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ON

“Combating the Opioid Crisis: Oversight of Implementation of the STOP Act”

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Chairman Portman, Ranking Member Carper, and Members of the Committee, it is my honor to appear before you today to discuss U.S. Customs and Border Protection's (CBP's) implementation of the *Synthetics Trafficking & Overdose Prevention Act* of 2018, or STOP Act, to combat the flow of illicit narcotics entering the United States through international mail facilities (IMFs).

CBP recognizes that America's economic prosperity depends on the continued flow of legitimate international trade as well as people, capital, information, and technology. Congress has tasked CBP and the U.S. Postal Service (USPS) with stopping the flow of illicit drugs into the United States through IMFs. The STOP Act requires CBP and USPS to collect advance electronic data (AED) from foreign postal services. CBP uses AED to assess risk, to identify potential violations of law, and to combat the flow of illicit goods into the United States through international mail.

The explosive growth of global e-commerce and direct-to-consumer shipping, even directly from foreign sellers, has resulted in exponential growth in the number of actors in international supply chains. According to USPS data, the volume of mail processed in IMFs peaked in 2017, and foreign sellers exploited the situation by increasing the amount of opioids—particularly fentanyl from China—shipped to the United States. Since then, CBP has persistently revised existing protocols, expanded interagency cooperation, updated technology, and changed staffing methodologies to enhance targeting, enforcement, and interdiction of narcotics in the international mail environment.

The Ongoing Opioid Crisis and Other Mail Threats

Overall, CBP fentanyl seizures increased dramatically nationwide, jumping from 2,801 pounds in FY 2019 to 4,776 pounds in FY 2020. In FY 2019, the Office of Field Operations (OFO) seized 2,575 pounds of fentanyl nationwide and 2,406 pounds at Southwest land border ports of entry (POE), which equated to 93 percent of all fentanyl seized by OFO that year. In FY 2020, OFO seized 3,967 pounds of fentanyl nationwide, including 3,719 pounds—or almost 94 percent of all fentanyl—at the Southwest land border. Border Patrol seizures of fentanyl between the ports of entry also increased dramatically, from 226 pounds in FY 2019 to 809 pounds in FY 2020.¹

During FY 2020, fentanyl seizures in IMFs decreased from 392 to 229, while the total volume seized increased slightly, from 24.13 pounds to 24.67 pounds for the same time period. Seizures in express cargo during FY 2020 increased over the previous year, from 35 to 39 incidents and from approximately 120 pounds total to approximately 163 pounds.

Meanwhile, efforts to import other opioids, opioid-related pain medications, and other drugs through the mail continue. In FY 2018, CBP seized a total of 1,133 pounds of MDMA, more commonly known as ecstasy or molly. It is a synthetic drug classified as a stimulant but with hallucinogenic properties. Of that amount, 1,037 pounds was seized at IMFs. For FY 2019, CBP seized 2,220 pounds of MDMA, with 2,011 pounds shipped via international mail. In FY 2020,

¹ U.S. Customs and Border Protection, CBP Enforcement Statistics (Nov. 24, 2020), <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics>.

1,770 of the 2,120 pounds were seized in IMFs. In FY 2019 and FY 2020, CBP has also seized substantial quantities of Tramadol, which addicts often seek as a cheaper, easier opioid alternative. Drug trafficking organizations (DTOs) use Tramadol as a cutting agent for heroin and fentanyl. As is always the case with illicit drugs, users generally have no idea what they are really consuming. This fact presents a serious health risk for drug users.²

China continues to present a unique set of challenges. It is a major source country for not only narcotics, narcotic manufacturing equipment such as pill presses, and other controlled substances, but fraudulent documents and counterfeit merchandise as well. On average, CBP processes approximately 1.4 million shipments from China each day, and shipments from China account for more counterfeit goods than from any other country. Preliminary data for FY 2020, indicates CBP made more than 26,000 seizures of counterfeit goods nationwide, with an estimated manufacturer's suggested retail price (MSRP) value exceeding \$1.3 billion. Of those seizures, 79 percent of the counterfeit merchandise originated in China and Hong Kong and represented 83 percent of the MSRP value. In FY 2019, China and Hong Kong accounted for 83 percent of the total volume and 92 percent of the total value of all counterfeit merchandise seized by CBP.

Since the beginning of the COVID-19 pandemic, CBP has seized more than 12 million counterfeit face masks, more than 170,000 unapproved COVID-19 test kits, and thousands of medicinal products lacking FDA approval. Approximately 60 percent of these goods were from China and Hong Kong.

STOP Act Implementation

The September 2018 *CBP Strategy to Combat Opioids* is an action plan that encompasses four goals: (1) enhancing collaboration and information-sharing; (2) producing actionable intelligence; (3) targeting the opioid supply chain; and (4) protecting CBP personnel from exposure to opioids. All four goals are pertinent to CBP's implementation of the STOP Act.

AED

While USPS has acquired and provided AED to CBP on a voluntary basis since 2013, prior to the STOP Act, USPS did not require AED for the vast majority of mail entering the United States. Traffickers based in foreign countries were shipping drugs directly through USPS and other methods as a way to circumvent U.S. customs laws and federal criminal law. However, pursuant to the STOP Act, on or after December 31, 2020, USPS will be required to provide AED for all international mail shipments.

The implementing regulations that will establish the specific AED requirements have been submitted to the Office of Management and Budget for interagency review under Executive Order 12866, and we are engaging actively in that process. The regulation seeks to establish AED collection comparable to the information CBP already requires for non-mail cargo shipments, and it will enable CBP to apply some of the same long-established targeting and

² NIH, National Institute on Drug Abuse, "MDMA (Ecstasy) Abuse Research Report: What is MDMA?" April 9, 2020 (Nov. 30, 2020), <https://www.drugabuse.gov/publications/research-reports/mdma-ecstasy-abuse/what-mdma>.

intelligence-driven techniques we have used in other trade and travel pathways as part of our multi-layered, risk-based approach.

Waivers

With the deadline on the near horizon, CBP and its partners are refining the guidelines and defining the process to apply for waivers, establishing the appropriate remedial measures for certain mail volumes, and defining the risk assessment methodology for foreign postal operators. Once this is completed, CBP and USPS will work with the Universal Postal Union (UPU) to distribute the guidance to member countries.

Currently, more than 50 countries provide some form of AED to USPS and CBP. However, many challenges remain when it comes to the automation capabilities of each country. Along with the guidelines, CBP and USPS are developing and outlining the process for waivers for those countries that lack the technology to gather and transmit the data, have low volumes of international mail, and are deemed low risk. Thus far, CBP has not granted any waivers for the AED requirement. Waivers will be temporary, and will be granted based on volume, capacity, and risk factors.

On January 1, 2021, even in situations where waivers are granted, UPU-member country operators are expected to continue transmitting AED at current or historical levels, but CBP, USPS, and our federal partners in the United States will continue to monitor progress toward compliance with the AED requirement as well as compliance with U.S. customs laws.

Express Mail Fee

The STOP Act required CBP and USPS to collect the necessary data and begin collecting a \$1 processing fee, subject to an annual adjustment by the Secretary of the Treasury in consultation with the Postmaster General, on inbound express mail service items sent to the United States through the international postal network as of January 1, 2020. CBP published an interim final rule on August 4, 2020, in the Federal Register that implemented the procedure by which USPS will remit to CBP, on a quarterly basis, 50 percent of the payments from this new \$1 processing fee. The money collected in this fee assessment will be divided evenly between CBP and USPS. CBP has received the first payment from USPS, and CBP intends to use this money for IMF enhancement.

Interagency Collaboration

Implementation of the STOP Act involves a number of U.S and international agencies, including postal services, diplomatic services, law enforcement, and investigative agencies. In the United States, CBP is working closely with USPS and the U.S. Postal Inspection Service (USPIS), the U.S. Department of State, U.S. Immigration and Customs Enforcement (ICE)-Homeland Security Investigations (HSI), the U.S. Food and Drug Administration (FDA), and the Drug Enforcement Administration (DEA). Internationally, CBP and our partners are working with postal officials and the international postal network to develop or increase AED capacity and to obtain bilateral agreements.

On January 18, 2019, the CBP Commissioner and the USPS Postmaster General sent a letter to Mr. Aili Liu, president of the China Post Group, requesting China Post's cooperation with the requirement to provide 100 percent AED. Similar correspondence was sent to the heads of postal services in Hong Kong and Macau. The State Department's Bureau of International Organization Affairs has been working to ensure coordination and communication of the requirements at the international level.

CBP enhanced its partnership with the FDA with an April 2019 Letter of Intent to maximize inspection and detection capabilities in mail facilities and increase collaboration for information-sharing on opioid interdiction. In October 2020, pursuant to the *SUPPORT for Patients and Communities Act*, CBP and FDA completed a memorandum of understanding that implements the goals laid out in the Letter of Intent. This expands operational collaboration and information-sharing specifically in the IMF environment and unleashes decades of experience between our agencies in interdicting illegal parcels. In recognition of their role as the chief investigative arm of the U.S. Department of Homeland Security in the IMF environment, ICE-HSI was also added as a signatory.

In September 2019, the Acting CBP Commissioner and the Director of the Office of National Drug Control Policy (ONDCP) travelled to China, initiating a series of regular meetings between the CBP attaché in Beijing and the China Ministry of Public Security (MPS). CBP now regularly shares targeting information with the MPS and the General Administration of China Customs. These international engagements successfully encouraged China to enact policy changes to include adding fentanyl analogues to the country's list of controlled substances, effective May 1, 2019. DEA predicted this change in Chinese policy and the increased monitoring of high-risk shipments from China likely contributed to the apparent shift in fentanyl production to other countries such as India and Mexico.³

On September 25, 2019, the Trump administration successfully concluded an agreement to remain part of the UPU. Under the agreement, starting in January 2021, high-volume importers of mail and packages will be allowed to begin imposing "self-declared rates" for delivering foreign origin small packets. These fees will be phased in over five years, but high volume operators trading with the United States began applying their full self-declared new rates beginning July 2020, as the United States did with them.

Actionable Intelligence

When USPS receives AED, it provides the AED to CBP. CBP's National Targeting Center (NTC) is a key component of our comprehensive border security and management strategy. The NTC emphasizes partnerships, both cultivating new ones and maintaining existing relationships. It provides real-time actionable information to strategic foreign and domestic partners through such programs as the Container Security Initiative, Immigration Advisory Program/Joint Security Program, International Targeting Center, and other NTC-staffed designated liaison

³ Drug Enforcement Administration, "Fentanyl Flow to the United States," January 2020 (Nov. 30, 2020), https://www.dea.gov/sites/default/files/2020-03/DEA_GOV_DIR-008-20%20Fentanyl%20Flow%20in%20the%20United%20States_0.pdf

locations abroad. These programs effectively enhance global domain awareness and targeting capabilities while enabling the interdiction of travel and cargo threats at their origin. The NTC coordinates mitigation efforts across agencies and foreign partners to interdict high-risk shipments and uses risk-based strategies to identify transnational criminal organizations (TCOs) and DTOs.

The NTC uses tools such as the Automated Targeting System (ATS) and subject matter expertise to analyze, assess, and segment risk at every state of the trade and travel life cycles. It uses classified law-enforcement, commercial, and open-source information in innovative ways to identify high-risk travelers and shipments at the earliest point possible and coordinates with CBP staff as well as interagency and foreign partners to take appropriate action.

Targeted Enforcement

Because of the sheer volume of international mail, CBP cannot inspect every piece of mail or every package. Instead, we use a risk-based approach, relying heavily on our strategies to identify high-risk envelopes, packages, and parcels. Once a high-risk shipment is identified, CBP notifies USPS to pull the item for inspection. Over the past few years, CBP and USPS have collaborated using AED to target import mail for inspection. CBP and USPS continue to address and resolve problems with inventorying and locating targeted mail so it can be inspected.

All International Service Centers (ISCs) are equipped with acceptance systems that alert clerks of receptacles that contain holds. “Hold” items selected by CBP for additional inspection can now be identified by manually scanning item barcodes or by processing receptacle contents on automated equipment. At the inception of AED targeting, also known as “customs holds”, the process was largely manual. As the process evolved, automated mail processing equipment was modified to efficiently identify and secure hold items. USPS engineering staff continue to pursue new technology to improve efficiency and the capture rate of holds.

Customs-hold performance has averaged 94 percent over the past 12 months. In January 2020, prior to the impact of COVID-19, USPS reached a high point by capturing 96 percent of all actionable holds CBP targeted.

Technology and IMF Modernization

In FY 2020, CBP spent more than \$5 million to renovate the John F. Kennedy International Airport IMF, one of nine IMFs in the United States and its territories. A majority of international mail enters the United States at the JFK IMF, which, until FY 2020, had not been updated in about 30 years.

CBP is making critical infrastructure and technology investments at the other IMFs as well to fulfill its international mail processing modernization mission. CBP is working to procure new and advanced mail sorting technology and equipment that is expected to be fully integrated with third party Non-Intrusive Inspection (NII) equipment to (1) increase the volume and speed of mail inspected by optimizing processes, resources, and technologies; (2) improve the rate at which CBP is able to detect, hold, and seize suspicious mail; and (3) support new enforcement capabilities that increase mail-processing efficiency and security.

When CBP first identified the trend of high-potency but low-weight air shipments of fentanyl from China in FY 2017 and FY 2018, the Department of Homeland Security, Science and Technology Directorate (DHS S&T), CBP, ONDCP, and USPIS sponsored a contest called “The Opioid Challenge,” offering a \$1.55 million prize to motivate the private sector to develop a rapid non-intrusive inspection (NII) solution that could detect minute quantities of opioids and other specific contraband in the mail stream at the “speed of commerce.” CBP has awarded contracts for the purchase and deployment of the technology directly resulting from this challenge. The contest produced technology that combines emergent NII equipment with algorithms to detect illicit items. In December 2019, Integrated Defense & Security Systems (IDSS) was announced as the grand-prize winner and received \$500,000 for its Detect 1000 technology, an image-based solution that identifies anomalies in X-ray images based on the scanned item’s features and physical properties and detects illicit substances through the packaging. This technology not only saves time and reduces the risk of exposure for CBP personnel, it provides methodology for CBP to anticipate trends in the development of fentanyl analogues and enables us to be proactive—rather than reactive—when new analogues emerge.

CBP and our partner agencies not only prioritized major investments in detection equipment, but staffed chemists at ports of entry to allow for on-site analysis of seized substances and increased sharing of actionable intelligence. In FY 2019, scientists from CBP’s Laboratories and Scientific Services conducted both a laboratory-controlled and field-evaluated test of fentanyl test strips for the presumptive identification of fentanyl and fentanyl analogues. The results of the evaluation proved the accuracy and reproducibility of the test to be greater than 95 percent.

CBP staff have pioneered the use of other cutting-edge technology as well. The Thermo-Fischer Gemini scanner can analyze a substance while it is still in the packaging. The Gemini, which comes with a library of data on opioids and other drugs, “learns” the signature of specific substances by identifying spectral signatures of compounds similar to those in the library. Trained analysts can then add those signatures to the library. The Gemini scans through clear packaging using an attached laser light probe. This technology helped CBP recognize that producers in China were making dozens of fentanyl analogs using slight variations in an attempt to avoid detection. Using onsite laboratory services, we were able to quickly identify new analogs and disseminate the signature throughout CBP.

Canine Detection

All OFO canines and canine handlers, such as those used in IMFs and express consignment carrier facilities (ECCFs), have completed a comprehensive fentanyl odor-recognition test to validate the canines’ ability to detect fentanyl and its analogues. Existing canine teams added the detection of fentanyl and its analogues to their repertoire, and all new canines are trained to detect fentanyl. OFO currently has 453 canine teams, with 10 teams assigned to ECCFs. IMFs have access to 58 canine teams shared with other areas of the ports of entry. Of the 15 canine teams mandated by Congress to be assigned to IMFs, eight are still awaiting training due to COVID-19-related delays.

Personnel Safety

The safety of the men and women who work at CBP has always been and will continue to be a top priority for CBP. Inspecting mail that could contain highly potent opioids such as fentanyl and Tramadol presents serious health and safety concerns for CBP. We are investing in new narcotic-detection technology to keep our people safe. CBP provides appropriate test kits, protective equipment, and training for the men and women working on the front lines of border security, including those in IMFs and ECCFs. We have invested in thousands of doses of naloxone (Narcan®) for use in the event that our personnel, our canines, or members of the public are exposed to opioids. CBP and other federal agencies created a video, “Fentanyl: the Real Deal”—available publicly on YouTube—that is included in our mandatory training for all new and current CBP employees. In FY 2019, we procured the equipment and necessary training to enhance our decontamination capabilities to provide 100 percent on-site mitigation and to clean our testing equipment.

Challenges Ahead

While overall compliance with the AED requirement has improved significantly, many countries are far from meeting even a minimal threshold. Notwithstanding the technical assistance that the United States has provided through the State Department’s Bureau of International Narcotics and Law Enforcement Affairs and the UPU’s own efforts, drawing in part on funding provided by USPS under last year’s Geneva agreement, some countries are at zero percent or in the single digits when it comes to AED compliance. As a result, there is the distinct possibility of serious disruptions in mail flow to the United States in 2021. In order to minimize the impact of these disruptions, CBP is working with USPS on mitigation strategies.

At IMFs, CBP routinely intercepts counterfeit and unapproved medications, and we have seen an increase in counterfeit advanced lifesaving drugs ranging from common medications for blood pressure or cholesterol to cutting-edge cancer medications. Individuals trying to contain medical-treatment costs mistakenly believe that they are ordering from legitimate pharmacies, while, in reality, those orders can be filled anywhere in the world and may or may not contain the active pharmaceutical ingredients in legitimate medications, or, worse yet, may be laced with harmful or deadly substances. CBP works regularly with the FDA and the pharmaceutical industry to identify these dangerous counterfeits and prevent them from getting into the hands of Americans.

Lastly, TCOs and DTOs will continue to change their methodologies and techniques in an effort to stay one step ahead of law enforcement. We know from experience that when we successfully deter a smuggling activity in one place or form, it will re-emerge elsewhere or in a different form. These criminal, drug-smuggling organizations relentlessly pursue other smuggling avenues in hopes of increasing their chances of success. Now that China has reclassified fentanyl and has vowed to combat the problem at their end, we are seeing a shift from China to India and Mexico.⁴

⁴ Ibid.

U.S. law enforcement, including HSI, DEA, and CBP, have noted that Mexico-based TCOs are possibly synthesizing fentanyl analogues domestically with the intent to smuggle them across the border.⁵ We have already seen evidence that these organizations are producing fentanyl analogues by modifying the molecular structure of fentanyl as part of their ongoing attempts to skirt existing laws and regulations.⁶ CBP anticipates criminal organizations will continue to create new synthetic opioids and fentanyl analogues, called fentalogs, which have similar effects as fentanyl. As they are identified, they must be classified as regulated substances for enforcement purposes, and this requires extensive international effort and coordination involving multiple agencies here and abroad. DEA predicts that fentanyl suppliers will continue to experiment with other new synthetic opioids in an attempt to circumvent new regulations imposed by the United States and China.⁷ As the international illicit-drug market continues to change and evolve, so too must CBP.

Conclusion

CBP continues to work closely with its national and international partners to address the opioid crisis on multiple levels. This layered approach reduces our dependence on any one point of contact or program to stop the flow of narcotics and extends our zone of security outward, ensuring our physical border is neither the first nor the last line of defense, but instead one of many. Through a series of administrative and enforcement actions, CBP has improved its sources and information-collection methodology related to foreign sellers and trade violations. We will continue to use this information as well as AED to strengthen our ability to identify and interdict not only narcotics, but also other illicit and unsafe products that would harm Americans.

CBP and its partner agencies must continue to take decisive actions to address the opioid crisis in this country, and we will continue to address it from both domestic and international approaches, using all tools at our disposal.

Thank you for the opportunity to testify today. I look forward to your questions.

⁵ Ibid.

⁶ Ibid.

⁷ Drug Enforcement Administration, “2019 National Drug Threat Assessment,” (December 2019), https://www.dea.gov/sites/default/files/2020-01/2019-NDTA-final-01-14-2020_Low_Web-DIR-007-20_2019.pdf.