

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

July 8, 2021

Ms. Regina M. LaBelle
Acting Director
Office of National Drug Control Policy
1800 G. St NW
Washington, DC 20006

Dear Acting Director LaBelle:

Thank you for the invitation to provide input to the Office of National Drug Control Policy's (ONDCP) *National Drug Control Strategy (Strategy)*. The *Strategy* is critical in guiding the federal government's approach to drug enforcement, prevention, and treatment. As required by statute, the *Strategy* shall focus on how to "limit[] the availability of and reduc[e] the demand for illegal drugs and promot[e] prevention, early intervention, treatment, and recovery support for individuals with substance use disorders."¹ This comprehensive strategy must be reflective of the current supply, demand, dangers, and other factors impacting the illicit drug trade.

ONDCP issued its Statement of Drug Policy Priorities earlier this year. As noted in your May 10 letter requesting input on the *Strategy*, this Statement of Drug Policy Priorities is the foundation for the *Strategy*. The Statement of Drug Policy outlines a number of admirable goals, such as reducing the supply of illicit substances, supporting evidence-based prevention efforts to reduce youth substances abuse, and ensuring access to treatment.² However, this policy document is noticeably muted on critical issues that I believe must be considered in the *National Drug Control Strategy*. I fear that if the *Strategy* is based solely on the provisions outlined in the priorities document, our nation's drug control policy won't reflect the dire need to address all emerging and evolving threats. Therefore, I have outlined below a list of items that I believe should be incorporated into the *National Drug Control Strategy*.

Fentanyl and Fentanyl Related Substances (FRS)

ONDCP notes in its Statement of Drug Policy Priorities that "illicitly manufactured fentanyl and synthetic opioids other than methadone. . . have been the primary driver behind the

¹ 21 U.S.C. 1705(b)(1).

² Executive Office of the President, Office of National Drug Control Policy, "The Biden-Harris Administration's Statement of Drug Policy Priorities for Year One."

increase [in overdose deaths].”³ This document also states that we must reduce the supply of illicit drugs, and I am pleased that ONDCP agrees that “part of the solution to the opioid overdose epidemic involves preventing illicit drug trafficking in the United States.”⁴ A necessary component of ending our nation’s overdose crisis must involve proactively and permanently scheduling fentanyl related substances (FRS).

As you know, China placed FRS on Schedule I in May of 2019. While this has decreased the volume of fentanyl substances flowing into the United States, we have still seen record numbers of overdose deaths and fentanyl abuse. The Center for Disease Control (CDC) predicts that drug overdose deaths this year will be 18% higher than prior years, with the overall jump in deaths being driven most substantially by drugs like fentanyl.⁵ This is the greatest year-over-year increase since July 2017. Thus, despite China’s scheduling action, we are nonetheless in the midst of a fentanyl crisis in the United States, and as such, decisive action must be taken to control these drugs within our borders.

The federal government has taken proactive steps in the past, including a temporary scheduling order by the Drug Enforcement Administration (DEA) to place dangerous fentanyl-related substances in Schedule I, and subsequent congressional action to extend this order to May 6, 2021, and again to October 22, 2021. I understand that ONDCP is working with members in an Interagency Working Group to develop text on scheduling FRS. However, it remains unclear if that legislative proposal will urge permanently scheduling FRS, or if the proposal would have enough support to pass both chambers of Congress.

With a looming expiration date and the devastating number of overdose deaths at the hands of fentanyl analogues, it is a surprise that the Statement of Drug Policy Priorities is silent on efforts to proactively schedule FRS. Permanently scheduling deadly FRS is critical. Therefore, the *Strategy* must include steps that ONDCP will make – legislatively or through action by interagency partners – to permanently schedule FRS.

Methamphetamine

Methamphetamine poses a significant public health and safety threat. According to DEA, “[m]ethamphetamine seizures, prices, and purity data as well as law enforcement reporting all indicate that methamphetamine continues to be readily available.”⁶ The increasing purity and potency of methamphetamine combined with steady availability has led to more overdose deaths year after year.⁷ According to the National Institute on Drug Abuse (NIDA), methamphetamine often poses a greater risk than opioids and is the drug that most contributes to violent crime.⁸

While domestic clandestine methamphetamine laboratory seizures have decreased, the volume of methamphetamine entering the United States from Mexico is at staggeringly high

³ *Id.* at 1.

⁴ *Id.* at 6.

⁵ Centers for Disease Control and Prevention, National Center for Health Statistics, Provisional Drug Overdose Counts, available at: <https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm>.

⁶ Drug Enforcement Administration “2020 National Drug Threat Assessment,” Methamphetamine, p. 19.

⁷ *Id.* at 20.

⁸ National Institute on Drug Abuse, Methamphetamine Research Report, Overview, available at: <https://www.drugabuse.gov/publications/research-reports/methamphetamine/overview>.

numbers and continues to increase every year.⁹ The amount of meth seized by the U.S. Customs and Border Protection (CBP) from FY18 to FY20 more than doubled, and to date, CBP has seized 125,262 pounds in FY21 and is well within range to surpass last year's total.¹⁰

This alarming data makes clear that ONDCP must include in its *Strategy* a comprehensive approach on how to address prevention, interdiction, and enforcement efforts surrounding methamphetamine. It is critical that the *Strategy* include a section on how we can formulate domestic strategies to investigate and prosecute drug traffickers and prevent youth and those with substance use disorders from using methamphetamine. The *Strategy* should also outline efforts that should be undertaken to limit the supply of meth coming into the United States from Mexico.

Polysubstance Drug Use

Polysubstance drug use is an increasingly common problem. No longer are Americans using or addicted to solely one substance. Instead, users often consume and drug dealers often peddle more than one drug. An unfortunate reality of polysubstance drug use is that many users are unaware that they have been exposed to more than one drug. This growing issue means that an opioid-involved overdose often occurs in combination with exposure to other opioids and/or deadly fentanyl analogues and FRS.

The overdose epidemic has grown increasingly complex by co-involvement of prescription and illicit drugs. For example, CDC data show that synthetic opioids – primarily fentanyl related substances – were involved in 23.7% of deaths involving prescription opioids, 37.4% involving heroin, and 40.3% involving cocaine.¹¹ Additionally, recent data indicate that the involvement of opioids in stimulant-involved deaths is increasing. Nearly three-quarters of cocaine-involved overdose deaths also involved an opioid in 2017.¹² Previous data have indicated that synthetic opioids, in particular, appear to be driving increases in cocaine-involved overdose deaths. As the number of poly-drug users continue to rise, more research is needed on the co-use of stimulants and opioids as well as how their combination impacts a person's health and the risk of overdoses.

Many drug trafficking organizations (DTOs) are polydrug in nature. They specialize in the packaging, sale, and distribution of more than one drug at a time. Therefore, a singular approach to interdiction, prevention, treatment, enforcement, and supply reduction for one drug may be myopic.

It is important for ONDCP to include either a section or an overall approach on addressing polysubstance drug abuse in its *Strategy* to ensure that the overall drug abuse and overdose crisis is holistically addressed, including efforts on prevention, enforcement, and treatment.

⁹ U.S. Customs and Border Protection, Drug Seizure Statistics, available at: <https://www.cbp.gov/newsroom/stats/drug-seizure-statistics>.

¹⁰ *Id.*

¹¹ The Centers for Disease Control and Prevention, Drug Overdose Deaths, Polysubstance Overdose Deaths Are Increasing, available at: <https://www.cdc.gov/drugoverdose/deaths/other-drugs.html#polysubstance>.

¹² *Id.*

Marijuana

According to the CDC:¹³

- Marijuana is the most commonly used illegal drug in the United States, with approximately 22.2 million users each month.
- Research shows that about 1 in 10 marijuana users will become addicted. For people who begin using before the age of 18, that number rises to 1 in 6.
- Marijuana use directly affects the brain — specifically the parts of the brain responsible for memory, learning, attention, decision making, coordination, emotions, and reaction time. Developing brains, like those in babies, children, and teens, are especially susceptible to the adverse effects of marijuana.
- Eating foods or drinking beverages that contain marijuana have some different risks than smoking marijuana, including a greater risk of poisoning.
- Long-term or frequent marijuana use has been linked to increased risk of psychosis or schizophrenia in some users.
- Using marijuana during pregnancy may increase the baby’s risk for developmental problems.

Marijuana use is consistently increasing. In Iowa, for instance, the primary substance of abuse for juveniles is marijuana.¹⁴ Also, many mistakenly believe marijuana is not harmful or addictive. Clear messages to all users – but youth in particular – as to the danger of addictive substances, like marijuana, is critical, particularly as potency and availability of marijuana increases.

Despite a number of states legalizing marijuana for recreational purposes, there is unfortunately not enough research into the impacts of marijuana use in the long-term, particularly for adolescent or pregnant users. There’s also a lack of information on how marijuana impacts those operating a vehicle, and how it interacts with other drugs and alcohol.

ONDCP should include a section in the *Strategy* on addressing the increasing use of marijuana, the benefits and dangers of the substance, and how it plans to implement prevention programs for youth users.

Money Laundering

DTOs often rely on money laundering organizations (MLOs) to finance their operations and conceal their illicit activities. Money laundering and illicit activities have devastating economic, social, and health consequences. According to the United Nations Office on Drugs

¹³ Centers for Disease Control and Prevention, Marijuana and Public Health, Fast Facts and Fact Sheets, available at: <https://www.cdc.gov/marijuana/fact-sheets.htm>.

¹⁴ Iowa Drug Strategy with Pandemic Addendum, April 21, 2021, available at: https://odcp.iowa.gov/sites/default/files/documents/2021/04/2021_iowa_drug_strategy_with_pandemic_addendum_final_4-21-21.pdf.

and Crime, the worldwide proceeds from drug trafficking and other transnational organized crimes were equivalent to 1.5 percent of global GDP, or \$870 billion in 2009.¹⁵

One of the biggest challenges for DTOs are finding ways to convert their revenue into usable currency. Unfortunately, the US banking system is at the center of these laundering efforts.¹⁶

Cryptocurrency, such as bitcoin, is emerging as a popular form of currency to fund illegal activity and drug trafficking. Cryptocurrencies are among the largest unregulated markets in the world. What makes cryptocurrency dangerous is that users have the ability to remain anonymous, which makes it difficult for U.S. Federal, State, and Local law enforcement agencies to accurately detect and catch those who engage in the illegal trafficking of narcotics. According to researchers, it is estimated that illegal transactions, including for drugs, conducted in bitcoin reached \$76 billion annually.¹⁷

ONDCP should include a section in the *Strategy* that addresses how digital currency technologies is funding illicit activities and work with other government entities such as Treasury, DOJ/DEA, and the FBI to strengthen the US financial systems to prevent DTOs and MLOs from taking advantage of banking loopholes.

Criminal Justice Reform Priorities

The Statement of Drug Policy Priorities states that it plans to “[e]stablish an interagency working group to agree on specific policy priorities for criminal justice reform.”¹⁸ I have been a partner and leader on criminal justice reform efforts in the Senate, through advancing and passing into law the *First Step Act*, and most recently teaming up across the aisle to advance a number of criminal justice bills from the Senate Judiciary Committee.¹⁹ As a leader in this issue, I’m interested and looking forward to what the Administration deems criminal justice policy priorities.

However, any legislative proposals on criminal justice reform must be balanced and bipartisan. Our laws must be strong enough to deter and punish those who commit heinous and violent acts, but allow for rehabilitation and reentry for those who can be productive citizens. Drug sentencing issues often overlap with criminal justice reform, and these considerations are particularly relevant as Congress evaluates and discusses how to best strike an appropriate balance. Federal drug sentencing laws are intended to punish and deter DTOs and those who

¹⁵ United Nations Office of Drugs and Crime, “Estimating Illicit Financial Flows Resulting from Drug Trafficking and Other Transnational Organized Crimes: Research Report,” Oct. 2011, available at: https://www.unodc.org/documents/data-and-analysis/Studies/Illicit_financial_flows_2011_web.pdf.

¹⁶ *Id.*

¹⁷ Free Network, “Sex, Drugs, and Bitcoin: How Much Illegal Activity is Financed through Cryptocurrencies?” Jan. 31, 2019, available at: <https://freepolicybriefs.org/2019/01/31/sex-drugs-and-bitcoin-how-much-illegal-activity-is-financed-through-cryptocurrencies/>.

¹⁸ Executive Office of the President, Office of National Drug Control Policy, “The Biden-Harris Administration’s Statement of Drug Policy Priorities for Year One,” p 3.

¹⁹ See United States Senate Committee on the Judiciary Committee Hearings, Executive Business Meetings, Executive Business Meeting Results, May 27, 2021 and June 3, 2021. Available at <https://www.judiciary.senate.gov/meetings/05/21/2021/executive-business-meeting> and <https://www.judiciary.senate.gov/meetings/06/03/2021/executive-business-meeting>.

manufacture and distribute drugs, and recommendations in the *Strategy* should reflect this reality.

Therefore, the *Strategy*'s inclusion of criminal justice priorities must strike the appropriate balance of deterrence and punishment with rehabilitation and fairness, but also be mindful of the role that criminal laws have on preventing future addicts or drug abusers.

The Southwest Border Counternarcotics Strategy

The Statement of Drug Policy Priorities states that in order to reduce the supply of illicit drugs, ONDCP plans to “[w]ork with key partners in the Western Hemisphere, like Mexico and Colombia . . . to curb the production and trafficking of illicit drugs.”²⁰ The southwest border (SWB) is the primary entry point into the United States for all major illicit drugs killing Americans. Mexico is the primary source country of heroin and methamphetamine in the United States, and is the main transit country for synthetic opioids and FRS.

As ONDCP seeks to reach its goal of curbing production and trafficking of illicit drugs, it's imperative that the *Southwest Border Counternarcotics Strategy* – as part of the overall *Strategy* – incorporates provisions on how to address all illicit drugs, including the evolving and emerging threats posed by fentanyl analogues.²¹ In addition, the breakdown of joint drug interdiction efforts with our counterparts in Mexico has led to illicit drugs being smuggled into communities across the United States, driving an explosion in overdose deaths that took more than 90,000 American lives last year.²²

Therefore, the *Strategy* must include a plan on repairing joint drug interdiction efforts with our Mexican counterparts, and robust efforts to secure the Southwest border and prevent the illegal trafficking of drugs across the international border between the United States and Mexico, including through ports of entry and between ports of entry.

Impact of COVID-19

COVID-19 has changed many parts of our lives. Our response and policy priorities must morph and evolve in light of the changes from the global pandemic. As the agency tasked with our nationwide approach to drug control, ONDCP should include in its *Strategy* how it plans to address enforcement, prevention, treatment, and recovery in a post-COVID world. This evaluation can include, but is not limited to, a discussion and outline of changes in the supply chain for interdiction and enforcement purposes; the increase of synthetic drug supply; increase or changes in treatment; increases or changes in drug use; and any lessons that should be learned from COVID-19 for drug policy in general.


²⁰ Executive Office of the President, Office of National Drug Control Policy, “The Biden-Harris Administration’s Statement of Drug Policy Priorities for Year One,” p 6.

²¹ See 2020 Southwest Border Counternarcotics Strategy, available at: <https://trumpwhitehouse.archives.gov/wp-content/uploads/2020/02/2020-Southwest-Border-Counternarcotics-Strategy.pdf>.

²² NPR, “U.S. Mexico Efforts Targeting Drug Cartels Have Unraveled, Top DEA Official Says,” May 3, 2021, available at: <https://www.npr.org/2021/05/03/993059731/u-s-mexico-efforts-targeting-drug-cartels-have-unraveled-top-dea-official-tells->

Thank you again for the invitation to provide input and recommendations for inclusion in the *Strategy*. The above points are important and necessary additions to any approach on a holistic drug control strategy, but are certainly not indicative of the only things that should be addressed. I look forward to continuing to working with the Administration on these critical issues and reviewing the *2021 National Drug Control Strategy*.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive style and is positioned above a horizontal line.

Charles E. Grassley
Ranking Member
United States Senate Judiciary Committee