administration and the scheduling of drugs.

Today, it is my intention to explore alternatives to completely doing away with the collaboration of DOJ, Health and Human Services, and FDA in scheduling synthetic analogues, because each of these agencies are equally important to the scheduling process. Not only would the Attorney General hold the sole authority to schedule these substances, but he would also have the power to shape sentencing policy without the input of the United States Sentencing Commission that is actually studying the issue of synthetic drugs and penalties right now.

Secondly, we must be cautious in our response to synthetic drugs, heeding the lessons we learned and the fear-driven legislation enacted in response to crime. The bill would establish lengthy and sometimes mandatory minimum penalties for offenses when users and sellers of these analogues often may not even know of the presence of these analogues when combined with other substances. Over-penalization would be counterproductive and only contribute to our crisis of over-incarceration.

In addition, this bill has the potential to chill medical research into substances that may be beneficial or into alternatives treatments for drug addiction. This is particularly so with such a truncated process based solely on the Attorney General's determination of what is substantially similar and what the predicted effects of a substance may be.

So, in closing, I want to note that the committee has received a letter from over 65 advocacy organizations opposing the bill. And, Mr. Chairman, I ask you now for unanimous consent to insert the letter with these advocacy organizations in the record.

Mr. GOHMERT. Without objection.

Mr. CONYERS. Thank you. Although they are not here to testify today, we should take their views into account when reviewing this bill. I thank Chairman Gohmert, and again wanted to welcome our witnesses, including my friend, Representative John Katko, the sponsor of the bill as we discuss this legislation. I thank you, Mr. Chairman.

Mr. GOHMERT. Thank you. At this time, I yield to the chairman of the full committee, Chairman Goodlatte, for 5 minutes.

Chairman GOODLATTE. Well, thank you very much, Mr. Chairman. I am pleased to be here today as the Judiciary Committee builds on its efforts to stop the epidemic of synthetic drugs. The Crime Subcommittee held a subject matter hearing last year on this issue and the groundbreaking piece of legislation we are dis-

cussing today is part of the solution to that epidemic. I am honored to cosponsor H.R. 2851, the Stop the Importation and Trafficking of Synthetic Analogues Act.

The Controlled Substances Act expresses Federal U.S. drug policy by which the manufacture, importation, distribution, possession, and use of certain substances are regulated. Synthetic drugs, once called designer drugs, but now known as new psychoactive substances, are posing a serious public health threat. And this bill would update Federal law to provide prompt action to stop the unlawful importation and distribution of synthetic drugs. This bill maintains the careful balance that Congress struck when it first enacted the Controlled Substances Act in 1970 to continue to protect the American public from harmful and deadly drugs while promoting the safe research of new substances.

The deadliest drug in Virginia last year was a synthetic opioid. Fentanyl contributed to more than half of the 1,133 deaths due to opioid overdoses in 2016. In November 2016, the Virginia health commissioner declared the opioid addiction crisis a public health emergency in Virginia. As if fentanyl were not deadly enough, carfentanil, a synthetic opioid about 100 times more potent than fentanyl—by the way, fentanyl is said to be 100 times more potent than heroin—has been linked to numerous overdose deaths around the country. Because synthetic drugs are potent and cheap, greedy criminals are adding synthetic drugs to cocaine and heroin with deadly results. These powerful drugs also present a grave danger to first responders, innocent bystanders, and children.

Last week's China National Narcotics Control Commission announced scheduling controls against four new synthetic drugs. This and prior scheduling actions by China have been the culmination of ongoing cooperative efforts between the DEA and the Government of China. While I applaud these efforts and encourage them to continue, it is now clear that our laws to control synthetic drugs were not designed for the epidemic we find ourselves in now.

There are presently over 400 known synthetic drugs being imported and distributed in the United States, many of which are technically legal. Criminal drug traffickers and their illicit chemists have learned how to manipulate drug molecules to completely evade U.S. and international laws solely for their own greed and financial profit. H.R. 2851 finally gives U.S. law enforcement nimble tools to react as soon as these deadly drugs arrive in our country, so we can collectively, through enforcement, treatment, and education, retake our communities from the plague of synthetic drugs.

In the 1990s, the U.S. faced a similar situation with regard to GHB, the date rape drug. It was scheduled and strict Federal laws were enacted. Not long ago, steroid molecules were being manipulated much the same way synthetic drugs are now, and Congress responded with the Designer Anabolic Steroid Control Act enacted in 2014. Today, a unique class of drugs, trafficked by highly resourceful criminals, must be confronted head on, with a unique and agile response. H.R. 2851 is that response. We have a responsibility to protect the American people from criminals who exploit misery for profit. It is time for Congress to act again.

I want to thank Congressman Katko for his tireless work on this effort, and for introducing the important legislation before us today. I want to thank all of our witnesses for their testimony. I look forward to hearing their responses to our questions. Thank you, Mr. Chairman.

Mr. GOHMERT. Thank you, Mr. Chairman. And at this time, I recognize the ranking member of the Crime Subcommittee, Ms. Jackson Lee, for her opening statement.

Ms. JACKSON LEE. Chairman Gohmert, thank you so very much for your courtesies. And I am delighted that the chairman and the ranking member are joining us today along with Mr. Lieu, who is joining us. And I saw Mr. Chabot and thank him for his presence here as well. We thank the witnesses, and in particular, I want to thank my colleague from the Homeland Security Committee, Mr. Katko, for his presence here. And, of course, Ms. Ashley is the acting assistant administrator with the DEA. And Mr. Perez, acting executive assistant, commissioner with CBP. It seems like we have the meshing of Judiciary and Homeland Security today. So, you are welcome. Thank you very much.

As a ranking member of the Crime Subcommittee, I am committed to finding ways to work collaboratively with the chairman, my colleagues, and experts like you in order to help save lives and maybe loss as a result of fentanyl and fentanyl analogues. Now, let me first make the statement that this committee has worked in a bipartisan manner in criminal justice reform, of which I hope we will reignite on listening to and addressing the question of mandatory amendments, but also the question of mass incarceration. We also, in a bipartisan manner, address the question of fentanyl and recognize its deadly impact.

Last year, the powerful opioid was blamed for hundreds of overdose deaths on the East Coast and made its way to my congressional district in Houston. Experts like you help us save lives that may be lost as a result of fentanyl and fentanyl analogues. Drug analysts at the Houston Forensic Science Center found fentanyl 10 times last year in fake pharmaceuticals and powders. A 2015 investigation found that the tragic 2012 death of two teenagers from Grand Forks, North Dakota was linked to the usage of synthetic drugs purchased from an internet-based company near Houston, Texas.

It is a national epidemic, a national phenomenon, a national crisis. Just this month, a 22-year-old man charged with possession of under 2 grams of fentanyl, with intent to distribute the dangerous and highly addictive drug from China to young people in West Houston area. Given the effect of fentanyl and its analogues on our country and in Houston particularly, and both familiar and acutely concerned by the dangers they pose, and thus look to do whatever I can to curtail this alarming epidemic.

And we did do so in the last Congress with a bipartisan bill of this Judiciary Committee that became part of the overall Omnibus bill out of Judiciary Committee. I think there was a great deal of jubilation that we had passed a bill dealing with treatment and prevention as opposed to prosecution.

We must, however, do so in a manner that does not enhance the Attorney General's arbitrary war on drugs. This process must take

into account the scientific analysis as required currently under the law for scheduling, rather than a one-size-fits-all approach based on the Attorney General's prediction of potential abuse. I am hoping that those of us who sympathize with the author of the bill and have made these indicting statements about this terrible drug can find a way to work with this legislation to answer some of our concerns.

This method, as I mentioned, that gives the Attorney General the one-size-fits-all has the potential for abuse. This method will undoubtedly have a sweeping effect and will produce unintended consequences. As we are all aware, oftentimes, we respond legislatively to the crisis of the moment with well intentions, where lasting adverse impacts result, albeit inadvertently. While I am deeply committed to holding accountable manufacturers and traffickers of deadly drugs that have a high potential for abuse, I am equally concerned about the important underlying issues. Let me also say that I am equally concerned about treatment and the work that we have done in the bill that was passed in the last Congress.

First, expansion of power. This bill will give the Attorney General unfettered authority to criminalize and prosecute any drugs he or she elects to add to schedule A and that he predicts may generate similar effects or have similar composition found in fentanyl and other related controlled substances. As written, this bill is both vague and broad in scope, likely giving authority to control substances with low abuse potential based purely on the substance chemical similarity, that of a schedule-controlled substance. The Sentencing Commission currently is engaged in an ongoing investigation on synthetic drugs. This bill provides no meaningful oversight to penalties prescribed by the A.G., absent any input by the Commission on his pending investigation.

Second, unlike the Senate version of this bill, the House bill adds mandatory minimums to the Federal goal. This is particularly problematic given the bipartisan progress this committee has made relevant to reduction and harsh sentences for drug offenses related to heroin and crack. Section 4 of this bill imposes a term of imprisonment of not more than 10 for the first-time offense or not more than 15 if death or serious bodily injury results from the use of a schedule A substance, but not more than 20 for a second offense, not more than 30 years if death or a serious bodily injury.

Additionally, it imposes a term of supervised release of not less than 3 years and a fine of up to \$1 million for first-time offenders, or not less than 6 years and a fine of up to \$2 million for a second offense. Let me be very clear. I have confidence in our Federal judges, and they have testified before us on many occasions, asking for the discretion to be able to make the right decision and the right sentence. For all I know, it may be longer or may be less. But it does not do well to have a one-size-fits-all as relates to these kinds of cases of which there is probably a lot of issues that the court needs to consider.

Third, this bill disregards the mens rea element that is to represent or constitute a crime. Given that these drugs enter the border, U.S. sellers are often unaware of the drug's composition and potency. Head of DEA Chuck Rosenberg testified before the Senate Judiciary Committee last year in June and had listed fentanyl,

fentanyl derivatives, and their immediate precursors are often produced in China. We must be judicious in our approach as we seek solutions for the opioid epidemic and not rush to over criminalize, which extirpates the already overburdened Federal Code and overcrowding prison cells.

Even Mr. Rosenberg stated, in his testimony, that educating his agents on the drugs' toxicity, in a rollcall video that warns millions of police officers across the country, is key because the drug is volatile and changes every day. Hence, this evidence further supports the need to thoroughly analyze and educate the public rather than criminalize, prematurely, every potential lab-induced nuance that may have a predicted potential for abuse.

I hope that today's hearing will further our efforts in seeking avenues to improve, where necessary, rather than criminalize and incarcerate absent due process, but more importantly, as all of us want to do, to save lives, stop the siege of drugs in this country, and particularly the epidemic of fentanyl. Where can we do this better and best? We can do it when we work together and listen to experts. Thank you, Mr. Chairman. I yield back the balance of my time.

Mr. GOHMERT. Okay, the gentlelady's time has expired. At this time, we have a very distinguished panel. And without anything further, we begin by swearing in our witnesses. So, if you would all please rise and raise your right hand.

Do you and each of you solemnly swear the testimony you are about to give before this committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Please be seated. The record will reflect each witness answered in the affirmative. And, at this time, I will do a brief introduction.

Of course, Congressman John Katko is the sponsor of H.R. 2851. You heard some criticisms, and I look forward to your statement and information about that. And I am very grateful that you took the bold step of moving forward by filing the bill, so that we could get to this process. It is entitled the Stop the Importation and Trafficking of Synthetic Analogues Act of 2017. Our friend, Representative Katko, is the representative of New York's 24th congressional district since 2015. Thank you for being here.

Ms. Demetra Ashley is the acting assistant administrator for diversion control at the U.S. Drug Enforcement Administration. She serves as the principle advisor to the acting administrator on all diversion enforcement investigations and all regulatory matters affecting DEA's 1.7 million registrants. Ms. Ashley began her DEA career in 1987 in the Washington Field Division. She has worked in several offices to include the Detroit Field Division, two tours in the Chicago Field Division, and several positions in DEA headquarters. Ms. Ashley earned a bachelor's degree from Wayne State University and a master's degree in communications from Northwestern University.

So, we appreciate your being here, Ms. Ashley. As a State prosecutor and judge and chief justice, I gained great respect for our DEA agents with whom I have worked in the State of Texas, and have even traveled with Mr. Chabot to Colombia and seen the DEA really doing some remarkable work there as well. So, we appreciate your being here, representing the DEA.

Mr. Robert Perez is the acting executive assistant commissioner for operation support in U.S. Customs and Border Protection. Mr. Perez began his career with U.S. Customs Services in 1992 as a customs inspector in New Jersey. He has held several positions in Washington, D.C. and Detroit, Michigan, where, as the court director, he led the activities of more than 1,100 CBP employees throughout the State at seven ports of entry, including the busiest commercial truck border crossing in North America. Mr. Perez holds a bachelor's degree in economics from Rutgers University.

And so, we do appreciate your being here, Mr. Perez. Of course, being the active executive assistant commissioner of operation support of an organization, they really did not do much of anything anymore, and I am prone to sarcasm. You have become more vital than ever to maintaining our little experiment as a Republic. So, thank you.

At this time, we recognize Representative Katko for your opening statement.

Ms. JACKSON LEE. Mr. Chairman, just one moment, if I might?

Mr. GOHMERT. Yes.

Ms. JACKSON LEE. Let me tell the witnesses I will be able to listen to Representative Katko's testimony, and then I will step away because of the healthcare crisis that we are going through and will try to be back before you finish. If not, let me thank you for your testimony. Thank you.

Mr. GOHMERT. Thank you. You are recognized.

**STATEMENTS OF JOHN KATKO, CONGRESSMAN, NEW YORK'S 24TH CONGRESSIONAL DISTRICT; DEMETRA ASHLEY, ACTING ASSISTANT ADMINISTRATOR, U.S. DRUG ENFORCEMENT ADMINISTRATION; AND ROBERT PEREZ, ACTING EXECUTIVE ASSISTANT COMMISSIONER, U.S. CUSTOMS AND BORDER PROTECTION**

**STATEMENT OF JOHN KATKO**

Mr. KATKO. Thank you, Chairman Gohmert, Ranking Member Jackson Lee, Ranking Member Conyers, and others in the panel. I appreciate your allowing me to speak before you today regarding H.R. 2851, the Stop the Importation and Trafficking of Synthetic Analogues Act of 2017, a bill I recently introduced in a bipartisan manner with Congresswoman Kathleen Rice from New York.

I must say, over my 20-year career as a Federal prosecutor doing organized crime cases, as well as the last several years in Congress, it is much different being in the hot seat here than it is being the one asking questions. And I must say I enjoy the position I am in right now. I must apologize in advance, as with Ms. Jackson Lee, that after my testimony, I am going to have to leave because I have a markup that I have to deal with that is going on all day.

The synthetic drug epidemic has swept our Nation, and it has crippled communities in Central New York and across this great country of ours. Just a week ago, Syracuse Area Hospitals, which are the heart of my district, saw a record number of overdoses due to synthetic drug abuse. First responders across the Nation have seen incredible increases in calls due to synthetic overdoses. Fire

departments, police officers now, instead of dealing with law enforcement matters, are often reviving people because of synthetic drug issues.

For example, in June of 2015, Washington, D.C. recorded 439 ambulance trips, resulting in 15 per day related to synthetic drug abuse. Toxic synthetic drugs are designed to mimic street drugs that are already illegal like marijuana, LSD, cocaine, ecstasy, and other hard drugs. They can be more potent than the real thing and, oftentimes, are far more deadly.

Unfortunately, when law enforcement encounters a specific drug compound, manufacturers of these substances are able to simply slightly alter the chemical structure of that drug. This puts law enforcement at a serious disadvantage and are constantly one step behind them. As a former U.S. attorney, but more importantly as a father of teenagers, getting these drugs off the streets and out of the hands of our loved ones means a top priority for me.

Two weeks ago, I met with a constituent of my district whom I first met when I was campaigning for the first time in 2014. Her name was Theresa Wilson. Her son bought synthetic marijuana across the counter, and he had a seizure because of it and ended up dying because of it. He was a good kid, hardworking kid, going to school and everything, but he was killed by a synthetic drug that was later identified as XLR11. He purchased it at a local headshop in Oswego, New York.

Unfortunately for Theresa, the drug that killed her son managed to remain legal and on the streets for at least 4 years after his death until it was finally added to the controlled substances list last year in one of the bulk bills that we passed identifying controlled substance analogues. While users of synthetics are certainly at a risk for overdosing, we are now seeing local law enforcement and first responders put in harm's way repeatedly by simply coming in contact with these dangerous substances. Numerous cases across the country have seen emergency personnel die responding to overdoses. This is both tragic and unacceptable, and H.R. 2851 is a positive step in eradicating these harmful substances from our community.

The SITSA Act will give local law enforcement and Federal law enforcement the necessary tools to target synthetic substances and the criminals who traffic them. Specifically, this legislation will create a new schedule to the Controlled Substances Act and establish a mechanism by which synthetic drug analogues can be temporarily or permanently added to that schedule in as little as 30 days after the chemical composition is determined by the attorney general.

The new schedule, schedule A, will add 13 synthetic fentanyl that have been identified by the DEA as an immediate threat to public health and safety. These synthetics have been confirmed as the cause of death in at least 162 cases in the United States. But I must digress for a moment and comment upon the fact that thousands upon thousands upon thousands of heroin deaths in this country have been caused by heroin that has been laced with synthetic drugs such as fentanyl, and those drugs are not accounted for. And as someone spoke earlier, I think it was Chairman Goodlatte before he left, 144 people a day are dying of heroin overdoses,

144 a day. And the vast majority of those heroin overdoses have a component of synthetic drugs contained within them. That is what we are trying to stop.

Finally, the bill maintains firm penalties for foreign manufacturers, which is an important component, and importation. It provides a multistep sentencing process, which includes application of existing Federal guidelines. The goal of this legislation is not only to prevent drug abuse, but to facilitate proper research so that we may better understand these chemical compounds.

The stories of synthetic drug abuse are in no way limited to my area of the country. This is a nationwide epidemic, and some of my colleagues have even called it a pandemic; colleagues from Ohio, for example. I respectfully ask this committee to consider the act because every moment we fail to act, every moment we fail to act, another person is affected by synthetic drugs. And, think about it: by the time this hearing is over, several more people will have died because of synthetic drugs that are laced into the heroin.

I thank you all for allowing me to testify this morning, but before I conclude, I just want to briefly respond to Mr. Conyers and Ms. Jackson Lee, some of their concerns. You have stated, Ranking Member Conyers, that it is going to shape sentencing policy that is overbroad in its over-penalization. Now, we respectfully submit that this bill simply operates within the parameters already set in the Federal statute in 21 U.S.C. 841. And we are simply taking that statute and allowing the process to be expedited, to get these drugs off the street. That is very important.

And with respect to Ms. Jackson Lee's comments about the sentencing reform, we are all for sentencing reform and it is a bipartisan matter. And I say that from a guy who used to put people away all the time in these cases. I believe in sentencing reform, and I believe that low-level criminals should have safety valves. And I routinely use them in my cases. But I can tell you that this does not create any harm to the sentencing reform. The sentencing reform is the 21 U.S.C. 841. This bill is more about process than it is about sentencing, in my mind. It is operating within existing parameters, largely.

And with respect to mandatory minimums, the only mandatory minimum, other than for supervised release issues, is if someone provides drugs that kill somebody, and I stand by that. And the bottom line is I respectfully want to continue my conversation with both of you and try and have more conversations on this. I think it is an important issue.

Let us not take our eye off the ball here. People are dying as we speak from the synthetic drugs that are flooding our country. And the heroin alone is not doing it; it is the drugs that are laced with these synthetics that are killing them. And for the Teresa Wilsons of the world and the people in my district that are losing kids every day, we owe it to them to do all we can to stop, and that is what this bill attempts to do. So, I look forward to speaking with colleagues on both sides of the aisle moving forward to try to reach a solution to this. I thank you very much, and I appreciate the time for allowing me to testify.

Mr. GOHMERT. All right, thank you. And since you are going to be stepping away, we will have some flexibility, basically, in an-

swering issues that have arisen. We know you have got to get away to a markup, and we appreciate your being here. Thank you again.

Mr. KATKO. Thank you very much.

Mr. GOHMERT. Ms. Ashley, you are now recognized for 5 minutes for your opening statement. We look forward to hearing from you.

#### STATEMENT OF DEMETRA ASHLEY

Ms. ASHLEY. Good morning. Acting Chairman Gohmert, Ranking Member Conyers, Ranking Member Jackson Lee, and distinguished members of the committee, thank you for the opportunity to be here today and speak about the dangers of synthetic drug abuse. I have been a diversion investigator with the Drug Enforcement Administration for 30 years. Currently, I serve as the acting assistant administrator for the Diversion Control Division. I cannot think of a more important topic than what you have invited this panel to discuss today, specifically how to address a threat that is deadly and constantly changing.

Last year, the Senate Judiciary Committee held a hearing on this very topic. The DEA acting administrator, Chuck Rosenberg, described this threat in three simple words: vile, volatile, and lethal. I believe these three words are even more relevant today than they were a year ago.

Vile because of the insidious manner in which traffickers and manufacturers deliberately exploit the unsuspecting and the vulnerable, particularly teenagers, the homeless, and those suffering from addiction.

Volatile because the entire synthetic drug landscape continues to be more complicated and more dangerous. For every one substance that is legislatively or administratively controlled, there are many more that remain uncontrolled. The challenge for DEA is that this volatile threat requires new and innovative means in order to respond quickly.

Finally, lethal: lethal because the unsuspecting users continue to lose their lives at alarming rates. Take, for example, two 13-year-old boys in Park City, Utah who overdosed after purchasing a synthetic opioid, U-47700, also known as pink; they purchased it over the internet. Or an individual with an opioid misuse disorder who tragically overdoses after unwittingly consuming counterfeit pills containing fentanyl or carfentanil. Or a first responder who inadvertently inhales a white powder during the course of his normal duties and requires multiple hits of naloxone to recover.

These substances kill people; they kill the unsuspecting and the vulnerable, so what is DEA's approach to countering this vile, volatile, and lethal threat? Enforcement and engagement. DEA will continue to target the most significant offenders of the Controlled Substances Act. We will continue to focus on the drug cartels, whose only motive is to make tremendous profit off of unsuspecting and vulnerable populations.

Because synthetic drugs are made in the lab, the profit potential is enormous. One kilogram of fentanyl purchased in China for \$3,500 to \$5,000 can generate millions on the illicit market.

DEA will enforce the rule of law on those criminals who are pushing these poisons on our public. DEA also continues to engage with its counterparts both domestically and abroad. Earlier this

month, DEA released an updated video message to law enforcements nationwide about the dangers of handling fentanyl and its deadly consequences. We provide numerous publications to law enforcement and first responders, communities, and partnered with demand reductions coalitions nationwide as part of our 360 strategy.

DEA has also been working directly with our law enforcement counterparts in China. That relationship has been very productive, and we were extremely happy to learn that China took action on 116 synthetic substances in October of 2015. In March of this year, China subsequently scheduled four additional fentanyl analogues and, earlier this month, moved to place domestic controls over U-47700. We will continue to engage all of our partners on this synthetic issue.

Last year, you heard testimony from Devin Eckhardt, father of Connor Eckhardt, the teenager who tragically lost his life after just one use of a synthetic drug. Devin asked that we leverage all our collective power and make changes that are necessary to eradicate the deadly poisons from our streets. For those of us who have had the honor of meeting the Eckhardts or any of the countless families whose lives have been turned upside down from synthetic drugs, we understand that plea all too well. Let me ensure the committee that DEA will do everything possible to eradicate these vile, volatile, and lethal drugs from our communities.

I want to thank this committee for their ongoing work and their attention to this subject, and I look forward to answering any questions you may have.

Mr. GOHMERT. Thank you very much, Ms. Ashley. At this time, Mr. Perez, you are recognized for your opening statement. Thank you.

#### **STATEMENT OF ROBERT PEREZ**

Mr. PEREZ. Thank you, Chairman Gohmert, Ranking Member Conyers, and distinguished members of the subcommittee. Thank you for the opportunity to appear today and discuss the role of U.S. Customs and Border Protection in combatting the flow of dangerous synthetic drugs into the United States, including synthetic opioids such as fentanyl, synthetic cannabinoids, and synthetic cathinones. The majority of illicit, synthetic drugs smuggled into the United States has done so through international mail facilities, expressed consignment carrier facilities, or through our ports of entry. The dedicated men and women of CBP—

Mr. GOHMERT. Excuse me, was that on? It is now, OK.

Mr. PEREZ. Thank you. Thank you, Mr. Chairman. The dedicated men and women of CBP work around the clock to combat this challenge. In fiscal year 2016, CBP officers and agents seized or disrupted more than 3.3 million pounds of narcotics. CBP seizures of fentanyl, the most frequently-seized synthetic opioid, have significantly increased over the past 3 years from approximately 2 pounds in 2013 to over 400 pounds in 2016.

Additionally, last year, CBP interdicted more than 1,200 pounds of synthetic cannabinoids and over 1,400 pounds of synthetic cathinones. Drug trafficking organizations continually adapt to evade detection and interdiction by law enforcement. CBP uses the

same interdiction methods to seize synthetic drugs as it uses to detect other illicit substances coming across the border.

Thanks to the support of Congress, CBP has made significant investments and improvements to our drug detection technology and targeting capabilities. For example, at the National Targeting Center, CBP leverages advanced information alongside law enforcement intelligence records to identify smuggling trends and target shipments that may contain illicit substances or related equipment being diverted for the seduced, such as pill presses, tablet machines, or precursor chemicals.

The National Targeting Center also serves as a critical focal point for the daily collaboration between CBP and many critical law enforcement partners, including the Drug Enforcement Administration, Immigration and Customs Enforcement, Homeland Security Investigations, the FBI, and members of the intelligence community. Drug trafficking organizations and individual purchasers often move synthetic drugs in small quantities to try to evade detection. In the expressed consignment environment, CBP can place an electronic hold and notify carriers that a parcel needs to be presented for inspection.

Together with the U.S. Postal Service, CBP is working to develop the same capability in the international mail environment through an advanced data pilot program. In addition to their expertise, training, and intuition, CBP officers and agents use various forms of technology and equipment to detect synthetic drugs hidden on people and cargo conveyances and other containers. Through CBP's Field Triage Infrared Reachback Program, infrared spectrometers are utilized to collect data from substances believed to be or contain synthetic drugs, which is subsequently transmitted for our laboratories for interpretation. Trained scientists are, then, able to reasonably identify classes of drugs and flag them for comprehensive testing, even if the drugs had not been seen before.

Canine operations are another invaluable component of CBP's counter narcotic efforts. CBP is currently working to conduct a pilot course to assess the feasibility of safely and effectively adding fentanyl as a trained odor to deployed narcotic detection canine teams. CBP has also implemented a program to provide training and equipment to keep our frontline employees safe from accidental opioid exposure.

Through our ongoing pilot, CBP officers and agents are trained to recognize the signs and symptoms of an opioid overdose and to administer naloxone, a potentially lifesaving drug for the treatment of opioid overdoses. CBP will continue to do all we can to refine and further enhance the effectiveness of our detection and its addiction of dangerous synthetic drugs being smuggled into the U.S.

Chairman Gohmert, Ranking Member Conyers, and distinguished members of the subcommittee, thank you for the opportunity to testify today. I look forward to answering your questions.

Mr. GOHMERT. All right, thank you, Mr. Perez. At this time, we will begin questioning by members.

Since I am going to be here for the duration of the hearing, I am going to wait to ask my questions, and therefore, I will go to Mr. Chabot from Ohio. You have 5 minutes for questioning.

Mr. CHABOT. Thank you very much, Mr. Chairman. Back in the 1980s, I was on Cincinnati City Council, and Ronald Reagan was President, and the drug scourge in this country had gotten so bad that we had declared a war on it. We had a program, "Just Say No." We had about 10,000 overdose deaths nationwide back in '82. And this year, we think it will be approaching 60,000 overdose deaths, and so it has gotten incredibly bad out there, as the witnesses of this panel have already testified to, and I know the next panel will say from different aspects, but much the same thing, I am sure.

Back, again, in my district, and I represent most of the city of Cincinnati, during one week last summer, we had 174 reported overdoses just in one week. We had a young girl, a 9-year-old girl in March just a couple months ago. She called 911 after both of her parents overdosed in their SUV on heroin. She told the dispatcher that she was scared and that her parents, "Will not wake up." The girl did not know where she was or what was wrong with her parents. But she did know enough to call 911 for help, and that call literally saved her parents' life, but no little girl or boy, 9-years-old or at any age, should ever have to be placed in that situation. So, it is terrible out there.

And Ohio has been one of the worst States with respect to this, you know, horrific drug problem that we have, especially heroin, and I will get into a question here; I am not just going to ramble on and on, but especially when it comes to combining heroin, which is already a terribly dangerous drug, with these synthetic things like fentanyl, and that is the one that is been particularly deadly in Ohio because my understanding is that it is something like 50 to 100 times more potent than morphine, and then you mix that with the heroin, and you have a deadly, deadly brew there.

I guess my first question is, and I am supportive of this legislation, I would welcome you this. I assume you had a chance to look at the legislation that we are dealing with here. Could you tell us, how will this legislation make your jobs easier? How will it make the American people safer right now with respect to drug overdoses than they are now? And I would invite either or both. If you could turn the mic on there? Thank you.

Ms. ASHLEY. I can say I am a 30-year investigator with DEA. And it has always been helpful to law enforcement to be proactive rather than reactive. The situation we are dealing with now, it is after the fact, after the uptick of E.R. visits, after the uptick of deaths, frankly. So, new legislation, more nimble legislation, would give us the opportunity to be proactive and get in front of these circumstances.

Mr. CHABOT. Thank you. And Mr. Perez.

Mr. PEREZ. And, Congressman, I would echo Ms. Ashley's comments and add that, from a CBP perspective, given our focus on interdiction and the potential deterrent nature of actions taken by this body that would not only deliver a greater consequence and provide more agility for all of law enforcement to apply the law when it comes to these illicit substances, if we can deter further people from beginning to even consider trafficking in this type of a scourge, that obviously will enable us as well and assist us in what it is we do every day.

Mr. CHABOT. Thank you. I have got a minute left that I have got. If I could turn just to a related issue. And you have already mentioned this, but it is also my understanding, and you indicated somewhat this in your testimony, that our first responders who are there to, you know, save lives and protect people can be now, themselves, at risk because of their exposure to these drugs. Could you elaborate a little bit on that, what the risk is and what ought to be done about it?

Mr. PEREZ. Well, with respect to CBP, again, Congressman, we recognized early on, as we began to see an uptake, particularly in the fentanyl, which really is primarily the most dangerous of the synthetics that we have encountered today. Several years ago, in recognition, actually working alongside DEA to understand the dangers for our frontline men and women, we began to roll out training and awareness training and musters to those frontline officers and agents who most would come encountering these substances.

And, in addition to this, being present in about 34 locations. And the locations where we are seizing the most of these substances is where we have also deployed trained officers and agents to administer the naloxone, the NARCAN, if you will, so that, in case there is an accidental opioid overdose, we can immediately respond to that.

So, that is something that we are continually trying to do our very best to protect those men and women who are unquestionably our most treasured resource.

Mr. CHABOT. Thank you, my time has expired, Mr. Chairman.

Mr. GOHMERT. I thank the gentleman. At this time, the ranking member of the full committee, Mr. Conyers, is recognized.

Mr. CONYERS. Thank you, Chairman. I thank the witnesses for their very good contributions here. Let me ask Administrator Ashley about the eight-factor analysis that is currently being used. Would you talk with us a little bit about that?

Ms. ASHLEY. Certainly, sir. The current process for permanently scheduling controlled substances, the DEA works jointly with HHS, and they are great partners. The Food and Drug Administration, and also DEA, conduct an eight-factor analysis. The issue there is that it is a very extensive process. It can take anywhere from 18 months to several years to actually permanently schedule the drug.

We also have the tool of emergency scheduling. Emergency scheduling, we would conduct a three-factor analysis also working along with HHS. And HHS would complete an eight-factor. And, even with all cylinders firing, if everything goes right, it would still take 3 to 4 months to emergency schedule a substance. And, as I mentioned a little bit ago, we would want to be proactive rather than reactive.

Both our emergency scheduling process and our eight-factor analysis for permanent scheduling is after we have collected the data, the information, the seizures, the deaths, and the uptick in emergency room visits.

Mr. CONYERS. Well, under this bill, we would eliminate the eight-factor analysis.

Ms. ASHLEY. Well, I am not as familiar with the bill. I am generally familiar with it. But from what I understand, it is a tem-

porary scheduling. If it is under schedule A, it is temporary. So, the analysis is still going to take place in order to permanently schedule, if necessary, the substance that is encountered.

Mr. CONYERS. Well, would you support eliminating the eight-factor analysis?

Ms. ASHLEY. The eight-factor analysis, I do not believe it would be taken away. That is not my understanding. I am not as familiar with the bill, sir.

And I would like to add, as a practical matter, again, HHS, they are such great partners with us. Our scientific staff and their scientific staff, we are typically looking at the same substances, exchanging information constantly. We have basically a day-to-day relationship with the scientific staff at HHS and also at DEA.

Mr. CONYERS. Now, let me ask you about the enforcement power under H.R. 2851. It would give the Attorney General and, most likely, the Drug Enforcement Administration, the power to make the law, enforce the law, and then decide the appropriate sentence for breaking the law. Do you believe that this might be a little bit too much power to be located into one agency?

Ms. ASHLEY. Sir, I would have to defer to the department in speaking about the mandatory minimums or sentencing. As an investigator, I can tell you that mandatory minimums are another tool. Historically, they have created a deterrent effect. Again, I would have to refer back to the department.

Mr. CONYERS. Well, let me ask the same question to my good friend sitting next to you, Mr. Perez.

Mr. PEREZ. Congressman, I would say from a CBP perspective, we would absolutely, and I would absolutely, appreciate the complexities with respect to balancing, again, the actual consequence delivery. But unquestionably from the interdiction focus that we have on the frontline, the enabling in any way the agency to not only interdict, but deter further the trafficking in these illicit substances is what we would really appreciate the opportunity to work with the committee on further.

Mr. CONYERS. Well, what about my question, though? I mean, do you support the whole idea of eliminating eight-factor analysis or not? Or do you know enough about it to venture a recommendation?

Mr. PEREZ. Thank you, Congressman. On the eight-factor analysis, we certainly would defer to the experts over at the DEA who really are the frontline in handling those issues.

Mr. CONYERS. Let me ask you this, Mr. Perez: does CBP support this legislation in its current form?

Mr. PEREZ. Again, Congressman, any effort by this body, we would welcome the opportunity to work with the committee to further enable law enforcement to interdict and deter the trafficking in these substances. Unquestionably, our focus is national security, is homeland security, and any effort to enable us to further deliver on that law enforcement mission and to do so alongside the committee we would welcome that committee.

Mr. CONYERS. Well, could you explain how this legislation might help CBP in its efforts to stop the flow of synthetic analogues enter the United States?

Mr. PEREZ. Thank you, Congressman. So, one of the big challenges we do have when we encounter these narcotics being trafficked in the express consignment environment, in the mail facilities, or even across our ports of entry, is the constant changes in the chemical structures, the added analogues, the diversity with which the drug trafficking organizations are adapting in order to evade detection. And so, it is in that light and in that vein that, again, we absolutely would welcome this effort and are greatly appreciative of what it is the committee is endeavoring.

Mr. CONYERS. Thank you. Thank you both for your responses. Thank you, Mr. Chairman.

Mr. GOHMERT. Thank you, Mr. Conyers. At this time, I will recognize myself for 5 minutes. Ms. Ashley, you were indicating earlier that fentanyl could be purchased in China for, say, \$5,000 and end up bringing here and making millions, with what substance would people normally cut that in order to enhance the value that dramatically?

Ms. ASHLEY. That is a good question, sir. I do not know which substance they would cut it with. I am sorry I do not know the answer to that question.

Mr. GOHMERT. Because I know we have heard testimony about it being added to some other substances and making it more dangerous, but I was wondering in order to get to millions of dollars in value it has got to be added to something; it has got to be cut some way. Mr. Perez, do you have any idea?

Mr. PEREZ. What we have seen, Mr. Chairman, with respect to the utilization of fentanyl is that actually being used to cut heroin along the southern border, in fact. And so, while present in much lesser quantities as a percentage of what it is we are seizing, it is in those larger seizures, if you will, that we are affecting in the southern border that fentanyl itself is being used to further the quantities of the heroin that is being smuggled.

Mr. GOHMERT. But is it not true that one of the things that has brought about the, the heroin epidemic, if you will, has been the price of heroin being comparatively cheaper than some other drugs. Is that not right?

Mr. PEREZ. Absolutely. Mr. Chairman, I would add to that the availability and the volume of which of what is moving in the illicit markets right now is certainly adding to that as well.

Mr. GOHMERT. Ms. Ashley, did you have some additional information?

Ms. ASHLEY. Yes, Mr. Chairman, I just happen to have one of our scientific staff here in the room. He just passed to me that fentanyl, as Mr. Perez has already said, is mixed with heroin, and then pressed into a pill.

Mr. GOHMERT. And pressed into a pill.

Ms. ASHLEY. And pressed into a pill, yes. Also pill presses are being imported and used to press the heroin and fentanyl mixture into a pill.

Mr. GOHMERT. So, Mr. Perez, what is the primary way in which synthetic drugs and fentanyl are making their way to America's teenagers and adults bring about this epidemic?

Mr. PEREZ. So, originating primarily from China and/or Mexico, again for the heroin laced with the fentanyl—

Mr. GOHMERT. Which is more predominant as a source, China or Mexico?

Mr. PEREZ. Quantity wise, from Mexico, Mr. Chairman. As far as incidents are concerned because the volume of actual seizure incidence that we are encountering are dominated in both the mail environment and the expressed consignment environment those would be from China. And so, those are the routes of the originating countries as well as the manner with which these illicit synthetics are being smuggled.

Mr. GOHMERT. Do you know if, under this bill, kratom would be listed as a schedule A drug? Either of you.

Ms. ASHLEY. Thank you for the opportunity, I can give you an update on kratom. I can say to you, that is not the track that kratom is on right now. If I can explain a little, DEA took action to schedule kratom back in August 2016 and subsequently withdrew that action. And we withdrew the action after, you know, concern from stakeholders, concern from Congress, even, concern from the public, and we decided to take a more prudent measure there. And right now, kratom is on the path of eight-factor analysis through the Food and Drug Administration, and we are currently waiting on that action. We made the request in 2014, and we are waiting for their recommendation.

Mr. GOHMERT. Well, under this, would marijuana be a schedule A substance?

Ms. ASHLEY. Marijuana would not be looked at as a schedule A, and the reason is it is already scheduled in schedule I, it is already permanently scheduled. So, there would be no need to back track that and place it into a temporary sort of environment.

Mr. GOHMERT. Well, this bill propose an entirely new regulatory scheme where the power is really concentrated in the Attorney General and the DEA; what aspects of this bill would allow DEA to act quickly to curb synthetic drug importation?

Ms. ASHLEY. For importation. So, what it does is as it comes into CBP, and my colleague here can actually help to join into the response; as it comes in, sometimes it is mislabeled, and sometimes it has the accurate label because it is not a regulated substance, so they would be able to identify it immediately as it comes in because it is on the bill of lading.

Mr. GOHMERT. Thank you. My time has expired. I recognize the chairman of the full committee, Chairman Goodlatte.

Chairman GOODLATTE. Well, thank you, Mr. Chairman. Ms. Ashley, how many synthetic drugs that would come within the scope of this bill are being researched right now by how many registrants? In other words, how many registrants have you authorized to research synthetic drugs?

Ms. ASHLEY. Currently, we have a little over 400 DEA registrants registered to handle schedule I controlled substance. The thing that is complex about this issue, the U.N. reported in 2016 that there are approximately 700 additional ones. They are not under DEA regulatory authority, so there could be more that are not being tracked and accounted for.

Chairman GOODLATTE. And really creative criminal chemists can come up with new molecular combinations on a daily basis that would just keep you going through this and going through this and

going through this. You have got to be able to identify them and act quickly once you do identify them; is that not—

Ms. ASHLEY. That is exactly right. They are made in a lab clandestinely.

Chairman GOODLATTE. People who are cutting heroin with fentanyl or its analogues or importing fentanyl outside the regular drug process are already breaking the law in myriad ways; do you believe that this additional layer of deterrents will stop people who are already breaking the law?

Ms. ASHLEY. I do; I will give you an example. When China scheduled the 116 synthetic drugs in October 2015, the amount of flow of these substances coming into the United States decreased, we approximate, between 40 to 60 percent. Once they were identified, Border Control can track them, and there was a decrease in what is coming into the country.

Chairman GOODLATTE. Are you concerned about the driving of these criminals to the dark Web and seeing more of this simply delivered by mail to people?

Ms. ASHLEY. Well, the thing with the dark Web, it is ground zero for all criminal activity. I do not believe that this sort of action would make it any worse frankly. It is just ground zero in the dark Web. So there is going to be that criminal activity, all aspects of criminal activity in the dark Web no matter what laws we put in place.

Chairman GOODLATTE. And the substance still has to go through some delivery mechanism. Are there ways to screen for this? I mean, are there dogs that can smell these types of drugs, or what is done to try to stop?

Ms. ASHLEY. It is a very dangerous circumstance, and my colleague could probably speak to it better. With the dogs, if they are inhaling the same way any human would inhale, it is detrimental to their lives.

Chairman GOODLATTE. Good point.

Mr. PEREZ. I will add, Mr. Chairman, that CBP is, in fact, in the midst of a pilot program where we are testing our canine handling teams, a finite number of those to potentially detect the odor of fentanyl. As you may know, it is a menu of sorts of different odors that the canines are trained on, and so, ever so safely, we are in the middle of a pilot program to explore the feasibility of introducing fentanyl as an added odor.

Chairman GOODLATTE. So, what is the turnaround time from seizing a suspected substance and positively identifying the substance? What does CBP do with the package or shipment that contains that substance?

Mr. PEREZ. Thank you, Mr. Chairman. So, upon seizure, we will typically utilize some of the technology that we have deployed to the busiest mail facilities, express consignment facilities, southwest border locations, through the infrared spectrometers that the officers and agents utilize. That data is sent directly to our laboratory scientist and, really, depending on the circumstance we have in front of us, we could turn around those results within 24 hours, if need be, for investigative purposes. If we encounter an instance where we have a subject, for example, in custody and there is a potential investigative lead interaction that need to take place.

But if and when we do encounter some of these substances under the normal course of doing business in the mail environment, for example, where there is no further investigation, typically we will queue those up, and it may take several weeks, given the amount of volume of what actually gets sent to our laboratories for testing.

Chairman GOODLATTE. Is fentanyl the synthetic you are seizing the most, or are there other things that are not on our radar?

Mr. PEREZ. Thank you, Mr. Chairman. As far as quantities are concerned, the synthetic cannabinoids and cathinone in quantities still outweigh the fentanyl but unquestionably the spike and/or increase in the amount of fentanyl that we are seizing is outpacing any other synthetic drug at the moment.

Chairman GOODLATTE. What kind of synthetic drug traffickers does CBP particularly target?

Mr. PEREZ. Not unlike any other drug trafficking organization, Mr. Chairman. We work alongside the entirety of the law enforcement communities, certainly at the Federal level, but also at the State and local level and our international partners. And so, it is not uncommon that those same organizations that are trafficking in other types of narcotics are also now moving their business into these synthetics. And so, the same tools, the same information, the same intelligence, the same investigative tools that we utilize to combat all those other drug trafficking organizations are what we are currently employing to stop this surge.

Chairman GOODLATTE. Very good. Thank you, Mr. Chairman.

Mr. GOHMERT. Thank you, Mr. Chairman. At this point, let me just say each of your written statements will be entered into the record in its entirety, and we appreciate your testimony today. I would ask if you would review H.R. 2851 again and any suggestions you may have that would improve it from your background experience and training, if you would submit those within the next 10 days then that would be immensely helpful to us as we go forward. Appreciate that very much. Anything further that you have thought of that you needed to add to illuminate on any question that you have already answered? All right.

Then, we appreciate your being here and, again, thank you so much for your patience. At this time, panel one will be excused, and we will ask panel two to please come forward.

All right, thank you; I appreciate your patience as well. Thank you so much for being here. Obviously, this is a very big problem.

Could I ask you each to stand and raise your right hand so I could swear the witnesses in?

Do you, and each of you, solemnly swear that the testimony you are about to give before this committee will be the truth, the whole truth, and nothing but the truth, so help you God?

All right, please be seated. The record will reflect each witness has responded in the affirmative.

I will briefly introduce our distinguished witnesses here today in our second panel.

Ms. Marcia Lee Taylor is the President and CEO of the Partnership for Drug-Free Kids, a nonprofit organization which provides support and guidance to families struggling with their son or daughter's substance use. Previously, she served as the senior advisor for drug policy research for the Senate Judiciary Subcommittee

on Crime and Drugs for the Democratic Staff Director of the Senate Caucus on International Narcotics Control, working for then-Senator Joe Biden. In that capacity, she worked on a wide variety of drug policy bills aimed at curbing the proliferation of methamphetamine, ecstasy, GHB, as well as drug treatment prevention and enforcement initiatives. Ms. Taylor is a graduate of the College of the Holy Cross and holds a master's degree in public policy from Georgetown University. So, thank you for being here, Ms. Taylor.

I will go ahead and introduce our other witnesses, and then we can take testimony one after another. Ms. Reta Newman is a special advisor for the Drug Free America Foundation. She is also the chief chemist and director at the Pinellas County, Florida Forensic Laboratory where she manages operations for analysis of fire debris, controlled substances, and other chemical components. She has been a forensic chemist since 1989 and holds her certifications in the analysis of drugs as well as fire debris. Ms. Newman has authored several publications and offers presentations on a national level. She holds a bachelor's degree in chemistry from Missouri State University and a master's degree in management from The University of Phoenix. Ms. Newman, welcome. We are pleased to have you here, as well.

Ms. Angela Pacheco was the first woman ever elected to the first Judicial District Attorney's Office in Santa Fe, New Mexico and retired in December 2015, but obviously not completely retired from everything. I had a witness once during voir dire, and the district attorney said, "Sir, I see that you are retired; what are you retired from?" And he said, "Everything." Obviously, that is not your case; you are still quite active.

You previously served as assistant district attorney, deputy district attorney, and supervisor of Family Violence Unit in that office. Her legal career has consisted primarily of criminal prosecution in which she has tried a number of high profiled cases. Prior to becoming an attorney, Ms. Pacheco was a social worker for 13 years in Northern New Mexico. She received a bachelor of arts in social work from the College of Santa Fe and her juris doctorate from the Hamlin University School of Law.

So, again, your written statements will each be entered in full into the record. At this time, I ask you each to summarize your own testimony in 5 minutes or less, and you see how it works with the lights. When the yellow light illuminates, there will be 1 minute left, but in any event, we are being a little less formal here today, and we do appreciate your being here. We need your input. And so, at this time, Ms. Taylor, I recognize you for your opening statement for 5 minutes.

**STATEMENTS OF MARCIA LEE TAYLOR, PRESIDENT AND CEO, PARTNERSHIP FOR DRUG-FREE KIDS; RETA NEWMAN, SPECIAL ADVISOR TO DRUG FREE AMERICA FOUNDATION, CHIEF CHEMIST AND LABORATORY DIRECTOR OF THE PINELLAS COUNTY FORENSIC LABORATORY; AND ANGELA PACHECO, FORMER DISTRICT ATTORNEY, FIRST JUDICIAL DISTRICT OF SANTA FE, NEW MEXICO**

**STATEMENT OF MARCIA LEE TAYLOR**

Ms. TAYLOR. Chairman Gohmert, Ranking Member Conyers, and members of the subcommittee, thank you for inviting me to testify today. My name is Marcia Lee Taylor, and I am President and CEO of the Partnership for Drug-Free Kids, a 30-year-old national nonprofit organization dedicated to supporting families struggling with their son or daughters' substance use.

Created by the advertising industry at the height of the powder and crack cocaine epidemic, the partnership has run the largest single-issue PSA campaign in our Nation's history. And over the course of the past decade, we have developed a number of resources that go beyond the 30-second PSA for families to get their arms around the addiction issue.

We empower families with information, support, and guidance to get the help their loved one needs and deserves in a variety of ways. Through our national toll-free help line, 1-855-DRUGFREE, and new online live chat service, we have connected 10,000 families to bilingual, master's-level counselors who help them develop a plan to address their child's substance use. And with our national network of parent coaches, with nearly 200 volunteers in 2017, and our new "Ask-a-Coach" feature, we connect parents to others who have been there and can help them learn how to love their child through this health crisis and understand that tough love and rock bottom are not the only viable options.

Through our website, drugfree.org, we provide 5 million families per year with the latest cutting edge scientific information distilled into actionable tips and tools to help them understand the disease of addiction, be better able to navigate the treatment system, and get their child to accept help. And thanks to our local and national media partners, we receive approximately \$100 million a year in donated time to run PSAs to let parents know that there is help for their loved one and that they can find support at the partnership. And working with private sector partners like Google and Facebook, we help reach parents as they actively search for help online.

In all of these tools, we use evidence based concepts such as community reinforcement and family training, otherwise known as CRAFT, and motivational interviewing to help parents obtain the best possible outcomes for getting their child into treatment and onto the path to recovery.

Among the parents we serve, the fear of fentanyl and its equally deadly analogues is palpable. Our moms and dads see the news reports about overdose deaths from adulterated heroin and now cocaine. They see stories about counterfeit Xanax pills and other medications that are, in fact, pure fentanyl. They read accounts of law enforcement officials who overdose from simply being in prox-

imity to a seizure of drugs that contain some of these potent alternates, and they are terrified that their child will be the next statistic.

Our helpline staff and parent coaches cannot reassure these mothers and fathers that everything will be fine, because they know that the parent's fears are not overblown. Their kids could, in fact, be the next fatality. They know that even if there is a first responder nearby to administer a dose of NARCAN to reverse the overdose, it may not be enough. In many cases, people overdosing on fentanyl need multiple doses of NARCAN to revive them if they can be revived at all.

One mom from New Hampshire, who is in recovery herself from heroin, commented to me that when she was using heroin in the 1970s overdose was not nearly as common. So, when her son became addicted, she listened to people who told her to wait until he hit rock bottom and was ready for treatment. Unfortunately, her son died from a fatal fentanyl dose before the elusive rock bottom came to pass. She told me that she thought that she had time. With the potency of heroin on the street today and the proliferation of fentanyl analogues, parents simply do not have time to wait for a child to be ready to enter treatment. They need to come up with a plan to intervene and help their child further upstream and the partnership has resources to help them do just that.

The legislation before the committee today, H.R. 2851, the Stop the Importation and Trafficking of Synthetic Analogues Act, takes an important step of classifying 13 fentanyl analogues as controlled substances as well as creating a mechanism to make it easier to control substances going forward. The problem of regulating analogue substances and other uncontrolled compounds that are abused is not a new one.

Prior to my work at the partnership, I spent 11 years working on drug policy in the Senate. And during that time, I worked on two pieces of legislation that are relevant to the discussion today. The Hilary J. Farias and Samantha Reid Date-Rape Drug Prohibition Act of 2000, which moved gamma hydroxybutyric, also known as GHB, from classification as a dietary supplement to a controlled substance, and the Anabolic Steroid Control Act of 2004 which classified a number of substances as steroids and made it easier to control future analogues.

In the GHB legislation and the bill before us today, a complicating factor with the possibility that one of the substances could have potential as an FDA-approved medication. The GHB legislation took the path of bifurcated scheduling, whereby the substance was classified as a schedule I control substance in its illicit form and left the door open to an FDA approved version being a schedule III substance with the important caveat that there had to be tight controls and restricted distribution. XYREM, the FDA-approved version of the drug, is available through a closed distribution network and only one pharmacy in the entire country is able to dispense it. While the GHB bill was narrowly tailored, the bill before us today addresses a wide swath of substances. We must make sure when we are crafting the final legislations steps are taken to ensure that researchers are able to study schedule A sub-

stances for future medical use without the restrictions that come with studying a schedule I substance.

In the case of the steroid bill, we knew that there was an incentive for chemist to innovate and stay one step ahead of law enforcement by making minor alterations to illegal substances so they evaded the reach of the law. To control that, the legislation amended the definition of anabolic steroid in the Controlled Substance Act and removed the requirement that the substance must be proven to promote muscle growth so that it was easier for DEA to schedule such analogues in the future. It is critical the DEA has the ability to act swiftly to control new substances that violate the spirit of the law particularly when they are as deadly as the fentanyl analogues available today.

The balance between scheduling dangerous substances and allowing research on them for medical purposes is difficult to get exactly right, but it is critical that we do so in order to protect both public health and public safety. Thank you again for inviting me here today, and I am happy to answer any questions that you might have.

Mr. GOHMERT. All right. Thank you very much, Ms. Taylor.

Ms. Newman, you are recognized for 5 minutes for an opening statement.

#### **STATEMENT OF RETA NEWMAN**

Ms. NEWMAN. Good morning, Mr. Gohmert, Ranking Member Conyers, and members of the subcommittee. Thank you very much for inviting me to testify today about this proposed legislation.

My name is Reta Newman, and I am here today representing Drug Free America Foundation for whom I serve as a special advisor. Drug Free America is a nonprofit organization committed to developing, promoting, and sustaining national and international policies and laws that will reduce either illicit drug use and drug addiction. I am also the director of the Pinellas County Forensic Laboratory at the District Six Medical Examiner's Office in Largo, Florida. I have asked to speak to you today based on what is going on in our county, which hopefully could translate to the rest of the country.

In my testimony today, in support of this legislation I would like to provide an awareness of the impact of synthetic drug analogues and false labeling of drugs especially, but not limited to, fentanyl analogues through examples taken from local drug and death investigations. It should be noted that while my testimony is based primarily on what is happening in Pinellas and Pasco Counties, which is significant, we are not the epicenter of this crisis which makes these statistics all the more concerning. In 2010, Florida was in the spotlight for the number of deaths associated with prescription drugs. This prescription drug crisis was such that the average number of accidental deaths associated with prescription drugs increased by almost 100 percent in a 2-year period in my county. The legislation and enforcement targeting pill mill doctors and true prescribing practices by physicians and public education to the crisis, the number of overdose deaths associated with prescription opioids dropped in 2014 to the lowest rate in 8 years.

Unfortunately, since 2015, the overdose rate has increased to levels exceeding that over the prescription drug crisis. In these cases, however, the increase is due to illicit drugs. Illegally produced and distributed synthetic opioids are the primary drugs of concern, death associated with synthetic cannabinoids, and cathinones have also increased in this time period.

In 2015, the seizure drug unit began to see illegally produced fentanyl in powders and pills. Fentanyl pills were labeled to mimic other pharmaceutical preparations, most commonly Xanax and oxycodone. Seven deaths in a 30-day period were attributed to these counterfeit pills. A 50-milligram dose of a nonextended release oxycodone can be fatal in most circumstances. The fentanyl equivalent is less than one half of a milligram. Given that the users were likely expecting 30 milligram oxycodone dosages in these counterfeit pills and given the high toxicity of fentanyl, the increase in overdoses and overdose deaths were inevitable. In a given week our laboratory sees multiple submissions of pills labeled to mimic pharmaceutical preparations which contain a wide variety of clandestine mixtures.

In late 2014, a new fentanyl analogue was introduced to the clandestine market in Florida. Acetyl fentanyl began appearing in seized drug DUI and postmortem investigations. The appeal to the distributors is this is an inexpensive, highly potent, highly addictive, and noncontrolled drug. When acetyl fentanyl became controlled federally in May of 2015, it was rapidly replaced with butyryl and furanyl-fentanyls. Upon scheduling of those in May 2016, the market shifted in our county to fluoroisobutyrylfentanyl, which is currently not controlled.

By simply changing one ion at a more functional group in the base structure, a novel drug is created. Because the chemical structure of the parent compound, there is the potential to create hundreds of analogues of fentanyl. Currently approximately 50 have been isolated. The drugs are quite literally being tested for potency and toxicity on the street. The current known range of potency for these drugs varies from 100 to 10,000 times of that of morphine based on the analogue structure. In several postmortem cases, the determination of the cause of death has not come from the drugs identified in this decade but the drugs in the syringes that are still in the hands of the users. The fatal concentrations of some of the synthetic analogues is such that it is below the detection limit of the laboratory instrumentation and processes.

The risk of synthetic analogues is not limited to the drug user. In the powder form, the drug is easily aerosolized and can be absorbed through the skin. There have been several instances of first responder exposure to fentanyl analogues. Our laboratory also has NARCAN procedures in place to treat our coworkers should an exposure happen. The potential for a serious event due to widespread accidental or intentional exposures do exist.

In the first 5 months of 2017, fentanyl analogues have contributed to the deaths of 60 people in Pinellas and Paschal Counties alone. Approximately  $\frac{1}{3}$  of those are fentanyl analogues that are not controlled. While not necessary is potent similar instances of noncontrolled analogues have appeared in the forms of multiple other drug classes. Analogs as synthetic cannabinoids and syn-

thetic cathinones, among others, have resulted in numerous overdoses and overdose deaths throughout the country and in our county. As soon as one chemical structure becomes controlled, it is rapidly replaced with others. Placing proactive legal controls on these analogues will not in itself eliminate the drug abuse problem in this country. However, without this legislation the criminal justice community is severely hampered in their ability to attack the problem.

Thank you for your opportunity to speak today and I would be happy to answer any questions.

Mr. GOHMERT. Thank you, Ms. Newman. At this time, Ms. Pacheco you are recognized for 5 minutes for an opening statement. Thank you.

#### STATEMENT OF ANGELA PACHECO

Ms. PACHECO. Thank you, sir. Good afternoon, Mr. Chair, ranking members. Thank you for the opportunity to testify. My name is Angela Pacheco, and I served as the district attorney in northern New Mexico for 7 years, retiring in December 2015. I am currently a commissioner for the New Mexico Sentencing Commission.

The idea behind this bill is laudable. It is true that many synthetic drugs that are substantially similar to drugs like fentanyl are entering our country and are behind a lot of overdose deaths. The overdose crisis is a national tragedy. I have seen its devastating consequences in my home State. We should all be alarmed and should take action. But the problem with the bill is that it takes a hammer approach to an issue that needs a scalpel, resulting in the unattended consequences of those with opioid addictions.

Fentanyl and its synthetic derivatives are often manufactured outside the United States. Last June, the head of the DEA told the Senate that illicit fentanyl, fentanyl derivatives, and their immediate precursors are often produced in China. They are often added to heroin high up on the chain and then sold on the streets of the United States. From a prosecutorial standpoint, it means that proposals like the ones contained in this bill to punish every drug seller, regardless of their role, for the sale of synthetic drugs will be problematic. Presumably, the harsh sentences in the bill are supposed to deter drug sellers. But how is the drug seller supposed to be deterred if they do not know what is in the substance they sell and believe it to be simply heroin? In essence, this bill creates a strict liability situation where position of heroin with a synthetic derivative results in an enhanced sentence. This would mean the individuals are exposed to additional lengthy sentences regardless of whether they knew or not that the drug they were selling contained these synthetic drugs.

Also, the new charging memo from the Attorney General encourages Federal prosecutors to charge as much as they can in drug cases. Similarly, there is a lot of pressure on prosecutors to do something to slow the opioid epidemic. Should this bill pass we will likely see Federal prosecutors charging individuals not simply for the sale of heroin, but also charging them if the heroin they sell contains the slightest trace of a synthetic drug which results in harsher sentences for lower-level users. This situation is like the early years of the crack epidemic.

Perhaps the most troubling aspect of this bill is the power it grants the Attorney General. Under current law, the Attorney General must work with public health officials to decide which drugs belong in which schedule and, therefore, which penalties apply. This bill completely circumvents the public health process, leaving the scheduling decisions almost entirely in the hands of the Attorney General. Let me be clear, prosecutors and law enforcement should never be permitted to unilaterally decide which drug should be made illegal. That is not our role. We are not public health experts and we are not scientists. This is clearly a separation of powers issue in which those decisions should be made by the legislative branch of government.

We have made great strides as a country in how we treat drug use. Just last year, this committee worked on the Comprehensive Addiction Recovery Act. A bill that was subsequently signed into law and has also recently passed a Sentencing Reform Act which reduced mandatory minimums. I was on the front line when this epidemic began. New Mexico's overdose rate has been one of the highest in the Nation for over two decades. We have harsh sentences on the books already at the State and Federal level, and they did nothing to stop our opioid epidemic.

Our Nation's approach to drugs has failed. We need investments in public health. We need treatment. We need harm reduction. But, fundamentally, we must learn from mistakes of the past and avoid responding to these new challenges by continuing the failed policies of the war on drugs. Thank you very much.

Mr. GOHMERT. Thank you very much for the testimony. I will go ahead and do my questioning last and would recognize the ranking member of the full committee for questions.

Mr. CONYERS. Thank you. Thank you, Mr. Chairman. I thank all the witnesses. Ms. Pacheco, why do you believe that we should not add more drugs to the Federal scheduling and sentencing schemes?

Ms. PACHECO. Mr. Chair and members of the committee, if I may, I am not necessarily saying we should not be adding any more drugs to the schedulings; what I am saying merely is that the scientific process should not be bypassed. As prosecutors, I am not in a position to address, you know, the scientific aspects of certain drugs. My biggest concern is that, regardless of the drugs we add or the penalties attached, we still have not made a difference in dealing with the opioid epidemic that has existed for the past several years.

Mr. CONYERS. So, you think that we need to invest in public health as it relates to synthetic analogues; is that correct?

Ms. PACHECO. I am sorry, sir, I am not certain I understand your question.

Mr. CONYERS. Do you believe we need to invest in public health as it relates to synthetic analogues?

Ms. PACHECO. Representative, basically my position is that addictions basically are a public health issue. And we need to start addressing addictions as a public health issue, and that is why money should be going towards dealing with synthetic addictions as all addictions because strictly it is public health. Until we can stop the demand for these drugs, the supply is going to continue

so we must address the needs of the individuals who experience these addictions.

Mr. CONYERS. Finally, would you explain, from your point of view “harm reduction,” a term you mentioned in your written testimony? Why do you believe we need harm reduction as it relates to synthetic analogues?

Ms. PACHECO. Well, the concept of harm reduction in general is that when an individual is experiencing or has an addiction, their main focus is on dealing with their addiction and harm reduction basically is so that we can assist the individual to address those issues. I am sorry; that is somewhat circular.

Harm reduction, in its purest form, is, basically, if we can provide the individual with support as their going through their addiction process then hopefully that they will do no other harm such as committing crime, such as continuing to sell, such as burglary; we are trying it minimize the amount of criminal activity. And harm reduction is basically supporting individuals as they’re going through their addiction process.

Mr. CONYERS. Thank you so much. Mr. Chairman, I yield back.

Mr. GOHMERT. Thank you, Mr. Conyers. At this time, I recognize Mr. Jeffries for 5 minutes.

Mr. JEFFRIES. I thank the distinguished chairman and, of course, our ranking member, Mr. Conyers, as well as the witnesses for your presence here today and the importance of your testimony in terms of how we approach the drug problem, the opioid addiction crisis that we have here in America in a very sensible smart fashion. Ms. Pacheco, the war on drugs, the phrase was coined at some point over the last 40 years, I think can be traced to the early 1970s, perhaps 1971, when Richard Nixon publicly declared drug use in American public enemy number one; is that correct?

Ms. PACHECO. Correct, sir.

Mr. JEFFRIES. And at that particular point in time in 1971, I believe there were less than 350,000 people incarcerated in America; is that right?

Ms. PACHECO. As to the actual number, I cannot address that sir.

Mr. JEFFRIES. Okay, I think the record has previously reflected here in the Judiciary Committee that that figure is accurate. In terms of the present number, 40-plus years later, we currently have over 2.1 million people incarcerated in America; is that right?

Ms. PACHECO. That is correct, sir.

Mr. JEFFRIES. And a significant number of those individuals can be classified as nonviolent drug offenders; is that right?

Ms. PACHECO. That is correct, sir.

Mr. JEFFRIES. Now in the early 1970s when the war on drugs began, we were in the midst of a heroin addiction crisis; is that correct?

Ms. PACHECO. Correct, sir.

Mr. JEFFRIES. And then, in the 1980s into the early 1990s, we were suffering through what could be called the crack cocaine epidemic; is that right?

Ms. PACHECO. Correct, sir.

Mr. JEFFRIES. And now we are in the midst of the opioid addiction epidemic; is that right?

Ms. PACHECO. Correct, sir.

Mr. JEFFRIES. And during that period of time when we exploded the prison population and careened from addiction crisis to addiction crisis, increased incarceration of nonviolent drug offenders, is there any evidence during that time that this sort of, lock them up, throw away the key, law and order approach to dealing with our Nation's persistent drug problem has been effective?

Ms. PACHECO. From my observation and my personal experience, we have not been successful, sir.

Mr. JEFFRIES. If you can elaborate, during your testimony, you spoke of the futility of excessive, long sentences in terms of dealing with a drug problem; is that correct?

Ms. PACHECO. Correct, sir.

Mr. JEFFRIES. Can you elaborate on that perspective?

Ms. PACHECO. Originally, sir, if you look at the Federal law, and again, I may misstate, but I believe it was in the 80's when crack was starting to come into focus, and there were instances where individual crack is a derivative of cocaine, and individuals who had large amounts of cocaine were getting smaller sentences than individuals who had much lesser possession of crack who were getting higher sentences.

And, again, similar to the situation is because they were seeing so many deaths and harm to family through crack cocaine addiction, that the penalties increased substantially. And it became kind of an unjust system where people, like I say, who had large amounts of cocaine were serving less sentences than those with, you know, your individual low-level user who would sell one or two hits of crack to maintain their addiction, would receive higher sentences than those with large amounts of cocaine.

Mr. JEFFRIES. Now, in connection with the most recent drug crisis that we, in America, are dealing with as it relates to opioid addiction, which is impacting people in the inner city communities that I represent as well as suburban America, rural America, there is no corner of America that is not impacted by this. If any of the panelist could comment in the time that I have remaining, what would be an enlightened approach, perhaps anchored in tackling this problem from a public health perspective that we should consider here as members of the United States Congress determined to tackle this problem on behalf of the people we represent?

Ms. TAYLOR. I am happy to field that one. I think that over the years we have tended to pick a favorite approach to drug policy and what we have learned, most certainly, is that there is no silver bullet to this problem. We need to have a comprehensive solution. We have seen a lot of legislation, most recently the CARA Act, which passed last year, that addresses that, and also the money that is invested into treatment as part of the 21st Century Cures bill, there really needs to be a comprehensive approach.

But I would argue that we still need to make sure that we have the controls that so that these fentanyl analogues are getting off the street. And we really need to make sure that we are addressing this problem from every possible angle.

Mr. JEFFRIES. Thank you very much. My time has expired and I appreciate all the testimony from the witnesses here today. I yield back.

Mr. GOHMERT. I thank the gentleman from New York. Now recognize myself for 5 minutes. I really do appreciate the perspective that you each bring from your own experience.

With regard to the crack cocaine, the reference, I was a bit surprised when Dan Lungren who had been a former attorney general of California, before that had been in Congress here in the 1980s. When this issue came up, he pointed out that, in the 1980s, Congressman Charlie Rangel and others member of the Congressional Black Caucus had pointed out basically that anyone that opposed having much tougher sentences for crack, which was an epidemic in the African American communities, would basically, in essence, be a racist. It meant you did not care about getting to the heart of the crack cocaine problem in African American communities.

And so, what Dan had said, and we went back and found magazine articles, newspaper articles that backed that up, that, actually, the Judiciary Committee here went along with that position and agreed to tougher sentences for crack over powder cocaine at the urging of African Americans in Congress to try to deal with that. Well, it did not work out so well in that regard.

But, Ms. Taylor, I noted in your testimony where you mentioned the fear among the parents we serve, the fear of fentanyl and its equally deadly analogues, is palpable; you said they are terrified that their child might be the next statistic, and that is very understandable in view of the deaths that we have seen, and we see the numbers rising.

What I am wondering is if we might transfer that fear to those who are selling these drugs by virtue of the fact we make a stiff enough penalty if a death or serious bodily injury results; they do not know whether they are selling something that is going to end them up in prison for the rest of their lives because of death or serious bodily injury? It would seem like that might be a way of transferring the fear from the parents to the drug dealer if he or she does not actually know what they are selling. Do you think ignorance should be a defense in those cases for drug dealers, Ms. Taylor?

Ms. TAYLOR. Well, no, but what I really think is the heart of this legislation is taking away the economic incentive for the chemist to constantly innovate and change a molecule and violate the spirit of the law, but not the letter of the law. We have seen this in the steroid world. We have seen this now in the opioid world. We will continue to see it and just play a game of Whack-a-mole. You know, the eight-factor analysis is the ideal, but we need to make sure that DEA is nimble, so that, when we detect that there is a problem with a substance, we can make sure that we bring it under the proper controls and not necessarily as much for what is going on in the street as the import side of things, when chemicals are being imported.

Mr. GOHMERT. Thank you. And in the time I have left, Ms. Pacheco, how do you feel about making a substantially higher penalty for if a deal or serious bodily injury were to result from the sale of a drug?

Ms. PACHECO. Mr. Chair, members of the committee, you know, as a prosecutor, I have seen so many, so many different situations. And in reference to your question, sir, as a prosecutor, if a person knowingly does something to intentionally cause somebody's death or harm, there should be some type of consequence. The issue, though, if the individual does not know what is within the drug that is contained within the drug, then how can you say that they knowingly should take responsibility for the results of their action? See, that is where it gets complicated and, you know—

Mr. GOHMERT. It sounds like you are saying it would be in the best interest of a drug dealer to just say, "I do not want to know what is in this; that way I cannot ever be punished if somebody dies from what I am selling." Is that the result we are looking for?

Ms. PACHECO. No, sir, and most drug dealers that I have encountered in my career have been your low-level—

Mr. GOHMERT. From a professional standpoint.

Ms. PACHECO. From a professional standpoint, of course, thank you for that clarification, sir. Most of the drug dealers that I have dealt with have been lower level. These are individuals who basically are selling to maintain their habits. It is because of their addiction. The addiction drives them to continue maintaining their habit, so the best way they do it is they sell the drug, so they get money, so they can buy more drugs, so they can continue their addiction.

I mean, all they are trying to do is they are trying to survive at that level. They are not doing it for monetary purposes, for the most part; they are just trying to maintain their addiction. And that is what makes it so difficult when we talk about drug reform, is that we need to look at it as a medical situation. They have a medical condition, and that is why the addiction is continuing.

Mr. GOHMERT. Thank you. My time has expired. But, surely, we can all agree, at least, if we can step up, if not elimination, substantial reduction in the supply coming from China and Mexico, would not we all be better off? And I see from nodding heads, I think we can.

And that is one thing I think is mostly misunderstood about the President's proposal of the wall: if we can cut down the amount of poison, drugs, coming into the United States from or through Mexico that would seem to be the best thing a neighbor could ever do for Mexico. They have got hardworking people; they have got natural resources; they ought to be one of the top 10 economies in the world, but they have got more corruption than most places because of the drugs. It seems like it would be a win for both Nations if we can ever bring that to a crawl.

But we do appreciate so much each of your perspectives. If you should have any additional information you wanted the committee to consider, the subcommittee, because then it will go to the full committee, then please if you could get that to the committee here within the next 10 days that would be immensely helpful. You each come from different backgrounds, and we appreciate having the benefit of your own expertise. Do you have anything additional?

All right, then, with that, this concludes today's hearing. We do appreciate your time and, again, your patience.

Without objection, all members will have 5 legislative days to submit additional written questions for the witnesses or additional materials for the record. If there is nothing further, then this hearing is adjourned. Thank you so much.

[Whereupon, at 1:08 p.m., the subcommittee was adjourned.]

