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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

June 12, 2018

The Honorable Kirstjen Nielsen
Secretary
U.S. Department of Homeland Security
3801 Nebraska Ave. NW
Washington, DC 20016

Dear Madam Secretary:

In April 2017, Drug Enforcement Administration (DEA) agents seized nearly 60 pounds of fentanyl – 13.5 million lethal doses – from a warehouse in Florissant, Missouri.¹ Agents determined that an out-of-state individual transported the fentanyl from California for sale in in St. Louis.² According to DEA, that fentanyl was “almost certainly” smuggled into California from outside the United States.³

The Department of Homeland Security (DHS) and its components play a critical role in stemming the opioid epidemic by stopping illicit opioids, like fentanyl, before they can enter the United States. While the opioid epidemic may have started as a public health crisis within our borders, it has become a border security crisis as the use of illicit opioids like fentanyl has increased. I am concerned that DHS is not adequately assessing this deadly threat and allocating resources accordingly.

In 2016, the opioid epidemic cost the lives of approximately 115 Americans per day.⁴ The increased use of fentanyl over the past few years has contributed significantly to the epidemic, making it even more deadly. According to a recent study by the Centers for Disease Control and Prevention, fentanyl was involved in over half the overdose deaths in Missouri and

¹ *Feds seize 27 Kilos of Pure Fentanyl from Men Leaving Storage Facility in Florissant*, St. Louis Post-Dispatch (June 9, 2017) (www.stltoday.com/news/local/crime-and-courts/feds-seize-kilos-of-pure-fentanyl-from-men-leaving-storage/article_97f68c04-cb90-59b8-940b-d3b8e6add05c.html).

² St. Louis Division, Drug Enforcement Administration, Briefing with Senate Committee on Homeland Security and Governmental Affairs Staff (Feb. 1, 2018).

³ *Id.*

⁴ Department of Health and Human Services, *About the Epidemic* (www.hhs.gov/opioids/about-the-epidemic/index.html) (accessed Jun. 11, 2018).

nine other states in 2016.⁵ The majority of fentanyl overdose cases are linked to illicitly produced fentanyl, 90% of which is produced in China.⁶

Communities throughout the United States, including those in Missouri, endure great human costs when illicit narcotics are not successfully interdicted before they can enter the United States. Nationwide, drug overdose deaths grew by 278% from 1999 to 2016 while Missouri's overdose deaths increased by almost 400% over the same period.⁷ Because of this increase, in 2016, Missouri ranked 17th in the nation for overdose deaths.⁸ Synthetic opioids are increasingly contributing to Missouri's opioid overdose deaths. In 2016, 58% of St. Louis's overdose deaths were attributed to fentanyl, a 203% increase from 2015.⁹

Last month, the minority staff of the Senate Homeland Security and Governmental Affairs Committee released two reports on the challenge that opioid trafficking poses to border security agencies.¹⁰ These reports examined data provided by Customs and Border Protection (CBP) on opioids seized by its two primary law enforcement components, the Office of Field Operations, which employs CBP Officers (Port Officers) at ports of entry, and the Border Patrol. These reports determined that the opioid epidemic places disproportionate demands on officers at ports of entry and that staffing shortages at ports of entry may be compromising opioid interdiction efforts.¹¹ In addition, these reports found that across CBP, fentanyl seizures are dramatically increasing, placing additional strain on both Port Officers and Border Patrol Agents.

The reports' key findings include:

⁵ Centers for Disease Control and Prevention, Fentanyl involved in over half of opioid overdose deaths in 10 states (www.cdc.gov/media/releases/2017/s1027-fentanyl-deaths.html) (accessed Jan. 18, 2018).

⁶ Drug Enforcement Administration, *2017 National Drug Threat Assessment* (Oct. 2017) (www.dea.gov/docs/DIR-040-17_2017-NDTA.pdf).

⁷ Centers for Disease Control and Prevention, Compressed Mortality 1999-2016 (wonder.cdc.gov/cmfi10.html) (accessed Jun. 11, 2018). ICD-10 codes X40-44, X60-64, X85, and Y10-14 were selected to measure drug poisoning deaths.

⁸ Centers for Disease Control and Prevention, Drug Overdose Mortality by State (www.cdc.gov/nchs/pressroom/sosmap/drug_poisoning_mortality/drug_poisoning.htm) (accessed Jun. 11, 2018).

⁹ Drug Enforcement Administration St. Louis Division, *Missouri Opioid Summit DEA Perspective* (Oct. 17, 2017) (www.onejoplin.com/uploads/6/8/0/2/68022463/douglas_dorley_-_dea_perspective.pptx).

¹⁰ Minority Staff, Senate Committee on Homeland Security and Governmental Affairs, *Combating the Opioid Epidemic: Intercepting Illicit Opioids at Ports of Entry* (May 10, 2018); Minority Staff, Senate Committee on Homeland Security and Governmental Affairs, *Combating the Opioid Epidemic: The Interception of Illicit Opioids by the Border Patrol* (May 23, 2018).

¹¹ *Id.*

- The vast majority of all opioids interdicted by Customs and Border Protection (CBP) are seized at ports of entry. Between 2013 and 2017, approximately 25,405 pounds, or 88% of all opioids seized by CBP, were seized at ports of entry. Ports of entry located along the southern border are most active as those seizures accounted for 75% of all opioids seized at ports of entry during the same five-year period.
- Across CBP, fentanyl seizures are rapidly increasing. In a single year, the amount of fentanyl seized by CBP more than doubled, from 564 pounds in 2016 to 1,370 pounds in 2017.
- Large shipments of fentanyl entering the United States are seized at the ports of entry on the southern border, while a greater number of small shipments are interdicted in the international mail. Officers at ports of entry on the southern border seized 75% of the total weight of fentanyl seized across all ports of entry between 2016 and 2017. Port Officers at international mail facilities had more than five times as many fentanyl seizures at mail facilities as Port Officers at land ports of entry.
- Both mail and express carrier fentanyl seizures have increased over the past two years. When fentanyl is delivered through the international mail, a greater number of small shipments are sent through the U.S. Postal Service and larger amounts are shipped through express carriers like UPS, DHL, and Fed Ex. Although CBP depends on package data provided by express shippers in order to target packages likely to contain opioids and contraband, this information can be incomplete. While CBP has the authority to issue fines to compel shippers to provide complete data, express shippers have successfully negotiated \$26 million in such penalties between 2014 and 2016 down to just \$4 million.
- The majority of opioids seized by Border Patrol Agents are seized well inside the United States, rather than along the border. In past years, approximately 70% of Border Patrol's opioid seizures occurred 10 or more miles from the border, most of which occurred in automobiles. The majority of these seizures took place in western sectors on the southern border where fencing covers most of the border and where large infrastructure investments have been made to prevent illegal crossings, indicating that opioids are crossing the border through ports of entry and are later being seized by Border Patrol agents at Border Patrol checkpoints.
- Staffing shortages at ports of entry may be compromising interdiction efforts. Ports of entry across the United States have 4,000 Port Officers less than the number needed to staff all ports of entry. Ports of entry in the San Diego and Tucson areas, which together accounted for 57% of all opioid seizures by Port Officers between 2016 and 2017, have required CBP to assign temporary staff details to fulfill staffing needs at those locations. In its proposed Fiscal Year (FY) 2019 budget, the Administration proposes to dramatically increase staffing at Border Patrol and Immigration and Customs Enforcement, but add no additional officers at ports of entry.

Given the findings of these reports, I am concerned that DHS has failed to adequately prioritize resources to prevent illicit opioids from making it to communities across the United States. Lapses in border security that allow illicit narcotics to enter the United States have a direct impact on communities across the United States, including those in Missouri.

Missouri may be a heartland state, far from the border, but CBP's ability to seize and stop opioids at the borders and at ports of entry has a direct effect on citizens of Missouri and across the United States. DHS should use its own data, including seizure statistics, to inform policies to secure our borders and protect the officers and agents charged with securing them. Providing adequate resources to the components of DHS that are charged with securing the border is an important component of our nation's efforts to combat the opioid epidemic.

In order to understand the actions that DHS is taking to address the opioid epidemic and to address staffing shortages at ports of entry, I request the following information:

1. Why has DHS failed to request additional agents to staff ports of entry, when CBP's staffing model shows that 4,000 additional Port Officers are needed?
2. DHS's FY 2019 proposed budget currently requests no additional funding for Port Officers that will be stationed at ports of entry. Does DHS plan to amend this request?
3. DHS law enforcement personnel, including Port Officers and Border Patrol Agents, risk encountering fentanyl on a daily basis. What measures is DHS taking to protect law enforcement personnel and to research additional ways to that officer safety might be promoted?
4. How does DHS determine the intended destination of seized opioid shipments? Has DHS ever determined that a seized shipment of opioids was destined for Missouri? If so, please provide relevant details on DHS's findings.
5. Please provide any recommendations for how Congress can help ensure that DHS has the resources necessary to detect and interdict illicit opioids.

I ask that you respond to this letter as soon as possible but in no event later than July 3, 2018.

If you are unable to meet this deadline, or should you have any questions, please contact Caitlin Warner of my committee staff at (202) 224-2627 or Caitlin_Warner@hsgac.senate.gov. Please send any official correspondence related to this request to Rina Patel at Rina_Patel@hsgac.senate.gov. Thank you in advance for your attention to this matter.

The Honorable Kirstjen Nielsen
June 12, 2018
Page 5

Sincerely,

A handwritten signature in blue ink that reads "Claire McCaskill". The signature is fluid and cursive, with the first name "Claire" being more prominent and the last name "McCaskill" following in a similar style.

Claire McCaskill
Ranking Member

cc: Ron Johnson
Chairman